OFFICE OF THE PRIME MINISTER

REPORT OF THE TECHNICAL COMMITTEE ON COMMERCIAL FARMLAND

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PREFACE

The Technical Committee on Commercial Farmland (TCCF) appointed by the Cabinet on 26 November 1991 was to have completed its work before 31 March 1992. However, this deadline could not be met due to several factors having conspired to make it impossible for the Committee to report within the time given:

1. From the word go the Committee realised the enormity of the task involved; massive research effort was needed and undertaken to obtain the necessary statistics to make the report authoritative.

2. It was soon realised that the relevant legislation, especially that relating to communal land, was, at best, chaotic. The Attorney General’s Chambers had to be specifically requested to unearth the myriad of confusing regulations and proclamations and make sense of them. That inevitably took time.

3. The TCCF comprised senior government officials and two persons from the private sector, one, a practising attorney and the other a Senior Manager at CDM. TCCF members did not suspend their involvement at their respective places of work contrary to what was initially expected. They therefore contributed to TCCF work in addition to their substantive responsibilities. That naturally had implications for frequency and regularity of TCCF sessions.

Our special thanks therefore go to the Prime Minister for the very long reprieve granted to the TCCF far beyond the time given.

The TCCF also wishes to extend its thanks and appreciation to the Cabinet for the trust and confidence reposed in its members’ individual and collective abilities. As the TCCF’s membership was entirely Namibian, the members of the Technical Committee interpreted the Cabinet’s faith in them as the Government’s desire to arrive at a Land Reform programme designed by Namibians for Namibians, taking into account the social and political idiosyncrasies of the country. The TCCF was guided by this faith throughout its deliberations.

Our thanks go to the honourable Attorney General for generously agreeing to release one of his very few lawyers, Advocate Pierre Roux, to assist in the preparation of the section on legal considerations. It is doubtful if, without his hard work and at such short notice, this report could have seen the light of day.

Last but by no means the least, we would like to thank all those who made submissions to the TCCF.
With these few comments, the members of the TCCF have the honour of handing over the Report on Commercial Farmland to the Prime Minister and wish to stress that the conclusions and recommendations in the Report do not in any way reflect the views of the Government or its principals. Government officials on the TCCF also contributed to its work in their personal capacities and not as spokespersons of the Government.

Petras Tileinge Damaseb
Chairman: Technical Committee on Commercial Farmland
30 October 1992

Members of TCCF*

1. Mr N Goabab

2. Dr C Brown

3. Dr W Werner

4. Dr V Shivute

5. Mr R G Fry

6. Mr J J Kotze

7. Mrs A M Soroses

8. Mr J P Karuaihe

9. Dr F N Tjingaete

* Mr F J van der Merwe was initially appointed but was unable to attend and was subsequently replaced by Mr J J Kotze.

Mr D Smuts was appointed as member of the Committee but due to other commitments was unable to serve. Mr J P Karuaihe was appointed as his replacement.
EXECUTIVE SUMMARY

The question of land has undoubtedly been a crucial one in the history of this country; its centrality to the struggle for national liberation is beyond question. An evaluation of the political economy of the country clearly reveals why land is of such central importance.

Government, in its attempt to formulate new policies to bring about a more equitable distribution of land, decided to embark on a programme of national consultation on the land question, which culminated in the historic 1991 National Conference on Land Reform and the Land Question. Conference’s general objectives were to achieve the greatest possible consensus on the Land Question, thus providing a solid basis for the formulation of a policy on Land Reform and a programme of action to implement the necessary changes and measures. At its closing session, Conference adopted twenty-four (24) recommendations in the form of consensus resolutions which were submitted to Government.

In compliance with the recommendations of the National Conference on Land Reform and the Land Question, Cabinet established a Technical Committee on Commercial Farmland (TCCF) with the clear mandate to evaluate the facts regarding under-utilized land, absentee ownership, viable farm sizes in different regions, excessively large farms and multiple ownership of farms; and to make appropriate recommendations for the acquisition and reallocation of land, so identified.

The principal issues dealt with here include Target Land, i.e. privately owned land or State land which has the potential for resettlement; a consideration of the regionally related environmental factors affecting both commercial and communal farming; a consideration of the economic factors determining the viability of farm enterprises at different sizes, technologies, efficiencies, management strategies and product mixes; financial and legal considerations; land tenure issues, and land administration.

Following thorough research and investigations the various categories of land potentially available for a land reform programme have been identified. These are State land; peri-urban and municipal land; foreign owned land; multiple farms and excessively large farms; under utilized land; normal sales (Governmental first option), and abandoned land.

It has been found that from these categories about 7,344,274 hectares of land are potentially available for inclusion in a land reform programme. Sets of tables and figures have been presented to further support the findings.
The overall objective of land reform in Namibia is to bring about the economic upliftment of the rural landless and the urban poor. The categories of intended beneficiaries of a land reform programme have been identified and prioritized in this order of preference: the dispossessed; the San; ex-combatants; returnees; war victims and disabled people; farm workers and female heads of households. Subsequent to the categorization and prioritization of intended beneficiaries, Government obviously will require strict, fair and consistent criteria for settler selection. Such criteria have also been proposed to the Government by the Committee in this report.

In the course of the execution of its mandate, the Committee has acted in strict observance of the Government’s policy of national reconciliation and the obligations enshrined in Articles 16 and 23 of the Constitution of the Republic of Namibia, pertaining to property rights, the abolition of apartheid and affirmative action.

The report explores the different alternative policy options and mechanisms available to Government to acquire land identified for inclusion in a land reform programme. The different options identified are: fiscal options, subdivided into tax-related and subsidy-related options and an outline of the short and long-term implications of each set of the subdivided options; institution related options, and legal options.

RECOMMENDATIONS FOR A PROGRAMME OF ACTION

A. Target Land

The Committee recommends that the division of land between communal and commercial agriculture be maintained. This division is designed to protect access to traditional communal land by preventing the privatization of land through fencing. It further identifies land in the commercial farming areas which could be made available to a land reform programme. This will provide access to commercial farming areas for all Namibians, and in so doing improve the quality of life of communal farmers.

1. Abandoned Land

An initial amount of 370 614 hectares of this land was located by the Committee, and it is recommended that this should be expropriated for reallocation and brought into productive use.

2. Under-utilized land

A total of 4.052 million hectares of under-utilized land has been identified and at least 2.026 million hectares are considered utilizable in a land reform
programme. Such land is also available (but not readily quantifiable) within the boundaries of individual farms.

3. *Over-utilized land*

Since over-utilization in Namibia is typically exemplified by bush encroachment, erosion and desertification for which the cost of reclamation would be prohibitive, no actual area could be identified in this category.

4. *Unused land*

No unused land was identified within the commercial farming area. Where unused land is available in communal areas, it is recommended that Government provide infrastructure to enable utilization by small-scale farmers. It is further recommended that community-based wildlife utilization projects be encouraged and developed among communal farmers, given the beneficial effects of such projects elsewhere in the region.

5. *Multiple farms and excessive land ownership*

The Committee defined the operational norm for farm size in the north, central and southern regions of the country. By application of this definition it can be deduced that there are 1.306 million hectares in excess of these regional operational norms.

6. *Foreign owners*

Foreigners own just over 3 million ha of agricultural land in Namibia. The Committee recommends that the foreigners or foreign companies wishing to invest in Namibia in the future may be allowed to use land on a long-term lease basis in line with the Government policy of encouraging foreign investments.

7. *Absentee Owners*

It is recommended that land owned by absentee foreigners should be expropriated and reallocated to the land reform programme. It is further recommended that local absentee owners should be allowed to own farms on condition that these are used productively.

8. *Normal Sales*

It is recommended that the Government establish a National policy of first refusal for all farms offered on the open market. In addition, farms that are suitable for the land reform programme should be priced by an independent evaluator.
9. State Land

Government owns 658 904 of land within the commercial sector. The Committee recommends that the State make available all land in excess of the operational norm leaving only the absolute minimum necessary to carry out its programmes.

10. Peri-Urban and Municipal land

Due to the need for the land to be available for urban expansion it is not recommended that this category of land be included in the land reform programme.

B. Fiscal and Institutional Recommendations

There has been much discontent with the manner in which commercial agriculture has been taxed and subsidised over the years. These issues were forced into the open at the Land Conference and were subsequently passed on to the TCCF. The Committee, having reviewed both the existing tax and subsidy systems as they pertain to commercial agriculture compared to other economic sectors, followed by a review of the financial and other implications of the above on equity, efficiency, distribution and stabilisation principles embodied in modern scientific thoughts on taxation and subsidies, made, amongst others, the following recommendations:

1. The Committee, adhering to the principle of horizontal equity, recommends that all tax concessions favouring agriculture be scrapped. Such measures should be introduced gradually.

2. Subsidies to commercial agriculture should be phased out gradually to allow the sector to remobilise its strength and stand on its own feet. However, veterinary subsidies should continue.

3. Commercial business enterprises are required to maintain reserve funds to cover those periods when income is reduced. The Committee recommends that this practice be extended to commercial farming enterprises in order to cope with the relatively high risk factors involved.

4. To ensure that the targeted land programme is a success, it is recommended that a National Task Force on land reform be established which will have the responsibility of implementing the land reform programme.
C. Legal Recommendations

In order for Government to give effect to the recommendations contained in this report, it will have to employ various legal means, such as the drafting and adoption of new laws by Parliament, and the repeal and amendment of others.

1. Acquisition

In terms of the Constitution, Government is authorised to expropriate property in the public interest, subject to the payment of just compensation. Legislation should be considered to strengthen the financial assistance which is provided to beginner farmers under the provisions of the Agricultural Bank Amendment Act, 1991 (Act No.27 of 1991) to set up a legal basis to secure and guarantee access to loan funds at concessionary rates. Such law may also contain provisions aimed at providing State land or land acquired for settlement purposes on a leasehold basis to beginner farmers.

2. Environment

Law reform and development has to be initiated to give effect to Article 95(1) (Non-binding principles of State Policy) of the Namibian Constitution geared towards the maintenance of the national environmental factor, facilitating the productive utilization of natural resources on a sustainable basis. To this end, the Soil Conservation Act of 1969 (No.76 of 1969) must be abolished or substantially amended. A new Conservation Act must be enacted which puts the onus on the farmer to conserve agricultural land. The Act should also contain appropriate provisions to prevent over-utilization of the land resource. Furthermore, the mechanism to enforce this law must be clearly spelled out.

3. Ownership of Communal Land

The ownership of Communal land should remain with and vest in the Government of the Republic of Namibia. The South West Africa Native Affairs Administration Act, 1954 (Act No. 56 Of 1954), in terms of which such land is held by the Namibian Development Trust for settlement, support, benefit and material and moral welfare of the inhabitants of the communal areas, should however be repealed. An Act of Parliament has to be enacted to define the powers, functions and duties of the President to regulate the control and utilization of communal land and to establish a Council of Traditional Leaders with an advisory function to the President in regard thereto. This Act should constitute Land Boards with powers to control and allocate future communal land in a standardized manner and spell out the following:
1. INTRODUCTION

1.1 THE LAND QUESTION IN NAMIBIA

It is generally accepted that the land issue was central to the struggle for national liberation. An evaluation of the political economy of the country reveals why land is of such central importance. Firstly, approximately 90 percent of the population derives its livelihood from the land, either as private owners of commercial farmland, as workers on such farms or as farmers in communal areas.

Secondly, despite the dependence of such a large proportion of Namibians on land, access to, and ownership of land is highly unevenly distributed across the population. Thus 36.2 million hectares or 44 percent of the whole country is owned and utilized by only 4,064 farmers, employing an estimated 50,000 workers. On the other hand, more than 150,000 families or close to 1 million people have access to only 33.5 million hectares or 41 percent of the country which is commonly referred to as communal land, not all of which is agriculturally useable. The remaining 15% consists of proclaimed National and game parks and the Diamond Areas.

Unequal access to such vital facilities as agricultural credit, extension and technical services, research, and market has resulted in communal areas being severely underdeveloped. Some mention should also be made of disparity in infrastructure needed to support agricultural development, such as roads, rail, water supply, power, telecommunications etc. Agricultural productivity in communal areas as well as the overall contribution of small scale agriculture to the GDP have been low. Malnutrition and a lack of access to education, health care and other social services have characterised the lives of many communal area farmers and farm workers.

By contrast, commercial agriculture has been given every opportunity to prosper, with generous financial, technical and infrastructure support from the colonial regime. As a result, most of agriculture’s total contribution to exports and the national economy is produced by this sector.

The structure of land ownership and tenure, however, does not only affect those who derive their livelihoods directly from the land. On the contrary, policies of land theft and the creation of "reserves" (communal lands) were essential features of colonial exploitation of Namibia’s resources. The entire wage structure and labour supply depended on the way Namibia’s land was divided. In a sense, therefore, denying Namibians access to land was as much intended to make such land available to white settlers, as it was to deny black Namibians access to the same land, thereby denying them the
opportunity to engage in commercial agriculture and forcing them into wage labour.

The importance and sensitivity of the land question manifested itself in Parliament shortly after Independence. Within the first month the official opposition party raised the issue and demanded a clear and systematic policy. Government, in its attempt to formulate new policies to bring about a more equitable distribution of land, decided to embark on a programme of national consultation on the land question. The problems and views of the people were directly canvassed to be represented in the national debate. This process of national consultation culminated in the National Conference on Land Reform and the Land Question, which was held in Windhoek from 25 June to the 1 July 1991.

1.2 THE NATIONAL CONFERENCE ON LAND REFORM AND THE LAND QUESTION

The general objectives of the Conference were to achieve the greatest possible national consensus on the land question, to provide a solid basis for the formulation of policy on land reform, and to prepare a programme of action to implement the necessary changes and measures.

These objectives were set within the framework of the policy of national reconciliation and obligations enshrined in Articles 16 and 23 of the Constitution of the Republic of Namibia pertaining to property rights, the abolition of apartheid and affirmative action.

The National Conference on Land Reform and the Land Question sought to mobilise broad and representative participation from all parts of the country and all sectors of the population. To achieve this, Government stimulated discussion by keeping people informed about the Conference on an ongoing basis. Newspapers, the radio, television and meetings in all the regions were used to facilitate and foster community involvement.

The principal aims of the Conference were:

a) To seek a better understanding of the issues at stake;

b) To take stock of relevant experiences on land reform from Africa and elsewhere;

c) To present data and research findings of sufficient depth and authority as to outline alternative policy options and equally to identify areas where essential information was lacking;

d) To act as a forum for presenting and discussing all relevant land issues and grievances from all parts of the country;
e) To review alternative policy and strategy options on land reform, in particular problems of distribution and utilisation, taking account of regional and local factors;

f) To adopt, as the Conference decided, recommendations to be taken into account in the formulation of a national policy and programmes of action.

The National Conference on Land Reform and the Land Question did not have the power to take political decisions on how best to redistribute the land. Rather, it was an attempt to bring together scientific data, political demands and socio-economic expectations to enable elected political leaders to draw up programmes for land reform. The Conference made several recommendations in the form of consensus resolutions, which were submitted to Government.

Provision was made for 500 participants from all regions of the country to attend the Conference. The Conference was opened by his Excellency the President and chaired by the Prime Minister in fulfilment of his undertaking to the National Assembly. No effort was spared to ensure that all Namibians having bona fide interests in the productive use of land were represented at the Conference. To this end, invitations were extended to political parties, interest groups, communities, traditional leaders and representatives of unorganised sections of the community, with due regard to regional and political balance.

An important component of the Conference was the presentation of targeted research on priority topics. Such inputs, whether written or spoken, were designed to inform and stimulate debate. In conducting this research, full account was taken of previous research on the land question and farming systems in Namibia, in particular the policy studies generated by the UN Institute for Namibia. The research programme for the Conference was coordinated by the Namibia Economic Policy Research Unit (NEPRU) under the direction of the Conference Secretariat, and fell into three main sections:

- Data on the current land tenure systems;
- National research issues;
- Comparative perspectives on international land reform experience.

The first section of the research aimed at collecting a wide range of data on current land tenure, patterns of land use and on farming systems. Private, state and communal land was included. The available data on land ownership was evaluated with a view to issuing an authoritative data set for use by government officials and researchers.
The second section, addressing national research issues, comprised the main body of the research programme. It consisted of seven main components:

1. Taxation and subsidies in the commercial farming sector
2. Environment and institutions
3. National attitude survey
4. Regional water review
5. Economic implications of land reform options
6. History of land policy
7. Policy options on land reform

The third section brought perspectives from the land reform experiences of other countries to bear on the Namibian situation. Three country studies were commissioned: of

Botswana: assessing the impact of communal land reform, in particular the Tribal Grazing Land Policy (TGLP).

Zimbabwe: reviews the results of redistribution of commercial land to communal farmers in the decade since independence, especially in the drier pastoral areas.

Kenya: reviews the gradual transfer of settler-owned farms to citizens alongside the pressures on farming systems in the former "reserves".

1.3 THE TECHNICAL COMMITTEE ON COMMERCIAL FARMLAND

At its closing session, delegates to the Conference adopted a set of consensus conclusions and resolutions in respect of commercial farmland, identified in section 2.1 of this report.

In fulfilment of one of the recommendations of the Conference, a Technical Committee on Commercial Farmland (TCCF) was established by Cabinet.

Termed the Technical Committee on Commercial Farmland (TCCF) it was mandated to address the specific requests of the Conference expressed in the consensus conclusions and recommendations concerning commercial farmland, which for the purposes of the Committee were defined to include all land under freehold title as well as communal land used by individuals for commercial farming. The committee was given discretion to take up issues which in its view were important to achieving its principal objectives.
1.4 TIME SCHEDULE

The Committee held a preliminary meeting on 11 December 1991 during which it was agreed that the work of the Committee would start on 17 January 1992. The approximate time schedule for the TCCP's programme was as follows:

End February 1992: Completion of data gathering, analysis and technical reports;

End March 1992: Presentation of draft programme of action and draft proposals for legislative reform. Ultimately the complexity of the issues at stake forced a longer period of evaluation and report writing resulting in draft report completion by end June 1992.

2. TECHNICAL COMMITTEE METHODS

2.1 INTRODUCTION

At the start of its deliberations, the Committee released a press statement to inform the general public about its activities. This was followed immediately by an advertisement inviting interested members of the public to make written submissions to the Committee on matters falling within its terms of reference.

With regard to data collection the Committee drew on data available in the Ministry of Agriculture, Water and Rural Development and the Ministry of Wildlife, Conservation and Tourism. The Namibia Agricultural Union was also approached to provide data. However, in the absence of an independent research capacity, the Union was only able to produce data made available to the Land Conference by the Ministry of Agriculture, Water and Rural Development, with little or no additional data.

In addition to this, the Committee drew up and distributed a questionnaire, which was administered by agricultural extension officers in all the regions of the country. The resulting information was processed by staff in the Veterinary Services Division in the Ministry of Agriculture.

The assistance of Regional Commissioners was requested to determine the extent of fencing in the communal areas. Discussions with senior staff at Southern Estates and Agra Properties yielded useful information on the land market and its shifts.
2.2 TERMS OF REFERENCE

The following text is lifted directly and is a complete statement of the terms of reference as given to the Committee. As such, it has a separate itemization schedule and contains statements as made by the Prime Minister.

1. Introduction

1.1 Between 25 June and 1 July 1991 I convened and chaired the National Conference on Land Reform and the Land Question in pursuance of the mandate given to me by this august House on 1 June 1990.

1.2 In my opening address I summarised the aims of the Conference as being:

   a) to act as a forum for presenting and discussing all relevant land issues and grievances from all parts of the country;

   b) to review policy and strategy options on land reform, taking account of regional and local factors;

   c) to develop a national policy and programme of action aimed at solving land problems.

1.3 The Conference marked the culmination of a process of national consultation and was itself of a consultative nature. I also stated in my opening address that the view expressed at the Conference "will then be considered by the Cabinet and, where appropriate, will be taken to the National Assembly for the enactment of a Land Reform Law". In the closing remarks I said "the consensus that we have reached at this historic conference will be taken seriously by Government and that it will guide Government in whatever it does on the land reform issue".

1.4 At its closing session delegates to the Conference adopted a set of consensus resolutions. In respect of commercial farmland, these included the following:

1) Conference concludes that there was injustice concerning the acquisition of land in the past and that something practical must be done to rectify the situation.
2) Conference concludes that given the complexities in redressing ancestral land claims, restitution of such claims in full is impossible.

3) Conference resolves that foreigners should not be allowed to own farmland, but should be given the right to use and develop it on a leasehold basis in accordance with Namibia’s "open door" policy towards foreign investment.

4) Conference resolves that abandoned and under utilised commercial land should be reallocated and brought into productive use.

5) Conference resolves that land owned by absentee owners should be expropriated, but that there should be a distinction, in respect of owners who do not live on their farms, between foreign and Namibian owners.

6) Conference resolves that very large farms and ownership of several farms by one owner should not be permitted and such land should be expropriated.

7) Conference resolves that there should be a land tax on commercial farmland.

(Annex A1: Full text of the Conference Consensus)

In its consensus Conference further took note of the complexity of the issue to be addressed thus:

8) In view of the need to establish authoritative data and arrive at sound policy recommendations, conference recommends that a technical committee should be established to evaluate the facts regarding under utilised land, absentee ownership, viable farm sizes in different regions and multiple ownership of farms; to make appropriate recommendations for the acquisition and reallocation of such land identified; and to assess possible forms of taxation on commercial farmland and the economic units to which taxation should apply.

Conference also declared its view that "land is a basic natural resource to which all Namibians should have access".
9) Conference recommends that in order to realise this objective a technical committee should be established to evaluate the legal options concerning possible forms of land tenure consistent with the Constitution.

2. Establishment and Mandate of a Technical Committee on Commercial Farmland

In fulfilment of the consensus of the Conference, a Technical Committee on Commercial Farmland (TCCF) has been established by Cabinet.

The TCCF is mandated to address the specific requests of the conference expressed in consensus points 8 and 9 concerning commercial farmland, which for the purposes of the Committee is defined to include all land under freehold title as well as communal land used under individual title for commercial farming. It will have discretion to take up related issues which in its view are important to achieving its principal objectives.

3. Powers, Responsibilities and Composition of the Technical Committee

3.1 The programme and output of the TCCF will be set in the context of a broad process of policy formulation and action on the land question which will include:

a) Consideration of a national policy on land reform.

b) Addressing land issues in other fields of policy, such as rural development, support schemes for small farmers, land administration in the communal areas, and affirmative action in favour of women-headed households, farm workers and the unemployed.

c) Legislation and institution-building for regional and local government.

d) The powers and responsibilities of traditional leaders.

e) Establishing rights of access and reconciling conflicting claims to communal land.
1) Follow-up processes of consultation and information in the rural areas.

3.2 The process of policy formulation and the implementation of programmes of action are complex and will extend over several years. Because they affect and involve many branches of government and because land reform will remain one of the burning issues in public policy, it is appropriate that overall responsibility continue to be located with the Office of the Prime Minister (OPM).

3.4 In view of the sensitivity of the issues with which it will be dealing and of the need to have access to confidential information, membership of the TCCF has a strong bias in favour of government officials with only three independent experts.

Members of the TCCF have been nominated on the basis of their professional expertise relevant to the tasks assigned to the Committee.

Since it is a working committee, officials are being nominated to it on a full- or part-time basis for periods of time sufficient to carry out their assigned duties within the reporting period. Independent members accepting appointment will be expected similarly to commit adequate time to complete their assignments.

3.5 The following have been appointed as members of the TCCF:

Mr P. Damaseb, Permanent Secretary, OPM, Chair
(Alternate: Mr Namab Goabab, PS, National Planning Commission)

Dr C. Brown, (environmental specialist), Ministry of Wildlife, Conservation and Tourism

Dr W. Werner (land tenure specialist), Ministry of Lands, Resettlement and Rehabilitation

Dr V. Shivute (Agronomist), Ministry of Agriculture, Water and Rural Development
Mr R.G. Fry (water specialist), Independent Consultant

Mr F.J. van der Merwe (tax expert), Ministry of Finance

Ms A.M. Soroses (rural development specialist), Ministry of Agriculture, Water and Rural Development

Mr D. Smuts (legal specialist), Legal Assistance Centre

Dr F. Tjiaethe (economist), CDM

N.B.
Mr F.J. van der Merwe was initially appointed but was unable to attend and was subsequently replaced by Mr J.J. Kotze.

Mr D. Smuts was appointed as member of the committee but due to other commitments he was unable to serve. Mr J.P. Karuahe was appointed as his replacement.

4. **Work Programme and Schedule**

4.1 The TCCF will be expected to undertake the following principal tasks, which will constitute its terms of reference:

a) To review and generate acceptable definitions of the main concepts used.

b) To assemble data available from government, institutional and academic sources on:

* under utilised land, absentee ownership, multiple ownership of farms and actual farm sizes;

* environmental factors affecting commercial farming, in particular constraints such as land degradation;

* economic factors determining the viability of farm enterprises at different sizes, technologies, efficiencies, management strategies and product mixes;
* forms of legal and economic control of commercial farmland;
* the status of commercial holdings of communal land;
* the extent, status and allocation of state farmland.

c) To prepare authoritative data sets on the principal issues at stake.

d) To evaluate the data and the stock of relevant previous research, including the results of the Land Reform Conference research programme.

e) To identify and assess the principle policy options in the light of the Conference consensus and of the balance of views expressed during the proceedings.

f) To formulate recommendations for government action and legislation with regard to:

* identifying the categories of intended beneficiaries for the land reform programme;
* facilitating the transfer of and access to the land identified as suitable for inclusion in the land reform programme;
* possible forms of taxation on commercial farmland and the economic units to which such taxation would apply;
* reform of land tenure legislation consistent with the Constitution.

4.2 The TCCF will undertake such data-gathering and limited field research exercises as it deems necessary and will be authorised to seek access to confidential data.

4.3 The TCCF will produce the following outputs:

a) An update summary of data on land potentially available for inclusion in a targeted land reform programme;

b) An analytical review of policy options addressing the issues raised in the Conference consensus;
c) Such technical reports as it may deem necessary in order to investigate particular issues;

d) Recommendations for a programme of action, to include proposals for legislation, access schemes for small and beginner farmers, institutional and financial implications, and procedures of coordination and consultation within government as well as between government, political parties and interest groups.

c) Draft legislation where legal reform is called for.

The approximate time schedule for the TCCF's work programme is as follows:

End February 1992
Completion of data gathering, analysis and technical reports;

End March 1992
Presentation of draft programme of action and draft proposals for legislative reform.

2.3 INTERPRETATION OF THE TERMS OF REFERENCE

Sections 1 and 2 of the terms of reference were taken as a framework within which the Land Conference consensus and resolutions were clearly defined with respect to establishing and mandating the technical committee. The technical committee perceived that the operative segments of the terms of reference were contained within sections 3 and 4.

At an early stage it became clear that although section 3 of the terms of reference deals with powers and responsibilities, work area directives exist in both sections 3 and 4. The committee elected to desegregate and recombine these directives in such a manner as to facilitate the formation of two working groups, namely: an agro-ecological working group and a legal and economic working group. Thus sections 3 and 4 of the terms of reference were approached as follows:
A. Powers and Responsibilities of the Committee
(Terms of reference section 3)

[3.1](a) "Consideration of a national policy on land reform" was taken as the ultimate objective to be achieved by analyzing the factors identified under subsequent sub-headings.

In order to facilitate a working group structure the subsequent sub-headings were combined as follows

[3.1](b) Addressing land issues in other fields of policy, such as rural development coupled with follow-up processes of monitoring, consultation and information in rural areas.

[3.1](c) Legislation and institution building; providing support schemes for small farmers and affirmative action in favour of women-headed households, farm workers and the unemployed. This in terms of both regional and local government.

[3.1](d) The powers and responsibilities of traditional leaders, establishing rights of access and reconciling conflicting claims to communal land.

[3.1](e) The form and standardization of land administration in communal areas.

Sub-headings 3.1(b) and (e) were logically handled by the agro-ecological working group and sub-headings 3.1(c) and (d) by the legal and economic working group.

B. Work Programme and Schedule
(Terms of Reference section 4)

[4.1](a) Establishment of acceptable definitions of the main concepts used.

[4.1](b) Assembly of data available from government institutional and academic sources on:

Under utilized land, absentee ownership, multiple ownership of farms and actual farm sizes.

* Environmental factors affecting commercial farming, in particular constraints such as land degradation and bush encroachment.

* Ecological and economic factors determining the viability of farm enterprises at different sizes, technologies, efficiencies and product mixes.
* The legal status of commercial farmland.

* The legal status of communal land and fencing therein.

[4.1](c) The committee viewed establishment of authoritative data sets as an activity primarily controlled by the identification of concept definitions. Initial quantification of land potentially available was seen to be controlled by application of such definitions. Ecological and economic factors were seen to further modify the quantities of land available for redistribution.

[4.1](d) Evaluation of these data was combined into 4.1 (c).

[4.1](e) The establishment of principle policy options was considered more appropriate subsequent to the evaluation of information gathered with respect to 4.1(f).

[4.1](f)

* Identification of the categories of intended beneficiaries of the land reform programme.

* Facilitation of transfer and access to land identified as suitable for inclusion in a land reform programme.

* Consideration of forms of taxation on commercial farmland.

* Reform of land tenure legislation consistent with the constitution.

For the purposes of assembling relevant information to facilitate policy options each member of the committee was assigned elements of [4.1](b) and [4.1](f). Members produced reports which were circulated, discussed and critically evaluated by the Committee. The main findings, concepts and pertinent data sets are presented in Section 3 under "Review and findings".

### 2.4 DEFINITION OF KEY CONCEPTS AND DATA SOURCES

In order to facilitate quantification of land potentially available to the land reform programme the committee established a critical path format for its work. The first element was the joint identification of definitions. Certain information particularly with respect to foreign ownership, family ownership and transfer of land to minor persons within a family was not readily available from existing records. For this reason a questionnaire was formulated by the committee which included observations with respect to productivity and the infrastructural condition of farms. Subsequent reference is made to this questionnaire in the report. The second element itemises the
Information required and the third element Data Sources. All these elements are detailed in the following report sub-section.

2.4.1 Abandoned Land (excluding state owned land)

Definition

- non-resident owner and;
- no economic activity for 2 - 3 years and;
- deterioration of the farm enterprise.

Information required

- how many farms have non-resident owners?
- of the above, how many are economically inactive (no livestock, game farming, cultivation etc.);
- reasons for abandonment;
- geographical distribution of abandoned farms;
- duration of abandonment;
- amount of land involved.

Data Sources

- Ministry of Agriculture, Water and Rural Development (MAWRD)
- Namibia Agricultural Union (NAU)
- MAWRD to circulate a questionnaire
- Ministry of Wildlife, Conservation and Tourism (MWCT)

2.4.2 Under-utilized Land

Definition

- unacceptably low level of economic activity (relative to norm);
- no apparent investment (lack of investment for 2-3 years, taking account of regional variations); and
- deterioration of infrastructure.

Information required

- establish the ‘norm’ for each region;
• identify farms operating at various levels below the established norm 50%, 40%, 30% and less of normal productivity;
• status of infrastructure;
• identify other options, i.e. other potential types of land use;
• reasons for under utilisation;
• geographical distribution of under utilized land;
• amount of land involved.

Data Sources
• Ministry of Agriculture, Water and Rural Development (MAWRD)
• Veterinary Services
• Ministry of Wildlife, Conservation and Tourism (MWCT)

2.4.3 Over-utilized (Abused) Land

Definition
• land deteriorating due to misuse, e.g. bush encroachment through overgrazing, erosion, loss of bio-diversity etc. (Capacity for biological production is decreasing due to misuse or land which is declining in its ability to sustain agricultural production).

Information required
• establish ‘norm’ for a region (indicators: soil erosion; bush encroach- ment; number of livestock);
• identify farms exceeding the ‘norm’;
• reasons for over utilisation;
• location and distribution of over-utilized farms;
• area involved.

Data Sources
• Ministry of Agriculture, Water and Rural Development (MAWRD)
• Veterinary Services
• Ministry of Wildlife, Conservation and Tourism (MWCT)
2.4.4 Unused Land
Definition
- no existing infrastructure (not thought to be a major category of land).

Information required
- non-communal agricultural land in areas adjacent to commercial farms.

Data Sources
- Ministry of Agriculture, Water and Rural Development (MAWRD)

2.4.5 Multiple Farm Ownership
Definition
- multiple farm ownership;
- where a single owner has more than one farm registered in his/her name.

Information required
- how many people own 2, 3, etc. farms?
- total area per multiple owner;
- ‘normal’ farm size in specific regions with multiple ownership;
- geographical distribution and contiguity of farms;
- data on "artificial persons/owners" (companies, trusts and churches).

Data Sources
- Ministry of Agriculture, Water and Rural Development (MAWRD)
- Namibian Agricultural Union (NAU)
- Deeds Office for "artificial persons/owners"

2.4.6 Excessively Large Farms
Definition
- where the size of the farm exceeds twice the operational norm for that agro-ecological region. (The reason for introducing operational norm is to avoid the term ‘viable’, since that is a very subjective concept.)
Twice the operational norm will be acceptable. Anything bigger is considered too large for single owner).

Information required

- establish "operational norm" for agro-ecological regions;
- identify farms bigger than 2 x the operation norm for each region;
- distribution and location of such farms;
- reasons.

Data Sources

- MAWRD

2.4.7 Absentee Owners

Definition

- a person who habitually resides away from the farm which he owns;
- a person who is away from his/her property more than on it.

Information required

- as for abandoned land, i.e. those farms which remain after the economically inactive farms have been removed from the number of abandoned farms;
- categories of absentees (politician, person in full-time employment, weekend farmer, bona fide farmer resident on another farm or forced to work elsewhere for economic reasons and foreign owner).

Data Sources

- MAWRD Questionnaire
- NAU

2.4.8 Foreign Ownership

Definition

- a person who is not a national of Namibia.

Information required

- numbers of farms owned by foreigners (non-Namibians);


- total area;
- regional distribution;
- "artificial persons/owners" (companies, trusts and churches).

Data Sources

- Questionnaire
- Ministry of Agriculture, Water and Rural Development extension officers
- Namibian Agricultural Union
- Deeds Office for "artificial persons/owners"

2.4.9 Normal Sales

Definition

Farms which come onto the market as part of the normal sale of land in Namibia’s free market economy.

Information required

- number of farms sold per year;
- area involved;
- regional distribution;
- structure of prices.

Data Sources

- Deeds Office
- Estate agents
- Receiver of Revenue
- Namibian Agricultural Union
3. REVIEW AND FINDINGS

3.1 KEY ISSUES

This section provides information on the most important issues addressed in this report. Most of these issues were specifically mentioned in the terms of reference of this committee, and Government requires these data and their interpretation to facilitate decision and policy making. This section presents and interprets this information and identifies the issues and the arguments surrounding them, and puts them into proper perspective.

3.1.1 Target Land

The major objective of this committee was to determine whether the consensus resolutions of the Land Conference could be implemented and if so, how. Arguments at the land conference had shown that throughout the colonial period, the indigenous black majority had been systematically displaced from the land which resulted in the unequal distribution of the land in favour of the white minority. One of the tasks of this committee was to identify appropriate land on which disadvantaged and marginalised people could be resettled. There are two types of land which have the potential for resettlement: privately owned land and public/state land.

3.1.1.1 Privately owned land

The key concepts as defined in section 2.4 above were applied to privately owned land to determine the amount of land within each category, and how such land could be incorporated into the process of land reform.

Abandoned Land

<table>
<thead>
<tr>
<th>TABLE 3.1 FARMS NOT UTILIZED</th>
</tr>
</thead>
<tbody>
<tr>
<td>District</td>
</tr>
<tr>
<td>Keetmanshoop</td>
</tr>
<tr>
<td>Karasburg</td>
</tr>
<tr>
<td>Bethanie</td>
</tr>
<tr>
<td>Lüderitz</td>
</tr>
</tbody>
</table>
Table 3.1 Shows that there are farms which are not utilized in the districts indicated. Most of this information came from the South as can be seen from the table. Although similar information could not be obtained from other agricultural districts, it is assumed that there are farms which are not utilized. The time frame within which the TCCF was operating and the methodology used did not allow the committee to gather all the necessary information. This is an aspect which is worth pursuing in the future.

