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Capacity Development and Mainstreaming for Sustainable Land Management Project

Integration of Sustainable Land Management into the Draft National Land Use Policy Consultancy

Recommendations of the Sustainable Land Management (SLM) in Guyana's Draft Land Use Policy

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Table of Contents

Abbreviations	iii
A. Background to the Study	1
B. Explanations.....	2
B.1 Definitions	2
B.2 The status of land policy and land-use policy in Guyana	5
B.3 National land use policies, land policies and processes in DCs	7
C. Conclusions and recommendations.....	10
Appendix 1: Documents referenced in the text	12
Appendix 2: Outline of a National Land Policy incorporating SLM principles	14
National Land Policy Outline – an initial draft	15
1. Suggested overall objectives of the policy.....	15
2. Brief description of some of the key land policy issues to be resolved.....	15
3. Constitutional and legal framework	16
4. National Policy Context	17
5. Land and Property Rights Administration	19
6. Sustainable land management.....	22
7. Institutional arrangements	23
8. Financial implications	23

Abbreviations

CEO	Chief Executive Officer
CH&PA	Central Housing and Planning Authority
DCs	Developing Countries
DFID	Department for International Development (UK)
DLUPP	Development of Land Use Planning Project
EC	European Commission
ESIA	Environmental and Social Impact Assessment
EPA	Environmental Protection Agency
EWS	Early Warning Systems
GEA	Guyana Energy Agency
GFC	Guyana Forestry Commission
GGMC	Guyana Geology and Mining Commission
GINRIS	Guyana Integrated Natural Resources Information System
GIS	Geographical Information System
GLASP	Guyana Land Administration Support Project
GLSC	Guyana Lands and Surveys Commission
GNRA	Guyana Natural Resources Agency
GoG	Government of Guyana
GRIF	Guyana REDD+ Investment Fund
LDO	Local Democratic Organ (i.e. RDCs and NDCs)
ICZM	Integrated Coastal Zone Management
IDAB	Inter-American Development Bank
LIS	Land Information System
LTR	Land Tenure Regularisation
LIS	Land Information System
LSD	Lands and Surveys Department
LUCC	Land Use Coordinating Committee
LUP	Land Use Planning
LUPs	Land Use Plans
LUPPS	Land Use Planning and Policy Section
MAA	Ministry of Amerindian Affairs
MC	Municipal Council
MHW	Ministry of Housing and Water
MLGRD	Ministry of Local Government and Regional Development
MMA- ADA	Mahaica Mahaicony Arbarry Agricultural Development Authority
MNRE	Ministry of Natural Resources and Environment
MoA	Ministry of Agriculture
NAP	National Action Programme to Combat Land Degradation
NARI	National Agricultural Research Institute
NDC	Neighbourhood Democratic Councils

NDIA	National Drainage and Irrigation Authority
NDS	National Development Strategy (2001-2010)
NEAP	National Environmental Action Plan
NFPS	National Forest Policy Statement
NREAC	Natural Resources and Environment Advisory Committee
OP	Office of the President
PAC	Protected Areas Commission
PLART	Public Land Administration and Regularisation of Tenure
REDD+	Reducing Emissions from Deforestation & Forest Degradation in DCs Plus
RDC	Regional Democratic Council
SIDS	Small Island Developing States
SLM	Sustainable Land Management
T&CP Act	Town & Country Planning Act
TRA	Tenure, Rights and Access (to land and other natural resources)
TOR	Terms of Reference
UNCCD	United Nations Convention to Combat Desertification
UNCED	United Nations Conference on Environment and Development (Rio 1992)
UNDP	United Nations Development Programme
GEF	UNDP-Global Environmental Facility
UNFCCC	United Nations Framework Convention on Climate Change

Sustainable Land Management in Guyana's Draft Land Use Policy

Final Report

A. Background to the Study

1. The purpose of the Consultancy is to advise the Government of Guyana on the incorporation of the principles of Sustainable Land Management (SLM) in the Draft National Land Use Policy.
2. The Project *Capacity Development and Mainstreaming for Sustainable Land Management* is funded under the global UNDP-GEF Targeted Portfolio Project for Sustainable Land Management in the sub-region. Guyana is one of the partners in this Project, which aims to increase national capacity in the field of SLM and to mainstream SLM in the relevant policy and regulatory frameworks.
3. The TORs for the Consultancy are drafted in the context of Guyana's responsibilities as a signatory of the UN Convention to Combat Desertification (UNCCD) and the *Guyana National Action Programme (NAP) to Combat Land Degradation* (GL&SC 2006). The NAP emphasises the importance of integrating and strengthening the national land policy and planning framework for sustainable development and reducing the pace of natural resource degradation.
4. In 2006, the NAP (page 4) identified key land degradation issues facing Guyana as:
 - Incidence of floods and droughts,
 - Salt water intrusion along Guyana's developed but vulnerable coast, and
 - Unsustainable natural resource utilisation in the mining, forest and farm sectors.
5. The NAP concludes that the principal immediate threat to sustainable natural resource use and development in Guyana is in the more densely populated low-lying coastal region, which is vulnerable to flooding from sea-level rise, from tidal surges and from intense precipitation in the catchment and as a result of related failure of pumping stations and river embankments downstream. The NAP also finds that within the hinterland there is need to foster appropriate forestry, logging and mining practices.
6. The NAP (page 4) calls for: rationalising legislative overlaps; promoting effective coordination and information exchange; establishing institutional synergies; securing financial resources and establishing financial mechanisms; promoting public education and awareness; undertaking training and capacity building; addressing issues of food security, management of agriculture and sustainable development; sustainable management of drainage basins and watersheds; development of early warning systems and emergency

plans to mitigate drought; utilisation of traditional knowledge and promoting regional aspects of preventing land degradation.

7. Among the necessary immediate and critical actions, it includes:
 - a) The assessment of land use and the factors contributing to land degradation;
 - b) The finalisation of the National Land Use Policy and the development of a National Land Use Plan; and
 - c) The harmonisation and strengthening of institutional arrangements for land planning and management.
 - d) Identify and Implement Early Warning Systems for disaster preparedness.

8. Under the Project *Capacity Development and Mainstreaming for Sustainable Land Management*, funded under the global UNDP-GEF, a number of important studies have been conducted which address item a) above. This report aims to contribute to item b), by examination of the SLM issues that should receive attention in the preparation of the Policy. The National Land Use Plan is being addressed by GL&SC with the support of the EC-funded *Development of Land Use Planning Project*. The formation of the Ministry of Natural Resources and Environment has gone a long way to addressing item (c) and the EWS are the subject of a 2010 study (GL&SC 2010).

