

Supporting the Eastern Caribbean States Improve Land Policies

Draft Regional Land Policy Guidelines

(Seventh Draft, 30 June 2014)

Contents

A.	Introduction	2
B.	National Land Policy in the Eastern Caribbean in an international context	2
C.	Steps in the NLP formulation process.....	3
D.	Scope of a National Land Policy	5
E.	Land policy principles and objectives	6
F.	Land issues requiring attention	8
	Land Administration.....	8
	Land and Natural Resource Management	8
	Social and Cultural	9
	Cross-cutting issues.....	9
G.	NLP reforms and outcomes to be considered	10
	High priority, cross-cutting reforms:.....	10
	Land administration reforms:	11
	Land and natural resource management reforms:.....	11
	Social and cultural reforms:	12
H.	The National Land Policy Report.....	12
I.	National Land Policy Implementation Plan (NLPIP)	13
	Appendix 1: Gantt chart of stages in the NLP process.....	15
	Appendix 2: Examples of NLP Report Layout and Structure	17
	Endnotes	21

A. Introduction

1. The preparation of Regional Land Policy Guidelines was part of an Australian Government funded project for improving national land policies of member countries within the Organisation of Eastern Caribbean States (OECS). The project was implemented through the collaboration of the OECS Secretariat, UN-Habitat and the Department of Geomatics Engineering and Land Management, University of the West Indies (UWI), St. Augustine, Trinidad.
2. The Regional Land Policy Guidelines are intended to contribute to the development of land policies at country level. They aim to cover the range of issues to be considered by Member States of the OECSⁱ when formulating a National Land Policy (NLP). The Guidelines are not intended to be a blueprint for any particular State. Although the States face some common land-related problems, Member Countries are at different stages in resolving them.
3. This draft has been prepared following consultations with the OECS Secretariat and UWI and a review of the 'Land Policy Issues' reports prepared for each Member State under the project in 2013. It has benefited from analysis of international experience as well as the land policy development processes underway in St Lucia and in St Vincent and the Grenadines in the first half of 2014. This draft has been prepared following a final project workshop in Kingstown, hosted by the Government of St Vincent and the Grenadines, convened by the OECS Secretariat, 17-18 June 2014. It was attended by representatives from Member States and resource persons from UWI and the region who reviewed and commented upon a previous draft of the Guidelines, which has been updated in accordance with the recommendations of the workshop.

B. National Land Policy in the Eastern Caribbean in an international context

4. Simply described, a National Land Policyⁱⁱ defines what actions a government intends to take in managing its land and related natural resources, including water resources, fisheries, forest and wildlife.
5. So called National Land Policies appeared on the international agenda in the early 1990s in Southern Africa, where emphasis was placed on: the repossession of land alienated by Europeans; land tenure reform; the harmonisation of received law and customary law; and on the transformation of colonial systems of land administration geared to private and government land, better to serve the majority of the population using untitled land. African countries have followed different approaches to land policy development and implementationⁱⁱⁱ.
6. In the 1990s in Southern Africa, land policy reforms were inspired by the democratic transitions which took place in Namibia in 1990 and in South Africa and Mozambique in 1994. Implementation of the necessary land reforms commenced within a few years. In other African countries, where the impetus for land policy reform has been more donor-

driven, the process has been slower and more contested^{iv}. Countries that adopted a more measured and politically inclusive land policy formulation process have been more successful in meeting their policy objectives. Currently, land policy analysts in Africa are concerned with large-scale land acquisition or 'land grabs', very often involving communal land^v.

7. In Jamaica, which promulgated its National Land Policy in January 1997, the main policy drivers were 'sustainable, productive and equitable development, use and management of the country's natural resources', to compliment socio-economic development initiatives of the country (page 4). The policy is to be achieved by challenging and removing 'inefficient, onerous and outdated legal, administrative, management and other barriers that affect the planning, use, control, development, protection and conservation of Jamaica's physical resources'. As in Jamaica, in the 'Small Island Developing States' (SIDS) of the OECS, a comprehensive and inclusive approach is relevant due to the very intense competition for land between urban settlement, rural agriculture, tourism and other infrastructure, in the face of accelerating rural-to-urban migration, population growth and climate change, including rising sea level.
8. In March 2003, land policies in the English Speaking Caribbean relating to land administration and the sustainable management of land were the subject of detailed attention in a workshop in Port of Spain, Trinidad^{vi}. It included country case studies of St Lucia, Antigua and Barbuda, Dominica, Grenada, Montserrat, St Kitts Nevis and St Vincent and the Grenadines. However, the national land policy development process is reported to have foundered because of the lack of direction and follow-up by Member States. Accordingly, the Regional Land Policy Guidelines aim to clarify the steps needed to progress from the formulation of a NLP to the preparation of a National Land Policy Implementation Plan (NLPPIP), essential for procuring funds for implementation.

C. Steps in the NLP formulation process

(See Gantt chart in Appendix 1)

9. Public policy is a course of action chosen by government to address a given problem, or a set of interrelated problems, for the achievement of declared objectives. Only Cabinet and the elected Government, on the advice of the responsible Minister, determine public policy. However, in matters as crucial as National Land Policy, governments should aim to ensure that any personal or party political biases are set aside in the process of policy formulation in order to ensure its widespread and enduring support.
10. As with other areas of public policy, e.g. health, education, agriculture, etc., the formulation and promulgation of a NLP should be an iterative process and updated every five years or so^{vii}.
11. A minister will normally call upon an agency to put in place a process by which recommendations on the scope and content of a draft NLP may be developed. If this is the minister's expressed intention, then the objective of the NLP formulation process would be

to engage with a broad range of stakeholders to prepare a cabinet-ready document in the form of a draft for the Minister's consideration.

