



**RDI Reports on Foreign Aid and Development #92**

## **PROSPECTS FOR PEASANT FARMING IN RUSSIA**

**Roy L. Prosterman  
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**January 1997**

**Report on Fieldwork Conducted in  
Collaboration with the Agrarian Institute, Moscow**



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## I. Introduction.

During September and October of 1996, the Rural Development Institute, in conjunction with Moscow's Agrarian Institute, conducted field research in the Rostov, Samara and Vladimir *oblasts* of Russia on a range of agrarian reform issues. RDI researchers used "rapid rural appraisal"<sup>1</sup> techniques to conduct extensive interviews of 14 managers of agricultural enterprises, 25 peasant farmers, 17 *oblast* and *raion* officials, and 7 rural pensioners.<sup>2</sup> This was RDI's seventh round of rural fieldwork conducted in Russia on these issues.<sup>3</sup> This field research was carried out against the background of RDI's rural fieldwork in 26 other countries over nearly three decades, including fieldwork in nine other countries where there have been major issues involving transition away from central planning and collective agriculture.

Russian agriculture continues to struggle. The 1996 grain harvest of 69 million tons, although up from 63.4 million tons in 1995, is nevertheless one of the smallest harvests since the 1960s.<sup>4</sup> Although Russia's agriculture currently faces problems due to the difficult macroeconomic environment, the basic problems are long-standing and due to the inefficiencies of collective agriculture. World experience demonstrates that smaller farms operated by single families and small groups consistently outproduce collective farms.<sup>5</sup> Even during earlier periods when the collectives were heavily

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<sup>1</sup> Rapid rural appraisal techniques are designed to avoid pitfalls common to some rural research, including neglect of interviewees located far from cities and the tendency to meet only with officials and local elites rather than those who are powerless or in distressed circumstances. Rapid rural appraisal assumes that rural people have valuable knowledge regarding subjects that affect their lives. For further discussion, see Robert Chambers, "Rural Appraisal: Rapid, Relaxed and Participatory," *Institute of Development Studies Discussion Paper No. 311* (Oct. 1992); and Chambers, "Shortcut and Participatory Methods for Gaining Social Information for Projects," in Michael Cernea, ed., *Putting People First: Sociological Variables in Rural Development* 515-537 (1991).

<sup>2</sup> In this report, "peasant farm" is used to refer to entities registered as "peasant (farm) enterprises" operated by a single family or small group of individuals. "Agricultural enterprise" is used to refer to larger agricultural producers, including collective farms, state farms, production cooperatives, joint stock companies, and large partnerships. "Agricultural producer" is used to refer to all types of agricultural producers.

<sup>3</sup> See, e.g., Roy Prosterman, Leonard Rolfes & Robert Mitchell, "Russian Agrarian Reform: A Status Report From the Field," 7(2) *Communist Economies & Economic Transformation* 175-193 (1995).

<sup>4</sup> Goskomstat, cited in "Harvest of Grain in Russia—Higher Than Last Year," *Finansovye Izvestiya*, Dec. 17, 1996.

<sup>5</sup> See, e.g., Hans Binswanger, Klaus Deininger & Gershon Feder, "Power, Distortions Revolt and Reform in Agricultural Land Relations," World Bank Discussion Paper, WPS 1164 (July 1993) (forthcoming in: Srinivasan & Behrman, eds., *Handbook of Development Economics*, vol. III); Nancy L. Johnson & Vernon Ruttan, "Why Are Farms So Small?," 22 *World Development* 691 (1994); Binswanger & Deininger, "South African Land Policy: The Legacy of History and Current Options," and van Zyl, "The Farm Size-Efficiency Relationship," both in *Policies, Markets and Mechanisms: Agricultural Land Reform in South Africa*; William Thiesenhusen & Melmed-Sanjak, "Brazil's Agrarian Structure: Changes From 1970 Through 1980," 18 *World*

subsidized and when there were no macroeconomic changes, family farms in areas with agro-climatic conditions similar to conditions in Russia consistently produced more grain per hectare than Russian (and earlier Soviet) collectives. Canada's family farms (average size, 242 hectares) produced at least 35% more grain per hectare than Soviet collectives, and Finland's family farms (average size, 13 hectares) at least 60% more.<sup>6</sup> The current gap is even greater: Russia's grain-planted hectares, at Finnish yield levels, would have yielded over 150 million tons of grain, instead of 69 million tons. Although most collective and state farms in Russia have been privatized and re-registered as joint stock companies, production cooperatives and partnerships, they continue to function as inefficient behemoths (average size: 4,800 hectares)<sup>7</sup> whose hundreds of members have little incentive to maximize production, reduce production costs or preserve capital assets. These huge enterprises must be broken up into much smaller production units that can provide meaningful incentives to those who cultivate the land.

Today, only 6% of Russia's agricultural land, and about the same percentage of agricultural households, is found in peasant farms. However, RDI's fieldwork findings strongly suggest that much of the legal and practical groundwork is in place for large-scale voluntary exodus from the large agricultural enterprises, and for associated development of a land market.

This report contains RDI's field observations on the status of agrarian reform and the prospects for peasant farming, as well as recommendations to speed the emergence of a modern and productive farming sector commensurate with Russia's agricultural potential.

## II. Legal Framework for Land Shares and Property Shares.

Beginning in late 1990, the legal framework was developed for the voluntary break-up of the collectivized agricultural enterprises. The series of enactments established the basic framework for creation, distribution, use and turnover of "land shares" and "property shares" through which the members of these enterprises could

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*Development* 402 (1990); Prosterman, Tim Hanstad & Li Ping, "Large-Scale Farming in China: An Appropriate Policy?," RDI Report No. 90, at 4-11 (July 1996).

<sup>6</sup> Soviet grain yields for 1986-1991 averaged 1841 kilograms per hectare, while yields in Finland averaged 2918 kilograms per hectare and yields in Canada averaged 2522 kilograms per hectare. Yields in the United States averaged 4481 kilograms per hectare during the same period. See Food and Agriculture Organization, *FAO Production Yearbook*, vol. 42 (1988), table no. 15, and vol. 45 (1991), table no. 15.

<sup>7</sup> Total cropland in Russia is 133,900,000 hectares (Food and Agriculture Organization, *FAO Production Yearbook*, vol. 48 (1994), table no. 1), of which 7,900,000 is worked by peasant farmers, according to the Russian State Statistical Survey (Survey of Private Farmers), Reuters Textline Novecon, June 1, 1995. The remaining 126,000,000 hectares are worked by Russia's 26,000 former (and still existing) collective and state farms, which equates to an average size of just over 4800 hectares per agricultural enterprise.

claim in ownership their proportionate share of the land and non-land assets of the enterprise.<sup>8</sup> Land shares were distributed to collective and state farm workers, pensioners and social sphere workers (i.e., teachers, health care providers, and providers of cultural and other services on the territory of the enterprise). Each recipient was entitled to receive a land share up to the "raion norm" for free distribution of land established by the raion administration.<sup>9</sup> Each land share on a particular enterprise is of equal size and represents its holder's ownership, in common with the other land share owners, of the land being used by the enterprise. Land shares were denominated in either hectares or "point-hectares" (the latter describes both the size and land quality) of land used by the enterprise. If, as was usually the case, the enterprise used land in excess of the raion norm limits, the excess became part of the raion land fund. *how does this compare*

Workers and pensioners (and social sphere workers if such allocation is approved by the general meeting of enterprise members) are also entitled to receive a "property share" representing a portion of the enterprise's non-land assets, including machinery, buildings, fuel and other input stocks, etc. The size of each property share is based upon the recipient's work contribution, which in practice is determined by length of employment and salary level. Typically, pensioners have relatively large property shares because they worked for the enterprise for many years. Property share owners who leave the enterprise may, at least in theory, withdraw either property in kind or the cash equivalent of the property share.

Land share owners have always had the right to withdraw their land share as a land plot in kind in order to establish a peasant farm. The rights of land share owners dramatically increased with enactment of Presidential Decree No. 1767, "On the Regulation of Land Relations and Development of Agrarian Reform in Russia" (Oct. 27, 1993). This decree gave land share owners the right to sell, lease, mortgage and bequeath land shares, to exchange land shares for property shares, and to use land shares to increase private plots for cultivating a private small-holding or constructing *is this true in moldova*

<sup>8</sup> RSFSR "Law on the Peasant Farm" (as amended Jan. 5, 1991); Presidential Decree No. 323, "On Urgent Measures for Implementation of Land Reform in the RSFSR" (Dec. 27, 1991); Government Resolution No. 86, "On the Procedure for Reorganization of Collective and State Farms" (Dec. 29, 1991); Government Resolution No. 708, "On the Procedure for Privatization and Reorganization of Enterprises and Organizations of the Agro-Industrial Complex" (Sept. 4, 1992), as amended by Government Resolution No. 969 (Dec. 11, 1992); Presidential Decree No. 1767, "On the Regulation of Land Relations and the Development of Agrarian Reform in Russia" (Oct. 27, 1993); Government Resolution No. 96, "On Procedure for Exercising Rights of Owners of Land and Property Shares" (Feb. 1, 1995); Presidential Decree No. 337, "On Realization of Citizens' Constitutional Rights to Land" (March 7, 1996). *how does this compare with moldova*

<sup>9</sup> Raion norms are calculated by dividing the amount of agricultural land in the raion by the entire rural population, rather than using the smaller denominator of agricultural workers and pensioners in the raion. The raion norm is used to establish the maximum size of land shares, as well as the maximum amount of land that can be allocated free of charge to the ownership of a peasant farmer who receives land from the land fund rather than withdrawing land shares from an agricultural enterprise.

individual housing. The decree also reaffirmed the right of land share owners to withdraw land in kind to establish a peasant farm, and reaffirmed the rights of property share owners to withdraw property in kind.<sup>10</sup>

Presidential Decree No. 337, "On Realization of Citizens' Constitutional Rights to Land" (March 7, 1996), greatly facilitated the ability of land share owners to exercise rights previously granted by Presidential Decree No. 1767, resolved a number of issues concerning land ownership by Russian citizens. Decree No. 337 includes the following significant provisions:

- The Russian Government and executives of the *oblasts* and other subjects of the Russian Federation are directed to complete the issuance of land share ownership certificates to all land share owners, and provide for conclusion of agreements between land plot users and land share owners by the end of 1996.<sup>11</sup>
- Land share owners have the right to lease out their land shares and transfer them through private sale, gift, inheritance, exchange, or to contribute their land shares (or the temporary right to use them) to the charter capital of an agricultural enterprise.
- The Russian Government is directed to prepare model forms for land share transactions.<sup>12</sup>
- When land shares are allocated as land plots in kind, the location of such land plots shall be determined by agreement of all withdrawing and non-withdrawing land share owners within one month of application. Any disputes over location shall be quickly resolved by the local administration and the *raion* land committee, which shall ensure that the allocated land is of average quality and "compact location."<sup>13</sup>

*D. New diff. farm models could take time*

<sup>10</sup> Presidential Decree No. 1767 also gave land plot owners the right to sell, bequeath, gift, mortgage, lease, exchange, or contribute their land. Unfortunately, no implementing regulations have been adopted to allow most land plot transactions to be completed.

