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**CENTER FOR PRIVATE BUSINESS REFORM**

# **COLLECTIVE FARM DEBT RESOLUTION**

**Moldova Case Study –  
The National Land Program**

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**Chisinau, MOLDOVA  
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## Executive Summary

The first land privatization efforts were sanctioned with approval of the Land Code in 1992 and more than 1.2 million people were empowered to own agricultural land. However, there was no significant organized land reform program until 1996 when the Government of Moldova requested – and USAID approved – East-West Management Institute (known as the Center for Private Business Reform (CPBR) in Moldova) to privatize a collective farm known as Mayak in Nisporeni. As a result, 1,345 individual land titles were distributed to eligible farm members. The privatization of the Mayak farm and the legalization of private land ownership was a historic step that completely and irrevocably separated the agricultural sector of Moldova from its Soviet past.

Following completion of the Mayak privatization, the Government of the Republic of Moldova with the support of the US Agency for International Development, implemented the “Land” Pilot Project in 72 former collective farms in 31 rayons throughout Moldova starting in 1997. The methodology applied on these farms was entirely based on the existing Moldovan legislation and included:

- actual distribution of all land farmed by the collective farm to entitled farm workers;
- actual distribution of the collective farm’s debt-free assets to entitled farm workers; and
- reorganization of the collective farm into other legal forms sanctioned by Moldovan legislation.

CPBR Moldovan technicians developed a methodology and appropriate legal framework and successfully privatized all 72 farms by the spring of 1998, when the National Land Program started on all collectively farmed agricultural enterprises throughout Moldova.

Early expectations that the successor enterprises (collective shell) would sell assets left during privatization to pay-off debts, or would settle debts by generating profits from mills, oil presses or other potentially lucrative businesses left in the “shell” did not materialize. In most cases the “shell” continued to accumulate debts and remained “alive” as a legal entity, providing ample opportunities for tax evasion and other types of fraud.

It became clearer during the Pilot Project that the issue of unsettled debts of the collective farms would likely slow down the privatization and reorganization in the entire agricultural sector. Within a relatively short time after starting the NLP, this problem became critical and resulted in several negative impacts:

- complete restructuring and distribution of property was being delayed;
- assets of privatized farms reserved to repay debts were idle and without adequate security, hence their depreciation was accelerating;
- new private farms created during the privatization process were not functioning normally as over 35 thousand dissatisfied collective farm creditors were refusing to deliver supplies and services and in some cases were using informal methods to attempt debt collection.

At the same time there were other emerging issues requiring solution:

- the national budget continued to be faced with the constant and uncontrolled losses of collective farms and which might continue without complete and final liquidation;
- social and community infrastructure was abandoned and continued rapid deterioration;
- significant assets remained on old collective shells which potentially could be used to settle debts or be distributed in a second and final property tender if a way could be found to settle the debts;
- old collective shells containing frozen assets and debts created potential opportunities for fraud.

Therefore in 1998 CPBR launched an exhaustive debt study throughout the country on a sample of 562 collective farms. This debt study, involving a statistically significant number of farms, resulted in national projections concerning farm debt and crystallized resolve to initiate a national debt resolution program fully integrated into the NLP. The study on 562 farms documented that 48 percent (589,679,000 lei) of the total farm debt (1,216,434,000) was owed to government and 52 percent (626,755,000 lei) was owed to private creditors. Eighty one (81) percent of all the debt corresponded to debt principle while 19 percent was attributed to penalties and interest.

But the analysis of the data of 562 farms documented a continual and rapid increase in debts – from 1,217,300,000 lei to 1,498,700,000 lei or 23 percent increase in 1998 alone with no indications that this would cease in subsequent years. In fact, after holding land and property tenders, the old collective farms, with rare exception, ceased their economic activities, but they continue existing *de jure* with all the debts on their books. For this reason, and in full conformity with the law, inactive collective farm shells continued to accrue debts and penalties for the delay in repayment of debts. According to projections based on the amount of debt and fiscal legislation, each month of the post tender period the unsettled debts would increase a total of 16 million lei in debts, penalties, etc. Two thirds of the debt increase would be penalties accrued by the Social Fund for nonpayment of the debts, accumulated in the past!

Based on survey data it was projected that the property of all collective farms would diminish by 0.8 billion lei, or 6 percent during one year due to depreciation, theft, sales of seized assets, uncontrolled distributions, or other unaccounted for losses. Therefore while debts increased exponentially – even though there was little or no economic activity on many collectives – the value of their assets which might eventually be used to repay these debts depreciated or declined. Clearly something had to be done!

After much discussion and debate it was decided that special legislation would be necessary to resolve the debt situation on collective farms participating in the National Land Program. But there was fear of the potential budget impact and concern for the ability to pass comprehensive legislation which would: stimulate the process of creating new enterprises able to work in market conditions based on private land and property; be a one-time process, not to be repeated; be applied only to farms participating in the National Land Program; reasonably defend the interests of the private creditors; and have a “reasonable” burden on the country’s budget.

During the development of the Debt Law the following main principles were applied: it had to be a systems approach; it must use of out-of-court liquidation procedures; it must be voluntary;

responsibility must be decentralized and distributed to various parties during debt settlement; procedures should be as simple as possible and they must be easy to understand. In addition to the Debt Law, it was decided to amend several other laws which would strengthen the Debt Law and facilitate development of the regulations to the law. The amendments were included in a separate law, which was examined and approved together with the Debt Law. Such a comprehensive approach was more convenient than separate presentation and approval of the two laws. It spared time and avoided problems – it was not necessary to awaken the “parliament tiger” twice.

The debt settlement procedure begins with a general farm meeting to decide whether to participate in the Debt Program, which must include debt settlement and liquidation. Once this is published by the Property Commission in the *Official Monitor*, the process formally begins. Publishing the farm liquidation intent notifies creditors and obliges them to file claims or have their debts written off; starts a process where any debts owed to the farm are considered immediately due; and initiates a period when farm property cannot be written off, seized or collateralized in any way. Following the official notification, the debt settlement proceeds according to the following steps: 1) Settlement of debts to priority creditors and employees; 2) Historic debt settlement; 3) Settlement of current debts; 4) Settlement by the state of transferred debts; 5) Privatization of property, remaining after debt settlement; 6) Farm liquidation and removal from the State Commercial Registry.

After the Debt Law was passed by the Moldovan Parliament on 13 May 1999, the CPBR decided to form a new unit (Debt Resolution Unit – DRU) to provide assistance to all Government agencies involved in debt resolution and liquidation of collective farms under the provisions of the Debt Law. This was approved and additional financing was provided by USAID.

Following the existing CPBR internal structure, new teams of 3 accountants each were formed within each of the eight CPBR field offices. New staff was also hired to form two Chisinau based teams: the core team and the expert team and the decision was made to add a senior expatriate advisor. The local teams assist the Property Commissions of the farms in preparing legal and accounting documents, and provide consultations on different issues. The core teams ensure the flow of information and provide the link between local teams and Property Commissions on the one hand, and the expert team and state agencies on the other. The expert team, composed of economists, lawyers, and accountants, and support staff provides technical assistance to the government, and represent the farms’ interests during the sittings of the Republican Commission – the official body approving acceptance by the government of historical debt and other critical approvals during the debt resolution process. One vital role of this expert team was to assist different government agencies (mainly the Tax Office and the Ministry of Finance, the Social Fund, Registration Chamber by the Ministry of Justice, the State Archive, the Department of Privatization, the National Securities Commission, and others) draft internal regulations and issue circular letters aiming at adjusting existing working procedures to the provisions of the Debt Law, providing clear instructions to local authorities and government representatives on the implementation of the Debt Law, as well as training them in all aspects of the program.

A critical initial task was to assist the Ministry of Finance and the Main Tax Office draft the regulations to the Debt Law. The regulations were designed to provide detailed procedures for

debt resolution, completion of privatization and liquidation of collective farms. The regulations also contained the necessary forms for the entire process. Direct participation of our staff in developing the regulations and the forms excluded the need for training staff after these regulations were adopted by the government, and, to a certain degree, simplified the process since the co-authors of the forms were the future implementers. This aspect was critical and only hindsight has confirmed this.

Seminars were organized in all regions and the capital of the country (10 in total). Officials, as well as farms' main creditors, heads of Property Commissions and accountants of farms subject to debt resolution and liquidation participated at these seminars. Speeches given by former collective farm managers who had already benefited from the program (those were primarily from the first 18 farms liquidated) were particularly popular.

Mass farm debt settlement has no precedents in Moldova, and because of this, delays were experienced. The practice of resolving delays of farm debt settlement showed that the main reasons for these delays were *problems of settling current debts, historic debts to banks and transfer of farm portfolio shares*. But these issues were settled, not without tension and disagreement between the Ministry of Finance, the Social Fund and the Main State Tax Office and the NLP executives. In the end, it was necessary to develop and pass an amendment to the Debt Law as well as the corresponding government regulations, promulgated through Government Decisions. The amendments to the Debt Law became effective on June 8, 2000 and since the NLP specialists had already prepared the requisite regulations to this law, these will be immediately promulgated by Government Decision.

The process to amend the Debt Law started in October 1999 with informal discussions between the NLP and the Republican Commission, the Main State Tax Office, and other GOM officials and ministries. It wasn't until April 2000 until the Government accepted the wording of the amendment and it was officially introduced into Parliament.

Notwithstanding the above discussion, the NLP executives and their advisors still are of the opinion that the amendment to the Debt Law was unnecessary, if the bureaucracy would have respected the intent and spirit of the original law.

According to the CPBR work plan approved by the USAID, 888 collective farms should complete all debt resolution stages and be completely privatized and liquidated by August 31, 2000. A snapshot view of the debt component of the National Land Program shows the following results, as of the end of May 2000:

- 765 collective farms published liquidation notices;
- 694 farms' documents were approved by the Republican Commission (decisions on transfer to the state of historical debt and writing-off of remaining unsettled historical debt, if necessary);
- 564 farms repaid all debts (including debts to priority creditors, historic and current debts);
- 539 farms finalized privatization and were liquidated.

For these farms:

- 1,021,865,000 lei (US\$1.00 = lei 12.5 approximately) in debt was settled;
- 818,630,000 lei in social assets were transferred to the local government;
- 624,971,000 lei in historical debt was offset with assets;
- 35,265,000 lei in historical debt was written-off as remaining historical state debt.

The average time required for a collective farm to completely settle its debt, distribute its property and liquidate was 122 days, ranging from 32 to 300 days. The efficiency of the debt component of the National Land Program was constantly growing, and reached by the end of May 2000 a **daily** average of:

- 2.3 farm liquidations;
- 4.3 million lei (\$345,000) in debts settled.

At this writing, the Debt Program in Moldova is in its final stage. The main goals of the National Land Program, including its debt resolution component will be attained by the end of August 2000.

After a five year stagnation period between the appearance of the first applicable Moldovan legislation and the implementation of a comprehensive land reform program, completion of the NLP objectives in a relatively short period of time was an ambitious project. Sporadic, ad hoc and superficial privatization was replaced by mass empowerment of people through real privatization of land and property, secured by land and property titles. Although the Law on critical property allowed significant advances in 1999, the indebtedness of collective farms was still a serious impediment for completion of privatization. Solutions were sought to solve the debt problem through an intensive analysis of the financial situation of farms, the reasons and dynamics of debt accumulation, as well as by testing and analyzing existing procedures for debt settlement.

The CPBR/EWMI did not compromise its basic principles while approaching the farm debt issue. It was decided that farm debt resolution would be carried out within a program, farms would join the program on a volunteer basis, the program would be entirely based on Moldovan legislation, and would have strong built-in incentives. Government support was considered a vital element and the key to success of the program. The program is the tool for implementing legislation that also allows democratic and transparent participation of farms, based on contracts signed with the program. Contracts stipulate the responsibility of all parties involved, describe the process in concrete steps and contains deadlines for each. The role of the CPBR/EWMI specialists was to provide technical assistance to the government at all levels. The National Land Program enjoyed strong government support and paid great attention to relations with the President, the Parliament and the Government, which broadly advertised its objectives within official circles and mass-media. Four Governments were changed during the implementation of the NLP without affecting its progress!

Attractive incentives inserted along the process stimulated a great number of farms to participate, making the program indeed a national program. Only farms that decided by democratic voting to participate in the program and honored their contractual obligations, could fully benefit from all facilities/advantages provided by the program. The incentives included: free land titles, full technical support to farms along the processes, defense of farmer's rights and representing their

interests at different instances by well qualified CPBR professionals, the moratorium on accruing penalties and sanctions, an advantageous debt resolution and the possibility to start new businesses without burdensome debts. All these were offered as part of one process, a one time-event with clearly specified limitations in time.

As the program evolved from a pilot project on one collective farm to a national program, comprising the vast majority of farms, it was constantly refining its methodology. Many elements of internal methodology became later parts of laws and regulations providing more opportunities for farms and farmers. The hands-on experience gained by the CPBR specialists was an invaluable assets when participating in drafting legal acts. The popularity of the program grew, a fact witnessed by vivid interest and large participation. The popularity was built on trust, early beneficiaries of the program saw its evolution, and believed in increasing opportunities offered by the program in the future. Trust was also built through the transparency of the processes and intense information campaigns – which were inherent parts of the National Land Program and special concerns of CPBR. The information campaigns aimed at providing a clear understanding of everyone's rights and legal options, deep insight into the benefits offered by the program. The program had pure social and economic reform objectives and managed to avoid any political implications.

The current stage of the implementation of the collective farm debt resolution program allows to infer that the legal framework provided by the Debt Law proved to be workable. The procedures for debt resolution under that law proved to be applicable and succeeded in offering solutions to the great amount of issues and special cases encountered during the settlement of collective farms' debts. More than 800 collective farms will be liquidated during one year of implementation of the debt resolution program in Moldova. The success of that work resides in two major groups of reasons – those related to the legal procedures themselves for debt resolution, and those related to the way these procedures were implemented by the National Land Program.

The major principles of the Debt Law are:

- Debt resolution combined with complete privatization and liquidation of collective farms – a complex one-time event offered to participants in a government program on a volunteer basis.
- Relatively simple and inexpensive liquidation which allowed rapid completion.
- State acceptance of farm debts to private creditors and the possibility of settling farm debts to the state by offsetting with social assets.
- The impact on the budget was not a significant burden.
- Very decentralized process – most decisions are made at the local level.
- The most important decisions are made by a special government body – the Republican Commission, formed by representatives of various Ministries, thus dispersing responsibility.
- Provision of incentives fostering large and active participation of farms.

To a great extent the success of the program is due to the way it was actually implemented.

Several important aspects of the implementation are presented below:

- The CPBR staff actually did most of the work, i.e., we implemented the program, not simply advised government.

- Highly professional staff assisted central and local government wherever and whenever possible (cooperation with Government at all levels).
- Strong Government support and political will made the implementation of the program a combined effort between the CPBR/EWMI/USAID and the Moldovan Government.
- East West Management Institute (EWMI), a private, non-profit, non-governmental organization actually contributed significant amounts of its own money to ensure maximum flexibility and success. Compare this with other contracts implemented by for-profit firms unwilling to make contributions for the benefit of the program.
- The CPBR staff actively participated in drafting the Law and the Regulations, with an understandable tendency to simplify their future work – actual implementation.
- The internal CPBR infrastructure provided significant local presence of the CPBR staff in the field. Regional offices were staffed with professionals, and were well equipped and supported.
- The project was carried out over a relatively short period.
- The entire effort was carefully planned and monitored. The system of concrete monthly targets for regional offices allowed firm and steady work progress throughout the country.

Although the program is not finished yet it has already brought some results. By liquidating the collective farms it has produced a huge cleansing of bad debts in the agricultural sector. The tax offices are recording greater tax collections – private farmers proved to be more disciplined taxpayers. Banks also registered a decrease in delinquent loans as a result of the disappearance of the collective farms. The program created the necessary premises for the development of land markets and land consolidation, the creation of rural credit associations, and other post-privatization activities.

## Chapter 1. The Beginning

### 1.1 First privatization attempts

The enactment of the Land Code in 1992 marked the official beginning of the land reform in Moldova. In accord with the provisions of the Land Code more than 1.2 million people were entitled to receive land in private ownership. It was the time of big hesitations and passivity on the one hand, and sporadic attempts and spontaneous privatization on the other hand. Due to lack of Government's commitment and political will to proceed firmly with land privatization, the first five years after the adoption of the Land Code brought no palpable results. Reforms went slowly and followed different patterns throughout the country.

In some cases, based on private initiative, entitled persons exited the collective farms and started to farm land parcels individually with no formal registration of their ownership rights. Other collective farms continued their economic activity with no changes at all. Finally, the third group of collective farms took steps to reorganize and privatize land. However, these were superficial changes: collective farms changed their legal status (overnight reorganization into cooperatives, joint-stock companies, associations, other), some broke up into smaller collective farms and in some Primarias<sup>1</sup> individual land shares were calculated and land certificates were issued. In general, the process of decollectivization was slow, reflecting the political debates at that time – the opposition between reformist and conservative forces.

The elaboration of a fair methodology for land and property distribution and the political will to apply it throughout the country in a coordinated manner were the requisites for a real reformation of the agricultural sector that would be based on private ownership of land and property. Land distribution to peasants revealed the complexity of issues inherent to the agrarian reform. In order to conduct business activities, peasants that received land need to create and register their private farms, they need agricultural equipment to be able to farm the land and they need titles to secure land ownership.

Although the Parliament adopted a series of important laws allowing privatization and reorganization of collective farms (Law on Property, Law on Entrepreneurship, Law on Joint Stock companies, law on privatization programs, and others), by 1996 there was no significant progress in reforming Moldovan agriculture.

### 1.2 Mayak experiment and the Pilot Project

In early 1996, the Center for Private Business Reform (CPBR)<sup>2</sup> was asked to restructure (actually privatize) the Mayak collective farm in Nisporeni.

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<sup>1</sup> Primaria is the village Mayor's office, representing the lowest level of government.

<sup>2</sup> The CPBR was launched by the East West Management Institute (EWMI) as its presence in Moldova. EWMI is a U.S. non-profit organization headquartered in New York City. EWMI is dedicated to promoting legal and economic reform in Central and Eastern Europe and the former Soviet Union. Founded in 1988 by George Soros, EWMI is one of many non-profit foundations linked together in an informal network called the Soros Foundations network.

Together with the Moldovan Ministry of Privatization<sup>3</sup> and USAID, it was agreed that CPBR would develop and implement a methodology for the break-up and privatization of the Mayak collective farm as a pilot project. The farm was successfully privatized, surveyed and 1,345 individual land titles were distributed to the members of the farm. Taken together, the privatization of the Mayak farm and the legalization of private land ownership was an historic step that completely and irrevocably separated agricultural sector of Moldova from its Soviet past.

In 1996-1997, the Government of the Republic of Moldova with the support of the US Agency for International Development implemented the “Land” Pilot Project in 72 collective farms in 31 rayons throughout Moldova. The methodology applied on these farms was entirely based on the existing Moldovan legislation and included:

- in-kind distribution of all land farmed by the collective farm (with title preparation and issuance by Booz-Allen and Hamilton) to its entitled beneficiaries;
- in-kind distribution of the collective farm’s debt-free assets (issuing property certificates upon request) to its entitled beneficiaries;
- reorganization of the collective farm in other legal forms stipulated by Moldovan legislation.

Since the applied methodology for collective farm break-up and privatization also included the creation of new private farms that would not inherit the collective farm’s debts, a complete distribution of assets was possible only in cases when the collective had no debts. That was the case of only 1 collective farm that was able to fully repay its debts, completely privatize and liquidate. Other than that case, as a result of farm indebtedness, not a single farm was able to distribute all the assets, and had to set apart certain amounts of property<sup>4</sup> for further debt settlement. Farm assets were divided into 3 categories:

1. property set apart for subsequent settlement of debts to the creditors of the collective farm. In 90% of the farms, legal successor enterprises were created based on this property to honor the financial obligations of the collective;
2. social assets and public utilities were transferred to the local government or to the successor enterprise;
3. debt-free assets that formed the privatization fund were distributed to entitled persons. Based on these assets approximately 1300 private farms were created.

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EWMI manages highly skilled international and local consultants who design state-of-the art economic reform programs, draft and implement laws, develop accounting standards, privatize collective farms, and train government officials and judges. EWMI participated in an international tender issued by USAID and was selected to implement an enterprise restructuring project in 1995. During implementation of this project, the GOM requested EWMI/CPBR privatize the Mayak collective. Closely associated with Soros Foundation Moldova, CPBR has established a reputation of success and accomplishment in all its activities. EWMI/CPBR is the contractor selected by USAID to lead collective farm privatization and restructuring effort. Some of the steps of privatization include land surveying, grouping and arranging, and the preparation and issuing land titles. These steps are the responsibility of the USAID subcontractor Booz-Allen and Hamilton with Stewart Information International and Rural Development Institute as subcontractors.

<sup>3</sup> Later became the Department of Privatization within the Ministry of Economy and Reforms.

<sup>4</sup> Property includes all farm’s assets. It does not include land which was state property.

Although there were some basic principles to follow, each farm was approached as a special case. The structure of assets within the three categories mentioned above varied from one farm to another, depending on the degree of farm's indebtedness and its creditors.

Taking into account the debt situation, it was not possible then to develop a single methodology applicable for all the farms privatizing their property, without infringing creditors' rights. In cases when privatizing farms had assets that could not be divided in-kind among peasants (wineries, mills, oil-mills, other processing units, etc), but were part of the privatization fund, these assets were transferred to the successor enterprise, and the peasants became its co-founders.

Expectations that the successor enterprises would repay their debts by selling the assets left for that purpose or by generating profits as a result of lucrative businesses did not materialize. In most cases the successor enterprises kept accumulating debts which quickly turned into bad debts as most did not undertake sufficient economic activity. That was the price paid for successful accomplishment of the main goals of the pilot-project: in-kind distribution of land and debt-free property to entitled individuals and creation of privately owned enterprises.

In general, the pilot project was a success that allowed CPBR specialists to accumulate great experience, but it still was a pilot project on 72 farms.

### 1.3 The National Land Program

The National Land Program (NLP) was launched in March 1998 by President Petru Lucinschi as a roll-out of the pilot project to completely privatize the remaining 900 collective farms on the basis of an agreement with the Government of the Republic of Moldova and USAID in strict compliance with the national legislation. The experience accumulated during the pilot phase and the passage of the Law No 187–XIV<sup>5</sup> (hereinafter *Law on critical property*) allowed the NLP to advance significantly, using a refined methodology.

The Law No 187–XIV introduced the concept of *critical property*. The critical property included irrigation facilities and perennial crops located on land subject to privatization, tractors, combines, other agricultural machinery and equipment, vehicles used for agricultural production, planting materials, working and production livestock, and unfinished goods. According to that Law, the given property could be transferred in-kind to entitled persons regardless of farm's financial situation and the status of its settlements with creditors. This resulted in increased possibilities for forming viable privately owned enterprises (peasant farms, limited liability companies, cooperatives, etc). Therefore, following the land tenders, property tenders were held to distribute the critical property to entitled persons.

Yet, the fate of the old collectives which were left without land and critical property, but with growing debts and other blocked assets on their balance-sheets, was still uncertain under existing legislation. It became clear during the "Land" Pilot Project that the issue of unsettled debts of the collective farms was considerably slowing down the privatization and reorganization in the

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<sup>5</sup> The Law No 187–XIV *On Introducing Amendments in Some Legislative Acts* of November 6, 1998 (see Annex 1).

country's agricultural sector. In early 1999 this problem became critical and resulted in a number of negative consequences:

- the process of complete restructuring of collective farms and finalization of distribution of property among peasants was postponed for an uncertain period of time;
- assets of privatized farms, reserved for repaying debts, were excluded from economic life, while their security was not always provided for;
- the private farms, created as a result of privatization of the collective farms, would not be able to function normally, as over 35 thousand dissatisfied creditors were causing them trouble, refusing to deliver supplies and services and using informal ways of pressing them to pay-off the old collectives' debts.