12. The appointed Agency may be the government department responsible for land administration and land management^{viii}. It would normally appoint a Secretariat for the day-to-day management of the process and convene a NLP Working Group to oversee the process. This would include representatives of government departments concerned with the planning and the use of land (e.g. Agriculture, Fisheries, Forestry, Environment, Tourism, Lands and Surveys, Land Registration, Physical Planning, Public Utilities). Sub-committees may be formed as required to review specific topics.
13. With the agreement of the responsible Minister, the Agency may appoint a consultant to assist with the drafting of the NLP documentation, but it is important that the 'ownership' of the draft NLP rests with the Agency and the NLP Working Group, which should drive and head the process.
14. Land and other natural resources, including forested water catchments and coastal and marine zones, are a primary resource for Member States and the basis of livelihood for the people. It is thus fitting to call upon a wide range of representatives of civil society organisations (e.g. women, youth, conservation societies, faith-based and educational groups) and business and professional interests (e.g. tourist industry, farmers, fisher folk, lawyers) to make recommendations on the scope and content of a draft NLP, and to nominate representatives to join the NLP Working Group.
15. The NLP Working Group should normally produce an initial draft ('green paper') for public comment before submitting a final draft ('white paper') of the NLP to the Minister, Legislature (Cabinet and/ or Parliament) for consideration.
16. If the land policy process is as consultative and inclusive as proposed above, the draft paper is likely to include a wider range of proposals for programmes and projects than could be finally adopted. Before the NLP is approved, Cabinet and/or Parliament will require information about the likely scope and scale of any financial and legal implications of the proposed NLP. Thus, the Secretariat will need to consult the Ministry of Finance, with regard to any anticipated budgetary changes. Also, the guidance of the Attorney General's Chambers will be needed on the feasibility of introducing any land-related bills and/or amendments. Once a policy is approved by a government in principle, then work can commence on setting out the financial and legal changes in detail in a NLP Implementation Plan. In the SIDS of the Eastern Caribbean, many interdependent factors will have to be taken into consideration and be 'planned in parallel'^{ix}.
17. Bearing in mind the small size of Member States and the fact that detailed 'Land Issues Reports' have already been completed for all nine countries by the OECS Land Policy Project in 2013, the preparation of a draft NLP should be possible within a period of twelve months. This should be long enough for the gathering of any additional land-related data needed for the drafting of a NLP. The drafting of a NLP could reasonably take another six months.

18. Thus, once the policy has received the assent of Parliament, the next step will be the preparation of a prioritised and sequential action plan in which responsibilities and budgets for implementation of each component are allocated to the responsible government agency and the details published in the annual government budget.
19. The implementation of a comprehensive NLP may take five years or more; usually longer than the normal term of an elected government. For the purpose of continuity, there may be a case for building cross-party support for a NLP, for example by establishing a standing 'Parliamentary Committee on Land Policy' to encourage parliamentary scrutiny of implementation from all sides. The task of public officers, both those legally elected and those appointed, would be to facilitate a sustainable long-term national process, for the benefit of all members of the community.

D. Scope of a National Land Policy

20. The purpose of this document is not to constrain or extend the scope of deliberations on land policy, but to catalogue the prevailing land policy issues in the OECS and to suggest areas for priority attention. The presence or absence of a particular land policy principle in this document should not be taken to confirm or deny acceptance or rejection of that principle. Nor should the absence of a particular principle or point of view constrain participants from raising it as an issue.
21. Small Island Developing States must cope with challenges arising from their limited areal extent, rugged topography and susceptibility to natural disasters. In addition to the importance of protecting marine and terrestrial resources, sufficient land must be set aside for agriculture and for urban development, including settlement, light industry, tourism and related infrastructure, taking into account demographic growth, climate change and rising sea level.
22. As SIDS, the Member States all face disproportionately expensive public administration and infrastructure, with few opportunities to benefit from economies of scale. In the context of the OECS support, a National Land Policy should set out the essential tasks the Member State can reasonably expect to achieve and sustainably fund itself and what technical and material support might be reasonably requested from the OECS at regional level to take advantage of any economies of scale.
23. The extent to which the NLP should be designed to be compatible with and part of an overarching 'vision' and national development 'goal' of a Member State should be a political decision. However, an introductory section in the draft should include information on how the NLP will complement relevant national development initiatives planned or underway.
24. The NLP should aim to establish the framework for the planning, development and sustainable management of a country's land, a national asset, including the foreshore, territorial waters and the exclusive economic zone. In a series of chapters, it should set out key issues, propose policies and implementation strategies, and identify actions (e.g.

programmes and projects) to be undertaken. Briefly, for each element, it should identify the problems, specify the strategy for overcoming the problem, and define the actions to be taken and the relative priority of actions.

25. Member States have to resolve issues relating to inheritance rights on ‘family land’^x. Since independence, governments have pursued different policies, though the relegation of family land to a second-class status was usually maintained without being replaced by satisfactory legal arrangements. A common issue in all nine Member States is that of how best to determine and record rights to such land. Intra-family disputes and the inability of landholders to substantiate their tenure rights can result in failure to obtain planning authorization for building developments on family land. Uncertainty as to the identity of the rightful holder (or holders) of family land can also lead to difficulties with compulsory acquisition by the State for a public purpose and with the award of due compensation.
26. Tenure issues relating to informal tenure are the subject of a pilot investigation by UWI researchers under the Project in two Member States. The Social Tenure Domain Model (STDM), with supporting computer software developed by the Global Land Tool Network (GLTN), is being used to collect information on the tenure of family land and ‘squatter’ settlements. The purpose of STDM is not to confer rights, but to provide information essential for decision-making by the authorities responsible for land administration and land management.

