



REPUBLIC OF UGANDA

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

**THE UGANDA NATIONAL LAND
POLICY**

FEBRUARY, 2013

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FOREWORD

The Government of Uganda has formulated a national land policy to provide a framework for articulating the role of land in national development, land ownership, distribution, utilization, alienability, management and control of land. This is intended to ensure that the country transforms from a peasant society to a modern, industrialized and urbanized society.

To ensure that the land policy is relevant to Uganda's development agenda, the Ministry undertook a comprehensive stakeholder consultation exercise, which culminated into a National Land Conference. This policy therefore, reflects the views of all Ugandans. It is a hallmark of the rare sense of dialogue and collaboration between the Government and the citizenry in tackling what is arguably the most emotive, culturally sensitive, politically volatile and economically central issue in Uganda.

The policy harmonizes the diverse views on historical land injustices; land management and land use; and contemporary land issues. It further protects the rights of the citizens to own land, which should be optimally utilized.

The policy provides a framework for reforms geared towards having an efficient and effective land delivery system, which is a basis for poverty reduction, wealth creation and socio-economic transformation.

My Ministry has embarked on the development of a policy implementation action plan and a public awareness campaign to popularise the policy. The participation of all stakeholders will continue to be sought to ensure continued public debate and feedback on the implementation of the land policy framework. In this way, I am confident we will collectively achieve the vision of the National Land Policy of "a transformed Ugandan society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector".

Finally, I wish to thank His Excellency the President for mainstreaming land issues and guiding Cabinet while deliberating the same. I am also indebted to all those who contributed to the development of this policy. In particular the Consultants who prepared the various drafts; the National Land Policy Working Group which steered the process up to the end, the stakeholders whose views shaped the policy and Ford Foundation for their expert input.



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EXECUTIVE SUMMARY

Land in Uganda is a critical factor of production and an essential pillar of human existence and national development. Since the advent of colonialism, the country has never had a comprehensive Land Policy. What has been in existence are the scattered policies and laws on land and natural resources. Post-independence attempts to settle the land question and deal with fundamental issues in land tenure, land management and administration through the Land Reform Decree of 1975, the 1995 Constitution and the Land Act Cap 227 have had limited success. This policy therefore, consolidates the various scattered policies associated with land and natural resources with emphasis on both ownership and land development.

The key issues addressed by the policy include: Historical injustices and colonial legacies, which have resulted in multiple rights and interests over the same piece of land; disposition and loss of ancestral land by some communities; border disputes arising out of tribal, ethnic groupings and trans-state border disputes; and the ineffective dispute resolution mechanisms, which have resulted into illegal evictions. Whilst under contemporary issues, Uganda is faced with disparities in ownership, access to and control of land by vulnerable groups; displacement, land grabbing and landlessness resulting from high population growth and the increasing demands on land for investment especially communal lands which are neither demarcated nor titled.

In addition other issues addressed by the policy include under utilization of land due to poor planning and land fragmentation; environmental degradation and climate change; poor management of the ecological systems due to their trans-boundary nature and unsustainable exploitation arising out of the conflicting land uses and inadequate enforcement of natural resource management, standards and guidelines. It also tackles issues of inefficient and ineffective land administration and management system, which has made the system prone to fraud and forgeries.

To address these problems, the Government formulated the National Land Policy. The vision of the policy is: **‘a transformed Ugandan society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector’**. While the goal of the policy is: **‘to ensure efficient, equitable and optimal utilization and management of Uganda’s land resources for poverty reduction, wealth creation and overall socio-economic development’**.

The National Land Policy, among other things, seeks to re-orient the land sector in national development by articulating its centrality vis a viz other sectors in economic development. It also has a bifocal emphasis on land ownership and land development, stipulates incentives for sustainable and productive use, as well as other measures intended to streamline the institutional framework for land administration and management to ease the delivery of efficient and cost-effective land services.

The policy further introduces essential reforms for stemming off escalating land conflicts and land evictions through re-institution of administrative Land Tribunals, creation of a special division in the Magistrates Courts and the High Court, and recognition of the dual operation of both customary and statutory system in land rights administration, land management and land dispute resolution.

The policy further affirms the responsibility and mandate of the Ministry of Lands to continue performing its residual roles of policy formulation and implementation, standard setting and quality control, resource mobilization, and monitoring and evaluation. To implement this policy, a National Land Policy Implementation Unit has been designated to coordinate the planning and implementation of the proposed measures and strategies.

CHAPTER 1: BACKGROUND TO THE NATIONAL LAND POLICY

I. INTRODUCTION

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 and 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 also influences spirituality and aesthetic values of all human societies. Land is perhaps, the most essential pillar of human existence and national development and is usually a political issue with potential to be volatile. In this regard, its control, management and use, continues to be a critical factor in Uganda.

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 a 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 colonial legacy, are to do with disentangling the multiple and conflicting tenure rights and interests often overlapping over the same piece of land. At the time of the creation of *mailo* and native freeholds, pre-existing private interests of smallholder farmers particularly land use rights were not legally recognized. An attempt to rectify this, with the enactment of the *Busuulu* and *Envujjo* Law of 1928 for Buganda and similar laws in Ankole and Toro in 1938, the multi-layered structure of rights persisted and has become a defining characteristic of the complexity of land relations in Uganda. In addition, the multi-layered system 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 are common.

Also, conflicts arose out of the implementation of the Land Reform Decree, 1975 where occupants on land became tenants at sufferance while land owners became lessees. Further attempts to address the landlord-tenant relationship as enacted under the Land Act, Cap 227 became controversial around three issues: the definition of bonafide occupant, definition of occupancy in terms of size of land utilized by occupants, and the rights conferred on the tenants as well as the rent payable.

The Buganda Kingdom has been making persistent demands for the return of its public land, estimated to be '9,000 square miles'; the 1,500 square miles of forests, and the 160 square miles of official estates at former Buganda county and sub-county headquarters taken over 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 some assets and properties specified in the schedule of the Act. It also made provision that the rest of the properties and assets not included in the schedule be returned following negotiations between Government and the traditional rulers. The principles to govern these negotiations were never detailed though they are necessary for attaining social harmony and calm between the Central Government and the Buganda Kingdom.

The Kibaale land question, which should have been fixed by the 1964 Referendum over 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- Banyoro further complicated what started off as a land question and turned it into a political question as the immigrants gained political control. The resentment to this turn of events bred political tension and ethnic conflicts, with violent clashes. The indigenous Banyoro are worried that they may never be able to regain their ancestral land, which is formally held by absentee landlords in *mailo* tenure and increasingly taken over by immigrants. Additionally, public lands especially forest reserves have been massively encroached by immigrants. The Government paid off some absentee landlords basing on the Land Act Cap 227, but due to limited budget allocations the bigger portion of the *mailo* land is yet to be bought out.

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 including government ranches. This has led to a 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.

In Ankole, indigenous occupiers of the land were overlooked by colonialists and continued to reside on former public lands. These areas were infested by tsetse flies in 1918 causing entomological threats to both humans and animals. In 1958, the colonial government relocated all the indigenous occupants in order to spray the area with chemicals. Subsequently, in 1964 the use of land changed from nomadic pastoralism to ranching and the land was subdivided into ranches in total disregard of the indigenous occupiers. However, the process of subdivision was marred by irregularities and resulted in the political elite of Ankole taking over tracts of land that previously belonged to indigenous occupiers. In the Acholi region, the land question had similar manifestations, where changes in land use from settlement to conservation, in the plains between Murchison Falls National Park and East Madi Game Reserve, led to the loss of customary rights. In Karamoja, the colonial government set aside extensive tracts of land for hunting and conservation. In 1962, 94.6 % of the land in Karamoja was under reserved status. This status was reviewed by the Uganda Wildlife Authority in 1998 and was reduced to 53.8 % of the total land area.

