

**GOVERNMENT'S (1992)**

**LAND**

**POLICY**

**COMPLIMENTARY COPY ISSUED WITH THE COMPLIMENTS OF  
THE DIRECTOR OF SURVEYS TO RAYMOND & PIERRE**

## A NEW ADMINISTRATION AND DISTRIBUTION POLICY FOR LAND

### 1. BACKGROUND:

#### Introduction

1.1 Government has undertaken a comprehensive review of land policies with the aim of promoting agricultural development, achieving greater equity in land distribution and facilitating improved environmental management as well as formulating a new land policy characterized by greater effectiveness, coherence and improved co-ordination.

Central to this undertaking is the perception that rationalization and more effective use of our land resources can release the latent productive capabilities of the Nation.

#### Extent of Land Resources

1.2 Trinidad and Tobago, a Nation State of 1.2 million persons, possesses a total land area of 5,126 square kilometres (512,600 hectares). Overall, 52 percent of this land area is owned by the State. However, in Tobago only 34 percent of the land or 10,772 hectares is owned by the State.

1.3 In the island of Trinidad, 126,490 hectares or 47 percent of State lands are under forest cover and protected by law from indiscriminate use. These forested lands are termed 'constituted forests'. The corresponding area of constituted forests in Tobago amounts to 3,930 hectares. Roughly 25 percent of the area of constituted forests in Trinidad is intensively managed by the State for the production of teak, pine and mixed hardwoods. These cultivated forested areas are beneficial both for soil conservation and as revenue earners.

1.4 State lands other than constituted forests cover 129,288 hectares in Trinidad and 3,665 hectares in Tobago. This broadly represents the extent of the land resources available to the State for promotion of productive activity and generation of income and employment. Of the total land area of the Country, only an estimated 178,897 hectares or 35 percent is suitable for cultivation.



## Agricultural Utilization Levels

1.5 The 1963 Agricultural Census recorded a cropped area totalling 131,862 hectares. By the following census taken in 1982, near the end of the oil boom, the total cropped area had fallen by 18.5 percent to 107,400 hectares. Similarly, the area of cultivated grasslands contracted over the same period by 42.6 percent from 7,854 hectares to 4,504 hectares; while privately forested areas fell steeply by 84.6 percent from 54,433 hectares to 8,470 hectares.

1.6 The estimated 107,400 hectares under cultivation at the time of the 1982 Agricultural Census represented 60 percent of the total cultivatable area of 178,897 hectares. This statistic compares with a proportion of 74 percent for 1963.

## Mis-allocation of Agricultural Lands

1.7 The figures indicate a loss of agricultural lands to other uses, particularly housing, industrial and commercial activity. Available data do not, however, permit the precise quantification of this shift. In a majority of cases the shift of agricultural land to built uses is irreversible. Further, it is estimated that between 1963 and 1982 roughly 21,300 hectares of State lands were transferred under lease.

## Abandonment of Agricultural Lands

### ... State Lands

1.8 Within the total cropped area abandonment or semi-abandonment of significant acreages occurs. According to the Agricultural Census, it is estimated that in 1982, 12,510 hectares or 12 percent of the total cropped area fell within the abandoned or semi-abandoned category. This appears to confirm the conclusions of the Committee on the Distribution of State Lands (1977) which found in a study of 6,587 State land allotments that:

- i) Almost one-third of the total acreage allocated to over 2,000 tenants had less than 20% level of cultivation;
- ii) More than one-half (55%) of the total acreage allocated to 3,747 tenants had less than 40% level of cultivation;
- iii) Only 17% of all tenanted State lands showed a 75% or higher level of cultivation.



## Fragmentation of Agricultural Holdings

1.14 The period 1963 to 1982 saw a shift in the pattern of agricultural land holding with the conversion of large estates into smaller agricultural holdings. In 1963, 16,450 holdings measuring 5 hectares or less comprised 9 percent of the total cropped area. This represented 42 percent of all agricultural holdings. At the same time, 580 large enterprises with holdings of 100 hectares or more comprised 45 percent of the cultivated land.

1.15 By 1982, the Agricultural Census disclosed that small holdings of less than five hectares had increased from 16,450 to 26,249 and accounted for 31.7 percent of the cropped area. Meanwhile, the number of large land holdings of 100 hectares or more had fallen from 580 to 80 and the proportion of the total cropped area they represented had fallen from 45 percent to 32.7 percent. A major factor altering the distributional pattern of the sizes of holdings appears to have been the State land distribution programmes carried out over the period.

## 2. GENERAL POLICY GOALS

2.1 The New Land Policy aims to maximize the benefits which the community derives from national land resources, while seeking a balance between current gains and sustainable development. This entails the following:

- (i) preventing prime agricultural land from being subjected to non-agricultural use by instituting a system of land zoning;
- (ii) the provision of adequate security of tenure for tenants of State lands;
- (iii) the discouraging of land speculation and the taking of steps to bring idle land into production;
- (iv) the promotion of development that is sustainable economically, socially and ecologically;

all in the interest of securing greater efficiency in the use and management of land resources.

## 3. REFORM OF INSTITUTIONAL AND ADMINISTRATIVE FRAMEWORK

### Existing Institutions

3.1 In the main, ten agencies in seven Ministries exercise responsibilities relating to land administration and distribution, namely:-



- Town and Country Planning Division (Ministry of Planning and Development)	- Control of Land Use and Land Development
- Lands and Surveys Division (Ministry of Planning and Development)	- Surveying, Mapping, State Land Administration and Compulsory Acquisition
- Valuation Division (Ministry of Planning and Development)	- Land values, Conditions of Leases
- Environmental Management Division, Ministry of Planning and Development	- Environmental/ Ecological Resource Management and Control
- Ministry of Housing and Settlements	- Management and Administration of State lands allocated for Settlements
- Ministry of Trade, Industry & Tourism (I.D.C.)	- Industrial Estates
- Ministry of Agriculture, Land and Marine Resources	- Agricultural Land
- Office of the Prime Minister (P.M.U.)	- Allocation of Government buildings, Leasing of private buildings for Government use and Acquisitions by private treaty
- Ministry of Works and Transport	- Highway Development
- Ministry of Energy and Energy based Industries	- Allocation and Management of mining leases

Pattern of  
ates into  
measuring  
ped area.  
At the  
ctares or

at small  
16,450 to  
ed area.  
ctares or  
the total  
to 32.7  
rn of the  
tribution

benefits  
es, while  
i. sustainable

ation being  
stituting a

signature for

are taking  
a; on;

sustainable

use and

exercise  
tribution,

3.2 The New Land Policy proposes that roles and activities of the several Departments and Agencies be more closely co-ordinated. However, because of the technical nature of the subject, the numerous administrative procedures and the complex legal framework, change necessarily requires time.

