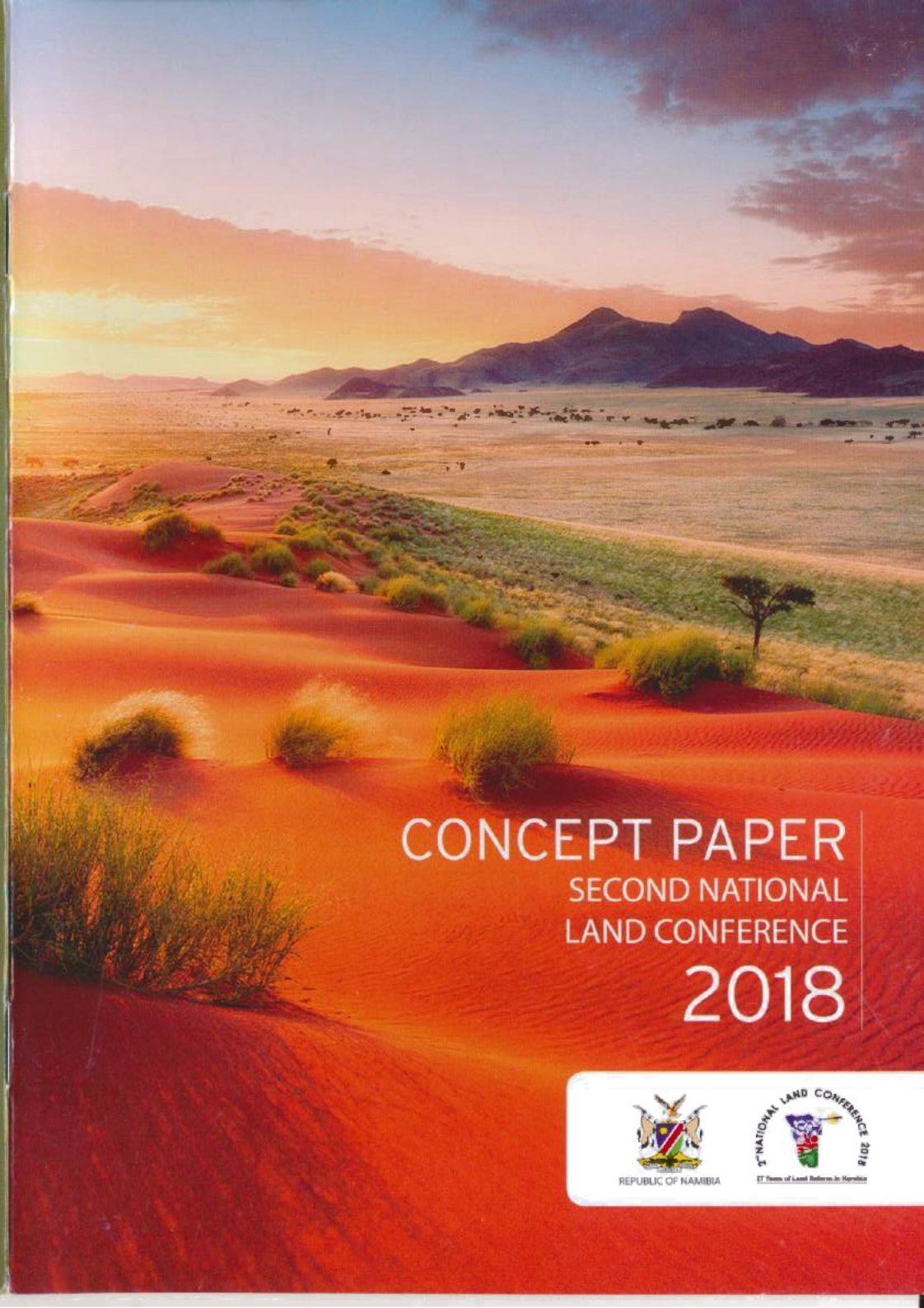




REPUBLIC OF NAMIBIA



CONCEPT PAPER
SECOND NATIONAL
LAND CONFERENCE
2018



REPUBLIC OF NAMIBIA



2ND NATIONAL LAND CONFERENCE 2018
2ND Theme: Land Matters In Namibia

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1. INTRODUCTION

This document aims to set a tone for all the aspirations towards the convening of the Second National Land Conference in October 2018. It therefore serves as a guiding tool and outlines the objectives of the Second National Land Conference, the approach, modalities and the expected outcomes. In order to achieve the set goals and the Strategic objectives articulated in the Harambee Prosperity Plan 2016/17-2019/20, the Ministry of Land Reform is tasked to host the Second National Land Conference in order to take stock and review the progress made towards the achievements of the goals of land reform programmes in the country since independence.