Under-utilized Land

<table>
<thead>
<tr>
<th>District</th>
<th>Number of farms</th>
<th>Area of farm with 30% or less utilization (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Otavi/Tsumeb</td>
<td>36</td>
<td>145 354</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>3</td>
<td>15 828</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>14</td>
<td>63 966</td>
</tr>
<tr>
<td>TOTAL NORTH</td>
<td>53</td>
<td>225 148</td>
</tr>
<tr>
<td>Okahandja</td>
<td>16</td>
<td>78 752</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>39</td>
<td>291 844</td>
</tr>
<tr>
<td>Windhoek</td>
<td>88</td>
<td>540 630</td>
</tr>
<tr>
<td>TOTAL CENTRAL</td>
<td>143</td>
<td>911 226</td>
</tr>
<tr>
<td>Mariental</td>
<td>60</td>
<td>474 784</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>37</td>
<td>387 034</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>59</td>
<td>600 774</td>
</tr>
<tr>
<td>Karasburg</td>
<td>66</td>
<td>792 788</td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>51</td>
<td>662 094</td>
</tr>
<tr>
<td>TOTAL SOUTH</td>
<td>273</td>
<td>2 917 474</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>469</td>
<td>4 053 848</td>
</tr>
</tbody>
</table>

Source: Veterinary Services, MAWRD 1991

At the end of 1991 there were 469 farms which were at or below 30% of the operational norm. (see Table 3.2). Only 50% of the land of the under-utilized
farms, will give us a total area of 2,026 million ha. However, to determine potential availability of land of this type it is important to look at the main economic activity on each of these farms. Expropriation may be undesirable, e.g. in cases where farms are being used for wildlife management instead of cattle ranching, since the former form of utilization may be more productive economically and ecologically, in certain parts of the country.

A further breakdown of under-utilized farms is useful.

<table>
<thead>
<tr>
<th>District</th>
<th>0</th>
<th>1-10</th>
<th>11-20</th>
<th>21-30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Otavi/Tsumeb</td>
<td>12</td>
<td>4</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL NORTH</strong></td>
<td>16</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Okahandja</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>7</td>
<td>4</td>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td>Windhoek</td>
<td>19</td>
<td>8</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Rehoboth</td>
<td>25</td>
<td>12</td>
<td>5</td>
<td>12</td>
</tr>
<tr>
<td><strong>TOTAL CENTRAL</strong></td>
<td>55</td>
<td>26</td>
<td>16</td>
<td>27</td>
</tr>
<tr>
<td>Mariental</td>
<td>8</td>
<td>3</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>4</td>
<td>7</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Karasburg</td>
<td>1</td>
<td>5</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>8</td>
<td>6</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td><strong>TOTAL SOUTH</strong></td>
<td>23</td>
<td>24</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td>94</td>
<td>55</td>
<td>25</td>
<td>46</td>
</tr>
</tbody>
</table>

Source: Veterinary Services, MAWRD, 1991
Table 3.3 shows the number of farms in each commercial district having between 0-30 large stock units (LSU) or its equivalent in small stock. This table shows that at the end of 1991, there were 94 farms in all districts which had no livestock at all and 55 farms with only 1 to 10 LSU. A total of 220 farms had 30 livestock or less.

Table 3.4 shows the hectares per LSU (or its equivalent in small stock units) on farms in various districts. The large stock unit : hectares ratio on the under-utilized farms varies widely. On some of the under-utilized farms, the ratio is relatively small e.g. 1:100 or below but on a few farms, the ratio is quite large e.g. 1:2 000 or more. All the above figures were recorded at the end of 1991.

There might be good reasons for some of these farms to be under stocked. Since the committee looked primarily at livestock, it is possible that some of these farms were subject to other forms of productive use such as game farming or the farmer might just have marketed some of his livestock. He/she might, due to drought, have reduced the stocking rate to prevent overgrazing. It might also be the result of foreign ownership.

These figures show that there are a number of farms which seem under-utilized. Stock numbers can however change quickly if an owner decides to restock.

Table 3.5 confirms that livestock farming is the dominant farming activity in Namibia. Large stock dominates in the north while small stock dominates in the south. According to this table there are 316 farms on which game forms the primary farming activity.

**Over-utilized Land**

Over-utilized land manifests itself in the form of soil erosion, bush encroachment, depleted seed banks and reduced productivity, resulting in a lower carrying capacity. The most obvious form of habitat destruction in commercial farmlands is bush encroachment which is the result of three contributing factors:

- overgrazing: the grasses being unable to compete effectively against woody plants.
- browsers (especially game) having been excluded from the farming system.
TABLE 3.4 UNDER-UTILISED FARMS: HECTARES PER LARGE STOCK UNIT (LSU) OR THE EQUIVALENT IN SMALL STOCK.

<table>
<thead>
<tr>
<th>District</th>
<th>30 - 100</th>
<th>101 - 500</th>
<th>501 - 1000</th>
<th>1001 - 1500</th>
<th>1501 - 2000</th>
<th>2001 - 2500</th>
<th>2501 - 3000</th>
<th>&gt;3000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Otavi/Tsumeb</td>
<td>16</td>
<td>5</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>9</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL NORTH</td>
<td>26</td>
<td>7</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Okahandja</td>
<td>5</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>7</td>
<td>20</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Windhoek</td>
<td>42</td>
<td>23</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Rehoboth</td>
<td>18</td>
<td>17</td>
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<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL CENTRAL</td>
<td>72</td>
<td>62</td>
<td>9</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>-</td>
<td>0</td>
</tr>
<tr>
<td>Mariental</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Maltahohe</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>0</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Karasburg</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>1</td>
<td>0</td>
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<td>2</td>
</tr>
<tr>
<td>TOTAL SOUTH</td>
<td>0</td>
<td>7</td>
<td>15</td>
<td>7</td>
<td>5</td>
<td>1</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>TOTAL</td>
<td>98</td>
<td>76</td>
<td>26</td>
<td>10</td>
<td>8</td>
<td>3</td>
<td>5</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: Veterinary Services, MAWUD, 1991
<table>
<thead>
<tr>
<th>District</th>
<th>No of farms with LSU</th>
<th>No of farms with SSU</th>
<th>No of farms with crops</th>
<th>No of farms with game</th>
<th>No of farms with other activities</th>
<th>Av. No of persons employed per farm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Otavi/Tsumeb</td>
<td>403</td>
<td>109</td>
<td>25</td>
<td>10</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>307</td>
<td>46</td>
<td>75</td>
<td>10</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>169</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Outjo</td>
<td>383</td>
<td>274</td>
<td>5</td>
<td>45</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>TOTAL NORTH</td>
<td>1262</td>
<td>433</td>
<td>105</td>
<td>66</td>
<td>2</td>
<td>4.7</td>
</tr>
<tr>
<td>Gobabis</td>
<td>703</td>
<td>190</td>
<td>16</td>
<td>16</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Okahandja</td>
<td>306</td>
<td>10</td>
<td>6</td>
<td>24</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>247</td>
<td>144</td>
<td>11</td>
<td>66</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Windhoek</td>
<td>480</td>
<td>142</td>
<td>1</td>
<td>42</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>TOTAL CENTRAL</td>
<td>1736</td>
<td>486</td>
<td>34</td>
<td>148</td>
<td>1</td>
<td>4.5</td>
</tr>
<tr>
<td>Maltahohe</td>
<td>148</td>
<td>191</td>
<td>1</td>
<td>46</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Keelmanshoop</td>
<td>64</td>
<td>442</td>
<td>0</td>
<td>28</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Karasburg</td>
<td>12</td>
<td>289</td>
<td>23</td>
<td>10</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>24</td>
<td>194</td>
<td>1</td>
<td>18</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>TOTAL SOUTH</td>
<td>248</td>
<td>1116</td>
<td>25</td>
<td>102</td>
<td>0</td>
<td>2.7</td>
</tr>
<tr>
<td>Total</td>
<td>3246</td>
<td>2035</td>
<td>164</td>
<td>316</td>
<td>3</td>
<td>4.0</td>
</tr>
</tbody>
</table>

Source: TCCF Survey, 1992
fire having been excluded from the farming system. Periodic fires kill the seedlings of woody plants and small shrubs, and allow grass seedlings a chance to become established.

Table 3.6 is based on the vegetation map of Giess (1971) and gives an indication of the amount of land affected by bush encroachment within various vegetation types in the country, the susceptibility of these vegetation types to encroachment and, where possible, the effect this has on productivity. Figure 3.1 shows the geographical location of the different vegetation types within Namibia.

Of the area used for commercial cattle farming, about 52% is encroached to such an extent that the grazing capacity has decreased by approximately 90% according to some estimates. Worst affected are the Thornbush savanna, the Mountain savanna and the Karstveld. However, encroachment also poses a problem in other vegetation types, i.e. in the northern, central and southern Kalahari, the Mopane savanna, the highland savanna, the escarpment zone and the Dwarf shrub savanna. Exact data on the extent of encroachment and the loss in grazing capacity for these areas are unfortunately not available. More research needs to be done to determine the extent of encroachment in all these areas. Bush encroachment is further worsened by continuous overgrazing.

The different vegetation types given in Table 3.6 display different encroachment susceptibilities. Knowledge of the susceptibility of vegetation types to encroachment will allow farmers to be advised of appropriate management practices.

**Unused Land**

This category differs from abandoned land in that its definition indicates that at no time has it been used for agricultural purposes. No such land has been found to exist in the commercial areas. However, there are some parts of the communal areas which have not yet been settled (Figure 3.2). These areas are in eastern Owanbo, the southern parts of Kavango, large parts of Bushmanland and the north-eastern parts of Herero.

People did not settle in these areas because of difficulties with water or due to the remoteness and lack of facilities.
<table>
<thead>
<tr>
<th>District</th>
<th>Area (Mha)</th>
<th>% Bush encroachment</th>
<th>Density of woody Veg (plants/ha) x 1000</th>
<th>Main species involved</th>
<th>Carrying capacity (ha/LSU)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thornbush Savanna</td>
<td>4.4</td>
<td>87.5</td>
<td>6 - 10</td>
<td><em>Acacia mellifera</em> (Blackthorn), <em>Dichrostachys cinerea</em> (sickle bush)</td>
<td>8</td>
</tr>
<tr>
<td>Mountain Savanna &amp; Karstveld</td>
<td>2.1</td>
<td>90</td>
<td>8 - 12</td>
<td><em>Dichrostachys cinerea</em></td>
<td>10</td>
</tr>
<tr>
<td>Forest Savanna &amp; dry Woodland (Northern Kalahari), Caprivi, Kavango, Bushmanland, northern Hereroland and eastern Ovamboland</td>
<td>14</td>
<td>70</td>
<td>6 - 7</td>
<td><em>Terminalia sericea</em> <em>Acacia flecki</em>, <em>erioloba</em> <em>&amp; mellifera</em> <em>Dichrostachys cinerea</em></td>
<td>8</td>
</tr>
<tr>
<td>Mopane Savanna - Kaokoveld, western Ovamboland, Etosha and Damaraland</td>
<td>13</td>
<td>20 - 30</td>
<td>1.5 - 3</td>
<td><em>Colophospermum mopane</em></td>
<td>14</td>
</tr>
<tr>
<td>Camelthorn Savanna - southern Hereroland and Gobabis District</td>
<td>6.6</td>
<td>Minimal</td>
<td>1 - 3</td>
<td><em>Acacia erioloba</em> &amp; <em>mellifera, Terminalia sericea</em></td>
<td>8</td>
</tr>
<tr>
<td>Highland Savanna, Savanna transition (Eskarpment zone) Windhoek, Khomas Hochland, Desert escarpment</td>
<td>7.3</td>
<td>Intermediate</td>
<td>2 - 4</td>
<td><em>Acacia mellifera, reficiens &amp; erubescens</em></td>
<td>8 - 12</td>
</tr>
<tr>
<td>Dwarf shrub savanna tree and shrub savanna southern Namibia</td>
<td>19</td>
<td>Minimal</td>
<td>1 - 2</td>
<td><em>Rhigozum trichotomum</em></td>
<td>18 (or 3ha/SSU)</td>
</tr>
</tbody>
</table>

Source: Adapted from Giess Vegetation Map of Namibia (1971) as well as other sources
FIGURE 3.1 THE VEGETATION MAP OF NAMIBIA
FIGURE 3.2 LAND AVAILABLE FOR RESETTLEMENT IN COMMUNAL AREAS
A further limiting factor is the occurrence of poisonous plants (*Dichapetalum cymosum*) in certain localities such as Bushmanland, Hereroland, Eastern Kavango and Western Caprivi. This problem can be overcome through good pasture management practices. A substantial part of Kaokoland and some parts of Damaraland are also uninhabited, because these are marginal desert environments. These marginal desert areas are discussed in detail in sections 3.1.2.

**Multiple Farms and Excessive Land Ownership**

According to the Ministry of Agriculture, Water and Rural Development, individual owners, including companies, are by far the most important category of land owners. It is estimated and shown in Table 3.7 that of the total surface area of the commercial farming areas of 34 362 744 ha, 95% belongs to individual farmers.

This is a clear indication that unequal access to land has been the major factor in determining inequality of incomes and wealth, more specifically, it is estimated that in the commercial farming area an average white farmer owns 7 200 ha and an average black farmer 3 350 ha. A black Namibian family farmer in a communal area owns about 17 ha. Direct constraints have been put on the economic activity of the majority of the people in rural areas because of the small areas available to them for agricultural activities as well as the lack of support in terms of water supply and technical assistance.

Table 3.7 shows that most commercial farmland is controlled by white commercial farmers and foreigners rather than by the black majority. Most importantly, individual ownership accumulation, permitted by the colonial state through subsidies and supportive services have led to multiple farm and excessively large land ownership. Table 3.8 presents the number of farm owners per district with more than one farm. This table shows that there are 1 126 farmers who own more than one farm in Namibia, the highest number being 12 farms per farmer. Multiple farm ownership is concentrated in the central and northern regions followed by the southern region.

The main emphasis of this exercise was to identify land potentially available from individual farmers, who own more than one farm and whose farm holdings exceed twice the operational norm.
<table>
<thead>
<tr>
<th>District</th>
<th>White owners</th>
<th>Black owners</th>
<th>Non-Namibian owners</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of farms</td>
<td>Size (ha)</td>
<td>Number of farms</td>
</tr>
<tr>
<td>Outjo</td>
<td>398</td>
<td>1 895 281</td>
<td>54</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>406</td>
<td>1 640 960</td>
<td>16</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>557</td>
<td>1 726 457</td>
<td>4</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>448</td>
<td>1 523 680</td>
<td>7</td>
</tr>
<tr>
<td>TOTAL NORTH</td>
<td>1 809</td>
<td>6 786 378</td>
<td>81</td>
</tr>
<tr>
<td>Windhoek</td>
<td>528</td>
<td>2 998 218</td>
<td>5</td>
</tr>
<tr>
<td>Gobabis</td>
<td>809</td>
<td>3 673 681</td>
<td>41</td>
</tr>
<tr>
<td>Okahandja</td>
<td>358</td>
<td>1 497 676</td>
<td>4</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>236</td>
<td>1 397 407</td>
<td>7</td>
</tr>
<tr>
<td>TOTAL CENTRAL</td>
<td>1 931</td>
<td>9 566 982</td>
<td>57</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>370</td>
<td>2 954 314</td>
<td>16</td>
</tr>
<tr>
<td>Mariental</td>
<td>759</td>
<td>3 314 168</td>
<td>14</td>
</tr>
<tr>
<td>Karasburg</td>
<td>263</td>
<td>2 485 458</td>
<td>4</td>
</tr>
<tr>
<td>Maltahohe</td>
<td>220</td>
<td>2 053 967</td>
<td>3</td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>208</td>
<td>2 253 385</td>
<td>6</td>
</tr>
<tr>
<td>TOTAL SOUTH</td>
<td>1 820</td>
<td>14 061 292</td>
<td>43</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>5 560</td>
<td>30 414 652</td>
<td>181</td>
</tr>
</tbody>
</table>

Source: Directorate of Agriculture, 1991
<table>
<thead>
<tr>
<th>District</th>
<th>Number of owners with more than one farm</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Outjo</td>
<td>69</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>60</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>43</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>45</td>
</tr>
<tr>
<td>NORTH TOTAL</td>
<td>217</td>
</tr>
<tr>
<td>Windhoek</td>
<td>131</td>
</tr>
<tr>
<td>Gobabis</td>
<td>72</td>
</tr>
<tr>
<td>Okahandja</td>
<td>43</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>21</td>
</tr>
<tr>
<td>CENTRAL TOTAL</td>
<td>287</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>45</td>
</tr>
<tr>
<td>Mariental</td>
<td>71</td>
</tr>
<tr>
<td>Karasburg</td>
<td>30</td>
</tr>
<tr>
<td>Maltahohe</td>
<td>30</td>
</tr>
<tr>
<td>Bethanie</td>
<td>19</td>
</tr>
<tr>
<td>Swakopmund</td>
<td>4</td>
</tr>
<tr>
<td>Lüderitz</td>
<td>10</td>
</tr>
<tr>
<td>SOUTH TOTAL</td>
<td>209</td>
</tr>
</tbody>
</table>

Source: Directorate of Veterinary Services, MAWRD, 1991
<table>
<thead>
<tr>
<th>District</th>
<th>Number of farmers with land holdings of various sizes (x 1 000 ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&lt;10</td>
</tr>
<tr>
<td>Outjo</td>
<td>52</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>51</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>76</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>59</td>
</tr>
<tr>
<td>NORTH TOTAL</td>
<td>238</td>
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<tr>
<td>Windhoek</td>
<td>49</td>
</tr>
<tr>
<td>Gobabis</td>
<td>88</td>
</tr>
<tr>
<td>Okahandja</td>
<td>40</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>8</td>
</tr>
<tr>
<td>CENTRAL TOTAL</td>
<td>185</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>6</td>
</tr>
<tr>
<td>Mariental</td>
<td>39</td>
</tr>
<tr>
<td>Karasburg</td>
<td>6</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>7</td>
</tr>
<tr>
<td>Bethanie</td>
<td>2</td>
</tr>
<tr>
<td>Swakopmund</td>
<td>3</td>
</tr>
<tr>
<td>Lüderitz</td>
<td></td>
</tr>
<tr>
<td>SOUTH TOTAL</td>
<td>63</td>
</tr>
<tr>
<td>TOTAL LAND PER GIVEN RANGE</td>
<td>486</td>
</tr>
</tbody>
</table>

Source: Directorate of Veterinary Services, MAWRD, 1991
The MAWRD position paper presented during the Land Conference suggested however, that the majority of farmers throughout Namibia own single holdings and that only 3.4% are multiple farm owners. This implies that only 138 farmers can be regarded as multiple farm owners. The fact that the statistics of the Department of Veterinary Services indicate that 1 126 farmers (i.e. 28%) have more than one farm points to the difficulty of defining what constitutes a farm or a farming business. A further complicating factor is the fact that information on farm owners is so minimal that it does not allow distinction between two owners with identical names. No attempt was made to make such a distinction and multiple ownership was assumed until proved otherwise.

Accompanying Table 3.8 is Table 3.9 which shows that most of the farm holdings fall within <10 - 30 000 ha range, although those falling within larger ranges may constitute large tracts of land which are not in productive use. The table also shows that individual ownership of excessively large farm holdings is concentrated in the northern and central regions, and that the problem is not so acute in the south.

In order to identify land potentially available for a land reform programme, it is important to consider Table 3.10 which provides information on average sizes of farm businesses in the commercial districts of Namibia and thus the operational norm per district/region. Having defined excessively large farms as those exceeding twice the operational norm, it is possible to make an initial evaluation of how much land could be considered for a land reform programme. These regional norms are of course modified by the agro-ecological conditions of each region.

Table 3.10 shows that the average farm size for the north is 6 588 ha, for the central region is 7 346 ha and for the south 11 591 ha. It is not the intention of this paper to define the concept dealt with here, but it is important to state that multiple farm ownership may not necessarily mean excessively large farms. For example, Mr X may have eight farm holdings in Grootfontein ranging from 123 - 2 010 ha, with a total of 4 170 ha, which would be lower than the average farm size for Grootfontein, which is estimated to be 6 069 ha.

Although any figure that is greater than the above indicates the regionally related area in hectares which could be considered as land potentially available for redistribution/resettlement, it is quite possible that such land may not be of immediate use due to for instance bush encroachment. Under such conditions resettlement may become an extremely costly exercise.
TABLE 3.10 AVERAGE SIZES (OPERATIONAL NORMS) OF FARMS IN THE COMMERCIAL DISTRICTS OF NAMIBIA 1991

<table>
<thead>
<tr>
<th>District</th>
<th>Average size (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outjo</td>
<td>7 484</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>6 916</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>6 069</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>5 801</td>
</tr>
<tr>
<td>NORTH (AVERAGE)</td>
<td>6 588</td>
</tr>
<tr>
<td>Windhoek</td>
<td>8 081</td>
</tr>
<tr>
<td>Gobabis</td>
<td>6 994</td>
</tr>
<tr>
<td>Okahandja</td>
<td>6 162</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>8 266</td>
</tr>
<tr>
<td>CENTRAL (AVERAGE)</td>
<td>7 346</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>11 095</td>
</tr>
<tr>
<td>Mariental</td>
<td>8 835</td>
</tr>
<tr>
<td>Karasburg</td>
<td>13 907</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>14 042</td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>14 883</td>
</tr>
<tr>
<td>SOUTH (AVERAGE)</td>
<td>11 571</td>
</tr>
</tbody>
</table>

Source: Directorate of Veterinary Services, MAWRD, 1991

Having presented a general picture on multiple and excessively large farm holdings, it is important to interpret the information available in detail.

It is also important to stress that there may be acceptable reasons to allow a company, or an individual farmer who runs a successful business, to exceed the district/regional norm.

The following tables give a general guide to land potentially available within this category, from individual owners, companies and from the state.
Table 3.11 shows the total amount of land in excess of the regional norm per district. There are over 1.3 million hectares apparently available from individual farms for a resettlement programme.

<table>
<thead>
<tr>
<th>District</th>
<th>Size (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outjo</td>
<td>19 026</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>21 575</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>53 799</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>29 299</td>
</tr>
<tr>
<td>NORTH TOTAL</td>
<td>317 829</td>
</tr>
<tr>
<td>Windhoek</td>
<td>146 490</td>
</tr>
<tr>
<td>Gobabis</td>
<td>389 529</td>
</tr>
<tr>
<td>Okahandja</td>
<td>24 379</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>109 690</td>
</tr>
<tr>
<td>CENTRAL TOTAL</td>
<td>370 088</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>68 767</td>
</tr>
<tr>
<td>Mariental</td>
<td>58 078</td>
</tr>
<tr>
<td>Karasburg</td>
<td>89 338</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>79 199</td>
</tr>
<tr>
<td>Bethanie</td>
<td>16 096</td>
</tr>
<tr>
<td>Swakopmund</td>
<td>4 432</td>
</tr>
<tr>
<td>Lüderitz</td>
<td>6 740</td>
</tr>
<tr>
<td>SOUTH TOTAL</td>
<td>322 650</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>1 310 567</td>
</tr>
</tbody>
</table>

Source: Directorate of Veterinary Services, MAWRD, 1991
Table 3.12 shows land in excess of the regional operational norm owned by both foreign and local companies to be more than 500,000 ha. Further investigations need to be done in order to determine how these companies utilize such land and whether there is a justification for allowing a continuation of this situation.

<table>
<thead>
<tr>
<th>District</th>
<th>Size (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outjo</td>
<td>53,167</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>133,483</td>
</tr>
<tr>
<td>Grootfontein</td>
<td>15,158</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>63,884</td>
</tr>
<tr>
<td>NORTH TOTAL</td>
<td>265,692</td>
</tr>
<tr>
<td>Windhoek</td>
<td>150,599</td>
</tr>
<tr>
<td>Gobabis</td>
<td></td>
</tr>
<tr>
<td>Okahandja</td>
<td></td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td></td>
</tr>
<tr>
<td>CENTRAL TOTAL</td>
<td>150,599</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td></td>
</tr>
<tr>
<td>Mariental</td>
<td></td>
</tr>
<tr>
<td>Karasburg</td>
<td>103,721</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>40,058</td>
</tr>
<tr>
<td>Bethanie</td>
<td></td>
</tr>
<tr>
<td>Swakopmund</td>
<td>28,385</td>
</tr>
<tr>
<td>Lüderitz</td>
<td></td>
</tr>
<tr>
<td>SOUTH TOTAL</td>
<td>172,164</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>588,455</td>
</tr>
</tbody>
</table>

Source: Directorate of Veterinary Services, MAWRD, 1991
Table 3.13 shows land owned by former second tier authorities. This land has, according to the constitution, been legally transferred to the Namibian Government. The table is by no means complete. It has proved extremely difficult to obtain information on land belonging to the different former second tier authorities. Further detailed study will be necessary.

<table>
<thead>
<tr>
<th>District</th>
<th>Size (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Windhoek</td>
<td></td>
</tr>
<tr>
<td>Herero Administration</td>
<td>26 998</td>
</tr>
<tr>
<td>Civic Affairs &amp; Manpower Development</td>
<td>30 000</td>
</tr>
<tr>
<td>Administration for Whites</td>
<td>52 695</td>
</tr>
<tr>
<td>TOTAL</td>
<td>109 692</td>
</tr>
<tr>
<td>Gobabis</td>
<td></td>
</tr>
<tr>
<td>Tswana Administration</td>
<td>82 686</td>
</tr>
<tr>
<td>Herero Administration</td>
<td>36 712</td>
</tr>
<tr>
<td>TOTAL</td>
<td>119 398</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td></td>
</tr>
<tr>
<td>Nama Administration</td>
<td>35 798</td>
</tr>
<tr>
<td>TOTAL</td>
<td>35 798</td>
</tr>
<tr>
<td>Districts Unknown</td>
<td></td>
</tr>
<tr>
<td>Another Administration</td>
<td>38 752</td>
</tr>
<tr>
<td>Coloured Administration</td>
<td>28 113</td>
</tr>
<tr>
<td>Coloured Administration</td>
<td>24 417</td>
</tr>
<tr>
<td>Unknown</td>
<td>24 708</td>
</tr>
<tr>
<td>TOTAL</td>
<td>145 990</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>410 578</td>
</tr>
</tbody>
</table>

Source: Directorate of Veterinary Services, MAWRD, 1991
**Foreign Ownership**

The definition of foreign ownership is given in section 2.4 of this report. According to the survey carried out by the TCCF, there are 413 individual farm owners and companies who are non-Namibian owning land amounting to just over 3 million hectares (Table 3.14). This land is potentially available to a reform programme. The consensus of the Land Conference was that foreign ownership of land in Namibia should not be allowed, but that foreign investors would still be welcome to utilize land on a leasehold basis consistent with the Government's "open door" policy on foreign investment. Thus a clear distinction must be drawn between those people who acquire land for non-productive purposes and those who acquire it for productive investments.

It is difficult to determine foreign farm owners in Namibia because the Deeds Office records only the purchaser's name, and address. Presently there is no legal requirement to identify the nationality of the buyer. This unsatisfactory situation must be addressed urgently.

The current list of foreign owners was provided by regional extension staff of the Ministry of Agriculture. They acquired knowledge about the nationality of some of the farmers through their work and general social contact within the district. This was found to be the best source of information currently available.

**Absentee Owners**

The committee defined absentee farmers as those farmers who spend less than 50% of their time on the farm. According to the survey by the TCCF, there were 190 farmers residing in local towns of the districts in which their farms were located and 319 farmers living elsewhere in Namibia (Table 3.15).

Absentee landlords/farmers can be divided into two categories: foreigners and Namibians.

Foreign farm ownership has previously been discussed and the same constraints will apply. It can be argued that Namibian absentee farm owners are entitled to their holdings. If these farms are unproductive some incentives should be considered to reverse the situation.
<table>
<thead>
<tr>
<th>District</th>
<th>RSA</th>
<th>German</th>
<th>Austrian</th>
<th>Italian</th>
<th>Other</th>
<th>Total area ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grootfontein</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>25 811</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>1</td>
<td>8</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>66 235</td>
</tr>
<tr>
<td>Outjo</td>
<td>6</td>
<td>26</td>
<td>5</td>
<td>0</td>
<td>2</td>
<td>165 716</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>1</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>31 896</td>
</tr>
<tr>
<td>NORTH TOTAL</td>
<td>9</td>
<td>42</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>289 658</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>10</td>
<td>56</td>
<td>7</td>
<td>4</td>
<td>9</td>
<td>531 720</td>
</tr>
<tr>
<td>Okahandja</td>
<td>2</td>
<td>29</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>172 013</td>
</tr>
<tr>
<td>Gobabis</td>
<td>6</td>
<td>12</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>108 284</td>
</tr>
<tr>
<td>Windhoek</td>
<td>6</td>
<td>63</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>429 487</td>
</tr>
<tr>
<td>CENTRAL TOTAL</td>
<td>22</td>
<td>160</td>
<td>9</td>
<td>5</td>
<td>14</td>
<td>1 241 504</td>
</tr>
<tr>
<td>Maltahohe</td>
<td>7</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>126 897</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>46</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>397 199</td>
</tr>
<tr>
<td>Karasburg</td>
<td>54</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>526 501</td>
</tr>
<tr>
<td>Bethanie</td>
<td>16</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>169 758</td>
</tr>
<tr>
<td>Luderitz</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>250 806</td>
</tr>
<tr>
<td>SOUTH TOTAL</td>
<td>136</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1 471 161</td>
</tr>
<tr>
<td>TOTAL</td>
<td>169</td>
<td>207</td>
<td>14</td>
<td>6</td>
<td>17</td>
<td>3 002 323</td>
</tr>
</tbody>
</table>

Source: TCCF Survey 1992
### TABLE 3.15  FARM OWNERS NOT LIVING ON FARMS

<table>
<thead>
<tr>
<th>District</th>
<th>Local Town</th>
<th>Elsewhere in Namibia</th>
<th>Germany</th>
<th>RSA</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grootfontein</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Otjo</td>
<td>30</td>
<td>40</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Ojiiwarongo</td>
<td>12</td>
<td>16</td>
<td>4</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>NORTH TOTAL</td>
<td>43</td>
<td>57</td>
<td>4</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>16</td>
<td>56</td>
<td>2</td>
<td>11</td>
<td>3</td>
</tr>
<tr>
<td>Okahandja</td>
<td>0</td>
<td>8</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Gobabis</td>
<td>38</td>
<td>84</td>
<td>5</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Windhoek</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>CENTRAL TOTAL</td>
<td>54</td>
<td>149</td>
<td>7</td>
<td>15</td>
<td>11</td>
</tr>
<tr>
<td>Maltahohe</td>
<td>10</td>
<td>53</td>
<td>0</td>
<td>12</td>
<td>0</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>33</td>
<td>10</td>
<td>0</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Karasburg</td>
<td>37</td>
<td>13</td>
<td>0</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Bethanie</td>
<td>4</td>
<td>29</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Luderitz</td>
<td>9</td>
<td>8</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>SOUTH TOTAL</td>
<td>93</td>
<td>113</td>
<td>0</td>
<td>25</td>
<td>4</td>
</tr>
<tr>
<td>TOTAL</td>
<td>190</td>
<td>319</td>
<td>11</td>
<td>42</td>
<td>15</td>
</tr>
</tbody>
</table>

Source: TCCF Survey 1992

**Normal Sales**

**The Agricultural Land Market**

Efforts to obtain accurate statistics on farms offered for sale and sold on the Namibian market have had mixed success. Although accurate data on land transactions can be obtained from the Office of the Registrar of Deeds, these do not necessarily present a true reflection of actual farm sales in a particular...
year, since the sale of a farm can precede its registration by months and years. Moreover, no aggregate annual statistics exist.

There are several reasons for this. In the first instance, estate agents hardly ever have the sole selling right for a particular farm. Farms for sale are generally offered to several agents to optimise the chance of selling. This means that although individual agencies may keep accurate statistics for farms on offer, it is impossible to prevent multiple recording of individual farm sales.

Secondly, the compilation of statistics is complicated by the fact that farmers often change their minds about farm sales, sometimes within weeks of the first offer. This means that a farm recorded for sale may be withdrawn only to be offered again a month later.

Despite these problems of obtaining aggregate numbers, it is possible to discern certain trends in the land market. The number of farms presently on sale are considerably fewer than in the mid-1980's. One real estate agent dealing in farm land estimated that they had on average 300-400 farms for sale countrywide on their books during the mid-1980's. This had decreased to about 70 farms today (1992).

Another agent put the average number of farms for sale at the moment at approximately 150.

Two main reasons can be advanced for this decline in sales. First, the drought of the early to mid 1980's forced many farmers to sell their farms. Second, the number of farmers who wanted to sell their farms in the mid-1980's was much higher as a result of the political insecurity in Namibia. Since South Africa was still considered relatively safe by (white) land owners, many sold their farms to settle in South Africa.

The last big wave of farm sales as a result of political considerations occurred shortly before Independence, when the average number of farms on the market increased from about 50 to 150. The Outjo district in particular witnessed increased activity of the farm market, as several white farmers with conservative attitudes sold their farms to move to South Africa.

Since Independence, however, peoples' perceptions have changed considerably, giving rise to much lower numbers of farms being offered for sale. Indications are that current farm sales are prompted by age considerations, i.e. where farmers cannot go on farming, or where farmers wish to move to a better area within Namibia.

The farms offered for sale at the moment are fairly evenly distributed between the south, centre and north of the country. Areas showing higher
sales activity are those in the Summerdown area and close to some Herero reserves, as well as in the western part of the country comprising the districts of Omaruru, Karibib, Wilhemstal, Gamsberg and further south along the pro-Namib.

The higher tendency to sell commercial farms in the south and particularly the south-western regions of the country is closely linked to the falling prices for karakul pelts and the resulting changes in small stock farming. In addition, the south-western areas are subject to much higher rainfall risks than the eastern parts of the small stock farming regions.

With regard to the demand for farm land, estate agents still receive many requests from foreigners. The list is topped by potential buyers from Austria, followed by Sweden, Switzerland, Germany, Italy and New Zealand. The main reason for wanting to buy land in Namibia seems to be a desire to establish hunting farms for personal use. At least one agency advises such people that they would be required to make productive investments upon purchase. Most prospective buyers did not seem to object to this and expressed their willingness to put livestock on farms and have them run by managers.

Land Prices

Land prices are regarded as highly inflated, particularly within a radius of 200 km of Windhoek. Significant differences occur, however, between regions and within regions.

Several factors which have an influence on land prices can be identified. According to one source in the agricultural property market, the high degree of indebtedness of many farmers tends to push up land prices. He mentioned the example of a farm which was bought for R 34 662 in 1984 in the Kalkfeld area with a total debt today of R 140 000. It is clear that with such vast debts, farmers would want to push up the land price to pay back their debts. This observation confirms the findings presented to the Land Conference that agricultural subsidies increase the price of land.

Wide fluctuations with regard to land price are mostly related to rain and therefore veld conditions, distance from markets, produce prices and cost of inputs. An example was cited of a farm offered for sale in the Witvlei area for an initial price of R 110 per ha. The price increased, however, to R180 per ha within a few weeks of the initial offer, after good rains had fallen in the area.
Another factor which has an influence on land prices, albeit a minor one, is that although purchases via the financial rand are no longer allowed, the favourable exchange rate for foreigners makes land relatively cheap in Namibia.

Foreigners can, therefore, offer prices which are much higher than on the local market, thereby artificially inflating land prices. The example of a farm in the Otjiwarongo district was given, which was sold to an Austrian buyer for R 235 per/ha but would locally have fetched little more than R 120 per/ha.

The example just cited does indicate another point, and that is that the type of enterprise to be developed on the land also influences land prices. The farm under discussion may very well have been overpriced at R 235 per ha if it was to be used for cattle farming. But its scenic qualities and game numbers hold considerable potential for tourism, and thus for a higher income from the farm.
Average land prices, however, conceal considerable differences both within districts and even within relatively homogenous farming areas. With regard to the former, Outjo district is an example which consists of four different relatively homogenous farming areas, with carrying capacities ranging from 8 to about 15 ha per LSU. Price differences within these fairly homogenous areas are brought about, for example, by distances from markets both for inputs as well as the marketing of produce. Farms in the high potential Grootfontein district generally receive lower prices than farms of similar quality and potential in the Hochfeld area, because the latter is closer to markets.

For all these reasons, the south-western part of the country usually has more farms on offer than other parts of the country. The fundamental difference is that those farmers want to sell in order to quit farming altogether, whereas elsewhere farmers usually sell and buy again to carry on farming. This is an important point to bear in mind when evaluating the number of farms available to the state via the market, for a large percentage of those offered in the south are enterprises which have consistently proven themselves not to be economically viable.

3.1.1.2 Publicly owned land:

In addition to individually owned agricultural land, three further categories of land can be identified in the commercial sector:

- Land owned by churches, particularly the Roman Catholic Church;
- Municipal and peri-urban land; and
- State land.

Since land owned by churches is still privately owned land, this section will concern itself only with the last two categories of land.