B. Contemporary Land Policy Issues

Having ratified several international human rights instruments on gender equality and the protection of women's rights, Uganda is hailed for having some of the best policies, constitutional and legal frameworks relating to gender and development, particularly to women's land rights. Although traditions, customs and practices which discriminate against women in matters of access, use and ownership of land have been outlawed by the Constitution, the practice does not acknowledge these changes. Culture and custom, for example, continue to support the transmission of land to men in inheritance, as women's inheritance rights to land are tenuous and at the mercy of their male relatives. The provision for spousal co-ownership of land forms part of the Domestic Relations Law, which was split into the Marriage and Divorce Bill 2013 and the Administration of Muslim Personal Bill 2013. Sections of the Marriage law and Succession law discriminating against women that were debarred as 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, inter-district boundary disputes and conflicts, hot spots of ethnic land conflicts, and 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 land; the Justice, Law and Order Sector institutions; administrators in the districts and politicians to tackle land conflicts is overstretched. Attempts by the Land (Amendment) Act 2010, to criminalize eviction of tenants are yet to bear effect because implementation is in its infancy. Devising a comprehensive, legitimate, accessible and cost-effective framework to tackle the root and structural causes of conflicts, disputes and frictions arising from unjust actions in the past is a prime challenge in tackling uncertainty and insecurity over land rights.

It is estimated that Uganda's population will be 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 increase 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. Alternative ways to relieve the pressure on land, without unjust loss of rights or interests in land are required. The ultimate solution rests with a vibrant services sector, an expanding industrial sector and an urban policy to guide on effective urbanisation.

The recent discovery of oil and petroleum deposits in the Albertine Graben has generated excitement in Uganda regarding the promise the resource may yield to the national economy; the energy subsector and to the national social well being. It has equally raised concerns with issues of tenure, compensation, displacement and resettlement. Article 244 of the Constitution vests all minerals and petroleum in the Government on behalf of the Republic of Uganda. As anticipated, the rush to secure land in oil-rich areas is threatening communal lands, which are neither demarcated, surveyed nor titled. Cases of grabbing of land from indigenous communities are common, as customary owners are insecure because they do not possess formalized rights over land to benefit from sharing of royalties as provided for under the Constitution.

C. Land Administration and Land Management Issues

The land administration system is inadequately resourced, which has resulted in performance below expected standards. 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. Manual record keeping system has severely hindered progress in the delivery of land services to the public, making it slow, cumbersome, frustrating and too costly. Partial decentralisation of land delivery services has not yielded much due to human and financial constraints.

Although the National Land Use Policy (2007) 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 issues of tenure that may challenge its implementation. For instance, vesting wetlands in the State in trust for the Citizens of Uganda, without due compensation to land owners who acquired and registered land before 1995 has stalled the implementation of the Wetlands Policy as it contradicts Article 26 of the 1995 Constitution on the principle of “sanctity of property.”

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 ineffective 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 and 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 the use and management of these lands and natural resources. Some of the allocations have not considered ecological, environmental, economic and social impacts; and as such have displaced vulnerable land and natural-resource-dependent communities whose rights to 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 the land rights of 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 access to land. The policy has provided a number of incentives to enhance land utilization for development.

III. RATIONALE FOR THE NATIONAL LAND POLICY

A national land policy is essential for the optimal utilization and 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 sustainable economic growth and social transformation.

The rationale for a national land policy in Uganda rests on the following reasons:

1. The need to reduce ambiguity at sector-level by comprehensively integrating scattered and isolated policy statements on different aspects of sustainable land use, formulated in response to isolated sectoral demands in agriculture, environment, natural resources management, housing, real estate development, transport and for private sector development and industrialization policy. A harmonized framework with a common horizontal denominator is necessary to stem sectoral conflict regarding administrative decisions, regulations and laws that 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 the identification of effective inter-linkages between 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 address the historical complexities and fundamental issues underlying land tenure relations in their entirety. The Land Act did not exhaust all the critical issues on the content and viability of property rights under various tenure categories 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 the 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 concentrate on property rights per se should not blur the necessity for a more fundamental objective 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 for the policy to re-focus from an over-emphasis on property rights per se, to its essential value as a resource in development. This is necessary, as land resources remain chronically under-utilized and inefficiently managed. However, this is not to suggest that the protection of property rights should be secondary to land development: the two have to be aligned.

4. As a development resource, agricultural land in Uganda has not always been utilized optimally and sustainably. The primary reason is that there is less investment in agricultural production that is still structured around peasant farming. The continued growth of the country will require a coherent and pragmatic approach that frees land for commercial agricultural production in order to move out of poverty and attain food security by creating alternatives in the service 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, 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 bodies, terrestrial and other trans-boundary resources which require adherence to specific principles in land sector management. These instruments call for the establishment of an international framework for environmental governance, land use and land management. Uganda as a country is expected to comply with these frameworks.

IV. LAND POLICY FORMULATION AND CONSULTATIVE PROCESS

The Government of Uganda initiated the process for development of the National Land Policy in 1983 under the Agricultural Policy Committee of the Agricultural Secretariat in the central Bank of Uganda. It noted that successful policy on land is that which recognizes how traditional land tenure has evolved and guides future evolution by encouraging changes that are beneficial and preventing changes that are harmful.

Appointment of the Constitutional Review Commission, in 1988, more popularly known as the Odoki Commission, surpassed the work of the Agricultural Policy Committee. It made broad recommendations for constitutional reforms, which lay firm policy principles regarding what constitutes a good land tenure policy in Uganda. The most fundamental of changes out of the work of the Odoki Commission is enshrined in Article 237 (1) of the 1995 Constitution, which, in break from the past, declared land to belong to the citizens of Uganda, making Uganda the first State in Sub-Saharan Africa to vest its “radical title” in its Citizens. Extensive changes were also introduced in land administration and land dispute resolution.

The 1998 Land Act, legislatively actualized most of the reforms provided for in the 1995 Constitution, while the Land Sector Strategic Plan (LSSP) 2001-2011 provided the implementation framework for execution of sector wide reforms in the land sector. One of the strategic objectives under LSSP was the development of *a national land policy* to serve as a systematic frame work for addressing the role of land in national development, land

ownership, distribution, utilization, alienability, management and control. In 2001, a National Land Policy Working Group (NLPWG) was instituted under the Ministry responsible for lands to steer the policy-making process.

The NLPWG produced an *Issues Paper for the National Land Policy in 2002*. Simultaneously, the Government of Uganda also published the *Constitutional Review Report* by Ssempebwa Commission in 2003, which intensely implored, the adoption of a comprehensive 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.

Taking note of the opinions of the Odoki Commission, the Ssempebwa Commission, the *first draft of the National Land Policy* was produced in 2005, circulated and discussed amongst the NLPWG and professionals in the land sector. The same was subsequently progressed into a Draft Three in 2007, on the basis of which, consultations including countrywide stakeholder consultations through ten (10) Regional Consultative Workshops, covering all the districts of Uganda, and several Special Interest Groups Consultative Workshops were carried out. 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. The consultative process was concluded with a delegates National Land Conference, which debated and to build consensus on contentious issues and adopted the policy statements and strategies proposed draft policy.

CHAPTER 2: NATIONAL LAND POLICY FRAMEWORK

2.1 INTRODUCTION

1. The Uganda National Land Policy vision, goal, objectives and principles, aim for the optimal utilization and management of land resources. The policy acknowledges the centrality of land in social and economic development by leveraging the land resource base for all other productive sectors to facilitate 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.

2.2 VISION OF THE NATIONAL LAND POLICY

2. The vision of the National Land Policy is: **‘a transformed Ugandan society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector’**. The vision attributes are:

- (i) **Centrality of Land Sector:** Land plays a vital role in the health and vitality of other sectors that depend on it for productivity and these include agriculture, livestock, energy, minerals, water, wildlife, forestry, and human settlements. The integration of the land sector into the overall national planning through the identification of effective linkages with other productive sectors will leverage these sectors to realize economic growth and employment creation.
- (ii) **Transformation of Society:** The land sector is the pillar for transformation and prosperity within society. The optimal use and management of land resource will support Uganda's drive for industrialization, urbanization and creation of a vibrant services sector.
- (iii) **Modernized Agriculture:** There is need to shift an estimated 65 % of peasants who currently contribute 22 % of GDP from subsistence to commercial agriculture to move out of poverty and attain food security using land as the major resource input.
- (iv) **Protection of the Environment:** It is critical to protect the environment and restore the integrity of degraded environments through an optimal usage and management of land resources.
- (v) **Planned Human Settlement:** Approximately 19 % of Uganda's population lives in urban areas and only 51 % of these are in planned settlements. The policy commits to human settlements development through the observance of land use regulation, adequate physical planning, and provision of infrastructure and utilities.
- (vi) **Land Development:** Over the years, all legislation on land has focused on ownership or property rights. This policy affirms a bifocal emphasis on both ownership of land and land development.

2.3 GOAL OF THE NATIONAL LAND POLICY

3. The goal of this National Land Policy is: **“to ensure an efficient, equitable and optimal utilization and management of Uganda’s land resources for poverty reduction, wealth creation and overall socio-economic development”**.