At the same time, other issues were emerging that required solution:

- Liberation of the budgetary process from the constant uncontrolled losses which were caused during many years by the majority of collective farms and which might continue without complete and final liquidation;
- Decaying and abandoned infrastructure in villages and municipalities; and
- Significant assets remained on the collectives, after distribution of critical property, which potentially might be used to settle debts or to be distributed in a second and final property tender if a way could be found to settle the debts on those farms participating in the NLP;
- The old farm shells containing frozen assets and debts created potential opportunities for fraud.

Although the Law on critical property allowed significant progress in privatizing farms and creation of debt-free private farms, the problem of collective farms indebtedness was once again postponed. The side effects of the NLP (semi-dead insolvent collectives, frozen resources, including decaying public infrastructure, huge amounts of growing debts, dissatisfied creditors, potential fraud) required additional efforts for debt resolution and complete restructuring of collective farms.

## Chapter 2. The study – seeking solutions

The indebtedness of collective farms created serious impediments for completion of privatization in the agricultural sector of Moldova. As the number of farms that privatized and distributed land and critical property increased in late 1998, the need for a legal and quick procedure for settling farms' debt to release and privatize the remaining assets, as well to save public infrastructure left on the balance sheets of the semi-dead collective farms became more and more urgent. The complexity of these issues were sometimes underestimated by Government officials because of lack of information and neglect of agricultural specifics. Thus, for example, based on the fact that the book value (but not the market one!) of all the collective farms' assets was 7 times as big as that of their debts, it was thought that these farms had enough property to completely repay their debts, and only in rare cases, when property was not sufficient, it would be necessary to make use of the existing bankruptcy procedure. Thus, conclusions could have been made that there was no problem with debts and that collective farms would settle their debts on their own. However, practical attempts, based on these conclusions, did not and could not yield any positive results (see chapter 2.3).

Specialists from the CPBR analyzed possibilities for debt settlement under the existing legal framework. They also carried out an analysis of the economic and financial situation of farms. The study purposed to reveal the real situation of the collective farms, to estimate their solvency, as well as to give critical guidelines for finding the ways to solve the debt problem and thus create a conceptual basis for dealing with the problem. The results of that study are presented in this chapter.

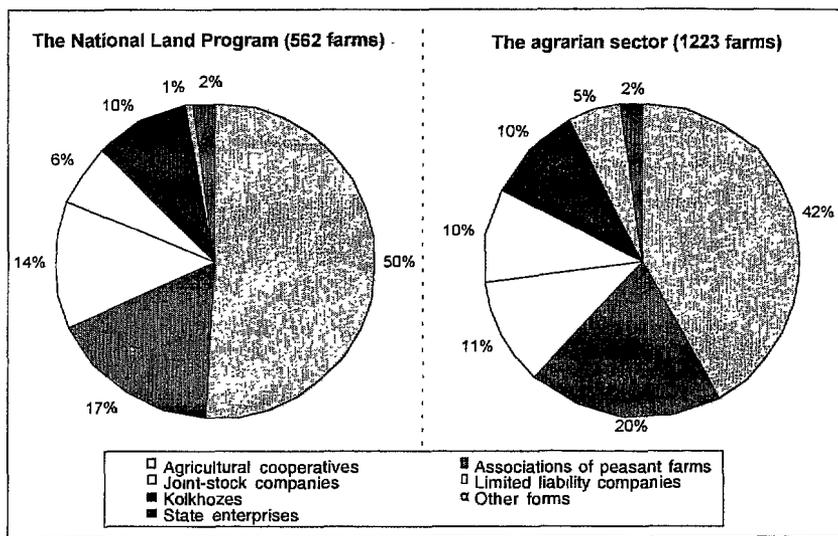
### 2.1 Situation on farms in 1998

**Data gathering.** As it was mentioned above, there was no reliable and realistic information on the financial situation of the collective farms. Any conclusions regarding the solvency of the collective farms, based only on the official information held by the Department of Statistic and Sociological Analysis, would have been groundless, since the book value of the assets was significantly overestimated as compared to the market one. The debt/asset ratios of the farms based on market values was not clear, and the amount and structure of debts and assets were not precisely known. That information was crucial for any decision-making and designing debt resolution and final collective liquidation legislation, as well as for any projections of possible outcomes under different scenarios of debt settlement. Therefore it was decided to undertake a complete study of collective farm debt. The CPBR carried out the on-farm analysis of the economical and financial situation of more than 550 farms in July – December 1998. A special balance sheet like form was developed (see Annex 2) containing various economical and financial indices of the farm. The information was collected, and forms were filled in for 562 farms analyzed. Farm's personal account with the Tax Office and the Social Fund, its balance sheet and other accounting records, contracts with creditors, inventory lists of assets, as well as the expert estimation of the market value of assets, were primary sources for data collection. Data gathering resulted in a database of 562 farms participating in the National Land Program which contained information on the amount and structure of debts and assets, book value and

appraised market value of different categories of assets. The summarized information on all the farms is presented in Annex 3.

Statistical tests showed that the population of farms entered into the NLP debt study database closely tracked the patterns of all the farms from the agricultural sector with respect to such indices as geographical criteria, main types of activity, farm size (amount of land farmed and number of employees), legal forms (Figure 2.1), etc. High similarities of farms from both populations (our sample and the entire agricultural sector) allowed statistically significant extrapolations of the results of analyses and calculations on 562 farms to the national level. Extrapolation procedures were broadly used to assess the impact and eventual outcomes of different scenarios of debt resolution for the entire agricultural sector.

Figure 2.1 Farms legal forms profile



**Farm debts.** According to the information, supplied by the Department of Statistic and Sociological Analysis there were 1,223 collective farms in the agricultural sector at the beginning of 1998. According to the official information, the total debt amount at the same time of the year equaled 2.2 billion lei<sup>6</sup>. That figure was indeed very close to our findings. Table 2.1 shows the structure of debts of 562 farms surveyed in 1998.

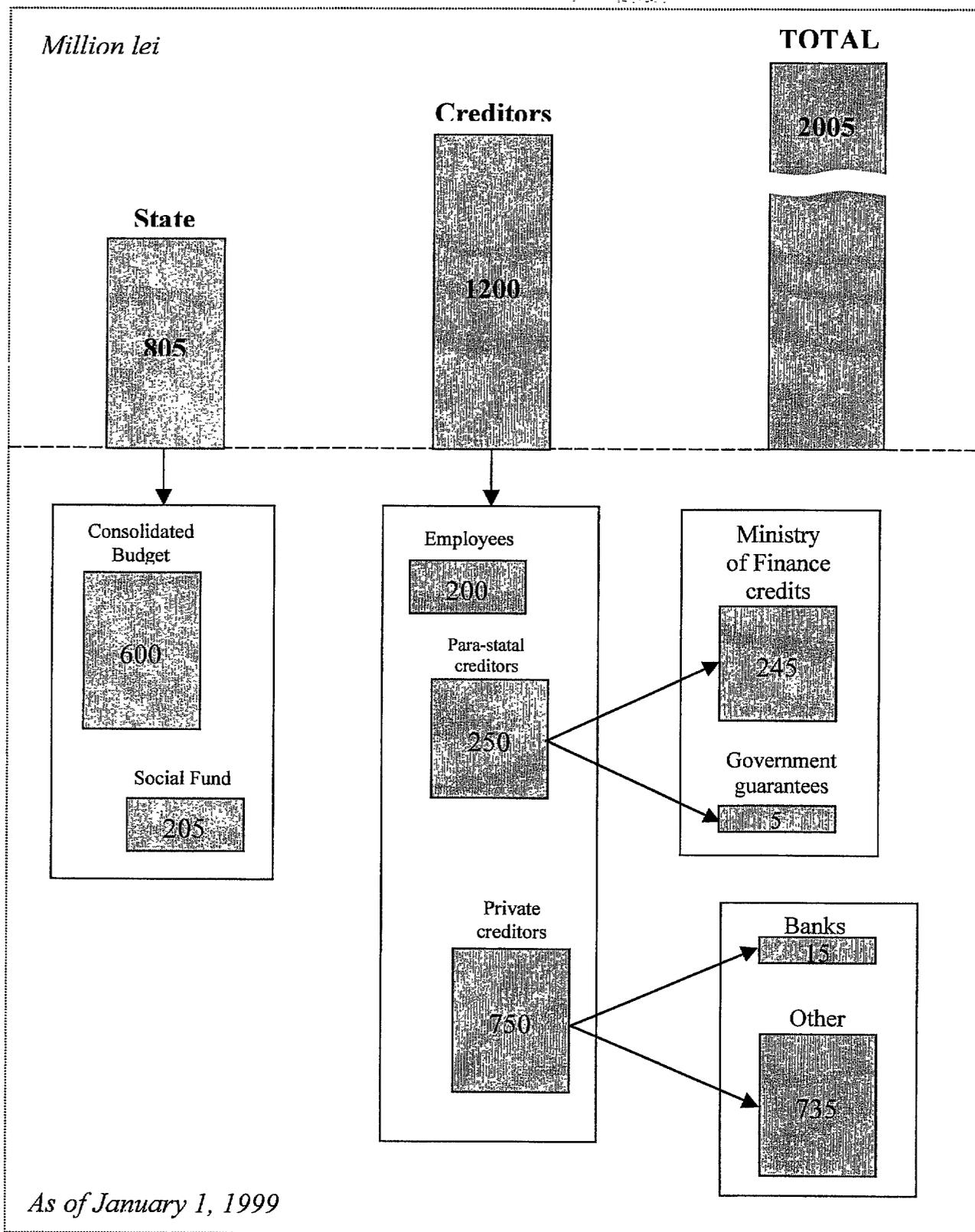
Table 2.1

DEBTS TO	thsd. lei	%	of them			
			principal		penalties/interest	
			thsd. lei	%	thsd. lei	%
State budget .....	207 988	17%	127 251	61%	80 737	39%
Local budget .....	123 588	10%	87 291	71%	36 297	29%
Social Fund .....	258 103	21%	156 857	61%	101 246	39%
Subtotal Government .....	589 679	48%	371 399	63%	218 280	37%
Banks .....	39 854	3%	30 027	75%	9 827	25%
Other creditors .....	461 879	38%	453 829	98%	8 050	2%
Employees .....	125 022	10%	125 022	100%	0	0%
Subtotal Private .....	626 755	52%	608 878	97%	17 877	3%
<b>TOTAL</b>	<b>1 216 434</b>	<b>100%</b>	<b>980 277</b>	<b>81%</b>	<b>236 157</b>	<b>19%</b>

Based on data collected for 562 collective farms, as well as considering some tendencies detected, the amount of debt and its structure were projected for 852 farms for the end of 1998 (see Figure 2.2).

<sup>6</sup> The exchange rate was approximately 5 lei per 1 US dollar.

**Figure 2.2** Projected amount and structure of debts of 852 farms participating in the NLP



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**Debt dynamics in 1998.** The analysis of the data regarding the book value of assets and debts (for the middle and the end of 1998) of 562 collective farms participating in the NLP evidenced a quick growth of debts – from 20 to 27% (Table 2.2).

Table 2.2

Farms with debt to assets ratio (book value), %	Number of farms		Debt, million lei		Assets (book value), million lei		Average debt to assets ratio, %	
	01.07	31.12	01.07	31.12	01.07	31.12	01.07	31.12
below 10.1 .....	101	59	91.7	81.0	1537.4	1136.8	6.0	7.1
from 10.1 to 50.0.....	385	369	894.6	976.6	4014.3	3777.9	22.3	25.9
from 50.1 to 99.0.....	65	105	216.2	371.9	347.1	563.9	62.3	66.0
over 99.1 .....	11	29	14.8	69.2	11.1	53.5	133.3	129.3
<i>Total</i>	562	562	1217.3	1498.7	5909.9	5532.1	20.6	27.1

This was due to a sharp decrease in exports of agricultural products in the second half of 1998 as a result of Russia's economic crisis, and increased costs of farm inputs caused by Moldovan currency devaluation. In 1998 collective farms repaid less debts than in 1997, due to losses of their markets and increase in accounts receivable (basically bad debt) due from processor, who faced similar problems.

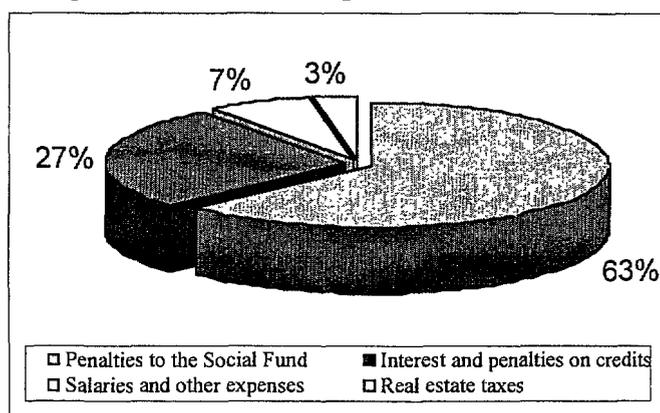
At the same time, a considerable part of farm debt (deductions to the Social Fund, tax on land and other kinds of real estate, penalties for the failure to pay them, interests and penalties on credits, etc.) was growing proportionally to time; debts were growing quicker than they were being repaid. By January 1, 1999 the total debt of all the collective farms was estimated to an amount of 2.8- 2.9 billion lei. Or, maybe after holding land and critical property tenders, when the majority of collective farms stop their economic activities, their debts would stop growing?

In fact, after holding these tenders, the old collective farms (collective shell), with rare exception, stop their activities, but they continue existing *de jure*. Not the new private farms, but the old collective "shells" preserve all the debts, accumulated for years, and they were not liquidated because of unsettled debts. For this reason, and in full conformity with the law and agreements, farms' creditors or the collective farms themselves continued to accrue debts and penalties for the delay in repayment of old and new debts.

According to the projection calculations based on the amount of debt and fiscal legislation, each month of the post tender period the unsettled debts would cost all the farms a total of 16 million lei in debts and duties. Two thirds of the debt increase would be penalties accrued by the Social Fund for nonpayment of the debts, accumulated in the past (see Figure 2.3).

The fact that the old collectives were not liquidated also created opportunities for fraudulent debt accumulation. Cases were later

Figure 2.3 Farms debt growth structure, %



revealed when taxes and expenses belonging to the newly created private farms were assessed and kept on the accounting records of the old collective. Such factors as lack of timely registration of private farms after distribution of land and critical property, reluctance of tax inspectors to deal with a significantly greater number of new tax payers, and tax evasions fostered this type of fraud.

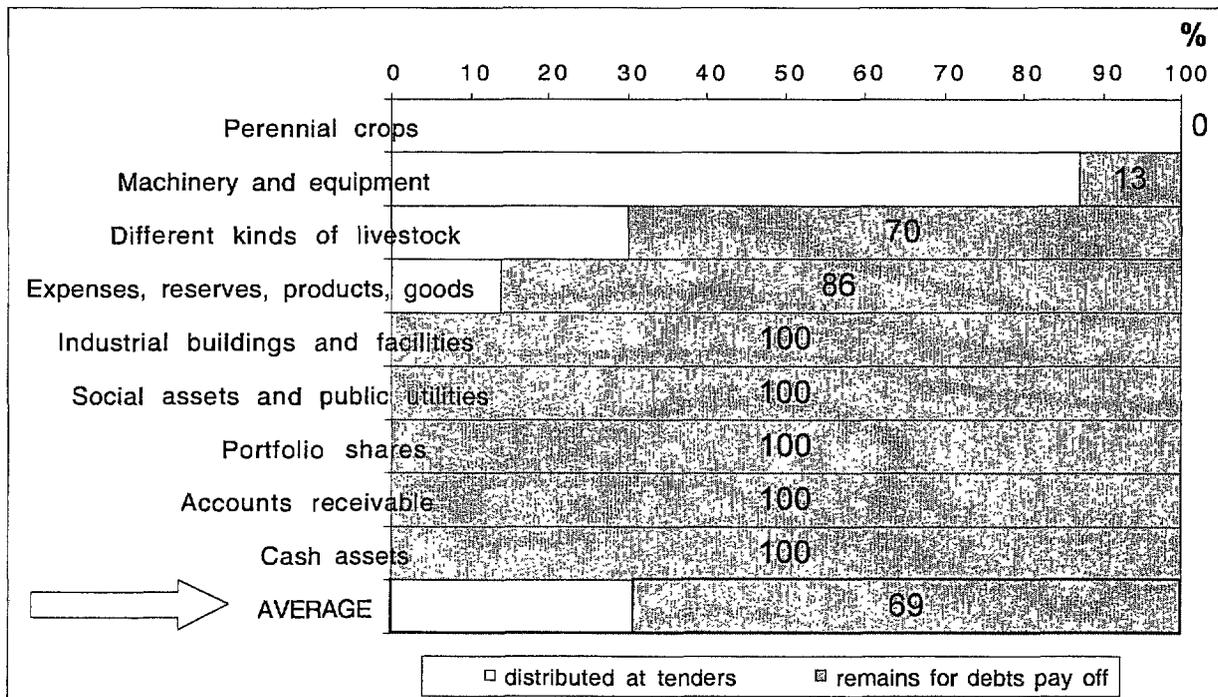
Thus in 1998, farm debts increased substantially. One immediate effect was creditors, e.g., banks and input suppliers, stopped lending to farms. It was obvious that distributing land and critical property would not stop the growth of collective farm debt. Debt resolution and collective farm liquidation procedures needed to be put in place to solve the problem of continued collective farm debt growth and allow for the distribution of remaining assets. This would contribute substantially to the normalization of financial relations in the agricultural sector.

**Farm assets.** According to the data of the Department for Statistic and Sociological Analysis, by the beginning of 1998, the book value of all the collective farms’ assets was 14.1 billion lei.

However, when settling the debt issue, it was necessary to take into account that:

- critical part of property is distributed to peasants and other entitled persons through tenders;
- book value of farm property is overestimated as compared to the market prices;
- there are other factors diminishing collective farms’ property (such as depreciation, theft, ad hoc distributions, etc).

**Figure 2.4** The critical and remaining property



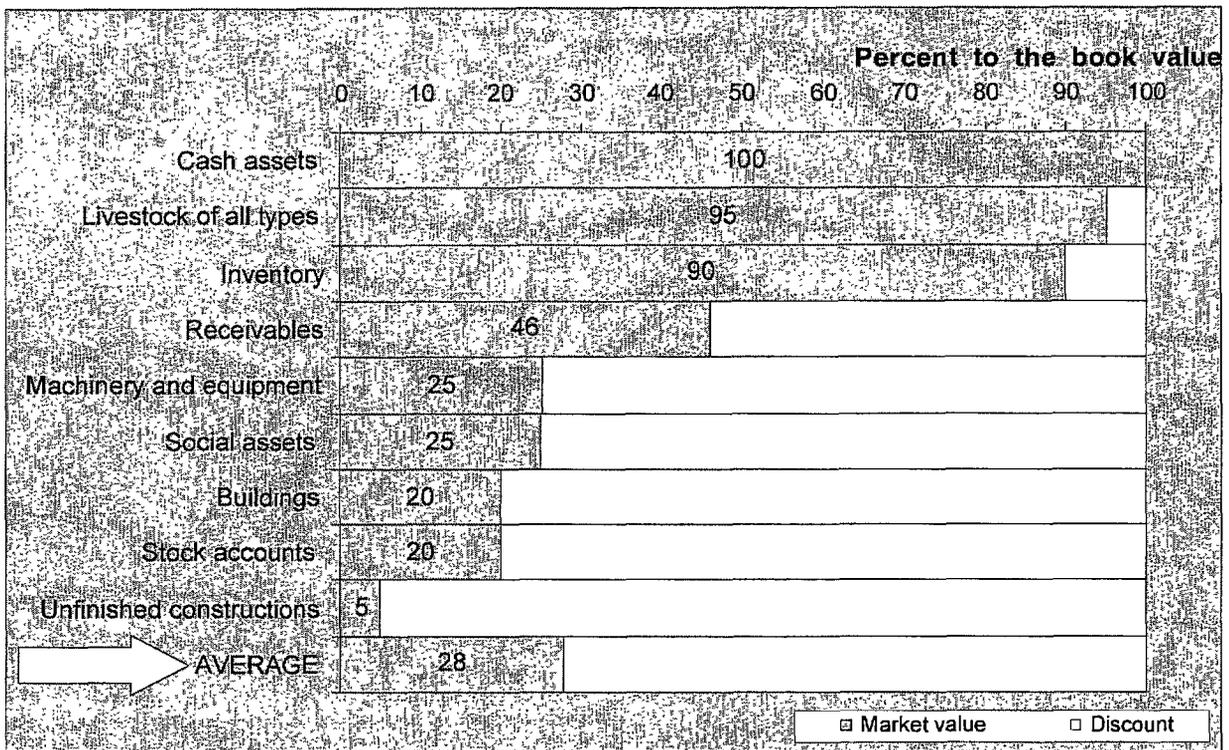
*Value of critical property, distributed through tender.* The book value of the property subject to distribution to peasants according to Law No 187 –XIV, i.e. irrespective of the farm’s financial situation, was equal to about 31% of all the assets (see Figure 2.4). That estimate was based on

data from farms’ balance sheets, and expert appraisals made during the critical property tenders. This property could not be used in any debt settlement scenario.

*Evaluation of the remaining assets’ market value.* Repayment of debts is usually accomplished with cash or “near cash” assets. However, half of the collective farms did not have any cash, and the other half of the farms had on average only 6 thousand lei in their bank accounts. So it was necessary to determine the market value of assets rather than use the book value to judge farm’s possibility to collect money.

The market value assessment of farm assets was done in two stages. At the beginning, when the property inventory was conducted, this value was determined according to evaluations of specialists from the 562 farms with participation of specialists from the Center for Private Business Reform, i.e. the seller’s price was identified. The discount equaled 50% of remaining asset book value. The second stage used prices based on the results of actual auction sales of the collective farm property seized by local tax bodies, as well as appraisals conducted by licensed appraisers. As a result, a market price was established as a compromise between the prices of the seller and the buyer.

**Figure 2.5** The correlation of the market and the book values of assets



As the final data shows (Figure 2.5), the book value of the remaining assets was about 3.6 times higher than their market value. Such a considerable discount (72%) of the farm property book value is due to many factors, namely:

- pursuant to certain Government decisions, the book value of farm buildings and facilities was artificially overestimated for fiscal purposes in the absence of a real estate fiscal cadastre based on the market values of assets;
- registration of portfolio shares at the par value was highly inflated (farms received shares gratis in connection during mass privatization in 1994-1995); and
- restricted number of buyers, limited, as a rule, to the number of residents in the given village with low purchasing power on the one hand, and large supply of assets offered due to mass sale at the auctions of property seized by tax bodies and the courts<sup>7</sup>.

*Other factors.* Based on data presented in Table 2.2 it was projected that the property of all collective farms would diminish by 0.8 billion lei, or 6% during one year due to depreciation, theft, sale of seized assets, uncontrolled distributions, or other unaccounted for losses.

No one could, or was interested in assuring the security of collective property not transferred to peasants or leased to a private farm and left for debt repayment. It was recognized that the longer the solution to the debt problem and identifying new owners for the remaining property is postponed, the bigger the property losses will be.

It was projected that out of 14.1 billion-lei book value of property as of January 1, 1998, only 13.3 billion would remain at the end of that year. Of that, property worth 4.0 billion lei would be transferred to peasants in 1998-2000. The market value of the remaining property would be about 2.5-2.6 billion lei, while debts would be 2.7-2.8 billion lei.

**Financial possibilities for debt repayment.** The preceding analysis illustrated that if the data for all farms are aggregated there will not be sufficient assets to settle all debts. However the data also indicated that various farms have possibilities to settle their debts. Table 2.3 shows the distribution of farms according to their debt:asset ratios. That data was drawn for 521 collective farms assuming that all these farms had transferred the critical property to peasants in conformity with the Law on critical property.