Municipal and peri-urban land

Municipalities and the Peri-Urban Development Board between them ‘own’ and administer approximately 349 988 ha of agricultural land in Namibia. This represents about 0.97% of all agricultural land. Table 3.17 provides a summary of the distribution of such land by district.
<table>
<thead>
<tr>
<th>District</th>
<th>Area (ha)</th>
<th>Regional Total</th>
<th>Cumulative Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outjo</td>
<td>11 431</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>700</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grootfontein</td>
<td>2 200</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>802</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>NORTH</strong></td>
<td></td>
<td>15 133</td>
<td>15 133</td>
</tr>
<tr>
<td>Windhoek</td>
<td>47 812</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gobabis</td>
<td>48 290</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Okahandja</td>
<td>9 620</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>33 024</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CENTRAL</strong></td>
<td></td>
<td>138 746</td>
<td>153 879</td>
</tr>
<tr>
<td>Keetmanshoop</td>
<td>62 834</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mariental</td>
<td>21 271</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Karasburg</td>
<td>28 570</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>17 589</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bethanie/Lüderitz</td>
<td>65 855</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SOUTH</strong></td>
<td></td>
<td>196 119</td>
<td>349 988</td>
</tr>
</tbody>
</table>


Of this total area, the Peri-Urban Development Board administers 161 253 ha of townlands. Table 3.18 provides a breakdown of this land by peri-urban area.

What sets municipal and peri-urban land apart from state land is the fact that the municipalities and the Peri-Urban Development Board are governed by separate legislation. Municipalities operate in terms of the provisions of the South West Africa Municipal Ordinance No. 13 of 1963, while the Peri-Ur-
ban Development Board was set up in terms of the Peri-Urban Development Ordinance No. 19 of 1970.

The Peri-Urban Development Board is still being governed by its own act.

In general, most of the municipal and peri-urban land is fairly well developed into grazing camps and stock watering points. These are leased either by tender or public auction on a short term basis to stock farmers.

<table>
<thead>
<tr>
<th>Peri-Urban Area</th>
<th>Area in ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kamanjab</td>
<td>2,175</td>
</tr>
<tr>
<td>Kalkfeld</td>
<td>700</td>
</tr>
<tr>
<td>Airiness</td>
<td>5,661</td>
</tr>
<tr>
<td>Aus</td>
<td>24,761</td>
</tr>
<tr>
<td>Kalkrand</td>
<td>8,424</td>
</tr>
<tr>
<td>Stamproiet</td>
<td>1,209</td>
</tr>
<tr>
<td>Warmbad</td>
<td>24,744</td>
</tr>
<tr>
<td>Witvlei</td>
<td>7,794</td>
</tr>
<tr>
<td>Maltahöhe</td>
<td>16,350</td>
</tr>
<tr>
<td>Bethanie</td>
<td>36,700</td>
</tr>
<tr>
<td>Gochas</td>
<td>3,975</td>
</tr>
<tr>
<td>Koës</td>
<td>13,267</td>
</tr>
<tr>
<td>Aroab</td>
<td>10,000</td>
</tr>
<tr>
<td>Leonardville</td>
<td>5,511</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>161,253</strong></td>
</tr>
</tbody>
</table>

Source: Peri-Urban Development Board, 1990
State Land

Apart from the 12,65 million ha of land classified as agriculturally unusable, the Namibian Government also owns approximately 655 906 ha of agricultural land in the commercial farming area. About 125 000 ha or roughly 20% of this land is being utilized by the Ministry of Agriculture as production, research or training centres. Another 176 000 ha consists of land which had been bought by previous second tier administrations for the use of small farmers. This land is at present being utilized communally. Almost half of all agricultural land owned by the state falls into the low and medium potential sheep areas of the Karasburg and Keetmanshoop districts (144 000 ha or 22% and 149 718 ha or 23% respectively).

It is highly questionable whether such land lends itself to small scale farming, given the environmental constraints of the region. Potential for irrigation may however exist along the Orange River.

Land utilized by the state and FNDC in the communal areas

In addition to land under freehold in the commercial sector, the state and the First National Development Corporation utilizes land in the northern communal areas for agricultural purposes. Table 3.19 gives details of FNDC farms in communal areas.

FNDC in particular has leased altogether 368 250 ha of land for agricultural production: 5 250 ha for crop production mostly under irrigation and 363 000 ha for livestock ranching.

3.1.2 Environmental Considerations

Introduction

Land is an essential element in the lives of most Namibians. It provides them with a living, an income, a stake in the future of the country and a contribution to the future wellbeing of their children. It also fulfils cultural and social functions that contribute to their quality of life as well as to a stable and prosperous society. Land and the resources that it supports are essential for the wellbeing and survival of the Namibian people and their country, now and in the future.
<table>
<thead>
<tr>
<th>Communal Area</th>
<th>Name of Farm</th>
<th>Approx Size (ha)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Caprivi</td>
<td>Katima Farm</td>
<td>550</td>
<td>Leasehold agreement with previous local authority, expiring 2008.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Compensation: R1 000 p.a. plus R5/ha under cultivation p.a. and R1/ha p.a. for the rest</td>
</tr>
<tr>
<td></td>
<td>Isize Rice Project</td>
<td>500</td>
<td>Leasehold agreement with former local authority, expiring 2008.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Compensation: R5/ha under cultivation p.a. and R1/ha p.a. for the rest</td>
</tr>
<tr>
<td>Kavango</td>
<td>Shadikongoro</td>
<td>1 000</td>
<td>Leasehold agreement with previous local authority, expiring 1 October 1992.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Compensation: R10 000 p.a.</td>
</tr>
<tr>
<td></td>
<td>Shitemo</td>
<td>1 000</td>
<td>Leasehold agreement with previous local authority, expiring 1 October 1992.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Compensation: R10 000 p.a.</td>
</tr>
<tr>
<td></td>
<td>Vungu Vungu</td>
<td>200</td>
<td>Leasehold agreement with previous local authority, expiring 1 October 1992.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Compensation: R10 000 p.a.</td>
</tr>
</tbody>
</table>

Source: FNDC, 1990

It is therefore necessary for all Namibians, and especially for responsible government, to manage and nurture the land and its resources in a wise and sustainable manner. It little profits the development of the country and its people that expedient short-term decisions are taken, or short-term profits gained at the expense of the quality and productivity of our fragile and limited land. To do so would be to incur hidden ecological debts which would undermine both society and the economy, and which could probably never be repaid. Worse still, we would be stealing from our children and from all future generations.
Our land is particularly vulnerable to over-exploitation and mismanagement because of our harsh climatic conditions. If we make a mistake, it will take many years and large amounts of money to correct; and corrections are not always possible. It is therefore wise to think "if I do this, what will the implications be in 100 years?"

**Climate**

Namibia is an arid country, with a hyperarid zone along the Namib coast. Rainfall increases from the south and west towards the north-east, ranging from 50 mm to 700 mm (Figure 3.3). Only 8% of the country receives over 500 mm, the minimum regarded as necessary for dryland cropping, while only 5% of commercial farmlands fall within this category. Details of the amount of land within different rainfall categories, for the country as a whole and for commercial farmlands, are shown in Table 3.20.

<table>
<thead>
<tr>
<th>Rainfall belts (mm)</th>
<th>Namibia</th>
<th>Commercial farms</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Area (sq km)</td>
<td>%</td>
</tr>
<tr>
<td>&lt;100</td>
<td>181 092</td>
<td>22</td>
</tr>
<tr>
<td>100 - 300</td>
<td>271 638</td>
<td>33</td>
</tr>
<tr>
<td>300 - 500</td>
<td>304 563</td>
<td>37</td>
</tr>
<tr>
<td>&gt;500</td>
<td>65 852</td>
<td>8</td>
</tr>
<tr>
<td>TOTALS</td>
<td>823 145</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Figure 3.3 Rainfall patterns across Namibia

Over 90% of the country falls within the summer rainfall region. In the north and east, at least 80% of the rain falls within a four-month period (Dec-Mar), while in the centre and south 70% falls over six months. The extreme northern commercial farms receive over 50 days of rainfall per year, while those in the south and west receive usually less than 10. The rate of evaporation follows a similar but opposite trend to that of rainfall. In the north the annual evaporation is about 2.6 m (420% in excess of rainfall), while in the south evaporation exceeds 3.7 m (1 750% more than rainfall).
Figure 3.3 Rainfall Patterns Across Namibia Relative to Districts
FIGURE 3.4 VARIANCE (OR RELIABILITY) IN RAINFALL ACROSS NAMIBIA
From an agricultural and ecological perspective, the most important climatic parameter is rainfall variability. This is used to measure the reliability with which rain falls in a particular region.

As can be seen from Figure 3.4, the variability of rain relative to the mean increases to the south and west of the country. This means that not only do the north-eastern areas receive more rain, but their rain is much more reliable than that of the south and west.

The north-eastern commercial farms can expect the annual rainfall to fluctuate within about 20% of their long term mean (e.g. with a mean of 500 mm, they can reliably expect to receive between 400 and 600 mm in any year), whereas on the south and west, the rainfall can fluctuate up to 60% of the long term mean (e.g. 80-320 mm with a mean of 200 mm). It is this unreliable rainfall that has led to special adaptations in animals living in these regions, most notably, nomadism. And it is this variability which makes these arid regions so vulnerable to desertification.

Namibia has an average of 10 hours of sunshine per day and an average daily temperature of 25°C. The absolute maximum and minimum temperatures range from below -10°C to above 40°C. All the climatic extremes contribute to a unique and extreme hydrological cycle.

**Water Resources**

It is estimated that on average 83% of the total rainfall evaporates shortly after precipitation. Of the remaining amount, 14% is used by plants for evapotranspiration, 2% enters drainage systems where a proportion is available for harvest from surface facilities and only 1% recharges groundwater resources.

Sustainable use is the key issue when considering a limited and finite resource such as groundwater. The rate of abstraction must be directly related to the rate of recharge of the aquifer, and development plans must be tailored to meet this limitation. Thus a first approach to a quantitative evaluation of Namibia’s groundwater resources must be in the form of its recharge potential. Using the above figures and an average rainfall for the country of 250 mm, it is calculated that some 2,000 million cubic metres of water enters the groundwater system each year.

This resource is, of course, not evenly distributed across the country, nor is it all equally accessible. This means that in some regions of the country the probability of establishing a successful borehole is considerably greater than
in other areas (Figure 3.5). In the commercial farming regions, the Karstveld holds the best probability of establishing a successful borehole (50-100% chance), the central districts are next with a 25-50% chance while the southern and western regions have, on average, less than a 25% success rate. The average yield from boreholes (Figure 3.6) follows a similar trend, with the Karstveld supplying on average about 40 cubic metres of water per borehole per hour, the central regions yielding 15-25 cubic metres and the south and west yielding 5 cubic metres per hour or less.

Not only is the groundwater resource unevenly distributed, but it also exists at different depths, in different geological formations and in different sized aquifers. This means that different drilling techniques are required in different areas and that the cost of obtaining water differs. Details of geological formation, aquifer type and drilling technique for different regions of the country are given in Table 3.21. Average drilling costs per metre per successful borehole are shown in Figure 3.7, while Figure 3.8 reflects the cost in terms of initial water yield.

The Karstveld region produces the cheapest water at an indicator cost of about R15 per cubic metre per hour, in the central regions the relative cost is about R20-30 while in the south and west water costs about R120.

It is apparent that groundwater in particular regions of the country is presently not being abstracted on a sustainable basis, and that resources are being mined to the longterm detriment of the country. For example, in some parts of the Karstveld, water tables have declined between 0.5 and 13 m.

Similarly in the Kuiseb River, the water table was 2-3 m below the surface before the increased abstraction began in the early 1970's. Today the water table is about 13 m below the surface, only about 4 m above the bedrock. Trees many hundred of years old are dying, an indication that the drop in water level is not drought related. To ensure that the future management of groundwater resources are improved and placed on a sustainable basis, it is urgently recommended that a "Water Conservation Policy" for Namibia be prepared as a matter of priority by a multi-sectoral team of Namibians.

Three main categories of surface water are recognised (Figure 3.9), (a) ephemeral sources, which include the episodic rivers within the country and the smaller dams, (b) perennial rivers, all on the borders of Namibia, which comprise the Kunene, Kavango, Zambezi and Kwando-Linyanti-Chobe Rivers in the north and the Orange River in the south, and (c) the major dams. The capacities, potential and safe yields, where known, are listed in Table 3.22.
FIGURE 3.5 PROBABILITY OF ESTABLISHING A SUCCESSFUL BOREHOLE IN DIFFERENT REGIONS OF NAMIBIA
FIGURE 3.6 AVERAGE YIELD FROM BOREHOLES IN DIFFERENT REGIONS OF NAMIBIA
Figure 3.7 Average Drilling Costs for Different Regions of Namibia
Figure 3.8: Indicator costs per initial m$^3$ of borehole yield for different regions of Namibia.
FIGURE 3.9 BULK WATER SUPPLY IN NAMIBIA
<table>
<thead>
<tr>
<th>REGION</th>
<th>TYPE OF GEOLOGICAL FORMATION</th>
<th>AQUIFER TYPE</th>
<th>DRILLING TECHNIQUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kaokoland</td>
<td>Hardrock Crystalline</td>
<td>Fractures &amp; fault zones</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Owambo West</td>
<td>Thin unconsolidated formations overly hardrock crystalline</td>
<td>Fracture and fault zones</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Owambo North and Central</td>
<td>Thick unconsolidated sediments</td>
<td>Intergranular (not well understood)</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>Owambo South</td>
<td>Thick unconsolidated</td>
<td>Cemented formations fractured and underlying</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>unconsolidated formations. Groundwater is under</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Artesian pressure</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Relatively thin sequence of unconsolidated sediments</td>
<td>As above</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>Kavango</td>
<td>Thick sequence of generally unconsolidated formations</td>
<td>Intergranular</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>West Caprivi</td>
<td>As above</td>
<td>Intergranular</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>East Caprivi</td>
<td>Homogenous sequence fine white sands</td>
<td>Intergranular</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>Bushmanland</td>
<td>Unconsolidated formation</td>
<td>Intergranular</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>Herero East</td>
<td>Unconsolidated/partially cemented formations</td>
<td>Intergranular and/or fractured</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>Damaraland</td>
<td>Crystalline hardrock</td>
<td>Faults and fractures</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Karasveld</td>
<td>Dolomite synclinal and anticlinal structures</td>
<td>Dykes</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>Marble synclinal structures</td>
<td>Faults and fractures</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Omba</td>
<td>Dolomite &amp; crystalline hardrock</td>
<td>Dykes and faults</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Windhoek</td>
<td>Metamorphic crystalline rock with igneous intrusions</td>
<td>Faults and fractures</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Oshikondja</td>
<td>Metamorphic rocks</td>
<td>Faults and fractures</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>Rehoboth</td>
<td>Crystalline rocks</td>
<td>Faults and fractures</td>
<td>Rotary percussion, air</td>
</tr>
<tr>
<td>West Coast</td>
<td>Variable</td>
<td>Western flowing rivers</td>
<td>Rotary mud system</td>
</tr>
<tr>
<td>Southern Namibia</td>
<td>Mainly crystalline hardrock</td>
<td>Faults and fractures</td>
<td>Rotary percussion, air</td>
</tr>
</tbody>
</table>

Source: R.G. Fry, TCCF Consultant
<table>
<thead>
<tr>
<th>Category</th>
<th>Wetland type</th>
<th>Classification and volume of water (M cubic m)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Potential Yield (per yr)</td>
<td>Safe Yield (per yr)</td>
</tr>
<tr>
<td>A. Ephemeral</td>
<td>Episodic rivers</td>
<td>200</td>
<td>300</td>
</tr>
<tr>
<td></td>
<td>Small dams (&gt;10 000 with capacity between 5 000 and 500 000 cubic m)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Perennial</td>
<td>Cunene River</td>
<td>5 500</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Kavango River (Rundu)</td>
<td>5 500</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Kavango River (Mukwe)</td>
<td>10 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Kwando River (Kongola)</td>
<td>1 300</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Zambezi River (Katima Muillo)</td>
<td>40 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Orange River (Noordoeuer)</td>
<td>11 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>WEIGHTED TOTAL</td>
<td>60 000</td>
<td></td>
</tr>
<tr>
<td>C. Large dams</td>
<td>Hardap</td>
<td>50</td>
<td>300</td>
</tr>
<tr>
<td></td>
<td>Naute</td>
<td>12</td>
<td>83</td>
</tr>
<tr>
<td></td>
<td>Swakoppoort</td>
<td>5</td>
<td>69</td>
</tr>
<tr>
<td></td>
<td>Von Bach</td>
<td>7</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>Omatako</td>
<td>2</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td>Ojivero</td>
<td>5</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>81</td>
<td>582</td>
</tr>
</tbody>
</table>

Source: Department of Water Affairs
It is apparent that large areas of the country have no perennial water and a poorly developed water-supply infrastructure. Only the extreme north and south of the country have perennial rivers, and large storage dams on episodic rivers are confined to the central region and along the Fish River catchment in the south. Much of the country is unsuitable for the development of storage dams because of flat terrain, e.g. the north and east of the country, while the south has few options outside of the Fish River catchment. It should be mentioned that, because of the large evaporative loss from surface storage dams (2.6-3.7 m per year), recharge of groundwater aquifers from which water is abstracted, is an option which should enjoy increased consideration and research. In support of this option is the fact that, on average, only about 13% of the capacity of state dams is available as safe yield.

Desertification

Desertification is identified by (a) declining biological production, (b) deterioration of the physical environment and (c) increased hazards for human settlement and life. Desertification is brought about by three factors coming together: first, a fragile, arid or semi-arid system (less than 500 mm/year rainfall). Second, increased human pressure often resulting from an increase in population or a change in lifestyle (e.g. from nomadic to resident), and third, climatic conditions in which low rainfall predominates for a number of years. While many people, and particularly governments, are quick to call these low-rainfall years "droughts" they are in fact only an expression of the normal variability of rainfall in arid regions.

From these criteria, the degree of hazard with rainfall faced by different regions of the world had been assessed. All regions with rainfall below about 500 mm are at some risk of desertification. In Namibia, the western and southern regions are rated as "highly vulnerable" to desertification, with the western part of Owanobo and the central western commercial farmlands being rated as "very high" (Figure 3.10).

The so-called march of the desert is probably as old as settled communities. The best recent example of desert encroachment occurred with the Sahelian drought between 1968 and 1974, when climatically and ecologically the Sahara extended its limits by 5 degrees of latitude (about 600 km). If a similar situation were to take place in Namibia, the Namib Desert would extend its range in the north as far east as Rundu, in the centre to east of Gobabis and in the south to about 100 km into Botswana; Namibia would have lost over 80% of its productive surface area to the Namib Desert.
DESERIFICATION MAP FOR SOUTHERN AFRICA PREPARED FOR UNCOD. DESERTIFICATION IS HERE DEFINED AS "THE INTENSIFICATION OR EXTENSION OF DESERT CONDITIONS."

LEGEND

W - SURFACES SUBJECT TO SAND MOVEMENT
R - STONY OR ROCKY SURFACES SUBJECTS TO AERIAL STRIPPING BY DEFLATION OR SHEET WASH
V - ALLUVIAL OR RESIDUAL SURFACES SUBJECT TO STRIPPING OF TOPSOIL AND ACCELERATED RUNOFF, GULLEY EROSION ON SLOPES AND, OR SHEET EROSION OR DEPOSITION ON FLAT LANDS
S - SURFACES SUBJECT TO SALINIZATION OR ALKALINIZATION
H - SUBJECT TO HUMAN PRESSURE
A - SUBJECT TO ANIMAL PRESSURE

FIGURE 3.10 DEGREE OF DESERTIFICATION HAZARD FOR SOUTHERN AFRICA
In Namibia, natural geographic shifts in desert conditions can be seen over much smaller distances, during wetter and drier cycles. These shifts can be monitored by recording the distribution changes of certain indicator species. During dry phases, certain Namib Desert species extend their ranges 50-100 km eastward, while in wetter phases, species extend their ranges westwards. These shifts are natural responses to climatic conditions and the environment naturally swings back and forth within certain parameters. However, when man does not similarly respond, e.g. by being nomadic or severely reducing stocking rates, then the system is driven into a different state of lower productivity, from which it usually does not recover.

Desertification is seldom uniform and progressive. Instead, it takes place through a coalescence of islands of degradation, as fragile dryland ecosystems are allowed to degenerate through misapplied technology, bad management or other human controls.

One of the best ways of promoting desertification is to settle too many people and domestic stock within closed farming systems with artificial waters, within areas rated as highly susceptible to desertification. The best way to protect the country against this threat is to promote (a) low human and stock densities, (b) open grazing systems, (c) the use of species adapted to arid conditions and variable rainfall, e.g. indigenous wildlife, and (d) if domestic stock is farmed, to promote a policy of very rapid destocking during times of low rainfall. A sophisticated monitoring system is needed in high risk desertification areas, to pick up subtle changes in the environment as a result of inappropriate management. Appropriate research, training and legislation is needed to obtain and transfer information and skills, and where necessary, force compliance with management procedures.

**Human Life-Styles**

Before western colonisation of Namibia, the inhabitants of the country were concentrated in the northern and eastern regions (Figure 3.11). The southern and western parts were characterised by occupation by few people who were largely nomadic in nature. Two main lifestyles predominated in the arid regions, (a) hunter-gatherer (e.g. San) and (b) stock herders (e.g. Nama and Herero). These lifestyles allowed people to be highly mobile and nomadic, in response to the unpredictable rainfall of the region. Since colonial times, land-use practices have changed, with western man introducing a more sedentary existence. To make a sedentary and commercially viable existence possible in the southern and western regions, however, it was found that individuals had to own (a) very large tracts of land, and (b) often two
FIGURE 3.10 DISTRIBUTION OF PEOPLE IN 1820 BEFORE WESTERN COLONIZATION SHOWING THAT PEOPLE WITH A NOMADIC LIFE STYLE (SAN, NAMA, & HERERO) OCCUPIED THE DRY SOUTH & WEST, & PEOPLE WITH A NON SEDENTARY LIFE STYLE OCCUPIED THE EXTREME NORTH

FIGURE 3.11 GEOGRAPHICAL DISTRIBUTION OF INHABITANTS - 1820
or more farms. Even then, the southern and western commercial farming regions of Namibia are characterised by periods of high owner absenteeism, when they are forced to find work elsewhere to finance their farms.

As an example, the settlement of people in Damaraland following the Odendaal Plan has only been maintained with a very high level of subsidy and at considerable cost to the environment. If these subsidies were withdrawn, serious socio-economic problems would result and a high level of urban migration would undoubtedly follow.

**Erosion**

Much of Namibia is highly vulnerable to soil erosion, in the form of gully and sheet erosion from high energy thunderstorm rainfall, and wind erosion. The rate of soil erosion is generally inversely proportional to the amount of vegetation cover. In arid regions, vegetation cover is usually sparse, and this is further decreased by poor management practices.

There is considerable evidence of soil erosion taking place over large parts of the country, which is clearly linked to overgrazing and mismanagement. Despite having a Soil Conservation Act (No 76 of 1969) within the Ministry of Agriculture, this Act has never been applied and is not considered to be effective. This act must either be abolished or amended to make it more effective.

**Bush Encroachment**

Bush encroachment is one of the most serious forms of habitat degradation in Namibia. It affects over 14 million ha, mostly in commercial farming districts (Table 3.23).

Bush encroachment is most severe in the 300-500 mm mean annual rainfall zone, particularly on calcareous soils in Tsumeb and Grootfontein, where the number of small woody trees and shrubs can average 10 000 plants per hectare (Figure 3.12). This has reduced the ecological carrying capacity of commercial farmlands considerably, in some areas from one large stock unit (LSU) on 10 ha to one LSU on 40 ha. It is estimated to have caused a loss in beef production over the last 30 years at least R 50 million.

Little data exists on the rate of bush encroachment. Some estimates have been made for the Waterberg area by comparing historic ground photographs and aerial photographs of different dates. In the early 1940's the region was
FIGURE 3.12 REGIONS OF THE COUNTRY MOST SUSCEPTIBLE TO BUSH ENCROACHMENT
an open grassland with some large *Acacia erioloba* trees, giving a ground cover by woody vegetation of about 15%. In 1961 the estimated ground cover had increased to 40-60% and in 1979 to 70-80%, with some areas having more than 90% covered by woody vegetation. The main encroaching species are *Acacia mellifera* subsp. *delinens* and *Dichrostachys cinerea*.

There is a popular conception that bush encroachment is the direct result of overgrazing. While this might be one of the main management-related factors, to view overgrazing as the only cause of bush encroachment would be to over-simplify the problem. Bush encroachment usually results from a number of interacting factors, of which mismanagement is one:

- continuous removal of the grass and herb layer by grazing, as opposed to short periods of high intensity grazing,

- absence of veld fires which would kill the seedlings of woody vegetation,

- exclusion of browsing animals, particularly large browsers which are destructive to woody vegetation,

- climatic conditions favourable for the flowering, seeding and germination of woody vegetation, followed by drier periods during which water is accessible only to deeper-rooted woody plants and not to shallow-rooted grasses.

As with other resources, water is partitioned within different components of the system. Once it becomes held and accessed preferentially by the bush, it is very difficult and costly to swing the system back to one dominated by grasses.

Costs of restoration depend on the density, species composition and method of bush destruction, but usually far exceed the market value of land (R50-100 per ha). Estimated costs for a uniform stand of 2 000 stems per ha range from R140 to R800, with the less expensive methods generally being less selective in plant species destroyed than the more expensive methods.

Firstly, from a resettlement point of view, farms which have been badly encroached would

- hold little attraction to prospective farmers,

- pose a threat of further ecological degradation unless skilfully managed, and
be costly to the Government if they were to be restored before allocation.

Secondly, the region of the country susceptible to bush encroachment (300-500 mm rainfall zone) should be carefully managed. This involves

- not dividing the land into small units,
- judicious use of fire and
- introducing grazing systems that promote short period, high intensity grazing and allow grass a good period for recovery.

Thirdly, prospective new landowners as well as current owners should be properly trained in farm management and environmental matters.

*Agricultural Constraints*

A review of conventional agriculture in Namibia during colonial times leaves one in little doubt that commercial farmlands have, in general, been poorly managed. This has happened despite the fact that the vast majority of financial and technical support has been invested in the conventional commercial farming sector to the detriment of communal farmers and less conventional forms of land use.

A major cause of the failures has been the eurocentric approach taken to agriculture. Examples include dividing up land into closed farming units, providing set carrying capacity figures and prescribing rigid policy, e.g. on veld burning. These inflexible practices have taken no account of the highly variable climate. Whereas the natural environment adapts by responding to climate trends, e.g. by nomadic behaviour, reduced breeding, etc., the agricultural sector has responded by trying to prop up the artificial system with financial subsidies paid by the state. In many cases these subsidies have further exacerbated the problem by providing financial incentives for continued and increased mismanagement such as overgrazing.

It is apparent that if agriculture in Namibia is to be run on a sustainable basis with a productive future, a strong policy is required that fully takes into account the highly variable climatic conditions that occur in arid and semi-arid regions. Such policy should be innovative and look at land-use options which are more compatible with fragile ecosystems than is conventional agriculture.
This policy on sustainable agriculture is fundamental to any policy on land reform. There needs to be a commitment to an increased level of research funding on (a) sustainable management of agricultural land in arid and semi-arid regions, and (b) desertification, with particular attention to indicators, monitoring and counter-measures. In addition, there needs to be an increased level of training, not only for new farmers but also for current farmers.

Finally, it is essential that criteria be identified that indicate mismanagement, and that clear and consistent measures be applied to ensure that landowners do not continue to mismanage the country’s finite and fragile agricultural lands.

### TABLE 3.23 ESTIMATED SURFACE AREA AFFECTED BY BUSH ENCROACHMENT IN SELECTED COMMERCIAL FARMING DISTRICTS: 1986

<table>
<thead>
<tr>
<th>District</th>
<th>Surface area (1,000 ha)</th>
<th>Estimated bush infestation (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grootfontein</td>
<td>2,565</td>
<td>80</td>
</tr>
<tr>
<td>Tsumeb</td>
<td>894</td>
<td>90</td>
</tr>
<tr>
<td>Otjiwarongo</td>
<td>1,955</td>
<td>75</td>
</tr>
<tr>
<td>Otjo</td>
<td>2,628</td>
<td>50</td>
</tr>
<tr>
<td>Okahandja</td>
<td>1,432</td>
<td>50</td>
</tr>
<tr>
<td>Gobabis</td>
<td>4,039</td>
<td>50</td>
</tr>
<tr>
<td>Omaruru</td>
<td>850</td>
<td>30</td>
</tr>
</tbody>
</table>

Source: Ministry of Agriculture, Water and Rural Development

**Wildlife Management**

This form of land-use has gained considerable acceptance and popularity in Zimbabwe following a detailed study of natural resource economics comparing traditional animal husbandry and wildlife management.

The rationale behind wildlife management is that indigenous animals

- are better adapted to local environmental conditions,
• have evolved with the plants on which they feed and thus have less impact,
• feed at a number of tropic levels (i.e. bulk and specialists feeders, grazers and browsers at different heights) and thus the carrying and harvesting capacity is higher,
• need less support and maintenance services, and
• allow a more diverse marketing programme.

Such a programme can derive income from the following activities
• tourism,
• trophy and sport hunting,
• cropping (including night culling) for meat sales, and
• live sale of animals.

In addition, wildlife can be used to provide food for land owners and staff. Some of these activities generate secondary income, mostly in the form of foreign exchange, e.g. tourism and trophy hunting.

In Namibia it has long been recognised that wildlife forms an important part of the economy of commercial farmlands. Many farmers are dependent on wildlife to keep their operation viable. Presently over 6 000 farms (about 94% of all commercial farms) are registered with the Ministry of Wildlife as utilizing game animals. This ranges from full-time, exclusive game ranches through mixed farming (wildlife and domestic stock) to stock farming with wildlife being incidental, but occasionally used. The income generated from wildlife management during 1991 is given in Table 3.24.

It must further be borne in mind that there are no subsidies and large, expensive support structures for wildlife management, as there are for conventional agriculture (e.g. fully subsidised veterinary and agricultural services, low-interest loans, drought relief, etc.) Further, the secondary incomes can be quite considerable.

For example, the trophy hunting profession have calculated that an additional amount of about R30 million is spent in Namibia on support services (e.g. hotels, transport, goods) by trophy hunters alone.
Wildlife management is obviously a lucrative yet environmentally sustainable land-use practice that does not require a large government investment. Whether it is conducted as a specialist activity, or in association with normal animal husbandry, it is important to note that (a) relatively large areas of land are needed, particularly in the arid western and southern parts of the country, and (b) systems should be as open as possible, allowing the movement of animals in response to rainfall.

When considering the resettlement of people on commercial farmlands, it is generally considered that conventional agriculture will be the land-use practice adopted. From the above, it is worth including the practice of wildlife management into the agricultural equation, either as a pure land-use form, or in combination with traditional stock farming, particularly in areas of high desertification hazard.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Revenue (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Live sale of game</td>
<td>6 422 150</td>
</tr>
<tr>
<td>Trophy hunting</td>
<td>13 233 060</td>
</tr>
<tr>
<td>Sport hunting</td>
<td>1 702 150</td>
</tr>
<tr>
<td>Game meat sales</td>
<td>3 102 587</td>
</tr>
<tr>
<td>Value of wildlife used by farmers</td>
<td>6 146 056</td>
</tr>
<tr>
<td>Registration fees</td>
<td>252 575</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>30 758 578</strong></td>
</tr>
</tbody>
</table>

Source: Veterinary Services

**Conclusion**

Taking all the factors discussed above into account, it is apparent that certain regions of the country are not well suited for conventional agriculture and, in particular, are unsuitable for resettlement programmes in which land is put under pressure by moving relatively large numbers of people and their livestock onto enclosed farming units (e.g. the Damaraland situation). The areas that constitute high risk areas inappropriate for resettlement are those
• with rainfall below about 300 mm,

• that have a variation in rainfall of more than about 50%,

• that have a high risk of desertification and

• that traditionally supported people with a nomadic lifestyle.

When plotted, these criteria all largely match up to the western and southernmost parts of the country, as shown in Figure 3.13. In addition, these areas generally have a poor supply of groundwater that is expensive to exploit. They therefore lend themselves far better to alternative forms of land-use such as eco-tourism and wildlife management. This approach is in keeping with the Common African Position adopted for the prevention of desertification, in which "green belts" are recommended for regions surrounding the Sahara, Kalahari and Namib Deserts. These "green belts" would act as buffers to deserts, and land-use practices compatible with the harsh and fragile environment should be promoted in preference to conventional agriculture.

It must be emphasised that the term "resettlement" does not refer to the process of achieving an equitable re-distribution of land, but rather to the process of further dividing land into smaller, enclosed units to accommodate more people and livestock. The emphasis in the south and west should be for large, open systems that encourage a more environmentally friendly land-use form than conventional agriculture.

In conclusion, the implementation of appropriate research, training, monitoring and legislation in land and environmental management are absolutely critical if Namibia is to obtain sustainable benefits from commercial farmlands for this and future generations, and is to prevent a large scale shift of the Namib Desert eastward. Training is not needed only for new land owners/settlers in the commercial region, but also for existing farmers as well as farmers in the communal regions. Only in this way will the productivity of the land be retained and rehabilitated.
FIGURE 3.13 REGIONS OF NAMIBIA CONSIDERED INAPPROPRIATE FOR CONVENTIONAL, AND ESPECIALLY FOR SETTLED AGRICULTURE
3.1.3 Economic and Financial Considerations

3.1.3.1 Economic considerations

Viability of farms of different sizes
It can be argued that maximum farm income is directly dependent on farm size. Production methods and income generation must be directed in a manner designed to ensure maximum returns on investment. Over-exploitation of land must however not take place if future production and income generation is to be secured.

To assess the performance of farms with different sizes, a computer simulation was conducted by the Directorate of Planning, Ministry of Agriculture, looking at:

- farm sizes: 1000, 2000, 3000 and 4000 ha.
- different levels of loan repayment: 100%, 75%, 50% and 25%.
- different levels of production cost per ha: R8, R5 and R3.
- different weaning percentages: 60%, 70% and 80%.

Loans were considered for repayment over a period of 30 years at 4% interest. Simulation results are shown in Table 3.25, illustrating the years in which the cashflow would be negative. The results indicated that:

- as farm size increases, the cashflow improves,
- as the amount of the loan to be repaid is reduced, the cashflow also improves,
- higher weaning percentages result in a better cashflows,
- lower costs of production per ha improve cashflow.

This simulation showed that farms smaller than 4000 ha are not viable given the assumptions made. It is also clear that lower costs of production, higher weaning percentages and a lower rate of capital repayment improves cashflow.
TABLE 3.25  CASHFLOW OF FARMS OF DIFFERENT SIZES, AT THREE DIFFERENT WEANING PERCENTAGES AND AT THREE LEVELS OF COST OF PRODUCTION PER HA OVER A PERIOD OF THIRTY YEARS

<table>
<thead>
<tr>
<th>Production cost/ha</th>
<th>Loan repayment 100%</th>
<th>75%</th>
<th>50%</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R3</td>
<td>R5</td>
<td>R8</td>
<td>R3</td>
</tr>
<tr>
<td>Farm size 1000 ha</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60% Weaning</td>
<td>-1.30</td>
<td>-1.30</td>
<td>-1.30</td>
<td>-1.30</td>
</tr>
<tr>
<td>70% Weaning</td>
<td>-1.30</td>
<td>-1.30</td>
<td>-1.30</td>
<td>-1.30</td>
</tr>
<tr>
<td>80% Weaning</td>
<td>-1.30</td>
<td>-1.30</td>
<td>-1.30</td>
<td>-1.30</td>
</tr>
<tr>
<td>Farm size 2000 ha</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60% Weaning</td>
<td>-1.15</td>
<td>-1.14</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>70% Weaning</td>
<td>-1.11</td>
<td>-1.11</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>80% Weaning</td>
<td>-1</td>
<td>-1.29</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>Farm size 3000 ha</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60% Weaning</td>
<td>-1</td>
<td>-1.27</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>70% Weaning</td>
<td>-1</td>
<td>-1.7,10</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>80% Weaning</td>
<td>-1</td>
<td>-1</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>Farm size 4000 ha</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60% Weaning</td>
<td>-1</td>
<td>-1.2</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>70% Weaning</td>
<td>-1</td>
<td>-1.10</td>
<td>-1.30</td>
<td>-1</td>
</tr>
<tr>
<td>80% Weaning</td>
<td>-1</td>
<td>-1</td>
<td>-1.30</td>
<td>-1</td>
</tr>
</tbody>
</table>

Amounts to be repaid annually by farms of different sizes: amounts range from 100% repayments of loans to only repaying a quarter (25%) of the capital.