3.3 Under the State Lands Act (Chap. 57:01 section 6), the Commissioner of State Lands is charged with: "... the management of all lands of the State, ... the prevention of squatting and encroachment upon the same and of spoil and injury to the woods and forests on such lands, and [with superintending] the settlement and allotment of State lands ...". No change is proposed in the general functions and responsibilities of the Commissioner.

#### Establishment of National Land Information System

3.4 Under the existing arrangements individual agencies collect and store land information for their specialized requirements. Besides the expensive duplication of efforts that this arrangement entails, it is often impossible to compile up-to-date information for specific parcels "on demand" because the information is not readily available and because locating, correlating and compiling data from several unrelated sources necessitates unacceptable delays. Lack of timely information results in loss of revenues, loss of investment opportunities and inefficiencies in land management.

3.5 The New Land Policy proposes establishment of an integrated graphic and non-graphic national land information system as a matter of priority. This system will be computer-based and will:

- (a) be based on a uniquely defined parcel numbering system;
- (b) rely on a common referencing system;
- (c) provide for central storage of a range of widely used information while allowing specialized and classified information to be held by the most appropriate agencies;
- (d) ensure regular updating of data and timely access.

#### Restructuring of the Lands and Surveys Division

3.6 Historically the offices of Director of Surveys (the State's Chief Land Surveyor) and the Commissioner of State Lands (formerly Sub Intendent of Crown Lands) -- the Head of land administration -- have been held by a single individual and the duties of both offices discharged within the Lands and Surveys Division. The Lands and Surveys Division discharges two broad categories of functions:



## I Survey-related functions -

## (a) Cadastral Surveys (Boundary Surveys)

- (i) executing all cadastral surveys of State lands for such purposes as leases, grants, reclamation and forfeiture;
- (ii) executing cadastral surveys of private lands to be acquired by the State;
- (iii) resolution of boundary disputes on State lands and redefinition of State lands and lands held by quasi-governmental bodies;
- (iv) maintenance of the land register for the Registrar General under the Real Property Ordinance (RPO), entailing the checking and approval of all survey plans of lands to be brought under the RPO or held under the RPO.

## (b) Geodesy, Photogrammetry and Cartography

- (i) topographical mapping of Trinidad and Tobago, using the technology of photogrammetry;
- (ii) making of thematic maps for other State agencies and performing other cartographic services, including lithography;
- (iii) printing of all charts and marine documents published by the Hydrographic Unit of Trinidad and Tobago; and
- (iv) establishment, maintenance and extension of the National Grid of horizontal control points and the national network of vertical control points.

## II Land Administration Functions -

- (a) granting of leases, State grants, resumption, licenses and such developments as reclamation and the construction of jetties;
- (b) ensuring that the terms and conditions of the leases are adhered to;
- (c) acquiring land on behalf of the State;
- (d) collection of such revenues as ground rents and royalties by the Commissioner of State Lands as Receiver of Revenue; and

- (e) prevention of squatting and encroachment.

3.7 To promote greater efficiency in the discharge of the above-listed disparate functions, Cabinet, in March 1988 and April, 1991, agreed that:

- (a) A Surveying and Mapping Division be set up with responsibility for cadastral surveying, topographical surveys, control surveys and management of the Land Information System. The role of the Division will be to provide geographically based land information to the State and other users in such manner as would facilitate the active management of the Country's land resources. The Division will be expected to implement a computerized Land Data System based on the parcel of land as the unit of record.
- (b) The responsibility for land administration including acquisition (traditionally performed by the Lands and Surveys Division) be entrusted to a new unit to be designated the "Land Resources Management Division". The major functions of this Division will be:
  - (i) to conserve and manage State lands;
  - (ii) to ensure that the State's interest in land is preserved and maintained;
  - (iii) to advise the State and implement decisions on matters relevant to land and property policy including disposal into private ownership, acquisition of private land or property, reclamation, resumption and conservation;
  - (iv) to make recommendations for the allocation of land as required to meet community needs; and
  - (v) to make recommendations on matters relating to land taxation.

#### Seabed Advisory Committee

3.8 Seaward of the low water line around Trinidad and Tobago, the State has sovereignty over its Archipelagic Waters and its Territorial Sea. This includes sovereignty over the seabed in these zones. The area of land lying under the Archipelagic Waters is 7,158 square kilometres. The area of land lying under the Territorial Sea is 9,337 square kilometres.



3.9 In order that applications for development on the Seabed as well as those relating to such infrastructure as jetties and marinas, and those for coastal reclamation be dealt with effectively, a Seabed Advisory Committee will be established. This Committee will advise the Commissioner of State Lands and the Director, Town and Country Planning, on matters relating to the grant of leases within the Archipelagic Waters and the Territorial Sea.

#### 4. LAND USE POLICY

##### Land Zoning

4.1 During the period of the oil boom (1974 - 1982) there was great incentive to shift land out of agriculture into other uses such as housing developments and industrial/ commercial activity. In the process much good agricultural land was irretrievably misallocated. This is confirmed by the 1982 Agricultural Census.

4.2 The New Land Policy proposes:

- (a) that the existing system of land use zoning be strengthened to ensure that prime agricultural land is not mis-managed or converted to non-agricultural uses except on the basis of a significant spatial or economic development rationale. Such strengthening will be achieved through appropriate training of the staff of the Town and Country Planning Division and the enactment of new town planning-related legislation;
- (b) that a system of protected areas for eco-tourism development and for preserving fragile eco-systems be instituted with the support of modern forestry and national park legislation.