<sup>11</sup> Although most land share certificates had been issued prior to enactment of Presidential Decree No. 337, the *oblasts* visited were making a concerted effort to complete the task of issuing all land share certificates to the rightful land share owners by the Decree No. 337 deadline. In Samara *oblast*, 96% of the 223,000 land share owners had received their certificates by September 1996. In Vladimir *oblast*, 93% of the 98,000 land share owners had received their certificates.

<sup>12</sup> In May 1996, the Government issued model agreements for bilateral and multilateral lease of land shares.

<sup>13</sup> This provision abrogates the allocation procedure that was contained in Government Resolution No. 96, "On Procedure for Exercising Rights of Owners of Land and Property Shares" (Feb. 1, 1995), which required a land share owner to go to court if he could not obtain the agreement of all land share owners regarding

- The Russian Government and the executive bodies of the *oblasts* and other subjects of the Russian Federation are directed to educate the rural population regarding the rights of land share owners and the various ways in which they may use their land shares.
- Persons entitled to receive land shares, but who do not apply for or receive their land share certificate, shall nevertheless retain their rights to the land share, and the agricultural enterprise with which the land share owner is associated shall be entitled to use the land share for continuing temporary periods until the land share owner affirmatively disposes of the land share.

Two overarching points should be made with respect to the legal framework for agrarian reform, which are especially relevant to the rights described in Decree No. 337. These could be reiterated in relation to many or most of the specific problem areas discussed below. First, the call in Decree No. 337 to educate the rural population about their rights under the law must be taken with the utmost seriousness. Foreign-aid donors as well as the Russian Government should make allocation of resources and energy to this task of publicization and education a high priority. Second, a great need for legal-aid services for the intended beneficiaries of agrarian reform exists in the countryside, and can be met at very modest cost. Beneficiaries must have both the knowledge of their rights under the law, and the means to enforce them.<sup>14</sup>

### III. Observations and Recommendations.

#### A. Current Status of Peasant Farms.

The current status of peasant farms and the prospects for their formation or enlargement are among the most important questions facing Russian agriculture. At present, only about 6% of Russia's agricultural land and farm households are found in peasant farms. During the past six years, the importance and impact of various agrarian and land reform measures related to the formation of peasant farms has changed. In particular, the land share system now plays a more central role, while the *raion* land funds have ceased to be the primary source of land for the creation of peasant farms. Moreover, recent legal measures enhance prospects for accelerated formation and enlargement of peasant farm operations in the future. In addition,

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location of the land share to be allocated as a land plot in kind. The reference to "compact location" has been interpreted by officials in at least one *raion* we visited to give them authority to allocate land plots contiguous to existing peasant farms which lease in land shares.

<sup>14</sup> RDI is presently advising a small legal-aid office in Vladimir *oblast*.

substantial numbers of peasant farms may emerge out of existing agricultural enterprises that are bankrupt and whose operations are unsalvageable in their present form.

During 1991 and 1992, the most common source of land for peasant farms was allocation of land from the *raion* land fund administered by the *raion* land committee. Persons wishing to become peasant farmers, who may or may not have been previously associated with a collective or state farm, were allocated agricultural land from the *raion* land fund. A small portion of such land, equal to the "*raion* norm," was allocated to the peasant farmer in ownership, while the remainder was allocated either in lifetime inheritable proprietorship<sup>15</sup> or in leasehold for nominal rent payment and for terms that vary from *raion* to *raion*.

Since 1993 the most common method for creating peasant farms has been withdrawal of the land share owner's land share as a land plot in kind. Although some peasant farms are established using a single land share, more commonly a worker or pensioner will combine his or her share with those of a spouse and parents to withdraw three or four land shares at once. Additional land has sometimes been allocated in lease from the *raion* land fund. In addition, both old and new peasant farms lease in (and occasionally purchase) land shares from land share owners.

Table 1. Peasant Farms in Russia.<sup>16</sup>

Date	No. of PF's	Total land owned and leased	Average size of PF
Jan. 1, 1994	270,000	11,300,000 ha.	41.9 ha.
Oct. 1, 1994	285,600	11,800,000 ha.	41.3 ha.
Jan. 1, 1995	279,000	11,900,000 ha.	42.7 ha.
Jan. 1, 1996	279,100	12,000,000 ha.	43.0 ha.
July 1, 1996	279,700	12,200,000 ha.	43.6 ha.

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As Table 1 indicates, the number of peasant farms in Russia has remained relatively stable during the last three years. There is, however, a modest turnover as new peasant farms are started and others cease operations. There has also been a very modest increase in the average size of peasant farms. As the discussion below

<sup>15</sup> A possessor of land in lifetime inheritable proprietorship may use the land and bequeath it to heirs, but may not sell the land.

<sup>16</sup> Data based upon "Peasant Farms on 1 October 1994," *Ekonomika i Zhizn* No. 46 (Nov. 1994) (citing Goskomstat); "The Ranks of Russian Farmers Are Dwindling," *Krestyanskaya Rossiya* No. 7 (Feb. 20-26, 1995); "Whose Meat Are We Eating?," *Komsomolskaya Pravda* (June 11, 1996).

indicates, there should be new prospects for increases in size as development of an agricultural land market makes more land available to established peasant farmers.

The information gathered in the *oblasts* visited is consistent with this data, and is set forth in Table 2. In each *oblast*, the aggregate number of peasant farms masks a turnover among farmers engaged in peasant farming. For example, since 1995 in Rostov *oblast*, approximately 2,000 new peasant farms have started, and approximately 1,400 peasant farms have ceased operations. This represents a rather modest annual failure rate of approximately 10%.

Table 2. Peasant Farms in 3 *Oblasts* (1996).<sup>17</sup>

<i>Oblast</i>	No. of PF's	Total hectares	% of <i>oblast</i> agric. land	Avg. size of PF	Avg. size of land share
Rostov	15,500	700,000	10.5%	45.2 ha.	7.8 ha.
Samara	3,500	160,000	4%	45.7 ha.	12.1 ha.
Vladimir	2,424	36,700	3.6%	15.1 ha.	6.0 ha.

## B. Availability of Land for Peasant Farmers.

### 1. *Raion* Land Fund.

The *raion* land funds now play a significantly reduced role as a source of land. During 1990-1992, a portion of land in the *raion* land funds was allocated to peasant farmers. However, in most *raions* visited, the majority of land in the land funds was simply leased back to the collective or state farm from which it was originally taken. Management of the land funds seems to vary depending on the responsible officials and the level of demand for agricultural land in the *raion*. Many *raions* lease land in the funds to agricultural enterprises or peasant farms for terms of 5 to 25 years. However, one Vladimir *raion* granted "unlimited use rights" to agricultural enterprises using land from the land fund. Other Vladimir *raions* report that they are unable to find lessees for all land in the land fund, and are forced to allow the land to be overgrown with weeds or used as pasture.

was the  
a land  
fund in  
Moldova

Rent charged for land leased from the land fund varies in the *raions* visited, but was found to be consistently low. For example, one peasant farmer in Rostov *oblast* pays rent of 8,000 rubles (less than \$2)<sup>18</sup> per hectare and has agreed to give the *raion*

<sup>17</sup> Data based upon interview with AKKOR official, Rostov *oblast*, Sept. 18, 1996; interview with Samara *oblast* officials, Sept. 24, 1996; Center for Land Reform Support in Vladimir *oblast*, Oct. 1996.

<sup>18</sup> A September 1996 exchange rate of 5400 rubles per \$1 is used throughout this report.

5% of production from the leased land. However, *raions* visited in Vladimir and Samara *oblasts* charge rent equal only to the amount of the land tax, which is usually between 3,000 and 4,500 rubles per hectare (less than \$1). Agricultural enterprises and peasant farmers prefer to lease from the land fund (provided the land is of suitable quality and location) because they need only pay rent equal to the very low land tax, whereas if they lease from land share owners they must pay a significantly higher rent to the land share owner. Even the least productive plowed land in these *oblasts* normally produces a crop of at least one ton of wheat per hectare, with a value of 600,000 to 800,000 rubles. The land tax and rent for fund land therefore typically equals less than 1% of the value of the annual crop.

The availability of cheap rental land from the land fund depresses the lease value of land shares and interferes with the emerging land share rental market. The availability of cheap rental land from the land fund is also likely to reduce the purchase price paid for land shares. However, two factors may dampen the negative effect of the *raion* fund land on the land share lease market. First, land in the land funds tends to be lower than average quality in many cases because collective and state farms that were forced to contribute land to the land fund generally contributed their worst quality land. In one *raion*, an official stated that the majority of plowed land remaining in the land fund should be reclassified as pasture. Second, many prospective land lessees will place a high premium on leasing land close to their existing fields. *Raion* fund land is likely to be attractive only if it is reasonably close and reasonably accessible in relationship to the farmer's existing fields.

*We recommend that all agricultural land being leased from the raion land funds as of November 1, 1996 be offered for sale to the lessee at 10 times the land tax. This is the same rate used pursuant to Presidential Decree No. 478, "On Measures for Ensuring a Guaranteed Receipt by the Federal Budget of the Proceeds From Privatization" (May 11, 1995), which applied to land of privatized non-agricultural enterprises. Based upon land tax rates observed in the three oblasts visited, the sale price for agricultural land would range between 30,000 and 45,000 rubles (roughly \$5 to \$8) per hectare. Such low sale prices would encourage privatization of the raion fund land, thereby reducing local government influence in the developing real estate market. Privatization would provide land users with the security necessary to make long-term investments in improving their land.*

**2. Lease of Land Shares.**

*is a lease on Title of Land certificate*

Lease of land shares is an emerging practice that should lead to more efficient agricultural land use and enhance the prospects for viable peasant farming. Peasant farmers are beginning to use the land share lease market to expand the amount of land they cultivate, and the law now provides a clear framework for lease relations.