<table>
<thead>
<tr>
<th>1000 Ha farms: repayment/year</th>
<th>2000 Ha farms: repayment/year</th>
<th>3000 Ha farms: repayment/year</th>
<th>4000 Ha farms: repayment/year</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% of R 80 000 = R 4 626</td>
<td>100% of R 180 000 = R 10 490</td>
<td>100% of R 270 000 = R 15 614</td>
<td>100% of R 320 000 = R 18 506</td>
</tr>
<tr>
<td>75% of R 80 000 = R 3 740</td>
<td>75% of R 180 000 = R 7 807</td>
<td>75% of R 270 000 = R 11 711</td>
<td>75% of R 320 000 = R 13 897</td>
</tr>
<tr>
<td>50% of R 80 000 = R 2 313</td>
<td>50% of R 180 000 = R 2 502</td>
<td>50% of R 270 000 = R 7 808</td>
<td>50% of R 320 000 = R 9 253</td>
</tr>
<tr>
<td>25% of R 80 000 = R 1 157</td>
<td>25% of R 180 000 = R 2 602</td>
<td>25% of R 270 000 = R 3 904</td>
<td>25% of R 320 000 = R 4 626</td>
</tr>
</tbody>
</table>

Note: The repayment period used for the model is 30 years. The table only shows the number of years when the cashflow was negative, denoted by (-)

Source: Directorate of Planning, MAWRD
### TABLE 3.26 FINANCIAL RESULTS OF A SAMPLE OF VOLUNTARY FARMERS FOR THE 1989/90 FINANCIAL YEAR

<table>
<thead>
<tr>
<th>Carrying capacity</th>
<th>1:8LSU</th>
<th>1:10LSU</th>
<th>1:12LSU</th>
<th>1:15LSU</th>
<th>1:3SSU</th>
<th>1:4SSU</th>
<th>1:5SSU</th>
<th>1:6SSU</th>
<th>1:8SSU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biomass per ha (kg)</td>
<td>28.30</td>
<td>21.70</td>
<td>21.56</td>
<td>20.34</td>
<td>11.74</td>
<td>12.92</td>
<td>7.57</td>
<td>6.93</td>
<td>3.52</td>
</tr>
<tr>
<td>Average farm Size (ha)</td>
<td>8 735</td>
<td>8 627</td>
<td>8 257</td>
<td>14 727</td>
<td>7 578</td>
<td>9 899</td>
<td>16 195</td>
<td>20 230</td>
<td>24 975</td>
</tr>
<tr>
<td>Large Stock</td>
<td>666</td>
<td>547</td>
<td>284</td>
<td>429</td>
<td>151</td>
<td>22</td>
<td>20</td>
<td>73</td>
<td>0</td>
</tr>
<tr>
<td>Small Stock</td>
<td>34</td>
<td>167</td>
<td>1 445</td>
<td>3 920</td>
<td>1 222</td>
<td>2 426</td>
<td>2 400</td>
<td>2 466</td>
<td>1 783</td>
</tr>
<tr>
<td>No of Participants</td>
<td>33</td>
<td>16</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>20</td>
<td>27</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>Labourers</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Gross Farm Income(R)</td>
<td>204 777</td>
<td>156 915</td>
<td>201 985</td>
<td>140 049</td>
<td>176 733</td>
<td>147 505</td>
<td>141 507</td>
<td>147 779</td>
<td>60 041</td>
</tr>
<tr>
<td>Gross Farm Expenses</td>
<td>92 947</td>
<td>63 269</td>
<td>76 886</td>
<td>98 114</td>
<td>83 292</td>
<td>59 970</td>
<td>54 095</td>
<td>62 390</td>
<td>35 104</td>
</tr>
<tr>
<td>Net Farm Income</td>
<td>111 830</td>
<td>93 646</td>
<td>125 098</td>
<td>41 935</td>
<td>93 440</td>
<td>87 535</td>
<td>87 413</td>
<td>85 389</td>
<td>24 937</td>
</tr>
<tr>
<td>Rent</td>
<td>5 209</td>
<td>9 699</td>
<td>2 838</td>
<td>0.00</td>
<td>5 096</td>
<td>1 293</td>
<td>777</td>
<td>275</td>
<td>0.00</td>
</tr>
<tr>
<td>Interest</td>
<td>9 487</td>
<td>17 376</td>
<td>24 861</td>
<td>40 187</td>
<td>10 194</td>
<td>4 150</td>
<td>15 124</td>
<td>8 745</td>
<td>555</td>
</tr>
<tr>
<td>Net Farm Profit/Loss</td>
<td>97 134</td>
<td>66 571</td>
<td>97 399</td>
<td>1 747</td>
<td>78 150</td>
<td>82 092</td>
<td>71 513</td>
<td>76 370</td>
<td>24 382</td>
</tr>
<tr>
<td>Non Farm Income</td>
<td>33 521</td>
<td>19 315</td>
<td>43 118</td>
<td>46 744</td>
<td>40 626</td>
<td>32 788</td>
<td>22 700</td>
<td>104 201</td>
<td>21 501</td>
</tr>
<tr>
<td>Non Farm Expenses</td>
<td>20 952</td>
<td>10 523</td>
<td>18 971</td>
<td>2 185</td>
<td>19 259</td>
<td>13 059</td>
<td>15 610</td>
<td>34 091</td>
<td>4 250</td>
</tr>
<tr>
<td>Expenses on Household</td>
<td>27 890</td>
<td>21 368</td>
<td>31 474</td>
<td>31 480</td>
<td>19 222</td>
<td>26 452</td>
<td>27 388</td>
<td>36 964</td>
<td>17 322</td>
</tr>
<tr>
<td>Tax Paid</td>
<td>6 438</td>
<td>2 517</td>
<td>229</td>
<td>8 849</td>
<td>0.00</td>
<td>3 741</td>
<td>2 194</td>
<td>5 455</td>
<td>4 923</td>
</tr>
<tr>
<td>New fixed Improvements</td>
<td>12 296</td>
<td>10 882</td>
<td>6 312</td>
<td>19 678</td>
<td>6 241</td>
<td>3 517</td>
<td>3 944</td>
<td>10 383</td>
<td>1 866</td>
</tr>
<tr>
<td>Loan Repayments:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paid</td>
<td>8 180</td>
<td>8 579</td>
<td>13 988</td>
<td>10 127</td>
<td>24 688</td>
<td>4 462</td>
<td>6 093</td>
<td>3 521</td>
<td>2 545</td>
</tr>
<tr>
<td>Owed</td>
<td>12 807</td>
<td>8 719</td>
<td>42 893</td>
<td>19 423</td>
<td>50 153</td>
<td>10 662</td>
<td>12 385</td>
<td>5 216</td>
<td>5 221</td>
</tr>
</tbody>
</table>

Source: Directorate of Planning, MAWRD
<table>
<thead>
<tr>
<th>Carrying capacity</th>
<th>1:8LSU</th>
<th>1:10LSU</th>
<th>1:12LSU</th>
<th>1:4SSU</th>
<th>1:5SSU</th>
<th>1:6SSU</th>
<th>1:8SSU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biomass per ha (kg)</td>
<td>28.65</td>
<td>25.78</td>
<td>21.94</td>
<td>11.73</td>
<td>7.73</td>
<td>6.43</td>
<td>3.29</td>
</tr>
<tr>
<td>Average farm Size (ha)</td>
<td>8,858</td>
<td>9,450</td>
<td>8,257</td>
<td>10,171</td>
<td>19,803</td>
<td>19,050</td>
<td>16,531</td>
</tr>
<tr>
<td>Large Stock</td>
<td>777</td>
<td>648</td>
<td>307</td>
<td>41</td>
<td>31</td>
<td>82</td>
<td>24</td>
</tr>
<tr>
<td>Small Stock</td>
<td>35</td>
<td>271</td>
<td>1,385</td>
<td>2,979</td>
<td>3,223</td>
<td>1,864</td>
<td>1,840</td>
</tr>
<tr>
<td>No of Participants</td>
<td>25</td>
<td>26</td>
<td>6</td>
<td>14</td>
<td>10</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Labourers</td>
<td>6</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Gross Farm Income (R)</td>
<td>241,837</td>
<td>174,549</td>
<td>154,763</td>
<td>113,947</td>
<td>185,920</td>
<td>98,945</td>
<td>35,695</td>
</tr>
<tr>
<td>Gross Farm Expenses</td>
<td>118,770</td>
<td>110,013</td>
<td>72,373</td>
<td>65,073</td>
<td>68,638</td>
<td>75,718</td>
<td>26,391</td>
</tr>
<tr>
<td>Net Farm Income</td>
<td>123,066</td>
<td>64,535</td>
<td>82,389</td>
<td>48,874</td>
<td>117,281</td>
<td>23,226</td>
<td>9,304</td>
</tr>
<tr>
<td>Rent</td>
<td>8,086</td>
<td>5,826</td>
<td>4,575</td>
<td>1,494</td>
<td>2,920</td>
<td>183</td>
<td>0.00</td>
</tr>
<tr>
<td>Interest</td>
<td>11,382</td>
<td>19,520</td>
<td>26,448</td>
<td>5,681</td>
<td>16,143</td>
<td>13,756</td>
<td>4,052</td>
</tr>
<tr>
<td>Net Farm Profit/Loss</td>
<td>103,598</td>
<td>39,188</td>
<td>51,266</td>
<td>41,698</td>
<td>98,217</td>
<td>9,287</td>
<td>5,251</td>
</tr>
<tr>
<td>Non Farm Income</td>
<td>37,573</td>
<td>26,206</td>
<td>40,115</td>
<td>27,895</td>
<td>25,036</td>
<td>45,460</td>
<td>22,634</td>
</tr>
<tr>
<td>Non Farm Expenses</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Expenses on Household</td>
<td>30,889</td>
<td>31,293</td>
<td>35,720</td>
<td>28,907</td>
<td>25,578</td>
<td>26,666</td>
<td>18,893</td>
</tr>
<tr>
<td>Tax Paid</td>
<td>5,953</td>
<td>7,451</td>
<td>92.00</td>
<td>6,708</td>
<td>1,931</td>
<td>2,925</td>
<td>1,962</td>
</tr>
<tr>
<td>New fixed Improvements</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Loan Repayments</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paid</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Owed</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

Source: Directorate of Planning, MAWRD
Table 3.26 shows the financial results of farmers who, on a voluntary basis, provided figures on the performance of their farms for the financial year 1989/90. The Net Farm Profit/Loss, i.e., the amount of money a farmer retains after all deductions of expenses, ranges from R 1 747 to R 97 399 with an average of R 66 151. From this sample, it is also worth noting that all farms were profitable.

Note that the amount of non-farming income is relatively high. It ranges from R 19 315 to R 104 201 per farmer with an average of R 40 502 per farm. Added to the average net farm profit, this produces an average income per farm of R 106 652.

Similar figures for 1990/91 in Table 3.27 show net farming profits ranging from R 5 251 to R 103 598. The average income is close to R 50 000 per farm. Non-farming income averaged just over R 32 000, thus increasing total farm income to over R 80 000. The 1990/91 season was clearly poorer than the previous season.

### TABLE 3.28 RELATIONSHIP BETWEEN FARM SIZE AND AVERAGE ECONOMIC RETURN FOR 1969/70

<table>
<thead>
<tr>
<th>Farm size range (ha)</th>
<th>No of farms in sample</th>
<th>Average farm size (ha)</th>
<th>Gross farm income (R)</th>
<th>Net farm income (R)</th>
<th>Net farm income/ha (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 000 - 3 500</td>
<td>21</td>
<td>2 917</td>
<td>12 185</td>
<td>5 820</td>
<td>2.00</td>
</tr>
<tr>
<td>3 501 - 5 000</td>
<td>31</td>
<td>4 294</td>
<td>12 441</td>
<td>6 872</td>
<td>1.60</td>
</tr>
<tr>
<td>5 001 - 7 500</td>
<td>59</td>
<td>5 980</td>
<td>15 300</td>
<td>9 103</td>
<td>1.52</td>
</tr>
<tr>
<td>7 501 - 9 000</td>
<td>10</td>
<td>7 971</td>
<td>23 739</td>
<td>13 920</td>
<td>1.75</td>
</tr>
<tr>
<td>9 001 - 10 500</td>
<td>15</td>
<td>9 874</td>
<td>23 002</td>
<td>11 554</td>
<td>1.17</td>
</tr>
<tr>
<td>10 501 &amp; bigger</td>
<td>13</td>
<td>12 653</td>
<td>27 732</td>
<td>14 587</td>
<td>1.17</td>
</tr>
</tbody>
</table>


Farm size is directly correlated with farming income (Table 3.28). As farm size increases, both gross farming income (GFI) and net farming income (NFI) increase. There is an indication that both GFI and NFI level off after 9 000 ha. Assuming that this effect is real, this suggests that optimum farm
size is between 7 000 and 9 000 ha in the area where this study was carried out.

A study carried out on behalf of the NAU at the beginning of the 1980's showed, however, that in most districts only farms which are above 10 000 ha were making a profit while, most farms below this size ran at a loss. The results of this study were considered to be influenced by the ongoing drought.

From the simulation and the above studies it appears that the viability of a farm is determined by the size, the cost of production per ha and the rate of repayment of capital. However, there are other factors which influence viability.

If small farmers from communal areas are to be resettled in commercial areas, a question arises as to whether farms should be divided into smaller units or whether they should remain intact.

There is a long-standing view within the Ministry of Agriculture that commercial farms should not be less than 4 000 ha in the large stock farming areas or the equivalent in the sheep farming areas. This assumes a carrying capacity of 1:10 LSU (large stock unit). The decision to allocate the above minimum size assumes a certain life style and standard of living. In the previous dispensation, it was assumed that the above minimum size is applicable to full time white farmers.

The former Tswana administration bought commercial farms, divided them up into units with a carrying capacity of not more than 50 large stock units (LSU) and resettled people there. Figures on the income of these farms are not available. However, it is recommended that, for the future, statistics be recorded to evaluate the success of this and similar initiatives.

Although cost of production per ha on commercial farms is around R8/ha, it does not necessarily follow that a communal area farmer will incur the same cost if resettled there. Firstly, labour costs would probably be lower because family labour would be used. Secondly, the living standards in communal areas are low and farmers from there would not have the same income expectations as existing commercial farmers. The average income from a commercial farm in 1989/90 was R 66 151 p.a. (Table 3.26). A new entrant from communal areas may have an income expectation of half that amount. Thirdly, if new farmers are to be assisted at the initial stage,
particularly with the purchases of small amounts of land, it will reduce their financial burdens in relation to normal purchase on the open market.

If farms are too small, however, they may not survive a period of below average rainfall, unless rapid de-stocking takes place at these times in line with the drought monitoring procedures being installed. Below average rainfall events are common in Namibia, particularly in the south and west. It can also be argued that by subdividing commercial farms into smaller units, we may be promoting poverty, i.e. enabling people to survive but nothing more. For this reason it is vital that this type of land allocation be subjected to careful evaluation. There will never be enough land for everybody. The size of the farm must be economical. It must produce wealth, contribute to the economy, to social stability and security and employment.

The computer simulation applied normal commercial criteria and therefore indicated a minimum size related to these criteria. Relaxation of the financial parameters showed that smaller units can be viable, suggesting that both systems may exist alongside one another and a balance should be sought to obtain the best of both. The history of this country is characterised by the indigenous majority being systematically displaced from the land in favour of the white minority. This process was promoted by official colonial policies, and the white farmers were further supported by a range of government subsidies.

The displacement of the black majority from the land by previous policies was aimed at advancing the interests of the white minority while at the same time restricting those of the black majority. There are calls to rectify some of these past injustices. This cannot be done by merely relying on the free market system but rather by using both market mechanisms and state intervention to achieve the desired objectives. This is in line with the present government policy of a mixed economy and a programme of affirmative action.

The main consideration at the moment is to resettle people from communal areas into commercial areas. There are two types of farmers who can be resettled in this context. The first is the well-to-do farmer who is probably farming on a commercial basis, in a communal area. It is assumed that this type of farmer has a certain amount of resources and skills to enable him to farm on a commercial basis if encouraged. The second category is the small farmer who may posses 40 or 50 cattle but lacks the resources to move into
the commercial areas and for whom it would not be feasible unless smaller units could be considered.

Well-to-do farmers in communal areas would probably qualify to benefit from the Loan Financing Scheme which is to be implemented by the future Land and Agricultural Bank. This will enable these farmers to move into commercial areas. But for small farmers, who may not qualify but wish to be resettled in commercial areas, there is no financial provision.

Indeed, according to the Subdivision of Agricultural Land Act of 1970, farms cannot be subdivided into what is termed "uneconomic units".

The argument that the sub-division of commercial farms into smaller units will lead to poverty and environmental degradation, may be a valid one. The proponents of this theory point out that the division of existing farms into smaller units will for all practical purposes turn commercial areas into communal areas.

This need not be the case. Firstly, the number of livestock belonging to the settlers should not exceed the carrying capacity of the farm. Secondly, legal control measures must be put into place to ensure that farmers do not overstock. This is vital given the fragile nature of our environment. Such measures must be strictly enforced. Thirdly, farmers to be resettled must undergo special training to introduce them to modern methods of farming, farm accounting procedures and techniques of farming which are environmentally friendly.

The land conference reached consensus that commercial areas must remain commercial, while communal areas remain communal. However, it must also be recognised that there is extreme population pressure in parts of some communal areas. Although it is not possible to provide every person with land, current pressure in communal areas can be reduced by resettling some people in an orderly and well planned fashion in commercial areas. The Government has a policy of national reconciliation, affirmative action and integration. In line with this policy, the potential exists for integrating the farming community through affirmative action by bringing farmers from communal areas into commercial areas. In doing this, the cost considerations will have to be addressed.
Effect of Technology on farms

Agricultural technology is the application of scientific methods to farming activities to reduce operational time, save production costs and increase the volume of production.

The adoption of new technologies is a vital part of development. The constant use of the same technology has a declining marginal efficiency effect on the capital invested in the farm enterprise. This in itself is sufficient to reduce first the marginal and then the average product of the employed capital to zero. The implication of this is to update technology when the return on capital declines.

Commercial farming in Namibia is dominated by livestock with crops contributing minimally to total commercial farming income.

It has been established that there will be a drought in the northern commercial farming areas in 4 - 6 out of every ten years and farmers are therefore encouraged not to rely on only one enterprise.

A technological gap exists between commercial and communal farming areas. The commercial farms use relatively advanced technology, the management of these farms is relatively good in comparison to communal areas and they produce for the market. On the other hand, farmers in communal areas produce for subsistence and they lag behind in terms of both management and technology.

Comparison of the skills of communal with those of commercial farmers shows that they are operating at different levels. Communal farmers have learnt in an informal manner to select crops for disease and drought resistance as well as for good yield and they have developed methods of tending for these crops. Overall they lack the skills and tools to analyze and address problems facing them on a scientific basis.

Communal farms have evolved techniques of managing their livestock herds well and even improving on traditional methods by adopting some modern techniques. However, due to conditions prevailing in communal areas, it is difficult to implement proper livestock management mechanisms. These farmers also lack the scientific knowledge to deal with animal diseases.

By contrast, commercial farmers usually use modern methods in both crop and livestock production. Overall, their level of technology is higher than
in communal areas, but there are numerous cases of mismanagement - both economically and ecologically - as exemplified by bush encroachment, soil erosion and desertification.

It is important to emphasize that communal farmers resettled in commercial areas, will have to farm on a commercial basis. These farmers will need assistance, particularly training, to introduce them to appropriate modern methods, thus improving their operational technology.

**Efficiency of commercial farms**

Efficiency is reflected in the relationship of inputs to outputs. It is an indicator used to evaluate the performance and financial strength of farm enterprises from year to year. The ratios determining efficiencies are derived from physical and financial analysis of farm enterprises over a period of time (usually a financial year). A prerequisite to determine efficiency ratios is the keeping of reliable farm records, a practice which ought to be encouraged in Namibia.

In order to illustrate the parameters influencing efficiency of farms the results of a study carried out by Carstens in the northern commercial farming areas in 1970 are presented. This study indicated that:

- There is a positive relationship between the cost of labour and net farming income, i.e. if labour is used efficiently, it generates more value which has a positive effect on net farm income.

- There is an apparent optimum percentage of fixed capital for each farm. Below and above this optimum, net farming income tends to decline.

- Shorter periods of capital turnover result in a higher percentage of net farm income.

*A study carried out by the Namibia Agricultural Union in 1983 showed that:*

- 42.9% of farmers' income was derived from production while 57.1% was derived from non-farming activities including investments outside the farming sector.

- 53% of beef farmers were in a healthy financial state, 23.5% were marginal, and a further 23.5% were in a critical financial situation.
- Small farms were found to experience difficulty in repaying their debts.

- The liquidity position of farmers was found to vary regionally - higher in the north and lower in the south.

From the above and given that the study was done in a time of drought it appears that the financial position of Namibian commercial farms was not too bad. It is also clear that under commercial farming conditions, the efficiency with which a farm is run determines its survival. Efficiency is therefore important under Namibian conditions.

**Management Strategies**

"Management" refers largely to the control of human resources in agricultural production. "Management strategy" is the specific way in which a farming activity is conducted and it is a crucial determinant for financial success and will be dependent on:

- The educational level of the manager
- The level of agricultural training
- Managerial ability of the person
- The manager's ability to interact with the workers.

Commercial farming in Namibia requires a high level of management skills. A good understanding of the farming enterprise is vital. The ability to handle finance correctly is also vital. A farmer must be able to balance his books, pay debts and ultimately make a profit.

The farmer must be able to use labour to best advantage and to maintain productivity. Finally, farmers must have the ability to handle farm management in such a way as to minimise costs and must be prepared to work hard to maximise productivity and achieve success.

Short courses are recommended to improve management skills. Advice provided by extension officers should be aimed at improving the overall skills of the farmer.

In the event of small communal farmers being resettled in commercial areas, it can be assumed that they will not have many of the skills necessary to operate at this level. It is therefore also imperative to arrange courses to
introduce the principles of commercial farming, particularly for sound environmental management, bookkeeping, and financial management.

*Farm product mixes*

The production mix refers to individual farm diversification into more than one enterprise, as opposed to specialisation in only one.

The theory behind diversification is that prices and yields for different enterprises will not fluctuate together and that the combination of enterprises will tend to stabilise income as a precaution against risk and uncertainty.

Also, diversification into more than one enterprise can provide an extra income parallel to the main enterprise.

*Diversification has two major limitations, namely:*

- When the same factors limit production, yields tend to be positively associated and thus diversification will be less effective. On the other hand, when different factors limit production, yields tend to be out of synchrony and diversification will be effective.

- The same basic supply and demand features affect all agricultural product prices. Price fluctuations tend to be positively rather than inversely associated with one another.

In the commercial farming areas of Namibia beef production enterprises are dominant (Table 3.29). Beef contributes up to 89% of total farming income in the northern commercial farming areas. The second, less significant contributor to farming income, is crop productivity, which contributes 5.2%. There is thus very little diversification. This is particularly disturbing since the area where this survey was carried out has the greatest potential for diversification due to relatively higher and more reliable rainfall.

Diversification will benefit potential small farmers for resettlement because it should broaden their resource base, increase their sources of income and reduce risks. These farmers must be encouraged to diversify because this will increase their chances of survival. Increasing research efforts should be directed to exploring ways of broadening the resource base and providing increased subsistence and economic security.
TABLE 3.29  GROSS FARM INCOME: AVERAGE PER FARM, 1969/70

<table>
<thead>
<tr>
<th>Item</th>
<th>Average of area in Rands</th>
<th>Percentage of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income from cattle (beef)</td>
<td>14 985</td>
<td>89.8</td>
</tr>
<tr>
<td>Income from sheep and goats</td>
<td>453</td>
<td>2.7</td>
</tr>
<tr>
<td>Income from other animals</td>
<td>139</td>
<td>0.8</td>
</tr>
<tr>
<td>Income from crops</td>
<td>867</td>
<td>5.2</td>
</tr>
<tr>
<td>Income from other sources(1)</td>
<td>249</td>
<td>1.5</td>
</tr>
<tr>
<td><strong>AVERAGE GROSS FARM INCOME</strong></td>
<td><strong>16 693</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

(1)Mainly sale of firewood and water

Source: N.W.Carstens, ""n Ekonomiese ontleiding van boerdery in die noordelike vleisbeestreke van Suidwes Afrika", Department van Landbou Ekonomie en Bemarking, Afdeling Landbou-produksie, 1970.

Conclusions

- The ultimate objective of this exercise is to resettle people.

- If we assume that those who will be resettled will have to pay for the land in full, at 4% interest over a 30 year period, farm size must not be less than 4 000 ha.

- If subsidies are paid to assist in the repayment of loans, farm sizes smaller than 4 000 ha can be considered.

- If the land is to be given free of charge the size of land may not be a major consideration. Size must enable participants to generate an acceptable income on such land. The minimum size would be 1 500 ha, assuming a 10% offtake rate.

- A number of small farmers could be resettled on one commercial farm, provided that it is properly subdivided and the carrying capacity of the farm is not exceeded. Control measures must be instituted to guard against overstocking.
Special training will be required for all resettled farmers to introduce them to commercial farming principles.

A special extension service must also be put in place to provide back-up and assistance to commercial farmers resettled on commercial land.

Resettled farmers (as well as existing farmers) must be encouraged to diversify, thereby broadening their resource base, increasing their income and reducing risks.

3.1.3.2 Financial considerations

There has been much discontent with the manner in which commercial agriculture has been taxed and subsidised over the years, so much so that these issues were forced into the open at the Land Conference and were subsequently passed on to the TCCF.

Prominent on the list of complaints are the following

- The tax system is discriminatory in that it benefits farmers through a host of tax concessions which non-farmers do not enjoy; the principle of tax equity is hence being grossly violated.
- The combined effect of these tax concessions is a disproportionately low contribution from agriculture to the fiscus.
- The tax system is furthermore considered inefficient as it encourages channelling of an undue proportion of the country’s financial resources to agriculture at the expense of other sectors.
- The subsidy system is equally discriminatory vis-a-vis private sector business. It is also inefficient, as it quite often conceals the non-viability of certain farm enterprises and perpetuates their existence against market-oriented economic principles and logic.
- The host of tax concessions enjoyed by farmers have become legal loopholes for tax evaders, to such an extent that only a small number of farmers actually pay tax.
- From a socio-economic and socio-political point of view, the huge financial resources channelled directly to commercial agriculture via loans, or indirectly through subsidies whilst ignoring communal sectors, amounts to deliberate neglect of the socio-economically needy
sectors of society and to a highly questionable socio-political empowerment of one section of society over others.

Against this background, the TCCF embarked upon its task by

- Reviewing the entire tax system as it pertains to commercial agriculture compared to other economic sectors.
- Reviewing the entire subsidy system in the same way as above.
- Reviewing the financial and other implications of the above on equity, efficiency, distribution and stabilisation principles embodied in modern scientific thoughts on taxation and subsidies.

The tax System (1992 Tax Year)

Legal Parameters

Currently, commercial agriculture in Namibia is taxed according to the provisions of the Income Tax Act No. 24 of 1981.

Tax Rate

A person with some income derived from farming may pay tax as an individual or register as a company. Individuals simply add the income earned from farming to all other income in order to establish the tax rate.

Individuals are taxed at progressive marginal rates ranging from 15% to 42%, the maximum being reached at a taxable income of R60 000. The basic tax rate applied to all income of non-mining companies is 40% plus a surcharge of 5% of this, making 42%. Mining companies are taxed at non-mining company rates on non-mining income (including farming income), and are taxed at special rates on mining income.

- Machinery: in order to encourage investment, costs of machinery and plants as well as their installation are fully tax-deductible in the year of purchase.
- Capital Gains: there is no capital gains tax.
- Interest: interest incurred in the production of income is tax-deductible.
• Aggregation: the taxpayer may aggregate profits and losses on any number of businesses in arriving at taxable income. The only exception to this rule is for farmers. Farmers' fixed improvement expenses can be written off only against farm income, and cannot be consolidated with other income sources. However, farm income losses arising from any other source may be aggregated. Assessed income losses, whether from farming or other sources, can be carried over to subsequent years.

• Business expenses: the law provides for deduction of expenses "actually incurred in the production of income". For farmers, this includes expenses such as feed, veterinary expenses, fertiliser, plants, seeds, repairs, prevention of soil erosion, eradication of noxious weeds, wages and employee benefits.

In terms of Act No 24 of 1981 farmers may deduct most "development and improvement" costs. Such costs include:
- Dipping tanks
- Dams, irrigation schemes, boreholes, etc.
- Prevention of soil erosion
- Erection of buildings other than for domestic purposes
- Kraals
- Fences
- Fire breaks
- Eradication of bush and noxious plants
- Establishment of orchards and vineyards
- Building of roads and bridges for farming operations

These expenses can be written off against farming income only, but may not create a loss.

Non-farming businesses may deduct 20% of the erection cost of buildings in the first year and thereafter 4% per year for the next twenty years. Farmers on the other hand may deduct most "development and improvement" costs in the first year.

The Practice

These special tax concessions result in farmers paying far less tax compared to persons in other business sectors.

The major differences in the treatment of farming income and other income are the following:
• Capital expenses other than machinery: here distinctions are drawn between mines, non-mining businesses, and farmers. Non-mining businesses may deduct 20% of the cost of the erection of buildings in the first year and 4% each year thereafter for 20 years. Mines may deduct capital expenditures as from the first year of production. Farmers may deduct most development and improvements costs, as already detailed. These fixed improvement expenses can be written off only against farm income, and cannot be consolidated with other income sources. No data are available to calculate the precise value of this concession. We can, however, be sure that it was less than R10m, and rough calculations suggest a figure of R7m p.a.

• General sales tax (GST): farmers are exempt from GST on stock feed, certain veterinary supplies, fertilisers, pesticides, packing and wrapping materials, livestock, fuel in bulk, pest control services. In respect of most of these items, the treatment of the farmers is no different from that of other businesses. The principle involved is that the business pays GST only if it is the "end user".

In the case of all the above-mentioned items farmers are not the "end user" and accordingly are relieved of GST. For all individuals and companies including farmers, fuel levies are imposed on petrol and diesel. Farm owners and mining companies, however, obtain an effective subsidy from the so-called Equalisation Fund. Like all other businesses, farmers are not exempt from GST on items such as machinery.

The value of the farmers' exemption from GST on machinery repairs and spare parts in 1989/90 was estimated in the following manner. (a) Sales of fodder and veterinary supplies by the major dealers were found from Department of Finance tax returns. (b) The ratio of repairs to fodder and veterinary expenses was calculated from the Department of Agriculture's Mail-In Record System. Multiplying (a) and (b) gives the total repair expenses in the commercial agricultural sector, some R100m in 1989/90, after rounding. The tax saving was of the order of R10m.

• Fuel: through the so-called Equalisation Fund, mining companies, farm owners and certain transport operators, though not non-mining companies, are awarded reductions in the prices they pay for petrol and diesel.

In 1990 the reduction granted by the Equalisation Fund was R0.211 per litre for farmers, R0.186 for certain professional and public transport
contractors and R0.12 for mining and construction companies. In December 1990, the pump price of petrol was R1.44 per litre, giving the farming community a price advantage of about 15%. The total sum claimed by farmers from the Equalisation Fund in 1990 was R5.022 million.

- Increment in the value of livestock: the difference between the value of livestock at the beginning and the end of the year is taxable. The law suggests, but does not prescribe, "standard values" for pricing of livestock which are much lower than market values. The standard values which have been in existence since 1982 were, very roughly, about 10% and 20% of December 1990 market values, because they were lower than cost to start with and were not adjusted for inflation.

The main effect of using standard values lower than market values is to enable the farmer to postpone tax on increments in the value of livestock due to growth, e.g. calves - heifers - cows. "A tax postponed is a tax saved" due to both inflation and the time value of money.

The saving in 1989 due to low standard values was found to be, very roughly, R23 million. It should be noted that it would be unfair to value stock at current market prices since these may fall. Some other suitable rule could be selected - for instance, the standard values could be updated annually and be set equal to say 80% of the market price at the start of the financial year.

- Livestock sales due to drought: if a farmer (individual or company) can demonstrate to the Permanent Secretary of Finance that he sold livestock because of drought, stock disease or damage to grazing by fire or plague and has within four years after that year bought livestock in replacement, he can choose to subtract those stock purchases from the earlier year instead of the current year. The tax payable is then recomputed and the farmer may be refunded for any excess.

Fewer than 0.1% of farmers make use of this concession per annum. Thus the tax saving is negligible.

- Averaging: an individual farmer is taxed on the basis of average income over a five-year period. Companies with interests in farming may not average. Like all companies, they are taxed at 42% of profits. Farmers’ incomes fluctuate from year to year. Averaging protects them from paying abnormally high rates of tax in years when their
cash income is high. Farmers feel this is fair in view of the high risk of agriculture. Comparing themselves with employees whose incomes fluctuate little and who are not faced with occasional abnormally high tax rates, they feel they deserve the right of averaging.

The argument is specious. All individuals and professions face income fluctuations and risk, especially the risk of unemployment. It is unlikely that farming is any more risky than is, say, construction. Fairness requires either that no-one has the right of averaging or that everyone has it.

For those farmers who actually paid tax in 1989 averaging reduced the tax obligation by a dramatic 46% or R14m.

- Subsidies: with a few exceptions, subsidies are taxable. In the case of farmers, the only non-taxable subsidy was the occupation allowance granted in terms of the "Promotion of the Density of Population in Designated Areas Act". The occupation allowance was granted as an anti-insurgency method when the South African Defence Force was attempting to prevent SWAPO from gaining control of rural areas.

The allowances ran to a total of R600 000 to R700 000 between 1982/3 and 1986/87.

Assuming a 15% effective median marginal tax rate, the tax saving due to exemption of this allowance from taxable income was about R200 000 per year during the mid-eighties, reckoned in terms of real October 1990 Rands. After independence the subsidy was abolished.

The Implications

Calculations indicate that about 61% of individual farmers pay tax in any year whereas about 83% of non-farmers do. Similarly only 14% of farming companies pay tax in any year, while 32% of non-farm companies do; farming companies are also much more likely to record income losses.

The net contribution of commercial agriculture to the exchequer is the sum of three items:

(a) tax farmers pay on the agricultural component of their income;
(b) tax farmers save by deducting their farm losses from non-farm income;
(c) subsidies.
Item (a), tax paid on farm income, was about R10m in 1988/9 in current Rands (R12.5m in real 1990 Rands). Item (b) tax saved by deducting their farm losses from non-farm income in 1988/9 was about -R19m (current) or -R23 (real). These farm losses are, of course, losses only for accounting purposes, since they are falsely exaggerated by the special deductions that only farmers may make. Summing these two, the net tax on commercial farm income in 1988/9 was about -R9m (current) or -R11m (real). Finally, item (c), the subsidy element in 1989/9 was about -R38m (current) or -R48m (real). Summing, the net contribution of the commercial sector to the exchequer in 1989/9 was about -R47m (current), or -R59m (real).

These comparisons are of course unfair because many non-farm individuals are employees, whose incomes are stable, and farming may be simply a riskier industry than most. It is better to compare farming with other risky industries such as construction. If builders, despite the risk they face, pay tax more often and carry over fewer losses, then we can conclude that it is the farming tax concessions that reduce farmers’ tax obligations, not financial risk. This analysis is conclusive as far as individual farmers and builders are concerned. However, it is clear that farming companies pay tax less frequently and carry forward greater losses each year than do construction companies. Hence there is considerable scope for reform of the tax law to bring agriculture into line with other sectors.

Conclusions

The Tax System

Farming tax concessions yielded substantial tax savings for farmers in 1989. The major reasons were low standard values (R23m), tax rate averaging (R14m), exemption from GST on machinery repairs and parts (R10m (abolished in 1991)), full deductibility for development and improvements (roughly R7m), and fuel price reductions (R5m). Together, the value of the tax concessions exceeds the value of the subsidies implicit in concessionary finance (R29m in 1988/9, R39m in 1990/91).

The Subsidy System

Three types of subsidies have been made available to commercial agriculture over the years, viz.

- concessionary finance (subsidised credit)
- direct subsidies (cash for grazing relief, etc)
- veterinary assistance
In particular the TCCF would like to highlight the following considerations

- Concessionary finance as well as direct subsidies were never extended to "communal farmers".

- Given the overall higher level of income (and thus living standards) of commercial farmers, related to many other sectors of society, continuation of the subsidy system in its present form would only tend to exacerbate the existing highly skewed income pattern in the country and would run contrary to Government's declared policy of reducing income inequalities.

- Continued subsidies would tend to foster inefficiency in the agricultural sector because subsidies tend to distort the price of capital and auxiliary services and inputs.

- Since all economic activities are subject to cyclical fluctuations, subsidising only commercial agriculture, which is in any case a net negative contributor to the fiscus, would amount to unjustifiable fiscal favouritism and a gross violation of the equality principle as enshrined in our constitution pertaining to natural and corporate citizens.

- Since an immediate termination of subsidies would have disastrous consequences for the balance of payments, individuals, financial institutions, and the Gross Domestic Product, the TCCF concurs with the view that subsidies should be phased out over a period of time.

- Government is seriously advised to follow the world-wide trend of favouring market mechanisms rather than state intervention (subsidies are a form of state intervention). This in time would open the way for a healthier commercial sector less dependent on the State.

- Many countries have in their company laws a clause which compels any registered company to put aside some reserve as a contingency measure. This is usually expressed as a percentage of total company's assets. In Namibia such legal instrument does not apply to commercial farming with the result that contingency reserves are rarely built due to easy access to concessionary funds and/or direct subsidies like drought relief.