E. Land policy principles and objectives

27. A country’s Land Policy should establish a framework of values and institutions that will ensure that land and associated resources are held, used and managed efficiently, productively and sustainably.
28. National Land Policies must address three ‘estates’. Historically, an estate means a collection of interests, rights and entitlements. The three estates encompass:
 - a. **The State** with its resources of Public and State Land;
 - b. **Titled Landowners** who may be in possession of land through both inheritance and market exchange of land rights;
 - c. **Untitled Land Occupiers** who continue to seek inclusion in the legal framework, but on their own terms.
29. The interests of untitled land occupiers must be fully taken into account in National Land Policy, if it is to have credibility, relevance and legitimacy. The third estate embodies some of the most pressing issues that a NLP must address; namely poverty, food security, vulnerability, climate change resilience and protecting national patrimony.^{xi}
30. Examples of guiding principles on which a NLP Policy could be founded are as follows:
 - a. Since land is the common heritage of all citizens, it is their duty to ensure that it is responsibly administered, managed and productively used.
 - b. All citizens, irrespective of gender, should have equal opportunity of access to land, whether this is through the market, or through any system of lawful inheritance.

- c. It is the duty of public officers to ensure that land is administered lawfully and transparently and that they remain accountable to citizens at all times.
 - d. Sustainable management of land is a prerequisite for security of access to that land, now and in the future; hence, practices causing land degradation and unsustainable land use are unacceptable.
 - e. Efficient operation of the land market at all levels is fundamental to land development; hence market distortions of whatever nature, legal or otherwise, should be eliminated.
 - f. Comprehensive land-use planning or zoning^{xii}, and adherence to a land use/physical plan are integral to land development, in rural, urban and coastal areas.
31. The objectives of land policy should be to facilitate:
- a. transparent and participatory land administration and land management which is economically efficient, financially sustainable, socially equitable, and operationally accountable to the people;
 - b. the development of an efficient and transparent land market, comprising rentals, land sales and state land lease;
 - c. efficient, effective and sound conservation, management and protection of ecologically sensitive areas (e.g. wildlife sanctuaries, forests, water catchments, coastal and marine zones, wetlands);
 - d. equitable distribution and access to land and associated resources;
 - e. gender equity;
 - f. security of land rights within and across generations;
 - g. efficient and orderly land-use planning and development of public land resources to promote rapid socio-economic development;
 - h. the development of efficient and sustainable infrastructure; and
 - i. socially acceptable ways of resolving land disputes.
32. The OECS Member States are signatories to a number of international conventions. In the eyes of international lawyers, these documents are examples of 'soft' international law that give rise to what might be called quasi-legal obligations which cannot be enforced by any international law enforcement agency. Nevertheless, by agreeing to these documents, all governments put themselves under an obligation – part legal, part moral – to begin the process of reviewing their policies, laws and practices to bring them into line with the principles enshrined in the documents. Significant departures from the agreed principles would need to have a clear and reasoned justification since these principles have behind them the aim of advancing the welfare of citizens.
33. The Treaties and Conventions include the following:
- a. Revised Treaty of Basseterre establishing the OECS Economic Union (Article 24, Environmental Sustainability) (2010);
 - b. St George's Declaration of Principles for Environmental Sustainability in the OECS, 2001 (revised 2006);
 - c. Caribbean Financial Action Task Force (1996) that implements common counter-measures against money laundering (e.g. in the context of 'economic citizenship programmes' of Member States involving land-based investment projects);

- d. Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal (UNEP 1989, as amended);
- e. UN International Convention to Combat Desertification (1994);
- f. The Istanbul Declaration on Human Settlements and the Habitat Agenda (1996)^{xiii}
- g. UN Convention on Biological Diversity (2000);
- h. UN Framework Convention on Climate Change (2013);
- i. Others?

F. Land issues requiring attention

34. The studies conducted under the OECS Project, in each of the nine Member States in 2013, have identified a long list of land policy issues, which governments are at different stages of overcoming. Issues may be grouped under four main headings: those relating to the administration of land parcels; those relating to the management of land as a resource from an environmental and an economic perspective; those relating to social issues; and finally issues of a cross-cutting nature.

Land Administration

35. The following land administration issues need be resolved in the majority of Member States:
- a. Lack of coordinated analysis and use of geographical information (an unresolved issue in 5 Member States);
 - b. Inadequate information on the geographical location, tenure (including identity of holder) and use of land in rural and urban areas on Private Land, State Land and Public Land^{xiv} resulting in the unauthorised subdivision and development of land in contravention of development control and building legislation (an unresolved issue in 5 Member States);
 - c. Inadequate arrangements for the storage and retrieval of land-related documents, cadastral maps, title deeds, etc. and the need to upgrade paper-based systems to integrate computer-based systems for the cadastre and land transactions; (an unresolved issue in 5 Member States).
 - d. Inadequate integration of information held by Lands and Survey agencies, on the one hand, and Land Registration on the other, slowing up the transaction of land rights (an unresolved issue in 4 or 5 Member States);
 - e. Lack of skills required to install, or upgrade and/ or operate an integrated computerised system (an unresolved issue in 4 or 5 Member States).

Land and Natural Resource Management

36. The following land management issues crop up in the majority of Member States, but they are more under control in some than in others. The most important underlying issue is the lack of adherence to formal procedures. Others include:
- a. Lack of adherence to land-use plans/ or physical plans at national and/ or local level, or to conduct or use independent Environmental Impact Assessments (EIAs). Such assessments need additional instruments such as guidelines on hillside developments for instance those which surround all major urban centres in the Eastern Caribbean;
 - b. Inadequate national capacity to oversee and manage the planning of development, including tourism investments and related infrastructure, in all land tenure categories;
 - c. Lack of plans to deal with territorial waters and exclusive economic zones;

- d. Poor or non-existent Integrated Coastal Zone Management (ICZM).