##### Arresting Fragmentation

4.3 With the loss of good agricultural land through changes to non-agricultural uses, there has been accelerating fragmentation of agricultural holdings which threatens to frustrate any major agricultural thrust based on commercially viable and competitive production (such as non-traditional export agriculture and agro-industry must be). Further fragmentation of farm parcels is likely to be a major constraint on the level of agricultural output and income as 35 percent of all holdings are already under 1 hectare, while 23 percent are under 0.5 hectare.



4.4 Fragmentation leads ultimately to the alienation of land from agriculture in that -

- (a) infrastructure may be installed which attracts non-agricultural activities;
- (b) residential and commercial buildings may be constructed;
- (c) the market value of the parcel rises;
- (d) the parcel becomes nonviable for agricultural purposes;
- (e) Regulatory agencies are brought under pressure to rezone the area.

4.5 This trend towards fragmentation must be arrested. In order to avoid the fragmentation of agricultural lands and the risk of impairing the capacity of the Nation to sustain viable commercial agricultural activity, the distribution of state lands for agricultural purposes will be conditional upon strict maintenance of minimum size of holdings as follows:-

field and vegetable production	- 2 ha.
tree and fruit crops	- 5 ha.
dairy farming/livestock rearing	- 8 ha.

Sub-division of land will not be permitted except with the express approval of the Town and Country Planning Division. Enforcement action against breaches will be vigorously pursued. All agencies of Government must adhere to the same policy goal of ensuring that, as far as possible, good agricultural land remains in agricultural use. One mechanism that will be used to check excessive fragmentation and produce better decisions regarding re-zoning and land sub-division is enactment of a Land Sub-Division Code.

4.6 Field experience, in this Country and abroad, suggests that the minimum acreages proposed represent the optimum farming capability of the median size farm family without heavy equipment and machinery. Given the present scarcity of capital and the surplus of labour, it seems advisable to encourage such farming enterprises to adopt labour-absorbing technologies to the extent that this is consistent with viability. Accordingly, certain resources for agricultural research will be directed towards developing and testing appropriate technology, equipment and machinery suitable for use on holdings of these acreages.

#### Environmental Protection

4.7 The Ministry of Agriculture, Land and Marine Resources, in consultation with the Environmental Management Division of the Ministry of Planning and Development, will prepare guidelines for sites subject to agricultural leases to ensure that the environment is protected against the degradation caused by poor production practices such as the misuse of pesticides and herbicides.



Corresponding guidelines will be prepared by the Environmental Management Division for residential, commercial and industrial leases.

## 5. LAND DISTRIBUTION POLICY

### Existing Land Distribution Programmes

5.1 Traditionally two broad approaches to the distribution of agricultural State lands have been employed:

- (a) Blocks of State lands for agricultural use are demarcated, upgraded with support services and infrastructure, and distributed to selected farmers for settlement. This programme, the State Lands Development Projects (SLDPs) was initiated (with World Bank financing) in the Wallerfield, Carlsen Field and Turure areas in 1965.
- (b) Available isolated parcels are distributed to private citizens, groups, companies, co-operatives or other entities who present to the State viable agricultural project proposals. These proposals must be consistent with Government policy related to agricultural and rural development.

With the exception of the Grande Riviere Project, however, only distribution of isolated parcels obtains at present.

5.2 The amount of State land distributed for agricultural purposes is estimated to be of the order of 20,675 hectares, representing 15 percent of the total unforested land in public ownership. This includes lands distributed under the State Lands Development Projects (SLDPs). Because the data base is incomplete, it is unclear what proportion of land so distributed is currently held under valid leases.

5.3 There is no established system whereby members of the public can obtain information about the availability of State lands. On the other hand, petitions for State lands must be made in relation to specific parcels. This cannot be considered satisfactory. Therefore, it is proposed that information regarding available State lands be regularly published in the Gazette and daily newspapers.

### Improvement of State Land Data-base

5.4 As has been observed above, the lack of adequate and timely information results in loss of revenue and causes inequity and inefficiency. Immediate attention will, therefore, be given to improving the system of recording and retrieving data on the allocation of State lands; this will involve:

- (i) compilation of a full inventory of all State land in private occupancy;



- (ii) a survey of the level of utilization of such lands;
- (iii) verification of compliance with the terms of leases/agreements; and
- (iv) drawing up of action plan for enforcement of the terms and conditions of leases.

#### Certain Considerations informing Policy Choices

5.5 In view of its limited land mass and growing population, it is all too obvious that the State cannot possibly satisfy all claims for access to land. In order to enable it to respond to future requests for access to land, the State must rely on the fact that land is re-usable. Making the most of this characteristic of land permits satisfaction of the greatest number of legitimate demands for land over the long term while providing adequate security of tenure to land users.

#### Constraints

5.6 Because of our very limited land supply and the foreseeability of continuing and escalating demands, in order to be able to respond to future requests for access to land, the State will not, as a rule, alienate the freehold interest in State land.

#### Security of Tenure

5.7 There is little incentive to develop land without security of tenure. However, to be adequate to permit or even to encourage development, security of tenure does not have to amount to ownership, neither does it have to last for twenty to thirty or more years. A tenant has adequate security if his tenure is for a period long enough to serve the purpose for which the land is to be used. Thus, the security of tenure which might be adequate for raising annual crops will not be sufficient for raising long-term crops such as coffee or cocoa or for the construction of a house with permanent materials. Accordingly, The New Land Policy recognizes the need to match the duration of leases to the purposes for which State land is authorized to be used and, therefore, provides for a range of periodic tenancies.

#### The Lease as a Tool (for promoting efficiency in the Management and Use of Land Resources)

5.8 Certain benefits accrue to the State, if, in the first instance, it disposes of the leasehold interest in State land. By this means the State -

- (i) would exercise a measure of control over leased lands through conditions contained in the lease;



- (ii) would, at the termination of the lease, be provided with an opportunity for re-negotiating the terms of the lease;
- (iii) would, in the case of residential leases, have a source of revenue should it be considered desirable to sell the freehold reversion or sell at the expiry of such leases;
- (iv) would have the opportunity, by proper monitoring of the lease, of benefitting from revenues for change of use or de facto subdivision;
- (v) would, by virtue of rent reviews, be provided with opportunity to share in the benefits from any appreciation in the value of leased lands.