- The TCCF is of the opinion that farming operations should be compelled to have on their books a contingency reserve portfolio to lessen their burden on public funds.
3.1.4 Legal considerations

3.1.4.1 Ownership of land

The ownership and control of land is regulated by provisions contained in the Namibian Constitution.¹

The provisions of Article 100, pertaining to "Sovereign Ownership of Natural Resources" provides, in respect of land, that:

"Land, water and natural resources below and above the surface of the land ... shall belong to the State if they are not otherwise lawfully owned".

Land consists primarily of the soil, its geological components such as minerals at and below the surface, and everything attached to the soil by natural means such as trees, plants and growing crops.²

It forms the primary type of immovable property. Immovable property is defined in broader terms as land and everything that is naturally attached as well as artificial annexures of a permanent nature such as buildings and installations, and permanent and necessary attachments to such annexures.³

Ownership of land consist of the right or capacity to possess, use, enjoy and alienate or bequeath the land. Possession consists of physical control of the land. The right to use and enjoy the land confers on the land owner the capacity to use his or her land for any ordinary and natural purpose and entitles him or her to the enjoyment of his or her property and its fruits. The incidence of ownership is not absolute, like all rights it is limited by the rights of others in general, by common law principles and the many statutory provisions regulating the use of land.⁴

The fundamental right of all persons to acquire, own and dispose of immovable property in any part of Namibia is specifically guaranteed in terms of the provisions of Article 16 of the Namibian Constitution.

¹ Articles 16; 102(5); 124 and Schedule 5 to the Constitution
² Joubert, The Laws of South Africa, Vol. 14 (Land) by Van Aswegen at p. 3, para. 2
³ Voet 18 14 Macdonald Ltd v Radin and the Potchefstroom Dairies and Industries Co. Ltd 1915 AD 454; and Joubert, Vol. 14 at p.4, para. 2
⁴ Joubert supra at p 10 - 11, para. 6
3.1.4.2 Commercial farming areas

The area covered by commercial farms consists of surveyed farms situated in the various magisterial districts of Namibia.

These surveyed farms are mostly owned by private persons or legal personalities such as incorporated companies, partnerships, cooperative societies, trusts or other associations under a title deed that is registered in the farm register of the Deeds Registry in the name of such persons in terms of the provisions of the Deeds Registries Act 47 of 1937.

The farms are therefore “lawfully owned” by their registered owners within the ambit of the provisions of Article 100 and are subject to the constitutional guarantee against the deprivation of property contained in article 16 of the Namibian Constitution.

Disposal of State Land to Private Persons

It is appropriate to briefly set out for the purposes of the record the legislation which regulated the disposal of state lands and the provision of financial assistance to farmers in the commercial farming areas on the most favourable terms and conditions.

- The Crown Land Disposal Proclamation, 1920 (Proc. 13 of 1920)

Proclamation 13 of 1920 applied the Crown Lands Disposal Ordinance, 1903 (Transvaal) and the Crown Lands Disposal Amendment Ordinance, 1906 (Transvaal) to the Territory of South West Africa.

The Administrator was authorized, in terms of section 5 of the Crown Lands Disposal Ordinance, 1903 (Transvaal) (Ord. No. 57 of 1930) “to dispose of crown lands within the Territory by grant sale lease or otherwise in such manner and on such conditions as he may deem advisable”.

This proclamation was geared at providing state land for settlement purposes as grants, by sale and on a leasehold basis; the Administrator initially disposed of a number of surveyed farms in this manner by granting such land on certain conditions to white settlers in the Territory.
Proclamation 13 of 1920 has been amended in several respects and is still in full force and effect. This proclamation constitutes the basis upon which state land is presently alienated.

- **The Land Settlement Consolidation and Amendment Proclamation, 1927 (Proc. 310 of 1927).**

This proclamation provided for the acquisition of private land by the Administrator to be made available to private individuals on a leasehold basis. State land or land acquired by the state for settlement purposes was divided into holdings. The Administrator then offered these holdings for allotment to applicants. When a holding was allotted to a successful applicant it was leased to the allottee for a period of five years subject to an option to purchase. No rent was payable in respect of the first year of the lease. The further rentals were 2% of the purchase price in respect of the second and third years and 3 1/2% of the purchase price for the remaining two years. Allotment to the lessee was subject to the conditions that he must reside on the holding. The proclamation also made provision for advances to be granted to lessees at an interest rate of 5% per annum for providing them with stock, implements, seed and other things necessary to develop and work the holding. Lessees could purchase the land at any time during the lease or at the expiry thereof. The ownership of the land was granted to the lessee after a period of ten years had expired since the commencement of the lease and upon the payment of the purchase price.

The object of the proclamation was to make state land available to settlers on a leasehold basis and to financially assist them in their farming operations so that they could become financially strong enough after a period of time to purchase the holding.

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5 Proclamation No. 13 of 1920, as it applied to the Territory, was amended by Proclamation No. 54 of 1920, Union Proclamation No. 200 of 1950 and Ordinance No. 7 of 1951
6 Section 15
7 Section 16 - 23
8 Section 24
9 Section 28
10 Section 44
11 Section 27
12 Section 43
• The Agricultural Credit Act, 1966 (Act No. 28 of 1966)

The Land Settlement Consolidation and Amendment Proclamation, 1927 was replaced by the provisions of the Agricultural Credit Act, 1966. The Act was aimed at financially assisting white farmers to obtain ownership of land on which to carry on farming operations. The Agricultural Credit Board established by the Act\textsuperscript{13} was empowered to render assistance to any white person carrying on farming operations or undertaking to do so either by way of a loan or by letting or selling to him state land suitable for farming purposes or by affecting a compromise on such terms and conditions as the Board may determine.\textsuperscript{14}

State land was leased to an applicant for a period of five years and the lessee could be granted an option to purchase the property at a price and on such terms and conditions as may be determined by the board.\textsuperscript{15} No rental was payable for the first two years of the lease. The further rentals were 2\% of the purchase price for the third and fourth years of the lease and 5\% of the purchase price for the fifth year.\textsuperscript{16}

The main objective of the Act was to assist farmers to remain on the land.\textsuperscript{17} It contained certain provisions which were designed at assisting and protecting farmers in financial difficulties against bankruptcy and that interfered with the rights of creditors and prevented them from sequestrating a farmer’s estate.

Those farmers who were in financial difficulties were, in terms of the provisions pertaining to compromise with creditors contained in Part III of the Act, allowed a moratorium\textsuperscript{18} or granted an extension of time for the fulfillment or released wholly or partially of certain obligations towards creditors\textsuperscript{19} and were, in this manner, afforded an opportunity to start farming operations afresh, with a clean balance sheet.\textsuperscript{20}

\begin{verbatim}
13 Section 1
14 Section 10(1)
15 Section 10(2A)
16 Section 10(2A)(b) - (d)
17 See: Joubert, The Laws of South Africa, Vol 1 (Agriculture) by Goring at p. 123, para. 166
18 Section 21
19 Section 22
20 See: Joubert Vol 1 at pp. 123 - 4 para. 166 and Magaliesbergse Ko-op Bpk v Heenop 1963(2) SA 399 (A) at 405 g and 411
\end{verbatim}
These provisions constituted "a very great restriction upon the ordinary rights of creditors and they [conferred] extraordinary benefits upon farmers" described as an "indulgence subject to certain conditions". 21

Assistance to farmers in financial difficulties could also be rendered in terms of the Act by the Administrator-General through a rescheduling of debits scheme by consolidating all amounts recoverable by the State from an applicant. The applicants' existing rights, duties and obligations lapsed in respect of the consolidated amounts as from a date determined by the Administrator-General.

The consolidated amount was then deemed to have been secured by virtue of any existing or additional security (which the board could require) and repayable on new terms determined by the Administrator-General. 22

The Provisions of the Agricultural Credit Amendment Act, 1980 amended Act 28 of 1966 and extended those privileges conferred by the Act on farmers to farmers of all population groups in the territory by removing such differentiation through the deletion of the definition of White persons contained therein.

Assistance was rendered by the Board in terms of the provisions of the Act to all farmers within the territory. It was used extensively by a number of representative authorities under different schemes pertaining to deposit requirements (the so-called "percentage schemes") to acquire land within the commercial farming areas and to settle persons on such land either under individual title or as communal land. 23

The Board could advance a loan to a farmer for any purpose tending to safeguard or promote the farm industry and was specifically authorized to grant a loan to an owner of land in respect of that land for the

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21 per Corbett AJA in Swart v Swart 1971(1) SA 819(A) at 831B - E quoting Johnson (Pty) Ltd v Farmers Assistance Board 1957(4) SA 600(T) 605 and Richter v Assistant Master and Bloemfontein Town Council 1941 OPD 19 at 23

22 Sections 11 - 14

23 See: The report of the Commission of Inquiry into Irregularities and Misappropriation of Property of Representative Authorities and the Central Authority of South West Africa (the Thirion Commission), the fifth preliminary Report Vol I p. 16 which recommended a uniform scheme for the entire territory

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erection of dwellings for "Black" farm labourers or for the construction of soil conservation or waterworks.\textsuperscript{24}

Pursuant to the coming into operation of the Representative Authorities Proclamation, 1980 (Proc. AG 8 of 1980) the provisions of the Act was in relation to the White, Coloured and Herero population groups administered by its Representative Authority.\textsuperscript{25}

The Executive Committees of these Authorities gave credit to farmers belonging to their population group, \textit{inter alia}, to finance the purchases of farm land at an unrealistically low interest rate and on very favourable terms of payment. Loans could be obtained shortly before independence to buy farms on the so-called "father-to-son scheme" from the Executive Committee of the Administration of Whites at an interest rate of 4\% on the purchase price repayable over a period of 25 years.\textsuperscript{26} The Provision of the Agricultural Credit Act, 1966 was repealed and replaced by the Agricultural Bank Amendment Act, 1991 (Act No. 27 of 1991).

\textbullet \quad \textit{The Land and Agricultural Bank of South West Africa Proclamation No. 147 of 1979}

The Land and Agricultural Bank of South West Africa Proclamation, No 147 of 1979 which applied certain provisions of the Land Bank Act, No 13 of 1944 to the territory, established the Land and Agricultural Bank of South West Africa, the affairs of which were controlled by a board established under the Act.\textsuperscript{27}

The Bank was established outside the ambit and the provisions of the Banks Act, 23 of 1965 and the Limitations and Disclosures of Finance Charges Act, 73 of 1968 to promote agriculture by means of the provision of financial assistance.

The Bank is not a commercial bank operating for own profit and the Act affords special privileges, powers and remedies.\textsuperscript{28} The Bank was

\begin{itemize}
\item \textsuperscript{24} Section 10(1)a and (2)
\item \textsuperscript{25} Proc AG 48 of 1980; AG 49 of 1980; and Ordinance 3 of 1985 of the Legislative Assembly of the Hereros
\item \textsuperscript{26} See: \textit{Freyer v the Government of Namibia} (Still to be decided by the Court)
\item \textsuperscript{27} Section 4
\item \textsuperscript{28} See: \textit{Bowker v the Registrar of Deeds} 1973 AD 401 at 407
\end{itemize}
inter alia, authorized to advance money to bona fide farmers and to owners of certain holdings for certain specific purposes.\textsuperscript{29}

Such advances are secured by mortgage bond on terms and conditions as the board deems fit, including the repayment in installments within a period which may not exceed 40 years and payment of interest.\textsuperscript{30}

The board prescribed the rate of interest from time to time.

Immediately before independence the applicable interest rate was 14\% per annum which was well below the current banking interest rate.

A number of farms in the commercial farming areas were purchased or improved and developed on credit advanced by the bank on more favourable terms than those which could have been obtained from the commercial banks.

3.1.4.2.1 Expropriation

Ownership of immovable property and any right or interest in or over land is protected against expropriation without the payment of compensation by the operation of the provisions of Article 16(2) of the Namibian Constitution. Article 16(2) provides that:

"The State or a competent body or organ authorized by law may expropriate property in the public interest subject to the payment of just compensation, in accordance with the requirements and procedures to be determined by Act of Parliament".

It applies to ownership of all forms of immovable and movable property owned individually or in association.

- **Ordinance No. 13 of 1978**

  The Expropriation Ordinance, 1978 (Ord. No. 13 of 1978) empowers the Cabinet to expropriate, subject to the obligation to pay compensa-

\textsuperscript{29} Section 21(a) - (b) These include constructing dipping tanks, tanks, or structures from the making or storage of ensilage, erecting, altering, improving or repairing of fences, providing a supply of water by boring and purchasing or erecting of windmills or other mechanical appliances, for the pumping of water and providing of electricity by SWAWEK and purchasing, erecting and installing of such electricity and paying any connection fee.

\textsuperscript{30} Section 24(1) and (2)
tion, any property for public purposes or to expropriate the right to use any property temporarily for public purposes.\textsuperscript{31}

The basis on which compensation is to be determined in the case of land is:

"the aggregate of the amount which would have been paid for the property in question if the property had been sold... in the open market by a willing seller to a willing buyer; and

an amount to make good any actual financial loss caused by the expropriation."\textsuperscript{32}

\begin{itemize}
  \item \textit{Ordinance No. 28 of 1952}

The Soil Conservation Ordinance, 1952 (Ord. No. 28 of 1952) provides in section 26(1)(b) that the President may expropriate land required for the prevention of soil erosion or of driftsand or the prevention of soil erosion or the reclamation of land affected thereby or the protection of catchment areas or the conservation of water resources.

\item \textit{The Acquisition by and Regulation of Foreign Land Ownership}

The Namibian Constitution distinguishes between Namibian and foreign nationals in respect of the acquisition of land.

Article 16(1) of the Constitution contains a provision which specifically recognizes the right of the State to, by legislative Act, exclude or regulate foreign land ownership within Namibia. The provision provides that:

"... provided Parliament may by legislation prohibit or regulate as it deems expedient the right to acquire property by persons who are not Namibian citizens".

The effect of this provision is that a law may be passed by Parliament which either bars foreigners or foreign companies from acquiring property within Namibia or to regulate and determine specific require-

\begin{flushright}
\textsuperscript{31} Section 2(1)
\textsuperscript{32} Section 9(1)(a)
\end{flushright}
ments and conditions under which they will be permitted to acquire and hold property within Namibia. Such legislation may make a distinction between the acquisition of different forms of property by foreigners; for example agricultural land may be dealt with on a different basis than residential and industrial property situated in the urban areas. A specific requirement or restriction imposed on foreigners acquiring or holding prime agricultural land, would not necessarily have to be applied with equal success and justification in respect of urban industrial erven because of the diverse demands made for land and the development objects pursued by the Government in these distinct forms of land and its scarcity or availability.

Whilst legislation may be adopted to exclude or regulate foreigners from acquiring property within Namibia, once acquired they cannot be deprived thereof unless it is to be expropriated under the provisions of Article 16(2) of the Constitution, subject to the payment of just compensation.33

3.1.4.3 Communal Areas

The communal areas generally comprise the state lands which were, from time to time, set aside and reserved under certain laws and regulations by the colonial administration as black reserves for the sole occupation and use of blacks. At Independence they consisted of:

(i) Those areas defined in the Establishment of Representative Authority proclamations as the communal land of the various population groups concerned, the ownership and control of which vested, in terms of section 48 bis of the Representative Authorities Proclamation, 1980 (Proc. AG 8 of 1980), in the former Government of the Territory of South West Africa.34

(ii) The area which constitutes Bushmanland defined in and set apart under Proclamation R208 of 1979 (RSA) for the "the exclusive use and occupation of members of the Bushman nation" and which was held

33 See further the provisions of section 11 of the Foreign Investment Act, 1990 (Act No. 27 of 1990) which contains a similar provision that the Government shall pay to the holder of a Status Investment Certificate, just compensation should it expropriate a business or undertakings in which foreign assets are invested under the Act.

34 See: Procs. AG 23 of 1980 (Ovambos), section 32; AG 26 of 1980 (Kavango), section 32; AG 29 of 1980 (Caprivians), section 32; AG 32 of 1980 (Damaras), section 28; AG 35 of 1980 (Namuts), section 27; and AG 50 of 1980 (Hereros), section 32.

(iii) Any other land acquired as communal land by any of the representative authorities under Item 1 of the Schedule to the Representative Authorities Proclamation, 1980 (Proc. AG 8 of 1980) for the purpose of the settlement thereon of persons and which property had been registered in the Deeds Office in the name of such representative authority with an endorsement that it shall be communal land or deemed to be communal land. This form of the acquisition of communal land tenure was for example used by the Representative Authority for the Tswanas who was not granted a defined area as communal land under Proc. AG 8 of 1980³⁶, but purchased farmlands as settlement areas.

*Ownership and Control*

As from the date of Independence, the ownership and control of communal land set out above was effectively transferred to and vest, under the provisions of Article 124 read with Schedule 5 to the Namibian Constitution, in the Government of the Republic of Namibia “subject to any existing right, charge, obligation or trust on or over such property and subject also to the provisions of the Constitution”.

Article 124 of the Constitution pertaining to the “Transfer of Government Assets”, provides that:

> "The assets mentioned in Schedule 5 hereof shall vest in the Government of Namibia on the date of Independence"

and those assets referred to in Schedule 5 are:

> "(1) All property of which the ownership or control immediately prior to the date of Independence vested in the Government of the

³⁵ Subsequent constitutional development in the Territory has not affected Bushmanland. Although Proc. AG 8 of 1980 made provision for the establishment of a Representative Authority for the Bushman people, it was never applied to them. In Bushmanland communal land was administered by a government department (Government Affairs)

³⁶ See Proc. AG 47 of 1980
Territory of South West Africa, or in any Representative Authority constituted in terms of the Representative Authorities Proclamation, 1980 (Proclamation AG 8 of 1980), or in the Government of Rehoboth, or in any other body, statutory or otherwise, constituted by or for the benefit of any such Government or Authority immediately prior to the date of Independence, or which was held in trust for or on behalf of the Government of an independent Namibia, shall vest in or be under the control of the Government of Namibia.

(2) For the purpose of this schedule, “property” shall, without detracting from the generality of that term as generally accepted and understood, mean and include movable and immovable property, whether corporeal or incorporeal and wheresoever situated, and shall include any right or interest therein.

(3) All such immovable property shall be transferred to the Government of Namibia without payment or transfer duty, stamp duty or any other fee or charge, but subject to any existing right, charge, obligation or trust on or over such property and subject also to the provisions of this Constitution.

(4) The Registrar of Deeds concerned shall upon production to him or her of the title deed to any immovable property mentioned in paragraph (1) endorse such title deed to the effect that the immovable property therein described is vested in the Government of Namibia and shall make the necessary entries in his or her registers, and thereupon the said title deed shall serve and avail for all purposes as proof of the title of the Government of Namibia to the said property.” (our emphasis)

Implicit in the provision of Article 102(5) of the Constitution is the overall executive power of the President (acting in consultation with the Cabinet) in relation to the control and utilization of communal land. The provision also envisages that traditional leaders have a purely advisory function to the President in respect of the control and utilization of communal land. A Council of Traditional Leaders has to be established by an Act of Parliament to advise the President on the control and utilization of communal land.

Article 102(5) pertaining to the establishment of a Council of Traditional Leaders provides that:

“There shall be a Council of Traditional Leaders to be established in terms of an Act of Parliament in order to advise the President on the
control and utilization of communal land and on all such matters as may be referred to it by the President for advice”.

Although the provision contains no express power pertaining to the functions of the President in relation to the control and utilization of communal land, it can be inferred that the purpose of this provision is that the President is given the powers of the control and utilization over communal land and is by implication so empowered.

This interpretation of Article 102(5) is in conformity with the status and powers conferred upon the President by the provisions of section 1 of the Native Administration Proclamation, 1928 (Proc. 15 of 1928) to exercise generally any or all powers and authority enjoyed by a supreme or paramount chief.

It is also in accordance with the powers, functions and duties of the President as Trustee of the Development Trust in Namibia in which all communal land owned by the Government of Namibia is vested, under the provisions of section 4 of the South West African Native Affairs Administration Act, 1954 (Act No. 56 of 1954) and when read with the South African Development Trust and Land Act, 1936 (Act No. 18 of 1936) empowers the President to make regulations pertaining to the utilization, control and protection of such land.

- **Exclusive Areas**

The reservation of separate areas within the communal areas for the exclusive occupation and utilization by a particular social or ethnic group is no longer permitted under the Namibian Constitution.

Article 16(1) of the Constitution, *inter alia*, provides that:

“All persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and movable property individually or in association with others ...”.

The fundamental freedom and right of all persons to reside and settle in any part of Namibia is also guaranteed under the provisions of Article 21(1)(h) of the Constitution.

3.1.4.3.1 **Customary Law**

Customary law may be defined as the general laws and customs uniformly observed over a long period of time by a particular ethnic or social group to
regulate its social and authority structures and legal relationships in domestic affairs.

The complexity of customary law was emphasized by J. Lewin, *Studies in African Native Law* (1947) at p. 13 where he wrote that:

"The place that Native law occupies in the legal system of South Africa is so uncertain that its problems are more complex than those which lawyers normally face. Moreover, these problems arise in every branch of Native Law: not only in the law of persons with its question of marriage, guardianship of children and inheritance, but also in contract, in delict, and in the innumerable questions of court practice and procedure..."

It has to be pointed out that successful law reform of customary land ownership requires "a sound jurisprudential grasp of the concept and function of law, coupled with an understanding of the prevailing law as well as the shortcomings that must be remedied. It must be clear what the problems are and what the envisaged state of affairs is. The degree and extent of resistance must also be taken into account. The reason for this is that any failed law reform initiative tends to weaken the law and to frustrate the objectives which were intended or any further reform. In the area of customary law it is essential to grasp the nature of customary tenure, the shortcomings thereof and the best way of remedying those shortcomings. It is imperative to determine the views of the people with regard to the proposed changes, because after all it is those people who will either strengthen or weaken the law through their actions."

In determining the status and rights of land holders to communal land, the importance of customary law and tradition is a crucial consideration.

"Any legal system which seeks the firm basis of popular support cannot afford to ignore the law which the people use to regulate their domestic affairs."

The Native Administration Proclamation, 1928 (Proc. 15 of 1928) gave official recognition to "black laws and customs" except in so far as such law and customs was not opposed to the principles of public policy or natural

38 per Bennett, *Customary Law in Southern Africa* at p.13
justice or has not been repealed or modified by the common law or legislative act.  

There has been statutory inroads from time to time into customary law by various statutes and regulations which have been applied to the black reserves.

The basic principle pertaining to conflict situations between customs and law (in its original or delegated forms) which was enunciated in Ndisiro v Mbanderu Community Authority and others, 1986 (2) SA 532 (SWA) at 536 F-I and thereafter repeatedly applied in the courts in a series of cases is aptly illustrated in the following passage by Levy J. in Uazengisa and Others v the Executive Committee of the Administration of the Hereros and Others (Supreme Court of South West Africa unreported on 19th October 1988) at p. 9 where he stated that:

"... whatever customary law of the Hereros or any other people living in South West Africa is still applicable, such customary law is only applicable subject to legislative enactments of this country and ...only such customary law that has not been repealed or modified by common law or by legislation still remains."  

The application of this principle was more recently reviewed and qualified by the full bench of the Supreme Court of South West Africa in its decision in Kakuja, Strydom J. introduced the following qualification to Ndisiro where he stated at p. 2 that: "...the Ndisiro case went in my opinion too far when it laid down that, notwithstanding the provisions of Sec 4(1)(b) of Proc. R 348 of 1967, the common law and statutory law per se replaced black law and custom. As far as Hereroland is concerned, the common and statutory law, in my opinion, exist side by side with black law and custom and the latter is not replaced or amended by the former except for those instances where legislation specifically so provides as in the case of Government Notice 68 of 1924."

Article 66(1) of the Namibian Constitution pertaining to the retention of customary law contains such a principle of conflict of laws.

39 See: section 9(1) of Proc. 15 of 1928; Kaputuza and Another v The Executive Committee of the Administration for Hereros and Others, 1984 (4) SA 295 (SWA) at 298E - F; and Kakuja and Others v The Tribal Court of Okahandja and Others (Supreme Court of South West Africa, unreported on 28th April 1989) at pp. 8 - 9

40 See also: Pack v Munjinda and Others, 1989(3) SA 556 (SWA) at 563G - 564A and Tjerje and Another v the Executive Committee of the Administration for Hereros and Others at p. 6 (Supreme Court of South West Africa, unreported on 7th November 1988)
Article 66(1) of the Constitution provides that:

"The customary law ...of Namibia in force on the date of Independence shall remain valid to the extent to which such customary law ...does not conflict with this Constitution or any other statutory law."

This provision explicitly provides for the demise of those rules and principles of customary law which are in conflict with the Constitution or any other relevant legislative acts.

In view of the foregoing, it is appropriate to examine the legislation applicable to the reserves and the regulations promulgated thereunder and consider the extent to which the relevant customary laws and traditions have been replaced or amended by such laws and regulations.

3.1.4.3.2 The Powers of Traditional Leaders in Customary Law in relation to Communal Land

Traditional leaders, particularly those of Hereroland under customary law exercise the power to allocate land within the area of their authority to newcomers or redistribute land already occupied and have also directed farmers to leave an area concerned.41

- **Owambo, Caprivi and Kavango**

  As far as could be established land in these areas are allocated by traditional leaders. In the Owambo region a small fee is payable for an available plot or business site. In the matter of *Moraliswani v Mamili* (Supreme Court of South West Africa, unreported on 12th June 1985), the plaintiff, who is the Chief of the Mafwe tribe, maintained that in his capacity as the "murintenge" (Paramount Chief) he is the custodian or controller of all communal land, and has the authority to decide whether and where a particular subject may set up his or her home and which piece of land he or she may cultivate.

- **Namaland, Damaraland and Kaokoland**

  No specific position could be determined. No reported or unreported cases which dealt with the land issue in these areas could be found.

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41 Compare for example: Kaputuaza and Ndisiro
Land allocation appears to resort under community and traditional leaders.

- *Bushmanland*

Research done on Bushmanland revealed that under custom and tradition the Bushman people have acquired traditional land and water rights known as !horesi in the area of Nyae Nyae under the leadership of !Nore Kxoasi (i.e. the leaders of the various groups or clans).  

### 3.1.4.3.3 Customary Land Tenure

Customary law never developed a system of "ownership" in land as it exists in western terms. The Roman Dutch law tradition in which property relations are described as either ownership, possession or one of the limited real rights with its element of individualism and absoluteness is foreign to customary law and inaccurate when applied to customary land tenure. This however, does not mean that under customary law access to land and rights to use and exploit land are unregulated. Although customary land tenure cannot be expressed in terms of the concept of "ownership" (so as to confer title to the land, as it is commonly understood by lawyers), it recognizes that land may be the subject of collective ownership by a tribe or a smaller social or family unit, while individuals belonging thereto, have protected rights to occupy, use and exploit it within the social and authority structure of the group. As such, customary law reflects the status of the land holder within the group and regulates the acquisition, content, exercise and protection of his rights. It is collectively owned and cannot be alienated to outsiders and is passed on to the next generation.

On the few occasions that the courts of Southern Africa had to pronounce on customary rights to land in relation to the law of succession, the courts held that customary law knew of no form of ownership in or of succession to land. They interpreted customary tenure with reference to common

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43 See: A.J. Van der Walt, Law Reform and the Future of Landownership in South Africa at pp. 39 - 40; Bennett, Customary Law in Southern Africa at p.213
44 See: Bennett, Application of Customary Law in Southern Africa at p 213; Mblonga v Dube & Another 1950 NAC 164 (NE); Nblanbla v Mokweno 1952 NAC 286 (NE). See too the Zimbabwe cases: Komo & another v Holmes NO 1935 SR 86 at 94; Dokotera v The Master & others 1957 R & N 697 (SR) and Gwebu 1961 R & N 694 (SR)
law principles and found that a tribe had an absolute or "allodial" title to land and that individuals had only usufructuary rights.  

Customary land tenure rights are recognized under the provisions of Article 16 of the Constitution. Article 16 pertaining to property rights acknowledges “all forms of immovable and movable property owned individually or in association with other”. The term “property” within the constitutional guarantee against the deprivation of property without the payment of just compensation contained in Article 16 of the Namibian Constitution is wide enough to embrace collectively owned customary land tenure. “Property”, for the purpose of Article 16, includes various items of property and rights and interest in property including contractual rights and limited personal rights such as the right to occupy, use and exploit land and to take the fruits thereof.

There is no law in existence pertaining to the expropriation of land and other property in communal areas. The Expropriation Ordinance, 1978 (Ord. No. 13 of 1978) which authorizes expropriation of any property for public purpose, subject to the obligation to pay compensation in accordance with requirements and procedures laid down in the Ordinance, has not been made applicable to communal areas.

Van der Walt, supra, at pp 41 - 2 provides the following useful summary on the shortcomings of customary land tenure:

"Some of the shortcomings that cause customary land tenure to compare unfavourably with common law tenure, and consequently merit reform, are that it is not susceptible to commercial use; that there is no security of tenure because of the dictatorial powers of chiefs; that it is sometimes ‘uncertain’ who owns the land; that it frustrates agricultural developments; and that customary land tenure is therefore regarded as out of touch with modern conditions and needs”.

The customary law pertaining to the Hereros did not permit individuals to own land, within the area occupied by the Herero people a Herero farmer could move freely with his livestock from place to place. Traditionally,

45 See: Bennett, A sourcebook of African Customary Law for Southern Africa; and Noveliti v Ntwayi 2 NAC 170 (1911); Dyasi 1935 NAC (C&O)1 at 9; Gaboetloloe v Tsikwe 1945 NAC (C&O) 2; of Luke 4 NAC 133 (1920)
46 See: The Minister of Defence v Mwandingi, (Supreme Court of Namibia, unreported, 25th October 1991); and Cultura 2000 and Another v The Government of Namibia and Others (High Court of Namibia, unreported, 10th June 1992)
Herero headmen, chiefs or leaders did not have the power to alienate the land occupied by the Herero people.\(^{47}\)

No reported or unreported cases which deal with customary law tenure in other areas could be found. These may be proved by persons who have knowledge of the nature of the customary tenure applicable and the period over which it has been observed. It can also be ascertained by making reference to authoritative history books pertaining to the subject.

### 3.1.4.3.4 Legislation regulating the Establishment and Control of reserves in Namibia

It is appropriate at this stage to provide an overview and analysis of some of the key aspects contained in the legislation which governs communal areas. It has to be pointed out that the legislation and regulations which are discussed herein are not a complete compilation of all the applicable laws that related to communal areas. More detailed legal research has to be undertaken to identify all the laws and regulations applicable to communal land administration.

It also has to be emphasized that such laws which were largely founded on and used by the colonial administration to implement the practices and ideology of apartheid, are in many aspects discriminatory, arbitrary and unreasonable in their application, and therefore also in substance unconstitutional.

The laws, to the extent that they have not been repealed or amended by an Act of Parliament or declared unconstitutional by a competent court, are still in existence and in full force and effect.\(^{48}\)

As law reform is now underway to give effect to the recommendations contained in this report to execute a land policy and administration programme of action, it is not particularly necessary to deal with their constitutionality.

- **The Treaty of Peace and South West Africa Mandate Act, No. 49 of 1919**

  On taking over from the German Government the Administration of the Territory in 1919, in terms of the Treaty of Peace and South West

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\(^{48}\) See: Article 140 of the Constitution
Africa Mandate Act No. 49 of 1919 which embodied the Treaty of Versailles, the rights over State lands in the Territory of South West Africa were passed to the South African Government.

Section 4(1) authorized the Governor-General to, by proclamation, apply to the Territory the provisions of the Crown Land Disposal Ordinance 1903 (Transvaal) by setting aside certain areas as black reserves. Section 4(3) authorized the alienation of land in a reserve with the consent of Parliament and permitted the Governor-General to award individual title to a person who lawfully occupied a particular piece of land and who was entitled to it.

This section provided as follows:

"No land within the said territory now or hereafter set apart as a reserve for black or coloured persons shall be alienated save under the authority of Parliament. Provided that nothing in this section contained shall be deemed to prohibit the Governor-General, in respect of land contained in any such reserve, to grant individual title to any person lawfully occupying and entitled to such land".

This provision, in permitting the Governor-General to award title with exclusive grazing rights to any particular farmer, as far as Hereroland is concerned, made an inroad into and altered the traditional right of Herero farmers to roam freely and graze their cattle on the entire land occupied by the Herero people.49

The reservation of black reserves was further authorized by Proclamation No. 13 of 1920 which applied the provisions of the Crown Land Disposal Ordinance, 1903 (Transvaal Ordinance, No. 57 of 1903) to the Territory and authorized the Administrator as follows:-

"The Administrator is hereby authorized subject to such conditions and limitations as he may think fit to except from sale and either to reserve or to dispose of in such other manner as for the public interest may seem best any Crown Lands that may be required for the following objects and purposes: (i) for the use of and benefit of blacks, coloured persons and asiatics ..."

49 See: Uazengisa at pp. 12 - 3


"Crown Lands" were defined in the schedule to Transvaal Ordinance No. 57 of 1903 to include "all unalienated land within the Protectorate of South West Africa, however acquired which was lately the property of the German Government."

- **The Native Administration Proclamation No. 11 of 1922**

The Native Administration Proclamation, 1922 (No. 11 of 1922) followed which accorded the Administrator specific powers to set aside areas as black reserves for the sole use and occupation of blacks subject to such restrictions and regulations as he may prescribe.

Section 16 of the Native Administration Proclamation which regulated the establishment and control of the reserves provided that:

"The Administrator may whenever he deems it desirable set aside areas as black reserves for the sole use and occupation of blacks generally or of any race or tribe of blacks in particular and the inhabitants thereof shall be subject to such restrictions and to such regulations as he may prescribe".

Section 20 of Proclamation 11 of 1922 empowered the Administrator to make regulations regarding "the establishment, management and control of black reserves in rural areas".

This provision constituted the legal authority upon which the Administrator confirmed the rights to areas "granted to black races or tribes of certain areas of land" by the German Government under the relevant treaties and set aside additional state lands as black reserves in subsequent Proclamations and Government Notices.

The Proclamations and Government Notices which established the various black reserves only constituted the reserves and defined their respective boundaries and none had any bearing on the control and administration of reserves.

Those statutory instruments should nevertheless be researched as they provide the basis upon which communal areas were established and determined the boundaries and extent of such communal areas.

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50 See: Government Notice No. 122 of 1923
The Native Reserve Regulations (Government Notice 68 of 1924)

Under the provision of section 20 of the Native Administration Proclamation No. 11 of 1922, the Administrator promulgated the Native Reserve Regulations (Government Notice 68 of 1924).

These regulations established a system of government and administration by colonial officials in the black reserves. The magistrate of the district was accorded general control of the black reserves established within his district. Under the authority of the magistrate fell the superintendent of a reserve who was responsible for the general control of the reserve and who was given certain general powers in respect of such reserve, but with certain important powers specified.

Provision was also made for the appointment of headmen. The reserve, where necessary in the discretion of the magistrate, was divided into wards by the magistrate and each ward placed under the control of a headman. The headman was placed under the control of the superintendent of the reserve and had to carry out the orders of such superintendent.

The superintendent was "charged with the duty of making allotments of land" and his powers specifically included the power set out in section 11 which provided that :-

"The Superintendent shall allot a site to any black person permitted to reside in the Reserve, and it shall be lawful for him to transfer any resident to some other site should it become necessary to do so. No black resident shall change his residence without the sanction of the superintendent in writing".

In those black reserves where the post of superintendent was not filled, the function of the allotment and deprivation of land was performed by the magistrate.

Section 1 of Government Notice 68 of 1924 stipulates that the magistrate :-

"...shall have all the powers and may lawfully perform all or any of the duties vested in or imposed upon the superintendent of a reserve

51 Section 1
52 Section 3
whether or not a superintendent shall have been appointed for such a reserve”.

The effect of section 11 is that magistrates and superintendents within the communal areas are charged with the duty to allocate sites to inhabitants and not traditional leaders.

Once an inhabitant has been allocated a site for him or her to reside on he or she acquired a vested occupational right and no other inhabitant could graze his or her cattle thereon.53

Regulation 20(a) entitled the Administrator to limit by notice in the Gazette, the number of livestock of each kind which may be kept by each inhabitant of a reserve, whilst regulation 22 restricted the grazing rights of inhabitants of a reserve by providing that the superintendent of any reserve “may for the better preservation of the grazing therein prohibit for any period to be fixed by him, the grazing of animals... in any portion of the common grazing ground in such reserve”.

The reference to “the common grazing ground in such reserve” underlines the intention of the legislation that these belong to the inhabitants of the reserves in commonage.

Section 9(c) contains a provision which explicitly prohibits a headman from exercising the power of either the allotment or deprivation of land.

This section provides that:

“He shall not make any allotment of land, either to newcomers, or by way of redistribution of land already occupied, nor shall he under any circumstances deprive any person of any land on which such person shall be in occupation except upon the express order, thereto of the superintendent”.