The Second National Land Conference aims to create a platform where Namibians are accorded an opportunity to deliberate on the current land reform programme and other emerging land related issues. It is therefore, the aim of the people and the Government of Namibia that the Second National Land Conference, guided by the country's Constitution and experience, would adopt policies, programmes and measures that could accelerate land reform programme in a democratic and sustainable manner for the benefit of the Namibians.

2. BACKGROUND

The land question is one of the burning issues Namibia is faced with since independence in 1990. At independence the new nation inherited a divided and skewed land distribution pattern stemming from many centuries of colonization and foreign occupation. Land was unfairly distributed along racial lines. The most arable and productive land in the southern and central parts of the country was allocated exclusively to white European settlers and their descendants.

The majority black Namibians were dispossessed of their land and relegated to native reserves created on marginal lands with low productivity and farming potential. In order to redress the past imbalances in the land distribution, a Government Ministry responsible for land reform and resettlement was established after independence. The historic National Land Conference on Land Reform and the Land Question was held in June 1991. The Conference adopted consensus resolutions aimed at correcting the past colonial wrongs in land distribution in order to achieve social and economic equity for all citizens.

3. NAMIBIA LAND REFORM AFTER INDEPENDENCE

In its quest to address the land reform challenges, the Government through the Ministry of Land Reform has since independence developed and implemented

land policies and legislations to guide the implementation of the Land Reform Programmes. The first step in the implementation of the country's vision on land reform, was the 1991 National Conference on Land Reform and the Land Question. The Conference adopted Two (2) approaches and twenty four (24) consensus resolutions on Land Reform.

3.1 Redistribution of commercial agricultural land

To address concerns regarding commercial agricultural land, the Government enacted the Agricultural (Commercial) Land Reform Act, 1995 (Act No.6 of 1995), National Land Policy of (1998) and National Resettlement Policy of (1998). These legal instruments aims to provide guidance to the administration of commercial agricultural land towards the attainment of the Government Land Reform objectives in the subsector.

Under the Agricultural (Commercial) Land Reform Act, 1995, two (2) methods for the acquisition of commercial agricultural land are provided for, namely, the willing seller - willing buyer principle and land Expropriation in the public interest. The willing seller - willing buyer principle requires that before a farm is acquired, the farm owner (s) should willingly offer the land to the State in order to accelerate land acquisition by the State for land reform and resettlement purposes. The willing seller - willing buyer principle is currently, utilised more frequently than

expropriation. In cases where expropriation has been exercised, the method was challenged in courts by some farm owners on severe grounds.

Since independence, the Government acquired 524 farms with a total of 3.2 million hectares out of the targeted five (5) million hectares by 2020 under the National Resettlement Programme. Altogether 5, 338 families have been resettled under the Programme. Under the Affirmative Action Loan Scheme (AALC) a total of 648 loans were granted to the amount of N\$776,453,939.01. The total hectares of land acquired under AALC the scheme is 3,407,368.6458 million hectares.

The slow pace of land acquisition, the scarcity of such land, inadequate financial resources to acquire land remain a bottleneck in the attainment of land reform objectives in the country. Other challenges include pending legislative enactments on land ownership by foreign nationals (enactment of the Land Bill). Further, the inability to satisfy demand for land for those who need it as well as uneven distribution of land offers across the administrative regions of the country, just to mention but a few.

3.2 Tenure reform in the communal areas to ensure tenure security

In 2002, The Government, enacted the Communal Land Reform Act, 2002 (Act No. 5 of 2002) to guide land reform on communal land in the country.

This Act gave birth to Communal Land Boards as entities entrusted with the administrations of communal land, in conjunction with Traditional Authorities. The functions of these two (2) institutions are to administer the allocation and registration of communal land for tenure security in communal areas of the country.

Since the enactment of the Communal Land Reform Act, a total of 118, 885 Communal land rights have been allocated and registered in communal areas across the country. Furthermore, through the programme for Communal Land Development, substantial investments in infrastructure development are being made in communal areas to increase land productivity. It is worth noting that the above two (2) approaches were based on the Twenty four (24) Resolutions contained in a documents titled "Consensus document on the National Conference on Land Reform and the Land Question" July 1991.