Table 2.3

Farms with debt:asset ratio (market value), %	Number of farms	Debts, million lei	Remaining asset amount (market value), million lei	Average debt-remaining asset ratio, %
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4=2:3 100</i>
<i>from 10.1 to 50.0.....</i>	<i>40</i>	<i>43.9</i>	<i>119.3</i>	<i>36.8</i>
<i>from 50.1 to 99.0.....</i>	<i>88</i>	<i>169.3</i>	<i>232.0</i>	<i>73.0</i>
<i>over 99.1.....</i>	<i>393</i>	<i>1,126.5</i>	<i>616.1</i>	<i>182.8</i>
Total	521	1,339.7	967.4	138.5

Comparing the data of Tables 2.2 and 2.3, shows that after critical property distribution and evaluation of the remaining assets based on the market value, the debt-asset ratio increases from 27 to 138%. Out of 521 farms, only 128 would be able to repay their debts completely. At that,

<sup>7</sup> The Main State Tax Office statistics for 1998 confirms this situation. Only 10% of property, seized by the tax bodies all over the country (about 0.5 billion lei) is sold. The main reason for this situation is low demand.

the number of farms having their debt-asset ratio more than 99.1% (absolutely bankrupt due to their negative equity<sup>8</sup>) would increase substantially, i.e. from 21 to 393 farms, or from four percent to 75% of the total number of farms analyzed, which statistically was applicable to the total number of collective farms in Moldova.

Thus, approximately one out of every four farms would be able to repay their debts completely, while the remaining three farms will be able to do it only partly (55% on average). This data illustrated the great number of inevitable bankruptcies if radical and immediate measures aimed at settling debts were not taken.

Different methods for collective farms' debt work-out were considered, and possible outcomes were measured and projected based on concrete information from more than 500 farms. Out of this work the methodology began to present itself.

**The offsetting of debts to the state using social assets**, as one debt resolution option, was examined. The transfer to the state of approximately 12 thousand assets at a total book value of two billion lei is inevitable, since the new private, profit-oriented enterprises created as a result of privatization, are neither obliged, nor interested (and are not even capable) in maintaining publicly used assets. Study data suggested that the book value of all farms' social assets exceeded the total amount of their debts to the state. However, some farms had enough social assets to cover their debts to the state, some did not. Since one farm cannot repay other farm's debts<sup>9</sup>, the result of an eventual offsetting of debts to the state using social assets was considered for each farm individually.

Calculations made for every collective farm from the 562 farms in the data base under two different scenarios of debt settlement (Table 2.4, Figure 2.6) proved that:

- offsetting of collective farms' debts to the consolidated budget<sup>10</sup> using social assets at their book value results in a 78% decrease of these debts, and the number of farms which are absolutely bankrupt decreases to 67%;
- offsetting of collective farms' debts to the national public budget<sup>11</sup> using social assets at their book value results in a 51% decrease of these debts, and the number of farms which are absolutely bankrupt decreases to 49%.

Table 2.4

Indices	Million lei	
	562 farms	agrarian sector*
1. Book value of the social assets.....	803.5	1748.5
2. Debts to the Consolidated Budget .....	331.6	721.6

<sup>8</sup> The farms with the ratio of debts to the market value of the remaining assets within the range of 99.1-100.0% are referred to those unable to fully repay their debts, because administrative costs, connected with liquidation, are approximately equal to 1% of the assets value and are the first to be covered.

<sup>9</sup> Collective farms debt resolution was designed as an integrated part of a complex process of restructuring of farms undergoing privatization participating in the Debt Component of the National Land Program on a volunteer basis, therefore procedures for settlement of all farms' debts using all farms' assets were not considered.

<sup>10</sup> The consolidated budget is formed by the state budget and the local budget.

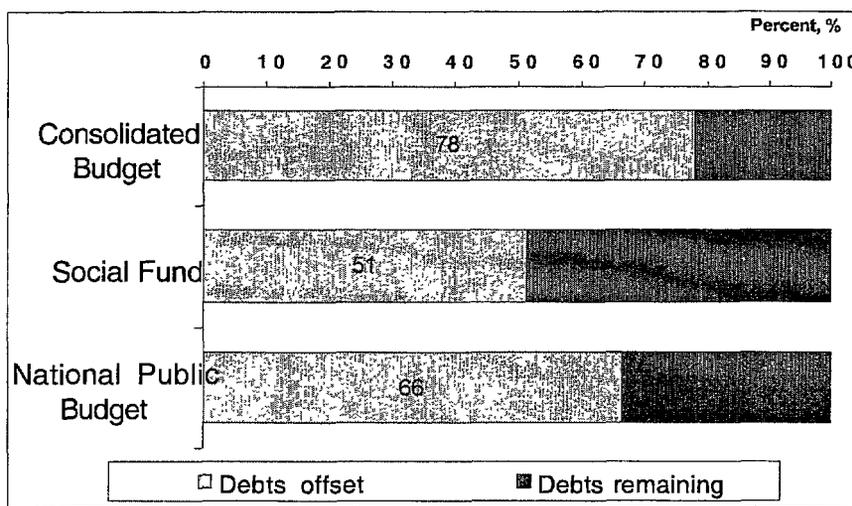
<sup>11</sup> The national public budget is formed by the state budget, the local budget, and the Social Insurance budget (Social Fund).

3. Possible repayments to the Consolidated Budget.....	258.7	563.0
4. Debts to the Social Fund.....	258.2	561.9
5. Possible repayments to the Social Fund.....	132.8	289.0

\* *Note:* Projections for the entire agricultural sector using survey data as statistically significant basis for extrapolation.

Thus, by using the second option, which differs from the first one only in that social assets are used to offset debts to the Social Fund too, the situation improves dramatically – only half of the collective farms would have negative equity and become absolutely bankrupt. After settlement of debts to all budgets, 227 farms could still have social assets and public utilities at a value of 392.2 mln. lei, or 52% of their total value, on their balance sheets.

**Figure 2.6** Repayment of debts to the state using social assets



In conclusion, the potential of this method of settlement of debt to the state was very high. Although the existing legal framework envisaged such possibilities for debt settlement<sup>12</sup>, these procedures needed to be consolidated into complex debt resolution and farm restructuring legislation.

**Settlement of debts to private creditors.** Two schemes for settlement of debts to private creditors were considered:

- transferring farm debts to private creditors to the state with consequent offsetting of the transferred debts with social assets;
- inter-enterprise debt clearing among farms, creditors and common business counterparts.

*Transferring farm debts to private creditors to the state.* A selection of enterprises was made to estimate the appropriateness of this scheme for an eventual mass debt settlement in the agricultural sector. The selection included a total of 10 collective farms participating in the NLP, whose financial situation was representative for the majority of farms from the NLP, and a total of 6 enterprises – major creditors of the collective farms.

The total amount of debt of these 10 collective farms to the six creditors was 1.4 million lei, and the book value of the social assets and public utilities of the 10 farms was 11.8 million lei. The techniques behind this procedure for debt settlement are the following: part of the farm’s debt to

<sup>12</sup> Such a possibility was stipulated in the Law on Budget for 1998 (art. 38(9)), but was excluded from the Law on Budget for 1999.

the private creditor, that does not exceed the creditor's debt to the state, is transferred to the state. As a result, the farm's debt to the public budget increases by an amount equal to value of the creditor's debt to the state, and the creditor is in credit position with the public budget. The increased farm debt to the state is repaid through offsetting with social assets and public utilities, and the state debt to the creditors is also offset within the limits of the creditors' debt to the state. The eventual results of these techniques calculated for 10 farms and their six creditors was a 75% percent repayment of farm's debts to their six creditors.

*Clearing calculations.* The possibility to repay any mutual debts among the considered 10 farms, their creditors and common business counterparts, following all existing chains of financial liabilities, was thoroughly examined. As a result it was calculated that only 10-12 percent of debts to business entities can be repaid by means of clearing procedures. Considering the complexity of the clearing procedures, the great number of creditors (26 private creditors per farm, on average) and debtors, the small debts to one creditor, it was obvious that debt clearing was too time-consuming and inefficient as a global method for debt settlement in the agricultural sector.

Summarizing the above, the transfer of farms' debts to private creditors to the state proved to be an efficient method for debts settlement. It also should be mentioned that an important part of social assets remain unused for debt repayments.

## **2.2 Major reasons for farm debt accumulation**

As chapter 2.1 shows, in the beginning of the National Land Program, it became clear that the agricultural sector was not able to honor its financial obligations neither to the state, nor to other creditors. Moreover, the total amount of debt was constantly increasing. Delays in solving the debt problem practically gave no hope of creating more viable and efficient agricultural enterprises based on private property, and thus, discredited the entire program. However, for the final decision, and particularly in order to establish the mechanism for debt restructuring, it was necessary to determine the nature of their accumulation. This had to be the basis, on the one hand, for preventing the reoccurrence of such a situation in the future, and on the other hand, for finding real arguments to convince opposition to resolving the debt problem. Some of the members of parliament, state officials, farm leaders and specialists blamed the whole debt growth problem on several major factors: bad administration and irresponsibility of the authorities; tolerance of theft; and implementation of thoughtless reforms, including land privatization. And no special mechanism needed to be developed for that, the reforms had to be stopped, everything had to be turned back to the previous system, and at the same time, all parties that took collective property were to be prosecuted. This statement may be partially true regarding the state's loss of control over the privatization process (long delay between legislation and an organized program), which created a premises for stealing and destroying part of the property. However, this was not the main reason for such big debts. Thus, prosecution of certain individuals (although in some situations this is necessary) will not improve the farm situation in general. Return to the old management system was not only impossible, but also unreasonable for both political and economic reasons. What are the real motives for such huge debts in the agricultural sector? Unfortunately, it is impossible to fully understand all the factors that

influenced farm debt accumulation. This would require a very intensive study and would not result in the solution of the debt problem. However, it is possible to list these factors and give the characteristics of their influence on the accumulation of the total amount of debts in Moldovan agriculture.

*1. Liberalization of prices in the beginning of 1991.* The main consequence of liberalization of prices for the agricultural sector was a sudden change in the relationship between the prices of agricultural products on the market and the costs of farm inputs necessary to produce. While the prices for farm inputs, such as fuel, fertilizers, pesticides, and agricultural equipment grew hundreds of thousands of times (in local currency – the effect of devaluation and hyper inflation), prices of agricultural and livestock products increased perhaps only ten times, at a maximum. Considering the fact that collective farms are quite reluctant to adopt new technology, production continued to be at low-energy and low capacity. As a result, farm financial assets were exhausted in a short period of time for purchasing inputs, without recovering even those costs from the sale of final products. In Moldova, the situation also worsened due to the introduction of the national currency and multiple indexing of fixed assets, which led to complete loss of current assets. This forced farms to take costly loans from the banking system. All of this happened during periods of hyperinflation (2500% in 1993) and high interest rates (up to 400%). Farms were unable to pay off loans on time and this led to rapid increase of debts in part due to penalties and fines for failure to fulfill loan conditions. As a result, additional debts exceeded the original debt amounts, and even those farms which began to pay back the banks settled only their penalties and fines, but were not able to settle debt principal.

*2. Irrational financial and credit policy of the state.* As discussed above, farms had similar relations with the state budget. During 1992-1998, at the Government's proposal, or on the insistence of members of parliament, the Parliament made decisions on giving loans to farms for spring field works. These loans were given directly to farms, or through parastatal fuel suppliers or processing enterprises. Loans were secured by harvests. Unfortunately the strong agrarian lobby did not allow this fallacious policy to be stopped before 1999. Payment of debts was simply postponed for the following year and new credits were given. But like banks, the Ministry of Finance continued to calculate penalties and fines, and interest on these for failure to pay the respective amounts on time.

*3. Collapse of the unified currency and finance system of USSR.* The collapse of the unified currency and finance system of Soviet Union and the introduction by the former republics of their national currencies led to rapid expansion of barter operations. As a result, even the farms which continued to produce practically had no financial assets and could not pay taxes to the national and local budgets nor make their contributions to the Social Fund. And again, penalties and fines were applied, leading to continuous debt increase.

*4. Lack of a definite mechanism for conducting agricultural reform.* Paradoxically, the agricultural reform, i.e. the slow and inconsequent implementation as a whole, and lack of a clear procedure, especially land and property privatization, contributed to debt accrual. This happened due to two reasons.

Firstly, spontaneous privatization on some farms quickly destroyed any semblance of the old collective. Hundreds of individual peasant farms appeared as a result (although not registered legally). At the same time, the main farms existed in all registries of the tax offices and Social Fund, and since they had unpaid loans, interest, penalties and fines were applied to the old collective, even though they no longer existed in reality.

Farms that underwent orderly privatization, according to the legislative procedure and under the direct leadership of experienced consultants, required a definite period of time. When the “dead payment zone” was created – old farms were divided and reorganized into new enterprises, but were never liquidated according to the law. These “collective shells” continued to be official contributors of taxes and other levies. New farming enterprises were not reregistered, and thus, legally were not contributors.

*5. Regional financial crisis.* The August 1998 crisis in Russia led to double devaluation of the national currency. This swiftly increased tariffs for gas and electricity, prices for imported agricultural supplies, while agricultural products’ costs did not change. Besides, many farms in Moldova were not paid for previously exported products, and thus, could not pay to the state and other creditors.

All these reasons contributed to the rapid increase in farm debts, which the agricultural sector was not able to repay. The only way out was to adopt a political decision to free farms from the burden of accrued debts as an incentive for farm restructuring process. This was done through the approval of the respective law.

### 2.3 Previous attempts to solve debts

**Debt restructuring through the Council of Creditors.** The Council of Creditors may be used for the purpose of restructuring debts of insolvent industrial enterprises according to the Law on Restructuring Enterprises No 958 of July 19, 1996. Based on the Agreement-Memorandum of August 22, 1998, concluded between the USAID and the authorized ministries of the Republic of Moldova, the NP experimentally tried to use the procedures of the Council of Creditors late in 1998.

The experiment was supposed to decrease, within a short period of time (30 days), historical debts<sup>13</sup> to the state of the selected farms by transferring to Primarias' balance sheets social assets and public utilities.

However, as the experience of the first 18 farms supported by the NP showed, at least 4 months was required between signature of the Agreement-Memorandum with the Council of Creditors and the repayment of historical debts to the local budget. Including the time needed for preparation and approval of documents prior to signature of the Agreement-Memorandum, this procedure requires about 5 months to complete. The period required to settle debt to the State Budget is an additional month because the Public Treasury and the Main State Tax Office are involved in the process at its final stage.

The major reason for the slow progress was the complexity of the debt restructuring procedure through the Council of Creditors, which was originally designated for financial rehabilitation of large industrial enterprises. The process included:

- involvement of 13 public authorities at the local and central level;
- preparation of at least 28 documents, 1-21 copies of each; and
- collection of over 80 signatures on each set of documents.

Another reason for delay was that in order to obtain permission for the transfer of social assets and public utilities to Primarias' balance sheets, farms must fully pay all current taxes and duties. However, after holding the land and property tenders, the farms lose most possibilities to make such payments. As experience demonstrated, this requirement of the Council blocks every 10<sup>th</sup> farm, even before it holds land and property tenders.

In order to repay one lei of historical debts, a farm transferred on average 1.32 lei in property, since these debts were not frozen at the time the Agreement-Memorandum was concluded with the Council of Creditors.

As a result, the debt restructuring procedure, aimed for big industrial enterprises, controlled by the Council of Creditors for about 15 months, appeared to be too lengthy and more costly for the agricultural sector.

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<sup>13</sup> Debts incurred in previous fiscal years are considered historical, as opposed to current debt that are incurred during current tax year.

Uncoordinated attempts to simplify this procedure were made. Thus, the Law on critical property stipulated the farms' right to transfer social assets and public utilities to Primarias' balance sheets as repayment of their debts to the state. But the Law on budget for 1999, and the Law on State Social Insurance for 1999 did not include this procedure and, judging by experience of previous years, it would not be implemented because of the opposition of the Tax Office and the Social Fund. There were no other procedures for transferring production and other (electric networks, telephone networks, gas pipelines, etc.) assets to the balance sheets of the rayon maintenance enterprises of the respective ministries and state organizations (Moldenergo, Moldtelecom, etc).

Thus, the existing procedure of restructuring debts to the state through the Council of Creditors proved unworkable for the privatized farms and attempts to simplify procedures of the Council of Creditors did not yield the desirable results. There was a need for an absolutely new option.

**Farm reorganization and self-liquidation.** In accordance with Art. 33-34 of the Law on entrepreneurship and enterprises, a farm can, just like any other enterprise, voluntarily terminate its activity through reorganization or self-liquidation.

*Reorganization.* After holding land and property tenders, the farm loses the capability to produce most livestock and agricultural goods. However, approximately 1/3 of the farms were able to form service enterprises (usually JSC) based on production facilities, such as flour mills and oil mills, primary grape-processing, and other similar units for processing agricultural products. Such service enterprises may be created through evolution from the existing farm, or by transformation of the existing collective farm, usually into a JSC. In such cases, the processing or service enterprise becomes the successor of the privatized farm's debts, while farmers and other private enterprises begin their business activities free of debts (in accord with privatization legislation). That method was broadly applied during the pilot project, and proved that the successor enterprises continued to accumulate debt and provide opportunities for fraud.

Regarding other collective farm reorganization possibilities, such as outright sale, amalgamation, merger or division, they were judged to be impractical, because they would create ineffective forms of enterprises, many of which (kolkhozes, sovkhoses, etc.) were not even provided for in the legislation, or they simply would not work due to lack of resources, i.e., buyers.

*Self-liquidation.* Liquidation on the basis of the decision of the general meeting of the collective farms that held land and property tenders, is the most reliable method, since it allows for the:

- settlement of debts by non-judicial means, i.e. without many additional expenses and time connected with court procedures;
- acceleration the additional distribution of property to entitled persons and consequently strengthen the newly-formed private enterprises.

However, the vexed question was whether agricultural farms were able to conduct self-liquidation and debt settlement procedures independently and within reasonable terms. An organizational analysis of art. 36-37 of the Law on entrepreneurship and enterprises, shows that self-liquidation takes at least 4-5 months. In practice, it takes twice as much time. For example, "Varni\_chi" farm (judet Chisinau) began the liquidation process in March 1997, and finished it only at the end of that year, although that farm received assistance from the NLP. The main

reasons for delays were the debt problem and excessive bureaucracy. It is also very important to consider the fact that if – if at any stage of self-liquidation – it is discovered that the assets of the farm under liquidation are not enough to settle debts, either the bankruptcy procedure must start, or the decision on liquidation must be canceled. This is the requirement of art. 35(4) of the Law on entrepreneurship and enterprises, and is why it is very important to determine clearly the market value of the remained assets before the self-liquidation decision is made. The solution to this problem is complicated even for experienced auditing organizations.

Thus, considering how difficult it was to settle debts and the large amount of documents required to reorganize and self-liquidate, as well as the shortage of experienced lawyers and financial experts, it was concluded that farms, with rare exceptions, will not be able to correctly conduct reorganization and self-liquidation independently, in a reasonable period of time.

**Attempts to declare farms bankrupt.** Government decision No. 1033 “On undertaking immediate measures to improve the financial and economic situation of agricultural enterprises” of 12 October 1998, stipulated the mandatory initiation of bankruptcy procedures in 175 farms, which in reality stopped their activity and had no property as of 1 January 1998.

According to the data, 40 farms were declared bankrupt and bankruptcy procedures were initiated against them, of which 13 farms were included in the NP. The bankruptcy initiators, in most cases, were governmental bodies (Ministry of Finance, State Tax Office, Social Fund). This was due to two reasons: (i) most debts of these farms were debts to the state, and (ii) in case of farm bankruptcy, the state has priority over private creditors whose debts are not guaranteed by collateral.

In case of bankruptcy, the debts to private creditors, except for banks, are repaid last. In practice these would go unpaid. That is why private Moldovan creditors were not interested in declaring farms bankrupt, and preferred to either collect their debts through the courts, or to use informal methods of pressing the managers to settle their debts before the state forced bankruptcy. Banks and fuel suppliers were the most active in opposing this methodology.

How will collective farms perform in satisfying claims of their creditors during an eventual bankruptcy? To what degree will the farms honor their liabilities of different classes? Calculations were made for each of the 393 farms with debt to asset ratios (based on market values) greater than one, or the so-called – absolute bankrupt farms (see Table 2.3).

Table 2.5 shows the number of farms that have sufficient assets to repay different categories of debts under the preference order stipulated by legislation (classes of claims). Administrative and legal expenses were tentatively estimated, based on the legal provisions and records of previous legal cases. The majority of farms proved to be able to repay almost in full their debts to banks and employees. Eighty nine (89) percent of debts to the state could have been repaid, and only 12% - to private creditors. The fact that private creditors would receive only 0.12 lei per each lei of their accounts receivable, would have endangered future business relations with input suppliers and banks for the new private farms created as a result of privatization of collective farms.

What was the first experience of bankruptcy of privatized farms? The Law on bankruptcy did not stipulate the general duration of the bankruptcy procedure. Only two courts worked with farm bankruptcy – the Chisinau Economic Circuit Court and the Economic Court of the Republic of Moldova, both being located in the capital of the country. There was a critical lack of bankruptcy specialists, and there were no incentives for almost anyone involved in conducting bankruptcy to speed the process. It was estimated that it would take 3-4 years to conclude bankruptcy of a few hundred farms following the existing procedures and informal traditions.

Table 2.5

Debts	Number of farms, capable of settling debts		Debts before settlement		Unsettled debts	
	fully	partially	mln. lei	%	mln. lei	%
1. Administrative and legal .....	393	-	30.8	3.0	-	-
2. Banks.....	387	6	30.1	2.9	0.7	0.2
3. Employees (up to 6 months).....	385	2	91.3	8.8	0.7	0.2
4. State (up to 12 months).....	268	117	333.1	32.1	47.8	11.2
5. Other economic agents.....	23	245	552.6	53.2	376.3	88.4
	Total		1,039.9	100.0	425.6	100.0

## 2.4. Conclusions

The intensive study carried out in 1998 by the specialists of the CPBR for a selection of 562 collective farms, both in particular and in general, revealed certain important findings and overall conclusions plausible for the entire agricultural sector of Moldova. These findings shed light on the real situation of the collective farms, especially with regard to their solvency, and were later widely used as arguments when supporting different suggested ways to solve debts of the collective farms and complete their privatization. The most important findings and conclusions made are summarized below.

- Collective farms' debt continued to increase at a higher rate in 1998, having reached 2.6-2.7 billion lei at the end of that year. There was no basis to expect any deceleration of collective farm debt growth if the farms were not restructured and completely privatized.
- As a result of an unprofitable activity, loss of market due to the crises in Russia, theft, cases of spontaneous uncontrolled privatization, low value of assets and their quick depreciation, overall lack of liquidity in Rural Moldova, as well as distribution of critical property, the market value of the remaining assets dropped well below the amount of debt in 1998 (the amount collectable was estimated at approximately 2.5 – 2.6 billion lei). Due to the general difficult economic situation in Moldova compounded by ineffective farm management and bad discipline, the farms' assets, could only decrease and decline in value in the future.
- The increase of debts and decrease of agricultural collective farm assets and assets value would quickly lead to a situation when the majority of the collective farms would have insufficient assets or asset value to repay debts. In that context, complete farm privatization and reorganization would be possible to achieve for a small percentage of farms.

- Offsetting collective farms' debts with social assets proved to have a very high potential as a method for debt settlement.
- The Council of Creditors, as a mechanism to implement massive debt resolution procedures, proved to be very inefficient and time-consuming. If the central government were to be involved in farm debt settlement, it would be necessary to simplify procedures and to create a special republican (national) body for debt settlement to the national public budget using social and public assets.
- Farms under privatization do not have cash, and sale of their property is usually very problematic. Thus, it was realistic to admit that procedures that do not involve cash would be mainly used for settling farm debt (settlement of debt using non-cash assets, debt transfer, debt cession, debt write-off, lease-back, etc.). These procedures needed to be standardized and incorporated in transparent laws and Government regulations.
- Existing procedures of reorganization, self-liquidation and bankruptcy used for collective farms undergoing privatization were complicated, time-consuming and expensive. A significant, but reasonable and fair simplification of legal procedures for debt resolution, farm reorganization and liquidation was needed to allow a complete mass-privatization and reorganization of collective farms during 1999-2000. The existing legal framework needed to be amended and developed with respect to the debt problem, farm privatization and liquidation.
- The transfer to the local government of over 12 thousand social assets and public utilities owned by collective farms at a total value of about 2 billion lei was inevitable. The new private farms created in the privatization process, were neither able nor obligated to maintain public assets. The quicker these social assets and public utilities could be transferred in an orderly fashion to the local government, the greater the utility of these assets would be for the people.
- Transferring collective farm's debts to private creditors to the state with consequent offsetting of the transferred debts with social assets seemed to be a justified method for both settling private debts and stimulating transfer of these assets into the ownership of local government.
- The longer a solution to the debt problem was delayed, the more difficult it would be to find an acceptable solution, since debts were constantly increasing, and assets value decreasing, i.e., the number of bankrupt farms would increase exponentially.