This provision has been the subject of considerable judicial consideration by the courts. In both the decisions of Kaputuaza and Ndisiro the court held that a headman has, by virtue of the provision of section 9(c) of Government Notice 68 of 1924, no authority to allocate land in the communal areas nor may he deprive a person of land and direct him or her to leave a site.

53 See: Uazengisa at p. 14
The decision in *Ndisiro*, in so far as it determined that Government Notice 68 of 1924 made an inroad into and replaced the customary rights of traditional leaders to control the allocation of land in communal areas, was recently in 1989 upheld in the decision in *Kakujaha*. Strydom J. confirmed that *Ndisiro* was correctly decided on its particular facts and went on to state that the customary law of the Hereros had been replaced by the provision of the section 9(c) of Government Notice 68 of 1924.54

The provision of Government Notice 68 of 1924 pertaining to such power is still in full force and effect and was not directly or by necessary implication repealed.55 Government Notice 68 of 1924 has been amended as late as 1980 by Proclamation 70 of 1980. The latter proclamation amended section 9(a) of Government Notice No. 68 of 1924 but left unchanged the provisions set out in section 9(b) and (c).

*The Native Administration Proclamation, 1928 (Proc. No. 15 of 1928)*

The Native Administration Proclamation, 1928 imposed a stringent colonial rule in the black reserves and set about the further limitation of the powers and prerogatives of traditional leaders at customary law. It accorded the Administrator the status of a supreme or paramount chief with the power to exercise “generally any or all the powers and authority of a supreme chief or paramount chief”.56 The Administrator was specifically given the discretionary power to “remove any black from one place to another”.57

This proclamation introduced the recognitive and appointive principle in relation to the appointment of chiefs and headmen. The Administrator was authorized to “recognize or appoint any person as a chief or headman in charge of a tribe or of a location or a black reserve...and to make regulations prescribing the duties, powers and privileges of such chiefs or headmen.”58

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54 *Kakujaha*, the judgment of Strydom J. at p. 1
55 See: *Ndisiro* at 537G - H and the judgment of Strydom J. in *Kakujaha* at p. 1
56 Section 1(g)
57 Section 1(d)
58 Section 1(a)
Whatever customary law relating to the appointment of traditional leaders may have been, these customary laws have been superseded by Proclamation 15 of 1928, only the President and no one else may appoint or recognize a paramount chief, chief or headman or dismiss him or her.  

**Government Notice No. 60 of 1930**

In terms of Government Notice No. 60 of 1930 the Administrator implemented certain regulations “prescribing the duties, powers and privileges of chiefs and headmen”.

In terms of section 1 chiefs were appointed “to exercise tribal government and control” with limited delegated administrative functions prescribed in the regulations, whereas headmen were appointed by the Administrator “to control a minor tribe or location under the direction of a Black Commissioner”.

Both chiefs and headmen were subject to and had to carry out the orders and instructions of the Chief Black Commissioner, Black Commissioner, Magistrate or Superintendent.

Chiefs and headmen were thus statutorily subject to the Administrator (and his officials) and accordingly had only such residual administrative authority as was not expressly conferred on the Administrator and his officials. Among the powers which were not residual in this sense was the allotment and deprivation of land which vested in terms of section 11 of Government Notice 68 of 1924 in magistrates and superintendents.

The function of chiefs and headmen pertaining to the allotment of arable land and residential sites was to administratively assist the superintendent concerned in the allocation of sites under section 11 of Government Notice 68 of 1924 as follows:

“They shall be responsible for the proper allotment to the extent of the authority allowed them by law of arable lands and residential sites in a just and equitable manner without favour or prejudice.”

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59 See Tjerije at pp. 3 - 6, Moralislwani at pp. 13 - 14; and Majavero v Munika, a decision of the High Court of Namibia which was, *inter alia*, based on the provisions of Article 66 of the Constitution, unreported on 15th February 1991)

60 Section 2

61 Section 3

62 Section 19
Proclamation 15 of 1928 and the regulations (Government Notice 60 of 1930) applied to the entire Territory and is still in full force and effect.\textsuperscript{63}

In fact proclamation 15 of 1928 was amended in certain respects as recently as 1989 by Proclamation AG 14 of 1989.

- \textit{The South West African Native Affairs Administration Act, 1954 (Act No.56 of 1954)}

This Act, which transferred the administration of black affairs in the Territory from the Administrator to the South African Minister of Plural Relations and Development in terms of section 4, extended certain areas (Kavango) and vested in the South African Development Trust, established under the Development Trust and Land Act, 1936 (Act no. 18 of 1936), the state lands which had been reserved and set apart as black reserves in terms of any law as well as any other land or area to be so reserved and set apart at any time after the commencement of the Act.

The affairs of the Development Trust were administered by the South African State President as Trustee. The Trust had to be administered in a manner consistent with the provisions of the Act and in regard to the Territory and the areas concerned for the "settlement, support, benefit and material and moral welfare of blacks in the Territory".\textsuperscript{64}

Under the provision of section 4(2) of the South West African Native Affairs Administration Act, 1954, through incorporation by reference, the Trustee had, in relation to any land or area in the Territory which vested in the Trust, the powers, functions and duties conferred by the Development Trust and Land Act, 1936. Those included the power to make regulations in terms of section 48 providing, \textit{inter alia}, for the allocation of land held by the Trust for the purpose of residence, cultivation, pasturage and commonage and for the control and protection of such land.

\textsuperscript{63} See: Ndisiro at 538H, Moraliscwani at p.12 and Kakujaha (the judgment of Strydom J. at p.1)

\textsuperscript{64} Section 4
The Administration of the South African Black Trust in South West Africa Proclamation, 1978 (Proc. AG 19 of 1978) transferred the affairs of the Trust in or in respect of the Territory to the Administrator-General who became, for that purpose, the Trustee of the Trust.  

This proclamation, by virtue of the provisions of sections 2 and 3, conferred upon the Administrator-General in his capacity as Trustee of the affairs of the Trust in the Territory, all those powers, functions and duties which had previously been exercised by the State President of South Africa under section 4 of the South West African Native Affairs Act, 1954.

It also vested the general administrative and regulatory powers under the provisions of the development Trust and Land Act, 1936 in the Administrator-General.

The ownership and control over the areas and land concerned remained with the Trust.

In a further development the Representative Authorities Amendment Proclamation, 1981 (Proc. AG 4 of 1981) set about the transfer to the Government of the Territory of the ownership of land, which in terms of the constitutions of the Representative Authorities, was communal land of the population groups concerned and which had vested in the South African Development Trust under section 4 of the South West African Native Administration Act, 1954.

In this manner the Government of the Territory became the owner of all communal land in the communal areas.

Although the ownership of the land vested in the Government of the Territory, the Trust was not abolished, the Administrator-General became the Trustee and replaced the State President of South Africa for the purpose of the application of section 4 of the South West African Native Affairs Administration Act, 1954.

The Administrator-General’s powers, functions and duties under the Development Trust and Land Act, 1936, in relation to such land, was

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65 Section 2
66 which inserted the provisions of section 48 bis in the Representative Authorities Proclamation, 1980 (Proc. AG 8 of 1980)
67 Section 48 bis of Proc. AG 8 of 1980
left undisturbed, though he exercised these as Administrator-General and not in his capacity as Trustee of the Trust. 68

The Representative Authorities Proclamation, 1989 (Proc. AG 8 of 1989) which abolished the Representative Authorities and brought about the transfer of the powers of the Representative Authorities to the Administrator-General pending the elections for an independent Namibia, expressly retained in the schedule thereto the provisions of sections 48 and 48 bis of Proclamation AG 8 of 1980.

The provisions of the South West African Native Affairs Administration Act, 1954 and the Development Trust and Land Act, 1936, as they were applied to Namibia, have not yet been repealed and are still in existence.

With the coming into operation of the Namibian Constitution at Independence the ownership and control of all communal land was transferred from the former Government of the Territory to the Namibian Government in terms of Article 124 read with Schedule 5 to the Constitution.

The Trust is still operative under section 4 of the South West African Native Affairs Administration Act, 1954, until the Act is repealed or amended, and as outlined above, communal land, although it is owned by the Government of Namibia, is held by the Trust and administered by the President as Trustee by virtue of the provisions of Article 140(5) of the Constitution, for the settlement, support, benefit and material and moral welfare of the inhabitants of the communal areas, with the President having the powers, functions, and duties in relation to land held by the Trust which was conferred by the provisions of the South African Development Trust and Land Act, 1936 and which include the power to make regulations pertaining to the utilization, control and protection of such land.

- **Ordinance 35 of 1967**

The acquisition and reservation by the Administrator of state land as black reserves was further authorized with the enactment of Ordinance 35 of 1967.

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68 section 48 bis (1)(d)
Section 1 empowered the Administrator to "... from time to time by proclamation in the Official Gazette set apart and reserve for the sole use and occupation of blacks any State land set out in the schedule to this ordinance or any portion of such land as may be specified in any such proclamation".

Whereas section 16 of Proclamation 11 of 1922, empowered the Administrator to set aside existing state land as black reserves, section 1 of Ordinance 35 of 1967 made provision for the acquisition of additional state lands listed in the schedule to the Ordinance and to make such land available for allocation as black reserves. Bushman-land was, for example, initially established as a black reserve under this provision by Proclamation 84 of 1969.


Pursuant to the recommendations of the Odendaal Commission (the Commission of Inquiry into South West Africa Affairs 1962 - 1963) to consolidate existing black reserves and set apart further black areas, the South African Parliament enacted the Development of Self-Government of Native Nations in South West Africa Act, 1968 (Act No. 54 of 1968) to confirm the black reserves in the north, i.e. Damaraland, Hereroland, Kaokoland, Kavango, Eastern Caprivi and Owambo and extend and consolidate them into "self-governing areas" or so-called homelands, as "areas for the different black nations reserved and set apart for the exclusive use of and occupation by blacks". Although provision was made in section 2 (1)(g) for the extension of the self-governing areas referred to and for the reservation and setting apart of other land and areas, the boundaries of such self-governing areas were defined along the existing boundaries of the black reserves to which they related. Reference was merely made to the various proclamations and government notices, which had set up and defined the black reserves concerned.

The Act also made provision for a system of self-government in such areas; the State President of South Africa was empowered under section 3 to establish for it a legislative council and executive council by proclamation "after consultations with a black nation concerned". Self-governments were established in the areas of Damaraland, Kavango, Eastern Caprivi and Owambo.
The Act contained a provision in section 7 which gave official recognition to tribal and community governments in the black reserves and the customary laws observed thereat. This section which empowered the State President of South Africa to recognize and constitute tribal or community authorities provided as follows:

"The State President may by Proclamation in the Gazette -

if there exists in a tribe or community a tribal or community government functioning in accordance with the law and customs observed by that tribe or community, recognize, after consultation with such tribe or community, such government as a tribal authority or a community authority in respect of that tribe or community; ..."

Under this provision certain community authorities were established by proclamation for ethnic minorities within the reserve as community governments. The community authorities which were established were given certain responsibilities in relation to communal land.

Proclamation 177 of 1974 (RSA) created a community authority for the Mbanderu community of Rietfontein Block in Hereroland with the powers, functions and duties set out in section 9 of the proclamation. Section 9 read:

"The community authority shall ... be responsible for all matters affecting the material, moral and social welfare of the black population of that area, including the development and improvement of the land within the area."

In Ndisiro the court commented on this provision in relation to those provisions contained in Government Notice 68 of 1924 and held, at 539G, per Levy J. that:

"The proclamation ... did not purport to repeal any statutory legislation nor did it revoke or even purport to modify a judicial system built up over very many years. Although it has powers both in respect of land and of the welfare of the inhabitants, it does not purport to repeal those provisions of Government Notice 68 of 1924 which give the superintendent the power to remove an inhabitant from one place to another. Proclamation 177 of 1974 can be read and applied harmoniously and consistently with all the powers given to magistrates, superintendents and black commissioners in Government Notice 68 of 1924 and it must be so read and applied."
A community authority was also set up for Okamatapati pursuant to the provisions of section 7 of Act 54 of 1968 in terms of Proclamation 178 of 1974 (RSA). It contained, in section 9, a corresponding provision in identical terms regarding the powers, functions and duties of that community authority.

The Okamatapati Community Authority decided in 1979 on a policy of grazing control and resolved to sub-divide and fence in communal land. This decision was challenged by affected cattle farmers in Uazengisa who argued that such fencing programme was contrary to Herero customary law and the legislation pertaining to the reserves.

In the appeal matter of Uazengisa and Others v The Executive Committee for the Administration of Hereros and Others (Supreme Court of South West Africa, unreported on 22nd September 1989) the court found, at pp. 3 - 4, that "in terms of section 9 of Proclamation 178 of 1974, the Okamatapati community authority was responsible for the development and improvement of the land" and that "this section clearly gives the power to the community authority to develop and improve the land ... and that fencing of land to improve the grazing falls within the ambit of this section".

The provision of section 52 of the Representative Authorities Proclamation, 1980 (Proc. Ag 8 of 1980) repealed the Development of Self-Government for Native Nations in South West Africa Act, 1968 (Act 54 of 1968) but preserved those laws which were made under the provisions of the Act and anything done under the provisions of such laws.

The legislation which created the community authorities [such as Procs. 177 of 1974 (Mbanderu) and 178 of 1974 (Okamatapati) and there are many others in existence] has not been repealed under the Constitution or by any other statute and are therefore still in full force and effect.

It follows that community authorities which have been established pursuant to the provisions of section 7 of Act 54 of 1968 and which are still in existence retain the powers, functions and duties conferred upon them, i.e. to "be responsible for all matters affecting the material, moral and social welfare of the black population [in the area of their authority] including the development and improvement of land within the area" and in view of the decision in Uazengisa the com-
munity authorities have the power to develop and improve the land and for this purpose may sub-divide and fence off land.

Those persons who have acquired land tenure rights to particular fenced off areas with the consent of a community authority, have obtained a vested right to such land which they and no other inhabitants may exercise and it is protected by the Constitutional guarantee against the deprivation of property contained in Article 16 of the Constitution.

The consolidation of black reserves of the south was governed by the provisions of the Namaland Consolidation and Administration Act, 1972 (Act No. 79 of 1972) which provided for the reservation and setting apart under the name of Namaland of all the black reserves of the south which it consolidated as areas for the sole use and occupation of the Nama people. The Act applied the provisions of section 3 of the South West Africa Native Affairs Administration Act, 1954 relating to the setting up of a Self-Government for Namaland.

- The Representative Authorities Proclamation, 1980 (Proc. AG 8 of 1980)

This proclamation established what was termed "representative authorities" for the various population groups in the Territory and conferred upon them limited legislative as well as executive functions. These representative authorities were to constitute the legislative and executive organs of a number of population groups which were also established by Proc. AG 8 of 1980.

Proclamation AG 8 then made specific provisions for the legislative as well as the executive powers of the various representative authorities and provided the framework within which they were to operate.

The provisions of section 14 made provision for certain defined legislative powers set out in a schedule to Proc. AG 8 of 1980.

Item 1 to the schedule pertained to the legislative powers of representative authorities in respect of land or any right to land, and read:

"The acquisition, alienation, grant, transfer, occupation and possession of land, or any right to land -

(a) which in terms of constitution of the representative authority or any other law is communal land of the particular population group; or
(b) which is not communal land as aforesaid but which is acquired by the representative authority as owner under a title deed registered in a deeds office, if it appears from such title deed or from an endorsement made thereon, and on any relevant documents in such deeds office, under the authority of the Administrator-General, that such land was so acquired as communal land of the particular population group ....”

The effect of Item 1 of the schedule was to further curtail and do away, by legislative act, with the powers of traditional leaders at customary law to allocate communal land.69

Proclamation AG 8 of 1980 similarly conferred upon the various representative authorities certain executive powers. In terms of Part III an executive authority was created for each representative authority to administer the affairs of each population group in respect of all matters of which such representative authority was empowered to legislate - i.e. in respect of all matters contained in the schedule to Proc. AG 8 of 1980.

The provision of section 48 bis which was inserted by section 1 of the Representative Authorities Amendment Proclamation, 1981 (Proc. AG 4 of 1981) contained a provision in sub-section (3) which gave the executive authority of a representative authority the specific power to, in terms of any ordinance of its legislative authority or any law administered by that executive authority, confer to a person with the written authorization of the Administrator-General a valid title to ownership or any right in any portion of communal land.

Section 48 bis (3) read:

"Notwithstanding the fact that the ownership of and referred to in paragraph (a) of subsection (1) vests in terms of that paragraph in the Government of the territory, the executive authority of a representative authority may in relation to that portion of such land which in terms of the constitution of that representative authority is communal land of the population group concerned, to the extent authorized thereto in terms of any ordinance of the legislative authority of that representative authority made under this Proclamation, or any other

69 see: Morallswani at p. 23
law administered by or under the control of that executive authority in terms of the provisions of this Proclamation, confer a valid title to the ownership of, or any other right in, to or over, any portion of such land in respect of which the Administrator-General or a person authorized by him has in writing declared that it is communal land of such population group and is not used or required for public or official purposes by any authority, body or other institution established by or under any law, upon any other person as if such representative authority were the owner of the land in question, and a title so conferred shall be deemed to have been conferred by the owner of that land."

The provision of Article 48 bis was widely used by the Executive Committees of the representative authorities to allocate and lease communal lands to private individuals and they also disposed of surveyed portions of communal land by conferring on persons a valid title to ownership of the land.

The proclamations which established the various representative authorities contained similar and identically worded provisions, accordingly for the purpose of this report, by way of illustration, reference may be made to the provisions of any one of the establishment of representative authority proclamations. The provisions pertaining to communal land contained in the Representative Authority of the Hereros Proclamation 1980 (Proc. AG 50 of 1980) which established a legislative assembly and an executive committee for the Hereros was considered (in Kaputaaza and Ndisiro) and it is therefore appropriate to deal with the provisions of Proc. AG 50 of 1980.

Section 27(1) of Proc. AG 50 of 1980 provided for the retention of the powers of recognized or appointed chiefs and headmen who were in office on the date of commencement of the proclamation. It did not give them additional powers nor did it amend or repeal those proclamations or regulations which had given or which had restricted their powers. It merely recognized the powers which they had as restricted by existing legislation including Government Notice 68 of 1924.70

70 See: Ndisiro at 538F and Moraliswani at pp. 22 - 23
Section 27(1) provided that:

"The duties, powers, authorities and functions lawfully exercised immediately before the date of commencement of this section by any chief or headman, recognized or appointed as such under the laws governing the recognition of appointment of chiefs and headmen of the Hereros, shall remain in force until altered or cancelled by a competent authority".

Proclamation AG 50 of 1980 (and indeed all the Establishment of Representative Authorities proclamations) reflected the notion that the areas consisting of Hereroland as defined in section 32 constitute communal land of the Hereros.

Section 32 specifically provided that such areas "shall be communal land of the Hereros".

The circumstances under which land ceased to be communal land was set out in the provisions contained in section 33 and were as follows:

"Any surveyed portion of the communal land referred to in item 1(b) of the Schedule to the principal proclamation shall cease to be such communal land if -

(a) the ownership of such portion has at any time been transferred to any person by or under the authority of the Executive Committee or under any ordinance of the Assembly or any other law administered by or under the control of the Executive Committee by means of the registration of a title deed in any deeds office; and

(b) a period of 15 years, or such shorter period as may be determined by the ordinance of the Assembly has elapsed after the date of such registration regardless of the registration of any other transfer of such portion, to whomsoever during the relevant period."

71 In Kaputoza Bethune J. held with reference to these provisions, at 318 I - 319A that:

"It is clear that the fencing-off of certain areas in the reserves is incompatible with the notion that all land in a reserve is communal land. It is accordingly contrary to Herero customary law and also to the intention of the legislature as reflected in the laws relating to Herero reserves."
3.1.4.4 Summary

Magistrates and superintendents of the reserves are charged, in terms of Government Notice 68 of 1924, with the duty of the allotment of land.

Whatever the customary law powers of chiefs and headmen may have been to allocate land, such customary laws have been repealed by the provisions of sections 11 and 9(c) of Government Notice 68 of 1924.

Chief and headmen have a purely administrative function (in terms of Government Notice 60 of 1930) to assist the magistrate or superintendent concerned in the allotment of arable land and residential sites in a just and equitable manner.

Immediately before Independence the legislative power in respect of communal land vested in Representative Authorities under section 14(1) read with Item 1 of the schedule to the Representative Authorities Proclamation, 1980 (Proc. AG 8 of 1980). Item 1 of the schedule of the proclamation curtailed and had done away, by legislative act, with the powers of traditional leaders to allocate communal land.

When the Constitution repealed the provisions of Proc. AG 8 of 1980 it did not revive the customary law powers of traditional leaders to allocate land because section 11(2) of the Interpretation Proclamation provides that:

"Where a law repeals any other law, then, unless the contrary intention appears, the repeal shall not -

(d) revive anything not in force or existing at the time at which the repeal takes effect;"72

The traditional content of communal land that allowed the inhabitants of the black reserves subject only to the authority of hereditary chiefs free access to utilize communal land where and when they liked was modified and restricted by the laws and regulations pertaining to the reserves. Once a particular site had been allocated to persons to reside on, he or she acquired an enforceable usufructuary right to such land.

72 See: Rex v Max 1930 TPD 855 at 860
Rex v Maluluma 1949(2) SA 856 (T) at 858
Steyn Uitleg van Wette 5th ed. at p.176
Craies on Statute Laws 7th ed. at p. 355
A Community Authority established pursuant to the provisions of section 7 of Act 54 of 1968, as they are still in existence may authorize the fencing in of communal land as a means of developing and improving the land.

Communal land has however retained its essential character as the communal land of a particular social or ethnic group to be collectively utilized by that group in commonage.

This has not been altered by the Constitution; the Constitution in terms of Article 102(5) recognizes the status of communal land.

The ownership of and control over communal land rests, under the provision of Article 124 read with schedule 5 to the Constitution, in the Government of Namibia with the President as the executive authority in respect of the control and utilization of communal land in terms of the provisions of Article 102(5).

The control and utilization of communal land should be addressed in an Act of Parliament containing provision pertaining to the acquisition, alienation, occupation and utilization of such land.

3.1.5 Land Tenure Issues

Land tenure defines the rights and obligations somebody has to the land. Although a general investigation into land tenure systems in Namibia falls outside the terms of reference of the Committee, it nonetheless may be regarded as important to comment on some land tenure issues in relation to resettlement schemes.

Ideally, land tenure systems should "provide adequate incentives to produce, to adopt improved technologies, and to invest. [They] should afford reasonable security." As a guiding principle in formulating a land tenure system for resettlement areas, it is recommended that the rights and obligations of settlers to land should stand in direct relationship to their contribution to its development. If Government's contribution in terms of capital and other resources is high, it should retain a large measure of control over the land. Where settlers themselves contribute a larger proportion to development costs, their rights should be more extensive.

It is essential that the rights and obligations of settlers are properly explained to, and understood by, settlers.

Tenure systems can take on several forms. In Zimbabwe settlers are issued with three separate permits: a permit to reside; to cultivate; and to keep stock.
Permits are valid for five years after which they can be renewed. In terms of these permits, the plots "cannot be mortgaged, nor credit granted against land as a security". In addition, the permit can be withdrawn. It does appear that these permits are similar in their provisions and conditions to PTO certificates (permission to occupy) issued in the reserves.

While this form of tenure seems to provide sufficient security to settlers, it is recommended that they should be given the option of entering into common law lease agreements with the state, which may enable them to raise loans against their land.

It is not recommended that title deeds be issued for settlement schemes implemented on state land, communal areas included. Experience elsewhere has shown that the risk of settlers selling their plot for short term gain exists where titles are given, thus perpetuating landlessness in the long run. Should title be desired, however, the Subdivision of Agricultural Land Act, 1970 needs to be amended to make provision for the subdivision of commercial farm land.

An issue that deserves special attention is that of dual grazing rights. Land Conference resolved that communal area farmers who have acquired land in the commercial areas should not be permitted to graze livestock both in the commercial sector and on communal land. The Committee therefore feels strongly that land should be allocated to settlers on condition that they relinquish all rights in the communal areas.

Experience from elsewhere suggests, however, that this is not easy to implement. In Zimbabwe, for example, it was found that while settlers were unlikely to continue to cultivate fields in the communal areas after they had been allocated land, the attitude prevailed that "they cannot give up a right which is not theirs to relinquish". Indeed, to many settlers in Zimbabwe, "relinquishing cultivation rights [in communal areas] is ... alien if not impossible practice ... for social and cultural reasons'.

Redistribution programmes will fail in their objectives, if tenure arrangements do not "safeguard against settlers eventually retiring from active farming and taking the land out of production." To prevent such a situation from developing, permit or lease conditions may include the right for the permit to be withdrawn in the event of the land having been idle or under utilized for a specified period. Similarly, a land tax or lease rental could ensure that it would not be financially feasible to occupy land without putting it to productive use.
An important issue to consider in addressing tenure arrangements on state land is the question of inheritance. Should, for example, an allocated plot be divided into several parts after the permit holder has died or should the land revert back to the state for reallocation? With regard to the former option, some negative experiences can be cited from within Namibia. The subdivision of farm land has been practised in the Rehoboth area with highly unsatisfactory results. Because of this, legislation has been introduced to reverse the process by encouraging the consolidation of land.

However, the second option of ensuring that the land reverts back to the state after the death of its original allottee, may be perceived as a major disincentive for investment in the plot. An attendant problem which may not be very important here but should nonetheless be kept in mind, is that of widows inheriting the plot under conditions of polygamy. While men and women should be treated as equals under any land tenure system, i.e. enjoy the same rights and obligations to land, complications may arise if the deceased had more than one wife.

3.1.6 Land Administration

Approximately 70% of the Namibian population lives in rural areas. Close to 90% of the rural population depends on agriculture for their livelihood. Land is the most essential productive resource to ensure their livelihood. Land has become a scarce resource as a result of colonial land policies.

Land tenure systems are defined as legal or customary relationships between individuals, groups and society concerning rights and duties in the use of land. They develop over time to meet the practical needs of crops and livestock production in the way preferred by the community concerned. They reflect specific farm operations and relative political conditions. In Namibia the land tenure system was initially customary, based on subsistence production, changes have taken place through colonial land policies, leading to communal land, privately owned commercial farmland and state land. Today one can talk about three main categories of land tenure systems in Namibia, which reflect both legal and customary relationships, with regard to land use.

The three categories are:

i) National or state land - 13 million ha which are either deserts, national parks, production or research farms.

ii) Communal land - 33 million ha, mainly used for subsistence/residual agriculture.
iii) Commercial farmland - 36 million ha, predominantly used for livestock production and limited crop farming.

As has been mentioned already the Namibian Constitution transferred ownership of all communal lands previously vested in the colonial institutional framework to the Government of Namibia. However, according to Article 66 of the constitution all laws which were in force immediately before the date of independence - which may include any ordinances passed by the various representative authorities - will remain in force until repealed or amended by an Act of Parliament, or until declared unconstitutional by a competent court. At the moment, no Act of Parliament has been passed, to establish new institutions to deal with land allocation and administration. The Ministry of Lands, Resettlement and Rehabilitation is the Ministry responsible for land allocation. However, other Ministries like the Ministries of Agriculture, Wildlife, and Local Government and Housing, are also involved in land allocation and administration. This state of affairs is undesirable and there is a need to address this situation urgently.

The TCCF feels that with regard to land administration, Namibia could learn from the experience of Botswana. The similarities between the two countries in fact may justify such an effort e.g. the fact that both countries are sparsely populated with livestock industries being crucial in the National economies.

- Botswana’s Ministry of Local Government and Lands deals with local government and also allocates, administers, and promotes the development of land. In Botswana land boards are part of this Ministry. By contrast, the tasks performed by this single Ministry in Botswana, are shared by two ministries in Namibia.

The natural reasoning in the case of Namibia would be that land boards should be part of the Ministry of Lands, Resettlement and Rehabilitation.

- In Botswana the Tribal Grazing Lands Policy (TGLP) of 1975 was basically a question of land tenure reform. Due to environmental degradation of communal grazing, big farmers were encouraged to fence farm units and move out of communal areas. The assumption was that reducing pressure on overgrazed areas would lead to proper communal area development. The opposite was however true. While grazing was good, rich farmers acquired cattle in excess of the carrying capacity of the 6 400 ha farm units, then moved back to overgrazed communal areas during drought. The TGLP has subsequently been reviewed and it has been realized that inadequate extension assistance
and monitoring was provided. In Namibia the urgent question is that of resettlement and distribution of potential land to the most needy.

- The Land Boards in Botswana were composed of traditional leaders and those appointed by local government. It has been noted that this composition was essential, but due to the enormous task involved, different types of allowances were to be given, which became too costly for the Government. So the question is, should land boards necessarily be composed of people external to the government services, or should they be more in favour of government extension staff, who know the regions and districts they work in.

*National Task Force on land reform programme*

In the light of the arguments presented here the establishment of an Inter-ministerial Task force is suggested. The task force will have the following characteristics:

- it will be composed of government organisations
- it will be chaired by a permanent secretary
- the secretary to the task force will be a senior government official fully conversant with land issues.

*It will have the following functions:*

- to work out strategies with the extension staff of line Ministries and traditional authorities, with regard to all issues on land allocation and land administration
- to ensure the establishment of permanent land boards under the overall supervision of the Ministry of Lands, Resettlement and Rehabilitation
- to ensure the formation of an implementing agency
- to establish effective channels for planning, monitoring, and evaluation for the Land Reform Programme.
3.2 LAND POTENTIALLY AVAILABLE FOR INCLUSION IN A TARGETED LAND REFORM PROGRAMME

According to Table 3.30 there are about 7 714 888 hectares potentially available for inclusion in a land reform programme. This land consists of the following categories:

Government Land
This land only includes farms which are currently run by the various ministries. Not all of this land will be available for a land reform programme because some of it will still be needed by Government, for example, experimental farms. Only land which is not essential for Government operations will be available for redistribution.

No land administered by former second tier authorities is included in this category. Legally it is Government land.

Peri-Urban and Municipal Land
There are 349 988 ha under this category. This land is fairly well developed into grazing camps and watering points and is mainly used for grazing by farmers, who leased it from these institutions. Since most of this land is already used for grazing/agricultural purposes, it is safe to assume that most of it can be made available for a land reform programme. Peri-urban boards and municipalities should only be allowed to keep a minimum land area for townlands.

Foreign Owned Land
There are just over 3 million ha of foreign owned land, all of which will be available for a land reform programme.

Multiple and Excessive ownership of Land
There are over 1.3 million ha in this category. All this land will be available for the land reform programme. There will probably be marginal changes upwards or downwards depending on the cut-off points when the division is made.
<table>
<thead>
<tr>
<th>District</th>
<th>Government</th>
<th>Peri-urban and Municipal</th>
<th>Foreign owned</th>
<th>Multiple &amp; excessive</th>
<th>Under-utilized (50%)</th>
<th>Abandoned Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grootfontein</td>
<td>24 798</td>
<td>2 200</td>
<td>25 811</td>
<td>53 799</td>
<td>7 914</td>
<td></td>
</tr>
<tr>
<td>Tsumeb/Otavi</td>
<td>18 141</td>
<td>802</td>
<td>66 233</td>
<td>29 299</td>
<td>72 677</td>
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<tr>
<td>Outjo</td>
<td>33 338</td>
<td>11 431</td>
<td>165 716</td>
<td>19 026</td>
<td>-</td>
<td></td>
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<tr>
<td>Otjiwarongo</td>
<td>27 267</td>
<td>700</td>
<td>31 896</td>
<td>215 705</td>
<td>31 983</td>
<td></td>
</tr>
<tr>
<td>TOTAL NORTH</td>
<td>103 544</td>
<td>15 133</td>
<td>289 658</td>
<td>317 829</td>
<td>112 574</td>
<td></td>
</tr>
<tr>
<td>Omaruru/Karibib</td>
<td>49 706</td>
<td>33 024</td>
<td>531 720</td>
<td>109 690</td>
<td>145 922</td>
<td></td>
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<tr>
<td>Okahandja</td>
<td>8 218</td>
<td>9 620</td>
<td>172 013</td>
<td>24 379</td>
<td>39 376</td>
<td></td>
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<tr>
<td>Windhoek</td>
<td>40 196*</td>
<td>47 812</td>
<td>429 487</td>
<td>146 490</td>
<td>270 315</td>
<td></td>
</tr>
<tr>
<td>Gobabis</td>
<td>99 144</td>
<td>48 290</td>
<td>108 284</td>
<td>389 529</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL CENTRAL</td>
<td>197 267</td>
<td>138 746</td>
<td>1 241 504</td>
<td>670 088</td>
<td>455 613</td>
<td></td>
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<tr>
<td>Mariental</td>
<td>22 647</td>
<td>21 271</td>
<td>-</td>
<td>58 078</td>
<td>237 392</td>
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<tr>
<td>Keetmanshoop</td>
<td>149 718</td>
<td>62 834</td>
<td>397 199</td>
<td>68 767</td>
<td>300 387</td>
<td>82 266</td>
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<tr>
<td>Karasburg</td>
<td>144 650</td>
<td>28 570</td>
<td>526 501</td>
<td>89 338</td>
<td>396 394</td>
<td>133 504</td>
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<tr>
<td>Bethanie/Lüderitz</td>
<td>986</td>
<td>65 855</td>
<td>420 564</td>
<td>22 836</td>
<td>331 047</td>
<td>154 844</td>
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<tr>
<td>TOTAL SOUTH</td>
<td>358 096</td>
<td>196 119</td>
<td>1 471 161</td>
<td>318 218</td>
<td>1 458 737</td>
<td>370 614</td>
</tr>
<tr>
<td>TOTAL</td>
<td>658 904</td>
<td>349 988</td>
<td>3 002 323</td>
<td>1 306 135</td>
<td>2 026 924</td>
<td>370 614</td>
</tr>
</tbody>
</table>

* including Tsumis Park
Under-utilized Land

There are just over 4 million ha of under-utilized land. This category is the most difficult to reduce to exact figures mainly because these figures are subject to rapid fluctuations due to re- or de-stocking. If we assume that farmers can re-stock with up to 50% more stock in the under-utilized areas, there will remain at least about 2 million ha available for a land reform programme.

First Option to Buy

Farms which have been bought with the assistance of Government loans, have to be offered to Government first, during the option period, if the owners want to sell. The Government will decide whether to buy such farms or not before they can be offered to anybody else. The amount of land or number of farms which may be offered is not yet known and will depend on the owners as to whether they want to sell or not. Nonetheless, this is a potential source for additional land for a reform programme.

Abandoned Land

Only 370 614 ha were identified under this category in the south. Land is also likely to be available in other areas as yet unidentified.

3.3 Categories of Intended Beneficiaries

The identification of intended beneficiaries is fundamentally linked to the long term objectives of land reform and land redistribution. It is imperative, therefore, to clarify what land reform is intended to achieve.

The overall objective of land reform in Namibia is to raise the incomes and living standards of the rural landless and poor. The extent of rural poverty and deprivation are directly linked to the highly unequal distribution of agricultural land: 57% of the net area of agriculturally usable land is owned and utilized by just over 4 000 commercial farmers with an estimated 230 000 people being directly dependent on this sector. By contrast, more than 500 000 people have to make a living on 43% of the land not all of which is agriculturally useable.

In addition to low per capita land holdings, communal farmers are further disadvantaged by being denied access to agricultural credit, research and extension services appropriate for small scale farming.
The result of this process of gradual impoverishment is that an estimated 55% of the Namibian population was considered to be "absolutely poor" by UNICEF at Independence. It is for this reason also that land reform is widely regarded as a prerequisite to the overall development strategy.

Given the extent of poverty in Namibia and the limited resources at the disposal of Government to alleviate rural poverty by broadening access to land on favourable terms, Government is forced to prioritize and target groups for settlement or resettlement. While it is essential for planning and budgeting purposes to quantify the problem, it is exceedingly difficult to determine with any accuracy the number of people who should benefit from land reform. Predictably, the vast majority of people questioned for a socio-economic survey in 1991 reported that they wanted more land for ploughing and grazing.

Despite these problems, the Ministry of Lands, Resettlement and Rehabilitation estimated that overall about 80,000 people or roughly 13,000 to 14,000 households need to be resettled. Up until the end of December 1991, 10,239 households had been registered for resettlement by its Research Division. Of this number 2,289 households or 22% have already been settled in Western Bushmanland. Approximately 52% of the remaining 7,950 households in need of resettlement have been registered in the northern regions (Owambo and Kavango). The remainder come from all the other regions except Caprivi, where no registrations have been received. These figures are aggregate figures and, with the exception of the San, have not been broken down into prioritised target groups.

The Committee has considered the target groups identified by the Ministry of Lands, Resettlement and Rehabilitation and is in broad agreement with the Ministry. It feels, however, that the first priority among potential beneficiaries should be the dispossessed. After that, the priorities correspond to those of the Ministry of Lands, Resettlement and Rehabilitation. What follows is a brief summary of beneficiaries in order of priority.