3.3 Policy Interventions

In 2010, the Government under the Ministry of Land Reform initiated the development of the Land Bill. This Bill combines the pieces of legislations i.e. Agricultural (Commercial) Land Reform Act, 1995 and Communal Land Reform Act, 2002 into one land legislation.

The Land Bill has been tabled in Parliament and is currently under

consideration for enactment. The main objective of the Land Bill is for Namibia to have one piece of legislation on land matters. The new law encompasses the provisions of existing land legislations and proposed amendments for efficient and effective administration of land reform across the country.

3.4 Urban Land Reform

Another emerging and vital issue in addressing land reform is the question of urban land reform. In recent years, the affordability of both land and residential properties in urban areas has been highlighted as a serious challenge especially among the youth. This matter requires attention at the National Land Conference. During the 1991 National Land Conference, urban land reform was not adequately discussed for consensus resolutions. During the upcoming National Land Conference, the issue of urban land reform should be addressed for availability and affordability under various categories of land uses.

3.5 Second National Land Conference

Despite the notable and quantified results on the land reform programme by the Government, more work remains in terms of addressing and overcoming the above challenges encountered in land reform and resettlement. The Government and people have acknowledged the challenges regarding land reform in the country.

Many interested parties have advocated for the convening of the Second National Land Conference to review and deliberate on land related matters and adopt measures to accelerate land reform. It is therefore, the Government's desire for the Second National Land Conference to find realistic solutions to the identified challenges and adopt measures that shall enhance land reform programme in Namibia for the benefit of its citizens.

The Land Conference is a significant milestone towards addressing land ownership and distribution in Namibia. Equity in land ownership and distribution has a direct relevance in addressing many major socio-economic challenges facing the majority of Namibians. Land is the centre of all socio-economic activities. Land is therefore a basic commodity, in all efforts and interventions to eliminate poverty, improve the living conditions of our people and ensure sustainability in the livelihoods of citizens who depend on agriculture.

The struggle for Namibian Independence was centered on land and its resources for the collective benefit of the people. Hence, the Government is committed to address the land issue in the country. The recent formulation and adoption of the Government's Harambee Prosperity Plan once again places the land issue at the front and centre of our National development strategies. The Plan is an instrument for the strategic development of Namibia taking land and its resource as

an essential resource in the acceleration of socio-economic development, industrialization and job -creation.

4. RATIONALE AND OBJECTIVES OF THE SECOND NATIONAL LAND CONFERENCE

Namibia will host the Second National Land Conference in October 2018 under the theme "Towards a Comprehensive and sustainable Land Reform in Namibia". The objectives of the second National Land Conference are:

- A. Review the progress made towards the implementation of the twenty four (24) resolutions of the 1991 Land Conference and address the challenges encountered.
- B. Share with the Conference participants, the progress on the implementation of the 86 Resolutions assigned to the Special Cabinet Committee on Land and Related Matters.
- C. Address the structure of land ownership and deliberate on the following:
 - Ancestral land claims for restitution,
 - The willing seller -willing buyer principle for agricultural land acquisition,
 - National Resettlement Programme and Resettlement criteria,
 - Expropriation of agricultural land in the public interest with just compensation,
 - Urban land reform programmes,

- Illegal fencing of communal,
- Dual grazing,
- The removal of the veterinary cordon fence.

- D. Identify and discuss emerging land issues such as land valuation and pricing, pre and post resettlement support to resettled farmers, Affirmative Action Loan Schemes and Programmes, accessibility to land by Women and the Youth, bankability of communal land as well as poverty eradication, land productivity and employment creation.
- E. Adopt strategic resolutions informed by the identified challenges, contemporary issues and future aspirations to guide a responsive and sustainable land reform programme.

5. EMERGING LAND MATTERS

Among the objectives of the Second National Land Conference is to address the structure of land ownership and deliberate on the following land matters:

5.1 Ancestral land claims for restitution

Most Communities acknowledge the loss of ancestral land due to past colonial regimes. Such communities feel displaced and landless. Hence suggests that a study/survey should be commissioned to identify communities that have lost ancestral land and their localities. Another suggestion is that a special programme under Land Reform should

be developed to cater for the restitution of ancestral land claims. Others proposal is the establishment of an ancestral land Tribunal Commission to deal with ancestral land issues and restitution. However some communities urge that ancestral land claims and restitution must not be entertained as it might extended beyond Namibia territorial boundaries.