2.4 OBJECTIVES OF THE NATIONAL LAND POLICY

4. The objectives of this National Land Policy are to:
- (i) Stimulate the contribution of the land sector to overall socio- economic development, wealth creation and poverty reduction in Uganda;
 - (ii) Harmonize and streamline the complex tenure regimes in Uganda for equitable access to land and security of tenure;
 - (iii) Clarify the complex and ambiguous constitutional and legal framework for sustainable management and stewardship of land resources;
 - (iv) Redress historical injustices to protect the 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) Reform and streamline land rights administration to ensure the efficient, effective and equitable delivery of land services;
 - (vi) Ensure sustainable utilization, protection and management of environmental, natural and cultural resources on land for national socio-economic development;
 - (vii) Ensure planned, environmentally-friendly, affordable and orderly development of human settlements for both rural and urban areas, including infrastructure development;
 - (viii) Harmonize all land-related policies and laws, and strengthen institutional capacity at all levels of Government and cultural institutions for the sustainable management of land resources.

2.5 GUIDING PRINCIPLES FOR THE NATIONAL LAND POLICY

5. The principles that underpin and guide this national land policy include:
- (i) Equitable access to land for all Citizens of Uganda to hold, own, enjoy, use and develop either individually or in association with others;
 - (ii) Equity and justice in access to land irrespective of gender, age, disability or any other reason created by history, tradition or custom;
 - (iii) Effective regulation of land use and land development;
 - (iv) Optimal land use and sustainable management for economic productivity and commercial competitiveness;
 - (v) Transparency and accountability in democratic land governance;
 - (vi) Reverse the decline in soil and land quality and mitigate environmental effects;
 - (vii) Acquisition of land by non-citizens;
 - (viii) Land as the central factor to leveraging other productive sectors.

CHAPTER 3: CONSTITUTIONAL AND LEGAL FRAMEWORK

3.1 INTRODUCTION

6. Land is at the center of the constitutional and legal discourse in Uganda, drawing legitimacy from historical as well as contemporary demands. 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.

3.2 RESIDUAL SOVEREIGNTY OVER LAND AS PROPERTY

7. Article 237(1) of the 1995 Constitution, states that land belongs to the Citizens of Uganda, making Uganda, one of the few States in Africa, to vest the ultimate ownership of land, as property, in its Citizens. Much as this vestment resolved an important historical anachronism in the land law, namely the location of ultimate authority over land as property, it is not entirely clear how the Citizens of Uganda, individually or collectively, can exercise this authority. In addition, the Citizens of Uganda did not assign the said authority to the State to guarantee “title to land,” neither did they assign authority to the District Land Boards to hold or allocate land in the district which is not owned by any person or authority. Lastly, there is a need for this policy to anchor the authority of the District Land Boards to convert into freehold any lease that was granted to Ugandan Citizens out of public land and/or to exercise the reversionary interest in any lease that was granted out of public land.

Policy Statements

8. To clarify the sovereign powers of the State over land as property in Uganda, this policy provides as follows:
 - (a) **The radical title to all land in Uganda shall vest in the Citizens of Uganda and the State shall exercise residual sovereignty over all land in Uganda on behalf of and in trust for the Citizens of Uganda;**
 - (b) **The State shall guarantee ‘title to land’ on behalf of and in trust for the Citizens of Uganda;**
 - (c) **District Land Boards shall hold and allocate, in trust for the Citizens of Uganda, all land that is not owned by any person or authority;**
 - (d) **District Land Boards shall exercise on behalf of the Citizens of Uganda the reversionary interest in respect of leaseholds granted out of public land.**

Strategies

9. Government shall:
 - (i) Develop terms and conditions for accountable use and management of all land held by District Land Boards in trust for the citizens of Uganda;

- (ii) Ensure that the District Land Boards continue to hold the reversionary interest on behalf of the citizens of Uganda over leaseholds granted out of public land;
- (iii) Issue policy guidelines to District Land Boards to ensure compliance to government policy on land matters.

3.3 THE POWER OF COMPULSORY ACQUISITION

10. The 1995 Constitution of Uganda empowers the Central Government or a Local Government to acquire land in public interest provided the acquisition is necessary for public use or is in the interest of defense, public safety, public order, public morality or public health and is subject to prompt payment of a 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 in the public interest. The same power is also extended to local governments without sufficient capacity to meet compensation requirements.

Policy Statement

11. **The State, as a trustee for the Citizens of Uganda, shall exercise the power of compulsory acquisition responsibly and in the 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 restitute 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.

3.4 PUBLIC REGULATION OF LAND USE AND DEVELOPMENT

13. Articles 242 and 245 of the 1995 Constitution, endows the State and Government with power to 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, therefore, ineffective enforcement of laws and regulations with regard to land use/physical planning, environment and natural resource. The State has not exercised this power responsibly and in public interest. This power has been extended to local governments without adequate guidelines.

Policy Statement

14. **The State shall exercise the power of public regulation of land use, 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 that the use of police power by state agencies takes into account sectoral policies and laws on land use, the environment and natural resources;
 - (iii) Review existing policies and laws on public regulation of land use to conform with the provisions of this policy;
 - (iv) Educate the public on the need for public regulation of land use and overall goals and merits of public regulation; and
 - (v) Ensure compliance with the laws and regulations for land use, both in urban and rural areas through incentives and rewards as well as sanctions and penalties.

3.5 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. Whereas land taxation is desirable for attaining optimality in the use of both rural and urban land, its application cannot be advanced until Uganda is a middle-income country. 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. **During the lifetime of this Policy, the Government may explore the proposal to institute a comprehensive and appropriate framework for land taxation, based on evidence derived from technical evaluation and studies.**

Strategies

18. Government shall:
- (i) Undertake empirical and other studies to clarify the feasibility of land taxation;
 - (ii) Enlighten the public on the merits of the taxation measures and gauge public readiness for such measure; and
 - (iii) Sensitize and create public awareness on land use and management for increased productivity.

3.6 PUBLIC TRUSTEESHIP OVER NATURAL RESOURCES

19. Article 237(1)(b) of the 1995 Constitution of Uganda, vests natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens. Section 44 of the Land Act Cap 227, prohibits the leasing or alienation of natural resources, but

allows the grant of concessions or licenses or permits. As a trustee, the State 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 it is the “owner” thus breaching the public trust doctrine. Safeguards in legislation have not deterred extensive degeneration, occasioned by administrative abuse. 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

20. **The State shall manage and protect the natural resources held under public trust in conformity with the principles of the public trust doctrine for the common good of all the Citizens of Uganda.**

Strategies

21. For all natural resources held in trust under the doctrine of public trust, the State shall, by an Act of Parliament,:
- (i) Specify, the terms and conditions under which its established agencies use and manage such natural resources;
 - (ii) Clarify, the criteria and procedure for the gazettelement and degazettelement of such natural resources;
 - (iii) Institutionalize mechanisms, for the joint management and sharing of benefits from the 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; and
 - (v) Ensure large-scale investment decisions and activities do not compromise the sustainable management and conservation of natural resources.
22. To stem abuse, in management and the use of natural resources held under the public doctrine trust, 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 resource 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 the natural resources with communities owning land adjacent to, in or over which the resources are situated; and
 - (iii) Develop criteria for equalization and compensation for foregone opportunities as part of a benefit sharing scheme for districts or populations where such resources are located.

3.7 GOVERNMENT LAND AND PUBLIC LAND

23. 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 provided for in the Constitution or in the laws of Uganda. Government presently deals with government land and public land without

regard to 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. As such it is a source of conflict between the government and neighboring communities, and between the refugees and the citizens.

Policy Statement

- 24. The State shall define Government Land as land vested in or acquired by the government in accordance with the Constitution; or acquired by the government abroad; or land lawfully held, occupied and/or used by government and its agencies; for the purposes of carrying out the functions of government.**
- 25. The State shall define public land as land reserved or held and used for a public purpose, including public open spaces, public infrastructure and land with a reversionary interest held by the District Land Board under Section 59 (8) 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) 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;
 - (ii) Define the terms and conditions under which such land may be acquired, used or otherwise disposed by the government and local governments;
 - (iii) Clarify the tenure and reversionary interest in such lands especially for holders of subsisting leaseholds;
 - (iv) Empower the State to re-possess public land or government land, given away in an illegal or irregular manner; and
 - (v) 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 government and public lands;
 - (ii) Carry out an audit of all government and public land;
 - (iii) Establish and maintain an inventory of all government and public land;
 - (iv) Set guidelines for the Uganda Land Commission to lease or sell government land;
 - (v) Audit all land currently gazetted as refugee resettlement schemes to assess current and future needs and redistribute any excess land to the landless citizens and/or communities.