Together, these problems result in:

- e. Loss of high quality agricultural land;
- f. Scattered and ribbon development, affecting the feasibility and cost of providing utilities;
- g. Increasing settlement of unsafe lands (sites subject to land slips, flooding, river bank and coastal erosion, rising sea level and storm surge threat);
- h. Inadequate infrastructure (e.g. for roads, water supply, solid waste and waste water);
- i. Marginal and fragile lands under agriculture (perhaps less of a problem with the decrease in Member States' involvement in the international banana trade);
- j. Degradation of land, watersheds and loss of bio-diversity;
- k. High stream sediment load, caused by lack of cut-off drains and other remedial works;
- l. Pollution of surface and underground water, as well as coastal water;
- m. Illegal removal of beach sand and quarrying of other building materials.

Social and Cultural

37. In all Member States land policy is challenged by increasing income inequality. The issues include:

- a. The unaffordable price of land for poor people, partly a result of wealthy expatriates and foreign companies purchasing and transacting land and fixed property.
- b. Scarcity of State Land for redistribution for housing and/or cultivation for leasing at subsidised rates;
- c. Issues relating to criteria for settler selection, including transparency and the fairness of the process;
- d. Lack of viable strategies for making land available to the poor for housing and cultivation;
- e. Planning, infrastructure and building standards that are unaffordable by the poor;
- f. Squatting by poor people on Public Land and State Land, and speculation by 'shack lords' who rent-out structures;
- g. State subsidies for land allocation which lack adequate analysis of longer term social and environmental impacts;
- h. Informal subdivision and sale of family land;
- i. Lack of recognition and resolution of family land issues.
- j. High incidence of intra-familial property disputes.

Cross-cutting issues

38. Some or all the following issues can affect the reform of the land sector of Member States:

- a. General neglect and underfunding of the land sector in comparison to other sectors;
- b. Institutions and agencies responsible for land administration and management with overlapping responsibilities, resulting in duplication of effort and/or inaction in the absence of institutional mechanisms for effective cooperation and coordination;
- c. Weak staffing and technical capacity in critical agencies;
- d. Limited enforcement capacity and political will;
- e. Inadequate penalties and dysfunctional procedures in dealing with offences;

- f. Other land-related national policies (e.g. for housing, for agriculture) which conflict with or require updating to take into account land policy reforms;
- g. Existing laws require updating and new laws need to be formulated;
- h. Rules and regulations to accompany legislation do not exist or require revision, among other reasons to limit the discretionary powers of public officers;
- i. Formal dispute resolution procedures are unaffordable by the poor and are not clearly defined. Alternative Dispute Resolution Procedures (ADR) for the poor are needed which are transparent and unbiased (i.e. for appeal of administrative decisions, resolution of intra-familial disputes, boundary disputes, disputes relating to tenancies);
- j. The need for increased public awareness for the successful implementation of land policy reforms, the need for an Information, Education and Communication (IEC) Strategy.

G. NLP reforms and outcomes to be considered

39. In the short to medium term (i.e. Year 1-3), national land policies should aim to introduce some important policy reforms. Some suggestions are briefly summarised below:

High priority, cross-cutting reforms:

- 40. Increase the budgetary allocation to the Land Sector in order to fund institutional and technical improvements, which will inevitably require raising land-related fees and taxes.
- 41. Ensure that fiscal policy and taxation regimes contribute to land management, while meeting revenue generation objectives. Fiscal and tax measures should encourage the productive use of all land.
- 42. Ensure institutions are in place that will allow rights' holders to enforce their rights and exercise them in accordance with their values and aspirations and those of society.
- 43. Resolve unclear and overlapping mandates (e.g. Land Registry and Lands and Surveys) and functions, which increase transaction costs and opportunities for discretionary decision making. Institutional responsibilities for decision-making should be rule based and backed by social consensus.
- 44. Ensure that responsibilities for monitoring progress are assigned to the relevant agencies on the basis of the information available to them.
- 45. Strengthen professional staffing in the land sector. Ensure that personnel have the required access to training in the use and application of relevant, up-to-date, computer-based applications that are needed to increase efficiency, speed-up survey and mapping, improve the accuracy of land records and the necessary progress monitoring.
- 46. Expedite the legislative and rulemaking processes. For this purpose, strong relationships should be forged between the legislative specialists and Parliament for the needed legal reforms to be delivered on time.

47. Put in place measures to manage and resolve land disputes and conflicts. A variety of formal and alternative approaches to dispute resolution (ADR) should be available to all. Land rights holders must feel secure and empowered in their ability to raise disputes and to seek resolution.

Land administration reforms:

48. Establish a unified National Land Information System. Its purpose would be to manage all information on land transactions including survey data. The National Land Information System should comprise: the Land Registry, Survey and Mapping Division and the Land Information Section. The functions of the Land Registry should be to scrutinize and record all land transactions. The Survey and Mapping Division's information infrastructure should be shared with the Land Information Section. The Land Information Section should provide the necessary spatial technology support to the Land Registry and the Surveying and Mapping Division.

49. A national inventory of all Public Land and State Land should be conducted to clarify its status, essential for rationalizing the future management and use of the State's land assets.

50. State leases:

- The land inventory should determine the location and area of State Land available for redistribution to the poor.
- The nature of the demand for further land redistribution and the capacity of the State to meet that demand should be determined.
- The effectiveness of settler selection criteria and the nature and efficiency of the redistribution procedures should be closely monitored.
- The conditions attached to state leases relating to the lessor and the lessee should be reviewed to ensure that they support sustainable farming practices and prevent unauthorized change of use.