B. Explanations

B.1 Definitions

9. The adjective ‘sustainable’ is used throughout this paper, so it is well to try to define it.

Box 1: Sustainable Development

The Brundtland Commission (1987) defined ‘sustainable development’ as: *development that meets the needs of the present without compromising the ability of future generations to meet their own needs*. This definition is often brought into service in the absence of agreement about alternative definitions. But, the simplicity of the Brundtland definition is deceptive and obscures underlying complexities and contradictions.

From the Brundtland definition, it is clear that needs themselves change. It is unlikely (as the definition implies) that the needs of future generations will be the same as the present generation, which accounts for the truism: *the satisfaction of one need creates another*.

Then there is the question, *what is to be sustained?* In the case of ecological systems and natural resources the question is easier, but again there are some who argue that the stock of natural resources, or *critical natural capital* should be given priority over flows of income which derive upon it; human made capital cannot be a substitute for natural capital.

This raises a number of issues which are both political and distributive and brings us into the area of land policy and the extent to which we must refer to processes of democracy and governance when deciding what constitutes *sustainable land management*.

The Brundtland report in 1987 took a highly normative/prescriptive view of both the environment and development. The Earth Summit in 2002 considered whether it was possible to achieve

sustainable development without increased democratization at all levels of society. Today, questions of sustainability are linked, intellectually and politically to such issues of human rights, but notions of rights are themselves changing.....

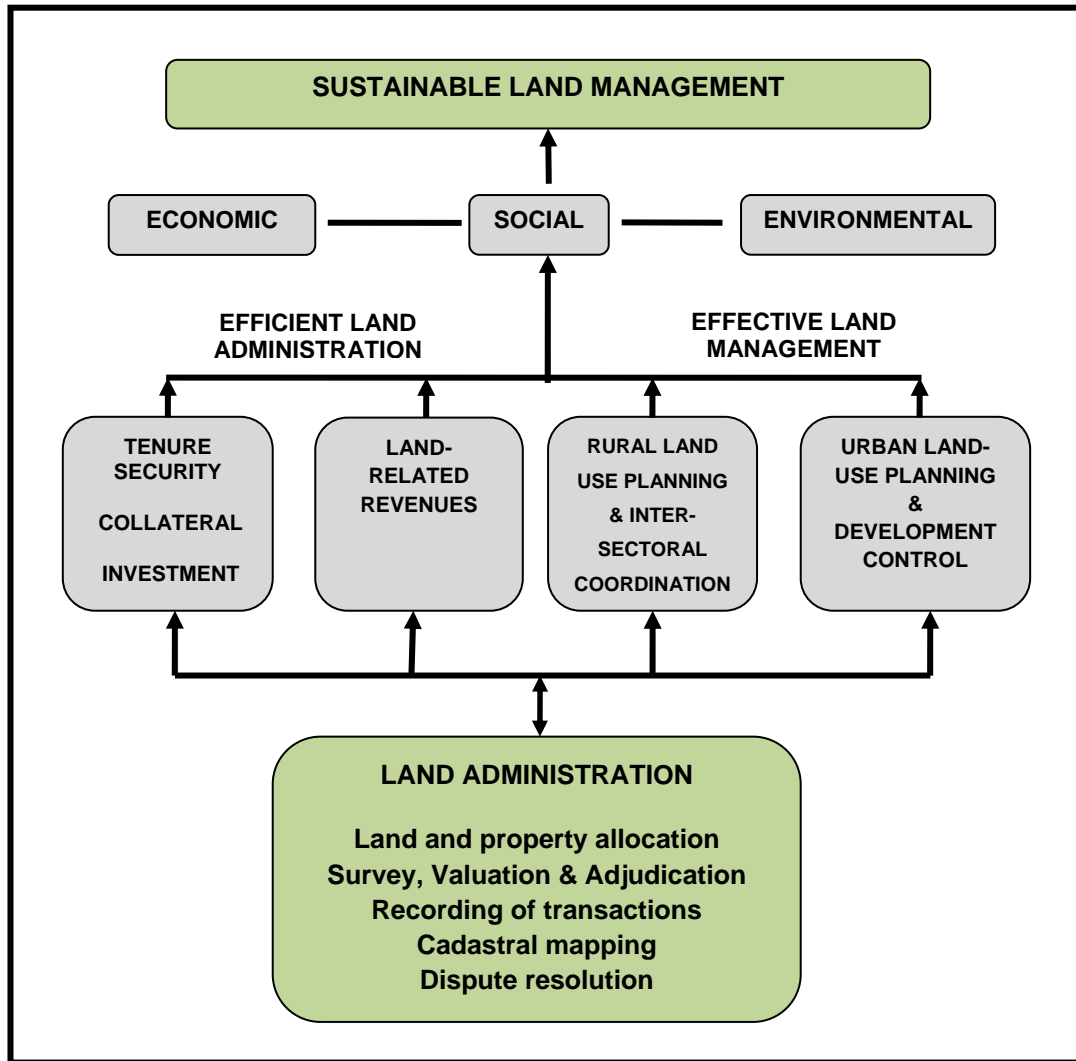
While accepting that the concept of *sustainable development* is paradoxical and unclear and that attempts to define *sustainable development* should be approached with caution, it is still helpful to speak in terms of *more sustainable options*, even if their long term sustainability cannot be guaranteed.