Development of a lease market for agricultural land shares is most actively underway in two of the three *oblasts* visited: Samara and Rostov. Under the leadership of Governor Titov, Samara *oblast* has actively implemented Decree No. 337 through enactment of regulations, issuance of model forms, distribution of pamphlets describing land share rights, preparation of articles for local newspapers, and organization of village meetings. Of 213,624 land share owners who received land share certificates, 190,863 have leased their land shares to agricultural enterprises and peasant farmers pursuant to bilateral or multilateral lease agreements. While *oblast* data does not indicate how many of those leases are to peasant farmers, *oblast* land committee officials reported that land shares representing 10,900 hectares have been leased to peasant farmers since the issuance of Decree No. 337 in March 1996.

RDI researchers gathered information on 25 land share lease transactions in the *raions* visited. These leases expressed rent payments both in fixed quantities and percentage of yield. The data indicated that peasant farmers were paying rents in a range of 0.09 to 0.53 tons of grain per hectare, with an average of 0.23 tons per hectare. Agricultural enterprises were paying rents in a range of zero to 0.21 tons of grain per hectare, with an average of 0.06 tons per hectare. Most land share lessors were also receiving other products and services such as hay, flour, sunflower oil, transport of coal and wood, and plowing of their household plot as ancillary benefits from both types of lessees. Thus, at least in the limited number of cases examined, peasant farmers were paying about four times as much per hectare in land share lease payments as were agricultural enterprises. This is a finding of potentially great significance, suggesting that: (1) a land share lease market may develop in which agricultural enterprises are forced to offer much more attractive leasing terms in order to compete successfully for continued use of land; and (2) the less efficient among the agricultural enterprises may steadily lose land to the more efficient peasant farms with which they will be unable to compete in land rental payments.

Lease payments per hectare are quite low by world standards. For leases made to peasant farms, assuming a typical yield of 1.5 to 2.0 tons per hectare, a lease payment of 0.23 tons per hectare represents 11-15% of total yield in these *oblasts*. Lease payments by agricultural enterprises appear to average about 3-4% of total yield. By comparison, in the United States, unirrigated wheat land producing 2 tons per hectare typically rents for \$70-\$75 per hectare,<sup>19</sup> which is the approximate equivalent of 25% of yield.

Although the observed lease payments are low by world standards, they nevertheless provide an important supplement to the income of land share owners. An

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<sup>19</sup> USDA, 1992 Annual Agricultural Land Survey.

average rural pensioner receives a pension of approximately 180,000 rubles (\$33) per month. A pensioner who leases an average land share of seven hectares to a peasant farmer will receive roughly 1.61 tons of grain. This amount, expressed in monetary terms for the purpose of comparison, is the equivalent of an additional six months worth of pension payments per year based upon the average receipt of 1.61 tons of wheat per land share.<sup>20</sup>

Although there are pensioners and other land share owners willing to lease land shares to peasant farmers, one significant obstacle remains: location. Peasant farmers who wish to lease in land shares have difficulty getting land shares allocated in a plot relatively near their existing farms. Many agricultural enterprises have designated a particular field from which land will be allocated to any land share owner who wishes to withdraw land in kind, either for lease to a peasant farmer or for other purposes. Such designation of particular fields is apparently based upon section 7 of Presidential Decree No. 323, "On Urgent Measures for Implementation of Land Reform in the RSFSR" (Dec. 27, 1991), which provides that agricultural enterprises "shall indicate which land shall have priority in the process of distribution to peasant farms." Such fields are often far from the village or the peasant farmer's existing farm, even though other enterprise land is located close to the village or the existing peasant farm and could easily be allocated to withdrawing land share owners. For example, a peasant farmer in Samara *oblast* indicated willingness to lease land shares from pensioners associated with a nearby agricultural enterprise, but only if the land plots were located near his farm. An enterprise field was located across the road from the peasant farmer's house, but he did not think that pensioners' land shares could be allocated on that field, since it was being cultivated by an enterprise brigade.

*We recommend that an enactment clarify that although withdrawing land share owners shall have a priority right to receive allocation of a land plot from fields identified pursuant to section 7 of Presidential Decree No. 323, withdrawing land share owners shall not be limited to receiving allocation of land from such designated field. Instead, the location of the withdrawn land plot shall, in accordance with Presidential Decree No. 337, be determined by agreement of all withdrawing and non-withdrawing land share owners within one month of application. In addition, the enactment should require use of a "negotiated selection" procedure by the local administration and raion land committee in order to resolve the dispute quickly.<sup>21</sup>*

<sup>20</sup> Seven hectares x 0.23 tons of grain per hectare (average rent paid by peasant farmers) x 700,000 rubles per ton (average wheat price) = 1,127,000 rubles. That number of rubles divided by 180,000 rubles (average monthly pension) equals 6.26 months' equivalent of pension payments.

<sup>21</sup> In the "negotiated selection" procedure, the individual wishing to withdraw land and the remaining co-owners of the land take alternating turns proposing a field on which the withdrawing owner's land share will be demarcated in-kind. If one side rejects the other side's proposal of a particular field, that field is removed from the negotiation. The process continues until one side accepts the other side's proposal, or until only one

How is this working in Moscow

A further problem is that some agricultural enterprises continue to use land shares even though they have not entered into lease agreements with land share owners, but have instead entered into a "general collective contract" pursuant to which enterprise members determine rental payments for all land share owners at the general meeting. Other agricultural enterprises enter into a multilateral lease agreement with all land share owners, but still allow the general meeting to determine lease payments after each harvest. These practices are merely a continuation of collective farming practices. Such enterprises can farm in any manner deemed desirable, and pay rent for the land shares only if any profit can be found after harvest. The enterprise is thus not compelled to pay the true cost of using the land. Inefficient enterprises may be able to continue operations indefinitely, rather than being forced to give way to more productive users of land.

*We recommend that the clarifying enactment discussed above should also provide that in order for a land share lease to be valid, it must include a rent payment that is specified in quantity, in rubles or as a percentage of the crop. Such leases should not be valid if vital terms are contingent upon the vote of the general meeting or the decision of enterprise management. In addition, the enactment should delete the requirement in section 5 of Presidential Decree No. 337 that land share leases must be of at least three-year duration. In a rapidly changing rental market, land share owners should have the opportunity to lease out the land share for one year at a time so that they may assess the possibility of leasing on more favorable terms after each year has passed.*

Pensioners, in particular, are economically vulnerable, and may be able to improve their conditions by leasing land shares to peasant farmers. However, some pensioners have refused to lease land shares to peasant farmers because they do not trust the peasant farmers and are more comfortable dealing with the enterprise on which they worked their entire lives. These pensioners also expressed concern that their pension payments might be withheld if they did not lease their land shares to the agricultural enterprise. This would, of course, be illegal.

*We recommend that the Russian Government undertake an intensive program to inform pensioners and other land share owners about their rights and options for using land shares. The information should include a discussion of various methods to estimate the value of land shares based upon crop yields. Pensioners should also be advised that agricultural enterprises may not legally interfere with their pensions or the right to receive social services. We also recommend that the Government publish*

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field is left. At that point, the plot or plots are demarcated in a contiguous area on the edge of that field by the raion land committee.

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land owners of their rights

monthly reports in each subject of the Russian Federation that show the range and average of per-hectare rents as determined by a continuing survey of actual land share lease rents in each of the subjects. This would provide land share owners and prospective lessees a reference by which to compare lease rates in their own locale. If greater, more accurate information were provided to land share owners, more might be willing to lease (or eventually to sell) land shares to peasant farmers at rents and prices that approximately reflect the productive value of the land shares. Finally, the Government should implement a program to provide legal advice and assistance to land share owners who wish to exercise their land share rights.

### 3. Temporary Use of Land Shares.

Section 9 of Presidential Decree No. 337 provides that if a person who is eligible to receive a land share does not apply to receive his land share certificate, the agricultural enterprise may use the land share for successive three-year periods until the person applies to receive the land share and decides how to use it. This provision preserves the rights of the eligible land share recipient in cases where the eligible recipient cannot be found or is absent from the *oblast*, or where he has died and his heirs have not yet appeared. In Vladimir *oblast*, some officials have erroneously interpreted this provision to mean that the enterprise shall also have three-year use rights of land shares owned by individuals who have applied for or received their land share certificate, but who have not entered into lease agreements or otherwise affirmatively decided how to use the land share. That interpretation threatens to severely curtail the rights of land share owners, depriving them of any compensation for three years without any agreement on their part.

*We recommend that a directive be issued to clarify: (1) that section 9 of Decree No. 337 allows the agricultural enterprise to acquire three-year use rights to land shares only in cases where the person eligible to receive a land share has not applied for the land share certificate, and (2) that in cases where the land share owner has either received the land share or has applied to receive the land share, the agricultural enterprise may continue to use the land share only until the land share owner decides how to lease or otherwise dispose of the land share. In the latter case, the enterprise should be entitled to harvest any crops planted before the land share owner notified the enterprise of his decision.*

### 4. Purchase and Sale of Land Plots.

Although purchase and sale of agricultural land plots is authorized by Presidential Decree No. 1767, purchase and sale of land remains a highly charged issue, with many officials opposed to the very concept that land can be a commodity. No sales of agricultural land plots have yet occurred. The reason that continues to be

given by local officials is that the Government has never issued "procedures" to instruct oblast and raion officials regarding the process for validating and registering such transactions.

what are we doing as this

*We recommend that an enactment adopt a standardized contract for purchase and sale of agricultural land plots, and require that such contracts be notarized and registered to be valid. The contract could be largely based upon a similar form adopted by Government Resolution No. 503, "Rules of Purchase and Sale of Land Parcels by RF Citizens" (May 30, 1993), for purchase and sale of dacha plots, garden plots and household auxiliary plots.<sup>22</sup>*

## 5. Purchase and Sale of Land Shares.

RDI researchers found little evidence of significant sales of land shares in the *oblasts* visited. The Samara *oblast* land committee reported that only 193 land shares had been sold in 1996, representing 2,044 hectares of agricultural land. Although the land committee stated that all but a few of the land shares were purchased by peasant farmers, RDI researchers could not confirm any sales to peasant farmers. In one *raion*, visited, an agricultural enterprise had purchased 62 land shares at the "normative price,"<sup>23</sup> while another 68 land share owners associated with the enterprise refused to sell at that price.