### Chapter 3. The Debt Law – the ultimate solution

This chapter describes the political and financial discussions, based on which the concept of the Law on restructuring of farms undergoing privatization (hereinafter – Debt Law<sup>14</sup>) was developed, as well as the main principles of this law and the reasons for introducing the respective amendments in other laws, as well as the normative procedure for farm debt settlement.

#### 3.1 The debate: political situation and budget impact

After the pilot-project became the National “Land” Program, including most farms, it became clear that the main economic barrier in quick implementation of the program was the debt problem. By the beginning of 1999, the total amount of farm debts to various creditors, including the state, was over 2 billion lei and growing. The transfer of those debts to the new enterprises, based on private ownership (peasant farms, limited liability companies, joint-stock companies, etc.), would have put them in difficult conditions from the very beginning. This would have made development of private enterprises in the agricultural sector difficult, if not impossible. As a result, the agricultural reform would have been completely discredited, as it would have not reached the final objective.

Thus, the necessity to develop and adopt a new legal framework and to develop concrete procedures for settling the farm debt problem was raised.

The political situation in the country, at the beginning of 1999, generally favored the successful settlement of the debt problem. There was a parliament majority (the Alliance for Democracy and Reform) that strongly supported the implementation of the agricultural reform. The government backed the idea and was ready to enforce all the measures for the agricultural reform, in accord with the Memorandum signed with the World Bank.

However, several contradictory approaches to solving the agricultural debt problem emerged in the process of developing the respective legislative framework.

*The first approach.* All the insolvent farms had to initiate bankruptcy procedures, in compliance with the Law on bankruptcy. This position was supported mainly by the experts of the World Bank and the Agency for Restructuring of Agricultural Enterprises. Their main arguments for this approach were:

- in the agricultural sector there are farms functioning effectively and having no debts; general debt forgiveness would put these farms in a unfavorable situation, discouraging them to function effectively;
- bankruptcy procedures would allow the situation in each and every farm to be studied in detail;
- all creditors have the possibility to defend their rights in a court of law;

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<sup>14</sup> The Debt Law and all Regulations are presented in Annex 4.

- the bankruptcy procedure will be stimulated, and this is important for continuous redistribution of resources from ineffective to effective enterprises.

Each of the above mentioned arguments seem logical, however, generally the approach could not be accepted based on the following reasons:

- according to the Moldovan legislation, the bankruptcy procedure requires a lot of time for analysis – approximately one year or longer for each entity;
- it is important to enforce bankruptcy on almost all farms simultaneously, which is practically impossible due to lack of judges with expertise in this sphere;
- a large number of creditors, that form the agricultural infrastructure, supplying it, providing machinery services and processing agricultural products would have gone *bankrupt de facto*, since the enterprises have no liquid assets;
- the provision of credit to the agricultural sector would likely have stopped for a long period of time;
- creation and functioning of new viable farming enterprises would not have been ensured as much of the tools, implements and machinery would have been stripped from the farms, leaving the newly created private farms without possibilities to work.

*The second approach.* The debt problem must be settled for all farms, with no exceptions, regardless of the legal form, including the farms not joining the National Land Program. This approach was supported mainly by left-wing parliament representatives. The main arguments were:

- debt settlement only for farms included in the National Land Program is a method of forced destruction of collective farms, which contravenes with the principle of equality for all legal forms.

However, the adoption of such an approach meant reducing efforts to accelerate farm privatization since it would remove a strong incentive for privatization. Furthermore, the NLP is a voluntary program, entered through a democratic process and the second approach was a top-down anti-democratic imposition from central government. By adopting the second approach, the system of ineffective kolkhoz-sovkhoz production would have been kept, and the process of adapting the farm to market conditions would have slowed down. In the meantime, the state must show political will to implement the agricultural reform and stimulate farms that take this path.

*The third approach.* This approach had few supporters and meant the following. It is necessary to solve the problem of farm debts to the state only. Farm debts to private creditors must be:

- i) fully liquidated and attributed to the business risk losses of creditors, or
- ii) settled based on separate court actions, filed by each private creditor.

The first approach is completely impractical – it cannot be legally decreed, as it would be a crime against ownership. Voluntary and mass cancellation by creditors of the farm debts is financially unreal and has no precedents.

The second approach assumed the enforcement of the previously analyzed bankruptcy procedure, but only with the participation of selected private creditors. This approach would have complicated and prolonged the debt settlement process.

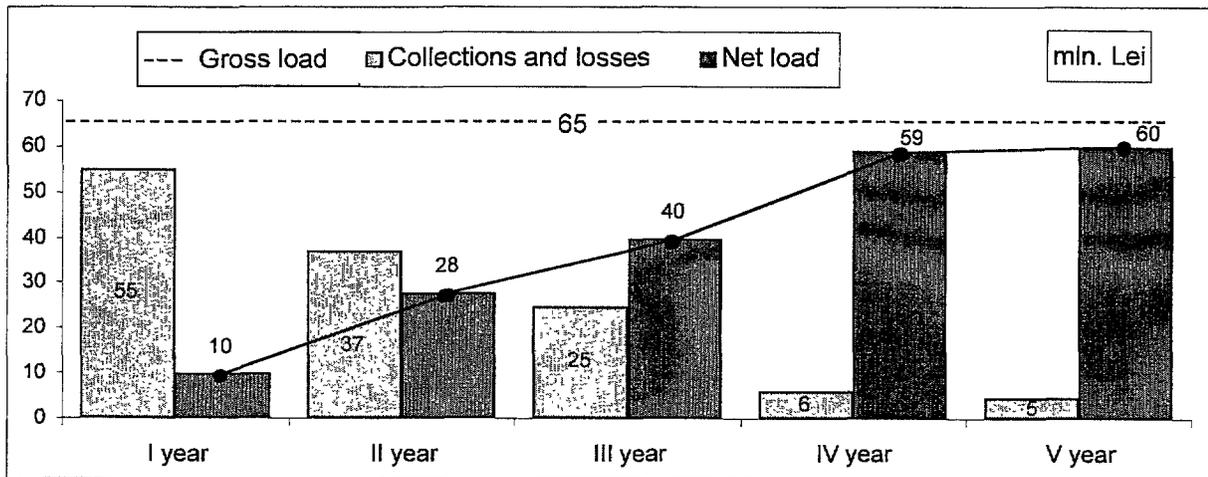
As a result, after long and arduous discussions within government, with the executives of the National Land Program, within Parliament and its members, and with donors, the following basic principles were established:

- Debt settlement must stimulate the process of creating new enterprises able to work in market conditions and based on privatized land and privatized property.
- Mass debt settlement is a one-time process, which will not be repeated. Upon its completion, the newly created private enterprises will solve the problems of newly gained debts independently, without state assistance, including through court procedures and the application of bankruptcy procedures.
- Settlement of debts will be applied only to farms participating in the National Land Program, which will form the basis for intensive and quick reform of the agricultural sector and will further stimulate the participation in the program.
- The interests of the private creditors must be reasonably defended.
- The burden on the country’s budget connected with settlement of farm debts must not be excessive.

There were very important budget questions, which were constantly raised during the analysis of all three approaches: what is the real amount of all farm debts and their structure? What losses will the budget bear as a result of debt settlement to private creditors?

Because the detailed analysis of the financial situation of farms through field work on 562 farms throughout the country (Section 2.2), only the forecast of the budget burdens as part of the state assumed responsibility to settle farm debts to private creditors will be discussed in the following paragraphs.

**Figure 3.1** The estimated dynamics of the budget impact



As discussed in Chapter 2 farm debt to private creditors could be resolved and the farm liquidated if this private debt was ceded to the state and offset against debt the creditors might have with the state. Creditor debt or payables to the state budget arise to settle excise tax, customs duties, value added taxes, land taxes and payments to the Social Fund, to mention several. But this mechanism would only work if the farm debt to private creditors was equal to or

less than the private creditor's debt to the state. What would happen if the private creditor did not owe the state sufficient funds to cover the farm's debt to the private creditor? How would this difference be settled and what impact would this have on the consolidated national budget if the state would settle these amounts? The following forecast (Figure 3.1, Table 3.1) was compiled based on the main principles and procedures being discussed for inclusion in the law.

Based on the survey of 562 farms discussed earlier, it was projected that this "overage" or overhang for all potential farms eligible for joining the National Land Program might amount to between 290 million lei and 365 million lei, or between 58 and 73 million lei per year over a five year period. Amortizing this estimated "overage" or overhang during a five year period would result in a two to three percent budget burden each year, which was judged to be acceptable both politically and financially for the Government and Parliament.

Table 3.1

**A. Budget load forecast**

(mln. lei)

Index	Year					Total
	I	II	III	IV	V	
<b>Realistic forecast</b>						
1. Repayment of treasury notes .....	65	65	65	65	65	325
2. Collections .....	50	32	20	1	0	103
3. Losses of private creditors.....	5	5	5	5	5	25
4. Net load (1-2-3)	10	28	40	59	60	197
<b>Optimistic forecast</b>						
1. Repayment of treasury notes .....	58	58	58	58	58	290
2. Collections .....	60	40	27	1	0	128
3. Losses of private creditors.....	8	8	8	8	8	40
4. Net load (1-2-3)	-10	10	23	49	50	122
<b>Pessimistic forecast</b>						
1. Repayment of treasury notes .....	73	73	73	73	73	365
2. Collections .....	40	25	12	1	0	78
3. Losses of private creditors.....	2	2	2	2	2	10
4. Net load (1-2-3)	31	46	59	70	71	277

**B. Collections forecast**

Assets	According to balance sheet, mln. lei	%		Total, mln. lei
		sales	price	
<b>Realistic forecast</b>				
1. Industrial units .....	270	75	35	70
2. Receivables .....	80	35	95	27
3. Stocks .....	40	95	15	6
Total	390	x	x	103
<b>Optimistic forecast</b>				
1. Industrial units .....	270	80	40	86
2. Receivables .....	80	40	100	32
3. Stocks .....	40	100	25	10
Total	390	x	x	128
<b>Pessimistic forecast</b>				
1. Industrial units .....	270	65	30	52
2. Receivables .....	80	30	90	22
3. Stocks .....	40	90	10	4
Total	390	x	x	78

Furthermore, the 290 – 365 million lei projections did not consider that many farms would transfer “excess” social assets when compared with the amount of their actual debts to the state. Likewise, other farms without sufficient social assets would also transfer separate agricultural processing facilities, shares received through the earlier mass privatization of state owned processing industries, and accounts receivables, some of which could be sold, leased or managed to produce future revenue streams for the state.

It should also be mentioned, that experience in Moldova has demonstrated that private enterprises work more efficiently than collective farms (which is the actual purpose of the National Land Program), and honor their liabilities to the budget in a more disciplined manner. Further, it was clear that this qualitative renewal of the tax base in agriculture will make the budget losses due to the Debt Program insignificant.

With these projections, it soon became evident that the aggregate or “net” burden on the consolidated budget would in fact be considerably less than the 58 – 73 million yearly projections mentioned above.

Therefore a system of issuing **treasury notes** (tax vouchers) to offset the “overage” or overhang was thought to resolve this issue, and without significant budget impact.

Further discussions and bargaining between Parliament, the Government and National Land Program officials decided that these treasury notes should not be negotiable, should be used to pay any obligation by a private creditor to the consolidated budget, and would be valid only in the designated year(s), not to exceed five years. The forecast of losses to be absorbed by private creditors as a result of the restrictions mentioned above is presented in table 3.1.

The forecasts of the budget impact of the selected option of settling farm debts, as well as supporting materials for these forecasts, were presented to the Government and the Parliament. This eliminated unnecessary debates with the opponents and eased defending the Debt Law.

### **3.2 Major principles and rationale of the Debt Law**

During the development of the Debt Law, the debt settlement concept described in chapter 3.1, and the following main principles were taken into consideration:

- system approach;
- usage of out-of-court liquidation procedures;
- voluntary restructuring;
- responsibility distributed to various parties during debt settlement;
- simplification of procedures to the extent possible and their detailed description in easy to understand regulations.

*System approach.* The systematic character of the Debt Law is firstly emphasized by the fact that it is oriented towards the achievement of the final objectives of the National Land Program, which are:

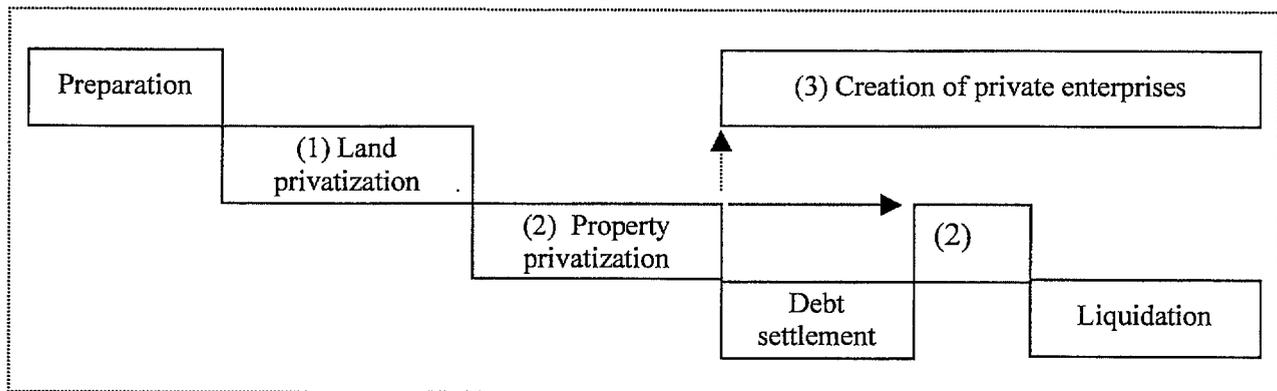
- (1) land privatization,
- (2) property privatization, and
- (3) creation of private enterprises free-of-debt.

However, the first versions of the Debt Law focused especially on settling farm debts as the most difficult problem. But when this problem was solved, it became clear that this law must also include:

- (i) coordination of debt settlement with the respective privatization processes (for example, debt settlement may begin only after land and critical property privatization, and final property privatization may only be finished after the settlement of all farm debts);
- (ii) description of the elements of the methodology of the National Land Program (see annex 5), which were not reflected in other legislative acts (for example, signing agreements with the National Land Program, particularities of finalizing property privatization).

Due to these additions, the draft Debt Law strengthened all the main elements in the methodology of the National Land Program. The whole process conducted by this program was named “restructuring”. The stages of this process, including the three main objectives of the National Land Program reflected in it are presented in Figure 3.2. The legal reflection of this process is included in Art. 2 of the Debt Law.

**Figure 3.2** Main stages of farm restructuring



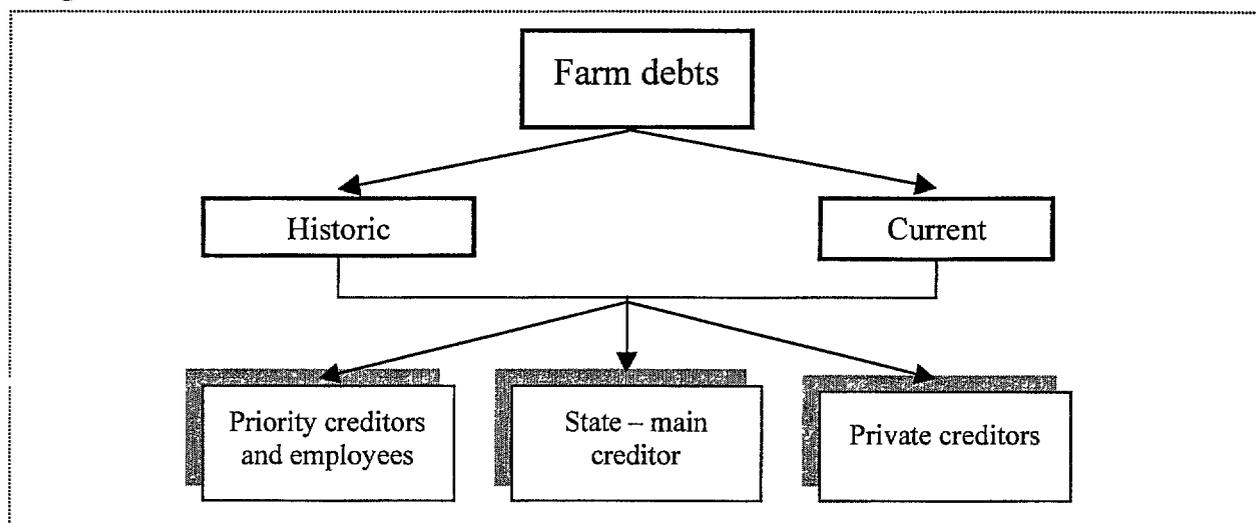
As we can see, the farm restructuring process cannot be reduced only to privatization, or debt settlement, or farm restructuring, or only to the creation of private enterprises. This is the uniqueness and main thrust of the Debt Law and its accompanying regulations.

The systematic character of the Debt Law is reflected also in the fact that it regulates a complex series of financial, organizational, and legal issues related to farm debt settlement.

The method of settling farm debts was most difficult, as the farms are insolvent, and the interests of the main restructuring participants (peasants, state budget, local budget and private creditors) are rather contradictory. Thus, the search for a unique and simple schematic for all types of farms to all categories of creditors was not, and could not be successful, i.e., some parties are satisfied some of the time, but it is impossible to satisfy all parties, always. In order to establish a balance

of interests for the main farm restructuring participants, their debts and creditors were categorized in classes (Figure 3.3).

**Figure 3.3** Classification of farm debts and creditors



Debts, incurred before 1 January 1999 were considered historic, and debts incurred after that date were considered current (Art. 2 of the Law). This debt classification allowed the development of a compromise between the budgetary interests of the state and financial interests of other farm restructuring participants. The essence of this compromise is the following.

According to the currently functioning budget methodology, historic debts are not considered during the development of the budget for the coming year, in our case – the budget for 1999. Thus, historic debts can be settled according to a preference scheme. On the contrary, contributions of 100% current debt settlement are taken into consideration. Thus, current farm debts to the state must be settled fully. This was the most the Ministry of Finance and the Main State Tax Office would agree to, as their main objective is to ensure real collection of contributions to the budget.

Priority creditors are banks or others whose loans were guaranteed by collateral, as well as *beneficiaries* (individuals to whom the farm is liable for health detriments or families of deceased employees killed as a result of a work-related accident). Debts to priority creditors and farm employees (wage arrears) are settled only on the farm's expense, i.e. in a regular manner.

The schematic of settling historic farm debts to the state and private creditors consists in the following. Because farms are insolvent, their historic debts to private creditors are transferred to the state, of course, with the state's consent (the main purpose of the Republican Commission for Settling Farm Debt – see later). After this dramatic procedure is finished, the state becomes the debtor of the farm's private creditors only to the extent the private creditor is not a debtor to the state.

The state, becoming debtor of private creditors, settles its debts by tax credits. With this view, the state issues **treasury notes** (tax vouchers), a kind of loan certificate from the Ministry of Finance valid for a 5-year period. As these certificates are not securities, they cannot be traded on the securities market. The idea of issuing tradable treasury notes (securities), i.e. cash payments from the budget, was rejected from the very beginning. This is explained simply with the fact that it is absolutely unreal to receive cash from the country's budget in order to pay off the state treasury notes in conditions of chronic and acute budget deficit.

The farm settles its historic debts to the state, including historic debts to private creditors transferred to the state. It was decided that this settlement would be done through the same untraditional process – by transferring property to the state, at its book value, in the following order (Art. 15, Debt Law):

- a) public assets (schools, hospitals, cultural centers, roads, and other communication means) - into the ownership of mayors' offices or local maintenance organizations, in order to maintain the village social infrastructure;
- b) mills and oil mills – into the ownership of mayors' offices, with the view to create municipal enterprises that would satisfy the needs of villagers and contribute to the local budgets;
- c) agricultural or crop processing facilities - into mayors' offices administration for their privatization against cash proceeds;
- d) portfolio stocks<sup>15</sup> – to the Department of Privatization for their sale against cash proceeds;
- e) accounts receivable – to local tax offices for forcible collection, in conformity with the respective tax legislation.

The given list of property is exhaustive. If the listed property is not enough to settle historic farm debts to the state, it was decided that any debts remained would be cancelled.

The main facilities offered to farms by the state are: acceptance by the state of historic farm debts to private creditors, transfer to the state of limited non-cash property as historic debt offset, transfer of this property at its book (not market) value, cancellation of the amount of historic debts remaining unsettled, and exemption of these transaction from taxation.

For organizational purposes, the following principle was adopted: the sooner the prepared reform is conducted, the higher chances to success it has. Thus, the enforcement period of the Debt Law was limited to 1 July 2001. All farms that do not manage by this time will be forced to solve their privatization and debt settlement issues on their own. After the approval of this law, the number of farms joining the National Land Program increased substantially.

Upon completion of the development of the Debt Law, the question of its position in the Moldovan legislation system emerged. The problem was that this draft law included a series of new regulations, which were either not stipulated by the current legislation, or contradicted it. In similar situations in the Republic of Moldova, as well as in some other countries, such a law describes the norms when it has priority to other laws in the same domain. However, in its

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<sup>15</sup> The vast majority of portfolio stocks belonging to collective farms were received by them during the mass privatization program.

Decision No. 56 of 26 October 1999, the Constitutional Court of the Republic of Moldova ruled that such priority norms are unconstitutional. The Debt Law was being developed during the same period. Therefore, in order to exclude difficulties in passing and enforcing the Debt Law, amendments for 6 complementary laws were developed (Table 3.2). These amendments were short and simple, but they created good legal defense for the Debt Law. Indeed, by harmonizing this law with the current legislation, these amendments deprived the opponents of any formal grounds to attack the Law during its development and approval.

**Table 3.2** Short characteristic of the amendments to laws related to the Debt Law

Amended law	Idea of the amendment	Objective of the amendment
▪ Civil Code	The court has no right to arrest farm critical property	Defend farm critical property from aggressive creditors
▪ Law on entrepreneurship and enterprises	Particularities of agricultural farm liquidation are regulated by the Debt Law	Exclude contradictions (the first Law did not stipulate out-of-court liquidation procedures)
▪ Law on enterprise restructuring	Idem	Idem
▪ Law on State Tax Office	Tax offices must participate in farm debt settlement	Prevent a boycott of tax offices
▪ Law on budget for 1999	The Debt Law determines the particularities of farm relations with the budget	Exclude contradictions (Law on budget for 1999 does not stipulate a special procedure of settling farm debts to the state)
▪ Law on budget of state social insurance for 1999	Idem	Idem

All these amendments were included in a separate law, which was examined and approved together with the Debt Law. Such a comprehensive approach was more convenient than separate presentation and approval of the two laws. It spared time and avoided problems – it was not necessary to wake twice the “parliament tiger”.

Furthermore, in order to estimate future problems with some other laws, the Debt Law was given organic law status. Respectively, if there are contradictions between this law and ordinary laws, the Debt Law has priority. Such a priority is in absolute compliance with the Moldovan Constitution, which stipulates three types of laws, based on their priority – constitutional, organic, and ordinary.

*Out-of-court farm liquidation procedure.* The Debt Law regulates both settlement of all farm debts and the farm liquidation itself. The following circumstances engender the necessity of liquidating collective farms.