Source: author

10. ***Sustainable Land Management*** (SLM) is understood to mean a course of action that helps to integrate the management of land, water, forest and other natural resources in meeting the rising demand for food, timber, and mineral resources while sustaining ecosystem services and livelihoods. Improper land, forest and waste management, upstream or downstream, rural or urban, can lead to land and water degradation and a significant reduction in the productive and service functions (i.e. biodiversity, hydrology, carbon sequestration) of watersheds and landscapes (World Bank 2006).
11. For Guyana, a Sustainable Land Management policy requires a list of actions to encourage:
 - a. **In coastal areas**, agricultural practices involving integrated soil and water management; enhancement and preservation of the productive capacity of cropped land in coastal areas and river-valley bottoms, through maintenance of water conservancies, irrigation canals, polders, sluices and drains; the prevention of marine salt-water intrusion of aquifers; protection and restoration of mangroves and other natural and man-made sea defences; protection of agricultural land from encroachment by human settlements and related physical infrastructure.
 - b. **In upland areas**, maintenance of the biodiversity and the resilience of ecosystems; sustaining productive forest areas, and potentially commercial and non-commercial forest reserves; sustainable livestock and range management in the savannah; maintenance of watersheds and water conservation zones for hydro-electric power and irrigation; protection of domestic water supplies from harmful mining and industrial effluent; reclamation and restoration of land and vegetation following mining; land demarcation and incentives for Amerindian communities to provide (directly or indirectly) environmental benefits (or services) to conserve biodiversity and sinks for carbon.
 - c. **Land administration and land management**, reform of land administration policies and procedures that result in insecure and uncertain land tenure, which delay land transactions, discourage investment and reduce land-related revenues; and the rationalisation of any overlapping powers which adversely affect rural and urban land use planning and development control.
12. In this study, **policy** is taken to mean a course of action chosen by government to address a given problem, or a set of interrelated problems, usually based on an overarching principle, or principles, for the achievement of specific and declared objectives. Policy falls within

the remit of the Minister and the Cabinet, in consultation with the National Assembly. The purpose of this study is to assist with the policy development process, suggesting policy principles and options for the development of a national SLM policy.

Figure 1: Inter-relation of land administration, land management and SLM



(Source: author)

13. **Land administration** refers to the process of determining, recording and disseminating information about the tenure, value and use of land when implementing land management for agriculture, forestry, mineral exploitation, conservation, tourism and urban development. **Land management** is taken to mean the management of land as a resource from both an economic, social and environmental perspective (UNECE 1996). **Land use planning** (LUP) is an important part of land management that *facilitates the allocation of land to the uses that provide the greatest sustainable benefits* (UNCED 1992).
14. The interrelationship of land administration and land management are shown in Figure 1. In Guyana, the GL&SC, GGMC and GFC (overseen by MNR&E), MMA-ADA and CHPA

are all directly engaged in land and property allocation, in one form or another, and also in land management from an economic, social and environmental perspective. Also involved in land management are the, EPA, NPC and PAC.

B.2 The status of land policy and land-use policy in Guyana

15. Over the previous decade, SLM and the control of land degradation has received the increasing attention and is given prominence in the National Development Strategy (GoG 2001)¹ and the National Poverty Reduction Strategy (GoG 2002). These have provided the foundation for the Government's strategy and policy in the economic sectors including agriculture, environment, forestry, fisheries, mining and tourism, and in land management in the eradication of poverty. The NDS, Chapter 5, Environment, gives prominent attention to issues relating to the degradation of land and natural resources. Chapter 22, Land deals with issues and constraints and the broad objectives of policy and a strategy. Land policy objectives include the better collection and management of environmental and land information, improved institutional arrangements, clearer mandates and improving the process of making land available for development.²

Other land-related studies

16. Since 2004, in addition to the relevant land-related information generated by the UNDP-GEF supported Project Capacity Development and Mainstreaming for Sustainable Land Management, additional work has been done by GLSC's Development of Land Use Planning Project, supported by the EC, which commenced in January 2011. Further studies have also been undertaken in connection with the United Nations Framework Convention on Climate Change (UNFCCC) supported by Norway and in connection with the LCDS (OP 2010).
17. Endeavours have also been made to formulate national land policy documents for Guyana. In 2003 a draft land policy (57 pages) was prepared (GL&SC 2003), followed a year later by a draft land-use policy (22 pages) (GL&SC 2004). They have remained in draft form and were not taken further.

Guyana Draft National Land Policy 2003

18. The land policy document deals almost exclusively with land administration issues and rural tenure arrangements on the coastal strip. Chapter 3 describes the uncertainties attached to leasehold tenure, arising from a legacy of weak land governance. Chapter 4 sets out proposals for improving the tenure security of small farmers by allowing the conversion of state leasehold into freehold; by the issue of 50-year heritable and renewable state leases and by permitting the sale, mortgage, or subleasing to a third party. The option of a joint-tenancy or tenancy-in-common is to be provided for spouses. Chapter 5 provides information about Land Tenure Regularisation (LTR), a process developed by GL&SC

¹ Adopted by a resolution of the National Assembly in 2005

² Chapters 22 and 24 (Amerindians) in the NDS set out sectoral objectives and a strategy, which could be updated and be included in a National Land Policy, which integrates both land administration and land management..

under the DFID-funded Land Administration Project (GLASP), an activity which has now considerably slowed due to the scarcity of resources, including land surveyors. Chapter 6 of the land policy deals with land market issues and Chapter 7 with the improvement of land information systems (LIS), 'the core function of GL&SC' (page 41) and the computerisation of the tenure data. It also proposes improved GIS support for EPA, GGMC, GFC, NARI and the former Guyana Natural Resources Agency (GNRA). Chapter 8 deals with institutional and legal reforms.

19. Most, if not all, of the problems described in this policy paper, continue to be faced by GL&SC, now perhaps on a greater scale. The document would be useful in the preparation of an up-to-date land policy paper.

Draft National Land Use Policy 2004

20. It is apparent that this 20-page draft document was at a very early stage of drafting when it was put on hold. It is not clear that the Draft National Land Use Policy 2004 has been the subject of a thorough process of public consultation.
21. In the version made available to the Consultant, the hierarchy of headings and paragraph numbers are not clear. The first page defines the 'Goal'³ and a series of seven general 'Land use objectives'⁴, the means of achieving these objectives are then difficult to detect in the next seven pages of text, which deal in general terms with mostly, but not exclusively, sectoral topics: viz. National Physical Plan; Rationalizing Land Use; Land Information Systems; Infrastructure; Coastal Zone; Urban development and Housing; Environment and Conservation; and Land Tenure (but not forestry or mining). The topic of Land Tenure takes up the next seven pages of the document and expands material which is in the Draft National Land Policy of the previous year (i.e. GL&SC 2003). The arrangement of the document is such that it would be difficult to track policy implementation for the purposes of results-based management, an important reason for a government to set out its policy, provided of course that the policy involved is realistically attainable in the first place. Many of the policy proposals in the document have not been realised.
22. Thus, the 2004 edition of the Draft National Land Use Policy requires substantial updating. Ideally, it should be reduced to a single chapter and inserted in an updated edition of a redrafted National Land Policy. Consideration should be given to re-arranging the sections and including more information about the role, responsibilities and relationships of all agencies involved in the management of land and natural resources that fall under

³ "To improve the livelihoods of all Guyanese by promoting optimal development of the country's natural resources through a system of land use based on efficiency, sustainability, conservation, participation and equity."