Some peasant farmers are interested in buying land shares they currently lease. For example, a peasant farmer in Rostov *oblast* who leases land shares from pensioners held the view that the pensioners would sell to him at the normative price for land. The normative price for each 20-hectare land share is 18,000,000 rubles (\$3300), which amounts to 900,000 rubles (\$167) per hectare.<sup>24</sup> This price is likely to be attractive to pensioners, since it is the equivalent of approximately 100 months of pension payments. However, the price may not represent the potential value of the land share when one considers the market value of unirrigated land in countries with comparable agro-climatic conditions. For example, the range of prices for grain-

<sup>22</sup> A lively market appears to have developed for purchase and sale of small plots (dacha plots, garden plots and household auxiliary plots) since Government Resolution No. 503 set forth the procedures. In Samara *oblast*, for example, there were 13,500 registered sales of such plots in 1995, and a further 8,600 sales in the first half of 1996. (Figures gathered at the federal level indicate a total of 200,000 registered small-plot sales in 1995, but the Samara figures suggest that this total may be too low.)

<sup>23</sup> The normative price of land is 200 times the land tax. Government Resolution No. 1204, "Rules for Determining the Normative Price for Land" (Nov. 3, 1994).

<sup>24</sup> The normative price is 200 times the land tax, which in Rostov *oblast* is 4500 rubles per hectare. Thus, the normative price for a 20-hectare land share would be 18,000,000 rubles (\$3300), calculated as follows: 200 x 4500 rubles per hectare = 900,000 rubles per hectare x 20 hectares = 18,000,000 rubles.

very low??

producing land in low-rainfall areas of western Canada and the extreme northern United States is between \$750 and \$1000 or more per hectare.<sup>25</sup>

The role of rural pensioners in land share sales transactions will continue to be significant. On the agricultural enterprises visited, pensioners generally owned 35-45% of land shares. Because of their economic vulnerability, informed pensioners are likely to be somewhat conservative regarding disposal of land shares. One Samara pensioner reported that he would not sell his land share because the proceeds would be eaten up by inflation. Other pensioners reported that they would not sell their land shares since they would then have nothing to leave their children. Finally, pensioners who have a life-long relationship with a collective agricultural enterprise may be unwilling to consider selling the land share to a peasant farmer. As land shares begin to be passed to heirs of pensioners over the next five to ten years, increasing numbers of land share sales can be expected to occur. Many children and other potential heirs no longer live on the territory of the enterprise, and are likely to be highly motivated to dispose of land shares that they inherit.

*We recommend that an enactment adopt a standardized contract for purchase and sale of land shares, and require notarization of all such contracts. We also recommend that, in addition to including discussion of land share sale rights as part of the public education program, the Russian Government publish monthly reports in each subject of the Russian Federation regarding numbers of registered land share sales and data on sale prices for land shares in each of the subjects. Price data should show the range and average per hectare, and should include data from anonymous interviews with participants (especially buyers) since price information given to the registry is likely to be understated. This would provide the rural population a reference by which to compare the activity in their own locale and could generate local interest in land share sales, as well as facilitating the use of land as collateral.*

## **6. Annuity Contract.**

One method of permanent disposition—the annuity contract—is available pursuant to both chapter 33 of the Civil Code and Presidential Decree No. 337. Under a life annuity contract, the seller of the land share receives annual payments for the rest of his life, and retains a security interest in the land transferred.

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<sup>25</sup>U.S. statistics based upon M.E. Wirth & Larry Burt, "Farmland Values in the Pacific Northwest: 1960-1992." Kansas State University, Department of Agricultural Economics, Staff Paper No. 92-201 (July 1992). Canadian statistics based upon telephone interviews with appraisal consultant Brian Gettel of Edmonton, Canada (April 26, 1996) and real estate appraiser Barry Baker of Regina, Canada (May 1, 1996).

Pensioners who are uninformed may make unwise dispositions of land shares without understanding the consequences of their actions. RDI researchers interviewed one peasant farmer in Rostov *oblast* who had acquired ownership of land shares from 26 pensioners using agreements resembling annuity contracts, although the agreements were concluded prior to enactment of the Civil Code and Decree No. 337. The agreements with the sellers require the peasant farmer to provide each seller with specified quantities of grain, flour and sunflower oil, as well as plowing of household plots and other services. These payments do not, however, differ significantly from lease terms common to the area. In fact, the same peasant farmer is paying significantly more in rent to other land share owners who are leasing to him. Thus, the 26 pensioners likely made a bad, irreversible bargain.

Annuity contracts may be attractive to pensioners who desire security for their remaining years, and may be particularly attractive to pensioners who have no heirs. However, pensioners must understand that such contracts are very different from leases, and involve the surrender of ownership rights. Annuity contracts are essentially no different than installment sales contracts. The total sum of payments under such contracts should, using realistic estimates as to life expectancy, equal the ownership value of the land share, plus interest on the declining balance due.

*We recommend, to ensure that land share owners better appreciate the finality of transfer of land shares pursuant to an annuity contract, that a carefully drafted model form for annuity contracts be adopted pursuant to Presidential Decree No. 337. This form should include a provision that annuity contracts must be notarized, as required by article 584 of the Civil Code, and a prominent statement alerting the transferor that the transaction disposes of his entire ownership right. We also recommend that the Russian Government publish discussions in the various media informing land share owners of the relative advantages and disadvantages of annuity contracts as compared to leases and other forms of disposition. Pensioners might also be advised to consider demanding that any annuity contract be indexed for inflation.*

## **7. Contribution of Land Shares.**

An even more dangerous route for uninformed disposition of land shares is contribution of the land share to the charter capital or participatory share fund of an agricultural enterprise, as allowed by the Law "On Agricultural Cooperation" (Dec. 1995) and Presidential Decree No. 337. Federal law does not currently require notarization of such contributions.<sup>26</sup> After the land share is contributed, the contributor may not

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<sup>26</sup> Notarization is required for certain other land transactions. Section 2 of the Law "On the Right of Citizens of the Russian Federation to Acquire as Private Property and to Sell Tracts of Land to Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction" (Dec. 23, 1992),

withdraw equivalent land in kind unless the enterprise charter so provides. Contributions of this type raise serious concerns regarding possible improvident or uninformed dispositions in which land share owners give up their rights without receiving commensurate economic benefit.

In Samara *oblast*, the ownership or temporary use rights for 9,820 land shares have been contributed to the charter capital of eight agricultural enterprises. *Oblast* officials indicated that only two or three of these enterprises received permanent contributions of land shares. And while RDI researchers were given no specific breakdown of the number of shares contributed on a permanent basis, the practice is certainly of sufficient scope to be worrisome.<sup>27</sup>

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We recommend, to ensure that land share owners better appreciate the finality of their decision to contribute land shares to the charter capital of an agricultural enterprise, that an enactment require that all such contributions must be performed by individual, notarized contracts. "Multilateral" contributions by several land share owners at once should be expressly prohibited. We further recommend, to ensure that land share owners are fully informed regarding the consequences of their actions, that the Russian Government publish discussions in the various media informing land share owners of the relative advantages and disadvantages of permanent contributions of land shares as compared to leases, temporary contributions of land share use rights and other forms of disposition. Land share owners should be specifically cautioned that if they contribute the land share to the enterprise, the land share will be fully subject to the claims of creditors if the enterprise becomes bankrupt, whereas this risk is avoided if they simply lease the land share to the enterprise.

## 8. Land Confiscation.

The threat of land confiscation is a potential source of tenure insecurity. *Raion* administrations continue to confiscate privately-owned agricultural land without compensation and based upon supposed violations of legal obligations, including the obligation to use the land. The procedure for confiscation appears to vary from *oblast* to *oblast*. In Vladimir *oblast*, officials stated that they must go to court to confiscate land. In one *raion* in Samara *oblast*, however, landowners who do not use their land are brought before the land committee rather than the court, and are advised that they can either pay large fines or sign over their land to the *raion*.

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requires notarization of sales of small plots. Articles 339 and 584 of the Civil Code require notarization of, respectively, mortgages and annuity contracts.

<sup>27</sup> *Oblast* officials questioned the validity of such permanent contributions since they have not been notarized. They estimated that notarization would cost roughly 1 million rubles (\$185) per contribution.

The possibility of confiscation is even greater for land leased in from the *raion* land fund, which constitutes much of the land used by peasant farmers. RDI researchers did not review lease agreements between *raion* and peasant farmers or agricultural enterprises, but officials in one *raion* in Samara *oblast* indicated that they could terminate such leases at any time if the lessee was not using the land properly. иногда

The law regarding both confiscation and "withdrawal" of land remains undeveloped. Although article 243 of the Civil Code provides for confiscation by a decision of a court or by administrative procedure "in instances provided for by a law," no such law has yet appeared and no federal procedures yet exist. Articles 284 and 285 of the Civil Code, which apply to withdrawal of land, are not currently in force.<sup>28</sup> Once in force, those articles will provide that agricultural land may be withdrawn from its owner if the land has not been used for three years, and in cases of flagrant violation of rational land use rules (e.g., the land is not used in accordance with its designated purpose), or if use materially reduces fertility or significantly worsens the ecological situation.<sup>29</sup> Provisions in the Civil Code that provide for confiscation or withdrawal without the participation of courts may violate article 35(3) of the Russian Constitution, which provides as follows: "No one may be arbitrarily deprived of his or her property unless on the basis of a decision by a court of law. Property can be forcibly alienated for state needs only on condition of a preliminary and equal compensation."<sup>30</sup>

## 9. Registration.

Presidential Decree No. 293, "On Additional Measures to Improve Mortgage Lending" (Feb. 28, 1996), contains a number of provisions and forms for registration of rights to land and other real estate. The decree confirms the authority of existing registrars to continue as official registrars. In the case of agricultural land, the *raion* land committees are the official registrars. The decree validates unregistered rights that existed prior to enactment of the decree, but mandates that all new transfers and

<sup>28</sup> Article 13 of the Law "On Introduction Into Operation of Part I of the Civil Code of the Russian Federation" provides that Chapter 17 of the Civil Code shall not be operative until a Land Code is adopted.

<sup>29</sup> At least two other laws address the consequences of violation of land use laws. Article 11 of the Law on Peasant Farms lists the duties of individuals operating peasant farms, which include using the land effectively, increasing its fertility, performing conservation measures, and preventing deterioration. If there is a violation of these duties, the head of the peasant farm "is accountable under current legislation." Article 53 of the 1991 Land Code provides that land plot owners, possessors, users and lessees shall have similar obligations to those listed in the Law on Peasant Farms, and article 125 specifies fines for "administrative and criminal responsibility for violations of Land Legislation."