5.9 Classification of Leases and other Transfers

I Temporary Arrangements

Temporary arrangements are usually for fixed terms or for year to year tenancies determinable at short notice and are used as follows:

1. where the use is for a specific short period;
2. where the land is intended for a planned use in the future, but the landlord wishes to let it in the interim;
3. for probationary agreements which provide for the agreement to be converted to a regular lease on satisfaction of the terms of probation and for the agreement to be terminated if satisfactory performance is not achieved within a specific time. (Probationary agreements are not appropriate where long-term improvements are necessary for the intended use of the lands).

II Leases

Long-term leases (that is, 99 to 999 year leases), at nominal rents, are used mainly for the benefit of adjacent leaseholders. The premium paid is usually not substantially different from the price of the freehold.

on of such

terms of

ement of

population,  
atisfy all  
spond to  
the fact  
ristic of  
egitimate  
adequate

and the  
der to be  
the State  
te land.

without  
r even to  
to amount  
hirty or  
is for a  
is to be  
uate for  
ong-term  
a house  
d Policy  
urposes  
erefore,

ement and

he first  
land. By

col over  
ained in



Shorter-term leases are used:

- (i) to reduce the cost of obtaining the right to the use of the parcel of land. Where no premium is charged, the payment is restricted to weekly, monthly or annual rents. (But note that possession of a parcel of land may be surrendered in perpetuity by granting a right of perpetual renewal).
- (ii) to limit the period during which a tenant may enjoy the use of a parcel of land and provide for its reversion to the landowner.

### III Divestment

Where all interests in a parcel of land are to be disposed of, the interest conveyed is usually the unencumbered freehold and the purchaser acquires the right to use the land in perpetuity without any further payment to the vendor.

## 6. AVAILABLE LEASES OF STATE LANDS

6.1 In future, access to State land will be granted in accordance with the following broad criteria:

- (a) Long leases (not exceeding 199 years) will be restricted to those tenants who can afford open market value;
- (b) As may be permitted by the Foreign Investment Act, 1990, long-term leases not exceeding 99 years will be granted to foreign investors.
- (c) The maximum term for agricultural, mining and seabed leases will be 30+30 years, though shorter-term leases may be granted, where appropriate, for any of the aforementioned purposes.
- (d) Medium term leases (25+25 years or 30+30 years) will be offered tenants who cannot afford to pay full open market value for a long-term lease. Such leases may contain provisions permitting conversion to long-term leases upon payment of the appropriate premium.
- (e) In cases where lands are to be let in the interim pending some planned future use, they will be let on short-term leases or periodic tenancies (year to year or month to month).



- (f) The State will continue its policy of initially disposing of leasehold interests alone but, as an ongoing exercise, review residential leases to determine whether it would be appropriate to offer the freehold reversion for sale in order to raise revenue.

## 6.2 Criteria for Distribution of State Lands

### 6.2.A Who may receive leases

- (i) Except in satisfaction of a legal obligation or in accordance with some general direction, or with the express approval of Cabinet, only citizens of Trinidad and Tobago will be granted leases of State land;

- (ii) Land for non-residential use may be leased to incorporated enterprises that are wholly or majority owned by citizens of Trinidad and Tobago or that are not deemed to be under the control of foreign investors within the meaning of the Foreign Investment Act, 1990.

Registered co-operatives will be eligible for leases of State lands provided that the purposes for which the lands are to be used conform to national priorities and the applicants demonstrate that they possess the financial resources and managerial capabilities to execute any relevant investment project effectively;

- (iii) Recognized youth and community groups, voluntary service organizations and similar non-governmental organizations will be eligible for State Lands for undertaking service oriented, non-profitable activities or commercial and productive agriculture on the condition that, in keeping with the existing practice, they are incorporated and also that they are functioning, and that the proposals presented are viable;

- (iv) In the granting of agricultural leases preference will be given to persons between the ages of 18 and 45 years, although leases may be granted to older able-bodied persons with requisite farming experience.

- (v) The consent of the Commissioner of State Lands or Cabinet, as appropriate, will continue to be required for any assignment of a lease of State lands whether absolute or by way of mortgage, sub-lease, or otherwise.

use of  
ed, the  
rents.  
may be  
ght of

enjoy the  
sion to

posed of,  
old and  
petuity

nted in

will be  
rd open

ent Act,  
ars will

and sea  
ter-term  
for any

years)  
to pay  
e. Such  
version  
ropriate

interim  
be let  
(year to



6.2.B Minimum Parcel Sizes and Limitation on total Grants to Individuals

- (i) The following minimum sizes of holdings are proposed for agricultural leases:
- field and vegetable production - 2 ha.
  - tree and fruit crops - 5 ha.
  - dairy farming/livestock rearing - 8 ha.
- (ii) No individual will be granted multiple agricultural leases in excess of an aggregate of 40 ha. without the express approval of Cabinet.
- (iii) Minimum parcel sizes for residential, commercial or industrial use will be such as are approved by the Town and Country Planning Division in relation to specific layouts.

6.2.C Rents

- (i) Rent is a return on capital invested, that is, on the value of the land excluding tenants' improvements. In formulating terms and conditions for leases of State lands, it is desirable to strike a balance between the value of land as a scarce resource with revenue earning potential for the State and its affordability to the tenant, particularly with respect to land used for housing or for agriculture.
- (ii) Open market value has long been accepted as the basis for fixing rent and other related charges for all lands (whether such lands be residential, agricultural, commercial or industrial) controlled by the State and statutory bodies. "Open market value" is the price which the parcel of land can reasonably be expected to fetch if offered for sale by a willing vendor to a willing purchaser.
- (iii) Acceptance of open market value as a standard does not mean that full open market rental value must always be charged. Rents charged to lessees may, in appropriate cases, be only a percentage of open market rental value. The overriding consideration is that fixing rent in relation to market value relates rent directly to the value of benefits received through enjoyment of property as determined by market forces. It allows any subsidy to the tenant to be readily quantified. It also provides a transparent mechanism for revision of the quantum of rent or of any subsidy over time.



