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SUPPLEMENT

Statutory Instrument

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MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

NOTICE TO ISSUE UGANDA NATIONAL LAND POLICY

It is hereby notified for public information that the Uganda Government has issued a National Land Policy for Uganda with effect from February, 2013.

FOREWORD

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

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

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

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

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

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

DAUDI MIGEREKO (M.P)

MINISTER OF LANDS, HOUSING AND URBAN
DEVELOPMENT

FEBRUARY 2013

EXECUTIVE SUMMARY

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

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

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

To address these problems, the Government formulated the National Land Policy. The vision of the policy is: **'a transformed Ugandan society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector'**. While the goal of the policy is: **'to ensure efficient, equitable and optimal**

utilization and management of Uganda's land resources for poverty reduction, wealth creation and overall socio-economic development'.

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

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

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

CHAPTER 1: BACKGROUND TO THE NATIONAL LAND POLICY

I. INTRODUCTION

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

management and use, continues to be a critical factor in Uganda.

II. THE LAND QUESTION IN UGANDA

A. Historical Background and Colonial Legacy

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

Perhaps the most critical and challenging elements of Uganda's land question, courtesy of colonial legacy, are to do with disentangling the multiple and conflicting tenure rights and interests often overlapping over the same piece of land. At the time of the creation of *mailo* and native freeholds, pre-existing private interests of smallholder farmers particularly land use rights were not legally recognized. An attempt to rectify this, with the enactment of the *Busuulu* and *Envujjo* Law of 1928 for Buganda and similar laws in Ankole and Toro in 1938, the multi-layered structure of rights persisted and has become a defining characteristic of the complexity of land relations in Uganda. In addition, the multi-layered system has been largely blamed for the escalating land conflicts and evictions in the central region where resolving dual interests of ownership between the registered owner and the lawful or bonafide occupants are common.

Also, conflicts arose out of the implementation of the Land Reform Decree, 1975 where occupants on land became tenants at sufferance while land owners became lessees. Further attempts to address the landlord-tenant relationship as enacted under the Land Act, Cap 227 became controversial around three issues: the definition of bonafide occupant, definition

of occupancy in terms of size of land utilized by occupants, and the rights conferred on the tenants as well as the rent payable.

The Buganda Kingdom has been making persistent demands for the return of its public land, estimated to be '9,000 square miles'; the 1,500 square miles of forests, and the 160 square miles of official estates at former Buganda county and sub-county headquarters taken over by the central government in 1967 and vested in the Uganda Land Commission. The Traditional Rulers (Restitution of Assets and Properties) Act 1993, which instantly returned some assets and properties specified in the schedule of the Act. It also made provision that the rest of the properties and assets not included in the schedule be returned following negotiations between Government and the traditional rulers. The principles to govern these negotiations were never detailed though they are necessary for attaining social harmony and calm between the Central Government and the Buganda Kingdom.

The Kibaale land question, which should have been fixed by the 1964 Referendum over the counties of Buyaga and Bugangaizi, became contentious in the Constituent Assembly (1993-95) as the new Constitution of Uganda of 1995 was being debated. Government resettlement schemes in 1973 and 1992, and the incessant immigration and settlement by non-Banyoro further complicated what started off as a land question and turned it into a political question as the immigrants gained political control. The resentment to this turn of events bred political tension and ethnic conflicts, with violent clashes. The indigenous Banyoro are worried that they may never be able to regain their ancestral land, which is formally held by absentee landlords in *mailo* tenure and increasingly taken over by immigrants. Additionally, public lands especially forest reserves have been massively encroached by immigrants. The Government paid off some absentee landlords basing on the Land Act Cap 227, but due to limited budget allocations the bigger portion of the *mailo* land is yet to be bought out.

Land rights of pastoral communities and ethnic minorities have registered exploitation for a long time. Many pastoral communities and ethnic minorities have lost their land rights to conservation projects, mainly national parks, and other government projects including government ranches. This has led to a depletion of their resources or landlessness. Privatization of communal grazing lands and other pastoral resources has forced some pastoral