⁴ ">To ensure that resources are used sustainably so that future generations will also benefit and be able to use the resources. >To optimise returns from the land through rational land use allocation procedures. >To ensure that land development practices are implemented in a manner that does not significantly impact the environment. >To guide the development of coastal agriculture, hinterland resource use and urban land uses. >To ensure that access to the land is made available for specific targeted groups. >To ensure the equitable distribution of benefits accruing from land resource use. >To increase revenue flows in order to achieve institutional and fiscal sustainability."

Guyana's new Ministry of Natural Resources and Environment (i.e. EPA, GFC, GGMC, and GL&SC) and how their work is to be harmonised with that of other agencies involved in land use planning, for example, the CHPA and the LDOs served by MLG&RD and the MAA.

B.3 National land use policies, land policies and processes in DCs

23. National Land Use Policies rarely if ever exist in advance of and separate from National Land Policies. This is confirmed by a brief review conducted by the Land Use Planning and Policy Section (LUPPS) which sought to find examples of National Land Use Policies (GL&SC 2011). Of the eight country land papers identified by the review, only two were national land policies (e.g. Tanzania and Jamaica); six were national land use plans (i.e. Lebanon, Pakistan, Philippines, Rwanda, Trinidad & Tobago and Vanuatu). Not one of the eight countries had actually promulgated a free-standing national land use policy.

24. In practice, the publication of a National Land Use Policy as a separate policy document is rare. Statements of national land use policy can usually remain relatively brief (see Box 2) and be included in an introductory chapter of a national land use plan and/or as a separate chapter in a country's national land policy. For example Tanzania, in its National Land Policy (Government of Tanzania 1997), devotes two separate chapters to the topic: viz. Chapter 6, Urban and Rural Land Use Planning pp25-33 and Chapter 7, Land Use Management 34-39. In the National Land Policy of Kenya, Land Management is treated as a sub-heading under Chapter 3, Land Policy Framework (Government of Kenya 2007).

Box 2: Typical country land use policy

Overall policy goal:

- Rationalise utilisation of land, ensuring the wellbeing of the population, present and future food security and ecological sustainability

Objectives of national land use policy:

- Zone land based on its suitability for different categories of use
- Overcome misuse and mismanagement of resources resulting from the lack of an integrated approach, large numbers of decision-makers, conflicting mandates, et cetera
- Decentralize responsibility for land management
- Strengthen the capacity of local institutions to manage land and other resources
- Strengthen tenure security and thereby encourage sustainable land use
- Reduce vulnerability of lands to natural and man-made disasters

Government actions necessary to achieve objectives:

- Map existing land use and develop national and regional land-use plans
- Review and modify the legal framework
- Devise measures for protecting watersheds and other environmentally sensitive areas
- Promote measures to conserve bio-diversity, soil and water
- Protect areas of cultural, archaeological, historical and aesthetic significance
- Develop and implement legal measures to penalise those causing environmental damage
- Ensure that land is protected from unlawful encroachment
- Discourage the unlawful conversion of land to other uses
- Strengthen state institutions providing services pertaining to land and natural resources
- Improve land information – details of holder(s), location, use, et cetera

- Levy taxes and collect land-related revenues to cover costs of services provided

Source: based on unpublished Draft Land Use Policy for Sri Lanka

25. With regard to the land policy development process, the evidence suggests that if a land policy is prepared in a transparent, consultative and democratic manner, it is more likely to prove viable and obtain public support, provided it also receives government support. However, from a review country land policies (Adams and Knight, 2011), government commitment cannot always be guaranteed. In matters of land policy development, it is sometimes difficult to detect a linear relationship (or any kind of systematic relationship) between the analysis of a problem or opportunity and the assessment of the evidence, the formulation of recommendations and the announcement of a policy change. Consistent government support, which is needed in matters of land policy reform, is often absent. Ever since colonial times when the powers of land allocation were monopolised by the Governor (and subsequently by the state president) land policy has been the prerogative of the top leadership and has reflected short-term political expediency.
26. In 1998, a distinguished authority on land policy and land law in Africa, Okoth-Ogendo (1998), described the unprecedented attention being given to land policy development in eastern and southern Africa. With few exceptions, national governments were involved one way or another in the evaluation or re-evaluation of their land policies. He characterised the different approaches adopted by national governments as follows:
- a. **Actions designed to pre-empt land conflicts before they reached a crisis level**, when there is no doubt as to what the course of action might be and the publication of government papers, without waiting for systematic investigation (e.g. South Africa's National Land Policy development process following its first democratic elections).
 - b. **Ad hoc, incremental actions directed at resolving specific land-related problems** and not intended to cover the full range of land issues in the country, on the assumption that the overall legal and institutional framework governing land matters is essentially sound, but which require periodic *ad hoc* adjustment (See Box 3: Botswana).
 - c. **Comprehensive inquiries of a systematic nature**. Under this heading he included the type of long-drawn-out enquiries used by Tanzania (see Box 4).
 - d. Finally, an **incremental approach**, what he ironically called 'panel-beating'⁵, by this he meant actions judged sufficient to get the vehicle back on the road without properly overhauling it. This could perhaps describe the path taken by Guyana until recently. Although, the new administrative arrangements under MNRE could portend a more holistic approach.

⁵ 'Panel beating' is the process of fixing dents in automotive vehicles.

Box 3: The land policy development process in Botswana

In Botswana, for the last 30 years, policy-making in the land sector has followed an iterative sequence extending up to two years: (i) An expert review involving calls for written submissions, public meetings in different parts of the country involving a wide range of stakeholders; (ii) the preparation of a draft report, oral presentations and discussions at a national workshop covered by the media; (iii) a further draft paper which is debated in Parliament; (iv) the publication of a government white paper setting out the policy changes which have been adopted, the recommendations which have been accepted, amended and deferred (or rejected) complete with the justification for government having done so; (v) finally, where relevant, the drafting of new laws or amending of existing legislation.

Source: Adams *et al* (2003, 2011)

Box 4: The land policy development process in Tanzania

In 1990, the Minister for Lands decided there should be a national and consultative process to develop a new national land policy.