51. The following data relating to family land should be collected to inform government policy regarding unsurveyed and unregistered land rights:

- The area of unsurveyed and unregistered family land;
- The rate at which it is being brought onto the land register;
- The rate at which it is being subdivided and built upon.

52. Squatting

- Government policy regarding the conditions for continuance or dis-continuance of such illegal occupation of land should be reviewed; including regularisation, forced removal, compensation, etc.

Land and natural resource management reforms:

53. For the conservation of critical natural ecosystems and habitats, the State should:

- Ensure effective protection and management of forests and watersheds;
- Ensure inalienability of lands held by public agencies for the purpose of conservation.

54. For the management of land and ecosystems in ways that enhance resilience in the face of natural disasters and other environmental challenges, the State should:
- Develop and implement a regime for the management of water courses and riparian zones;
 - Implement the policy for integrated coastal zone management;
 - Conduct community-level vulnerability mapping;
 - Use Disaster-Risk-Reduction systems in planning and development control;
 - Apply zoning plans to areas assessed to be environmentally fragile;
 - Develop and implement restoration projects in selected degraded areas;
 - Develop and apply a system for monitoring land degradation.
55. For the promotion of sustainable management practices, the State should:
- Support land conservation measures on public and private lands;
 - Zone priority agricultural lands and foster adoption of appropriate husbandry and intensive use of available land;
 - Promote sustainable fisheries;
 - Ensure tourism-related investors use natural resources sustainably;
 - Ensure public works (e.g. roads, airports, ports) make rational and sustainable use of land;
 - Ensure that relevant government agencies have the technical capacity needed.
56. For a comprehensive and effective land-use planning framework, the State should:
- Ensure land management principles are incorporated within the national development plan;
 - Formulate a national land use plan;
 - Formulate urban development plans;
 - Promote and support urban renewal;
 - Develop and implement zoning, regulations and other management arrangements in coastal marine areas.

Social and cultural reforms:

57. To protect the land right and interests of the poor, the State should ensure that:
- Protected area planning and management take into account social and cultural realities and objectives;
 - Common property and public space are preserved and protected for sustainable use;
 - Serviced land in urban and peri-urban areas is demarcated into small lots to be leased at affordable rentals to the poor for purposes of vending, small trades and other economic activities;
 - Public sector social-housing initiatives on well-located land are promoted and supported;
 - Illegal settlements are regularised and that the establishment of new squatter settlements on public and private lands are prevented;
 - A management strategy for common property is developed, including coastal marine space, for economic and livelihood activities which benefit poor people.

H. The National Land Policy Report

58. An examination of NLP reports reveals significant differences in structure, content and length. It is evident that conditions in Member States are sufficiently different and changeable to

preclude the prescription of a standard template for the OECS. Even within one country, the focus of land policy and successive NLP reports can be expected to change over time, taking into account progress achieved, new challenges and global changes.

59. Appendix 2 contains outlines and brief comments on four contrasting NLP outlines drawn from the region:

- National Land Policy of Jamaica, January 1997
- Draft National Land Policy of St Vincent and the Grenadines May 2014
- National Land Policy of St Lucia, May 2007
- Draft National Land Policy of St Lucia, May 2014

It is of course instructive to examine other NLP reports and the approaches which other countries have adopted before embarking on one's own.

60. The chapters that describe support for policy implementation (e.g. Land Information Management, Institutional Reforms, Legal Reforms and Raising Public Awareness, etc.) are found in most NLP reports. However, the type of policy reforms needed for the sustainable use of land and natural resources in urban and rural settings will vary between countries, depending on physiography, economy, population density, urbanisation, etc. The appropriate structure of a NLP report can be expected to emerge as the understanding of the scope and content of the desired policy reforms develop. A NLP is usually the subject of several drafts in the months before submission of the draft to Cabinet. In the course of time, chapter headings and contents can be expected to need modification.

61. The length of NLP reports also varies, but is usually between 10,000 to 20,000 words. The longer the report, the less chance it will be read. Land Issues Reports have already been prepared for each Member State and will be available on-line. Background information in the NLP documents should be summarised.

I. National Land Policy Implementation Plan (NLPIP)

62. The length of a NLP document can be kept brief if the particulars relating to implementation of the policy are contained in a National Land Policy Implementation Plan, which should set out in detail a list of priority actions, roughly in order of which they will be started and implemented over, say, the coming three financial years. This should make clear who would do what, when, where, how and with what resources, including arrangements for baseline surveys, operational monitoring of implementation as well impact evaluation over the longer term.

63. The task of overseeing the preparation of the NLPIP should be allocated to a committee of government and, ideally, civil society and donor representatives, the Chairperson and Secretary of which would report to the responsible Minister. A small technical team, the 'Project Implementation Unit', led by a financial planner/economist with experience of public finance management (PFM), should be charged with preparing the NLPIP on a day-to-day basis, with the assistance of nominated contact persons in the relevant government departments. The detailed preparation of the NLPIP, including financial and technical planning and any required field investigations, could take six months after the promulgation of the NLP. However, there are

likely to be so-called 'quick wins' that could perhaps proceed more or less immediately under current departmental budgets.