<sup>30</sup> Article 243 of the Civil Code authorizes administrative confiscation, while article 286 (not currently in force) provides that the "land legislation" shall identify the agency of state or local government that is empowered to adopt decisions concerning withdrawal of land plots. Article 286 also provides that, with the consent of the owner, withdrawn land will be sold at a public sale, but does not provide where the proceeds shall go.

encumbrances be registered in order to be valid. The registration offices of the *raion* land committees visited appear to be generally well organized and are tackling the task of registering both land plot rights and land share rights.

Surveying, demarcation and mapping costs are a barrier to registration of transactions. One enterprise in Samara *oblast* signed purchase agreements and paid for a number of land shares, but cannot register the transfers because the parcels have never been surveyed, as required by *oblast* regulations. A *raion* official stated that the *raion* charges 1 million rubles (\$185) for demarcation of a single land share, and charges as much as 2 million rubles for demarcation of 5 land shares on one plot.

*We recommend that the fees charged by state and local agencies for surveying, demarcating and mapping land plots be reduced to a level that just covers costs. Fees currently charged appear to greatly exceed reasonably allocable wages and other costs incurred by the survey agency.*

Registration and notarization fees are another barrier to registration of transactions. The notarization fee is based upon the type of transaction and the value of the land involved, sometimes with a minimum.<sup>31</sup> For notarization of sale agreements, most notaries would apparently charge 10 minimum monthly wages—a total of 759,000 rubles (\$141).<sup>32</sup> RDI researchers interviewed a pensioner who inherited two land shares but could not afford the 500,000 rubles (\$92) fee to have land share certificates re-issued in her name.<sup>33</sup>

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### C. Availability of Agricultural Machinery for Peasant Farms.

Almost all peasant farmers agree that obtaining working machinery is the biggest challenge they face. Those who are attempting to start farms from scratch are severely constrained by the scarcity of machinery. Under current conditions prevailing in agriculture, even farmers who regard machinery purchases as economically justified, given the size of their farm and the expected use life of the machinery, are unlikely to have the means to actually make purchases. Agricultural officials in Samara *oblast* provided the following prices for basic equipment: general purpose MTZ-82 wheeled tractors cost 75 million rubles (\$14,000); DT-75 track tractors cost 115 million rubles (\$21,000); Niva CK-5 combine harvesters cost 205 million rubles (\$38,000); and DON-1500 combine harvesters cost 465 million rubles (\$86,000).

<sup>31</sup> Law "On Introducing Amendments and Addenda to the Law of the Russian Federation on the State Duty" (Dec. 31, 1995), art. 4.4(1).

<sup>32</sup> *Id.*, art. 4.4(1).

<sup>33</sup> The fee for notarizing the right of succession is 1% of the "cost" of the inherited property for near relatives, and 2% in other cases. *Id.*, art. 4.4(19).

There are three possible ways for peasant farmers to deal with the problem of acquiring machinery: (1) those withdrawing from agricultural enterprises can withdraw property in kind against their property shares; (2) farmers can share equipment; and (3) farmers can purchase machinery using credit. In addition, there are the more drastic possibilities for dividing the equipment of entire enterprises through reorganization or bankruptcy, which are discussed below in section D.

### 1. Property Shares.

Property shares are still a largely untapped source for machinery and equipment for peasant farms, and the laws regarding property share valuation and withdrawal are largely ignored. Individuals who leave agricultural enterprises at present continue to have great difficulty exercising their right to withdraw property in kind or receive the cash value of their property shares. Many agricultural enterprises may have a shortage of working machinery since the enterprises have not had funds to make repairs, and enterprise workers have little incentive to care for the machinery. Whether for this reason or others, the enterprises are reluctant to give property share owners any functioning machinery or other capital assets.<sup>34</sup> Nor do the enterprises have sufficient funds to redeem the property shares for cash.

Moreover, property shares on the great majority of farms have not been adjusted for inflation for several years, so the denominated value of property shares is ridiculously low, sometimes being undervalued by a factor of several thousand. For example, RDI researchers visited a vegetable-growing joint stock company (former state farm) in Vladimir *oblast* that originally calculated property shares in January 1991, at which time the property shares totaled 11.6 million rubles. The enterprise recalculated property shares in 1992 to account for inflation, at which time the total value was adjusted to 62 million. Although more than 150 people have received property shares in cash since 1992, all property shares were valued, and continue to be valued today, in terms of 1992 rubles. The enterprise director estimates that the

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<sup>34</sup> Although RDI researchers conducting fieldwork did not find any peasant farmers (or prospective peasant farmers) interested in acquiring buildings from agricultural enterprises, attorneys from the Center for Land Reform Support in Vladimir *Oblast* encountered a peasant farmer who sought and ultimately acquired a cow barn as part of her installment purchases of 31 property shares from departing members of a large agricultural partnership. It should be noted that any person who acquires such a building shall also receive, without payment, the land beneath the building. Presidential Decree No. 198, "Right of Ownership of Citizens and Legal Persons to Land Parcels Under Real Estate in Rural Localities" (Feb. 14, 1996). Consolidation of the ownership rights to structures and the land beneath them may increase the collateral value of the buildings and simplify the process of lending against them. If long-term credit becomes available for repair of old structures or construction of new ones, more peasant farmers or departing property share owners may find allocation of buildings to be beneficial.

current book value of enterprise assets is 280 billion rubles (\$51,852,000), which is approximately 4500 times greater than the 1992 value. The director asserted that if every property share owner withdrew his property share, the enterprise would continue to own more than 279 billion rubles worth of assets.

Property shares are denominated in rubles. Several enactments require that property shares of the workers and pensioners of agricultural enterprises equal the total non-land assets of the enterprise.<sup>35</sup> Although at any point in time the total face value of property shares should roughly correspond to the total value of enterprise assets for which the property shares can be redeemed, this is not the case in practice since property shares are neither indexed to inflation to correspond to the current book value of assets, nor are asset values discounted to correspond to the original value of property shares. A complicating problem on some enterprises, moreover, is that existing book values do not accurately reflect the relative value of enterprise assets.<sup>36</sup>

*We recommend that an enactment require agricultural enterprises to revalue enterprise assets to bring them in line with current market values, and require that each property share be denominated as a percentage of all non-land assets on the enterprise. Thereafter, each property share owner should be given a property share certificate by the enterprise, indicating the amount of the individual property share and the total value of enterprise assets. The appropriate government agency should verify that these activities are carried out properly.*

*To facilitate withdrawal of property in kind, the enactment should further require that enterprise assets be divided into four separate categories: machinery, buildings, livestock, and inputs. Each property share owner withdrawing from an agricultural enterprise (either alone or in cooperation with other property share owners) should be allowed to claim his property share in equal parts from each asset group. This would ease the perceived threat to remaining members, who fear that the agricultural enterprise will be stripped of its most-scarce assets by individuals who depart first.*

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<sup>35</sup> Sections 8 and 9 of Government Resolution No. 86, "On the Procedure for Reorganization of Collective and State Farms," (Dec. 29, 1991), provide that "the value of the fixed assets and working assets of the collective and state farm . . . shall comprise the total shared property of the members . . . . All members . . . including those who have retired, shall have the right to free land and property entitlements in the total shared property." Section 13 of the "Regulations of Reorganization of Collective and State Farms and Privatization of State Agricultural Enterprises," approved by Government Resolution No. 708 (Sept. 4, 1992), provides: "Individual property entitlements shall be calculated on the basis of estimating the value of the entire property of the reorganized enterprise. The total entitlement fund shall be calculated as the difference between the assets and liabilities of the enterprise's balance [sheet]."

<sup>36</sup> For example, some agricultural enterprises report that old machinery is recorded on the books as more valuable than newer machinery because of changes in accounting or depreciation rules applied at various times.

## 2. Cooperation in Sharing Machinery.

Although many peasant farmers report a lack of machinery, it is often difficult for a peasant farmer to justify purchasing large machinery to be used on a single peasant farm. For example, a peasant farmer in Rostov *oblast* indicated that a farm of 150 hectares or less could not justify the cost of purchasing a combine. Some peasant farmers have attempted to address their lack of machinery by cooperating with other peasant farmers, either by sharing machinery or coordinating certain farming activities. Farmers who use another farmer's machinery may compensate the lending farmer either with payment of rent (in cash or crops) or by loaning other machinery in exchange. For example, peasant farmers in Rostov and Samara *oblast* indicated that a combine (with driver) could be rented for 20% of the product harvested, paid in kind. RDI researchers found many examples of peasant farmers exchanging machinery for short periods.

Some Russian peasant farmers go even further than sharing machinery and cooperate with other peasant farmers to cultivate and perform other farmwork together, usually in groups of 2 to 6 households. Some farmers even agree on which crops to plant on their separately owned fields. By planting different crops, the peasant farmers maximize efficient use of machinery and avoid arguments over which field should be harvested first.

A more formalized method of cooperating is to establish a service cooperative that owns and maintains machinery or other common assets. Although RDI researchers did not encounter any service cooperatives established pursuant to the Federal Law "On Agricultural Cooperation" (December 1995), a peasant farmer in Rostov *oblast* was found to be sharing a "base" with three other peasant farms. The base consists of a feed plant, a repair shop and grain storage facilities. Although the base repairs machines for other customers and stocks spare parts, the base does not own any farm machinery. The peasant farmers who own the base may use it without charge, but each farmer pays the base for spare parts, using crops in kind.

Cooperation is providing some relief to peasant farmers who cannot afford machinery. But without a reasonable means for acquisition of additional machinery, many cooperating peasant farmers may run short of machinery to share. Presidential Decree No. 565, "On Measures to Stabilize the Economic Situation and Advance Reform in the Agro-Industrial Complex" (April 16, 1996), sought to make more machinery available in the countryside by providing funding for "establishment and operation of special regional leasing funds to provide machinery and equipment to organizations in the agro-industrial complex on preferential terms . . . ." However,

service cooperatives owned and operated by peasant farms could likely use and maintain machinery much more efficiently than a government agency.