5.2 The willing seller-willing buyer principle for agricultural land acquisition

Since the inception of the implementation of the Agricultural (Commercial) Land Reform Act, Act No. 6 of 1995, the Government has exercised the right of first refusal on farm offers. The adopted principle of willing buyer -willing seller has yielded positive results despite some challenges. This method is conceived by some as either too slow, resulting in poor quality of land being offered to the Government for acquisitions for land reform programme.

Farm offers are not forthcoming from prime areas like Otjozondjupa, Omaheke and parts of Oshikoto, Erongo and Kunene regions. There is a call to complement this method with that of land expropriation as provide for in the Act in order to expedite the acquisition of land in certain agro-ecological zones.

5.3 The National Resettlement Programme and Resettlement criteria

The National Resettlement Policy was adopted in 2001 to respond to the land needs of the Namibian people. However, the demand for land surpluses the supply of land under the National Resettlement Programme. The process of identifying the landless amidst many people who need land is not an easy one despite the selection criteria being in place. To ensure inclusivity and equity, the selection of eligible resettlement beneficiaries is done through the Regional Resettlement Committees and the Land Reform Advisory Commission.

Another bottleneck is that the current resettlement models focus mainly on livestock farming. Therefore there is an outcry from the general public to review the current National Resettlement Policy and Criteria to accommodate other land uses. The review should be inclusive of other land uses as well as different categories of beneficiaries such as the have-nots, farmer workers and urban dwellers. The draft revised National Resettlement Policy has suggested other models such as the Commercial, Semi-Commercial and Subsistence farming.

5.4 The expropriation of agricultural land

The expropriation of agricultural land is provided for under the Agricultural (Commercial) Land reform Act No 6

of 1995. There are calls to exercise expropriation as a speedy method and effective tool to land acquisition for land reform programme. In the past, the Government expropriated some 5 farms, however the process has being challenged in court by some farm owners for absence of gazzeted criteria for expropriation in the public interest.

5.5 Urban land reform programmes

The Ministry of Land Reform and the Ministry of Urban and Rural Development are jointly implementing an urban land reform programme through the Flexible Land Tenure project under the Flexible Land Tenure Act of 2012. The Act recognizes and provides for the registration of Starter Title, the Land hold Title and Leasehold Title respectively. The aim of the project is to provide security of tenure to people residing in informal settlements of urban areas of the country. The ownership of the Flexible Land Tenure Programme need to be discussed and agreed upon by the relevant stakeholders.

5.6 The removal of the veterinary cordon fence

There is an outcry from northern communal farmers that the Veterinary Cordon Fence should be gradually removed in order for farmers to market their livestock south of the fence. Currently, the Northern communal farmers do not have access to markets south of the veterinary fence.

A number of control and preventive measures are being advanced including the establishment of quarantine camps, sub-division of Foot and Mouth Disease prone areas into blocks, erection of fortified fence between Angola and Namibia and between Botswana and Namibia. Including the creation of second buffer zones to gradually shift the red line to international borders.

5.7 Land valuation and pricing

High prices for commercial farmland mainly resulted from the absence of Valuation Standards in the country. However, through the implementation of the resolutions of the Special Cabinet Committee on Land and Related Matters, the Ministry has developed Valuation Standards for Namibia. These Standards will introduce the common Valuation Criteria and Guidelines to guide the Valuation professionals. Namibia has further enacted the Property Valuers Profession Act, Act No. 7 of 2012 on commercial agricultural land to improve the monitoring of land markets in the sector. The Act makes provisions for a regulatory body under which Valuers shall be registered. The intention is that, only registered qualified Valuers shall carry out valuation activities in the country. The benefits for the Real Property index will enhance better monitoring of land markets to ensure fair land prices in the country.

5.8 Pre and post resettlement support to resettled farmers

The Ministry of Land Reform, in collaboration with Agricultural Bank of Namibia introduced a post-settlement support to resettlement beneficiaries. This scheme consists of a revolving Fund to which the Ministry and Agricultural Bank of Namibia contribute each N\$30 million per year

5.9 Affirmative Action Schemes and Programmes

The Affirmative Action Loan Scheme under the Agricultural Bank of Namibia finance previously disadvantaged farmers' subsidized loans to enable such farmers to acquire commercial farms. Ten (10) million hectares are targeted to be bought under this scheme, while Five (5) million Hectares is targeted under the National Resettlement Programme. The initiative aims to reduce the disparity in land distribution between land owning and landless Namibians. The programme is popular but most beneficiaries to the scheme are defaulting on repayment of loans.