Prioritization within the NLPIP

64. A variety of factors will dictate that the strategies and implementing actions within the NLP cannot be implemented simultaneously. These may reflect the reality that many of the implementation actions require that other things must happen before others can start or be completed or funds are mobilised. For example, before comprehensive legal reform is undertaken, studies and other fact-finding may be required.
65. The NLPIP should provide for early investments in management, administration, technical design and oversight, and monitoring and evaluation expertise in key NLP implementing departments. This should be done early in the implementation process and then sustained over the coming years.
66. Priority should be given to those actions needed to set the stage for full NLP realization over a five-year implementation period. Though not the full set of actions needed, the actions chosen would be those necessary to make a significant start. These should be the focus of activity in PY1 and PY2. Such actions could include:
 - Further work on the design and conduct of a public Information, Education, Communication (IEC) strategy and action plan for the implementation throughout the life of the NLP;
 - Analysis of options for training in the different skills and levels required and plan a related capacity-building programme across government;
 - Preparations for institutional reforms required for support to land administration;
 - Preparations for land-related legal and regulatory reforms - a number of them will need to be done early in the NLP implementation, others later;
 - Updating plans for land-related revenue generation, e.g. taxation on idle land, land transaction taxes and fees for services.
 - Policy studies and reforms in other land-related sectors (e.g. agriculture, forestry, climate change, involuntary/voluntary resettlement and compensation, taxation of idle land);
 - Community-level vulnerability mapping;
 - An inventory of Public Land and State Land;
 - SDTM surveys on family land and other informal settlements;
 - The introduction of measures to regularize the tenure of squatters;
 - Measures to manage and resolve land disputes and conflicts.
67. The NLPIP will require updating biennially, if not annually. The prioritization of NLP components and actions must be an ongoing process. Circumstances will change.

Appendix 1: Gantt chart of stages in the NLP process

Activity	Predecessor	Time estimates			Expected time
		Optimistic (O)	Normal (M)	Pessimistic (P)	
A. Advocacy for a National Land Policy					
B. Minister agrees to appointment of NLP Secretariat					
C. Formation of NLP Working Group					
D. Develop Information, Education and Communication (IEC) Strategy					
E. Public consultation and information process					
F. Drafting and publication of a Draft Paper on the NLP for public consultation					
G. Parliament and Cabinet reviews NLP Draft Paper					
H. initial legal and financial and assessment					
I. Promulgation and approval of a Final NLP document (white paper)					

by Parliament					
J. Appointment of a NLP Technical Implementation Committee (ITIC) to coordinate the Preparation of a National Land Policy Implementation Plan					

In the following example there are ten tasks, labelled A through J. Some tasks can be done concurrently (D and E) while others cannot be done until their predecessor task is complete (C cannot begin until B is complete). Additionally, each task can have three time estimates: the optimistic time estimate (O), the most likely or normal time estimate (M), and the pessimistic time estimate (P). The expected time (T_E) is estimated using the [beta probability distribution](http://en.wikipedia.org/wiki/Beta_probability_distribution) for the time estimates. See http://en.wikipedia.org/wiki/Gantt_chart

Appendix 2: Examples of NLP Report Layout and Structure

Notes on Layout of Jamaica's National Land Policy of January 1997 (98 pages)

The 1997 NLP for Jamaica, available online, is reported to be a summary of a much longer document¹. A pioneering undertaking for the region, it is a good example of a National Land Policy based on a 'comprehensive inquiry of a systematic nature' conducted during the 1990s.

The arrangement of information in each chapter (i.e. a description of issues, a policy statement, the government's proposed strategy, action programmes and projects) is clear and instructive. The sequence of chapters in the document is also logical, ending with chapters on the required legal and institutional reforms for NLP implementation.

Less obvious today is the reason for a very detailed technical description of the proposed 'Land Information Management Systems' so early in the report (in Chapter 2), especially as it was found necessary to repeat some of this material in subsequent chapters of the report.

The subject matter of Jamaica's path-breaking 1997 NLP report are summarised below:

FOREWORD by the Prime Minister

BACKGROUND: NLP formulation process; who was involved and the sequence of steps.

1. INTRODUCTION

- The motivation and rationale underlying the NLP

2. LAND INFORMATION MANAGEMENT SYSTEMS (a detailed Chapter which is repeated elsewhere)

- Issues; LIS policy; strategies, programmes and projects to be undertaken

3. LAND RESOURCES AND LAND USE

- Introduction: nature and extent of nation's physical geography, problems posed by competition for land for agriculture, industry, land settlement, tourism; the National Physical Plan and the National Socio-Economic Development Plan and Policy.
- Agriculture: Problems relating to the sector; current agricultural policy and strategies in relation to land use and management; implementation details of programmes and projects
- Settlements: Demographic data and trends; need to protect watersheds, fragile lands, agricultural land; issues; policies; strategies, programmes and projects.
- Industry: issues; policies; strategies, programmes and projects.
- Sections on Mining, Tourism and Water Resources follow a similar structure to that above.

4. LAND TITLING, LAND TENURE AND ACCESS

- Land Titling and Land Tenure: freehold and leasehold tenure and untitled land, i.e. family land and squatting; lack of cadastral and tenure information; policies, strategies, programmes and projects.
- Land Access: (landlessness and insecure tenure) policies; strategies, programmes and projects

5. LAND ACQUISITION, PRICING AND DIVESTMENT OF GOVERNMENT OWNED LANDS

- Introductory section on divestment and acquisition of land by Government: issues involved; policy framework; strategies, programmes and projects

6. TAXATION AND INCENTIVES FOR PROPERTY DEVELOPMENT

- Property Taxation: issues relating to collection of taxes; policies; strategies, programmes and projects
- Transfer Tax: issues policies; strategies, programmes and projects
- Recovery of Expenditure on Infrastructural Works: issues; policies; strategies, programmes and projects
- Incentives for Property Development: issues: policies; strategies, programmes and projects

¹ Jacqueline da Costa, OECS Land Policy Worksop, Kingstown, St Vincent, 18 June 2014

7. ENVIRONMENT AND DISASTER MANAGEMENT

- Environmental Management: environmental issues; policies; strategies, programmes and projects
- Forestry: issues; policies; strategies, programmes and projects
- Coastal Areas and Fisheries: issues; policies; strategies, programmes and projects
- Conservation and Recreational Areas: issues; policies; strategies, programmes and projects
- Disaster Management: issues; policies; strategies, programmes and projects

8. LEGISLATION

- The 1997 Land Policy refers to over one hundred laws relating to land and water resources which required repeal or amendment. It identified the need for new laws relating to physical planning and building regulation, LIS, survey and mapping and other aspects of land administration and land dispute resolution. The reform of land legislation was envisaged to take 5-10 years.