3.8 MINERALS AND PETROLEUM

28. Article 244 (1) of the 1995 Constitution of Uganda vests petroleum and mineral resources in Government on behalf of the Republic of Uganda. As a trustee, the

Government has not fully exercised ethical relationship of confidence embracing principles of democratic governance, accountability and transparency..

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) Protect the land rights and land resources of customary owners, individuals and communities owning land in areas where mineral and petroleum deposits exist or are discovered;
 - (ii) Allow to the extent possible, co-existence of customary owners, individuals and communities owning land in areas where petroleum and minerals are discovered;
 - (iii) Provide for restitution of land rights in event of minerals or oil being exhausted or expired depending on the mode of acquisition;
 - (iv) 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; and
 - (v) Adopt an open policy on information to the public and seek consent of communities and local governments concerning prospecting and mining of these resources.

3.9 LAND TENURE REGIMES FOR UGANDA

31. The 1995 Constitution of Uganda and the Land Act (Cap 227) provide that land in Uganda may be held in only four tenure categories namely: customary, freehold, *mailo* and leasehold tenure. The incidents of these tenure regimes (other than leasehold) are defined in terms of generalities that 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 to among other things 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 Statements

- 32.(a) **Uganda as a country 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 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; and
- (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 4: LAND TENURE FRAMEWORK

4.1 INTRODUCTION

34. In contemporary Uganda, diverse changes have occurred, distressing tenure regimes in ways that create tenure insecurity and uncertainty. The structure of tenure and the 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 which 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 resources and other natural resources for future generations; and
 - (v) Facilitate planning, provision of basic services and infrastructure, land development and enforcement of land use regulation.

4.2 CLASSIFICATION OF LAND TENURE REGIMES

35. There are basically three ways of classifying land tenure regimes. The first is in terms of the legal regime governing the tenure; whether statutory/formal or customary/informal. The second is in terms of the manner in which such land is used, whether private, public or government. The third is in terms of the quantum of rights held, whether owned in perpetuity or leasehold. The 1995 Constitution and the Land Act Cap 227 have classified land tenure only in terms of the first and the third. Both legislation provide that land in Uganda may be held in terms of four tenure categories namely: customary, freehold, *mailo*, and leasehold. However, these legal instruments have failed to classify land tenure in terms of the manner and purpose for which such land is held whether as private, government or public.

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 users;**
- (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 standards, regulations and guidelines for orderly development.**

Strategies

37. To ensure completeness in the classification of land tenure regimes, Government will take legislative and other measures to:
- (i) Define and categorize land as Private Land, Public Land and Government Land;
 - (ii) Resolve all structural and normative impediments internal to the operation of each land tenure system;

- (iii) Guarantee that the transfer of land under all tenure regimes does not deny any person rights in land on the basis of gender, age, ethnicity, social and economic status;
- (iv) Ensure equity in the distribution of land resources, and preserve and conserve land for future generations; and
- (v) Ensure that all tenure regimes do not promote speculative accumulation of land or deprive the poor of their access rights.

4.3 CUSTOMARY TENURE

38. The majority of Ugandans hold their land under customary tenure. This tenure is often associated with three problems, (a) it does not provide security of tenure for landowners; (b) it impedes the advancement of land markets; and (c) it discriminates against women. The 1995 Constitution and the Land Act (Cap. 227) attempted to formalize customary tenure and were criticized for destabilizing and undermining its progressive evolution. Despite these attempts, customary tenure 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 regarding dispute resolution and mediation compared to the statutory system;
 - (iii) Assessed as lesser to other tenures that have titles for proof of ownership in courts of law in the administration of justice;
 - (iv) Converted to freehold before it attains the totality of the bundle of rights inherent in all other registered tenures that are held in perpetuity;
 - (v) Disparaged and sabotaged in preference for other forms of registered tenures, denying it the opportunity to progressively evolve.

Policy Statements

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

Strategies

40. To facilitate the evolution and development 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 confers 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) Promote systematic demarcation as a measure to reduce the cost of registering rights under customary tenure; and
 - (vi) Make an inventory of common property resources owned by communities and vest these resources in the communities to be managed under their customary law.

41. To facilitate the design and evolution of a legislative framework for customary tenure, Government shall:
 - (i) Amend 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 (same level) 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; and
 - (vii) Provide for registration of customary land held under trusteeship by traditional institutions or cultural leaders on behalf of communities in the names of trustees.

42. To strengthen traditional land management and administration institutions, Government will take measures to:
 - (i) Recognize and enforce decisions of traditional land management institutions 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, land use regulation and land dispute dispute for land under customary tenure;
 - (iii) Ensure that the decisions of traditional land management institutions uphold constitutional rights and obligations with regard to gender equity;
 - (iv) Develop guidelines and procedures under customary land law for the allocation and distribution of land complying with the principles of equality and natural justice.

4.4 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 on the same piece of land. The definition of rights accorded to *bonafide* occupants in the Land Act (Cap 227) continue to be contested by landowners. The Land (Amendment) Act 2010 grants statutory protection to the *bonafide* and lawful *occupant* 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 is largely ignored creating a land use deadlock between the tenants and the registered land owner, hence conflicts and in many instances evictions. The landlord-tenant relationship as legally regulated is not amicable or harmonious.

Policy Statement

44. **The Government 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 landowners, Government shall take measures to:
- (i) Promote the principle and practice of land sharing and land re-adjustment through negotiations between the registered land owner and lawful or *bonafide* occupant;
 - (ii) Facilitate tenants on registered or government land to access the Land Fund to purchase or acquire registrable interests;
 - (iii) Establish an administrative mediation committee in districts with predominantly landlord-tenant issues to mediate between landlords and tenants willing to share land. The committee will be constituted of both political and technical officers at both district, sub county level and locus;
 - (iv) Set guidelines to adjudicate, mediate and sensitize on land rights between bonafide or lawful tenants, and registered land owners; and
 - (v) Purchase the interest of the registered landowner in the land occupied by the lawful or bonafide occupants using the Land Fund and sell the interest to the said occupants, based on social justice and equity considerations.
46. To ensure an amicable landlord-tenant relationship, Government through legislative and administrative measures, shall:
- (i) By statutory instrument, fix annual nominal ground rent for rural areas and economic ground rent for urban areas, subject to periodic reviews;
 - (ii) Ensure that annual nominal ground rent for absentee land owners is deposited at the sub-county headquarters where the land in question is located;
 - (iii) Ensure that a lawful or bonafide occupant is not evicted from registered land except for non-payment of annual nominal ground rent for rural areas or economic ground rent for urban areas;
 - (iv) Ensure that a mechanism is put in place for lawful and bonafide occupants with absentee landowners to inform the area local leaders before sale of their occupancy;
 - (v) Ensure in the event of a change in ownership, sale, grant or succession of registered land occupied by lawful or bonafide occupants, the liabilities and obligations thereon shall be transferred automatically to the new registered landowner.

4.5 FREEHOLD TENURE

47. 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

48. **The State, through its agencies, shall exercise regulatory power on freehold tenure in compliance with physical planning standards, regulations and guidelines for orderly development.**

Strategy

49. Government shall impose and put in place measures to enforce conditional covenants under freehold land tenure to regulate its use and development.

4.6 LEASEHOLD TENURE

50. Article 237(5) of the 1995 Constitution 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 legally recognized with rights in perpetuity, the conversion needs to be reviewed because it is lacking in guiding principles with regard to: (i) Leaseholds granted to individuals who held land under customary tenure before the 1995 Constitution; if such leaseholds are not encumbered by bonafide and lawful occupants, they ought to automatically convert to freehold; (ii) In instances where leaseholds have been accidentally granted to customary owners in respect of their holdings after the 1995 Constitution, these ought to automatically convert to freehold. (iii) 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 the grant of the lease, thus they should continue to run as leasehold, with the state holding reversionary interest on behalf of the citizens of Uganda.