First of all, *kolkhozes* (collectives) and *sovkhazes* (state farms) are economically ineffective in market conditions – 70%-80% of them are actually absolutely bankrupt, i.e. the market value of

their assets is smaller than the amount of all debts (see chapter 2). This is why privatization of the agricultural sector of the national economy is absolutely necessary.

Second, after land and critical property privatization, *kolkhozes* and *sovkhoses* do not have enough resources to continue agricultural production.

Third, aggressive creditors are trying to transfer the burden of *kolkhoz* and *sovkhos* debts to the newly created private enterprises. Leaders of private enterprises, however, sometimes try to refer their enterprises' taxes and expenses to the *kolkhozes* and *sovkhoses*. It is clear that both actions bare a negative character and contradict the tasks of agricultural sector restructuring.

Fourth, only when the farm is being liquidated, is it possible to force its creditors to quickly settle the debt problem, using quite favorable methods, and stop the possibility of continued fraud and tax evasion.

Fifth, *kolkhozes* and *sovkhoses* have been an illegal enterprise form for seven years already. The Law on entrepreneurship and enterprises (adopted in 1992) included a limited list of enterprise legal forms in Moldova. *Kolkhozes* and *sovkhoses* are not included in this list.

Based on professional arguments, any of the reasons given above would be sufficient to reinforce the necessity of collective farm liquidation. However, all these reasons were considered because *kolkhoz* and *sovkhos* liquidation stirred up criticism from the anti-reform opposition.

The next question was – how quickly can the mass farm liquidation procedure be conducted? Court farm liquidation procedure is rather long, expensive and not always predictable. Besides, the potential of the Moldovan court system was absolutely inadequate to cover mass farm liquidations (see also chapter 2.3).

A normal reaction to the insufficiency of the classical liquidation procedure for insolvent farms was the idea of out-of-court liquidation. The main advantages of this procedure is its relative simplicity. Calendar calculations demonstrated that by using out-of-court procedures the final objectives of the National Land Program could be achieved within reasonable timeframes.

The Debt Law does not include the out-of-court procedure for liquidating insolvent farms as an imperative, but as a possible alternative to the court procedure. This can be explained by the fact that according to the general norms of civil legislation, an insolvent enterprise has only the right to decide on its liquidation, whereas the liquidation method – court or out-of-court – is determined exclusively by the creditors. A different approach would have rudely infringed the creditors' right to ownership.

Creditors exercise their priority right within one month after the farm decides to resolve debt and liquidate and this decision is published in the Official Monitor of the Republic of Moldova. Within this timeframe, just like in other liquidation procedures, creditors file their claims against the farm. In these claims, besides including the amount of farm debts, creditors must mention which farm liquidation procedure they choose – court (bankruptcy procedure) or out-of-court (Art. 8, Debt Law).

However, it is important to take into account that the state, as a creditor, in accord with Art. 8, Debt Law, always chooses the out-of-court farm liquidation procedure. Assuming that approximately 60% of all liquidated farm debts are debts to the state, it becomes clear that the choice of out-of-court farm liquidation is predetermined.

Experience of enforcing this law has shown the following. For three out of four farms, private creditors voted unanimously for out-of-court liquidation procedure. On average, for every farm, only one out of four creditors chooses court liquidation procedure. In the end, the court liquidation procedure did not get many votes as none of the farms that published liquidation notices, in accord with the Debt Law, were obliged by creditors to follow regular bankruptcy procedures.

Thus, the results of mass voting of private creditors, combined in the same document with the classical procedure of forwarding claims to the farms, prove that the overwhelming majority have voted for the out-of-court liquidation procedure. The reason is clear, this procedure is more advantageous for private creditors.

*Voluntary restructuring.* Another principle of the Debt Law is that, according to this Law, the general meeting of farm members makes the decision on farm liquidation. This refers not only to farm liquidation, but also to land and critical property privatization.

Voluntary participation in restructuring is expressed not only by participants' free communication of their opinions at the farm general meeting, but also in the fact that relations between the National Land Program and the farms are being included in agreements signed with the National Land Program. The basic agreement with the NLP is signed for land and critical property privatization, and for creation of new private enterprises. Only after complete fulfillment of these steps, the additional agreement with the National Land Program for debt settlement, final property privatization and farm liquidation is signed.

Thus, the system of "two agreements", although a little intricate, allows farm participants to decide on farm liquidation, even after all the land and critical property is distributed, and agricultural activity on the old collective is terminated. Experience shows that this choice once again strengthens the signing of the main agreement with the National Land Program, stimulates its fulfillment and creates equal agreement-based relations between the farm and the Debt Program. (Of course, under ideal circumstances, it should be enough to sign one agreement for the whole restructuring process.)

The experience of implementing the Debt Law also proved that approximately 1%-2% of all farms, which had already conducted land and critical property privatization within the National Land Program, did not wish to settle their debts and liquidate, in accord with the Debt Law. These farms did not sign additional agreements with the Program on continuation of restructuring. For example, agricultural production cooperative "Aroma" (Cobusca Nou\_ village, Anenii Noi raion) chose this path. This cooperative refused to liquidate, because its products have earned appreciation abroad, and cooperative liquidation would have immediately slowed down the process. The National Land Program respects the free choice of such enterprises.

For Moldova's conditions, the voluntary principle had and still has political meaning as well. It took away the opponents' favorite argument about forced *kolkhoz* and *sovkhoz* liquidation.

*Responsibility distribution.* According to the forecasted data, within a limited period of time (two years), 1.4 billion lei historic farm debts were to be settled in the restructuring process. Moreover, settlement must also be conducted in an untraditional manner. That is why, a critical question was raised: *who* would make decisions on settling these debts on behalf of the state. From various discussed variants (Parliament, Government, judge\_ commissions, etc.) of such a body, a Republican Commission was empowered to settle farm debts to the state (Art. 11, Debt Law).

The Republican Commission for Settling Farm Debt includes representatives of various ministries and departments, participating in the debt settlement process. The main ones are the Ministry of Finance, the Main State Tax Office and the Social Fund.

The Republican Commission, as opposed to the Government or the Parliament, can conduct technical work and quickly make decisions. At the same time, several ministries and departments are responsible for making decisions on settling debts to the state. The Law stipulates two measures of control over the activity of the Republican Commission by the Parliament and the Government:

- (i) the Republican Commission publishes monthly in the Official Monitor the main content of its decisions, and
- (ii) the Republican Commission submits quarterly reports on its activity to the Government, and the Government submits yearly reports to the Parliament.

The Republican Commission may also settle current issues with the representatives of ministries and departments involved. The Republican Commission's authority is enough to settle issues with ministries and departments, representatives of which were not included into its membership. This hypothesis was proved in the course of activity. Moreover, when in the beginning of 2000 the crisis on settling current farm debts arose, a second Republican Commission was created. However, the main drawbacks of this commission is the fact that its members are reluctant to undertake responsibilities for unusual issues not fully regulated by the existent legislation (see also chapter 4.3).

The principle of delegation of responsibilities is also used at the farm's level during liquidation, which is conducted by the Property Commission. This commission is chaired usually by the farm manager. Farm's chief-accountant, representatives of the territorial office of the Department of Privatization and State Property Administration, and of the Ministry of Agriculture and Processing industry, are also members of the Property Commission.

Critical property privatization proved that these commissions are most efficient. Why? Because their responsibilities are divided among a large group of people, and the commissions are temporary.

*Simplification of procedures and their detailed description.* Out-of-court farm liquidation is not being organized by the court, but by the Liquidation Commission. In order not to complicate the administration of this procedure, functions of the Liquidation Commission have been transferred to the current farm Property Commissions (Art. 9, Debt Law):

The Law describes in most details the debt settlement procedures. This was necessary because financial tools (cancellation of debts with expired maturity term, debt transfer, debt settlement using non-cash proceeds, treasury tax vouchers, etc.), included in the Debt Law, were not widely used in the country. Besides, any ambiguities in the procedures presenting the least risk for budgetary means, may be used by state officials to slow down the process. Such delays are usually the result of long coordination of Government decisions and administrative circulars of ministries and departments relating to the implementation of the law, in which officials try to distort the meaning and objectives of the law. These bureaucratic and anti-reform forces cause frustration, but so far they have been unable to stop this reform process.

Thus, the main principles of the Debt Law are a response to concrete problems set for the National Land Program in the beginning of 1999. At the same time, these principles are rather general. In our view, this may facilitate their adoption in other countries facing similar problems under similar macroeconomic and political situations.

### **3.3 Farm restructuring steps under the Debt Law**

#### **1. Steps preceding farm liquidation**

**In-kind property share allocation.** The critical property is allocated by the Property Commission to privatization participants, regardless of the farm financial situation and its debts. The property share can be received in-kind by the privatization participant himself or by his proxy representative. In-kind allocation of production facilities and neighboring lots is being done based on the necessity of compact organization of the production process.

**Foundation of private enterprises.** The private enterprise is being founded by persons who were allocated in-kind land shares and property shares from the critical property, or only the land share – within 3 months from the date of receipt of the respective title certificates. The private enterprise can be a peasant farm or another legal form. These enterprises may use, until all debts are settled, based on an agreement, property of the farm undergoing privatization, only if this property is not seized. If the land share holder has alienated or leased out the land, s/he is obligated to submit the respective documents to the mayor's office.

#### **2. Beginning of the farm liquidation procedure**

**Approval of the farm liquidation decision.** The farm liquidation procedure begins when the respective decision is made by the general meeting of shareholders, associate members or cooperative members. The Property Commission publishes a notice on farm liquidation in the *Official Monitor*, in accord with the Debt Law. The farm *liquidation notice* states that creditors can file their claims to the farms within one month from the publishing of the notice, and must

indicate which farm liquidation procedure (court or out-of-court) they choose. The amount of state-claimed debts is determined based on the extracts from the personal account of the taxpaying farm; all these claims are chosen to be settled through out-of-court procedures. *Priority creditors* and farm employees are not obligated to file claims to the farm; also, they cannot vote for any of the two liquidation procedures. The liquidation procedure (based on the law on bankruptcy or the Debt Law) is chosen on the basis of claims of those creditors, debts to whom are more than 50% of the total of all submitted claims. Claims not filed, or filed after 30 days are written-off as *unsolicited* claims, and their deduction from the farm's balance sheet is authorized in the law. *Expired* debts are cancelled in the same manner (over three years from the date the debt became overdue).

**Farm restructuring upon the local council decision.** If it is impossible to hold a farm general meeting because it stopped its production activity or due to other reasons, the farm restructuring and liquidation decision may be made by the local village council, in accord with Law 392-XIV of 13 May 1999.

**Creation of a new Property Commission.** If the privatization commission ceased its activity or the farm does not conduct any activity, the local council can create a new Property Commission, which is delegated the rights and obligations of the original Property Commission.

**Consequences of publishing the farm liquidation notice** are the following:

- a) creditors consider that they are being informed and are obligated to file claims;
- b) debts are considered redeemable, and the claims are being settled by means of a unique procedure;
- c) farm property cannot be written off, seized or collateralized in any other way.

### 3. Settlement of debts to priority creditors and employees

**Debts to beneficiaries** – are settled first, by transferring the compensation payments to the creditor, stipulated by law, directly or by capitalizing<sup>16</sup> Social Fund payments. Settlement directly to beneficiaries is done by using cash proceeds or other farm property accepted by the creditor.

**Collateralized debts** – collateralized debts are settled, using collateralized property, and if this is not enough, the remained debt is settled according to the general procedure.

**Debts to farm employees** – debts to farm employees for wage arrears are settled according to the method of settling current debts.

### 4. Historic debt settlement

**Compilation of the creditors' registry.** Based on creditor's claims, the registry of creditors' claims, signed by the chair of the Property Commission and mayor, is compiled; the registry also indicates liquidation method chosen by each creditor. Reconciliation statements are compiled by the Property Commission within one month from the date of publishing the farm liquidation

<sup>16</sup> The basic procedure of capitalizing is to determine the net present value of the stream of disability payments over the expected lifetime of the individual.

notice, and are submitted to the tax office. The tax office verifies the documents and forwards them to the Republican Commission for examining and decision making.

**The Republican Commission for Settling Farm Debt** takes decisions on state acceptance of farm's historic debts to private creditors which have not been either time barred or excluded because the creditor failed to respond to the liquidation announcement in the *Official Monitor*. Based on this decision, the Tax Office register the state receipt of historic farm debts to other creditors in the personal accounts of both the farm and its creditors. The decisions of the Republican Commissions are also published in the *Official Monitor*.

**Offsetting farm's historic debts to the state.** Historic farm debts to the state, formed from primary debt (actual farm debt to the state) and secondary debt (formed as a result of state receipt of historic farm debts to private creditors), are offset with certain categories of property the ownership of which has been ceded to the state in a strict succession in accord with the law.

**Property used for debt settlement, stipulated by Law:**

- a) public assets - into the ownership of local government;
- b) mills and oil mills - into the ownership of local government;
- c) agricultural processing facilities - into the administration of local government;
- d) portfolio shares – to the Department of Privatization for further privatization;
- e) accounts receivable – to local tax offices for forcible collection.

Each latter category of property may be used only upon complete transfer of previous categories, i.e. if the previous category is not sufficient. The debt offset using property is carried out by the territorial tax office, within 5 days from the submission of the transfer bills.

**Writing-off of the historic debts to the state remained unsettled** – is done only in instances when some part of historical farm debt remains unsettled (unsettled historical debt balance) after transfer to the state of all the farm property defined for that purpose. The respective request is submitted by the chair of the farm Property Commission to the territorial tax office, which forwards it to the Republican Commission for the respective decision.

## 5. Settlement of current debts

**The sequence of current farm debt settlement:**

- a) debts to beneficiaries;
- b) debts to employees, which include all unpaid wages;
- c) debts to the state;
- d) debts to other creditors.

**Property used for current debt settlement, after the settlement of priority debts:**

- a) cash proceeds;
- b) agricultural products;
- c) other property, except for seized property or property destined for historic debt settlement.

**The procedure of current debt offset with property.** The property is transferred to creditors, according to the scheme of preferences mentioned above by: (a) direct negotiation; (b) auction organized among creditors of the same level. The creditor is offered a written proposal by the Property Commission, to which a list of property destined for current farm debt settlement is attached. Within 20 days, the creditor must give its agreement to receive the offered property and consider the debt settled or to reject it and cancel the debt. Lack of creditor's answer is considered rejection. The property is proposed at the estimated appraised value established by the Property Commission. In case of differences regarding the value of the proposed property between creditors and the farm undergoing the liquidation process, the respective property evaluation can be conducted by a licensed appraiser.

#### **Settlement by transfer of farm debts**

- a) Upon consent of the creditors (frequently farm employees -unpaid wages, farm input suppliers or banks), one or more private enterprises created during the privatization process may accept current debt provided that the collective undergoing debt settlement and liquidation also transfers an equivalent amount/value of property – at estimate or market value – to the new private farm willing to accept current debt.
- b) Part of the current debts, including debts to beneficiaries (priority creditors) can be transferred to the enterprise created by local government to own and operate property transferred to the local government (mills, oil presses, agricultural crop processing facilities) in settlement of historic debt, provided that the amount of these debts transferred does not exceed 10 percent of the value of the assets transferred, and the transaction is approved by both the creditor and the local council of government (village council).

### **6. Settlement by the state of transferred debts**

**Method of settling private debts transferred to the state.** The state offsets the transferred farm debts to a private creditor within the limits of the creditor's debt to the State.

**Treasury notes (tax vouchers).** If the amount of a creditor's debt to the State is less, the difference in favor of the creditor is settled by the Ministry of Finance in equal installments over a 5-year period through tax credits. The state obligations are confirmed by Ministry of Finance treasury notes, in form of annotations in the personal accounts of the enterprise in the Treasury Notes Registry. The Main State Tax Office includes the respective annotation on the transfer of historic farm debts to the state, within one month from the date the Republican Commission made the decision. Ministry of Finance treasury notes cannot be alienated or transferred to third parties, they can only be transferred to the creditor's legal successor.

#### **Terms and manner of debt offset through tax credits.**

The historical farm's debts to private creditors relinquished to the state are repaid by the Ministry of Finance in equal installments over a five year period through offsetting of all types of payments (taxes and other levies) to the state and local budgets accrued on each creditor (tax credit). Tax credit is applied starting the calendar year following the year of debt transfer. If a creditor's tax payments to the state and local budgets accrued over a five-year period proved to be less than the amount of historical farm debts relinquished by it to the state, the validity period of the treasury notes is not prolonged.

## 7. Privatization of property, remaining after debt settlement

**Calculation of property shares.** The farm Property Commission calculates the property shares of each privatization participant in the remaining assets on the list of remained property, and ensures its allocation through a second and final property tender.

**Transfer of property unclaimed by privatization participants.** Property, in calculated property shares, unclaimed at the end of farm liquidation, is transferred into the economic administration of local government. This procedure is necessary only when a participant or his/her proxy is not present at the final property tender. This property is allocated to its owners within 30 days from the receipt of their requests. The final deadline for submitting requests to receive property is 1 July 2001, after this date, the respective property goes into the ownership of local government. Unsolicited land lots remain under the local governments' administration until they are solicited by the privatization participants. There is no time limit in the applicable legislation.

## 8. Termination of farm liquidation

**Compilation and authorization of the liquidation balance sheet.** Within 10 days from the settlement of all farm debts, the Property Commission prepares the farm's final liquidation balance sheet and submits it for approval to the general meeting; and if it is impossible to hold a general meeting, the balance sheet is approved by the local government. The final liquidation balance sheet, together with other foundation documents, is sent to the territorial tax office, which approves it within 5 days, and returns it to the Property Commission.

**Removal of the farm from the State Commercial Registry.** Within 5 days from the receipt of all required documents:

- a) the request on farm's removal from the State Commercial Registry;
- b) farm's registration certificate (the original);
- c) statement confirming complete settlement of debts to the consolidated state budget, issued by the territorial state tax office;
- d) statement confirming that the farm closed its bank account(s), issued by the servicing bank(s);
- e) foundation documents (original);
- f) certificate confirming that the farm's stamps and seals were destroyed, issued by the local police office;
- g) copy of the farm liquidation notice published in the Official Monitor of the Republic of Moldova;

the State Registration Chamber within the Ministry of Justice removes the farm from the State Commercial Registry, and issues a copy from the registry to the Property Commission of the collective farm.

## Chapter 4. Implementing the Debt Law

### 4.1 Internal structure and methodology

After the Law on Restructuring of Farms Undergoing Privatization was passed by the Moldovan Parliament on 13 May 1999, the CPBR decided to form a new unit (Debt Resolution Unit – DRU) to provide assistance to all Government agencies involved in debt resolution and liquidation of collective farms under the provisions of the Debt Law, as an integrated part of the National Land Program.

Following the existing CPBR internal structure, new teams of 3 accountants each were formed within each of the eight FPRCs<sup>17</sup>. New staff was also hired to form two Chisinau based teams: the core team and the expert team. The **local teams** assist the Property Commissions of the farms in preparing legal and accounting documents, provide consultations on different issues. The **core team** is mainly formed by eight accountants-coordinators assigned to each FPRC. These coordinators are responsible for the organization of the debt resolution work and liquidation of collective farms within their regions in compliance with respective legal procedures and according to internal monthly targets. The core team members ensure the flow of information and provide the link between local teams and Property Commissions on the one hand, and the expert team and state agencies on the other. The **expert team** composed of economists, lawyers and accountants provides technical assistance to the Republican Commission, and represent the farms' interests during the sittings of the Republican Commission. The expert team members also provide consultations to coordinators and local teams, check the correctness of all documents prepared in the field before they are presented to the Main State Tax Office, Ministry of Finance, and the Republican Commission. As work started, another activity of the expert team became vital: assisting different Government agencies (mainly the Tax Office and the Ministry of Finance, the Social Fund, Registration Chamber by the Ministry of Justice, the State Archive, the Department of Privatization, the National Securities Commission, and others) in drafting internal regulations and issuing circular letters aiming at adjusting existing working procedures to the provisions of the Debt Law, providing clear instructions to local authorities and Government representatives on the implementation of the Law, as well as training them through a series of seminars organized during the first 2-3 months of our activity. Thus, more than 170 official documents were prepared on behalf of different Government agencies in the form of letters, circulars, orders, Government regulations, amendments to laws, etc (see section 4.4).

The new staff for the Debt Resolution Unit teams was hired in June 1999. It was also decided to add a senior expatriate advisor to the CPBR staff to provide advice and council to the DRU and accept responsibility for meeting the targets. This person arrived in September 1999. The members of the DRU teams were intensively trained by CPBR specialists, explaining the Debt Law and other legal issues involved, announcing the timeframe and the goals of the project, and how to achieve these goals under the Debt Law provisions. The work methodology was

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<sup>17</sup> Farm Privatization and Restructuring Centers (FPRC) are CPBR's local offices implementing the NLP. Currently there are nine FPRCs in most government centers, each staffed with 20-30 professionals and support personnel. In terms of geographical coverage, FPRCs coincide with Territorial Agencies of the Department of Privatization which is a government institution.

developed: the entire process of debt resolution and liquidation of farms was divided in discrete and sequential stages, and the key players in each stage, as well as the flow and sequence of documents to be prepared through the process, were identified and clarified. It was decided that the work progress, stage by stage, on each farm, within each region, would be assessed and monitored by DRU management on a weekly basis to prevent any inconsistencies, possible delays and failures to meet monthly targets.

After the Law on Restructuring of Farms Undergoing Privatization was promulgated by the President and enacted on July 15, 1999, it became possible to plan the activity of DRU in detail. The plan was based on the assumptions that: it takes a farm about 5 months<sup>18</sup> to complete the whole process; between 800-900 farms would join the program; one year would be sufficient to finish the work on all farms. Thus, monthly work plans for one year were elaborated for each FPRC. The work plans contained 10 consequent stages a farm should go through to completely settle its debt and liquidate, and numbers of farms that should complete each stage at the end of each month. In such a way each local team had sets of tasks to accomplish during each month.

The work plan was the main tool for monitoring and controlling the whole process with the overall objective – completion of privatization and liquidation of 888 farms in compliance with Moldovan legislation by August 31 2000.

## 4.2 First steps

Assisting the Ministry of Finance and the Main Tax Office in drafting the regulations to the Debt Law, i.e., the Government Decisions required by the Debt Law (*Decision on Republican Commission for Resolution of Farm Debt* (No. 767, of August 9, 1999), and *Decision on State Support in Restructuring of Farms Undergoing Privatization* (No. 854, of Sept. 17, 1999)) was the first important activity of the Debt teams. These two Government Decisions (annex 4) were designed to provide detailed regulations and mechanisms for debt resolution, completion of privatization and liquidation of collective farms. The regulations also contained the necessary forms (documents to be filled in) for the entire process and that fact ensured the smoothness and regularity of the process and excluded any misinterpretations and ambiguity, also making possible later automation of the process. Direct participation of DRU staff in developing the regulations and the forms excluded the need for training staff after these regulations were adopted by the Government, and, to a certain degree, simplified the process since the co-authors of the forms were the future implementers. This aspect was critical and only hindsight has confirmed this.

The last regulation was enacted late in September 1999, thus completing the legislative base for the process of farm restructuring and privatization of the agricultural sector of Moldova. By the end of that month 232 collective farms published their liquidation announcements in the Official Monitor in compliance with Law 392-XIV, whereas 18 farms from all the regions of Moldova

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<sup>18</sup> Based on terms stipulated by the Law on Restructuring of Farms Undergoing Privatization, it was calculated that the maximum time needed to settle all debts, complete privatization of assets, and liquidate the farm was 5 months. In practice, we had “easy-going” farms that did so in 2 months, and “problem farms” that required more than 10 months.

settled their debts and distributed the remaining property amongst the participants to privatization, and were liquidated.

The first several dozen farms liquidated during the first months of the DRU activity proved that the Law on Restructuring of Farms Undergoing Privatization was workable, and that the methodology developed and applied by the National Land Program based on the existing legislation was applicable at national level with no reservations whatsoever. Attracting more farms into the process and getting the government at both central and local levels more involved was the next task for the National Land Program.