## General Terms and Conditions of Leases

6.3 Fair estimates of open market rental value will be determined as shown in (i) below and the following rentals, terms and conditions will, where appropriate, apply to the leasing of all State land:

- (i)
- |                                   |   |
|-----------------------------------|---|
| residential lands -               | 3.5% per annum of the capital value of the freehold interest  |
| agricultural lands -              | 2% per annum of the capital value of the freehold interest or 20% of the economic rent, whichever is less |
| commercial/<br>industrial lands - | 5% per annum of the capital value of the freehold interest  |

(ii) Charges for the disposal of the interest of the State in any land will be based on open-market value.

(iii) In all cases where a full premium is not paid, leases will include provisions for rent reviews at ten-year intervals. However, where the rental under a lease is subject to any subsidy that is related to income and not to purpose, rent reviews will be at five year intervals.

(iv) Leases will prescribe the use to which the land may be put. They will also indicate that any change of use or subdivision will require the landlord's consent and that such consent, if granted, would be subject to a charge based on any enhancement in the value of the interest held by the tenant in the land.

The charge for any consent to such change of use or subdivision will be 75% of the amount by which the tenant's interest is enhanced.

(v) Since the State cannot satisfy all requests for lands for religious purposes, the State will cease the practice of letting new lands for such purposes. The Planning Authority will designate lands for such purposes in new sub-divisions to meet the demands for such services. It is recognized that there will be applications for lands not located in housing estates or planned developments. Such applications will be considered on their merits and the terms and conditions set out below will apply to any lease granted.



Religious bodies will be granted a substantial subsidy of between 50 and 75 percent where lands are used only for Churches, parish halls and schools. Existing leases to religious bodies of long-standing will also, on renewal, attract a subsidy of between 50 and 75 percent. The subsidy proposed is 60 percent of the open market rental value; this subsidy would, in 1992, be equivalent to an annual rent of 2 percent of open market value; alternatively, a premium of 30 percent of the open market freehold value with a nominal annual rent of \$10.00 would be appropriate for a 30-year lease;

Where the lands are used for residential or commercial purposes, leases will be granted at full open market value.

- (vi) Community-service organizations involved in non-profit charitable work will also be granted a subsidy of between 50 and 75 percent. As in the case of religious bodies, a subsidy of 60 percent of open market rental value is proposed; the equivalencies would be the same as those shown in (iv) above; this exemption however, will not apply where the organization embarks on commercial or industrial activity or uses the land for non-institutional residential purposes. (This provision is not intended to prohibit fund-raising activities).
- (vii) Co-operative groups, social clubs and private recreational groups will pay full open market value except where otherwise expressly approved by Cabinet.

#### 6.4 Special Terms and Conditions of Leases

##### 6.4.1 ... for residential purposes

- (i) A private dwelling must be erected within two years of the date of execution of the lease;
- (ii) The lessee will not assign or part with possession of the premises, without consent of the lessor first having been obtained in writing (such consent will not be unreasonably withheld);
- (iii) The lessee will not alter the gradients, the drainage pattern or other physical characteristics of the site or adversely affect the surrounding environment;



- (iv) All legal and survey expenses must be borne by the lessee;
- (v) Other terms and conditions customary in leases of this kind.

6.4.2. ... for agricultural purposes

- (i) The parcel must be cultivated in an efficient manner making optimum use of the potential of the land and to the satisfaction of the lessor in accordance with a programme of agricultural development previously approved by the Ministry of Agriculture, Land and Marine Resources. Such programme will be subject to variation by the Ministry;
- (ii) Where a house or other non-agricultural building exists on the holding, a rent equivalent to that payable in accordance with existing State policy for the letting of a comparable building-site will be paid in respect of the portion of the holding dedicated to such non-agricultural building;
- (iii) Prior approval must be obtained in writing from the relevant authorities for the erection of any building on the parcel or for the making of any additions, alterations and repairs;
- (iv) The parcel must not be left unoccupied or unused for a period of more than six months in any twelve month period without the written consent of the lessor, first had and obtained;
- (v) The lessee will not assign, sub-let, transfer or part with the possession of the parcel or any part of it or of any building thereon; the lessee may, however, bequeath his interest in the parcel;
- (vi) The lessee will not alter the gradients, the drainage pattern or other physical characteristics of the site or adversely affect the surrounding environment;
- (vii) All legal and survey expenses must be borne by the lessee;
- (viii) Other terms and conditions customary in leases of this kind.



## 6.4.3 ... for commercial and industrial purposes

- (i) The land must be used for the purpose specified in the lease;
- (ii) The prior approval of all appropriate statutory authorities must be obtained in writing for any development on the land;
- (iii) The premises must be used solely for the purpose for which it was leased within two years of the date of execution of the lease;
- (iv) The lessee will not alter the gradients, the drainage pattern or other physical characteristics of the site or adversely affect the surrounding environment;
- (v) All legal and survey expenses must be borne by the lessee;
- (vi) Other terms and conditions customary in leases of this kind.

## 6.4.4 ... for community service organizations and religious bodies

- (i) The site must be used solely for purposes consistent with the character of the organization at the date of the lease;
- (ii) A building must be erected within two years of the date of execution of the lease; the Commissioner of State Lands in his discretion, may, however, extend the time within which the building must be erected;
- (iii) Such building must not remain unused for the purpose specified in the lease for a period longer than six months in any twelve month period;
- (iv) The tenant must not assign or part with possession of the premises without the written consent of the lessor. Such consent will be in the absolute discretion of the lessor;
- (v) The lessee will not alter the gradients, the drainage pattern or other physical characteristics of the site or adversely affect the surrounding environment;
- (vi) All legal and survey expenses must be borne by the lessee;



- (vii) Other terms and conditions customary in leases of this kind.