A Presidential Commission of Inquiry into Land Matters was launched in 1991 and in 1992 the Commission travelled to all but two districts, held meetings, heard and read complaints, met officials and travelled internationally.

January 1993 the Commission submitted a final report, which was published in 1994, when a response was produced by the Ministry and approved by the Cabinet.

A National Workshop on Land Policy was held in January 1995 and the first edition of the policy was approved by Parliament in August 1995 (second edition 1997).

In March 1996, the drafting of a new land law began, to be distributed in November.

In 1998 the draft was revised and divided into two draft bills which were passed by Parliament in May 1999 as *The Land Act 1999* and *The Village Land Act 1999*.

Regulations under *The Land Act 1999* and the *Village Land Act 1999* were published in May 2001 when the two laws came into force as the land law of mainland Tanzania.

The Ministry of Land's 'Strategic Plan for the Implementation of the Land Laws' (SPILL) was finished in April 2005.

Source: Based on Liz Alden Wily (2003)

27. Because of their sensitivity and complexity, land policy implementation processes are time-consuming. The necessary institutional development can take decades. Progress is dependent on political commitment, appropriate constitutional and legal frameworks and requires thorough public consultation and careful preparation.
28. The acceptability and therefore the relative sustainability of a land policy may depend on the relative rank and/or mandate of the government agency concerned with its drafting and the extent to which it is supported by sister agencies within government. Ideally, the preparation of the land policy document should receive the support of all affected sectoral

agencies – urban and rural; agriculture and forestry; housing and industry, tourism et cetera.

29. As pointed out in the NAP (GL&SC 2006) securing financial resources and establishing financial mechanisms for the funding of policy implementation is vital. It is important to avoid promulgating policies for which the financial costs and human resources involved have not been determined.⁶

C. Conclusions and recommendations

30. It is concluded that the country would greatly benefit from bringing together the disparate elements of the national land policy into a unitary and coherent *National Sustainable Land Management Policy* document (consistent with Figure 1). If SLM principles are to be mainstreamed into Guyana's National Land Policy, it will be necessary to align more closely the sectoral policies of the various agencies involved with land administration and management.
31. Such a process will require the close cooperation of the MNR&E, MHA, MoA, MAA, MLGRD and et cetera; in other words, the participation of members of the Natural Resources and Environment Advisory Committee and the co-option of others not yet included. The process should be formalised and a Secretariat held accountable for publishing regular proceedings on an appropriate government website.
32. Before embarking on such a process, it may be helpful to take account of the land policy formulation approaches adopted by other countries, especially with regard to the possible adoption of a consultative approach. There is strong evidence that if a land policy is prepared in a transparent, consultative and democratic manner, it is more likely to prove viable and obtain sustained public support. However, the approach which Guyana chooses to adopt, as characterised by Professor Okoth Ogeno (1998) and described under paragraph 26, should be left to the government authorities to decide.
33. Perhaps there are lessons to be learned from the NDS (GoG 2001) process, which was apparently driven by civil society. Although ten years old, the NDS contains the most complete statement of the national land policy available today. If carefully planned and led, backstopped by an efficient Secretariat, the policy formulation process should not become over-blown and waste time and money.
34. The aim should be to complete the process within two years; the updating of the legal framework could run parallel as much preparatory work has already been done as a result DLUPP.
35. Appendix 3 provides guidance on the scope and content of a National Policy and indicates the place of government's SLM policy within a wider land policy context.

⁶ Hence the importance of the Funding Needs Assessment GL&SC and UNDP-GEF (2012)

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Appendix 2: Outline of a National Land Policy incorporating SLM principles

Explanatory Note

The recent reorganisation of ministerial portfolios and the creation of a *Ministry of Natural Resources and Environment* is an opportunity to produce an integrated land policy document that sets out necessary actions to ensure the sustainable use and exploitation of Guyana's land and other natural resources. The land policy would describe how the management of land, water, forest and mineral resources will be rationalised and coordinated to sustain ecosystem services and livelihoods and avoid land degradation.

Sustainable use of the environment depends in large measure on how people, communities and others gain access to land and natural resources. If their livelihoods are to be secured, they must have equitable access to, and control over, the natural resources on which their subsistence depends. Natural resources are the source of food and shelter; the basis for social, cultural and religious practices; and a central factor in economic growth.

Guyana's land policy would provide for the responsible governance of its natural resources, in a manner consistent with international and regional instruments, including the Millennium Development Goals that address human rights and tenure rights.⁷

Integral to the proposed land policy would be a description of the role of the State in the allocation (and revocation) of rights to land and other natural resources, including its role in monitoring the occupation and use of land and other resources; in maintaining up-to-date land-related records; in collecting land-related revenues to pay for the services provided; and in the resolution of disputes arising from the occupation and use of land.

The specific roles, responsibilities and relationships of government agencies involved in land and natural resource management and administration would be clearly set out, together with the financial implications.

If the policy is to obtain sustained public support, Guyana's National Land Policy should be developed in a transparent, consultative and democratic manner. This Appendix merely suggests an outline contents and identifies topics to be brought together in National Land Policy in which the SLM principles receive due attention. It is a first draft with much scope for improvement given feedback from the stakeholders.

One would expect the National Land Policy to be set out in a document of not more than 60 pages. In the case of Guyana, it would be a challenge to limit the text to this target.

⁷ See *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (FAO 2012)

National Land Policy Outline – an initial draft

1. Suggested overall objectives of the policy

- To improve land administration and land management in Guyana by providing information on policy matters that deal with the rights to use, manage and control land for residential and urban development, for agricultural production, for extraction of timber and minerals, for the conservation of wildlife and biodiversity, and other purposes;
- To contribute to the improvement and development of policy and legal and organizational frameworks regulating the range of different tenure rights that exist over land resources;
- To enhance the transparency and functioning of tenure systems, including the transaction of land and property rights;
- To strengthen the capacity and operations of the government agencies involved: GL&SC, GFC, GGMC, CH&PA, LDOs, NDIA, and MMA-ADA, et cetera.