Most resettled farmers have benefited from this post-settlement support programme. The Post Settlement Support Fund is benefitting farmers to a maximum loan of N\$200,000.00 for farm productivity. The Ministry and Agricultural Bank of Namibia are currently busy revising the fund to increase the loan amount to farmers.

5.10 Accessibility to land by Women and the youth

Public awareness campaigns by key stakeholders on the right of women and youth to own and inherit land are being conducted. Relevant legislations are enacted to provide the right of Women and Youth to own properties particularly land. There is need to amend existing legislations over land to provide for the protection of single mothers and co-habitators partners to protect such vulnerable women against the loss of land in case of death by male partners.

5.11 Bankability of communal land

Communal Land is state owned whose administration is exercised by Government with assistance from the Traditional Authorities. Financial institutions are not willing to grant financial assistance to communal residents due to security of tenure as the land is not owned privately by such individuals. The Ministry, Bank of Namibia and Namibia Association of Bankers are engaging one another on the extension of credit and financial support to communal areas. Extension of credit and financial support may unlock the barrier to economic development in the remote communal areas of Namibia.

5.12 Land productivity and employment creation

There is low agricultural production on most resettled farms under the

National resettlement programme. The low productivity is due to lack of adequate farming infrastructure and training/mentorship programme to boost production. Measures need to be opted for provision of adequate farm infrastructure to sustain farming activities. Mentorship and training programmes should be enhanced to boost farming productivity and accelerate job creation.

5. APPROACH TO THE SECOND NATIONAL LAND CONFERENCE

The Second National Land Conference shall be preceded by Regional consultations. Regional consultations shall be held in all the fourteen (14) Administrative Regions of the country to accord Namibia citizens at the grass roots to have an opportunity to deliberate on land related issues and propose their desired positions on land matters. The main objective is to engage stakeholders at the grassroots level and accord regions an opportunity to engage citizens to contribute their inputs into the various land related matters as well as to make recommendations for the deliberations at the Second National Land Conference. The aim is to enhance fairness and transparency in order to contribute towards an effective and efficient land reform programme in Namibia.

The final regional consultation reports shall form an integral part of resource materials to the Second National Land Conference. The invitations to participants in regional

consultations shall be facilitated by the Ministry of Land Reform in consultation with the respective offices of Regional Governors and Regional Councils to ensure inclusivity of key stakeholders and the general public at regional levels.

6.1 Engagement of Key Regional Leadership

The first step in the preparation of regional consultations was a One (1) day meeting of regional Governors, Chairpersons of the Management Committees of Regional Councils and Chief Regional Officers of Regional Councils in Windhoek in June 2018. The meeting will facilitate proper planning and common understanding on the modalities for the regional consultations. It will also propose an agreed approach on the conducting of regional consultations. The meeting shall be hosted by the Prime Minister Office and attended by members of the High Level and Inter - Ministerial Committees. The Agenda of the meeting shall be to explain and discuss the following regarding regional consultations:

- Draft regional consultation programme, presenters and list of participants,
- The approach to regional consultations in order to ensure effective and meaningful participation,
- Logistic arrangements for the regional consultations,
- Facilitators and report writers for the regional consultations.

6.2 Regional Consultations

Regional consultations shall be guided by the programme to be cleared by the High Level Committee. They will be held over a period of Two (2) days in each region during the month of July 2018. It is expected that on average that each regional consultations will be attended by not more than three hundred (300) participants.

Participants to the regional consultations shall comprise of representatives from Traditional Authorities, Regional councils, Council of Churches in Namibia, Local Authorities, Farmers' organizations, Heads of Line - Ministries, Tertiary Educational Institutions, Non-Governmental Organizations (NGOs), Communal Conservancies, Community leaders, Women organizations, Communal Land Boards, Regional Resettlement Committees, Youth organizations, Political parties, Business people, National Federation of People Living with Disabilities, Trade Unions, Pensioners Committees, Veterans Associations and Civil society organizations.

The consultations will be conducted by seven (7) Teams comprising of the High Level Committee, Inter-Ministerial Committee and the Ministry of Land Reform staff members. Each team shall be responsible for two (2) regions. The Consultations will be done simultaneously in the regions by assigned Teams. Regional consultations shall be facilitated by qualified and competent Namibian nationals with requisite knowledge on

administration and management of Namibia's land reform and other land related matters.