*In light of the significant and impressive sharing arrangements that are currently being undertaken in the countryside, we recommend that funds earmarked for regional leasing centers under Presidential Decree No. 565 be redirected to make credit available to registered service cooperatives established by peasant farmers. Legal assistance should be available to groups of peasant farmers that desire to create service cooperatives.*

### **3. Availability of Credit for Peasant Farms.**

A third alternative for addressing the machinery shortage is use of long-term credit. Unfortunately, long-term credit for peasant farmers is virtually nonexistent. Most credit is provided for a maximum term of one year, which is not sufficient to purchase machinery. In fact, there is probably no country in the world where a farmer can purchase major farm machinery using cash flow from even two to three years of operations.

#### **(a) Commercial Credit.**

In the near future, commercial credit is unlikely to provide an adequate means of financing machinery purchases. In Rostov, commercial banks generally offer credit to agricultural producers at 110% annual interest for two- to three-month terms, although one producer indicated that credit became available in September 1996 at a rate of 80%.<sup>37</sup> With annual inflation in Russia running at approximately 20% for 1996, borrowers of credit at even an 80% interest rate are subject to a real interest rate of around 60%. This is extraordinarily high by world standards.<sup>38</sup> But even at a 110% annual rate, banks are apparently unwilling to loan for more than six months because non-agricultural loans provide a more attractive investment.

In Rostov *oblast*, the preferred forms of collateral among lenders are, in order of preference: grain, land,<sup>39</sup> buildings, and equipment. The preference for grain as

<sup>37</sup> In Rostov *oblast*, the only *oblast* in which RDI researchers obtained detailed information on this point, Agroprombank is reportedly the dominant bank lender, accounting for 82% of bank loans to agricultural producers.

<sup>38</sup> In the United States, for example, commercial interest rates are typically 2% above prime rate, which is currently 8.25%, *Business Week*, Dec. 16, 1996, at 143, while annual inflation was approximately 3.5% in the first half of 1996. 82(9) Federal Reserve Bulletin, Sept. 1996, at 811. Thus, real interest rates for U.S. commercial loans (commercial rate minus inflation, or 10.25% minus 3.5%) currently run about 6-7%.

<sup>39</sup> The preference for land as collateral is surprising in that agricultural land is not regularly being used as collateral. The preference could be theoretical, or could relate to mortgage of developable land.

collateral likely relates to its liquidity. Surprisingly, equipment is considered illiquid, and is the least desirable form of collateral in the *oblast*. One peasant farmer in Rostov stated that Agroprombank requires collateral worth twice the amount of the loan.

Cooperative banks may be more willing to make long-term loans to agricultural producers, and may be able to offer credit to such producers at lower rates than are offered by commercial banks. A cooperative bank is being established in Rostov *oblast* to provide an alternative source for credit, with a goal of providing up to 80 billion rubles (\$14,814,000) worth of loans annually. Organizers believe that the people of Rostov can provide enough capital, through savings accounts, to support the bank. There is reportedly also one cooperative bank in one *raion* that is owned by agricultural enterprises, and a small credit cooperative owned by agricultural cooperatives.

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One source of long-term credit that appears to be largely underutilized in Russia is installment financing: sales directly financed by equipment manufacturers and suppliers who accept payments over a number of years. Installment financing could be used to make more machines available to peasant farmers willing to assume debt. Machinery manufacturers would benefit from increased installment financing because they would sell more machines, and banks would benefit from increased opportunities to make loans against manufacturers' accounts receivable. In order to make sufficient capital available for installment sales, however, the Government may need to establish a system for guaranteeing repayment of installment debt.<sup>40</sup>

**(b) Preferential Credit.**

Peasant farmers who started in 1994 or later have had almost no opportunity to receive any long-term, preferential credit with which to establish themselves. Agricultural enterprises, by contrast, received direct subsidies for years, and had most of their debts written off by the state. There is currently no federal program to provide preferential credit to agricultural producers on a wide scale. In Rostov *oblast*, AKKOR helps peasant farmers obtain preferential credit from local administrations. A total of three billion rubles (\$550,000) is available to AKKOR members at two- to five-year terms at 28% annual interest.<sup>41</sup> This is, however, an extremely small program in comparison to the potential demand. It represents, for example, only enough to finance

<sup>40</sup> In late 1995, the Russian Government and regional authorities reportedly reached an agreement with the Rostselmash Combine Maker to implement a program to make installment financing available to agricultural producers through the manufacturer. The program was considered an experiment that could lead to development of further government assistance programs for commercial enterprises. Interfax Food and Agriculture Report, Vol. IV, Issues 51-52, at 3 (Dec. 15-29, 1995).

<sup>41</sup> The Rostov *oblast* AKKOR representative also reported that AKKOR purchases machinery from manufacturer sales offices in Moscow on an installment basis.

purchase of 40 wheeled tractors (model MTZ-82, at approximately 75 million rubles each) for the 15,500 peasant farmers in the *oblast*.

*We recommend that the Russian Government institute a program to make long-term credit available to peasant farmers in one oblast, or even one raion, and assess the results. All such credit should be directed only to qualified peasant farmers and disbursed to meet specific needs for machinery or other capital assets required for agricultural production.*<sup>42</sup>

**(c) Credit in Kind.**

Although it cannot be used to obtain machinery, it is instructive to examine "credit in kind," which is the most popular form of credit among agricultural producers. Credit in kind primarily takes the form of fuel, which is provided before sowing and paid back by the producers with crops after harvest. Credit in kind is attractive not only because it provides fuel needed for planting and harvesting, but also because the producer is assured of a buyer for its product since the producer can repay the debt after harvest through delivery of grain or other farm products.<sup>43</sup>

The largest consumers of credit in kind are agricultural enterprises. In Samara and Vladimir *oblasts*, almost all large agricultural enterprises applied for and received credit in kind. In a *raion* in Vladimir *oblast*, all 19 agricultural enterprises in the *raion* borrowed credit in kind (diesel fuel and benzene) from the *raion* administration in 1996, but only three of the *raion's* 80 peasant farms accepted such credit.<sup>44</sup> The credit is loaned at 10% annual interest (a negative real rate of interest at current rates of

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<sup>42</sup> RDI researchers encountered reports in Vladimir *oblast* that some peasant farmers have used agricultural credit to purchase non-agricultural assets. If limited agricultural credit is being used for non-agricultural purposes, thereby denying other peasant farmers an opportunity to improve their production, steps should be taken to ensure that credit is directed properly. Lenders may be able to solve this problem by requiring the pledge of any asset acquired with loaned funds, and by paying suppliers directly on behalf of borrowers.

<sup>43</sup> RDI attorneys conducting field research in Voronezh *oblast* in 1995 also noted the popularity of credit in kind. In Voronezh, farmers were obtaining credit in kind through the Voronezh Agro Contract Organization (VACO). Farmers who entered into a contract with VACO agreed to sell a portion of their crop after harvest at a set price. VACO then advanced them 25% of the credit prior to planting, and another 25% prior to harvest. Advances were made in the form of inputs. After farmers delivered their product, they were paid the final 50% of the contract amount in cash. Farmers who entered into contracts with VACO indicated that the price they were paid for their crops was much lower than market price, and that they could have bought the same inputs supplied for less than the amount charged as an advance. Nonetheless, they entered into the contract because it provided the least onerous means of securing the necessary inputs for planting and harvesting their crops.

<sup>44</sup> Another major source for credit in kind is the Federal Food Corporation, which is the main procurement agent of the federal government. Interfax Food & Agriculture Report, Vol. V, Issue 42, at 2-3 (Oct. 11-18, 1996).

inflation) and had to be repaid by November 1, 1996, either in cash or delivery of foodstuffs to be valued at current market prices.

The different approaches adopted by peasant farmers and agricultural enterprises with regard to credit in kind may suggest that peasant farmers are more conservative borrowers, perhaps because they have little power to resist repaying debts, whereas the agricultural enterprises have less fear that they will be compelled to repay. In the *raion* described in the example above, the *raion* officials expect all three peasant farmers to repay the credit on time, but do not expect any agricultural enterprise to repay the credit during 1996. The officials expect the 14 stronger enterprises to repay 50% in 1996, and the weaker five enterprises to repay only 20%.

Peasant farmers are reluctant to take on debts of any kind, and prefer to acquire fuel and other inputs, to the extent possible, without borrowing. By contrast, some leaders of agricultural enterprises state that they expect such debts to be written off by the government, or take the position that they will not repay the debts until other agricultural enterprises in the *oblast* repay similar debts. The borrowing habits of the agricultural enterprises may also indicate that they are more desperate than peasant farmers and less able to get by using stop-gap solutions.

*We recommend that state providers of credit in kind undertake measures to ensure that debts are repaid in a timely manner. This may involve denying further credit to agricultural producers that have not repaid debts in a timely manner. Of course, the state should defer loan payments without adverse consequences to the producer when delays in payment are excusable, such as in the case of exceptional drought or flooding, or where a bank failure claims producer savings.*

#### **(d) Mortgage.**

Peasant farmers need the effective right to mortgage the land they hold in ownership. Mortgage loans will allow them to acquire capital assets, and will provide purchase money for acquisition of land from less efficient or aging farmers. Presidential Decree No. 293, "On Additional Measures to Promote Mortgage Lending" (Feb. 28, 1996) and the pledge provisions contained in chapter 23 of the Civil Code provide a sufficient legal basis for mortgage lending practices to develop. But significant mortgaging of agricultural land will not be undertaken in practice in Russia until agricultural land can be bought and sold.

The emerging liquidity of land shares is a promising indication that agricultural land will become a marketable commodity, which would assure lenders that they can recover mortgage debt in cases of default. In fact, when land plots become freely transferable and a land market develops in Russia, land is likely to become the most

important form of collateral for lenders, as it is in the rural sectors of developed market economies. Mortgages are attractive to lenders because land cannot be hidden from creditors and will not depreciate over time. In addition, mortgage rights are easy to register.

Despite the importance of mortgage rights to the future development of Russia, some Russian policy makers continue to oppose widespread implementation. A draft mortgage law, recently rejected on second reading by the State *Duma*, would have prohibited the mortgage of agricultural land. Of course, any mortgage law to be adopted by the *Duma* should provide for mortgaging of agricultural land. But the debate does not appear to be strictly concerned with mortgage of agricultural land; many *Duma* members are opposed to mortgage of any land. Reformers in Russia who understand the operation of land and credit markets must continue to educate their colleagues on the importance of mortgage.