## 7. TRANSITION PROVISIONS

### Reliefs

7.1 Until very recently, agricultural leases for State land were granted at rentals of \$6.00 per acre per annum (\$15/hectare/annum). The rate of \$6.00 per acre was fixed many years ago and does not accord with contemporary values. In the late 1950's, a rent of \$6.00 per annum would often have represented a fair rent for an acre of agricultural land which would have sold for between \$100 and \$500 per acre on the open market. Thus a rental of \$6.00 per acre then represented a return of between 1.2 and 6 percent per annum of the capital value. Obviously, failure to review rentals to take account of changing land values and inflation has resulted in considerable loss of revenue to the State.

7.2 Adjustments of rentals to more realistic current values will entail steep increases because:

- (i) Many agricultural leases were granted at a time when land values, and therefore land rents, were very low and either stagnant or slow-moving. However, over the last two decades inflationary pressures have caused values to rise throughout the economy.
- (ii) More importantly, lease rentals were often fixed for terms of twenty-five years with no provision for rent-reviews during that period.

7.3 The revenues generated by lease rentals, under current leases, represent only a small proportion of the cost to the State of land administration. Further erosion of this revenue base cannot be sustained. Moreover, the existence of very low rental rates encourages tenants to make less than the most productive use of the land leased to them.

7.4 It will be necessary, however, to alleviate the hardship caused low-income lessees by substantial increases in rentals which will result from pegging rents to current open market value now that land values are considerably higher than when current rentals were fixed.

7.5 Higher land values and large increases in lease rentals are not in themselves reasons for granting relief to lessees, since such values and increases simply correspond to similar inflationary trends in costs and prices throughout the economy of Trinidad and Tobago. Sudden increases in lease rentals will result from the fact that there had been no rent reviews over extended periods. An affected tenant has, therefore, continued to pay a rent well below value for a substantial portion of the term of his lease and has, in fact, enjoyed a bonus equal to the difference between open



market rental value and the rent currently paid -- the greater the increase in rent when reviewed, the greater had been the bonus enjoyed prior to the rent review.

7.6 Viewed solely as a question of sound investment management, there is no reason why the State should forego any portion of an increase in rent generated by a fair review of rent at open market-value, since the State would have been collecting an uneconomic rent from the affected tenant for a substantial portion of the term of the lease.

7.7 Relief will be granted only to those tenants who cannot afford full open market rental value -

- (a) to the extent of their need, and
- (b) for such reasonable time as may be required to allow them to establish themselves.

Towards this end, a properly designed subsidy formula based on sound estate management principles will be introduced, thereby achieving not only relief of hardship, but also ensuring, wherever possible, an economic return for the State on its investment.

## 8. Harmonization of Policies (Inter Agencies)

8.1 A Summary Statement of land rental policy across State agencies entitled "Summary of Land Disposal Policies of the State and its Agencies" is appended hereto as Annex I.

8.2 The Summary shows that lease rental policies were often intended to promote specific socio-economic goals; they are, however, inconsistent with each other.

8.3 Since, in future, rents on all land will be based on open market value -- even where concessionary rents are charged -- at the earliest time feasible, lease rental policies of all State agencies must be brought into conformity with the rental policy set out above.

8.4 What has been outlined above is to be regarded as the umbrella policy for the distribution of State lands. Property leasing agencies will be required to develop detailed operational rules and guidelines for application of the policy in particular areas such as agricultural leases or housing. The Ministries concerned will be required to submit these operational rules and guidelines for the consideration and approval of Cabinet.



## 9. LEGISLATIVE FRAMEWORK

## Existing and Proposed Legislation

9.1 Many statutes impact on land administration. The most significant of these are:

State Lands Act	Chap. 57:01
State Grant and Leases (Reissue) Act	Chap. 57:02
Resumption of Land Act	Chap. 57:03
State Liability and Proceedings Act	Chap. 8:02
State Suits Limitation Ordinance	Ch. 5 No.2 (1950)
Housing Act	Chap. 33:01
Land Acquisition Act	Chap. 58:01
Land Surveyors Ordinance	Ch. 19 No.52 (1950)
Landlord and Tenant Ordinance	Ch. 27 No.16 (1950)
Leases and Settled Estates Ordinance	Ch. 27 No.15 (1950)
Partition Ordinance	Ch. 27 No.14 (1950)
Real Property Ordinance	Ch. 27 No.11 (1950)
Real Property Limitation Ordinance	Ch. 5 No.7 (1950)
Prescription Ordinance	Ch. 5 No.8 (1950)
Wills and Probate Ordinance	Ch. 8 No.2 (1950)
Trustee Ordinance	Ch. 8 No.3 (1950)
Conveyancing and Law of Property Ord.	Ch. 27 No.12 (1950)
Slum Clearance and Housing Act	Chap. 33:02
Slum Clearance Housing (Temporary Provisions) Act	Chap. 33:03
Town and Country Planning Act	Chap. 35:01
Trinidad and Tobago Survey Act	Chap. 60:01
Valuation of Land Act	Chap. 58:03
Rent Restriction Act	Chap. 59:50
Rent Restriction (Short Tenancies) Act	Chap. 59:51
Rent Restriction (Dwelling Houses) Act	No. 45/81
Agricultural Small Holding Tenure Act	Chap. 59:53
Land Regulations	Vol IX (1950)
Mines, Boring and Quarries Act	Chap. 61:01
Landlord and Tenant Act	No. 19/81
Land Law and Conveyancing Act	No. 20/81
Trustee Act	No. 21/81
Limitation Act	No. 22/81
Condominiums Act	No. 23/81
Land Registration Act	No. 24/81
Succession Act	No. 27/81
Registrar General Act	Chap. 19:03
Registration of Deeds Act	Chap. 19:06



Land Tenants (Security of Tenure) Act  
 Forests Act  
 Regularization of Tenure (State Lands) Act

No. 11/81  
 Chap. 66:01  
 No. 20/86

9.2 It will be necessary to make certain amendments to the existing body of legislation to facilitate implementation of and to provide effective support for the policy and institutional changes proposed earlier. For example, enabling legislation is required to implement the decision to establish the National Land Information System.