6.3 Second National Land Conference

The Second National Land Conference shall be held in Windhoek over a period of five (5) days from 1 to 5 October 2018. The Second National Land Conference will be attended by selected representatives from all 14 regions of the country. Other attendees will represent regional and international organizations. The Conference shall be guided by the agenda programme and facilitated by qualified and competent Namibian nationals with requisite knowledge on administration and management Namibia's land reform and other land related matters.

The identification of participants to the Conference shall be facilitated by the Ministry of Land Reform in consultation with the relevant committees and the Office of the Prime Minister. It is envisaged to have a strong representation of relevant stakeholders at the conference to ensure inclusivity of all sectors of the Namibian population.

7. COMMITTEES FOR THE SECOND NATIONAL LAND CONFERENCE

Three (3) preparatory committees will spearhead the preparations of the Second National Land Conference, namely:

7.1 The High Level Committee

The High Level Committee (HLC) is the clearing house for activities for the preparations of the Second National Land Conference.

The Committee shall consist of Government Ministers, Heads of institutions and organizations relevant to the preparations of the Conference. Other members includes key stakeholders and experts. This Committee shall be chaired by the Prime Minister, deputized by the Deputy Prime Minister and the Minister of Land Reform. This Committee will build confidence among the general public towards the processes leading to the holding of the National Conference.

7.2 The Inter-Ministerial Committee

The Inter- Ministerial Committee (IMC) is the Technical Committee and shall play an advisory role in the preparations of the Conference. The Committee consists of Permanent Secretaries of Government Offices/Ministries and Agencies relevant to land matters. This Committee is chaired by the Secretary to Cabinet who shall report to the High Level Committee.

7.3 The Ministerial Preparatory Committee

The Ministerial Preparatory Committee (MPC) comprises Ministry of Land Reform, Head of Departments and Directorates. The Committee is chaired

by the Permanent Secretary of Ministry of Land Reform. It is responsible for the drafting of relevant documents as well as compilation and production of conference materials. The committee is further responsible for the facilitation of conference logistics. It comprises of sub-committees tasked with financial matters, transport and accommodation, documentation and communication as well as security and protocol.

8. CONFERENCE THEME AND THEMATIC AREAS

The thematic areas of the conference will be finalized after the regional consultations, informed by the issues raised in the consultations deemed important to Namibians. It is also worth noting that the thematic areas could also be informed by the outstanding seven policy areas /issues that emanated from the 1991 National Conference on Land Reform and the Land Question that the Honourable Minister of Land Reform presented at the 2016 SWAPO Party Policy Conference. The Other emerging issues relevant to the Land Conference are ancestral land claims for restitution, willing seller - willing buyer principle, expropriation in public interest with just compensation, land ownership patterns, pre and post settlement support, National Resettlement Programme and its selection criteria, bankability of communal land, land and poverty, urban land reform, accessibility to land by Women and the

youth, land productivity and job creation and the Removal of the veterinary cordon fence.

All these areas may require expert papers to be presented by local and international experts during the Conference.

9. ENGAGEMENTS OF LOCAL AND INTERNATIONAL STAKEHOLDERS

The following Namibian Institutions shall be approached to prepare research position papers on specific areas on land issues in Namibia: Namibia University of Science and Technology, University of Namibia, Council of Traditional Leaders, National Youth Council and Bank of Namibia.

The Development Partners, Donors, Trade Unions, NGOs, Research institutions and Farmers Associations will also be invited for presentations on land related matters. The contents of the presentations shall be agreed upon and guided by Terms of Reference.

The Government could also use this opportunity to invite land experts, stakeholders and organizations from countries, who have implemented similar policies with the objectives of learning from them in terms of areas of interests/ best practices, challenges, policy and legal framework in terms of land issues. The following countries are therefore suggested; Brazil, Zimbabwe, South Africa,

Ethiopia, Rwanda, Kenya, Malawi and Mozambique.

10. EXPECTED OUTCOMES

The expected outcome of the Second National Land Conference for 2018 is to seek clarifications and adopt desirable positions on the identified emerging issues such as ancestral land claims for restitution, the willing seller-willing buyer principle, pre and post settlement support, expropriation in public interest with just compensation, land ownership patterns, National Resettlement

Programme and its selection criteria, Bankability of communal land, Land and poverty, Urban land reform, Accessibility to land by Women and the youth, land productivity and employment creation as well as removal of the veterinary cordon fence.

The overall expected outcome is to contribute towards an effective and efficient land reform programme in the country. This will in turn contribute to social and economic advancement in Namibia through land reform programmes and projects.