#### D. Reorganization of Agricultural Enterprises.

Presidential Decree No. 323, "On Urgent Measures for Implementation of Land Reform in the RSFSR" (Dec. 27, 1991), required collective and state farms to reorganize and reregister as new legal entities. The resulting reorganizations were almost wholly cosmetic. Almost all of the reregistered enterprises continued to conduct farming operations in the same manner as before; they were collective farms in all but name. Since that time, there has been no enactment requiring agricultural enterprises to reorganize or subdivide. Instead, presidential decrees and Government resolutions have been enacted that address the rights of land share owners to conduct transactions in land or withdraw from enterprises to engage in peasant farming. In this manner, the state has relied on voluntary actions of the members of agricultural enterprises to bring about the restructuring of Russian agriculture.

##### 1. Reorganization Projects.

Farm reorganization projects, designed to actually change the manner in which agricultural enterprises conduct farming operations, have been undertaken in the last several years by the International Finance Corporation and by the United States Agency for International Development.<sup>45</sup> Such donor-assisted programs have attempted to reorganize large agricultural organizations into a number of smaller, more

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<sup>45</sup> Farm reorganization projects primarily utilize the following laws: Government Resolution No. 324, "On the Experience of Agrarian Reform in Nizhny Novgorod Province" (April 15, 1994); Government Resolution No. 874, "On Reorganization of Agricultural Enterprises Based on the Experience of Nizhny Novgorod Province" (July 27, 1994); and Government Resolution No. 96, "On the Procedure for Exercising the Rights of Land and Property Entitlement Owners" (Feb. 1, 1995).

efficient farms. The great majority of enterprises receiving reorganization assistance have not been broken up to any significant degree. Although there is hope among observers that enterprises emerging from such reorganizations will further divide into smaller units in the future without further assistance from foreign technical advisors, this remains an open question.

## 2. Spontaneous Reorganization.

Reformers have some reason to hope that unassisted farm reorganization will be "spontaneously" undertaken in the future by agricultural enterprises that are either aware of reorganizations undertaken by donor-assisted farms or that have decided that the path they are following will lead to insolvency. RDI researchers visited an agricultural joint stock company in Samara *oblast* that is, in fact, spontaneously reorganizing. The enterprise is not technically insolvent, but the members realize that they must drastically change the manner in which they farm in order to avoid insolvency.

In the Samara example, the joint stock company members elected a successful peasant farmer (who is a former member of the enterprise) as chairman. Working with *raion* officials, the chairman has devised a plan to break up the enterprise by dividing most enterprise farm machinery among enterprise members, each of whom will lease land shares and other assets to one of eight peasant farms previously created by former members of the enterprise. The chairman plans to employ all 77 remaining workers of the dissolving enterprise on his peasant farm, but each will retain his right to leave the peasant farm at any time with his land and property. Given the complexities of managing such a large workforce, such departures are likely to occur over the next several years.

The enterprise has set aside property assets, including livestock, barns and storage facilities, for creditors. Creditors received written notice of the dissolution, and notice was published in the local newspaper. If a new peasant farm wants to acquire an asset set aside for creditors, the chairman believed that the peasant farm may purchase the asset and assume the debt owed against it. A *raion* official assisting with the reorganization doubts that creditors will be satisfied with the methods used for dealing with debts, but he does not expect that the creditors will have any option. However, some creditors have reportedly threatened to go to court to ensure that debts are satisfied.

The *raion* official advising the enterprise said he had visited other agricultural enterprises undergoing reorganization without assistance from the government or foreign donors. As more agricultural enterprises come to the realization that their mode

of operation is not sustainable, spontaneous reorganizations may become more common.

### 3. Bankruptcy.

Most *raion* officials interviewed reported that many agricultural enterprises are failing. At least a quarter, and perhaps even half, of all agricultural enterprises in the areas visited will be technically insolvent by the end of 1996. These enterprises are unable to pay current debts, and many are unable to pay salaries for several months at a time.

If machinery and other assets of agricultural enterprises were reinventoried to reflect their current market value, a great many enterprises would likely find that their debts exceed their assets. The insolvency of large numbers of agricultural enterprises will become more apparent in coming months and years. Assuming the government does not rescue such enterprises with heavy subsidies, an increasing number may be forced into bankruptcy by creditors, or may voluntarily choose to break up.

Administrations in the *oblasts* and *raions* visited greatly favor reorganization over liquidation of insolvent enterprises. The administrations contend, however, that they will find ways to preserve the enterprises without dividing them or allowing them to cease operations. This would appear to be wishful thinking. Even if local officials could help enterprises to survive, they would be doing little to benefit agriculture. Producers that cannot prosper on their own merits should be allowed to perish. Only in that way will the most efficient farmers be able to transform agricultural production in Russia.

In Samara *oblast*, the Territorial Agency of the Federal Department on Bankruptcy is monitoring the financial health of agricultural enterprises pursuant to Government Resolution No. 498, "On Certain Measures to Implement Legislation (Bankruptcy) of Enterprises" (May 20, 1994). The agency expects to monitor enterprises for three to five years and will use the information gathered to determine the tendencies that lead to bankruptcy. The agency is also applying the system of "outside management" to two agricultural enterprises that have been declared bankrupt.

The agency is uncertain whether current laws on bankruptcy allow for division of an enterprise and allocation of debts to new enterprises created out of the division. The agency in Samara has not yet determined how land shares and property shares should be handled in bankruptcy. In cases where land shares and property shares have been contributed to the charter capital of an enterprise, the agency does not believe the owners can withdraw land and property without assuming debt, and the law does not make clear whether liability is limited to the value of a person's land and property

shares. As a result of these issues, the agency would prefer that all land shares and property shares remain in the enterprise.

Unfortunately, little positive action is taken until an enterprise is forced into bankruptcy, largely due to the unmanageable debt loads of failing enterprises. A brigade on one failing enterprise was interested in breaking away from the enterprise and starting its own partnership, but would not have been capable of assuming its burdensome share of the debt. This scenario will likely be repeated on a wide scale until procedures are put in place to allow debt reduction as part of any breakup.

*We recommend that new bankruptcy rules be implemented to allow failing enterprises to break up into smaller farms with some degree of debt forgiveness or debt restructuring. The new rules should allow transfer of encumbered assets to smaller farms emerging out of the bankruptcy. We also recommend that the Russian Government aggressively pursue implementation of involuntary bankruptcy proceedings against bankrupt agricultural enterprises. The new rules should provide that in such proceedings, debt forgiveness and debt restructuring shall be available (at least for debt owed to, or under the control of, the Federal Government) only in cases where the enterprise has broken up into new agricultural production entities of 500 hectares or less. The new rules should clearly provide that individual owners of land shares have a continuing right to withdraw land in kind during and after the bankruptcy proceedings.*

#### **4. Transfer of Social Services.**

Section 5 of Government Resolution No. 86, "On the Procedure for Reorganization of Collective and State Farms" (Dec. 29, 1991), permitted state and collective farms to transfer objects of the social sphere (kindergartens, health clinics, social clubs, etc.) and objects of infrastructure (intrafarm roads, plumbing and gas systems, telephone systems, etc.) to the ownership of Rural Soviets of People's Deputies. In most of the *raions* visited, officials and agricultural enterprise leaders indicated that most objects of the social sphere have now been transferred to local administrations.

Local officials, however, often indicated that they do not have sufficient funding to operate the objects transferred, so agricultural enterprises continue to shoulder much of the burden. Currently, local administrations and agricultural enterprises are working closely together because reliable rural finance systems have not yet been brought to operation. In some cases, the agricultural enterprises that provide goods and services to the public receive a set-off against taxes or receive vouchers to be used to pay for electrical and other utility services supplied to the enterprise. Eventually, however, agricultural enterprises should be freed of any responsibility for providing public services.

Taxes collected from all agricultural producers should be used to finance services provided by the local administrations.

The failure of agricultural enterprises and local administrations to complete the transfer of social service responsibilities may prove to be an obstacle to the natural breakup of inefficient agricultural enterprises. If local administrations continue to rely on agricultural enterprises to offer some public services, or to support services through payments-in-kind, the administrations will feel bound to help even the most inefficient enterprises avoid bankruptcy, dissolution, or break up. Officials may even attempt to interfere with creation of peasant farms, which they may consider threatening to the continued existence of agricultural enterprises. Officials may feel some loyalty toward the agricultural enterprises, and might prefer to collect taxes from one agricultural enterprise, rather than from scores of peasant farmers or other small enterprises. Such prejudice may be unwarranted: large enterprises may be better able to resist paying taxes to local authorities; and if they are less efficient than the small enterprises, they may also be less able to pay such taxes.

If rural services are to be successfully transferred from agricultural enterprises to local administrations, secure sources of funding must be found to support those services. Local governments, with assistance from the federal and regional governments, must develop systems of finance that will ensure adequate funding for essential public services.

#### **E. Marketing, Processing and Storage.**

Marketing opportunities for agricultural producers appear to have improved in the last two years, as Russia's market economy has continued to develop. Obligatory deliveries of agricultural production to the state were legally abolished as of January 1, 1994 by Presidential Decree No. 1767, and in practice sometime later. But producers in Vladimir *oblast* have a difficult time selling all of their product. One joint stock company in Vladimir *oblast* was forced to let 30% of its vegetables rot on the field because there were no buyers. Although some producers are selling on the basis of annual contracts (usually based on market prices at time of delivery), many sales are made after harvest on a contract-by-contract basis.

Peasant farmers and agricultural enterprises largely have the same types of buyers, including private processors, organizations that provide credit in kind to producers, and hospitals, schools, factories and other institutions. Producers also sell to grocery stores, as well as directly to consumers at public markets and at retail shops established by the producers themselves. A growing phenomenon is sales to middlemen, who are more likely to pay on time than private processors. Although middlemen are often disparaged as "speculators" who add nothing of value, even

politically-conservative agricultural enterprise leaders reported they are comfortable selling to middlemen so long as they offer reasonable prices and pay on time.

The ability of producers to freely market their products in some areas is being constrained by criminal activities. Some producers in *Vladimir oblast* report a significant problem with racketeers, who interfere with producer sales to consumers and shops. Producers reported criminal interference with sales both to Moscow and within *Vladimir oblast*, which is only a three-hour drive from Moscow. Interviewees in Rostov and Samara *oblasts* did not report any problems with racketeers.