Following this imperative, 10 seminars were organized in all judets<sup>19</sup> (Moldovan administrative-territorial unit) and the capital of the country. Judet officials (Prefects and Chairmen of Local Councils), Primars (heads of local administration), specialists of various government agencies of central and territorial levels (Department of Privatization and State Property Administration, Ministry of Finance, Tax Office, Customs Department, Social Fund, State Registration Chamber, State Archives, Department of Statistics and Sociological Analyses, Office of Public Prosecutor, law-courts), as well as farms' main creditors, heads of Property Commissions and accountants of farms subject to debt resolution and liquidation participated at these seminars. Speeches given by former collective farm managers who had already benefited from the program (those were primarily from the first 18 farms liquidated) were particularly popular. During the seminars the NLP specialists explained the procedures under the Debt Law, their sequence, the rights and responsibilities of all participants in the process at different stages, etc. The seminars were of great interest to all parties involved judging by the number of questions asked at round tables concluding the seminars. More than 2,500 people attended the seminars. Sets of handouts that included brochures with texts of the Debt Law, Government Decisions and Ministry of Finance orders, specially prepared guidelines for Primars, Social Fund, State Archive and Tax Office employees were distributed to seminar participants.

For transparency reasons, extraordinary sittings of the Republican Commission were held in various judets at the beginning. These field sittings of the Republican Commission (usually hosted by Judet Prefect – Government local representative) also aimed at getting a better insight into the problems encountered through the process of farm restructuring, speeding up the process, attracting more farms, and solving problems on the spot in the presence of more parties involved. After the sittings, representatives of the Main State Tax Office, members of the Republican Commission organized seminars for local Tax Office employees providing guidelines on the procedures of farm debt settlement, and they also measured the work progress of the local working groups<sup>20</sup> against the provisions of the Government official schedule<sup>21</sup>.

In accord with the Government Decision No. 854 *On state support in restructuring of farms undergoing privatization* the Ministry of Agriculture and Food Processing Industry together with

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<sup>19</sup> Following Government instructions No. 1006-637 of 20 September 2000, 9 judet seminars and one national seminar with the topic "Restructuring of farms undergoing privatization" were organized.

<sup>20</sup> Pursuant to the order of the Ministry of Finance No. 109 of 21 August 1999, working groups responsible for the implementation of the Law No. 392-XIV were formed within each local tax office.

<sup>21</sup> Annex No. 4 to the Decision of the Government of the Republic of Moldova No 854 of 17 September 1999 On state support in restructuring of farms undergoing privatization provided a quarterly schedule for transfer to the state of historical debts and their settlement by farms participating in the National Land Program.

the Ministry of Economy and Reforms created judet working groups including representatives of their territorial divisions for the purpose of timely changing the membership of property commissions and taking ad hoc decisions on any other issues which appear during the fulfillment of the quarterly schedule for transfer to the state of historical debts and their settlement by farms participating in the NLP. In many judets these groups manifested good cooperation with the NLP and understanding of the NLP principles and goals, and proved to be very helpful in removing obstacles in farm restructuring and completion of privatization.

Another important and complicated mission of the DRU was to collaborate with various Government agencies in order to harmonize different working methodologies in use. Conflicts of interests demanded a thorough understanding and cooperation from all parties involved, especially when dealing with financial issues. Due to the complexity of debt settlement procedures, an impressive list of various participants belonging to different Government structures were involved in the process. According to established traditions, and in response to the avalanche of questions asked by the local government, the central government had to issue official explanatory notes in form of circular letters, instructions and orders. The Debt Program specialists assisted different Ministries and Departments in drafting these instructions before they were officially disseminated to the local government. This collaboration of the NLP and central government, especially the Ministry of Finance and the Social Fund, was seldom smooth. Conflicts were caused by the NLP tendency to simplify and expedite the process of debt settlement, whereas the Ministry of Finance and the Tax Office, for example, had the task to “defend” the budget and increase tax collections in cash. Notwithstanding opposing interests, compromises have been always found and the process has never been fully stopped. As a result, more than 30 official letters and orders providing instructions on procedures for farm debt settlement and liquidation have been drafted with the NLP active participation and issued by the central government during the first months. During that time government agencies were establishing internal procedures and were taking certain positions under the provisions of the new law. It was extremely important then for the debt team to be tuned to all decisions taken by all government agencies which required vigilance and prudence. It was vital to react promptly to make sure NLP principles were not misinterpreted or distorted, and that the NLP goals and the time-schedule were not jeopardized.

### **4.3 Major constraints to farm debt settlement**

Mass farm debt settlement has no precedents in Moldova, and because of this, delays were to be expected. Besides, the debt settlement process regulates contradictory interests of its many participants. Data indicates there are approximately 430 creditors per farm, including:

- 2 beneficiaries<sup>22</sup>;
- 400 employees (usually unpaid wages);
- 2 state bodies (territorial tax office and territorial representative of the Social Fund), which represent the state-creditor;
- 26 private enterprises – creditors.

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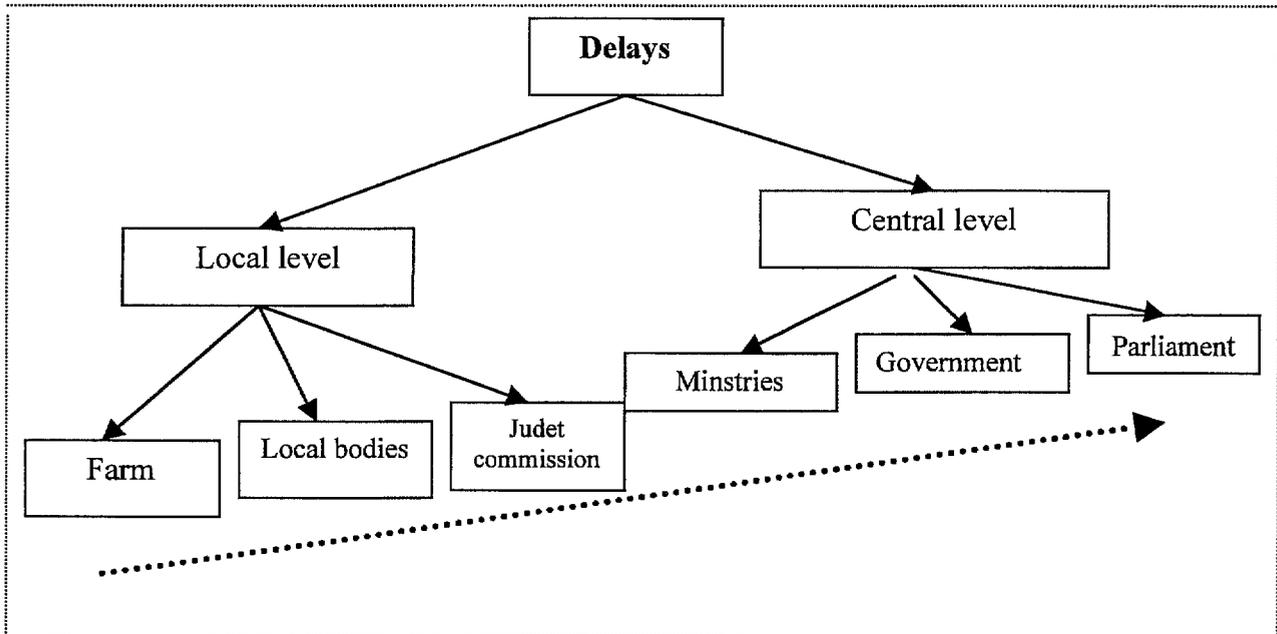
<sup>22</sup> Beneficiaries are individuals to whom the farm is liable for health detriments or families of deceased (surviving spouses and minor children of deceased workers are also entitled to a monthly pension if death was due to a work-related accident).

The circle of public administration agencies that control this process is also large (Annex 6). The delays encountered are subdivided into delays at the local level and delays at the central level, based on where they are regulated. The reason for such a division is that, in the beginning, settlement of any delays is always initiated at the local level. If that fails, the issues are settled at the central level, in hierarchical order (Figure 4.1).

The practice of resolving delays of farm debt settlement showed that the main reasons for these delays were *problems of settling current debts, historic debts to banks and transfer of farm portfolio shares*.

The first two problems are conditioned by the contradiction of interests between the agricultural reform and the national budget. This conflict of interest appears in the same state public administration bodies, which gives them duplicity and instability.

**Figure 4.1** The order of eliminating delays encountered during farm debt settlement



**The current debt problem.** This problem emerged because the Ministry of Finance, Main State Tax Office and the Social Fund are traditionally the administrators of budgetary inflows. As a result, these bodies are interested in selling farm property to contribute cash to the budget.

On the other hand, being ordinary creditors, according to the Debt Law, these bodies are obligated to receive from the farm real property as debt offset to the state, which is not considered as a budget contribution. Thus, their second role contradicts their first one. Moreover, this second role is unusual for them – often, in the beginning of the debt settlement process, these bodies did not submit their requests to the farms, wrongly considering that they are regulated by the public law even during the farm liquidation process.

The National Land Program insisted that the state be an ordinary creditor with no privileges. As a result, in the course of settling current debts, requirements in Art. 17 of the Debt Law regulate the state as well. This means that the state, like the other creditors, must choose property, within 20 days, from the list offered by the farm after historic debt settlement. Immediately after the receipt of this property, the state cancels current farm debts at the total appraised value of the property, without waiting for its sale. If the state refuses to receive this property, or does not answer within the established timeframes, current farm debts to the state are canceled.

At the end of 1999, after much hesitation, The Ministry of Finance, Main State Tax Office and Social Fund took a firm position regarding the process of settling current farm debts, according to which:

- budgetary interests have priority as opposed to agricultural sector interests;
- tax bodies are not ordinary creditors and they will not be “the division for agricultural property sale”.

Based on that, the Ministry of Finance, in accord with the Main State Tax Office, and the Social Fund, but without the agreement of the National Land Program, issued circular No. 10-19-4512 of 20 December 1999 (issued in the last few days of the Sturza Government). This circular allowed settlement of current farm debts to the state, only using cash proceeds. This meant that current farm debts were settled only after the farm sold its property and transferred the received cash to the Tax Office and Social Fund accounts. This procedure would be repeated until all current farm debts to the state are settled completely.

By carrying out this circular, Territorial Tax Offices and representatives of the Social Fund blocked liquidation of a large number of farms, because usually farms do not have liquid property, and the market for used farm property was practically non-existent at this time.

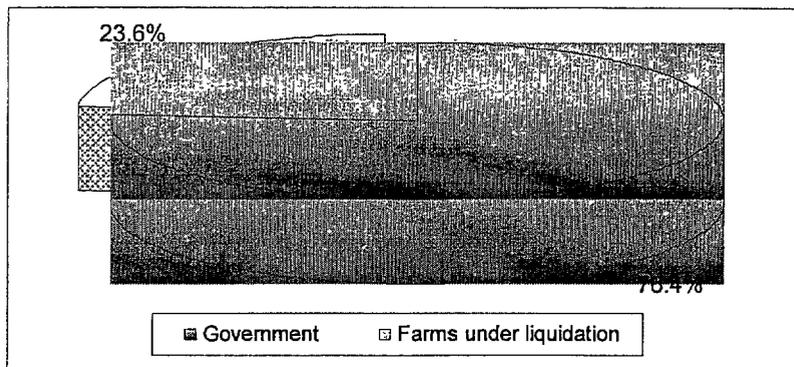
In order to illustrate the negative impact of this circular on the debt settlement process, the National Land Program conducted a study of reasons for delay in this process (November-December 1999 sampling). The results of this study are given in Table 4.1 and Figure 4.2. As the results show, three of the four delays were caused by government bodies.

Table 4.1

<b>Groundless Delays in Debt Resolution</b>	<b>Delays</b>	<b>%</b>
1. Caused by Government .....	68	76,4
a. Caused by Tax offices .....	46	51,7
b. Caused by Social Fund .....	8	9,0
c. Caused by Primarias .....	9	10,1
d. Other (BTI, State Archives, creditors, etc).....	5	5,6
2. Caused by Farm under liquidation .....	21	23,6
<b>Total</b>	<b>89</b>	<b>100,0</b>

The delays in settling current farm debts were solved by Government Decision on Completion of the Restructuring of Farms Undergoing Privatization No. 173 of 25 February 2000.

**Figure 4.2** Structure of reasons of delays during farm debt resolution



This decision was based on Art. 17 of the Debt law. At the same time, based on limited possibilities of the tax office to sell the non-cash property transferred to the state, this decision regulated the limited list of this property, which can be transferred to tax offices as current debt settlement. This list includes portfolio shares and farm's accounts receivables. The other categories of non-cash property are transferred into the mayor's offices ownership.

The existent Republican Commission could settle issues connected only to settlement of historic debts to the state. Therefore, another Republican Commission was created for settlement of current debts (hereinafter – second Republican Commission) chaired by the Vice Prime Minister.

As a result of all these measures, the issue on settling current debts was solved and farm liquidation process accelerated considerably.

**The problem of debts to banks.** This problem appeared because usually banks are priority creditors, as debts to them are secured by collateral. Such debts to banks are settled in a separate manner, stipulated by the Law on collateral, and thus, cannot be transferred to the state. However, beginning with March 2000, the first Republican Commission began to reject state receipt of historic farm debts to banks even in cases when the object of collateral was sold or lost (creditor then becomes an ordinary creditor in accord with the Law on collateral).

The main argument for refusal was the following. If there is a collateral agreement, the bank is a priority creditor until the whole amount of debts is settled. The budget is poor – the banks are rich. Banks write off bad debts and have reserves for such losses, therefore they should write off these farm debts.

The National Land Program standpoint was based on the Law on collateral. In compliance with Art. 32 and 34 of this Law, the bank stops being a priority creditor and becomes an ordinary creditor, if (i) the object of collateral is sold, but not all debts to bank are settled, (ii) the collateral was lost, or (iii) the creditor and debtor dissolved the collateral agreement. Thus, if historic farm debts to banks are not secured by collateral, such debts must be transferred to the state, and the state should issue tax vouchers to the banks in accord with the Debt Law.

In order to determine the situation on settlement of farm debts to banks, the National Land Program conducted a study of the methods used for settling these debts. The results of this study

as of April 2000 are included in Table 4.2. As the data shows, the main method for settling farm debts to banks is transfer of these debts to private enterprises, created as a result of the privatization process. However, it contradicts directly one of the strategic objectives of the program, which is to create debt-free new farming enterprises.

Table 4.2

Methods of settlement of farm debts to banks	Total, thousand lei	%
1 Writing off .....	3 081.9	19.4
2 Repayment without sale of collateral .....	704.2	4.4
3 Sale of collateral and repayment.....	414.7	2.6
4 Transfer of collateral to banks .....	1 579.3	9.9
5 Transfer of debt and collateral to private farms.....	7 154.1	45.0
6 Transfer of historic debt to the state.....	2 951.8	18.6
<b>Total</b>	<b>15 886.0</b>	<b>100.0</b>

This conflict of interests was also settled through the Government, by issuing Government Decision No. 529 of 5 June 2000. This Decision included the list of documents to be submitted by the property commission for confirmation of the fact that debts to the bank are not secured by collateral and can be transferred to the state. Thus, this constraint to farm debt settlement was also solved.

*Transfer of portfolio shares.* The third main reason for delay is transfer of farm portfolio shares for debt settlement. Farms received these shares in 1994 -1996 during the voucher privatization of canning, sugar, wine, dairy enterprises and other factories that processed *kolkhoz* and *sovkhos* supplied agricultural raw materials.

Delays in transfer of the respective shares to the state or other creditors was caused, first of all, by the fact that after receiving these shares, many *kolkhozes* and *sovkhos* reorganized by division into cooperatives, limited liability companies, or by merging into joint-stock companies or production cooperatives.

However, the Registry of Shareholders of processing enterprises was not officially informed and did not include respective data on reorganization of shareholder-enterprises in their database. The inevitable problem of registering the successor's ownership title of the shareholder-enterprises due to their reorganization in the privatization process appeared. Difficulties arose because a lot of time had passed since the shares had been registered and certain documents necessary for re-registration of the shares were missing. This was also because several collectives had gone through reorganizations without correcting the share registry.

For example, *kolkhoz* "AAA", possessing portfolio shares, reorganized in 1995 into cooperative "BBB". The latter subdivided in 1998 into LLC "CCC" and LLC "DDD"; each of them were transferred portfolio shares. The problem is that portfolio shares, which are still registered under *kolkhoz* "AAA" in the Registry of Shareholders, must be reregistered under cooperative "BBB", and then reregistered again under LLC "CCC" and LLC "DDD". This reregistration must be conducted in 2000, when cooperative "BBB" has already been liquidated, and many documents are already missing on *kolkhoz* "AAA".

Another issue related to determining the appraised value of shares transferred to the state and the accurate legal compilation of the bills of share transfer. These and other issues concerning the

registration of new owners of portfolio shares were solved by means of consultations provided by share registrars and by the National Securities Commission. A circular was issued and sent to share registrars based on the consultations provided by the National Securities Commission. The Department of Privatization and State Property Administration made a significant contribution in solving these issues. A new team was created within the Debt Resolution Unit handling the transfer of portfolio shares. As a result, the issue of transferring portfolio shares against debt settlement was solved.

Research indicated that the three main reasons of delays in the debt settlement process were connected with contradictions in the respective legislation. They were solved at the level of the National Securities Commission, the Department of Privatization and State Property Administration and at the Government level.

*Legislation.* In practice, it was demonstrated that complete high Government support is not always sufficient to eliminate all delays. Therefore, it was necessary to amend the Debt Law. The amendments were prepared by the National Land Program in cooperation with the Ministry of Finance and the Main State Tax Office.

Parliament approved the amendments on 27 April, 2000 (annex 4). These amendments were debated in Parliament at the beginning of 2000 in intensive discussions. However, as a result of the successful implementation of the Debt Law from September-December 1999, the amendments to the law were examined and approved in favorable conditions.

The respective amendments can be divided into (i) amendments eliminating instances of artificial increase of current farm debt and (ii) amendments aimed at simplifying the debt settlement procedure.

The first category of amendments were aimed at eliminating the artificial increase of current debt.

For example: some tax inspectors, in use of their rights under the Tax Code, would decide to audit a farm's accounting records and tax declarations corresponding up to the statute of limitations after the announcement of liquidation had been made in the *Monitorul Oficial* but before (or even during) the NLP debt coordinators and FPRC teams began the process of reconciliation and cross verification of the collectives' debts. As a result of these audits practiced in accord with the Tax Code, inspectors would apply penalties, fines and assess taxes due to mistakes (or instances of discovered fraud) in old tax declarations.

As such there were recorded cases where a 50,000 lei current debt to the state would grow exponentially to hundreds of thousands of debt after application of back taxes, fines and penalties on the unpaid amounts as a result of the tax audits after the official liquidation announcement had been published in the *Monitorul Oficial*. The Debt Team referred to this as "piling-on" and viewed this as a government "taking" of private property without proper compensation, i.e., a re-nationalization of assets which heretofore had been owned by the rural people (viz., the farm).

Even if the tax years audited were within the period classified as “historical debt” in the Debt Law, i.e., prior to January 1, 1999, tax inspectors and Ministry of Finance officials insisted these fines and penalties, as well as the original tax amount, should be treated as current debt.

While Debt Program executives and managers never discovered the real reason for this action on the part of tax inspectors and the Main State Tax Office, speculation included ideas such as re-nationalization of the non-land means of generating income in rural Moldova, stripping as much as possible from the farm for the benefit of the central and local government, punishing the new private farmers as through the “stripping” process any additional assets owned by the farm would not be distributed in the second property tender, accruing assets to sell or allocate cheaply to friends or families or other higher government officials, or simply as a misguided effort to create obstacles for the Debt Program so as to block liquidation of the collective shells – which for many individuals had provided an illicit livelihood for decades.

The amendment assisted resolution of the above problems by moving the dates for historical and current debt from December 31, 1999 to December 31, 2000 as well as classifying fines, penalties, unpaid back taxes discovered through this audit process as historic debts if the audits were performed for years prior to December 31, 2000. Furthermore, the amendment instructed tax authorities that penalties, etc. discovered on farms after the announcement in the *Monitorul Oficial* could NOT be charged. This section of the amendment effectively eliminated the practice of “piling-on” and reduced the current debts by at least 33 percent!

Another major problem that the amendment effectively eliminated regarded the frequent practice of falsely accounting income and expenses of private farms (created through the privatization process but which had not officially registered as a new economic entities) on the accounting records of the old collective, as if the collective had been carrying on this economic activity. In this manner, the old collective appeared for all practical purposes to be engaged in economic activity, however the entrepreneurs were undertaking the economic activity, not the old collective. Tax officials, whether they genuinely didn't know or understand what was happening, or whether they were just too lazy or ill equipped to assess Land, Social Fund, VAT, income tax, customs duties etc., on thousands of new clients, continued to assess these taxes on the old collective, which of course never paid. These unpaid taxes, which really belonged to the newly created private farms, were lumped together initially as either historic or current debt and written off, transferred to the state and offset with property or settled as current debt to the state through transfer of mills, oil presses, etc., etc.

The amendment forced tax officials to assess Land and Social Fund taxes on the new landowners from the end of the month in which the land was distributed at the land tender, and made it easier for tax officials to assess other taxes on these same private farmers.

This discussion raises another issue, i.e., the tax regime against agriculture and private enterprise and the methods utilized by the tax service to collect what they consider due to the state as a result of private economic activities. The current Moldovan tax system and collection methodologies is so heavily weighted against the private business entrepreneur that instead of providing incentives for the creation and success of private business, quite the contrary, it drives

private business persons into the gray or shadow economy. For this reason, new farmers created out of the NLP usually do not register their businesses.

This lack of registration complicates matters for the assessment and collection of taxes, e.g., land and Social Fund taxes, since tax officials are unaware of the existence of these new enterprises and private landowners. This has additional repercussions in that taxes that should be assessed against the newly created farmers continue to be wrongly assessed against the old collective shell. The effect is that unpaid tax and Social Fund amounts engender fines, penalties, etc. This just facilitates the “stripping” away by the tax officials of any remaining assets which could possibly be distributed to eligible workers in the second and final property tender prior to reaching a “nil” balance sheet shortly before final liquidation.

Therefore, there is a vicious circle which in the end prejudices the ordinary worker whose rights are being violated (without their knowledge or consent in most cases) by leader farmers, inefficient or corrupt tax officials, and old collective farm accountants and managers. The amendment to the Debt Law tries to resolve some of these issues in favor of the second and final property tender.

Lastly, the amendment to the Debt Law also fixes an anomaly regarding losses due to exchange rate fluctuations on credit agreements between farms and parastatal suppliers of fuel, fertilizer and other imported chemicals. For whatever reason, many of the agreements between the farms and the parastatal corporations were denominated in the national currency without consideration of possible devaluation. But in 1998 and 1999, the national currency lost about 50 percent of its value vis-à-vis the U.S. dollar. Therefore during debt settlement proceedings, many of these supply agreements were delinquent and were classified as either historic or current debt, depending on the dates when the original deal was made.

The parastatal corporations had apparently borrowed in dollars from the Government of Moldova to import the input supplies for resale to farms. Therefore during debt settlement, these corporations sought desperately to peg their credits to the US dollar-lei exchange rate, thereby inflating the nominal value of the debts enormously. In order to accomplish this several of these corporations resorted to unofficial tactics such as threatening farm managers if they didn't amend the original agreement to include exchange rate differences. In other cases, contracts were falsified outright.

The amendment to the Debt Law attempted to clean-up this issue by not allowing any exchange rate differences to be included as either current or historic debt unless they were mentioned in the original contract. It further stipulated that no exchange rate differences would be accepted unless these were filed and registered prior to the date liquidation was announced in the *Monitorul Oficial*.