Policy Statements

51. (a) **Leaseholds granted to individuals under customary tenure before the 1995 Constitution and are not encumbered by bonafide or lawful occupants shall automatically convert to freehold;**
(b) **Leaseholds granted to customary owners in respect of their customary Holdings after the 1995 Constitution, shall automatically convert to freehold;**
(c) **Leaseholds granted out of former public land without any customary rights shall be converted to freehold on terms and conditions provided under the Land Act Cap 227.**

Strategies

52. 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 registered tenure categories through the provision of simplified standard format;

- (v) Amend the Land Act Cap 227 to provide for the duration of 49 years in leasehold for non-citizens;
- (vi) 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;
- (vii) Provide standards for exercise of reversionary rights to comply with first-option-of-renewal to the current lessee on public land;
- (viii) Protect the rights of any lawful or *bonafide* occupants on leaseholds out of public land; and
- (ix) Impose periodic reviews to enforce compliance with use and development conditions in leasehold covenants upon renewal or extension.

4.7 COMMON PROPERTY RESOURCES ON PRIVATE LAND

53. 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, situated on land owned privately by individuals and/or communities. The 1995 Constitution and Land Act (Cap 227) 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

54. (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

55. 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 and document 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; and
 - (vii) Build capacity for management of common property resources by local governments and communities by recognizing and regularizing their roles.

4.8 LAND RIGHTS OF ETHNIC MINORITIES

56. In Uganda, 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. The 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. In some cases Government is non-compliant with the provisions of the Constitution, which provide for prompt, adequate and fair compensation prior to taking of possession.

Policy Statements

57. (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

58. 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 resettlement or compensation in the event of expropriation of ancestral land of minorities for preservation or conservation purposes;
 - (d) Set terms and conditions for displacement of minorities from their ancestral lands in the interest of conservation or natural resources extraction;
 - (ii) Deliberate and specify benefit-sharing measures to ensure that minority groups benefit from resources on their ancestral lands rendered to extractive or other industries;
 - (iii) Educate and create public awareness on the benefits of conservation and protected areas for national development; and
 - (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.

4.9 LAND RIGHTS OF PASTORAL COMMUNITIES

59. 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 the 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

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

Strategies

61. 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 the use of communal land management schemes among pastoral communities;
 - (v) Establish efficient mechanisms for the speedy resolution of conflict over pastoral resources in pastoral communities and sedentary communities; and
 - (vi) Consider land swapping, resettlement or compensation for pastoral communities displaced by government from their ancestral lands.
62. 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 livestock;
 - (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; and
 - (iv) Establish mechanisms for flexible and negotiated cross-border access to pastoral resources among clans, lineages and communities for their mutual benefit.

4.10 LAND RIGHTS OF WOMEN AND CHILDREN

63. 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 and the Land Act Cap 227 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 and children.

64. 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. This landmark court decision is yet to be translated into law. In addition Uganda has ratified several international instruments on human rights in relation to women and children, however the gap between what is in law and what is in practice is clearly distinct..

Policy Statements:

65. (a) **Government shall by legislation, protect the right to inheritance and ownership of land for women and children;**
(b) **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:

66. To review and regulate customary law and practices in access to and ownership of land, Government will:
- (i) Ensure rules and procedures relating to succession do not impede transmission of land to women and children;
 - (ii) Educate and sensitize the public on 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; and
 - (v) Ensure that the head of family is held to account on his/her fiduciary duties over family land held in trust.
67. 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;
 - (ii) Make legal provision for joint or spousal co-ownership of family land and the matrimonial home;
 - (iii) Amend the succession Act Cap 162 to provide for the right to succession and inheritance of family land by women and children;
 - (iv) Amend the Land Act Cap 227 to restore the consent clause to protect children below 18 years; and
68. 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; and
- (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.

4.11 LAND RIGHTS OF DWELLERS IN INFORMAL SETTLEMENTS AND SLUMS

69. Slum dwellers form an important part of the urban fabric and make a substantive contribution to the urban economy; however, it is common for them to settle in marginal areas with high environmental concerns and health hazards under precarious conditions.

Policy Statement

- 70. 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

71. Government will take measures to:
- (i) Facilitate negotiations between registered land owners, the government and dwellers of informal settlements and slums to regularize their land rights;
 - (ii) Promote public -private partnerships to enhance tenure security and stem the growth of slums and informal settlements;
 - (iii) Regulate the 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) Set aside serviced land for housing development for the poor at affordable rates;
 - (vii) Accord statutory security to informal sector activities without compromising physical planning standards and requirements;
 - (viii) Provide basic infrastructure for informal sector developments; and
 - (ix) Provide affordable infrastructure for self-improvement for the urban poor.

4.12 LAND RIGHTS OF OTHER VULNERABLE GROUPS

72. 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.

Policy Statements

- 73. (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

74. 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 on the basis of gender, disability, ethnicity, social or 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 infected and affected by HIV/AIDS and terminally ill persons;
 - (iv) Sensitize and encourage vulnerable groups to hold their ownership rights and interests in family or community trusts; and
 - (v) Mainstream gender, HIV/AIDS and disability interventions in strategic land sector activities.
75. To protect the land rights of internally-displaced persons, Government will take special measures to:
- (i) Consider restitution of land, housing and property or adequate compensation or resettlement; and
 - (ii) Put in place mechanisms and structures for claiming restitution, compensation or resettlement.

4.13 RESTORATION OF ASSETS AND PROPERTIES TO TRADITIONAL RULERS

76. The Traditional Rulers (Restitution of Assets and Properties) Act, 1993 returned 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 the Buganda Kingdom, the properties being negotiated for return include: the estimated '9,000 square miles', the 1,500 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. It is necessary to expedite the conclusion of this legal process based on agreed principles with the central government, not only for the Kingdom of Buganda, but for all the Kingdoms including Bunyoro and Busoga, that have put forward demands. There is also need to streamline the ownership and management of properties returned to the institution of the traditional rulers.

Policy Statements

- 77. (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

78. 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; and
 - (iv) Prepare an inventory showing the location of such land restored and the nature of any beneficial interest held by persons in occupation thereby.
79. 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 Traditional Rulers for the return of assets and properties confiscated in 1967;
 - (iii) Expedite the negotiation process for the return of 160 square miles of official estates, 1,500 square miles of forests and "9,000 square miles" to the Kingdom of Buganda; and
 - (iv) Expedite the negotiation process for Kingdoms that have articulated claims for the return of their properties.

4.14 THE KIBAALE LAND QUESTION

80. 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 landlords in *mailo* tenure that the counties lost. Government resettlement schemes in 1973 and 1992, and the incessant immigration and settlement by non-indigenous groups further complicated the situation. What started off as a land question turned political as immigrants gained political control. The resentment that resulted from this turn of events bred political tension and ethnic conflict, often with violent clashes. Based on the Land Act (Cap 227), Government embarked on buying out absentee landlords with a view to resolving this historical injustice. However, due to limited budget allocations the bigger part of *mailo* is yet to be bought.

Policy Statement

81. **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

82. To resolve the *Kibaale* land question, Government shall take measures to:

- (i) Commit sufficient financial resources under the Land Fund to purchase *mailo* interests of absentee land owners at market price and restitute the land to the indigenous persons;
- (ii) Develop a 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 as guaranteed by the 1995 Constitution and the Land Act Cap 227;
- (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; and
- (vi) Design a fair and equitable criterion for redistributing public land and land purchased from absentee landlords..

4.15 LAND MARKETS

83. The operations of a land market hinge on an efficient and effective 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. When the land markets are not properly guided can lead to loss of rights for vulnerable groups through distress sales. The consequence is landlessness as the biggest chunk of land is concentrated in the hands of the rich. There is need to put in place a mechanism 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

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

Strategies

85. 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) Design and implement measures to mitigate against the negative impacts of land markets through fiscal, land-use planning and other appropriate measures;
 - (iii) Establish a functional land information system and provide good quality land-related information and infrastructure to access this information;
 - (iv) Introduce and create a computerized land registration and cadastral system that is periodically updated to guarantee transaction accuracy and reduce costs of registration;
 - (v) Continue to improve the quality and completeness of cadastral and land information databases and systems to facilitate the land market;
 - (vi) Promote public-private partnerships to provide sufficient capacity and finance while retaining ultimate control by the state;
 - (vii) Promote and institutionalize land rental market to promote access to land for production; and

- (viii) Regulate the operations of non-state actors in the land market, in particular real estate agents, traditional and faith-based institutions and other large holders of land.