9.3 The following legislation-related initiatives are proposed:-

- (a) The 1981 package of property-law reform legislation will not be brought into force at this time. In certain instances (discussed below) alternative measures will soon be introduced.
- (b) Mandatory Title Registration in order to facilitate the establishment and maintenance of a comprehensive Land Information System will be introduced.
- (c) Land Adjudication Legislation to permit more expeditious and cost-effective determination of claims as well as to assist in the development of the Title Register will be enacted.
- (d) A Land Tribunal Act will be enacted.
- (e) The Partition Ordinance, Ch.27 No.14 (1950 ed.) to assist persons wishing to realize their interest in lands owned in association with others will be revised.
- (f) New legislation to replace the Land Surveyors Ordinance No.19 of 1952, will be enacted.

#### 1981 Land Law Package

9.4 The Property Law Reform package of 1981 comprises seven enactments:

- the Landlord and Tenant Act, 1981 (No. 19 of 1981);
- the Land Law and Conveyancing Act, 1981 (No. 20 of 1981);
- the Trustee Act, 1981 (No. 21 of 1981);
- the Limitation Act, 1981 (No. 22 of 1981);
- the Condominium Act, 1981 (No. 23 of 1981);
- the Land Registration Act, 1981 (No. 24 of 1981); and
- the Succession Act, 1981 (No. 27 of 1981).

9.5 These seven Acts were intended to "modernize" the law governing property dealings and inheritance in Trinidad and Tobago. The package has not, however, been implemented owing to lack of financial and human resources.



9.6 The major reforms introduced by the 1981 package are largely based on the English property legislation of 1925 the basic principles of which differ from those of the existing system.

9.7 The problems frustrating efforts at dealing with land in Trinidad and Tobago, however, relate not so much to complexity of legal doctrines concerning ownership of property as they relate to inefficiencies in the recording and retrieving of title information. Those problems arise solely from gross inadequacies in the existing system of land registration and its institutional support. Therefore, it is to this area that the principal efforts at reform will be directed.

9.8 Initial review of the 1981 package has concluded against the implementation of the formal Land Commission which underpins many of the arrangements enacted in the package. The Condominium Act 1981 is similarly deemed unsuitable for implementation through its employment of an awkward and inefficient property-law model. While, in general, much of the substance of the package is acceptable, its style of presentation is considered too opaque to be readily understood by even a non-specialist, professional user.

9.9 It is proposed that the 1981 package of property-law reform legislation not be implemented. Instead, the Law Revision Commission will be required to revise and publish the property-related laws omitted from the 1980 revised edition pending continuing review and adaptation of appropriate elements of the 1981 package. For the immediate future, the following legislative initiatives will be pursued.

#### Title Registration

9.10 At present, there are two systems being operated for recording interests and transactions in land in Trinidad and Tobago. Neither system contains complete records of titles to all land in the Republic. The first system commonly called "the R.P.O. system" operates in accordance with the Real Property Ordinance, Ch. 27 No. 11 (1950 ed.). Under this system, the State certifies and guarantees the interests shown in the title record.

9.11 The second system referred to as "the Common Law System" operates under the Registrar General Act Chap. 19:03, the Registration of Deeds Act Chap. 19:06, and the Tobago Deeds Act Chap. 19:07. Under the Common Law System, the State is merely a custodian of documents of title prepared by and maintained mainly for the benefit of private conveyancers. Generally, there is no requirement to register a deed in order to make it valid. However, failure to do so can result in loss, since a registered deed has priority over an unregistered deed or over another deed registered at a later date.



9.12 The proposal to introduce mandatory Title Registration is a necessary element in providing and maintaining comprehensive, up-to-date and efficient land records. This measure is essentially an extension of the present R.P.O. system. The following three major gains are envisaged from mandatory title registration :

- i) It will facilitate the compilation of a complete Title Register of all lands in Trinidad and Tobago showing parcellation, names of owners and limitations on ownerships, with each parcel being unambiguously referenced on a map with a unique parcel identifier.
- ii) It will eliminate costly, time-consuming and repetitive searches for each transaction on any given parcel of land.
- iii) It will provide essential support for the introduction and maintenance of an effective Land Information System which could not operate efficiently without the certainty provided by a system of Title Registration.

9.13 A new Land Registration Act will be prepared drawing on most of the provisions of the Land Registration Act, 1981. However, the new legislation will be couched in a more readable style. It should provide for registration of all lands vested in the State. It will provide for the phasing in of mandatory title registration so that completion of the Title Register synchronizes with establishment of the National Land Information System. It should not provide for the constitution of a Land Commission but, instead, should permit hearing of disputed matters by a Land Tribunal with a right of appeal to the Court of Appeal on questions of law.

#### Land Adjudication Legislation and Land Tribunal Legislation

9.14 In their present forms, neither the Real Property Ordinance nor the Land Registration Act, 1981 is appropriate for the expeditious implementation of mandatory title registration. In both cases, the machinery for bringing land on to the title register relies heavily on the already over-burdened court system. It is desirable to introduce alternative speedier, less formal and less costly machinery for dealing with routine land matters. Accordingly, legislation will be enacted to permit the adoption of two such administrative mechanisms - Land Adjudication and Land Tribunals.



### Land Adjudication Legislation

9.15 "Land Adjudication" is the process of determining authoritatively all rights that exist in a parcel of land. In compiling the Title Register, it will be necessary to inspect, survey and physically mark on the ground the boundaries of every parcel recorded, as well as to ascertain and record the names of owners and limitations on their interests and to adjudicate between conflicting claims, where necessary. In order to carry out these functions, an Adjudication Party comprising a demarcation officer a land surveyor, and a recording officer under the direction of an adjudication officer will be assigned to each "adjudication area" (a block of not more than two hundred parcels) being investigated and surveyed. The intention of the Adjudication Party to attend in any area will be notified to all interested parties. Objections to the decisions of subordinate officers or to any matter appearing in the adjudication record will be determined by the Adjudication Officer. Aggrieved persons will have recourse to a final appeal to an authority with power to override the Adjudication Officer's decision.