The second category of amendments were aimed at simplifying the debt settlement procedure. For example:

- it combined the two Republican Commissions (one for historic debt and another for current debt) into one, simplifying the decision making process and the document flow to/from this state body;
- it suspended the execution of earlier court rulings concerning farm's property during the out-of-court liquidation of the farm, which will greatly simplify the process of property transfer for debt offset;
- it obliged mayor's offices to accept assets transferred to the state as current debt settlement, which will considerably eliminate the delays in the transfers of assets; and
- it regulates the procedure of transferring the documents of the liquidated farm to State Archives and mayor's offices' archives, which will eliminate delays in completing the final farm liquidation procedure, etc.

The amendments to the Debt Law became effective on June 8, 2000 (*Monitorul Oficial* No. 24-26 or June 8, 2000) and since the NLP specialists had already prepared the requisite regulations to this law, these will be immediately promulgated by Government Decision shortly after the amendment is published.

The process to amend the Debt Law started in October 1999 with informal discussions between the NLP and the Republican Commission, the Main State Tax Office, and other GOM officials and ministries. It wasn't until April 2000 until the Government accepted the wording of the amendment and it was officially introduced into Parliament. Thus a new stage in debt restructuring will commence on June 8<sup>th</sup> – and none too soon – as the remaining farms are those which couldn't be liquidated earlier due to problems and more difficult financial situations.

Notwithstanding the above discussion, the NLP executives and their advisors still are of the opinion that the amendment to the Debt Law was unnecessary if the bureaucracy would have respected the intent and spirit of the original law.

#### **4.4 Current status**

According to the CPBR work plan approved by the USAID, 888 collective farms should complete all debt resolution stages and be completely privatized and liquidated by August 31, 2000. A snapshot view of the debt component of the National Land Program shows following results, as of the end of May 2000:

- 765 collective farms published liquidation notes in compliance with the Law on Restructuring of Farms Undergoing Privatization (Debt Law);
- 694 farms submitted documents, which were approved by the Republican Commission (there were adopted decisions on transfer to the State of historical debt and writing-off of remaining unsettled historical debt, if necessary);
- 564 farms repaid all debts (including debts to priority creditors, historic and current debts);
- 539 farms finalized privatization and were liquidated.

For these farms:

- 1,021,865,000 lei in debt was settled;

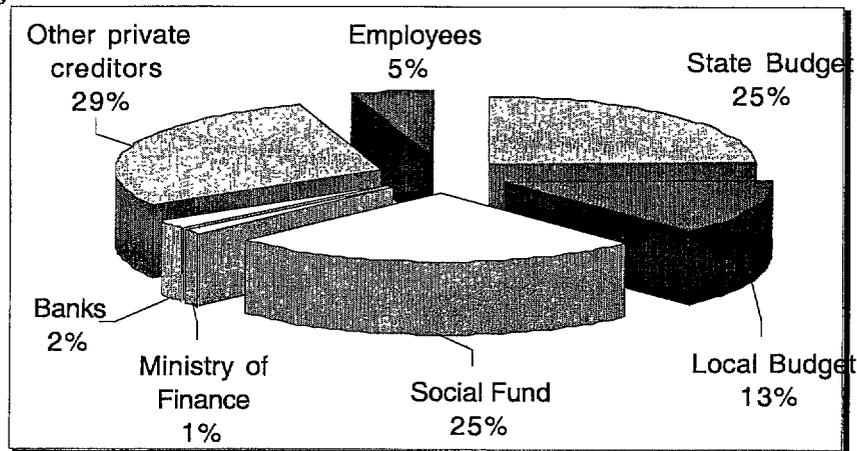
- 818,630,000 lei in social assets were transferred to the local government;
- 624,971,000 lei in historical debt was offset with assets;
- 35,265,000 lei in historical debt was written-off as remaining historical state debt.

The average time required for a collective farm to completely settle its debt, distribute its property and liquidate was 122 days, ranging from 32 to 300 days. The efficiency of the debt component of the National Land Program was constantly growing, and reached by the end of May 2000 a **daily** average of:

- 2.3 farm liquidations;
- 4.3 million lei (\$345,000) in debts settled.

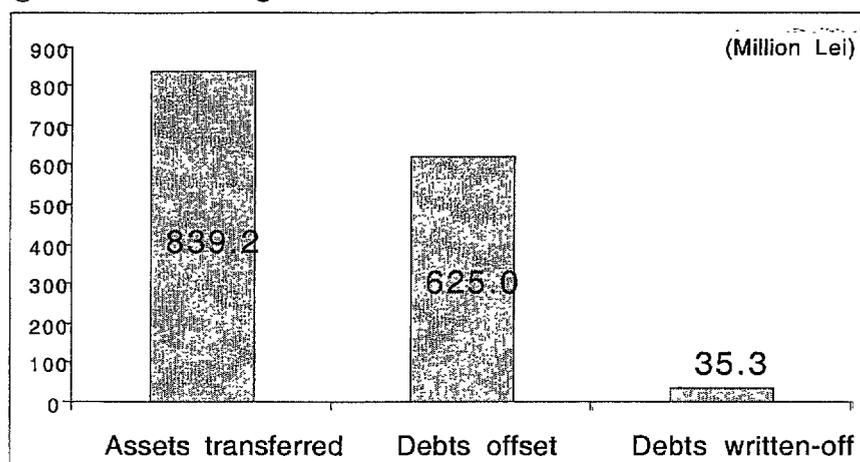
The structure of debts (as of the date of the announcement of liquidation) is shown in Figure 4.3. The farm debt structure registered in 1998 before distribution of land and critical property (Table 2.1), has changed significantly in 2000 when the majority of farms had distributed land and critical property, and stopped their main economic activities. The time distance between these two situations was approximately 6 months. For example, the weight of debt to the government

**Figure 4.3** The initial structure of debts



increased from 48% to 64% and debt to the private sector decreased from 52% to 36%. Collective farms debts to the state increased mainly as a result of fines and penalties applied to the collectives that lost capacity to repay debts. At the same time, private creditors preferred the newly created private farms to the semi-dead old collectives as business counterparts.

Debts that were written-off as debts with expired statute of limitations (3 years), and unclaimed debts (debts to creditors that failed to forward their claims within one month after the announcement of liquidation) constituted almost 20% of the total amount of farms' debts. The percentage of debts to private creditors that were written-off as unclaimed debts decreased from 20% during first months after the Debt Law was enacted to 15% at the present. The percentage of current debt increased from 3% to 13% during 9 months, and more than 20% of current debt to the state was the result of back taxes, penalties and fines applied by tax inspectors during the process of liquidation.

**Figure 4.4** Offsetting of farm historic debt to the state with assets

839 million in lei at book value were transferred to the state, including social assets (97.5%), mills, oil presses and other processing facilities (1%), portfolio shares (1.4%). Although, on aggregate, the book value of all farms' assets was greater than the amount of their historic debt to the state, 35 million lei in historic debt to the state were written off as unsettled remainder (Figure 4.4) in cases when farms did not have sufficient assets to transfer to the local government. An average of social assets worth more than 190 million at book value was voluntarily transferred gratis to the government.

**Current and priority debts** were settled using various procedures provided by the Debt Law. The preferred method used by farms for settling these categories of debts was different for debts to the state and debts to private creditors (Table 4.3). Three main procedures were used to settle current debts and debts to priority creditors:

- repayment by cash and/or other assets;
- writing off in case of refusals of creditors to accept any assets or insufficiency of assets;
- debt transfer to private farms that volunteered to accept debts together with an equivalent amount of assets.

Table 4.3

	repaid		written-off		transferred	
	thsd. lei	%	thsd. lei	%	thsd. lei	%
Current debt to the state .....	38 358	68.5%	4 346	7.8%	13 282	23.7%
Current debt to private creditors.....	13 371	29.3%	11 179	24.5%	21 145	46.3%
Debt to employees <sup>23</sup> .....	10 525	18.5%	654	1.1%	45 715	80.4%
Debt to banks.....	7 370	41.4%	762	4.3%	9 682	54.4%
<b>Total</b>	<b>69 624</b>	<b>39.5%</b>	<b>16 941</b>	<b>9.6%</b>	<b>89 824</b>	<b>50.9%</b>

Current debts to the state were preferably repaid by cash and/or other assets (68.5%), while private debts were preferably taken over by the newly created private farms, especially debts to

<sup>23</sup> Includes both salary arrears to employees and calculated capitalized payments to beneficiaries where these exist.

the employees of the former collectives (49% and 80%, respectively). These preferences can be explained by the private farms desire to maintain good relations with private creditors – their present and future suppliers, some moral obligations to former employees, and last but not least – the possibility of receiving additional assets before the final distribution of property.

The summarized information regarding debt settlement of farms is presented in annex 7.

Table 4.4 summarizes the results of the CPBR collaboration with government in creating a favorable legal environment for farm debt settlement and farm restructuring, as well as expediting the process and *ad hoc* overcoming different specific issues.

Table 4.4

Drafted and enacted	Number
<b>Normative acts</b>	
• Laws .....	7
• Government Decisions .....	8
• Orders of various Ministries .....	5
• Circular letters for local tax and Social Fund offices .....	22
Subtotal	42
<b>Non-normative acts</b>	
• Letters to the local government .....	15
• Letters to the General Prosecutor .....	14
• Letters to various ministries and departments .....	10
• Letters on releasing farm assets from seizure.....	52
• Formal answers on behalf of the Republican Commission.....	39
Subtotal	130
<b>TOTAL</b>	<b>172</b>

The amount of farms' historic debt to private creditors transferred to the state totaled 65.5 million lei by the end of December 1999. Of this amount of state debts to private creditors:

- 37.8 million lei were settled right after the debt transfer through offsetting of creditors' debts to the state and local budgets;
- 27.7 million lei was deferred and will be repaid by the Ministry of Finance in equal installments during 5 years, i.e., during 2000-2004.

The deferred debt repayments were documented by 233 treasury notes of the Ministry of Finance. The treasury notes are documented for each creditor following the principle "one creditor – one treasury note" and are entered into an electronic registry kept by the Main State Tax Office.

Thus, a larger amount (57.7%) of farms' debts to private creditors transferred to the state was settled right after the transfer, and 42.3% was deferred for future repayments through tax credits. As a result, the impact on the consolidated budget generated by debt settlement procedures in 1999, amounted to 5.5 million lei for each budgetary year tax credits were deferred for. The load

on the 1999 budget was less than forecasted in the projections made from the 1998 farm debt survey!

By June 2000, the value of treasury notes extinguished by the Main State Tax Office through tax credits amounted to 1,968 thousand lei, or 36% of the amount due for the current year. It can be concluded that the treasury notes, as a special financial tool, elaborated and implemented by the National Land Program proved workable and functional, and the state honors its obligations to private enterprises – former creditors of the liquidated collective farms.

## Conclusions

The Debt Program in Moldova is in its final stage. The main goals of the National Land Program, including its debt resolution component will be attained by the end of August 2000, thus finalizing the first phase of agricultural reforms in Moldova – complete privatization and liquidation of all collective and state farms, and creation of new, privately owned farms, free from debt.

After a five year stagnation period between the appearance of the first applicable Moldovan legislation and the implementation of a comprehensive land reform program, completion of the NLP objectives in a relatively short period of time was an ambitious project. Sporadic, ad hoc and superficial privatization was displaced by mass empowerment of people through real privatization of land and property, secured by land and property titles. Although the Law on critical property allowed significant advances in 1999, the indebtedness of collective farms was still a serious impediment for completion of privatization. Solutions were sought to solve the debt problem through an intensive analysis of the financial situation of farms, the reasons and dynamics of debt accumulation, as well as by testing and analyzing existing procedures for debt settlement.

The CPBR/EWMI did not compromise its basic principles while approaching the farm debt issue. It was decided that farm debt resolution would be carried out within a program, farms would join the program on a volunteer basis, the program would be entirely based on Moldovan legislation, and would have strong built-in incentives. The Government support was considered a vital element and the key to the success of the program. The program is the tool for implementing legislation that also allows democratic and transparent participation of farms, based on contracts signed with the program. Contracts stipulate the responsibility of all parties involved, describe the process in concrete steps and contains deadlines for each. Although the CPBR presence was overwhelming, it still was a governmental program implementing Moldovan legislation. The role of the CPBR/EWMI specialists was to provide technical assistance to the Government at all levels. The National Land Program enjoyed a strong Government support being one of its highest priorities<sup>24</sup>. The NLP paid great attention to relations with the President, the Parliament and the Government, which broadly advertised its objectives within official circles and mass-media. Four governments were changed during the implementation of the NLP without affecting its progress!

Attractive incentives inserted along the process stimulated a great number of farms to participate, making the program indeed a national program. Only farms that decided by democratic voting to participate in the program and honored their contractual obligations, could fully benefit from all

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<sup>24</sup> The National Land Program has also enjoyed strong support from USAID, the U.S. Embassy, the State Department, the International Monetary Fund (IMF) and the World Bank (WB). Five internal project targets have been included in the Memorandum on Economic and Financial Policies signed between the International Monetary Fund and the Government of Moldova for the Extended Financial Funding (February 2000). Similarly, the WB has included similar targets within their lending program for Moldova, thus clearly indicating GOM, IMF and WB support for the National Land Program.

facilities/advantages provided by the program. The incentives included: free land titles, full technical support to farms along the processes, defense of farmer's rights and representing their interests at different instances by well qualified CPBR professionals, the moratorium on accruing penalties and sanctions, an advantageous debt resolution and the possibility to start new businesses without burdensome debts. All these were offered as part of one process, a one time-event with clearly specified limitations in time.

As the program evolved from a pilot project on one collective farm to a national program, comprising the vast majority of farms, it was constantly refining its methodology. Many elements of internal methodology became later parts of laws and regulations providing more opportunities for farms and farmers. The hands-on experience gained by the CPBR specialists was an invaluable assets when participating in drafting legal acts. The popularity of the program grew, a fact witnessed by vivid interest and large participation. The popularity was built on trust, early beneficiaries of the program saw its evolution, and believed in increasing opportunities offered by the program in the future. Trust was also built through the transparency of the processes and intense information campaigns – which were inherent parts of the National Land Program and special concerns of CPBR. The information campaigns aimed at providing a clear understanding of everyone's rights and legal options, deep insight into the benefits offered by the program. The program had pure social and economic reform objectives and managed to avoid any political implications whatsoever.

The current stage of the implementation of the collective farm debt resolution program allows to infer that the legal framework provided by the Debt Law proved to be workable. The procedures for debt resolution under that law proved to be applicable and succeeded in offering solutions to the great amount of issues and special cases encountered during the settlement of collective farms' debts. More than 800 collective farms will be liquidated during one year of implementation of the debt resolution of collective farms within the National Land Program in Moldova. The success of that work resides in two major groups of reasons – those related to the legal procedures themselves for debt resolution, and those related to the way these procedures were implemented by the National Land Program.

Although major principles and of the Debt Law were presented in Chapter 3, some aspects of the law are worth mentioning again here:

- Debt resolution combined with complete privatization and liquidation of collective farms – a complex one-time event offered to participants in a government program on a volunteer basis.
- Relatively simple and inexpensive liquidation which allowed rapid completion.
- State acceptance of farm debts to private creditors and the possibility of settling farm debts to the state by offsetting with social assets.
- The impact on the budget was not a significant burden.
- Very decentralized process – most decisions are made at the local level.
- The most important decisions are made by a special government body – the Republican Commission, formed by representatives of various Ministries, thus dispersing responsibility.
- Provision of incentives fostering large and active participation of farms.

To a great extent the success of the program is due to the way it was actually implemented.

Several important aspects of the implementation are presented below:

- The CPBR staff actually did most of the work. It was an implementation project rather than a consulting one.
- Highly professional staff assisted central and local government wherever and whenever possible (cooperation with Government at all levels).
- Strong Government support and political will made the implementation of the program a combined effort between the CPBR/EWMI/USAID and the Moldovan Government.
- East West Management Institute (EWMI), a private, non-profit, non-governmental organization actually contributed significant amounts of its own money to ensure maximum flexibility and success. Compare this with other contracts implemented by for-profit firms unwilling to make contributions for the benefit of the program.
- The CPBR staff actively participated in drafting the Law and the Regulations, with an understandable tendency to simplify their future work – actual implementation.
- The internal CPBR infrastructure provided significant local presence of the CPBR staff in the field. Regional offices were staffed with professionals, and were well equipped and supported.
- The project was carried out over a relatively short period.
- The entire effort was carefully planned and monitored. The system of concrete monthly targets for regional offices allowed firm and steady work progress throughout the country.

Although the program is not finished yet it has already brought some results. By liquidating the collective farms it has produced a huge cleansing of bad debts in the agricultural sector. The tax offices are recording greater tax collections – private farmers proved to be more disciplined taxpayers. Banks also registered a decrease in delinquent loans as a result of the disappearance of the collective farms. The program created the necessary premises for the development of land markets and land consolidation, the creation of rural credit associations, and other post-privatization activities.

But now the real work must begin to rebuild Moldovan agricultural and rural sector. Similarly, approaching this massive task with the same spirit, dedication and entrepreneurship based on solid principles as was witnessed in the National Land Program, is surely to bring success. All must collaborate, including Government, Parliament, the Presidency, the foreign donors and the beneficiaries themselves. Then the fruits of the National Land Program will surely be harvested throughout rural Moldova.

## Annexes

### Annex 1

**LAW of the Republic of Moldova  
on introducing amendments and additions in some legislative acts  
No 187-XIV of November 6, 1998**

PARLIAMENT adopts the present comprehensive law.

Art. 1. The following changes shall be introduced in the Law on Privatization Program for 1997-1998 No 1217-XIII of June 25, 1997 (Monitorul Oficial, 1997, No 59-60, page 518):

1. Article 33:

paragraph (2) shall be added to this article stipulating the following:

“(2) In case Property Commission has ceased its activity or the farm itself has stopped its functioning without being liquidated as required by the law, Mayor’s office (Primaria) forms a Commission on reorganization or liquidation of the farm which is given the rights and responsibilities established for Property Commission”;

paragraphs (2) and (3) shall respectively become paragraphs (3) and (4).

2. In Article 34:

The existing paragraph shall be considered paragraph (1).

This article shall be added with paragraph (2) stipulating the following:

“(2) The list provided for in item e), paragraph (1) shall not include the following items, reflected on the farm balance sheet: irrigation facilities and perennial crops located on land subject to privatization, tractors, combines, other agricultural machinery and equipment, transportation means, used for agricultural production, planting materials, working and production livestock and unfinished goods. Within the established deadline, the given property shall be transferred in-kind to entitled persons regardless of farm’s financial situation and the status of its settlements with creditors. This provision shall also refer to farms which have concluded Memorandum-Agreement on Reorganization with the Council of Creditors.”

3. Paragraph (3) of Article 35 shall be added with the following: “Such property, including the one transferred earlier, shall serve as the repayment of farm’s accounts payables charged to the state and local budgets, as well as to the state social insurance budget.”

4. Article 36:

paragraph (3) shall be added with the following: “In case the farm discontinues its activities in connection with reorganization or liquidation, unclaimed property shares shall be transferred into the administration of the successor-enterprise or, if there is none, that of Mayor’s office (Primaria) till they are claimed in a legal way. The farm’s manager, chief accountant and relevant financially responsible officials shall be in charge of the safe keeping of the property, allocated by the general meeting for debt repayment.”

paragraphs (4), (5), (6) and (7) shall be added to this article stipulating the following:

“(4) Land share owners, regardless of the size of property shares belonging to them, shall be given in-kind irrigation facilities and perennial crops located on the parcels allocated in-kind. In case land share owners are not entitled to property shares or if the size of their share is smaller than the value of allocated irrigation facilities and perennial crops, they shall pay for this property (partially or fully) at the appraisal value or, according to the decision of the general meeting of farm employees and pensioners, receive it gratis. The value of property, transferred gratis, shall be excluded from the initial value of the privatization fund.

(5) Persons, who have received the property shares, shall not be considered successors of the farm and shall not be accountable for its liabilities.

(6) When allocating land shares in-kind, Joint Stock Companies, Limited Liabilities Companies, production cooperatives and other economic entities, at the request of their members, who are land share owners, must also allocate property shares in-kind. The value of this property shall be withdrawn from the statutory capital with corresponding decrease of the latter.

(7) Individuals who were allocated land and property shares in-kind, within three months after receiving the documents certifying their ownership right, shall register the peasant farm with the Mayor’s office (Primaria) or submit a copy of the foundation agreement (declaration) and a certificate on the state registration of the farm of any legal form as required by the legislation, or furnish the agreement on leasing out or alienation of the land parcel.”

Article II - Article 4 in the Law on enterprise restructuring No 958 of July 19, 1996 ("Monitorul Oficial of the Republic of Moldova, 1996, No 80, Article 751) shall be added with paragraph (6) stipulating the following:

"(6) The farm subject to privatization, which has negotiated the Memorandum-Agreement with the Council of Creditors, at the request of entitled individuals, should, within the deadlines established in the legislation, allocate property shares in-kind, and namely the following: irrigation facilities and perennial plantings located on the land subject to privatization, tractors, combines, other agricultural machinery and equipment, transportation means, used for agricultural production, planting materials, working and production livestock, as well as unfinished goods, reflected on the balance sheet of then given farm."

Article III - Law on Bankruptcy No 786-XIII of March 26, 1996 (Monitorul Oficial of the Republic of Moldova, 1996, No 58, Article 583; 1997, No 66, Article 549) shall be added with the following:

1. Article 5:

paragraph (1) the wording "which is determined" shall be replaced by the following "except for the property, which in compliance with this law and other legislative acts, cannot be subject to any charges provided for by...";

shall be added with paragraph (7) stipulating the following:

"(7) The following property, reflected on the farm balance sheet, shall not be included in the bankruptcy lot of the debtor - farm subject to privatization: irrigation facilities and perennial plantings located on the land subject to privatization, tractors, combines, other agricultural machinery and equipment, transportation means, used for agricultural production, planting materials, working and production livestock, as well as unfinished goods. The designated property shall be allocated in-kind to the entitled individuals within the deadlines established in the legislation."

2. The first sentence in paragraph (2) of Article 17 shall be added with the following wording: "as well as there shall also be suspended accrual of interest and penalties on debtor's accounts payable."

Article IV - Paragraph (4), Article 63 of the Law on the Procedure of Collecting Taxes, Duties and Other Payments No 633-XIII of November 10, 1995 (Monitorul Oficial of the Republic of Moldova, 1996, No 8-9, article 80; No 46-47, article 419; No 80, article 757; 1997, No 38-39, article 334) shall be added with a new item e) stipulating the following:

"e) irrigation facilities and perennial plantings located on the land privatization fund, tractors, combines, other agricultural machinery and equipment, transportation means, used for agricultural production, planting materials, work and production livestock, as well as unfinished goods which are reflected on the balance sheet of the farm subject to privatization;"

item e) shall become item f).

Article V - In Article 42, paragraph (6) of the Law on Budget for 1998, No 1446-XIII of December 27, 1997 (Monitorul Oficial of the Republic of Moldova, 1998, No 10-11, article 52; No 24-25, article 166; No 74, article 50), the phrase "which represent a component part of the statutory capital" shall be changed for the words "which are reflected in the balance-sheet".

Article VI - Government:

within one month, should bring its normative statutes into compliance with the provisions of the present Law;

within two months, should submit the draft law on making amendments and additions to the administrative and criminal codes stipulating the liabilities of individuals for not complying with the privatization provisions stipulated in Article I of the present Law.

within three months, should prepare suggestions on restructuring of the debts of farms subject to privatization;

in conjunction with the General Prosecutor' Office, within three months, should organize inspections of the financial and economic situation on the farms subject to privatization and bring charges against officials who committed intentional bankruptcy on the farm, misappropriated or stole farm property.