4.16 ACCESS TO LAND FOR INVESTMENT

86. Growth in Foreign Direct Investment (FDI) can lead to alienation of land from small holder farmers and result in tenure insecurity, food insecurity, land conflict 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 investment (FDI) and the amount of land to be allocated for such investment based on the use to which the land is to be put is imperative. Government or public land available for carefully-selected private investment deemed important for socio-economic growth is limited. It is the duty of Government to deliver land to investors based on a transparent criteria, with 'due process' and 'due diligence' either from public land or government land without displacing public utilities.

Policy Statements

- 87. (a) Government shall ensure that the acquisition of land for investment purposes is in accordance with:**
- (i) **National development objectives,**
 - (ii) **Established laws and procedures,**
 - (iii) **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

88. 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 pulling them down to allocate the land to investors; and
 - (e) Create a land bank to acquire and allocate land for investment.
 - (ii) Provide reliable and easily accessible land-based information to guide potential investors;
 - (iii) Establish a framework for auditing land based local and foreign investment proposals to ensure that they are aligned with the objectives of this policy; and
 - (iv) Promote long-term benefit-sharing arrangements rather than one-off compensation for loss of land right in respect of investment by supporting alternative operational business/production models between the locals and investors (such as contract farming schemes for small holder farmers, out growers schemes, equity-sharing schemes, use of leaseholds and joint-ventures).

89. 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) Facilitation of access to land by vulnerable groups, smaller-scale land owners and land users in the face of large scale farming interests; and
 - (iv) Protection against degradation of natural resources and sensitive eco-systems.

4.17 LAND FRAGMENTATION

90. Excessive fragmentation of land affects production potential as estates of land shared amongst beneficiaries are divided into uneconomic sub-units and un-productive dimensions. Fragmentation hinders consolidation, organisation and/or appropriate acreage in farming. In densely populated areas such as highlands, it has led to land degradation as land is used every season without replenishing the soil nutrients. Land fragmentation has decreased the land per capita in an environment where productivity is not rising fast enough to maintain the production needs of Uganda's fast growing population. It is important that an awareness and understanding of the causes, trends and impacts of fragmentation is created. There is need to put in place mechanisms to prevent fragmentation and its negative consequences.

Policy Statements:

91. a) **Government shall regulate the practice of land fragmentation and mitigate its negative consequences.**
- (b) **Government shall set minimum land sizes for rural and urban land to promote orderly development;**

Strategies:

92. To regulate land fragmentation, Government will take measures to:
- (i) Develop guidelines to:
 - (a) Control land fragmentation by setting minimum acreage to be subdivided;
 - (b) Regulate sub-division of land in urban and rural areas to optimize use, taking into account ecological and orderly development;
 - (c) Facilitate the periodic consolidation and re-adjustment of land parcels for optimal use in rural and urban areas;
 - (ii) Provide incentives and rewards that encourage maintenance of optimal land sizes on privately-owned land;
 - (iii) Ensure compliance with the laws and regulations for land use, both in urban and rural areas through sanctions and penalties;
 - (iv) Institute public education on the consequences of land fragmentation and sensitize the public on the value of land as a wealth producer and a factor of production;
 - (v) Regulate land sizes in rural and urban areas by setting minimum sizes as a measure for controlling sub-divisions; and
 - (vi) Promote farming systems and land-use practices that conserve and enhance land productivity in an environmentally sustainable manner.

4.18 MEASURES FOR PROTECTION AND PROMOTION OF LAND RIGHTS

93. 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, even in the event of resettlement.
94. It is necessary to set minimum land sizes to avoid excessive sub-division of land, in rural and urban areas for orderly development.
95. The Land Act (Cap 227) allows for non-citizens to acquire interest in land under leasehold tenure for a maximum term of 99 years. The period is considered to be too long and a shorter lease period of 49 years is proposed as sufficient for most forms of investment to bear returns.

Policy Statements

96. (a) **Government shall develop and implement measures for effective assurance of enjoyment of all land rights by all citizens;**
(c) **Non-citizens shall be granted interest in land only under leasehold tenure for not more than 49 years.**

Strategies

97. 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 with regard to demarcation and registration;
 - (iii) Ensure land delivery services are delegated to the local authority level as part of taking services closer to people;
 - (iv) Ensure community management structures relating to land under customary tenure are strengthened;
 - (v) Promote participation of non-state actors and stakeholders in the protection of land rights and tenure security of communities and vulnerable groups;
 - (vi) Ensure non-state actors involved in activities of the land sector are certified by the Ministry of Lands in accordance with the NGO policy; and
 - (vii) 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.
98. Government shall formulate a National Resettlement Policy.

CHAPTER 5: LAND RIGHTS ADMINISTRATION FRAMEWORK

5.1 INTRODUCTION

99. Land rights administration involves the process of determining, registering and availing information about ownership, value and use of land and its associated resources. This chapter addresses land rights administration issues in order to have improved service delivery in the land sector and other productive sectors.

5.2 LAND RIGHTS ADMINISTRATION SYSTEM

100. Land rights administration operates within two parallel systems comprising of: 1) the traditional customary/informal systems governed by customs and norms of given communities and 2) the centralized statutory/formal (or state) system governed by written law. The two are not in harmony, institutional and systemic conflict resulting from parallel practices lead to confusion as distinct roles of the various institutions under customary and statutory institutions are not spelt out. In addition, inconsistencies in the customary system with regard to standards, rules and procedures are common. Land rights administration operations have contributed to land rights insecurity, as a result of lack of proper record keeping, inaccuracies in land registry process, fraud and forgeries in land administration system. Land rights administration needs to be treated as a professional function, if it's to improve on service delivery.

Policy Statements

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

Strategies

102. 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, especially women, in all land rights administration functions;
 - (v) Maintain clear separation between the land rights administration system and public or political administration;
 - (vi) Recognize and grant legality to operations of customary land administration institutions under the Registration of Titles Act; and
 - (vii) Provide the land rights administration institutions with resources at all levels of operation.

5.3 LAND RIGHTS DELIVERY

103. 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 though manually organized is being computerised and automated. Neither of the systems (statutory and traditional) serves the land sector well, making registration of interests slow, expensive and sometimes prone to fraud and forgeries. The systems therefore, require urgent modernization and simplification. It is important that some of the land rights administration services should be 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

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

Strategies

105. 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;
 - (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; and
 - (v) Through subsidiary legislation, regularize the fees and charges in the Land Registry for verification and transaction costs including charges by local councils for effective control by local governments.
106. 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;
 - (iv) Set and enforce professional standards for land administrators;
 - (v) Enhance capacity of land administration institutions and professionals through periodic training;
 - (vi) Privatize a limited number of land rights delivery services under guidelines established by the semi-autonomous State Land Agency; and
 - (vii) Strengthen dispute resolution mechanisms in communities and decentralized state institutions established under the Land Act.

5.4 LAND RIGHTS DEMARCATION, SURVEY AND MAPPING

107. In Uganda, performance of land rights demarcation, survey and mapping functions has been impeded by a variety of factors, which include shortage of qualified personnel, administrative bottlenecks in the preparation and approval of deed plans, among others. 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. 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 fuels land conflicts and disputes. Under customary tenure, traditional boundary-marking systems are still being emphasized and recognized instead of the modern and accurate land rights adjudication, systematic demarcation and surveying.

Policy Statement

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

Strategies

109. 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 and revise the Surveyors' Registration Act to harmonize it with the Survey Act on qualification and registration of surveyors;
 - (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) Promote systematic demarcation and survey as a cost-effective of registering rights in land; and
 - (vii) Regulate the cost of surveys and mapping to facilitate registration of land under all tenure systems.
110. 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 typographical 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; and
 - (v) Educate communities and incorporate traditional institutions on the functions of surveys and mapping.

5.5 LAND INFORMATION SYSTEM

111. An important function of the land rights administration system 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. The 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

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

Strategies

113. 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.

5.6 LAND DISPUTES RESOLUTION

114. 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 traditional 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; however, the operation of these has since been suspended by the Judiciary due to limited resources and duplication of services with Magistrate Courts. Overlaps in dispute resolution institutions and the absence of a clear hierarchy have resulted in fora shopping by aggrieved parties. 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

115. (a) **Administrative Land Tribunals will be reinstated, adequately resourced and facilitated to enable them carry out their constitutional mandate;**
 (b) **Land disputes resolution mechanisms will be reformed to facilitate speedy and affordable resolution of land disputes.**

Strategies:

116. 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 administrative functions, be supervised by the Ministry responsible for Lands;
 - (iii) Provide clear rules for application of law by land tribunals to permit hierarchal 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 to keep proper written records of all disputes dealt with 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; and
- (viii) Encourage and build capacity for alternative dispute resolution on land matters and application of principles of natural justice.