3.3.1 The Dispossessed

The category of dispossessed people encompasses all those Namibians who have lost land or access to land as a direct result of colonial dispossession or colonial wars.

Although the historical processes which have brought about this category of beneficiaries are well known, it is very difficult in practice to quantify and define. As the socio-economic survey done for the Land Conference indicated, most respondents answered in the affirmative when asked whether
they needed any land. It is also known that well paid salaried people and high income earning persons include themselves in this category whenever they do not own any agricultural land.

Strict selection criteria are therefore called for to define this category more accurately.

3.3.2 San

At Independence the new Namibian Government found large numbers of San ex-soldiers in former South African military bases. Since some of these bases were in very remote areas, Government regarded it as a priority to settle these former soldiers on agricultural land and enable them to fend for themselves. What set San ex-soldiers apart from other ex-combatants was the fact that the former were abandoned in military camps, while the latter, although also unemployed, were integrated to a greater or lesser extent into civil society.

In addition to this group, many San labourers were driven off commercial farms and were found squatting along national roads.

No accurate figures are available on how many San were affected by either the end of the war or layoff on farms. It does appear, however, that substantial numbers have already been settled at schemes in Western Bushmanland, Bagani and Drimiopsis.

3.3.3 Ex-combatants/Soldiers

This category of beneficiaries comprises ex-soldiers from the Peoples’ Liberation Army of Namibia, the South West Africa Territory Force, Koevoet and the SADF. Although most of these soldiers were not found in military camps, they also, like the San, had lost their only source of income with the end of the war. Indeed, most of these people have ‘few economic links back to their home areas or, if these exist, they are increasingly ignored.’

Their plight was worsened by the fact that the fledgling Namibian defence force could only accommodate limited numbers of former soldiers.

Once again, exact data on the numbers and needs of this category of people are non-existent.
3.3.4 Returnees

At Independence about 45 000 Namibians returned home from exile. Indications are that approximately 80% returned to homes in the northern regions. Although significant numbers of returnees have some qualifications and skills, substantial numbers will look to the land for subsistence.

It should be pointed out that 19.5% of respondents who answered the question ‘Who should get land’ during the socio-economic survey conducted for the Land Conference, regarded equal access to land by all Namibians as the top priority. This was followed by 16.6% who felt that the landless and unemployed should be given land, followed by 13.4% who responded that returnees should benefit from land redistribution. Good farmers were identified by 11.62% as the next most important group of beneficiaries.

These averages do conceal regional differences, however. In the more densely populated areas of the north, returnees were accorded a higher priority than in southern communal areas. In the latter, the most important beneficiaries were identified as those whose land ‘had been stolen’. 21.5% identified this group as most important. This was followed by 15.4% of respondents, who felt that the principle of equal access to land was important. Returnees (9.8%) and the landless/unemployed (9.2%) were regarded as relatively less important.

3.3.5 War Victims and Disabled People

This category of beneficiaries is composed of war victims and disabled people who are capable and willing to fend for themselves in agriculture, provided that they can obtain access to land.

3.3.6 Farm Workers

About 36 000 workers are registered as working on commercial farms. With their dependents this category of possible beneficiaries numbers approximately 230 000. At this stage ‘no survey of the conditions of residents on private farms has been made’.

Impressionistic evidence suggests strongly, that the majority of farm workers and their dependents receive very low wages and are ‘highly underserved in terms of educational opportunities and access to health services and housing.’

In addition, most farm workers enjoy very insecure terms of tenure on commercial farms. While 43% of farm worker households surveyed for the
National Land Conference in 1991 reported that they were allowed to run limited numbers of livestock on farms, ‘few workers have written contracts’ with their employers. In most cases, they are ‘employed by verbal agreement’, which lends itself to widespread abuse, such as summary dismissal. Indeed, indications are that commercial farmers have reduced their hired labour force since Independence by driving workers off their farms with all their belongings. Because significant numbers of such ex-farm workers and their dependents are forced to live on the margins of small urban centres in the centre and south of the country, UNICEF has described them as a ‘highly deprived sub-group’.

Most of these issues, and therefore the resolutions adopted during the Land Conference, have been addressed by the Labour Bill. The Committee feels, however, that the provisions in the Bill regarding farm labourers’ rights to farm land should be strengthened, as the issue of lower order tenure rights to farm land has not been addressed sufficiently.

It is likely that urban residents and non-farmers will also demand land and are hoping to benefit from land reform. However, little is known about the size of this group. A recent survey found that 23.3% of all households in Katutura own cattle. This percentage is higher than for households in the peri-urban north, where only 17.4% of all households own cattle.

Even more surprising is the fact that the average number of cattle owned by households in Katutura is 23.4 compared with the average of 11.3 head of cattle in the rural north.

3.3.7 Women Headed Households

Access by women to land has historically been determined by virtue of marriage and settlement arrangements, strengthened by the legal and customary laws of our society. It has thus been insecure and alienable.

Reports suggest that although land can be made available, female headed households and single mothers experience significant difficulties in obtaining access in their own right. For example, in northern Namibia there is a requirement to pay for communal land. NEPRU briefing paper No 10 indicates that a woman is required to pay R 400.00 for an average plot of 1-2 ha (estimated at the current prices). Furthermore, landless women who are presently squatting in the vicinity can never dream of acquiring such land, without a viable source of income.

The foregoing suggests that gender inequality is a significant aspect of the land question. Therefore gender awareness should continue to be recognised as an important component of all policy formulation, programme
planning and development, and implementation. Only then can the question of household food insecurity in Namibia be fully addressed.

Women are the majority of agricultural producers in the communal areas. This is a result of the traditional sexual division of labour and the effects of the migrant labour system. It is estimated that an average of 58% of households are headed by women.

In the light of the above the Prime Minister’s address to the Land Conference is quoted:

"The second lesson that we can learn from land reforms elsewhere, is that all too often, they have excluded the poor subsistence farmers, especially women, because they are believed to be inefficient, unproductive and unworthy of assistance".

TCCF therefore suggests the following:

- Women should have the right to own land for cultivation and to inherit and bequeath land.

- A programme of affirmative action should be introduced to assist women, through training, low interest loans and other mechanisms allowing competition on equal terms with men.

- All discriminatory laws, whether statutory or customary, and all discriminatory practices which disadvantaged women, should be abolished or amended with immediate effect.

- Women should be fairly represented on all future district councils, land boards or other bodies which deal with the allocation and use of land in the communal areas.

### 3.4 SETTLER SELECTION

Because it is impossible to arrive at watertight definitions of beneficiaries, it is imperative that strict criteria for settler selection are drawn up by Government, reflecting the prioritisation of beneficiaries discussed above. It is proposed that beneficiaries must satisfy the following criteria to qualify for land: they should

**EITHER:**

(a) be effectively landless, i.e. have no or too little land to support themselves and their dependents;
OR
(b) be a San left behind by the South African occupation forces;
OR
(c) be an ex-combatant;
OR
(d) be a returned Namibian refugee;
OR
(e) be a war victim or disabled and able to practice agriculture;
OR
(f) be head of a household, and female;
AND
(g) be unemployed and without any income (including spouse);
AND
(h) be poor.

Criteria that should be considered for inclusion in the above include the age and health of an applicant; whether he/she has any skills, and whether the applicant has any agricultural background or experience. While the selection of settlers with agricultural skills has considerable merit, insistence on this would be misplaced where the chief objective is to settle returnees and ex-combatants.

It may be desirable and indeed necessary to prioritise the allocation of land among applicants who all qualify for land. It is therefore recommended that each registered applicant who meets the above requirements should be interviewed by a resettlement officer after the scheme has been thoroughly explained to him/her. On the basis of these interviews, resettlement officers should make individual needs assessments on a point scale. This will go some way to ensure that the most needy applicants will receive immediate attention.

Any selection criteria for resettlement should, above all, be fair and consistent. Without consistency, the field is wide open for nepotism and favouritism, particularly in a situation where the need for land - whether perceived or real - is widespread.
4. POLICY OPTIONS

4.1 FISCAL AND INSTITUTIONAL MECHANISMS FOR LAND ACQUISITION

In its deliberations and investigations, the TCCF has looked at various options or mechanisms which would not only bring about a fairer fiscal dispensation but would also bring Government closer to carrying out the Land Conference resolutions, particularly those pertaining to excessive or multiple land ownership.

As argued above under 3.1.3 (Economic and financial considerations) commercial agricultural enterprises pay tax less frequently and carry forward greater losses each year than do non-agricultural enterprises. This state of affairs stems from the host of tax concessions and subsidies enjoyed by this sector which have the cumulative effect of increasing the profitability of farming and induce a movement of resources from other sectors of the economy into agriculture. This in turn drives up land prices due to increased demand for land.

A scrapping of the tax concessions and subsidies would have the opposite effect of forcing prices downwards, thereby greatly enhancing access to land either for Government or for individual buyers assisted by credit institutions.

Institutional mechanisms for land acquisition

The institutional constellation in Namibia has been such as not to allow potential land purchasers to have access to credit institutions. Since it was an almost unanimous feeling that the proposed land reform should in essence benefit the previously disadvantaged and since the TCCF has identified potential beneficiaries from this group, it is imperative to create the necessary institutional framework and financial instruments to make the acquisition of land possible for the intended beneficiaries.

Land tax for land acquisition

The Land Conference proposed the introduction of a land tax as an instrument of curtailing excessive or multiple land ownership and also as a revenue generation instrument. A land tax was furthermore perceived to be an ideal substitute for sieve-like legislation as a revenue earner. There is also the popular perception that a land tax would encourage the expansion of a small or medium farm sector, and would facilitate state intervention in the land
market. This might foster better utilisation and conservation of agricultural land.

On the face of it these arguments appear quite persuasive, but on close scrutiny it transpires that the introduction of a land tax is a very complex matter.

A thorough investigation has led the TCCF to conclude that for the purpose of levying a land tax a substantial body of information pertaining to land fertility variations, rainfall variations, ground water variations, etc. would have to be collected to make sure that the principle of horizontal tax equity is upheld at all times so that the tax is not levied purely on the basis of hectarage but on the real commercial value of the property.

Such an exercise of valuing all the different farms would be extremely expensive and time consuming and would have to be repeated from time to time as fertilities etc. change constantly or have to be maintained at enormous cost.

The TCCF hence shares the view expressed by NEPRU in its briefing paper to the Land Conference that:

(a) some of the alleged advantages of a land tax are imaginary

(b) the elimination of tax concessions and subsidies which favour commercial agriculture is superior to the land tax if the intention is to achieve the above-mentioned objective.

4.1.1 Fiscal Options

Tax-related Options

Agricultural enterprises pay tax less frequently and carry forward greater losses each year than do non-agricultural enterprises. It is the opinion of the TCCF that:

(a) the tax laws, particularly as they pertain to commercial agriculture, be reformed with a view to bringing the agricultural tax burden in line with that of other sectors of the economy. Should Cabinet accept the principle of horizontal equity (i.e. people with same income pay the same tax regardless of source of income) as its overall modus operandi in its tax dispensation, it is suggested in particular that:

(b) most of the tax concessions be scrapped as they are the prime source of the tax inequality.
Short-term implications of tax concessions removals

Tax concessions tend to increase the profitability of farming and also to induce a movement of resources from other sectors of the economy into commercial agriculture. This in turn drives up land prices since the resultant increase in demand for land is not matched by a corresponding increase of land due to the inelasticity of supply of land.

Scraping various tax concessions would hence force land prices downwards and reduce aggregate investment in the commercial agricultural sector with a resultant drop in output.

Labour redundancy is conceivable as well as cash-flow problems for some farmers. Outright bankruptcies for financially weak farmers cannot be ruled out.

Long-term implications of tax concessions removals

Removal of tax concessions would not only bring about a fairer distribution of the tax burden, but would also greatly enhance allocative efficiency. The commercial agricultural sector would be put on a healthier market-oriented basis.

Ceteris paribus, this should augment overall agricultural output, labour and capital absorption, greater revenue and even a higher contribution of this sector to GDP and the Balance of Payments. Clearly, the long-term benefits outweigh the short-term drawbacks.

The cumulative effects of market-forces, once unleashed through removal of tax concessions, would certainly reduce the adjustment period of the sector to only two or three years.

Cabinet is thus urged to seriously consider the urgent and immediate scrapping of the preferential tax concessions to commercial agriculture i.e. those that are not normally enjoyed by other business enterprises.

Subsidy-related Options

The key rationale, historically, for the introduction and retention of subsidies has been the alleged low profitability of the agricultural sector due to its exposure to detrimental climatic variations, worsening terms of trade and the perceived high level of commercial interest rates.

The climatic conditions argument does not hold water as other sectors are equally exposed to other excesses beyond their control. For example,
mining is constantly exposed to international commodity price fluctuations (for exports) and also exchange rate uncertainties as far as the importation of necessary inputs is concerned.

Namibia also has a telling history of the uncertainties to which construction is subjected. The retail and wholesale trades are constantly in the shadow of fluctuations of consumer buying power, fashion trends and the whims of budgetary and monetary authorities. Hence subsidising only agriculture would amount to naked unjustifiable favouritism for agriculture at the expense of other sectors. It is hence suggested that:

Subsidies for commercial agriculture be phased out over time to allow this sector to remobilise its strength and stand on its own feet. This suggestion is limited to direct cash and concessionary subsidies. Veterinary subsidies should be retained as this has an externality element. This means, that should one farmer fail to respond to, say, a cattle disease due to lack of funds for immunisation, such disease might spill over to other farms and assume epidemic proportions, cutting the entire country off from Lomé access.

**Short-term implications of subsidy removals**

Some farmers have a high debt/equity ratio and a removal of subsidy would put different burdens on the farmers. Well-to-do farmers would easily absorb such adjustment shocks whereas poorer farmers might go into liquidation as their creditors might call up outstanding debts.

Resources would hence be shifted into the hands of more prudent and more efficient farmers.

**Long-term implications of subsidy removals**

Prudent and efficient farmers are certainly the best caretakers of the nation’s agricultural potential. If they are put into command of land via market forces it can only augur well for the sustained development of this crucial sector of the economy.

The resultant savings in subsidy on the part of Government and this sector becoming a net positive contributor to the exchequer, can only assist Government in finding resources to assist those sectors of society which lag behind.

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4.1.2 Institution-related Options

Existing development financing corporations, the Development Fund of Namibia, the First National Development Corporation and the Land and Agricultural Bank have traditionally been inaccessible to beginner farmers for the acquisition of commercial land mortgage bonds.

If beginner farmers are to benefit from any proposed land reform programme it is imperative to secure and guarantee access to loan funds at concessionary rates. To this end, it is suggested that such corporations change their constitutions and business practices or that a new institution be created for this purpose.

4.2 TARGET LAND

The TCCF looked at the potential land for a land reform programme and considered a number of options which can be pursued in this regard.

4.2.1 Foreign Ownership

The Land Conference was categorical on the question of foreign ownership, i.e. no foreigners should own land in Namibia given the fact that there are large numbers of people who need land.

Thus the options can be as follows:

- No foreigners should own land in Namibia, this includes both companies and individuals.
- Only foreign individuals should be prohibited from owning land in Namibia but foreign companies should be encouraged to invest in agriculture. One way of getting round the problem of land owned by foreign companies is to institute a 50 or 99 year lease of land by companies who want to invest in Namibia.

The practical effect of this suggestion will mean that foreign individuals who want to invest in Namibia have to set up companies and lease land. Moreover, they have to demonstrate that they want to invest and use the land productively. Government should however, consider foreign owners who are residing on their land with the intention of becoming Namibian citizens.

4.2.2 Absentee Ownership

It was mentioned in section 3.1.1 of this report that there are two types of absentee landlords: foreigners and nationals. There are a number of ways in which the question of absentee landowners can be tackled.
• All land belonging to both foreign and local absentee landlords can be taken for redistribution. This approach may not be fair to the local absentee landlords because they are Namibian and entitled to own land if they wish to. Moreover, the implication of this approach would mean that no part time farmer may own land. This may not be difficult to enforce but is likely to provoke a general negative reaction from those who will be affected by this ruling. It is common knowledge that there are people in both the private and public sectors who own land/farms but do not live on them.

• Another approach will simply be to take the land of all foreign absentee landlords. This will be in line with the resolutions of the Land Conference. However, there may be foreign owners, particularly companies, who may be using the land productively and this can be viewed as foreign investments.

• Alternatively, those foreign companies and individuals who qualify as foreign investors and are using the land productively can be exempted, but clearly defined criteria for foreign investors in the field of agriculture must be laid down.

A more convenient way of side stepping this problem is to institute a long term lease of land to foreigners who want to invest. It may be argued that the leasing of land may encourage them to use the land productively, but even then criteria for using the land in the best possible way must be established.

4.2.3 Abandoned Land

Although the Committee identified little land of this type, it is fair to suggest that such land can be obtained by the Government for distribution to those who need it most. This seems to be the only option under the circumstances.

4.2.4 Under-utilized Land

The committee identified land which is under-utilized, but making this land available to a land distribution programme is not that easy. As pointed out in section 3.1.1 of this report, a farm can be restocked to full capacity within a relatively short period of time. The options open to Government in this category are:

• An under-utilized farm can be bought from the owner in terms of an expropriation act.
• Alternatively, the land can be subdivided, leaving the owner with the part he is capable of using while purchasing and allocating other portions to programme beneficiaries.

4.2.5 Multiple and Excessive Ownership

Multiple ownership of farms may or may not mean excessive ownership of land. In section 3.1.1 of this report, the operational norms in terms of size for the different districts were established according to the definition in section 2.2 of this report, namely, any farmer who has more than double the operational norm for that area has excess land.

Thus the cut-off point here is at double the operational norm for the area. Anything above the cut-off point represents land potentially available as part of the land reform programme.

A technicality here is that land in excess of twice the operational norm for an individual farm may not constitute a large enough unit for farming such land and thus would not be considered available to the programme.

4.2.6 Normal Sales

Government has the option of buying land on the open market to resettle people. A major limitation here is finances particularly since farmers tend to inflate the land prices to unrealistic levels. This problem has plagued the Ministry of Lands, Resettlement and Rehabilitation. Expropriation legislation should allow for a bank or land surveyor’s valuation to determine purchase prices.

4.2.7 Government Peri-Urban and Municipal farmland

Various Ministries, Peri-urban Development Boards and Municipalities own farms or land in rural areas. Government can request that all Ministries release land which is not essential to their normal functions to be included in the land reform programme.

Peri-urban and municipal farmland is used partially as emergency grazing in drought years. The government should establish the existing situation by dialogue with both peri-urban boards and the municipalities to establish whether part or all of this farmland can become available to the land reform programme.

4.2.8 Fenced Communal Land

The committee suggests that all present and future unauthorized fencing of communal land should be declared illegal immediately. In addition, the
Committee also suggests that further traditional allocation of communal grazing land be prohibited until such time that a proper land use plan has been drawn up for entire regions and not just for individual communal areas.

Such a land use plan should be drawn up after the natural resources and environmental characteristics of a region have been carefully assessed.

Two basic options present themselves with regard to the problem of fencing in communal areas:

- recognition of authorised fencing
- prohibition and reversal of all existing fences.

**Recognition of authorised fencing**

Under this option Government should regard the authorised fencing of communal land as a *fait accompli* and should consequently honour the allocations made. In this event, a process must be set in motion as soon as possible by which existing rights or claims to a particular parcel of land can be finally and authoritatively ascertained. This requires the setting up of a form of land court or adjudication commission.

In making this suggestion, the Committee is guided by the fact that established courts are not necessarily the most appropriate means to settle such cases. In the first place, formal court cases are costly and time consuming. Secondly, because existing courts are already very busy, they may not be able to handle the number of cases involved promptly enough.

Thirdly, it is either impossible or highly impractical to bring the evidence required for such cases into the court room, as *in loco* inspections are often essential.

It is in order to relieve the established courts of the practical work load involved in these issues, that the Committee recommends that Government sets up adjudication procedures. An adjudication act should stipulate that no land disputes may be brought before an established court before it was put before an adjudication commission.

Such procedure will not only be needed to address the problem of fencing in communal areas, but will be needed when development and resettlement projects are implemented in areas where they might encroach to some degree upon existing land use rights. In urban areas adjudication procedures will be needed in formalising rights to land when unplanned urban land is to be upgraded.
An adjudication act should be prepared for Parliament. The act will spell out the purposes of adjudication, which will be:

- to adjudicate disputes over land claims which cannot be settled through arbitration at local level;

- to ascertain the extent to which existing land use rights are encroached upon by development projects, resettlement schemes and land reform, and in such cases:

- to determine the amount and form of compensation;

- to ascertain existing land rights when land registers are established.

The act will also lay down the composition of an adjudication authority. It is recommended that the Minister of Lands, Resettlement and Rehabilitation appoints adjudication commissions for different regions. Each commission should be chaired by a legal professional or person trained and experienced in weighing evidence. He should be assisted by a senior official in the Ministry of Lands, as well as representatives of the local community. In addition a Lands officer and a secretary should be added to the Commission.

The act shall furthermore set out the procedure to be followed by the Commission as well as its legal mandate. Under this heading the scope and powers of these Commissions should be stipulated, as well as the range of issues on which these commissions can take decisions. In the case of fencing these could include:

- removal of fences;

- compensation to third parties;

- payment of costs of adjudication process;

- compensation for payments to headmen.

Finally, the act will prescribe how the decisions of these commissions will be enforced and by whom, as well as provide for the right to appeal.

Once rights to parcels of land or fenced plots/farms have been ascertained by an adjudication commission, such parcels should be surveyed immediately. Thereafter lease agreements should be drawn up between the Government and the occupants of the land. Lessees should have to pay an economical rent on the land leased from the state.
Prohibition and reversal of all existing fences

The second option for Government would be to prohibit all fencing in the communal areas and to order the removal of all fences. In this event, schemes have to be devised by Government for the compensation of farmers who have invested considerable capital in these fences and farms.

4.3 LAND TENURE

A land tenure system has to be developed which will give maximum security to settlers on the land. It is suggested, however, that such a tenure system be investigated and developed in a standard format for the whole country and appropriate legislation passed.

In the absence of living wages for farm labour it is suggested that farm workers are ‘assured basic rights and security’ on commercial farms within a wider land reform program. ‘Lower order’ tenure rights (rights of generational occupation of the land where they live and work), and the right to run livestock become essential stepping stones towards their greater aspiration of a decent standard of living and a secure place.

4.3.1 Resettlement Options

This section is based on a NEPRU Briefing Paper to the Land Conference and evaluates some of the economic costs and benefits of alternative land reform scenarios. The comparative costs and benefits are estimated to allow policy makers the facility to gauge the aggregate cost of any combination of alternatives. An attempt has been made to analyze the various options in terms of their possible contribution to equity and efficiency and to suggest where these may be in conflict.

COMMUNAL AREAS

Option A: Expansion of Communal Area grazing

Option B: Commercial development in Communal Areas

Option C: Community-based wildlife utilization

COMMERCIAL AREAS

Option A: Purchase of farms for Communal Area expansion

Option B: Purchase of farms for allocation to Communal Area stock farmers

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Option C: Purchase of farms for settlement by small farmers and landless

Option D: Purchase of farms by individual Communal Area farmers.

The order in which these options are described does not imply any order of preference or priority. For ease of reference, the report uses the geographical names of the former “homeland” areas in the present absence of other useful alternatives.

The report considers only livestock farming and mixed stock and rainfed cropping systems. It does not attempt to cover irrigated farming, which can provide the means of accommodating larger numbers of settlers on comparable land areas.

4.3.1.1 OPTIONS WITHIN THE COMMUNAL AREAS

Estimates of the under-utilized areas of communal land, which were prepared prior to independence by the Ministry of Agriculture, Water and Rural Development, have been revised downward by NEPRU in discussion with officials both in the regions and in Windhoek. The updated estimates of the area which could be developed in the foreseeable future are shown in Table 4.1.

<table>
<thead>
<tr>
<th>TABLE 4.1 ESTIMATES OF UNDER-UTILIZED LAND AND THAT SUITABLE FOR DEVELOPMENT IN THE COMMUNAL AREAS (IN MILLIONS OF HECTURES)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Owambo</td>
</tr>
<tr>
<td>Central south</td>
</tr>
<tr>
<td>Eastern</td>
</tr>
<tr>
<td>Kavango</td>
</tr>
<tr>
<td>Hereroland</td>
</tr>
<tr>
<td>Bushmanland</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

(Under-utilized but not suitable)
Source: NEPRU papers on the Land Conference
The reduction in the MAWRD estimates from 8.9 million hectares of under-utilized land to 6.9 million potentially suitable for settlement is due to two main factors. First, extensive areas have been allocated for fenced ranches since the MAWRD estimates were prepared.

Secondly extensive under-utilized areas of Hereroland and south central and western Ovambo are considered unsuitable for development in the foreseeable future because of the lack of suitable groundwater and the very high costs of conveying water into these areas by pipeline.

The area formerly called eastern Bushmanland is not considered to be available for settlement as it is occupied by a community of some 4000 people practising mixed farming and harvesting veld foods. Also western Bushmanland has groundwater problems and a high incidence of "gifblaar" and is therefore unsuitable for livestock development.

**Option A: Expansion of communal area grazing**

Option A involves the development of currently unutilized land by the provision of water and other physical infrastructure such as roads. Under this scenario, no land purchase would be involved and no on-farm investments would be carried out other than the provision of water. The benefits would be widespread, provided that access by small and medium-scale farmers to the new developments was not impeded.

Boreholes in the northern Communal Areas are costly, being a function of ease of access to site, drilling depth and the probability of finding water. Unit drilling costs are currently in the range of R250-400 per metre. The likely cost of opening up a 100 000 hectare block comprising 20 boreholes is summarised in Table 4.2. The costs per household assume eight households per borehole.

Estimated annual financial returns to communal graziers are summarised in Table 4.3. They assume an offtake of 10 per cent per annum for large stock. The results indicate that the scheme would not be financially attractive if farmers were expected to cover both fixed and operating costs. However, if capital costs were covered by Government, participants should be able to pay for pump operating costs and obtain a reasonable level of income.

**Option B: Commercial development in communal areas**

Option B envisages the opening up of under-utilized grazing land in the northern Communal Areas (as identified in Table 4.1) by the construction
of fenced and paddocked ranches for commercial production. In theory, such ranches could be allocated to groups as well as individuals, although herd management is likely to succeed only when placed under one manager.

This approach has already been widely used in the Communal Areas. In the south-east of Ovamboland, there are 100 units of 1200 hectares allocated under a formal government scheme. There are some 50 privately fenced ranches in the same area, varying from 2000 to 5000 hectares and in Hereroland there are about 50 fenced farms of 5000 hectares. No systematic surveys of the performance of these farms have been carried out, although it is generally reported that they have been accompanied by serious management and financial difficulties. This would probably correlate with the problems experienced by the TGLP programme in Botswana already commented on.

The capital cost of developing a 5000 hectare commercial unit in eastern Ovamboland and central and southern Kavango is between R440 000 to R480 000 for eight paddocks. The major cost items are borehole installation, cut lines, fencing, buildings and roads. The total capital costs of developing a 100 000 hectare block of 20 units would be between R8.9 and R9.7 million, more than four times the cost of extending the grazing on communal land.

| TABLE 4.2 CAPITAL COSTS PER 100 HECTARE COMMUNAL GRAZING SCHEME (IN MILLIONS OF RAND) |
|---------------------------------|----------------|----------------|----------------|----------------|
|                                 | Eastern Ovamboland | Central Kavango | Southern Kavango | Hereroland     |
| Boreholes & pumps              | 1.85             | 1.55            | 1.90            | 5.90           |
| Roads (140 km)                 | 0.14             | 0.23            | 0.23            | 0.14           |
| Housing                        | 2.80             | 2.80            | 2.80            | 2.80           |
| TOTAL                          | 4.79             | 4.58            | 4.93            | 8.84           |
| Cost per household (Rand)      |                  |                 |                 |                |
| Boreholes & pumps and roads    | 12 430           | 11 150          | 13 300          | 38 000         |
| Including housing              | 29 930           | 28 650          | 30 800          | 55 530         |
| Source: NEPRU Paper on the Land Conference |

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TABLE 4.3  ANNUAL FINANCIAL RETURNS PER HOUSEHOLD USING ONE BOREHOLE (950 LSU)

<table>
<thead>
<tr>
<th></th>
<th>Eastern Owambo</th>
<th>Central Kavango</th>
<th>Southern Kavango</th>
<th>Heteroland</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>After fixed and operating costs</strong></td>
<td>1 120</td>
<td>1 560</td>
<td>90</td>
<td>2 260</td>
</tr>
<tr>
<td><strong>Net returns</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Fixed costs excluded</strong></td>
<td>2 730</td>
<td>2 940</td>
<td>2 610</td>
<td>2 330</td>
</tr>
<tr>
<td><strong>Net returns</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: NEPRU Paper on the Land Conference

Benefits are summarised in Table 4.4. Annual cash flows have been calculated at the current Land Bank interest rate of 18% and at the former subsidised interest rate of 6%. Loan repayment periods of 15 years and 25 years have been calculated.

It has been assumed in the calculation that all capital has to be borrowed, although in practice a deposit is required. A capital subsidy of 50% per cent has also been tested in place of the interest rate subsidy. This is in line with the subsidies formerly provided for commercial ranch development. A 20% cattle offtake has been assumed which is close to that prevailing in the commercial areas.

The figures clearly show that private commercial development of communal land, using the standard 5 000 hectare farm model, is not financially viable at the current rate of interest. Either interest rate or capital subsidies, of the same order as those available in the past for commercial areas, would be necessary to produce reasonable levels of income. Since the beneficiaries are likely to be large farmers, there would be little social justification for such a subsidy programme. Further the principle of equity already discussed would be violated. Subsidies should only be considered to assist beginner farmers.

However, Table 4.4 is based on the assumption that the real burden of debt service will continue at the same level throughout the life of the loan. In reality, the real value of loan repayments is likely to be eroded by inflation which in recent years has been running at around 12% annually. The real burden of debt service is reflected in Table 4.5, based on the assumption of
a 10% annual rate of inflation, and adopting the current practice of the Land Bank whereby annual loan repayments are equalised in nominal terms. Cash flows to private commercial development become positive around year 5 and exceed R20 000 annually by year 10. Thus, investment in the northern under-utilized communal areas might be attractive to private investors even without capital subsidies. (Cash flow problems in earlier years could be reduced if the loans required higher repayments in real terms in the later years of repayment.) In considering this option Government must bear in mind the cost of necessary extension, training and monitoring services if failure of the type which occurred in Botswana is to be avoided.

| TABLE 4.4  ANNUAL CASH FLOW FROM 5,000 HECTARE COMMERCIAL UNITS IN NORTHERN COMMUNAL AREAS |
|---------------------------------------------|----------------|----------------|----------------|
| **Net Revenue After Loan Repayments**      | **Eastern Ovambo** | **Central Kavango** | **Southern Kavango** |
| At 18% over 15 years                        | -29,020         | -23,200         | -29,930         |
| At 18% over 25 years                        | -22,630         | -17,200         | -23,470         |
| At 6% over 15 years                         | 15,260          | 18,310          | 14,790          |
| At 6% over 25 years                         | 26,960          | 29,280          | 26,600          |
| **With 50% capital subsidy**                |                 |                 |                 |
| At 18% over 15 years                        | 17,490          | 20,400          | 17,030          |
| At 18% over 25 years                        | 20,690          | 23,400          | 20,260          |

If all farm development costs were borne by Government rather than the private sector, the appropriate level of annual rental to recoup the capital outlay would need to be in the region of R57 000 per unit or around R11 per hectare, assuming an interest rate of 12 per cent (similar to the rate of inflation).

It is argued that such schemes have indirect benefits stemming from the removal of animals from over-grazed communal land, thus allowing it to recover. However, there is evidence that stock owners retain "dual grazing rights" and stocking levels are never significantly reduced.
<table>
<thead>
<tr>
<th>Net Revenue After Loan Repayments</th>
<th>Eastern Owambo</th>
<th>Central Kavango</th>
<th>Southern Kavango</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 18% over 15 years</td>
<td>-29 020</td>
<td>-23 200</td>
<td>-29 930</td>
</tr>
<tr>
<td>At 18% over 25 years</td>
<td>-22 630</td>
<td>-17 200</td>
<td>-23 470</td>
</tr>
<tr>
<td>Year 5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 18% over 15 years</td>
<td>460</td>
<td>4 440</td>
<td>-160</td>
</tr>
<tr>
<td>At 18% over 25 years</td>
<td>4 830</td>
<td>8 540</td>
<td>4 250</td>
</tr>
<tr>
<td>Year 10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 18% over 15 years</td>
<td>24 550</td>
<td>27 020</td>
<td>24 170</td>
</tr>
<tr>
<td>At 18% over 25 years</td>
<td>27 260</td>
<td>29 560</td>
<td>26 900</td>
</tr>
</tbody>
</table>

**Option C: Community-based wildlife utilization**

Community-based wildlife utilization projects are in their early stages of development in Namibia. Projects are currently being set up in Damaraland, East-West Caprivi and in Bushmanland. This option, recommended by the Ministry of Wildlife, Conservation and Tourism, is most appropriate in areas with suitable ecological potential and where local people are interested and able to organise themselves to develop that potential. It is also attractive in those areas which are unsuitable for conventional agricultural activity, e.g. in the saline groundwater areas of southern Owambo, north of Etosha, or where "gibblaar" is a serious problem for domesticated stock.

Five main opportunities for wildlife utilization projects appropriate to communal land have been identified:

- small scale game harvesting
- game cropping
- game ranching
- trophy hunting
• photographic safaris and ecotours.

The first three involve progressively more intensive forms of harvesting and investment. It may also include sport hunting and photographic tours. Hunting safaris, which typically entail killing very few high quality trophy animals, require minimal physical development in the hunting area but high investment in vehicles, equipment, and marketing. Photographic safaris require similar levels of inputs with traditional investments needed in tourist accommodation and roads.

The highest levels of income are obtained from hunting and tourism. However, the investment and management requirements are presently beyond the reach of some rural communities. To overcome this problem and to start a training programme at the village level, partnership agreements with private sector hunting and tourism companies are being explored.

Participatory land-use planning approaches are being developed by the Ministry, in order to help local communities to plan and manage projects and reap the benefits. The most advanced schemes so far are in West Caprivi and Bushmanland where plans for the development of the areas are currently awaiting Cabinet approval.

These are expected to benefit some 4 000 people resident in the West Caprivi Game Park and about 3 000 people in Bushmanland.

Based on the potential wildlife resources in the West Caprivi, some indicative estimates of the gross revenues accruing to the community from the plan have been made. These amount to R2.6 million, or around R2 600 per family in the area.

In addition, it is envisaged that Government could expect to earn R1.92 million from the project.

The detailed costs of the project have not yet been worked out, nor has the scope for cost recovery been examined. Both Government and the Private sector will have to make substantial investments to provide the necessary facilities needed for such a project.

Technical support will be provided by the staff of the Ministry. However, specialist assistance would be required to support the process of community participation and management.
According to the Ministry, such a project will create employment and generate income for local inhabitants. It will also produce other benefits such as meat and other materials. Like most schemes of this nature, obtaining full community involvement is likely to be the most challenging aspect.

4.3.1.2 OPTIONS IN COMMERCIAL AREAS

There are 4 200 commercial farm businesses on 6 300 farms on the freehold areas of central and southern Namibia. The farms occupy an area of 36 million hectares, equally divided between cattle and smallstock. There are about fifty game farms. Some 22 000 hectares suitable for dryland crop production are located in the Otavi-Tsumeb-Grootfontein triangle.

Option A: Freehold farm purchase for communal area expansion

This scenario involves the simple extension of communal area grazing through the purchase of adjacent farms. Infrastructural development costs would be low since water supplies are likely to be already in place. The approach would be relevant on the borders of Hereroland, Namaland and Damaraland.

The main cost would be the compensation of farm owners. Current market prices for freehold land is indicated in Table 4.6. Prices reflect land potential in the different areas.

It should be noted that farm prices dropped by between 20 and 70 percent in 1990, having risen quite sharply in the years leading up to Independence. The fall in market prices in 1990 was due to a combination of uncertainty on the land reform front, reductions in the export prices for livestock products and the rise in interest rates. Land prices still appear to be higher than current financial returns would justify.

<table>
<thead>
<tr>
<th>TABLE 4.6 COST OF LAND ACQUISITION FOR COMMUNAL AREA EXPANSION (RAND)</th>
</tr>
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<tbody>
<tr>
<td>Land Prices per hectare</td>
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<td></td>
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<tr>
<td>Cost per Household: 8 graziers/5 000 ha</td>
</tr>
</tbody>
</table>
Assuming that resettlement would be spontaneous and would not require Government support, development costs per 100,000 hectares would be between R3.0 to 10.0 million depending on location. Cost per household, assuming eight graziers per 5,000 hectares, each with the equivalent of 50 LSUs, would be in the range R18,750 to R62,500.