2. Brief description of some of the key land policy issues to be resolved⁸

- **Land Administration:** Clarifying the roles, responsibilities and relationships of the different government agencies involved in land administration and land management;
- Reducing the cost and improving the speed and confidence with which land and property rights can be transacted;
- Expanding the scope of government's land tenure regularisation programme including the strengthening of women's land right;
- Resolving the claims of the Amerindian and African Guyanese for the utilisation and titling of what may be described as 'ancestral land';
- Facilitating the adoption of a unified cadastre for the allocation of residential rights and rights for industrial, commercial, agriculture, mining and forestry development, et cetera, and thus reducing land use conflicts;
- Improving the feasibility and arrangements for the collection of land-related revenues;
- **Land management:** Implementing 'more sustainable options' for the use of land and other natural resources;
- Improving environmental conditions in urban areas through better adherence to planning and development control requirements;
- Facilitating the geographical spread of economic activity into the hinterland;
- Clarifying land policy implications of the Low Carbon Development Strategy, i.e. reconciling the tension between protecting rainforests and pursuing economically rational development;

⁸ The National Land Policy could include a page or two describing the elements of Guyana's physical and human geography as for example in the introductory pages of the PRSP (GoG 2002, page 1)

3. Constitutional and legal framework⁹

This chapter would provide essential background information on the constitutional and legal framework. (See Toppin-Allahar 2011 for the issues to be addressed).

The National Land Policy is rooted in the Constitution of Guyana.

- Under Chapter II Principles and Bases of the Political, Economic and Social System, Section 18 states *Land is for social use and must go to the tiller*. Section 19 states that *every citizen has the right to own personal property which includes such assets as dwelling houses and the land on which they stand, farmsteads, tools and equipment, et cetera*.
- Section 38 states: *'In the interests of the present and future generations, the State will protect and make rational use of its land, mineral and water resources, as well as its fauna and flora, and will take all appropriate measures to conserve and improve the environment*.
- Section 142 states: *No property of any description shall be compulsory taken possession of, and no interest in or right over property of any description shall be compulsory acquired, except by or under the authority of a written law*. Accordingly, the Constitution sets out the circumstances under which the State may compulsorily acquire landed property¹⁰.

There are two principal land tenure categories (GoG 2001, Chapter 22)

- **Publicly-owned Lands** comprise State Lands and Government Lands. State Lands, (formerly Crown Lands) are controlled by the Commissioner of Lands and Surveys. However, the GFC, the GGMC, and the LSD administer State Land that is utilised for forestry, mining, and agriculture, respectively. Each of these agencies may issue titles (i.e. leases) for different purposes over the same land. Government lands are those purchased by, or granted to, the Government to be developed for public purposes (e.g. hospitals, schools, government administrative buildings, land development schemes).
- **Privately-held Lands** are those lands that have been alienated from the State and which are held by private or corporate interests. Freehold land administration is carried out by the Deeds Registry under the Office of the Attorney General of the Supreme Court.
- There are two systems of land law and property governing privately-held land, namely, the *transport index* based on Roman Dutch legal practices, and the *index of land transfer of title* (i.e. the Torrens System introduced in the early 1950s) letters of decree (under the former governor on behalf of the Crown) and absolute grants to Amerindian communities. The extent to which Government intends to harmonise and/or merge these systems would be discussed

⁹ See

¹⁰ Source: Act No. 2 of 1980 as amended in 1996 and 2003

- Land-related laws: Identify the principal laws and briefly describe the relevant land-related powers conferred therein (see Box below for a list of land-related laws).

Land-related laws

- *Housing Act*, Cap.36:20
- *Town and Country Planning Act*, Cap.20:01
- *Public Health Ordinance*, Cap.145 (enacted in 1934)
- *District Lands (Partition and Re-allotment) Act*, Ch.60:03
- *Immovable Properties (Sale of Interests) Act*, Ch.60:01
- *Environmental Protection Act*, Cap:20:05
- *Local Government Act*, Cap:28:02
- *Guyana Lands and Surveys Commission Act*, Cap: 59:05
- *State Lands Act*, Cap: 62:01
- *Title to Land (Prescriptions and Limitations) Act*, Cap 60:02
- *State Grants (President's Signature) Act*, Cap 62:04
- *Land Registry Act*, Cap. 5:02
- *Amerindian Act, No.6 of 2006*
- *Mining Act*, Cap.65:01
- *Guyana Geology and Mines Commission Act*, Cap.65:09
- *Petroleum (Exploration and Production) Act*, Cap.65:10
- *Petroleum (Exploration and Production) Act*, Cap.65:10
- *Forest Act 2009*, Act No.6 of 2009
- *Guyana Forestry Commission Act*, No. 20 of 2007
- *Protected Areas Act*, No.14 of 2011
- *National Parks Commission Act*, Cap.20:06
- *Sea Defences Act*, Cap.64:01
- *Drainage and Irrigation Act*, Cap.64:03
- *Mahaica-Mahaicony-Abary Agricultural Development Authority Act*, Cap.69

4. National Policy Context

This section would seek to show the importance of the NLP to the current government development strategy. In the absence of a recently updated national strategy document, it would be helpful briefly to show how land policy reform has been central to national development strategy documents produced over the last decade or so. For example:

- Although ten years old, the NDS (GoG 2001) contains the most comprehensive available statement of the place of national land policy reforms in Guyana's development strategy. It laid a foundation for government strategy and policy in the economic sectors including agriculture, environment, forestry, fisheries, mining and tourism. Chapter 5, *Environment*, gives prominent attention to issues relating to the degradation of land and natural resources. Chapter 22, *Land*, deals with issues and constraints and the broad objectives of policy and a strategy. Land policy objectives include the better collection and management of environmental and land information,