9. INSTITUTIONAL FRAMEWORK AND REFORM

- The Jamaica NLP sets out proposals for the reform of over 60 ministries, agencies and departments with overlapping responsibility for some aspect of land and land-related activity. It promises reforms under the following headings: Institutional Strengthening and Streamlining; Land Tenure Regularisation and Titling; Land Information Management; Land Legislation Review and Reform; Land Use Planning and Resource Management.

Notes on Layout of the Draft National Land Policy, for Saint Vincent and the Grenadines, 7 May 2014 (99 pages)

The first draft of a National Land Policy has been prepared under the Project for improving national land policies of member countries within the OECS. The arrangement of the contents can be expected to change in subsequent editions which are under preparation.

<p>1. Introduction</p> <ul style="list-style-type: none">- Vision- Mission- Objectives- NLP Formulation Process<ul style="list-style-type: none">o Land Policy Principleso Methodologyo Policy Review <p>2. The Land Question</p> <ul style="list-style-type: none">- Country Background- Demography<ul style="list-style-type: none">o Employment and Livelihood- Economy- Land History- Return of State Land to Private Land- Land Use Pattern <p>3. Land Information Management</p> <ul style="list-style-type: none">- Introduction- Issues- Policies <p>4. Agriculture</p> <ul style="list-style-type: none">- Introduction- Issues	<p>7. Industry</p> <ul style="list-style-type: none">- Introduction- Issues- Policies <p>8. Mining</p> <ul style="list-style-type: none">- Introduction- Issues- Policies <p>9. Land and Social Issues</p> <ul style="list-style-type: none">- Introduction- Issues- Policies <p>10. Land Tenure</p> <ul style="list-style-type: none">- Introduction- Issues- Policies <p>11. Land Legislation</p> <ul style="list-style-type: none">- Introduction- Issues- Policies
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<ul style="list-style-type: none"> - Policies <p>5. Land Use Policy</p> <ul style="list-style-type: none"> - Introduction - Issues - Policies <p>6. Land and Economy</p> <ul style="list-style-type: none"> - Introduction - Issues - Policies 	<p>12. Sustainable Development</p> <ul style="list-style-type: none"> - Introduction - Issues - Policies - Policies for water - Policies for Energy - Policies for Climate Change - Policies for Health - Policies for Coastal and Marine Resources - Policies for Forestry - Policies for Transportation <p>13. Legal and Institutional Framework</p>
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Notes on Saint Lucia's National Land Policy, May 2007 (20 pages)

In 2007, following an extensive process of research and consultation, Saint Lucia's Cabinet of Ministers adopted a National Land Policy (NLP) that gave a comprehensive framework for the administration and management of land in the country. Within that framework, a number of measures, actions and instruments were identified, many of which have been introduced and implemented in the past seven years. This document was revisited and recast in 2014, supported by the OECS Project. Information on the layout of the 2007 NLP is included here to show how the layout and structure of a NLP can evolve over time. The contents list of the 2007 report is shown below:

<p>BACKGROUND AND RATIONALE</p> <p>POLICY FRAMEWORK</p> <ul style="list-style-type: none"> - Vision - Goal - Guiding Principles - Strategic Objectives <p>POLICY DIRECTIONS</p> <ul style="list-style-type: none"> - Development Planning and Human Settlements - Land Use and Development in Key Economic Sectors - Environment and Natural Resource Management, Including Disaster Management - Legal Framework, Institutional Arrangements and Organizational Capacity <p>PRIORITY INSTRUMENTS AND ACTIONS</p> <ul style="list-style-type: none"> - Development Planning and Human Settlements - Land Use and Development in Key Economic Sectors - Environment and Natural Resource Management, including Hazard Mitigation and Disaster Management - Legal Framework, Institutional Arrangements and Organizational Capacity <p>POLICY IMPLEMENTATION</p> <ul style="list-style-type: none"> - Policy Linkages and Integration - Institutional arrangements - Financing - Research, Monitoring and Evaluation - Next Steps
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Notes on Layout of Saint Lucia's, Revised National Land Policy, draft of 8 May 2014 (20 pages)

In May 2014, a revised edition of the 2007 National Land Policy was made available for consultation and review. Taking into account progress in St Lucia's development, global changes and new challenges, it was judged necessary to update the NLP and make it more relevant to current and future needs. The 2014 document is 'a preliminary, incomplete working draft' of the revised 2007 NLP. Nonetheless, the restructuring of the 2007 NLP document to fit a 'results-based management' approach is of great interest, but not without challenges for baseline survey and subsequent impact evaluation. Conceptually and from the point of view of presentation, the reorganisation of information relating to the various land-related components under the four Outcomes is an important advance on the 2007 NLP document. It shows how SIDS might embrace a truly integrated approach for the vital task of sustainable land use and development.