5.7 REVENUE GENERATION AND FISCAL FUNCTIONS

117. Decentralization of the land rights administration system under the Land Act (Cap 227) and Local Governments Act (Cap 243) 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

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

Strategies

119. 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; and
 - (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 6: LAND USE AND LAND MANAGEMENT FRAMEWORK

6.1 INTRODUCTION

120. 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. Legislation over land ownership and land development are both important aspects of the approved National Land Use Policy. 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.

6.2 LAND USE AND LAND DEVELOPMENT

121. Since 1900, 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 to support efforts aimed at the transformation of land users with greater emphasis on urbanization, attaining food security using land with an orientation to commercial agriculture for the majority of peasants who live on less than one dollar per day.

Policy Statement

122. **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

123. To ensure simultaneous land development and land ownership, Government will 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; and
 - (v) Apply land use planning and fiscal instruments to ensure land use and land development.
124. 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) Carry out a periodic land audit to determine the land needs of all productive sectors at least once every 10 years to support the attainment of national development goals; and
- (iv) Enhance access to land for large-scale commercial investments without prejudicing security of tenure for the Citizens of Uganda.

6.3 OPTIMAL USE AND MANAGEMENT OF LAND RESOURCES

125. Land resources have not been put to optimal, productive and sustainable management and use. Land use and land management lies in 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. Insufficient collaboration among public sector institutions and agencies presents an obstacle to the rational, effective and efficient management of land resources.

Policy Statements

- 126. (a) Government shall ensure that land resources are optimally used and sustainably managed in an integrated 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 government and community 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 complementarities with the implementation of the national land policy.

6.4 INTEGRATION OF LAND WITH OTHER PRODUCTIVE SECTORS

128. 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, land plays a vital role by providing leverage for the efforts of other sectors. 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 increased contribution to economic growth, commercial competitiveness and development.

Policy Statement

129. Land in Uganda will be managed as a basic resource to support growth in other productive sectors through effective cross-sectoral integration.

Strategies

130. To address the integration of the land sector with other productive sectors, Government will put in place measures to:
- (i) Operationalize sectoral and sub-sectoral policies and management systems that are consistent with the provisions of the national land policy;
 - (ii) Ensure that central Government and Local Governments provide the land resources required for development in all productive sectors of the economy;
 - (iii) Ensure that developments in productive sectors do not lead to the deterioration of the quality of land resources;
 - (iv) Undertake periodic reviews of the land sector and related productive sectors to assess mutual contribution and impact on each other;
 - (v) Ensure sufficient resources for the development and management of the land sector and all related productive sub-sectors are constantly available; and
 - (vi) Undertake civic education, motivation of stakeholders and professionalism in land management and administration for successful integration of the land sector with other sectors.

6.5 LAND USE PLANNING AND REGULATION

131. Physical planning is an important function in the management of land under any tenure that enables the Government, communities and individuals to determine, in advance, the direction and rate of progression of land sector activities by region and area. Although the primary instruments for physical planning are in place, implementation plans in urban and rural areas in addition to supervision and compliance still face major challenges. Besides, local planning authorities, i.e. local councils, do not always have the resources and technical capacity to plan and/or implement approved physical development plans. A gap exists between land use plan preparations, implementation and enforcement of land use regulations, which needs to be bridged.

Policy Statements

- 132. (a) Government shall ensure that land is planned, used and managed for the benefit of the present and future generations;**
- (b) Government shall review and re-establish the framework for physical development planning and regulation.**

Strategies

133. 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; and
 - (v) Review all relevant legislation on land use planning and regulation to ensure that they are in tandem with the National Land Policy.
134. 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 physical planning into the overall national, regional and local development planning frameworks, including all urban economic activities, urban agriculture and forestry;
 - (ix) undertake public education on the overall goals, advantages and benefits of public regulation of land use; and
 - (x) Enact a law to provide a framework for metropolitan planning.

6.6 LAND QUALITY AND PRODUCTIVITY ASSURANCE

135. 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

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

Strategies

137. 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) Promote individual and community participation in environmental action by providing socio-economic and other incentives to induce sustainable land use and management practices;
- (v) Introduce appropriate and affordable technologies of production, including the possibility of irrigation schemes in arid and semi-arid areas; and
- (vi) Develop guidelines to:
 - (a) Control soil degradation and industrial waste disposal,
 - (b) Encourage settlement in urban areas to ensure that population growth is commensurate with available resources.

6.7 NATURAL RESOURCES AND ENVIRONMENTAL MANAGEMENT

138. 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 promotion of inapt investment. Users and owners 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.
139. Management of protected areas such as forests, wetlands and wildlife reserves is done by Government agencies. However, there have been changes of land use which has led to conflict in land use. There are also no clear policy and legal mechanisms for wildlife conservation outside the protected areas and mechanisms for resolving human/wildlife conflicts.

Policy Statements

- 140. (a) Government shall ensure that natural resources are optimally used and sustainably managed 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

141. Government will develop an appropriate legal 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) Promote benefit-sharing between land resource management institutions, authorities, and local communities;
 - (iv) Strengthen the enforcement mechanisms of natural resource regulations, environmental planning, and monitoring; and
 - (v) Provide incentives and rewards to encourage restoration, maintenance and protection of natural resources on privately-owned land.

142. 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 greenhouse 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) Compensate all land owners whose land stretches into designated wetlands, hilltops, water catchment areas, lake shores, river banks and other sensitive eco-systems who acquired title before the coming into force of the 1995 Constitution;
 - (v) Discontinue the alienation of designated wetlands, hilltops, water catchment areas, lake shores, river banks and other sensitive eco-systems by enforcing legislation, regulations, guidelines and standards; and
 - (vi) Carry out public education on sustainable use and management of natural resource and the environment,

143. 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 injustice,
 - (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 co-management of conservation on public land;
 - (iv) Recover, demarcate and provide guidelines to regulate use of hilltops and other sensitive eco-systems; and
 - (v) Develop mechanisms to resolve human-wildlife conflict.

6.8 HUMAN SETTLEMENTS

144. Human settlements development is inhibited by inadequate physical planning coupled with rapid and haphazard growth of urban areas. Rapid population growth and urbanization is taking place in the absence of an urban policy.. Urban settlements are characterized by 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 human settlements in both rural and urban areas are necessary for cost-effective location and provision of services.

Policy Statement

145. **Government shall formulate a National Housing Policy and National Urban Policy for comprehensive planning and orderly development.**

Strategies:

146. To support human settlements development, Government will take measures to:
- (i) Formulate a National Urban Policy;
 - (ii) Develop a National Housing 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 settlement in urban areas or in nucleated settlements to free land for development;
 - (ix) Put in place appropriate legal framework to facilitate and regulate urban agriculture; and
 - (x) Harmonize relevant sectoral policies.

6.9 AGRICULTURE

147. Uganda has not yet formulated a comprehensive national agriculture policy. 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, though self-evident are not demarcated. Poor agricultural practices have resulted into increased land degradation due to soil erosion and soil nutrition depletion, de-forestation, over-grazing and water contamination. Over-population in some areas has resulted in 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. Agricultural production is mainly by small-holder producers.

Policy Statement

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

Strategies

149. Government will take measures to:
- (i) Formulate a comprehensive National Agriculture Policy;
 - (ii) Formulate a National Soils Policy;
 - (iii) Promote and ensure viable zonal agricultural production to enhance production, productivity, marketing and agro-processing;
 - (iv) Make available an updated soil and arable land resource inventory at an appropriate scale;
 - (v) Promote farming practices that reduce land degradation and enhance soil quality and productivity;
 - (vi) Encourage voluntary consolidation of agricultural land holdings to sizes suitable for optimum, productive and sustainable use;
 - (vii) Plan, use and regulate agricultural activities and other practices that degrade the quality of agricultural land;
 - (viii) Discourage land fragmentation through education, incentives, laws and by-laws; and
 - (ix) Promote sustainable use and management of water, soil and land resources.

6.10 CLIMATE CHANGE

150. 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. The country 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, depend almost entirely on sound management and sustainable utilization of the natural resource base.