- improved institutional arrangements, clearer mandates and improving the process of making land available for development. Chapter 24 *The Amerindians* deals with Amerindian Land Issues, many of which have been successfully addressed over the last ten years.
- Within the context of Guyana's **National Poverty Reduction Strategy**, the NLP would briefly describe how the PRSP (GoG 2002) aimed to overcome governance deficiencies in land administration¹¹. A frank assessment of achievements and outstanding problems would be provided (compare the PRSP Progress Report, GoG 2005).
 - Guyana's **National Competitiveness Strategy** (2006) recognizes the need to complete the regularization of land tenure and update and improve accuracy of information systems. It notes that buying and selling land is still a relatively time-consuming process, which is often legally unclear. Uncertain titles can result in difficulties in using property as collateral; a backlog exists in the registration of collateral; and it is still difficult to reinforce secured interest. It promises support to the on-going transformation of government land into freehold land.
 - The implementation of the **Low Carbon Development Strategy** would require a number of important land-related issues to be addressed in the NLP. At this stage in UNFCCC climate change negotiations, it is not clear how far-reaching these would be.
 - Global deforestation is responsible for releasing nearly 20% of global green house gas emissions. REDD+ under the UNFCCC seeks to reduce this drastically.
 - According to Guyana's LCDS policy paper (OP 2010), the value of the State Forest for timber extraction and post-harvest agriculture, and significant mineral deposits exist below its surface is estimated to be worth the equivalent of an annual annuity payment of US\$580 million, i.e. if all timber is harvested, minerals extracted and the land is used either for commercial agriculture, plantation forestry and ranching. On the other hand, if the trees were protected and left standing, the value to the global economy each year provided by Guyana's State Forest is estimated to be worth some US\$40 billion.
 - Guyana has made it known that if it is to preserve its standing forests, the country needs funding to create a new low-carbon economy. Essentially, the LCDS seeks to help reduce greenhouse gas emissions and global warming by protecting Guyana's rainforests, while creating a model green economy for rainforest rich developing countries. Key goals of the LCDS include an overhaul of forest-dependent sectors (mining and timber extraction), investment in low carbon economic infrastructure (e.g. hydro-electricity), creation of new economic

¹¹ e.g. records in disarray, uneconomic rents; lack of clear criteria for lease approval; several institutions with little or no coordination and overlapping legal mandates acting as authorities, planners, or advisors in the utilization of land for forestry, mining, housing, and agriculture

opportunities for Amerindian communities and the broader Guyana citizenry, and investment in low-carbon sectors such as aquaculture, specialised agriculture and ecotourism.

- In November 2009, while awaiting a satisfactory outcome of UNFCCC and REDD+ negotiations, the Government of Guyana and the Kingdom of Norway, reached agreement on an MOU under which financial support will be linked to Guyana's success in limiting greenhouse gas emissions from deforestation and forest degradation and establishing institutions and practices to strengthen Guyana's ability to reduce deforestation and forest degradation through the adoption and implementation of a REDD+ Governance Development Plan (RGDP) up to 2015 (GFC 2011a, page 7).
- The land policy implications of such investments to create a new low-carbon economy are profound and would be highlighted in the NLP. For example, much of Guyana's several hundred thousand hectares of non-forested land available for higher-value agricultural development would require either costly drainage and irrigation and/ or significant road and utility investments to provide access (e.g., the Intermediate Savannahs) (OP 2010, p12).

5. Land and Property Rights Administration

The focus of this chapter of the NLP would be on the rational and orderly development of arrangements for land survey and measurement, adjudication, registration and certification, the updating of property registers as a result of land and property transactions and the management and storage of data generated by GL&SC, GFC, GGMC, etc.

- **GL&SC:** In setting out government policy on land administration the NLP would describe the government policy on the five principal responsibilities (see box below) of Guyana's land administration agencies:

- The **juridical** function is to ensure that the rights attached to a particular tenure category are clearly defined in law and in practice, and that resources are made available for land rights allocation, adjudication, demarcation, registration and record keeping – all essential to assure the tenure security of the holder. With regard to the juridical function, it is necessary to ask three questions: (i) Are the land rights clearly defined in law? (ii) Are the rights which are set out in the law accepted in practice? (iii) Has the State made available the human and financial resources to assure land rights delivery in terms of the law?
- The **regulatory** function relates to the enforcement and maintenance of standards, for example, the oversight of land professionals (land surveyors, cartographers, and registrars) necessary for safeguarding land and immoveable property and ensuring that the interests of rights holders are safeguarded.
- The **fiscal** responsibility of the land administration service recognizes the value

of properties to the owner and to the state as a source of revenue in the form of land taxes, rents, transfer duties, etc. The revenue generated by efficient land administration can pay a significant proportion of government's expenditure in the sector. In many countries, land-related income is an important source of revenue for government, especially in urban areas.

- Closely linked to the fiscal element is the **cadastral** responsibility of land administration. Simply stated, it would be difficult to collect revenue if it is not clear who holds or controls land, where it is located and what it is used for, and what it is worth. In Guyana, it is also important for government to identify the boundaries of public land as well as those of Amerindian community land.
- Finally, the remaining responsibility of the land administration service is to ensure that the service facilitates the peaceful enjoyment by land holders of their rights to use and occupy the land and natural resources and **resolves land disputes and land-use conflicts**.

Source: author

- Functions of the GL&SC are laid down in *Guyana Lands and Surveys Commission Act* Cap. 59:05 (No. 15 of 1999): these include actions to:
 - execute surveys geodetic, topographic, hydrographic and cadastral surveys;
 - control of land surveying and the land survey profession and provision of land survey services to other agencies;
 - collect, analyse and disseminate land information and the publication and sale of related maps;
 - administer all public lands (i.e. State and Government lands); applications, transfers, permissions to mortgage, to collect land-related revenues;
 - oversee valuation and sale of public lands;
 - assist the Minister with the formulation of land policy;
- Government policy is to move from state lease to freehold for residential parcels;
- GLSC aims to identify new lands for development and support the hinterland regions;
- The GLSC aims to work towards achieving financial self-sufficiency and at the same time providing a level of service that satisfies expectations of the public and the Government.
- The most recent systematic statement of **GLSC's** policy with respect to land administration is contained in The Strategic Plan (GLSC 2004a), which sets out the GLSC's objectives July 2005- June 2009.
- Reducing the cost and improving the speed and confidence with which land and property rights can be transacted and expanding the area covered by the government's land tenure regularisation programme have been important policy goals over the last decade or more. This NLP would include realistic targets to be achieved over the next four or five years.
- **CH&PA:** was established in 1948 in terms of the Housing Act, Cap.36:20, to address the housing needs of citizens. The Agency, which is under the Ministry of Housing and Water, has several land administration functions, including divesting government of land for eligible Guyanese for residential use and granting security of tenure through

Transports and Certificates of Title. Policy information relating to these functions is available on its website.¹²