The contents list of the report is reproduced below:

VISION

CRITICAL REQUIREMENTS

PRINCIPLES

STRATEGIC OUTCOMES

POLICY IMPLEMENTATION FRAMEWORK

- Strategic Outcome #1 Making Land Use Sustainable and Reducing Risk and Vulnerability
- Strategic Outcome #2 Optimising the Contribution of Land to Economic Development and Livelihoods
- Strategic Outcome #3 Optimising the Contribution of Land to Social Development and Cultural Identity
- Strategic Outcome #4 Rationalising and Optimising Land Use and Settlements

POLICY IMPLEMENTATION

- Institutional Arrangements
- Public Awareness and Advocacy
- Information Management
- Budgeting and Financial Arrangements
- The Legal and Regulatory Framework
- International Agreements

Endnotes

ⁱ Members of the Organisation of Eastern Caribbean States are Antigua and Barbuda, the Commonwealth of Dominica, Grenada, St Lucia, St Vincent and the Grenadines, St Kitts and Nevis, Anguilla, British Virgin Islands and Montserrat. The first six are independent states and the latter three still territories of Great Britain.

ⁱⁱ Land policy is defined as the set of agreed principles to govern tenure, use and management of land resources to enhance their productivity and contribution to social, economic, political and environmental development and poverty alleviation.

ⁱⁱⁱ H.W. Okoth-Ogendo ('Land Policy Development in Sub-Saharan Africa: Mechanisms, Processes and Outcomes', *International Conference on Land Tenure in the Developing World with focus on Southern Africa*, Cape Town 1998) characterised four different mechanisms for land policy formulation:

- **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. In this category he placed the development of Mozambique's Land Policy (Republic of Mozambique 1995) and South Africa's Green Paper and the White Paper (Department of Land Affairs 1996 and 1997).
- **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: Here he placed Zimbabwe's Commission of Inquiry (Republic of Zimbabwe 1994) and Namibia's National Land Policy (Republic of Namibia 1997). He would probably have included here the revisions of land policy in South Africa following the 1999 and the 2009 general elections.
- **Comprehensive inquiries of a systematic nature:** Under this heading he included the type of long-drawn-out enquiries previously used by British Colonial governments, e.g. Botswana (Republic of Botswana 1983 and 1985), Tanzania (Republic of Tanzania 1994) and Malawi (Republic of Malawi 1999) which was followed by the National Land Policy (Republic of Malawi 2002).
- **An incremental 'panel-beating' approach**, which proceeded on the assumption that the overall legal and institutional framework governing land matters was essentially sound, but which required some *ad hoc* adjustment. In this context he mentioned two East African countries (Uganda and Kenya) and Zambia within southern Africa, which did eventually promulgate comprehensive NLPs, more than a decade later (Kenya, 2009; Uganda, 2013 and Zambia 2014).

For more information on land policy in Africa, refer to the *Framework and Guidelines on Land Policy in Africa*, 2011 http://www.uneca.org/sites/default/files/uploaded-documents/fg_on_land_policy_eng.pdf For information on land policy outcomes in southern Africa see Martin Adams and Rachael Knight, 'Land Policy Development and Setbacks in Southern Africa', in *SADC Land Issues: Towards a New Sustainable Land Relations Policy*, edited by Ben Chigara, (pp27-56) London: Routledge, 2013. <http://www.routledge.com/books/details/9780415587044/>

^{iv} In both Kenya and Uganda, years of delay followed the initiation of the land policy development process and the approval of draft policies by respective cabinets; five years in Kenya 2004 to 2009 and more than a decade in Uganda, 2001 to 2013. Ambitious outcomes that aim to resolve mounting tribal conflicts over land are awaited.

^v See <http://www.mokoro.co.uk/other-resources/africa-general>

^{vi} Personal communication, Dr Allan N. Williams, see http://www.terrainstitute.org/carib_workshop/pdf/landbook.pdf

^{vii} In Botswana in southern Africa during the 1980s and 1990s, land policy development was been an iterative process extending up to two years at any one time and consisting of: (i) a commission of inquiry (or an expert

review); calls for written submissions; public meetings 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 draft paper which is debated in Parliament; (iv) the publication of a government white paper setting out the policy change adopted; (v) finally, where relevant, the drafting of laws or amending of existing laws. See: http://www.mokoro.co.uk/files/13/file/lria/land_tenure_policy_and_practice_botswana.pdf

^{viii} Land administration is the process of determining, recording and disseminating information about the tenure, value and use of land. Land management is concerned with the management of land as a resource from an environmental and an economic perspective.

^{ix} Franklin Greenaway, Montserrat Development Corporation, personal communication, 07.04.14.

^x 'The equal and undisturbed interest that all the offspring of an individual have in the parcel of undivided land through successive generations.'

^{xi} This concern is addressed by Dr Allan N. Williams in commenting on an earlier draft of these Guidelines.

^{xii} Land use zoning may be use-based (i.e. regulating the uses to which land may be put, for example arable land), or it may regulate building height or density (lot coverage) and similar characteristics, or some combination of these.

^{xiii} Inter alia:

- Providing legal security of tenure and equal access to land to all people, including women and those living in poverty
- Ensuring transparent, comprehensive and accessible systems in transferring land rights and legal security of tenure
- Protecting all people from and providing legal protection and redress for forced evictions that are contrary to law, taking human rights into consideration and when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided.

^{xiv} In the various land issues papers prepared by the Project, there are references to 'State Land', 'Crown Land', 'Public Land' and 'Government Land', depending on the statutes in force. In these Guidelines a distinction is simply made between 'Public Land' and 'State Land'. Public Land is defined as land set aside for the domestic purposes of the State – e.g. schools, hospitals, government offices, forest reserves, roads and other infrastructure. State Land may be considered residual land not allocated for public purposes but leased by the State for non-governmental purposes, for which the State, as grantor, retains a 'reversionary interest'.