Some agricultural producers arrange to have their production processed by processing plants, such as sugar refineries or wheat mills. Some agricultural enterprises, and a small number of peasant farmers, process their own production. One large obstacle to processing is taxes. A joint stock company in *Vladimir oblast* producing vegetables for sale in Moscow has a cannery capable of canning approximately three million cans of vegetables per year, but will not operate the cannery because the various taxes applied to entrepreneurs would make operation unprofitable. A peasant farmer who grows potatoes reported that he had determined that he could obtain machinery to produce potato chips at a substantial profit, but that the taxes that would be applied would make the venture unprofitable.

Many peasant farmers interviewed, particularly in *Vladimir oblast*, indicated a desire to construct storage facilities on their farms. Storage allows the producer to receive a higher payment for products since the producer can hold the product until the price is more favorable, rather than selling immediately after harvest when all others are selling. In the case of some products, such as vegetables, producers report that prices during the winter are significantly higher than during the summer and fall. The availability of storage varies from *oblast* to *oblast*.

Although many agricultural enterprises and some peasant farmers in Rostov *oblast* own storage and machinery to clean and dry grain, agricultural enterprises and peasant farmers in *Vladimir oblast* generally do not have such equipment, and so must either sell to processors or pay storage facilities to dry and clean the grain. The lack of storage facilities severely limits the producers' ability to market grain. RDI researchers found peasant farmers who have built or are planning to build storage as soon as they can afford it. One peasant farmer in *Vladimir oblast* was planning to construct storage for potatoes, but he needed 10 million rubles to purchase cement. The storage would pay for itself in one year, but he did not yet have sufficient savings to acquire the construction materials, and he did not want to use credit.

#### IV. Conclusion.

Russia's 26,000 giant agricultural enterprises—still collectives in all but name—produce even less today than they once did. Even in the days of heavy subsidies, Russian yields per hectare (and total factor productivity) were far below those of non-collectivized agricultures in similar agro-climatic settings. The overwhelming weight of world experience shows that only much smaller farms, owned and operated by a single family or at most by a very small group of individuals, are capable of reaching the higher ranges of agricultural productivity. But despite the great benefits to be expected from movement towards a system of peasant farms, there has been no net increase in the number of peasant farms in Russia since the beginning of 1994.

RDI's seventh round of fieldwork in Russia since 1990 finds the prospects for growth of peasant farming in late 1996 to be substantially more encouraging than at any time in the past three years. Presidential Decree No. 337 has created a significant new possibility that collective enterprises will be forced to compete with peasant farmers, who are generally more efficient and can therefore afford to pay higher rents for land. The lessors (and eventually sellers) of land, in the form of land shares to be allocated in kind, will mostly be the 35-45% of collective farm households who are pensioners, and their heirs living away from the farm.

Perhaps the most significant findings of the present round of fieldwork, although based on a limited number of examples, were that: (1) peasant farmers appear to be paying about four times as much per hectare in land share lease payments as are agricultural enterprises; and (2) the average annual land share lease payment by a peasant farmer is equal in value to about six months of average pension payments. Thus, some of the poorest rural households have the opportunity to increase their income by perhaps 50% if they allow peasant farmers rather than agricultural enterprises to use their land rights. Three actions will be of particular importance for the protection and realization of the newly specified land share rights of pensioners and others: first, wide publicization of the rights and their potential value, and of the dangers of improvident disposition; second, legal aid for the rightholders; and third, a clear instruction that a holder of a land share certificate who failed to act in 1996 can still act in 1997, without a three-year hiatus.

Another significant possibility for formation of peasant farms lies in the evident insolvency of a significant fraction of agricultural enterprises, perhaps one-quarter to one-half of all the enterprises in the areas visited by RDI researchers this year. If such insolvencies can lead to the break-up of nonviable enterprises into much smaller production units (operating on a scale which world experience suggests is less likely to result in insolvency of the resulting enterprises) as a *quid pro quo* for restructuring or

even forgiving state debt, both the Russian agricultural sector and the present members of these impoverished enterprises may benefit.

However, despite the new opportunities which now exist for growth of the peasant farm sector, a whole series of constraints must be addressed. The most serious of these constraints is the unavailability of agricultural machinery for peasant farms. A series of potential solutions exist—including improved methods for withdrawing property shares, establishing and financing service cooperatives, installment sales by manufacturers, and bankruptcy and liquidation of insolvent enterprises—but none has yet been implemented.

Many other issues dealt with in recommendations (presented throughout this report and summarized in the attached annex) are of grave concern. The potential for very substantial growth of the peasant farming sector in Russia can now be seen; there is still much work to be done before that potential can be realized.

## Annex: Summary of Recommendations.

Enactments at the appropriate level—whether by presidential decree, Government resolution, directive of a federal agency or otherwise, as required—should be adopted to accomplish the following:

1. The Russian Government, with the assistance of foreign aid resources, should undertake an intensive program to provide information to pensioners and other land share owners regarding their rights under Presidential Decree No. 337 to lease out and otherwise dispose of land shares. The publicization and education program should include the following as prominent elements:

- The relative advantages and disadvantages of annuity contracts and contributions to charter capital, as compared to leases, temporary contributions of land share use rights and other forms of disposition.
- Various methods for estimating the value of land shares based upon land yields.
- The fact that it is illegal for agricultural enterprises to interfere with pensions or the right to receive social services.

2. The Russian Government, with the assistance of foreign aid resources, should provide legal-aid services to owners of land and property shares, peasant farmers and prospective peasant farmers to assist them in understanding and exercising their rights: (i) to acquire land and property in kind; and (ii) to dispose of and acquire land shares through lease and other transactions.

3. All agricultural land being leased from *raion* land funds as of November 1, 1996 should be offered for sale to the lessee at 10 times the land tax in order to encourage privatization of the *raion* fund land and to provide land users with the security necessary to make long-term investments in improving their land.

4. An enactment should clarify the rights of land share owners withdrawing land in kind from an agricultural enterprise. The enactment should provide:

- A withdrawing land share owner shall not be limited to receiving allocation of land plot from fields identified pursuant to section 7 of Presidential Decree No. 323, but shall instead be entitled to have the location of the land plot determined by agreement of all withdrawing and non-withdrawing land share owners within one month of application, in accordance with Decree No. 337.

- If the one-month deadline is not met, then in accordance with Decree No. 337, disputes over location of the land plot to be allocated shall be quickly resolved by the local administration and the *raion* land committee, which shall resolve the dispute (and ensure that the allocated land is of average quality and "compact location") by requiring the parties to use a "negotiated selection" procedure.<sup>46</sup>
- In order for a land share lease to be valid, it must include a rent payment that is specified in quantity, in rubles, or as a percentage of the crop. Such leases shall not be valid if rent is contingent upon the future vote of the general meeting or the decision of enterprise management.
- Section 5 of Decree No. 337 should be amended to delete the requirement that land share leases must be of at least three-years duration.

5. The Government should publish monthly reports in each subject of the Russian Federation based on a continuing survey of numbers of registered land share sales and leases and the range and average of per-hectare sale prices and lease rents. Price and rent data should include data from anonymous interviews with participants (especially buyers of land shares).

6. A directive should be issued to clarify: (i) that section 9 of Decree No. 337 allows the agricultural enterprise to acquire three-year use rights to land shares only in cases where the person eligible to receive a land share has not applied for the land share certificate, and (ii) that in cases where the land share owner has either received the land share certificate or has applied to receive the land share certificate, the agricultural enterprise may continue to use the land share only until the land share owner decides how to lease or otherwise to dispose of the land share. The directive should make clear that in the latter case, the enterprise shall be entitled to harvest any crops planted before the land share owner notifies the enterprise of his decision.

7. An enactment should adopt a standard form contract for purchase and sale of agricultural land plots, and should require that such contracts must be notarized and registered to be valid.

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<sup>46</sup> This procedure is described in footnote 24.

8. An enactment should adopt a standard form contract for purchase and sale of land shares, and should require that such contracts must be notarized and registered to be valid.

9. Pursuant to Decree No. 337, a carefully drafted model form should be issued for annuity contracts. This form should include a provision that such a contract must be notarized, as required by article 584 of the Civil Code, and include a prominent statement alerting the transferor that the transaction is not a lease and involves disposition of his entire right.

10. An enactment should require that all contributions of land shares to charter capital of an agricultural enterprise must be performed by individual, notarized contracts. "Multilateral" contributions by several land share owners at once should be expressly prohibited.

11. Fees charged by state and local agencies for surveying, demarcating and mapping land plots should be reduced to a level that just covers costs.

12. In order to standardize and improve procedures for calculating and redeeming property shares, an enactment should direct:

- Agricultural enterprises must revalue enterprise assets to bring them in line with current market values, and each property share must be denominated as a percentage of all non-land assets on the enterprise. Thereafter, each property share owner must be given a property share certificate by the enterprise, indicating the amount of the individual property share and the total value of enterprise assets.
- To facilitate withdrawal of property in kind, enterprise assets must be divided into four separate categories: machinery, buildings, livestock, and inputs. Each property share owner withdrawing from an agricultural enterprise (either alone or in cooperation with other property share owners) may claim his property share in equal parts from each asset group.
- A designated government agency is responsible for ensuring that property shares are revalued and property share certificates distributed to owners, and that property in kind is allocated in a lawful manner.

13. An enactment should redirect funds earmarked for state-owned service centers under Presidential Decree No. 565 to instead make credit available to

registered service cooperatives established by peasant farmers. Legal assistance should be available to groups of peasant farmers that desire to create service cooperatives.

14. The Russian Government, ideally with foreign-donor assistance, should institute a program to make long-term credit available to peasant farmers for purchase of machinery and other capital assets. At a minimum, there should be an intensive pilot program in one *oblast*, or at least one *raion*, with assessment of results.

15. State providers of credit in kind should undertake measures to ensure that debts are repaid in a timely manner. This may involve denying further credit to agricultural producers that have not repaid debts in a timely manner. Of course, the state should defer loan payments without adverse consequences to the producer when delays in payment are excusable, such as in the case of exceptional drought or flooding, or where a bank failure claims producer savings.

16. New bankruptcy rules should be implemented to provide the following:

- Failing enterprises may break up into smaller farms with some degree of debt forgiveness or debt restructuring. The new rules should allow transfer of encumbered assets to smaller farms emerging out of the bankruptcy.
- In involuntary bankruptcy proceedings against bankrupt agricultural enterprises, debt forgiveness and debt restructuring should be allowed only in cases where the enterprise has broken up into new agricultural production entities of 500 hectares or less. In this process, the rules should clearly provide that individual owners of land shares have a continuing right to withdraw land in kind. The Russian Government should aggressively pursue implementation of such involuntary bankruptcy proceedings.

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