- **GFC:** The *Forest Act*, No. 6 of 2009, vests the ownership of all forest produce on public lands in the State. It empowers the GFC, in terms of the *Guyana Forestry Commission Act*, No. 20 of 2007, to grant different types of authorization: ‘State Forest Exploratory Permits’ for survey and feasibility purposes and do not include cutting rights; ‘State Forest Permissions’ for two years and to cover areas of less than 8,000 ha to individual small-scale operators and community based associations; ‘Wood Cutting Licences’ for 3 to 10 years for 8,000 to 24,000 ha; and ‘Timber Sales Agreements’ for more than 20 years and more than 24,000 ha. For the sustainable utilization of State forests, the Act also provides for the designation of specially protected areas within State forests, the protection of specified species of trees and other plants and the voluntary designation of forests on private lands as forest conservation areas.
- GFC has recently produced two policy documents, *Guyana National Forest Policy Statement* (GFC 2011a) and the *Guyana National Forest Plan* (GFC 2011b), both of which are very strong on SLM principles. The former sets out conditions for Forest Allocation Regulation (page 20), namely concessions and permits, including transfer of concessions as specified in the Forest Act 2009 and lists several policy principles related to land and property rights administration (p8-9).
- Note that the *Guyana National Forest Policy Statement* (NFPS) states that GLSC houses an interagency database referred to as Guyana Integrated Natural Resources Information System (GINRIS), which was established to develop the GIS capacity in Guyana and to serve as a repository for national GIS information (GFC 2011a, page 17). This database comprises spatial data on the major land uses in Guyana. Of great importance would be a single operational cadaster covering agriculture, forestry and mining.
- **GGMC:** Under the 1989 Mining Act, Cap.65:01, the rights to all minerals are vested in the State. The GGMC, established by the *Guyana Geology and Mines Commission Act*, Cap.65:09, is empowered to divide Guyana into Mining Districts, to further divide those districts into parcels and to grant prospecting and mining licences to search for and extract minerals from public lands in those areas. It also has the power to grant licences for the carrying out of such operations on private lands and for quarrying. A wide range of minerals are currently mined: gold, diamond, bauxite, silica sands, manganese and quarriable stones.
 - According to GGMC (2012) in 2011, there were: 15,043 small-scale claims with approximately 1400 permits actually issued by March 2012; 991 prospecting permits (small-scale) in addition to medium-scale prospecting permits and mining permits;

¹² <http://www.chpa.gov.gy/>

- large-scale prospecting and mining licenses; approved reconnaissance surveys over large areas; quarry licences and petroleum licences.
- Small-scale claims have not been mapped. For medium and large-scale operations, applications for prospecting licences must be accompanied by a 1:50,000 map with a ‘cartographic description’ of the area.
- Among other things, the NLP would set out government’s policy with regard to the spatial coordination of the land and property allocations by GL&SC, GFC and GGMC and mechanisms for closer cooperation in Chapter 7.

6. Sustainable land management

- This chapter would deal with matters relating to the management of Guyana’s land and other natural resources from both an economic, social and environmental perspective (UNECE 1996). It would include land use planning (LUP), an important part of land management. For Guyana, a Sustainable Land Management policy would require a list of actions, among other things, to encourage:
 - **In coastal areas**, agricultural practices involving integrated soil and water management; enhancement and preservation of the productive capacity of cropped land in coastal areas and river-valley bottoms, through maintenance of water conservancies, irrigation canals, polders, sluices and drains; the prevention of marine salt-water intrusion of aquifers (NIDA and MMA); protection and restoration of mangroves (GFC) and other natural and man-made sea defences (MMA); protection of agricultural land from encroachment by human settlements and related physical infrastructure (CH&PA).
 - **In upland areas**, maintenance of the biodiversity and the resilience of ecosystems; sustaining productive forest areas, and potentially commercial and non-commercial forest reserves (GFC); sustainable livestock and range management in the savannah (MoA and NARI); maintenance of watersheds and water conservation zones for hydro-electric power and irrigation (; protection of domestic water supplies from harmful mining and industrial effluent; reclamation and restoration of land and vegetation following mining (GGMC); land demarcation and incentives for Amerindian communities to provide (directly or indirectly) environmental benefits (or services) to conserve biodiversity and sinks for carbon (MAA and GL&SC).
- The chapter would describe the role, responsibilities of the government agencies involved and the relevant SLM policies. For the purpose of land management, **GL&SC** has a relatively small. Nonetheless, its responsibility for the preparation of national and regional land-use plans is important and this coordinating role is well recognised by sister agencies.
- **CP&HA** has the following principal land management objectives:
 - Develop housing schemes and regularize and upgrade squatter settlements;
 - Prepare development plans and land use plans for urban areas;

- Provide services (access roads, internal road networks, water distribution networks, drainage, and electricity).
- According to Toppin-Allahar (2011), CH&PA's planning and development control function in urban areas has been overshadowed by its housing responsibilities. Under the now out-dated *Town and Country Planning Act*, Cap.20:01, enacted in 1946, planning takes second place to the Authority's responsibilities under the *Housing Act*, Cap. 26:30, in support of delivering land for housing to low-income groups and providing for infrastructure, water supply and drainage ('site and services' approach) and the processing of planning applications. This is a policy issue which one would expect to see addressed in the NLP.
- **GFC:** As indicated in the notes for the proposed Chapter 4 *National Development Policy Context*, the scope and content of the future LCDS, would have important implications for land management in Guyana. Even as it stands, there is important information on a range of sustainable forest management policy and planning issues in the recent GFC papers (2011a and 2011b) which should receive attention in this chapter of the NLP, including the management of mangrove for the protection of the coast. Other issues relate to the improvement of land use coordination for integrated watershed management and overall protection of water resources through the establishment of a National Water Council in Guyana in 2008. One of the key functions of the council is develop and/or review the national water policy and to oversee its management and coordination.
- **GGMC**
- **MAA**
- **MMA**
- **EPA**
- **etc**

7. Institutional arrangements

- In recognition of the complexity of the land use issues the government established the National Land Use Committee (NLUC) and the Natural Resources and Environment Advisory Committee (NREAC). The NREAC is a technical committee comprising directors of natural resource institutions (such as, forestry, mining, water, agriculture, land use, energy) and the Guyana Environmental Protection Agency (EPA). This committee examines environmental and resource policies and makes recommendations for consideration by the Guyana Government. These Committees function in concert with the Cabinet Sub-Committee on Natural Resources (GFC 2011a, p17).

8. Financial implications

- An initial assessment suggests that the financial costs of putting together and implementing a National Land Policy would be relatively low. Most of the policies are already in place. No radical institutional reorganisation would be necessary. Much of the institutional development has already taken place. There appears to be general agreement among the parties concerned as to what is needed in terms of future collaboration to achieve sustainable land management.