9.16 Land Adjudication Legislation will be enacted to permit systematic adjudication of all claims affecting land in order:

- to achieve economies of scale attainable in a nationwide title registration exercise;
- to facilitate prompt compilation of the Title Register and thus permit early implementation of the Land Information System;
- to remove routine title registration matters and boundary disputes from the High Court and thereby provide some relief from congested court lists.

### Land Tribunal Legislation

9.17 Land Tribunals are specialized lay tribunals established to resolve speedily and inexpensively disputes concerning land or land-related issues. During the last four decades, in the United Kingdom and in many Commonwealth jurisdictions, there has been increasing resort to less formal fora for resolving such disputes. The justification for this approach lies principally in the savings in legal and other costs invariably associated with traditional civil court processes. By adopting less formal, simplified procedures, and by providing well-designed forms and moderate assistance to litigants in stating a claim or defence, such tribunals permit the average citizen to present his case adequately and speedily without need for professional assistance and at greatly reduced costs to the community.



9.18 Legislation will therefore be introduced to permit the establishment of Land Tribunals with jurisdiction to hear matters such as -

- (a) appeals from decisions rendered by the adjudicator in the compulsory Title Registration exercise;
- (b) landlord and tenant disputes, including forfeiture of State Land leases for breaches of conditions and variation of conditions of such leases;
- (c) claims by squatters to any interest in State land;
- (d) appeals against environmental protection orders;
- (e) appeals in claims for compensation under the Town and Country Planning Act or under the Land Acquisition Act;
- (f) applications for partition of land;
- (g) appeals against assessments for land taxation purposes.
- (h) appeals against decisions in development control under the Town and Country Planning Act.

9.19 A majority of the members of the Land Tribunal will be chosen from among professionals from the land-based professions. Provision will be made for a full-time President who will be a senior lawyer. Three members of the panel will form the Tribunal at any one sitting. The Tribunal will follow basic rules of civil procedure but the strict common-law rules of evidence will be relaxed. Decisions of the Land Tribunal on issues of fact will be final but aggrieved persons will have a right of appeal to the High Court on questions of law. In its constitution and operation, the Land Tribunal will seek:-

- to be easily accessible to the public;
- to deal with business coming before it expeditiously and with dispatch;
- to minimize expense to litigants.

#### Partition Ordinance

9.20 Although the Partition Ordinance Chap. 27 No. 14 (1950) is aimed at providing relief to persons seeking to realize their interest in jointly owned lands, in practice, it is seldom used in Trinidad and Tobago. Certain key provisions of the Ordinance extending the right to partition are obscurely couched. The Ordinance does not indicate the nature of the property to which the legislation applies or the type of ownership interest capable of supporting a claim for partition. In order to make the law more



accessible, a new Partition Bill will be drafted giving effect to the rights and obligations recognized in the present Partition Ordinance. The new legislation will also include references to the nature of the property to which the Act applies as well as the class of property holders that can make use of its provisions. In addition, it will also provide more expeditious procedures (e.g. hearings before the proposed informal Land Tribunal) where considered desirable.

#### Land Surveyors Ordinance

9.21 The Land Surveyors Ordinance enacted in 1952 and its subsidiary legislation regulate admission to the Land Surveying profession and provide for control of the practice of land surveying in Trinidad and Tobago. The legislation is now wholly outdated and out of touch with technological developments in this field. As a consequence, a satisfactory framework does not exist for the induction of new entrants into the Land Surveying profession. Accordingly, there is urgent need for the enactment of appropriate replacement legislation.

9.22 A Bill to provide for the registration of land surveyors, the regulation of practice, for the government and discipline of the profession, and for the induction of university trained graduates into the profession will be enacted.

#### Town and Country Planning Act, and Forest Resource and National Park Conservation Act

9.23 A new Town and Country Planning Act and a Forest Resource and a National Park Conservation Act will be enacted.

9.24 Government proposes to introduce new town and country planning legislation that will seek to clarify the law by spelling out the nature of planning powers and the manner of their exercise by the Minister and his officers. The new legislation will give greater emphasis to development promotion. It will also provide greater flexibility in the management of development control and in the preparation and adoption of development plans.

#### Environmental Legislation

9.25 The Ministry responsible for the Environment will also introduce new environmental protection and enforcement measures that will serve to protect the environment against the degradation that results from poor production practices and other abuses.



## Condominiums

9.26 Though not directly related to State land distribution and management, it is recognized that other aspects of existing land law need to be rationalized. One such is legislation to deal adequately with condominiums. This extends to blocks of apartments, flats, maisonettes and townhouses that permit the housing needs of urban populations to be met through more intensive use of scarce land resources.

9.27 Condominium Legislation will permit occupiers of such units to acquire ownership rights in their respective units as well as in the common elements such as corridors, stairways, elevators, recreation areas, roof and parking-lots in condominium projects. Under the Common Law, future unit holders are not bound by an agreement to maintain the building and common elements made by the owner from whom the unit was acquired as "the burden of a covenant does not run with the land." As a result owners are faced with problems in the administration of the scheme, the maintenance of the building and the upkeep of the common elements.

9.28 Although the 1981 package of unproclaimed Property Law Reform Legislation seeks to overcome this difficulty, it relies on a complex set of easements to separate and support ownership interests in the fabric of the building. The Condominium Act 1981 will not be brought into force but a new Condominium Act employing the company law model will be drafted and enacted to replace the present legislation.

9.29 In the company law model the unit-owners are constituted shareholders in a Condominium Corporation. The Condominium Corporation owns the fabric of the building, the associated lands and other common property. The unit-owner's only entitlement in the project is his right to occupy the air-space enveloped by the inner surfaces of the walls forming the boundary of his unit together with the right to use porches, verandas or similar areas as are reserved for the exclusive use of his unit.

## 10. CONCLUSION

10.1 A small State such as Trinidad and Tobago must accord a very high priority to the judicious management and utilization of its land resources or perish. All elements of land policy must be designed to ensure that these finite resources are efficiently utilized and husbanded in such a manner as to serve the long term interests of the national community.

19th November, 1992