Financial returns to participant graziers are indicated in Table 4.7. It is assumed that farmers would not be required to repay farm purchase costs though they would be expected to take over the costs of operating water points. Livestock farmers in the south and east are reported to be more commercially oriented than farmers in the north. Thus, offtake rates of 15 percent for the cattle farmers of Hereroland and Damaraland, and 35 percent for the smallstock farmers of Namaland have been assumed.

| TABLE 4.7 ANNUAL FINANCIAL RETURNS TO COMMUNAL GRAZIERS ON FREEHOLD AREAS (5,000 HA, TWO BOREHOLES, EIGHT GRAZIERS) |
|-------------------------------------------------|-----------------|-----------------|-----------------|
| Stocking Rate                                  | Hereroland 400 LSU | Damaraland 340 LSU | Namaland 1 250 SSU |
| 1 LSU:12.5ha                                   | 1 LSU:15ha        | 1 SSU:4ha        |
| Net returns                                    | 29,920            | 23,170           | 9,670           |
| Net returns/ grazier                           | 3,740             | 2,085            | 1,210           |
| % return on livestock equity                   | 9                 | 9                | 13              |
| Fixed costs excluded                           |                   |                  |                 |
| Net returns                                    | 39,800            | 33,050           | 19,550          |
| Net returns/ grazier                           | 4,970             | 4,130            | 2,440           |
| % return on livestock equity                   | 12                | 12               | 26              |

Average holdings per farmer of 50 LSU for Hereroland and Damaraland, and 156 SSU for Namaland have been assumed.

After provision for both fixed (i.e. depreciation) and operating costs, net annual returns to Damaraland and Hereroland farmers would be in the range of R2,900 - 2,700. For Namaland, for a flock of 156 SSU, the annual returns
would be R1,210 per household.

With the additional economic value of milk, meat and stock appreciation worth about R1,000, the annual income from the herd would be R3,900-4,700 for Hereroland and Damaraland, comparable with the income from urban unskilled labour. Exclusion of fixed costs would raise the overall value of livestock income including non-cash sources to R3,400 for Namaland farmers and to R5,100 and R6,000 for Damaraland and Hereroland farmers respectively. Where windmills are suitable, water point maintenance costs would be lower and incomes higher.

Option B: Purchase of farms for allocation to communal area stock farmers

This option would involve the purchase of farms in the commercial cattle and smallstock zones for allocation to Communal Area farmers. Settlers would be encouraged to continue to operate and manage the farms as fenced commercial units. Because of the low carrying capacities and the extensive nature of stock raising, settlement would be scattered. No significant investment in support services, with the possible exception of credit, would be needed since extension and other services in the commercial areas are already well developed. Tenure arrangements could include rental, lease or grazing contracts.

As with Option A, the main costs to Government associated with this scenario would be farm purchase. Depending on the area of the location and carrying capacities, costs per 100,000 hectares would be in the range of R3.0-10.0 million. As with Option B, the estimation of the opportunity costs requires detailed economic analyses relating to existing commercial farms.

Where individual usage rights are granted, a critical issue is that of the size of holding needed for the viability of the herds and flocks and an acceptable income for the owner. The viability of various farm sizes and stocking rates under different agro-ecological conditions have been evaluated in financial terms. Holdings of 2,500, 1,250 and 675 hectares have been tested together with stocking rates of 1 LSU to 12.5, 15, 24 and 36 hectares.

The results indicate that settlers would be unable to pay for fixed as well as operating costs. If fixed cost recovery is excluded, acceptable levels of income would be available from the commercial cattle areas of the north on both 2,250 and 1,250 hectare units.
At these farm sizes, it would be possible to consider some partial fixed cost recovery. For cattle owners with 40-50 LSUs in the north of the country, 625 ha units would be just viable, especially where windmills were used.

For dorper sheep farmers in the south, the minimum viable farm size (assuming no charge for fixed costs) would be a 2,500 hectare unit which, at a stocking rate of 4 hectares per SSU, would provide an income of R3,900. This would increase to R5,700 if windmills instead of engines were used for pumping. In the areas of the south west where carrying capacities of 6 hectares per SSU and more apply, the results are extremely marginal and subdivision for settlement should be contemplated.

| TABLE 4.8 ANNUAL RETURNS FOR CATTLE AND SMALLSTOCK FARMS (2500 HA, ONE BOREHOLE AND 4 PADDOCKS) |
|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|
| North stocking rate: ha/LSU or SSU  | north east LSU 12.5 | north west LSU 15  | south east SSU 4  | south west SSU 6  |
| Net returns          | -3,760              | -7,480             | -19,910           | -23,870           |
| Net returns - windmill | -160                | -4,410             | -17,750           | -22,190           |
| Fixed costs excluded |                      |                    |                   |                   |
| Net returns          | 15,880              | 12,160             | 3,930             | -30               |
| Net returns - windmill | 19,080              | 14,830             | 5,690             | 1,250             |
| Net returns - 1,250ha unit | 7,940                | 6,080             | 1,960             | -15               |
| Net returns - 625ha unit | 3,970                | 3,040             | 982               | -8                |

**Option C: Settlement of small farmers and landless on commercial farms**

This option involves the settlement of poor people on land for mixed farming. It is likely to be feasible only in the Tsumeb-Otavi-Grootfontein triangle. There are currently some 21,500 hectares under dryland cropping and 1,500 hectares under irrigation in the triangle. The area which can be cultivated in the triangle is not known but is believed to be considerably
higher than the existing cultivated area. Irrigated crop production in the
freehold areas is also carried out on 1,700 hectares at the Hardap Dam on
the Fish River and on the Orange River.

Market prices for farms with substantial areas of cleared arable land in the
Otavi triangle are very much higher than in the livestock zones.

Current market prices are about R1,500 per hectare for cleared arable land.
There has been a recent case of land being sold at twice that price. Uncleared
fertile land sells for around R200 per hectare. Land clearing costs are in the
region of R700 per hectare.

Smallholder settlement would require the provision of grazing land for
settlers' livestock for subsistence, sale and for draft power. For costing
purposes, it is assumed that each settler family would have the equivalent
of 8-10 LSUs. Cash and kind income from livestock would be an important
and necessary constituent of settlers' family income. At a carrying capacity
of 1 LSU:10 hectares, provision would need to be made for 80-100 hectares
of grazing per settler household. Thus 10,000 hectares of arable would need
to be accompanied by 90,000 hectares of grazing.

The overall initial development costs of this option are summarised in
Table 4.9. Provision would need to be made, not only for the cost of land
purchase, but also for crop production inputs, livestock purchase (for those
settlers with no or few livestock), extension and other supporting services
and housing. Compared with other operations, costs per household are not
high.

Estimates of subsistence and cash incomes for settlers are indicated in Table
4.10. The estimates assume primary cultivation and planting of maize by
tractor. A system relying on animal draft could be equally appropriate
especially if levels of management and yields were low.

The importance of achieving yield levels of about 1.5 tonnes per hectare is
evident from Table 4.10. The net value of production (i.e. R1,430) at this
yield level, assuming 4 hectares harvested per household, is double that at
the 1 tonne per hectare level (i.e. R766). Yield levels under the existing
farming system in the northern Communal Areas are only 200-300 kg per
hectare of millet, equivalent to about 500 kg of maize grown under the same
system. Commercial farmers expect to get at least 1.5 tonnes. Settlers are
not expected to achieve this level until after several years.
TABLE 4.9 DEVELOPMENT COSTS OF SMALLHOLDER MIXED FARMING RESETTLEMENT PER 100,000 HECTARES AND 2,000 HOUSEHOLDS

<table>
<thead>
<tr>
<th>Cost Type</th>
<th>Cost (Rand)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land purchase costs</td>
<td>25,8</td>
</tr>
<tr>
<td>Crop working capital costs</td>
<td>3,7</td>
</tr>
<tr>
<td>Support for livestock purchase</td>
<td>4,0</td>
</tr>
<tr>
<td>Housing</td>
<td>23,4</td>
</tr>
<tr>
<td>Extension and other services</td>
<td>20,0</td>
</tr>
<tr>
<td><strong>TOTAL INITIAL DEVELOPMENT COST</strong></td>
<td><strong>76,9</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cost Type</th>
<th>Cost per Household (Rand)</th>
<th>Cost per Hectare (Rand)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total cost</td>
<td>38,500</td>
<td>769</td>
</tr>
</tbody>
</table>


TABLE 4.10 NET BENEFITS TO CROPPING FOR SETTLER HOUSEHOLDS (RAND) (4 HECTARES CROPPED)

<table>
<thead>
<tr>
<th>Crop Yield</th>
<th>Subsistence - 1 tonne</th>
<th>Marketed Crop - 3 tonne</th>
<th>Marketed Crop - 5 tonne</th>
</tr>
</thead>
<tbody>
<tr>
<td>At 1 tonne/ha maize yield:</td>
<td>246</td>
<td>408</td>
<td>654</td>
</tr>
<tr>
<td>Net Return per day</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 1.5 tonne/ha maize yield:</td>
<td>306</td>
<td>996</td>
<td>1302</td>
</tr>
<tr>
<td>Net Return per day</td>
<td>9</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


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Combined with cash and kind income from livestock of R1,850, mixed farming based on the 1.5 tonne per hectare maize yield would provide an annual household income of R3,150 which is roughly comparable to that available from unskilled urban labour. From some families, labour is likely to be a constraint if 4 hectares per household are to be weeded by hand.

The opportunity cost of this option would depend very much on the levels of production achieved by the settlers. If yields of 1.5 tonnes per hectare were achieved, then the costs would be low. In this respect, there is some encouraging experience from elsewhere. Some smallholder settlement regions of Zimbabwe have regularly achieved over 2 tonnes of maize per hectare, though under better growing conditions than are likely to be found under rainfed conditions in Namibia.

This option is the most land intensive of the options examined. At 5 hectares of cleared arable land per household, some 2,000 settler households or in the region of 10,000-12,000 persons could be resettled per 100,000 hectares.

**Option D: Subsidised purchase of freehold farms by individual communal area farmers**

Large farmers from the Communal Areas have been slowly moving into the commercial areas for the last nine years with the help of subsidised loans provided by the Land Bank and second tier authorities. This support has now been suspended. Under Option G the loans would once again be made available.

Farm purchases would be based on commercial loans from the Land Bank and the private sector. If interest rates were subsidised, Government would be obliged to cover the costs for the lending agency. Alternatively Government might choose to provide capital grants to purchasers.

The analysis suggests that it is likely to be difficult at current interest rate levels for farmers to make a successful transition to commercial farms, unless quite a high proportion of the purchase price (around 40-50 per cent) is provided by the purchaser. At an 18 percent rate of interest, and a 25 year repayment period, the four stocking rate scenarios examined in Table 11 all result in negative returns. Only with the 6 percent rate of interest, or alternatively a 50 percent purchase price subsidy, would annual net incomes reach the R15,000 - R30,000 rand. It must be stressed that it is only possible here to review Option G in indicative and general terms.
TABLE 4.11 ANNUAL CASH FLOWS FOR INDIVIDUAL FARMERS (RAND) IN DIFFERENT REGIONS WITH DIFFERENT SUBSIDY AND REPAYMENT SCHEDULES

<table>
<thead>
<tr>
<th></th>
<th>north/ north east</th>
<th>north west</th>
<th>south east</th>
<th>south west</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net revenue after</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>loan repayments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 18%, 25 years</td>
<td>-21,050</td>
<td>-14,490</td>
<td>-25,450</td>
<td>-10,870</td>
</tr>
<tr>
<td>At 6%, 25 years</td>
<td>31,300</td>
<td>27,390</td>
<td>26,900</td>
<td>20,540</td>
</tr>
<tr>
<td>With 50% subsidy</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 18%, 25 years</td>
<td>24,680</td>
<td>22,090</td>
<td>20,280</td>
<td>16,570</td>
</tr>
<tr>
<td>With 30% subsidy</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At 18%, 25 years</td>
<td>6,390</td>
<td>7,460</td>
<td>1,990</td>
<td>5,600</td>
</tr>
</tbody>
</table>

Because the main beneficiaries would be a few already wealthy individuals, the case for Government providing such subsidies for this purpose is not strong.

4.3.1.3 **Overview of land reform options**

The purpose of this sub-section is to summarize the costs and benefits of different land reform options. The combined results are presented in Table 4.12.

**COMMUNAL AREAS**

The main opportunity for providing farmers with more land in the Communal Areas would be to open up some 2.9 million hectares of under utilized land in eastern Owambo and Kavango by providing water. Such a scheme would principally benefit the people from the two Communal Areas in which the land is located. The resettlement of people from other regions is unlikely to be economically or politically viable. Three options are possible:

**Option A: Communal Area Expansion**

This involves the expansion of existing communally managed grazing areas. Of all the options considered, it carried the lowest budgetary cost per hectare.
and per participating household since investment could be limited to essential water development.

The option would produce the widest spread of benefits provided small livestock owners were not crowded out by the big cattle owners. The vast majority of livestock owners in the northern Communal Areas are small (i.e. have less than 20 LSU equivalents). Option A may be seen as less attractive in productivity terms than Option B, especially when the benefits from subsistence production are not taken into account. In input-output terms, the communal grazing system is not necessarily less efficient than the commercial or semi-commercial systems.

**Option B: Commercial Development in Communal Areas**

This option involves the fencing of communal land for ranching. Because of the cost of fencing, farm roads and building, as well as water development, this is a high cost option. The benefits will depend very much on the management system adopted on the farms. Usually the level of management of farms on enclosed communal land is not greatly different from that outside the fence. This raises questions about the wisdom of investing in fencing and other farm infrastructure. There is a need to investigate intermediate investment strategies.

Benefits are unlikely to be widely distributed. There could be transient gains in grazing pressure reduction on the Communal Areas where large farmers evacuate their cattle. Experience with group, cooperative and syndicate management on commercial ranches elsewhere has generally been poor.

**Option C: Community Based Wildlife Utilization**

Such schemes are in their pilot stage and their costs have not been clearly defined, but they are probably modest as it is expected that most of the investment would be made by the private sector. The spread of benefits could be high once an effective means was developed of channeling the income to local people.

**COMMERCIAL AREAS**

**Option A: Communal Area Expansion into Freehold Areas**

This option would involve expanding the Communal Areas through the purchase of adjacent freehold farms. As with Option A, the spread of benefits to the community would be wide, although it is relatively more costly as it involves the purchase of land.
<table>
<thead>
<tr>
<th>TABLE 4.12 SOME COSTS AND BENEFITS OF LAND REFORM OPTIONS (RAND)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMUNAL AREAS</strong></td>
</tr>
<tr>
<td>Option A: Communal area expansion:</td>
</tr>
<tr>
<td>Without housing</td>
</tr>
<tr>
<td>With housing</td>
</tr>
<tr>
<td>Option B: Communal area commercial development:</td>
</tr>
<tr>
<td>Individual holding</td>
</tr>
<tr>
<td>Group of 8 participants</td>
</tr>
<tr>
<td>Option C: Community based wildlife utilization</td>
</tr>
<tr>
<td><strong>COMMERCIAL AREAS</strong></td>
</tr>
<tr>
<td>Option A: Commercial farm purchase for communal area expansion</td>
</tr>
<tr>
<td>Option B: Settlement of stock farmers on commercial farms</td>
</tr>
<tr>
<td>Option C: Settlement of small farmers and landlesson commercial farms</td>
</tr>
<tr>
<td>Option D: Purchase of commercial farms by communal area farmers^5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Cost R/ha</th>
<th>Cost/ R/household</th>
<th>Equity Grading</th>
<th>Efficiency Grading</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMUNAL AREAS</strong></td>
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<td></td>
</tr>
<tr>
<td>Option A: Communal area expansion:</td>
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<td></td>
</tr>
<tr>
<td>Without housing</td>
<td></td>
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<tr>
<td>With housing</td>
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<tr>
<td>Option B: Communal area commercial development:</td>
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</tr>
<tr>
<td>Individual holding</td>
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<tr>
<td>Group of 8 participants</td>
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<tr>
<td>Option C: Community based wildlife utilization</td>
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<tr>
<td><strong>COMMERCIAL AREAS</strong></td>
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<td>Option C: Settlement of small farmers and landlesson commercial farms</td>
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<td></td>
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<tr>
<td>Option D: Purchase of commercial farms by communal area farmers^5</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

n.a. - not applicable

1 5,000 ha unit
2 Assuming 8 households per 5000 ha
3 Based on minimum viable cattle of 1,250 ha
4 Depending on carrying capacity
5 Cost to Government would depend on subsidy policy
It is probably the only option likely to be of direct benefit to small livestock owners in Hereroland, Damaraland and Namaland.

The impact on beef exports would be negative, although the overall impact on biomass production may be less significant. The calculation of this cost requires an examination of net, rather than gross production from the two types of farming system (commercial and traditional).

**Option B: Settlement of Stock Farmers**

This option would involve allocating individual user rights to Communal Area farmers on freehold farms. As with Option D, it is likely to be costly. On financial grounds, the minimum viable holding size for cattle would appear to be 1,250 hectares in the cattle areas and 2,250 hectares or more in the sheep areas. The numbers of participating households (160 per 100,000 ha) would be small and the spread of benefits relatively narrow.

**Option C: Settlement of Small Farmers and Landless**

This would require settling people in an area suitable for dryland cropping and small-scale stock keeping (e.g. Otavi-Tsumeb-Grootfontein triangle). It would be the most absorptive and intensive of the systems considered, enabling 2,000 households, i.e. 10,000 -12,000 persons, to be settled per 100,000 hectares. Settlement costs and benefits per household would be comparable with other options. In terms of equity, its benefits are likely to be high since it would cater for relatively large numbers of the poor farmers.

**Option D: Purchase of freehold farms by individual Communal Area Farmers:**

At current rates of interest, there is little financial incentive for large farmers from the Communal Areas to purchase freehold farms. Under this option, such farmers would be encouraged to apply for subsidised loans or capital grants.

Finance would be available from the Land Bank and commercial banking sector at rates subsidised by Government. Because the main beneficiaries would be a few already wealthy individuals, the case for Government providing such subsidies for this purpose is not strong.

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<table>
<thead>
<tr>
<th>TABLE 4.13  LAND REFORM COSTS: LOW, MEDIUM AND HIGH SCENARIOS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMUNAL AREAS</strong></td>
</tr>
<tr>
<td>Option A: Communal area expansion</td>
</tr>
<tr>
<td>Option B: Communal area commercial development</td>
</tr>
<tr>
<td>Option C: Community based wildlife utilization</td>
</tr>
<tr>
<td><strong>COMMERCIAL AREAS</strong></td>
</tr>
<tr>
<td>Option A: Commercial farm purchase for communal area expansion$^1$</td>
</tr>
<tr>
<td>Option B: Settlement of stock farmers on commercial farms$^1$</td>
</tr>
<tr>
<td>Option C: Settlement of small farmers on commercial farms</td>
</tr>
<tr>
<td>Option D: Purchase of commercial farms by communal area farmers$^2$</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
<tr>
<td>Cost per year over 5 years</td>
</tr>
</tbody>
</table>

$^1$ At mid-range price  
$^2$ Cost to Government assumed to be interest rate subsidy based on the difference between 18 and 6% interest rates
LOW, MEDIUM AND HIGH SCENARIOS

In order to give an indication of the likely budgetary cost of land reform three feasible scenarios have been assembled and compared in Table 4.13.

Each scenario is made up of a likely combination of options in the same proportion, but at different rates of implementation: low, medium and high. For example, Option A, Communal Area expansion, under the low level would cover 100,000 hectares; under the medium level it would cover 200,000 hectares and under the high level it would cover 400,000 hectares in the first five years; Option B, Communal Area commercial development under the various levels would cover the same extent of land as Option A; etc.

The low level scenario would embrace a total of 500,000 hectares, the medium level would involve one million hectares and the high level would cover two million hectares over five years.

The high level scenario, costing fifty million rand per year would represent about ten percent of Namibia’s capital budget in 1991.
5. RECOMMENDATIONS FOR A PROGRAMME OF ACTION

5.1 TARGET LAND

It is generally recommended that the division of land between communal and commercial agriculture be maintained. This division is designed to protect traditional communal area land access rights by negating commercial encroachment. The major objective underlying these recommendations is to provide access to commercial farming areas for all Namibians, and in so doing to improve the quality of life of communal farmers.

5.1.1 Abandoned Land

An initial amount of 370 614 hectares of land (Table 3.1 and 3.30) was located by the committee in this category. It is recommended that this should be expropriated for reallocation and brought into productive use. It is considered possible that more land falling into this category exists but was not reported, since information was only provided from the southern region.

5.1.2 Under-utilized Land

A total of 4.052 million hectares of under-utilized land has been identified (Tables 3.2 and 3.30). Since this category is subjected to rapid changes of status, e.g. restocking, 50% of this figure has been taken as realistically available. Thus at least 2.026 million hectares are considered utilisable in a land reform programme.

Such land is also available (but not readily quantifiable) within the boundaries of individual farms. It is recommended that a mechanism be identified which would allow farm workers associated with these farms to put this land to productive use.

5.1.3 Over-utilized Abused Land

Since over-utilization in Namibia is typically exemplified by bush encroachment, erosion and desertification, no actual area could be identified in this category. These data are presented in Table 3.6.

5.1.4 Unused land

By strict application of the definition established in the report, no unused land was identified within the commercial farming area. Where unused land is available in communal areas, it is recommended that Government provide
infrastructure such as access and water points to enable utilization by small scale farmers. (See report page 26 and Figure 3.2)

It is further recommended that community based wildlife utilization projects be encouraged and developed among communal farmers given the beneficial effects of such projects elsewhere in the region.

5.1.5 Multiple Farms and Excessive Land Ownership

The committee defined the operational norm for farm size in the north, central and southern regions of the country. By application of this definition it can be deduced that there are 1.306 million hectares in excess of these regional operational norms (Table 3.30). It is recommended that any person, natural or legal, who owns land in excess of double the regional operational norm should be required to make it available to the land reform programme as a function of expropriation. This land would then be evaluated in terms of its current economic productivity, its environmental sensitivity and other appropriate parameters to determine whether it should form part of the land reform programme.

5.1.6 Foreign owners

Foreigners own just over 3 million ha of agricultural land in Namibia (Tables 3.14 and 3.30). The committee is in full agreement with the recommendations of the Land Conference that foreign land owners must not be allowed freehold access to land in Namibia. Land currently so owned should be subject to expropriation (See text page 39).

In making this recommendation the TCCF takes into consideration the potential initial drop in productivity which may occur during the beneficiary transition period from communal to commercial farming methods. This factor is discussed under the Economic Considerations in section 3.1.3.1, page 75.

The committee also recommends that foreigners or foreign companies wishing to invest in Namibia in the future may be allowed to use land on a long term lease basis. This is in line with the Government policy of encouraging foreign investments.

5.1.7 Absentee Owners

It is recommended that land owned by absentee foreigners (Table 3.15) should be expropriated and reallocated to the land reform programme. It is further recommended that local absentee owners be allowed to own farms on condition that these farms are used productively.
5.1.8 Normal Sales

It is recommended that Government establishes a National policy of first refusal for all farms offered on the open market. In addition, farms that are suitable for the land reform programme should be priced by an independent evaluator.

5.1.9 State Land

Government owns 658,904 ha of land within the commercial sector (Table 3.30). The committee recommends that the State make available all land in excess of the operational norm leaving only the absolute minimum necessary to carry out its programmes.

5.1.10 Peri-urban and Municipal land

Due to the need for the land to be available for urban expansion it is not recommended that this category of land be included in the land reform programme. Access to disadvantaged persons should however be facilitated. These authorities should be encouraged to prioritize allocation on the beneficiary basis identified in this report (Categories of Beneficiaries, section 3.3, page 138).

5.2 BENEFICIARIES AND RESETTLEMENT

5.2.1 The committee recommends the following prioritization in terms of the categories of beneficiaries: they should

EITHER

(a) be effectively landless, i.e. have no or too little land to support themselves and their dependents;

OR

(b) be a San left behind by the South African occupation forces;

OR

(c) be an ex-combatant;

OR

(d) be a returned Namibian refugee;

OR

(e) be a war victim or disabled and able to practice agriculture;
OR

(l) be head of a household, and female

AND

(g) be unemployed and without any income (including spouse);

AND

(h) be poor.

5.2.2 It is recommended that each applicant who meets the above requirements should be registered and interviewed by a resettlement officer and the scheme thoroughly explained to him/her. On the basis of these interviews, resettlement officers should make individual needs assessments on a points scale. This will ensure that the most needy applicants will receive immediate attention.

5.2.3 As a guiding principle in formulating a land tenure system for resettlement areas, it is recommended that the rights and obligations of settlers to land should stand in direct relationship to their contribution to its development. If Government's contribution in terms of capital and other resources is high, it should retain a large measure of control over the land.

Where settlers themselves contribute a larger proportion to development costs, their rights should be more extensive. It is essential that the rights and obligations of settlers are properly explained to and understood by settlers.

It is recommended that at minimum they should be given the option of entering into common law lease agreements with the state, which may enable them to raise loans against their land.

5.2.4 It is not recommended that title deeds be issued for settlement schemes implemented on state land, communal areas included. Experience elsewhere has shown that the risk of settlers selling their plot for short term gain exists where titles are given, thus perpetuating landlessness in the long run.

5.2.5 The Land Conference resolved that large communal area farmers who have acquired land in the commercial areas should not be permitted to graze livestock both in the commercial sector and on communal land. The
Committee therefore recommends that where land is allocated to settlers in commercial areas, they relinquish all rights in the communal areas.

5.2.6 In respect of women-headed households the committee recommends the following:

- Women should have the right to own land for cultivation and to inherit and bequeath land.

- A programme of affirmative action should be introduced to assist women, through training, low interest loans and other mechanisms allowing competition on equal terms with men.

- All discriminatory laws, whether statutory or customary and all discriminatory practices which disadvantaged women should be abolished or amended with immediate effect.

- Women should be fairly represented on all future district councils, land boards or other bodies which deal with the allocation and use of land in the communal areas.

5.3 ENVIRONMENTAL CONSIDERATIONS

5.3.1 A fragile ecological system exists associated with marginal desert environments in Namibia. The Committee therefore recommends that careful consideration be given to the form of land allocation which may be considered in these areas. In areas susceptible to high risk desertification, settlement is not desirable whereas reallocation is acceptable. (See Figure 3.13, page 74).

5.3.2 Land degradation has taken place in the commercial farming areas due to poor management. This is characterised specifically by extensive bush encroachment. The committee recommends that means be sought to assist settlers in labour intensive methods of combating this problem. This is desirable since increased productivity can be achieved. (See Figure 3.12, page 67).

5.3.3 The committee strongly recommends an increased level of funding to establish monitoring criteria which indicate mismanagement, and research into sustainable agricultural land use in arid and semi-arid environments. Well defined mechanisms and procedures must be established for reversing trends of mismanagement.

5.3.4 To ensure that the future management of groundwater resources are improved and placed on a sustainable basis, it is urgently recommended that
a "Water Conservation Policy" for Namibia be prepared as a matter of priority by a multi-sectoral team of Namibians.

5.3.5 It is recommended that regional land-use plans be prepared for Namibia, based on environmental, social and economic parameters, and that management guidelines be developed to assist farmers, resource managers, government planners and development agencies.

5.3.6 The general subsidy system should cease since it props up an artificial system and provides financial incentive for continued mismanagement such as overgrazing (See pages 66 and 68).

5.3.7 It is strongly recommended that wildlife management and utilization be factored into the agricultural equation in respect of resettlement; especially in areas of high desertification hazard. (See pages 62 and 64).

5.4 MANAGEMENT STRATEGIES

There are a number of scenarios in resettling farmers on commercial farm land. It is recommended that:

5.4.1 Where a farmer has to pay the full price of a farm, farm size should not be less than 4 000 ha in the northern commercial farming areas or the equivalent in the south to be economically viable.

5.4.2 Should a decision be made to subsidize or otherwise assist with the repayment of the loans, a smaller farm size of 2 000 - 3 000 ha can be considered, or its equivalent in the south.

5.4.3 If the land is to be provided for use at no cost the size does not represent a major constraint. However, it must enable the farmer to generate an acceptable income; a minimum of 1 500 ha is recommended in this case, or its equivalent in the south.

5.4.4 It is recommended that a number of small farmers could be resettled on one commercial farm provided that it is properly subdivided and the carrying capacity of the farm is not exceeded. Control measures must be instituted to guard against overstocking.

5.4.5 The Committee strongly recommends that Government provide compulsory special training to all resettled farmers, concentrating particularly in the areas of farm management and principles of farm accounting and bookkeeping. Training must be backed up by a strong extension service to
all farmers. The specific needs of female beginner farmers must be catered for.

5.5 **LEGAL RECOMMENDATIONS**

In order for Government to give effect to the recommendations contained in this report, it will have to employ various legal means, such as the drafting and adoption of new laws by Parliament, and the repeal and amendment of others.

5.5.1 **Aquisition**

In terms of the Constitution, Government is authorized to expropriate property in the public interest, subject to the payment of just compensation. It can obviously also acquire land by purchasing it commercially on the open market.

Legislation should be considered to strengthen the financial assistance which is provided to beginner farmers under the provisions of the Agricultural Bank Amendment Act, 1991 (Act No. 27 of 1991) to set up a legal basis to secure and guarantee access to loan funds at concessionary rates. Such law may also contain provisions aimed at providing state land or land acquired for settlement purposes on a leasehold basis to beginner farmers.

5.5.2 **Environment**

Law reform and development has to be initiated to give effect to Article 95 (1) (Non-binding Principles of State Policy) of the Namibian Constitution geared towards the maintenance of the national environmental factor facilitating the productive utilization of natural resources on a sustainable basis. To this end the Soil Conservation Act of 1969 (No. 76 of 1969) must be abolished or substantially amended. A new Conservation Act must be enacted which puts the onus on the farmer to conserve agricultural land. The Act should also contain appropriate provisions to prevent over-utilizing of the land resource. Furthermore, the mechanism to enforce this law must be clearly spelled out.

5.5.3 **Foreign Ownership**

The legal options are set out in the section dealing with Legal Considerations under the heading "The Acquisition and Regulation of Foreign Land Ownership". A variety of options are available regarding the regulation of the conditions and requirements under which foreign nationals may acquire, hold and use land. Since the choice of option will have significant implications to foreign investment in line with the Land Conference resolution, the
Committee recommends that foreigners should not have freehold access to agricultural land but that the leasehold option be implemented. The Committee further recommends exhaustive consideration on the part of the subsequently identified National Task Force on Land Reform.

5.5.4 Ownership of Communal Land

The ownership and control of communal land should remain with and be vested in the Government of the Republic of Namibia. The South West African Native Affairs Administration Act, 1954 (Act No. 56 of 1954), in terms of which such land is held by the Namibian Development Trust for the settlement, support, benefit and material and moral welfare of the inhabitants of the communal areas, should however be repealed.

An Act of Parliament has to be enacted to define the powers, functions and duties of the President to regulate the control and utilization of communal land and to establish a Council of Traditional Leaders with an advisory function to the President in regard thereto.

It is also recommended that this Act should constitute Land Boards with powers to control and allocate future communal land in a standardized manner and spell out the following:

a) to adjudicate disputes over land claims which cannot be settled through arbitration at local level; and

b) to ascertain the extent to which existing land use rights are encroached upon by development projects, resettlement schemes and land reform.

Traditional leadership will be represented within the area of their jurisdiction on such land boards and Government representation.

It is recommended that an appropriate Ministry be made responsible for the administration of the Act.

5.5.5 Commercial holdings in Communal Areas

It is necessary to ensure that communal land remains and is not further encroached upon, depriving rural people of the communal land which constitutes their only socio-economic security. An Act of Parliament may be passed to deal with the provision of equitable and just acquisition and allocation of land tenure rights by land boards. This law should also standardize and regulate the content, exercise and protection of communal tenure rights and provide for the adjudication of disputes over conflicting communal land claims, having due regard to traditional authority structures and applicable customary law and tradition.
Government should revoke the provisions pertaining to the allocation, administration, control and utilization of communal land contained in the Native Reserve Regulations (G.N. No. 68 of 1924) and in the other proclamations referred to in the section on communal areas such as e.g. Procs. 177 and 178 of 1974, and provide for the prohibition of further subdivision and fencing-off of communal areas.

Those existing land rights lawfully allocated and acquired, as well as areas fenced off under lawful authority, will have to be recognized.

5.6  FISCAL AND INSTITUTIONAL MECHANISMS

5.6.1 This report has demonstrated that the agricultural sector is exempted from a number of taxes. In adhering to the principle of horizontal tax equity, it is recommended that all tax concessions favouring agriculture be scrapped. Such measures should be introduced gradually.

5.6.2 Commercial business enterprises are required to maintain reserve funds to cover those periods when income is reduced. The committee recommends that this practice be extended to commercial farming enterprises in order to cope with the relatively high risk factors involved.

5.6.3 The committee further recommends that subsidies to commercial agriculture be phased out gradually to allow the sector to remobilise its strength and stand on its own feet. However, veterinary subsidies should continue.

5.6.4 If beginner farmers are to benefit from any proposed land reform programme it is imperative to secure and guarantee access to loan funds at concessionary rates. To this end, it is recommended that Government requests financial institutions to change their business practices to facilitate access to beginner farmers or that a new institution be created for this purpose.

5.6.5 It is recommended that such concessionary finance should only last for an initial period while farmers are establishing themselves. After that this concessionary finance must be phased out.

5.6.6 To ensure that the targeted land reform programme is a success, it is recommended that a National Task Force on land reform should be established which will have the responsibility of implementing the land reform programme.

5.6.7 In terms of the allocation of communal lands an Adjudication Act should be prepared for Parliament. This Act will spell out the purpose of adjudication, which will be:

- to adjudicate disputes over land claims which cannot be settled through arbitration at local level;
• to ascertain the extent to which existing land use rights are encroached upon by development projects, resettlement schemes and land reform.

5.6.8 It is recommended that the appropriate Ministry be appointed to administer the Act.

5.6.9 The committee recommends that future communal area land allocation be controlled by land boards in a standardized manner. These boards should contain both traditional and Government representation.
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SELECT BIBLIOGRAPHY

1. Submissions received

A. Political parties, churches, NGO's and other organisations
   Action National Settlement
   "Paper on Land Reform and the Land Question", (Windhoek, 1991)

   Evangelical Lutheran Church in Namibia (ELCIN)
   "Submission to Technical Committee on Farmland", (Ondangwa, 1992)

   Legal Assistance Centre
   "Communal Lands in Namibia: the Legal Framework, its application and existing practices", (June 1991)

   Namibia Agricultural Union (NAU)
   "Data and information on Commercial Farmland", (Windhoek, 1992)

   Namibia Centre for Holistic Resource Management
   "Conference on Land Reform and the Land Question", (Windhoek, 1991)

   Namibia Public Workers Union (NAPWU)
   "Position on Land and Labour", (Windhoek, 1991)
B. Individuals

Mutiti, R B
Letters filed in OPM

Stoman, P
Letters filed in OPM

Widlock, T & D (on behalf of Hai//om community at Mangetti)
"Legal and Economical Control of Mangetti-West as Commercial Farmland", (Windhoek, 1992)

Widlock, T & D
"Increasing Commercial Holding of Communal Land in the Eastern Ovambo Region", (Windhoek, 1992)

2. Printed Sources

Adams, F & Werner, W
The Land Issue in Namibia. An Enquiry, (Windhoek, 1990)

Bahiti, K, Temane, et al, Consultants
Report on the Review of Inter-Ministerial Committees and Institutions for the Coordination of Rural Development, (Gaborone, Botswana, June 1988)

Bayer, W; Metz, M; Sievers, J; Tapscott, C & Vigne, P
Sustainable Livestock Production in the Less Developed Areas of Namibia, (Windhoek, 1991)

Cliffe, L

Cusworth, J & Walker, J

Government of Zimbabwe

Hay, R; Pell, J & Tanner, C
The International Association of Assessing Officers
"Property Appraisal and Assessment Administration", (Chicago, USA, 1990)

Lawrence, J C D
"Land Adjudication", (mimeo, 1985)

Loxton, Venn & Associates
Ontwikkelingstrategie vir Ovambo, (1985)

Namibia Economic Policy Research Unit (NEPRU)

NEPRU

NEPRU

Oberai, A S

Picard, L A (ed)

Republic of Botswana
Report of the Presidential Commission on Land Tenure, (Gaborone, 1983)

Republic of Namibia
White Paper on National and Sectoral Policies, (Windhoek, 1990)

Republic of Namibia
Draft Transitions National Development Plan, (Windhoek, 1990)

Republic of Namibia - Office of the Prime Minister
UNICEF


UNICEF/NISER

*A Situation Analysis of Women and Children in Namibia,* (Windhoek, 1990)

Tapscott, C & Mulongeni, B