Policy Statements:

151. (a) **Government shall, in its plans and programs 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 mitigate and adapt to climate change and variability, to reduce impact on climate, on the population and the economy;**
- (c) **Government will develop a framework for compliance with all international commitments on management of climate change.**

Strategies

152. To address the challenges of climate change, Government will take measures to:
- (i) Formulate a National Climate Change Policy;
 - (ii) Regulate anthropogenic activities which generate greenhouse gas emissions such as the burning of forest fires and destructive agricultural practices;
 - (iii) Enhance participation in initiatives for mitigating greenhouse gas emissions worldwide;
 - (iv) Mitigate the destruction of forests, water bodies, and other phenomena which act as sinks for greenhouse gasses;
 - (v) Strengthen the adaptive capacity to climate change and promote climate change adaptation mechanisms;
 - (vi) Promote efficient use of new and renewable resources and, in particular, the exploitation and regeneration of renewable sources of energy;
 - (vii) Build capacity for rapid response to and management of extreme events arising from variability in climate parameters;
 - (viii) Strengthen and facilitate the operations of non-state actors concerned with environmental governance, ecosystem protection and preservation; and
 - (ix) Provide for re-settlement of environmental refugees or internally displaced persons and initiate co-operation on responses with neighboring countries on issues related to the Kyoto Protocol including adaptation to climate change.

6.11 INSTITUTIONAL FRAMEWORK FOR MANAGEMENT OF LAND-BASED RESOURCES

153. Management of land-based natural resources lies within many different bureaucracies that are uncoordinated and often in competition with one another for recognition and resources for implementation. There are many institutions with varying responsibilities relating to land management and overlapping mandates without clear policy principles and guidelines. Without a comprehensive reform, the current institutional and administrative framework for the management of land resources which has grown in response to various political and economic concerns will remain internally-fragmented, in conflict with each other and highly centralized.

Policy Statement

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

Strategies

155. 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 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 government and community 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; and
- (viii) Develop capacity and an enabling infrastructure for evolution and implementation of sustainable land use practices and land management.

CHAPTER 7: REGIONAL AND INTERNATIONAL FRAMEWORK

7.1 INTRODUCTION

156. 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 the governance of land-based resources and provide principles for partner States to implement. As Uganda develops closer political linkages with other East African Community countries, 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.
157. 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; and
 - (viii) Prevent forced evictions and guarantee security of tenure.

7.2 REGIONAL AND INTERNATIONAL INSTRUMENTS AND OBLIGATIONS

158. 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. The 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. It is desirable that, compliance is attained at a pace matching the on-going social, economic and political processes. It does not introduce radical changes in domestic institutions and structures that are disruptive to long-term development policies and plans.

Policy Statement

- 159. 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

160. 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) Domesticating regional and international instruments relevant to the land policy to comply with international principles and standards; and
- (iv) Monitor the level of implementation of all conventions to which Uganda is signatory.

7.3 CONVERGENCE ON LAND POLICY AND LEGISLATION

161. 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 Statements

162. (a) **Government will take steps to align land policy and legislation 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 align policies, laws, regulations and practices on land and land-based resources.**

Strategies

163. 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 practices 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.
164. 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 into account environmental implications of such regulation; and
- (iv) Support regional and continental initiatives for the harmonization of land policies and laws.

7.4 MANAGEMENT OF TRANS-BOUNDARY RESOURCES

165. Uganda shares many aquatic, terrestrial and other trans-boundary resources, and eco-systems with neighboring countries. Amongst these are 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

166. **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

167. 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 wetlands;
 - (iii) Undertake voluntary reduction 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; and
 - (v) Design mechanisms for monitoring all trans-boundary resources with Partner States.

7.5 CROSS-BORDER POPULATION MOVEMENTS

168. 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

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

Strategies

170. 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; and
 - (iii) Jointly implement with neighboring countries, measures for effective border management, control and supervision.

7.6 INTER-STATE BORDER DISPUTES AND CONFLICTS

171. 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. The demarcation exercise that has been undertaken to affirm the status of border points and markers of Uganda territory has not been comprehensive to cover all the borders. , 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 as part of a broader framework to ensure harmony, territorial integrity and completeness.

Policy Statement

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

Strategies

173. 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 neighbours and deposit them with the East African Community and Africa Union;
 - (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; and
 - (v) Amend the Survey Act to incorporate penalties for those involved in vandalism of all survey marks, pillars and other identification marks.

CHAPTER 8: IMPLEMENTATION FRAMEWORK FOR THE NATIONAL LAND POLICY

8.1 INTRODUCTION

174. This National Land Policy is a framework for development and use of land resources in Uganda. It must be implemented if Uganda's land resources are to be used productively and optimally. Implementation involves the conversion of policy principles, statements and strategies into a comprehensive program of land reform. The policy must be internalized, popularized, translated and widely disseminated if it's to achieve its objectives.

8.2 COSTING IMPLEMENTATION OF THE LAND POLICY

175. 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

- 176. Government shall cost and finance a comprehensive program of land reform as approved in this Policy.**

Strategies

177. To cost and finance the land reform process in Uganda, Government shall:
- (i) Phase the implementation of this policy based on sequenced priorities and develop cost estimates for all phased activities or programs anticipated by the policy;
 - (ii) Make an 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; and
 - (vi) Ensure that the cost of implementation of the policy is fully-budgeted and funded as part of the national development framework.

8.3 IMPLEMENTATION PLAN FOR THE NATIONAL LAND POLICY

178. A critical challenge in land policy implementation involves the programming of its various components. This entails the design of appropriate legislation, the establishment of institutional requirements and the preparation of a program of activities based on the strategies. These have to be sequenced and prioritized for

implementation as well as putting in place indicators for measuring progress. Programming should be preceded by consulting key stakeholders within Government, Parliament, local authorities and communities. There is also need to have co-operation with agencies in sectors involved in land use and natural resources management, as well as non-state actors.

Policy Statement

179. Government shall undertake the preparation of an Action Plan for implementation of the National Land Policy.

Strategies

180. 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 and coordinate the implementation of the national land policy;
 - (iii) Propose a time-table for development of new legislation, review of existing legislation and institutional arrangements in line with the national land policy;
 - (iv) Design and strengthen structures for co-ordination of implementation between land related sectors and other sectors;
 - (v) Accord priority to the implementation of program components that are key to the revitalization of the land sector; and
 - (vi) Define the roles of the Ministry responsible for lands and other actors, such as development partners, private sector, civil society among others.
181. Specific tasks of the National Land Policy Implementation Unit will include, among others:
- (i) Facilitating the drafting of all legislation necessary to implement the national land policy;
 - (ii) Identify potential partners for effective and efficient funding of the land policy implementation process;
 - (iii) Capacity building of key personnel in the implementation of this policy;
 - (iv) Organizing of civic education and public awareness creation for stakeholder participation; and
 - (v) Undertake tracking progress on implementation of the policy.

8.4 PUBLIC EDUCATION AND DISSEMINATION OF THE LAND POLICY

182. The process of developing the National Land Policy has involved a broad spectrum of land sector stakeholders. There is need to undertake a broad program of education and awareness on the policy in order to be fully-understood by all stakeholders.

Policy Statement

183. Government shall disseminate the National Land Policy to all stakeholders.

Strategies

184. To create awareness of the National Land Policy, Government will:
- (i) Translate the policy into major local 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 policy to all stakeholders; and
- (v) Ensure continued public debate on land issues, self-assessment and feed-back on the land policy framework.

8.5 STAKEHOLDER PARTICIPATION

185. Successful implementation of the national land policy will depend on continuing buy-in, support and confidence of stakeholders. Stakeholders should 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

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

Strategies

187. 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) Additional contribution of resources from development partners, the private sector, cultural institutions and civil society;
 - (iii) A formalized approach towards co-operation and co-ordination with non-state actors, by signing joint statements of intent, partnership principles, code of conduct, and Memorandum of Understanding;
 - (iv) Alliances and partnerships are built amongst stakeholder groups.

8.6 MONITORING, EVALUATION AND REVIEW

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

Policy Statement

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

Strategies

190. To institutionalize a monitoring and evaluation system, Government shall:
- (i) Develop and apply responsive 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 of the National Development Plan; and
 - (v) Define roles and responsibilities of key stakeholders and players in monitoring and evaluation.
191. In order to maintain consistency of the National Land Policy with 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 the National Land Policy at least every ten years;
 - (iii) Review the National Land Policy Implementation Action Plan and strategies every 5 years or as necessary; and
 - (iv) Create awareness on policy prescriptions for stakeholders of in respect of issues reviewed.