Chairman of the Parliament  
Chisinau November 6, 1998  
No 187 - XIV

Dumitru Diacov

## Annex 2

**Information about the economical and financial condition of the kolkhoz "ABC", rayon Sîngerei prior to property tender  
(as of 01.10.98, amount in thousands lei)**

Liabilities (government)		Verified	Total amount	Amount as of 01 01 98	Subtotal interest, penalties and sanctions	Subtotal principle	Latest date principle debt incurred
1	State budget	+	0.4	0.1	0.3	0.1	12.0
2	Local budget	+	2.7	0.1	0.8	1.9	12.0
3	Social insurance fund	+	1.5	0.4	0.8	0.1	12.0
4	Subtotal (government)	+	4.5	0.6	2.0	2.6	
Liabilities (private)							
5	Banks:						
	- JSC Agromdbanc	+	0.0	0.0	0.0	0.0	
6	Others (annex list)	+	1.2	1.2	0.0	1.0	4.0
7	Salaries and related payments to employees	+	2.3	0.0			11.0
8	Estimated projected 1998 expenses:						
i	Budget, Social Fund	+	32.5				
ii	Salaries	+	8.0				
iii	Others	+	14.5				
9	Subtotal (private)	+	58.5	1.2	0.0	1.2	
10	TOTAL Liabilities	+	63.5	1.8	2.0	3.8	

Assets (liquid) (collectable in 180 days)		Total book value	Estimated current market value	Estimated amount collectable
11	Cash	0.0	0.0	0.0
12	Accounts receivable (annex list)	114.0	80.0	8.0
13	Inventory	6.5	6.0	5.0
14	Raw materials/supplies	3.2	3.0	2.0
15	Livestock (all)	0.0	0.0	0.0
16	Equipment - total	228.3	0.0	0.0
i	(farming machinery)	182.9	0.0	0.0
ii	(other vehicles)	45.9	0.0	0.0
iii	(unused equipment - non-farming)	0.0	0.0	0.0
17	Social assets	0.0	0.0	0.0
18	Estimated amount of 1998 crop and other income	14.5	28.0	20.0
19	Estimated subtotal (liquid)	367.0	117.0	35.0

\* Not available for liquidation;  
Equipment is held for distribution

Assets (non-liquid) (not collectable in 180 days)		Total book value	Estimated current market value	Estimated amount collectable
20	Stock	1075.3	0.0	0.0
21	Buildings (excluding social assets and public utilities)	428.3	350.0	120.0
22	Perennial plantings (orchards, vineyards)	0.0	0.0	0.0
23	Unfinished constructions	0.0	0.0	0.0
24	Other assets (small value and short life, i.e. computer equipment)	4.5	3.0	2.0
25	Subtotal (non-liquid)	1508.1	353.0	121.5
26	TOTAL Assets	1875.1	470.0	156.5

**Information about the economical and financial condition of 562 farms participants in the National Land Program prior to property tender (amount in thousands lei)**

Liabilities (government)		Verified	Total amount	Amount as of 01.01.98	Subtotal: interest, penalties and sanctions	Subtotal: principle
1	State budget	+	207988	141242	80737	127251
2	Local budget	+	123588	88928	36297	87291
3	Social insurance fund	+	258103	185500	101246	156857
4	Subtotal (government)	+	589679	415670	218280	371399

Liabilities (private)		Verified	Total amount	Amount as of 01.01.98	Subtotal: interest, penalties and sanctions	Subtotal: principle
5	Banks					
	- ISC Agroindbank	+	39854	13134	9827	30027
6	Others (annex list)	+	461879	311808	8050	453829
7	Salaries and related payments to employees	+	125022	69332		
8	Estimated projected 1998 expenses					
i	Budget, Social Fund	+	85544			
ii	Salaries	+	99166			
iii	Others	+	153026			
9	Subtotal (private)	+	964491	394274	17877	483856
10	<b>TOTAL Liabilities</b>	+	<b>1554170</b>	<b>809944</b>	<b>236157</b>	<b>855255</b>

Assets (liquid) (collectable in 180 days)		Total book value	Estimated current market value	Estimated amount collectable
11	Cash	1623	1623	1623
12	Accounts receivable (annex list)	213718	145868	97226
13	Inventory	84204	69861	56868
14	Raw materials/supplies	193131	146035	109677
15	Livestock (all)	109354	89433	73276
16	Equipment - total*	954749	0	0
i	(farming machinery)	737247	0	0
ii	(other vehicles)	202753	0	0
iii	(unutilized equipment non-farming)	14749	0	0
17	Social assets	803494	803494	803494
18	Estimated amount of 1998 crop and other income	354820	593980	449513
19	Estimated subtotal (liquid)	2715093	1850294	159167

\* Not available for liquidation;  
Equipment is held for distribution

Assets (non-liquid) (not collectable in 180 days)		Total book value	Estimated current market value	Estimated amount collectable
20	Stock	131728	0	0
21	Buildings (excluding social assets and public utilities)	1928327	1050651	360972
22	Perennial plantings (orchards, vineyards)	792346	0	0
23	Unfinished constructions	295964	136272	55774
24	Other assets (small value and short life, i.e. computer equipment)	46501	24014	12804
25	<b>Subtotal (non-liquid)</b>	<b>3194866</b>	<b>1210937</b>	<b>429550</b>
26	<b>TOTAL Assets</b>	<b>5909959</b>	<b>3061231</b>	<b>2021227</b>

**Annex 4****Legal framework:**

- A. Law No. 392-XIV on Restructuring of Farms Undergoing Privatization
- B. Decision 767 on the Republican Commission on Settling Farm Debts
- C. Decision 854 on state support in restructuring of farms undergoing privatization
- D. Decision 173
- E. Law No. 953-XIV on Amendments and Additions to the Law on Restructuring of Farms Undergoing Privatization

**A. Law on Restructuring of Farms Undergoing Privatization****DECREE****On Promulgation of the Law on Restructuring of Farms Undergoing Privatization  
No 340**

Based on article 93 (1) of the Constitution of the Republic of Moldova, the President of the Republic of Moldova issues the following decree:

Sole article. – To promulgate the Law on Restructuring of Farms Undergoing Privatization No 392-XIV of May 13, 1999

PRESIDENT  
OF THE REPUBLIC OF MOLDOVA

Petru Lucinschi

Chisinau, July 9, 1999  
No 1079-II

**LAW****341 On Restructuring of Farms Undergoing Privatization**

To ensure the restructuring of the agricultural sector in the process of its privatization, the Parliament adopts the present organic Law.

**Chapter I  
GENERAL PROVISIONS****Article 1. Scope of the present Law**

- (1) The present Law shall regulate relations appearing in the process of creation of private enterprises based on equivalent land and property shares received in-kind, as well as further liquidation of the agricultural enterprises (hereinafter referred to as "farms") under privatization, including settlement of their debts.
- (2) The present Law shall only apply to the following categories of farms:
  - a) kolkhozes, sovhozes, factory-farms;

- b) other collective and/or state-owned enterprises, having land funds;
- c) economic companies and cooperatives created through reorganization of the farms listed in sub-items a) and b).

### Article 2. Basic notions

The following notions shall be used for the purposes of the present Law:

- (a) *privatization participants (farm members)* are kolkhoz members, employees of sovhozes, factory-farms or other enterprises, as well as other persons envisaged by article 12 of the Land Code and article 35 of the Law on Privatization Program for 1997-1998;
- (b) *creditors* are the state, as well as legal and physical entities having direct contractual relations with the farm;
- (c) *priority creditors* are farm creditors, debts to whom are secured by collateral, as well as individuals to whom the farm is liable for health detriments or families of deceased employees (hereinafter referred to as *beneficiaries*);
- (d) *critical property* is irrigation facilities and perennial plantings located on the land fund, tractors, combines, other agricultural machinery and equipment, vehicles used in agricultural goods production, as well as seeds, work and production livestock and unfinished agricultural goods belonging to the farm under ownership right;
- (e) *public assets* are social and cultural assets, public utilities, administrative and other public facilities belonging to the farm under ownership right;
- (f) *historical debts* are debts of all types (including interest, penalties, fines, and differences in exchange rate) accrued before January 1, 1999, and remaining unsettled by the date of their transfer, offsetting or writing off;
- (g) *current debts* are all types of unsettled debts (including interest, penalties, fines, and differences in exchange rate) accrued after December 31, 1998;
- (h) *farm debts* are pecuniary (money) liabilities of the farm which have not been fulfilled within the deadlines set by the legislation or an agreement;
- (i) *debts to the state* are historical and current arrears on all types of tax payments and levies to the state and local budgets, contributions to the state social insurance budget, as well as credits obtained from the Ministry of Finance and executed state guarantees issued by the Government to secure bank credits
- (j) *differences in exchange rate* are differences in the national currency exchange rate envisaged in the agreement with the farm and accumulated since the date when pecuniary (money) liabilities appeared till the date when they were fulfilled;
- (k) *general prescription term* is the prescription term uniform for all types of farm debts which is equal to three-years;
- (l) *farm restructuring* is the process of in-kind allocation of property and land shares to farm members and creation by them of private enterprises, as well as further liquidation of the farm under privatization, including settlement of its debts;
- (m) *debt settlement* is the farm's fulfillment of its pecuniary (money) liabilities through transfer of money to creditors, transfer of debts, cession of claim on their settlement, or debt offsetting;
- (n) *debt offsetting* is the procedure of farm debt settlement through transfer to the state or another creditor of the farm's non-cash assets and/or mutual repayment of pecuniary (money) cross-claims.
- (o) *historical debt transfer* is transfer to the state of historical farm debts and cession of the claim on settling such debts to the state.<sup>25</sup>

### Article 3. Grounds for farm restructuring

- (1) Grounds for restructuring of a farm undergoing privatization are as follows:
  - a) decisions of authorized administrative bodies on the approval of memberships of land commission, farm property privatization commission (hereinafter - *property commission*), and land fund;
  - b) decision of the general meeting of farm employees and pensioners (shareholders, stakeholders or members of cooperative) on farm restructuring in compliance with the present Law.
- (2) Documents stipulated in item (1) shall also serve as a basis for concluding a contract with the National Land Program.

### Article 4. Fiscal and financial moratorium during farm restructuring

- (1) Starting January 1, 1999, the farms which signed contracts with the National Land Program, beginning with the date of contract conclusion until the date debts to the state are repaid, shall not be charged:
  - a) penalties for the untimely payments due to the national public budget;
  - b) interest and penalties on credits obtained from the Ministry of Finance.
- (1) If the farm which negotiated a contract for participation in the National Land Program fails to fulfill its contractual obligations, at the decision of the Republican Commission on Settling Farm Debts, actions stipulated in item (1) shall be

<sup>25</sup> Tr. Note: This notion is defined in the Russian version of the Law, although this notion is not included in the Romanian version to avoid ambiguity.

discontinued and accrual of the corresponding penalties and interest shall be renewed starting with the date this contract was concluded.

- (2) When transferring, offsetting or writing off historical farm debts in compliance with the present Law, the farm shall be exempt from paying Value Added Tax (VAT), income tax (including the tax on capital gains in connection with additional appraisal of fixed assets), as well as other taxes and levies charged for the mentioned transactions involving debts.

## **Chapter II FARM PROPERTY PRIVATIZATION. CREATION OF PRIVATE FARMS**

### Article 5. In-kind allocation of property shares

- (1) The property commission shall distribute in-kind the following assets to the farm members pro rata to the value of their property shares:
  - a) critical property which is not encumbered as collateral, or seized - within 30 days from the date the mayor's office approves the land arrangement project;
  - b) other property - within 15 days from the date when all farm debts are settled.
- (2) The property mentioned in sub-item a), item (1) shall be allocated regardless of the farm's financial situation and the status of its settlements with creditors.
- (3) Irrigation facilities and perennial plantings, which are placed on the land parcels allocated in-kind, shall be transferred to land shareholders regardless of the value of their property shares.
- (4) If land share holders are not entitled to property share or the value of their property share is less than the value of the transferred irrigation facilities and perennial plantings, they shall pay for this property – in full or partially – at its appraised value, or receive it free of charge, at the decision of the general meeting of farm employees and pensioners (shareholders, stakeholders, or members of cooperative).
- (5) Critical property cannot be written-off or alienated for the purposes unforeseen by the present Law, pledged or seized (sequestered) based on the tax office or court decision, or otherwise encumbered.
- (6) Land lots together with the production facilities located on them shall be transferred in-kind to farm members with the account of compact production process requirements for private enterprises created during privatization process.
- (7) A property share can be received in-kind by a representative acting on behalf of a farm member on the basis of a proxy certified by a notary or mayor's office secretary.
- (8) Individuals who received in-kind property and/or land shares shall not be deemed as successors of the farm undergoing privatization.

### Article 6. Creation of private farms

- (1) Within 3 months from the date when ownership documents are received, individuals who received in-kind land and critical property shares or land shares only are obligated to:
  - a) register their peasant farms at the mayor's office, or
  - b) submit to the mayor's office a copy of an agreement (declaration) on foundation of a private farm of a different legal form as stipulated by legislation and a copy of the state registration certificate, or
  - c) present to the mayor's office a lease agreement or an agreement on privatized land parcel alienation.
- (2) Mayor's offices shall register peasant farms within 10 days from submission of farm foundation declaration, copies of documents certifying the ownership right over the land share (land parcel) and/or copies of land lease agreements.
- (3) Mayors' office secretaries may certify foundation and other types of documents needed for registration of private farms, created by farm members.
- (4) Industrial facilities, with the exception of those seized or included in larger units for primary processing of agricultural inputs, shall be transferred on a contract basis to be used by private farms created by farm members (until all debts of farms undergoing privatization are repaid).

## **Chapter III GROUNDS AND PROCEDURES OF FARM LIQUIDATION**

Article 7. Grounds and procedures for farm liquidation

- (1) A respective decision of the general meeting of farm employees and pensioners (shareholders, stakeholders or members of cooperative) on farm liquidation shall serve as grounds for liquidating the farm in conformity with the present Law.
- (2) Within 15 days after the general meeting of farm employees and pensioners (shareholders, stakeholders or members of cooperative) takes a decision on farm liquidation, the property commission shall ensure publication of the corresponding notice in the Official Monitor of the Republic of Moldova.
- (3) The liquidation notice shall additionally specify that the liquidation procedure (out-of-court, as stipulated in the present Law, or through court procedure, as stipulated in the Bankruptcy Law) shall be determined at the request of the farm's creditors.
- (4) Upon publication of the farm's liquidation notice:
  - a) farm creditors shall be considered to have been notified of its liquidation;
  - b) each creditor's claims shall be met under the framework of general procedures envisaged by the present Law, or the Bankruptcy Law and any guarantees favoring certain creditors shall be considered void;
  - c) repayment term for historical farm debts shall be considered to have started;
  - d) property commission shall be delegated the rights and obligations of the liquidation commission;
  - e) farm property cannot be written off, pledged or seized based on the decision of the territorial tax office or of the court, or otherwise encumbered;
  - f) interest and penalties on farm debts shall cease being accrued;
  - g) money cannot be withdrawn from farm's bank accounts without its consent;
  - h) provisions stipulated in the Law on Restructuring of Farms shall stop being applied to the given farm.

Article 8. Determination of farm liquidation procedure

- (1) Within one month from publication of liquidation notice, all creditors (except for priority creditors and farm employees) shall forward their claims to the farm and the mayor's office and specify the procedure of farm liquidation.
- (2) The amount of state claims to the farm are determined as of the date when the farm liquidation notice is published based on the extract from the farm-taxpayer's personal account and, if needed, based on the extract from the personal account of the farm-borrower of credits from the Ministry of Finance or of the user of guarantees executed by the Government (hereinafter referred to as *extract from the farm's personal accounts*).
- (3) The state claims mentioned in item (2) are considered to be in favor of the out-of court liquidation of farm.
- (4) The creditors' claims registry shall be signed by the property commission chairman and the mayor with indication of the farm liquidation procedure chosen by each creditor.
- (5) A farm shall be liquidated under the procedure chosen by creditors (except for priority creditors and farm employees) whose claim amount constitutes more than 50% of the aggregate claim.
- (6) The following claims shall be considered as settled and removed from the farm balance-sheet based on the statement signed by the chairman of the property commission:
  - a) those unclaimed within the deadlines determined in item (1) except for the claims filed by priority creditors and farm employees;
  - b) those whose general prescription due term expired by the day the liquidation notice was published, including claims on settlement by the farm of debts to the state.
- (1) Within 5 days after the deadline set in item (1), the property commission shall submit the following:
  - a) a copy of the creditors' claims registry – to each creditor, including the Ministry of Finance;
  - b) copies of statements on writing off overdue historical debts or unclaimed debts – to each creditor, including the Ministry of Finance debts to whom are written off based on these statements.
- (1) The statements mentioned in sub-item b), item (7) serve as basis for writing off as losses of the corresponding receivables by the Ministry of Finance or any other creditor.
- (2) If upon the claim of the state or other creditors, the farm is subject to out-of court liquidation, the reorganization or liquidation procedure determined by the Bankruptcy Law cannot be applied to the given farm.
- (3) If, upon creditors' claim, the farm is subject to bankruptcy procedure, creditors shall file a lawsuit on initiation of the bankruptcy proceedings, within one month after receiving a copy of the creditors' claims registry.
- (4) If, within the deadlines set in item (10), the lawsuit on initiation of the bankruptcy proceedings against the farm has not been filed by creditors or has not processed by the court, this farm shall be subject to out-of-court liquidation procedure, regulated by article 9.

Article 9. Out-of-court farm liquidation procedure

- (1) Out-of-court farm liquidation includes:

- a) settlement of all farm debts in conformity with articles 11-17;
  - b) allocation of all the property remaining after settling the farm's debts in conformity with article 19;
  - c) preparation of necessary farm liquidation documents in conformity with article 20 and removing the farm from the State Commercial Registry.
- (1) Out-of-court farm liquidation is done by the property commission which ensures the following:
- a) inventory of farm debts and their reconciliation with creditors' claims, as well as writing off unclaimed debts and those with an expired prescription term;
  - b) inventory and repayment of farm accounts receivable including their collection, sale, transfer, charging through the court or writing off;
  - c) repayment of debts due to priority creditors and farm employees;
  - d) transfer to the state of historical farm debts payable to other creditors having historical debts to the state;
  - e) cession to the state of the claim on historical farm debts due to other creditors having no historical debts to the state;
  - f) repayment of historical farm debts;
  - g) repayment of current farm debts, as well as
  - h) termination of the agreements (contracts) in which the farm participates as one of the parties and, if necessary, initiation of lawsuits on recognizing the farm's transactions void;
  - i) approval and presentation of documents needed for excluding the farm from the State Commercial Registry;
  - j) other actions necessary for farm liquidation as required by the legislation.
- (1) Property commission is entitled to conclude a contract with a private entity licensed to provide auditing and legal services on preparation of documents and execution of other technical functions connected with out-of-court farm liquidation.
- (2) Farm's manager, chief accountant and/or financially accountable persons shall be liable for the loss of property of the farm under liquidation.
- (3) Out-of-court farm liquidation is done under the supervision of creditors and local council.
- (4) The property commission presents, on the request of creditors and the mayor's office (for their familiarization) documents with necessary explanations on the farm's financial situation.

#### **Chapter IV**

### **GROUNDS AND PROCEDURE OF FARM DEBT SETTLEMENT**

#### Article 10. Grounds for farm debt settlement

The following shall be used as grounds for farm debt settlement under the provisions of the present Law:

- a) contract of farm participation in the National Land Program, and its compliance with contractual obligations;
- b) farm liquidation decision and publication of the liquidation notice in conformity with the present Law.

#### Article 11. Republican Commission on Settling Farm Debts

- (1) The Republican Commission on Settling Farm Debts (hereinafter referred to as *Republican Commission*) is appointed by the Government and is accountable to it.
- (2) The Republican Commission is entitled to taking decisions on acceptance by the state of historical farm debts due to other creditors, as well as writing off of the remaining historical farm debts due to the state and perform other functions stipulated by the present Law.
- (3) The Republican Commission includes representatives of the Ministry of Finance, Main State Tax Office, Social Fund as well as Ministry of Agriculture and Processing Industry

#### Article 12. Settlement of debts to priority creditors and farm employees

- (1) In conformity with the terms of the pledge, provisions of the Law on Pledge and other legislative acts, the property commission shall immediately repay (within the timelimit of the general prescription term) debts to creditors whose claims are secured by collateral.
- (2) Under the provisions stipulated in the Law on Capitalization of Hourly Payments, the property commission shall in the first place ensure money transfers to beneficiaries and if money is insufficient, the commission shall:
  - a) transfer agricultural goods and other farm assets, and/or
  - b) transfer the debts owed to beneficiaries to the municipal enterprise, created as provided for in item (4) of article 17.

- (1) Other property listed in sub-item a), item (2) shall include any farm property except for critical property, as well as pledged or seized property.
- (2) The farm's arrears on wages to its employees are settled in the way determined in article 17 within the general prescription term.

Article 13. Transfer of historical farm debts to the state

- (1) Within one month after publication of the farm liquidation notice, property commission and creditors (except for the priority creditors and farm employees) shall prepare reconciliation statements of farm debts to these creditors.
  - (2) Farm reconciliation statements together with the registry of creditors' claims, registry of all farm debts as of January 1, 1999, and statements on writing off of historical farm debts with expired prescription term, as well as unclaimed debts, shall be submitted to the territorial tax office within five days after the expiration of the deadline specified in item (1).
  - (3) Within 10 days after receiving the documents mentioned in item (2), the territorial tax office shall verify them and having certified the copy of the farm balance sheet for 1998 shall send these documents together with the mentioned copy to the Republican Commission.
  - (4) Within 10 days after receiving the documents mentioned in items (2) and (3), the Republican Commission shall make a decision on acceptance by the state of historical farm debts and send it to:
    - a) the Ministry of Finance and Social Fund – for execution;
    - b) Monitorul Oficial of the Republic of Moldova – for publication.
- (1) If requested by the Republican Commission the property commission shall provide it with the accounting and other documents confirming the amounts of:
- a) historical farm debts relinquished to the state;
  - b) historical farm debts remaining unsettled which shall be written off in conformity with items (2), (3) and (4) of article 16.
- (1) Based on the Republican Commission's decision, the Ministry of Finance and territorial tax offices shall make entries in the personal accounts of the farm and those of its creditors on transfer to the state and acceptance by the latter of historical farm's debts and submit the below-mentioned documents to the following entities:
- a) extract from the farm's personal accounts on the total amount of its historical debts to the state including those transferred to the state with indication of deadlines for repaying the transferred debts using property listed in item (1), article 15. The extract shall be submitted to the farm;
  - b) extracts from the farm's personal accounts with indication of the farm's historical debt to the given creditor transferred to the state, as well as the creditor's historical debt to the state repaid through offsetting, shall be submitted to each creditor having historical debts to the state;
  - c) extract from the personal accounts of each creditor having no historical debt to the state with indication of historical farm debt relinquished to the state and obligation that the state shall repay the given debt under the conditions provided in article 18. The extract shall be submitted to each such creditor.

Article 14. Restrictions in transferring historical farm debts to the state

- (1) Transfer to the state of historical farm debts payable to other creditors (except for priority creditors and farm employees) shall be done within the amount of this creditor's historical debts to the state, including its debts on:
  - a) credits (including interest, penalties and differences in exchange rate), obtained by this creditor from the Ministry of Finance based on the normative acts of the Parliament or the Government;
  - b) guarantees released by the Government as bank loans security, executed by the Ministry of Finance (including interest, penalties and differences in exchange rate) extended to the present creditor;
- (2) Relinquishment to the state of the claim on historical farm debt settlement is done by another farm creditor (except for priority creditors and farm employees) that, after the debt transfer mentioned in item (1), does not have historical debts to the state. This relinquishment is done within the amount of farm's historical debt to another creditor remaining after deduction of the debt amount transferred to the state according to item (1), as well as the amount of penalties and fines accrued on the debts relinquished to the state.
- (3) Transfer to the state of historical farm debts and of accounts receivables to another creditor is not allowed if:
  - a) historical debts are owed to the creditor who is also included in the National Land Program or is undergoing liquidation;
  - b) general prescription term set for historical debts expired before the date of their transfer;
  - c) historical farm debts were formed as a result of transfer to the farm of its creditor's debts to another economic entity or the state;
  - d) total historical debt amount to this creditor is under 2,000 lei;
  - e) historical debts are secured by collateral.

- (4) Historical farm debts defined in item (3) and namely those in sub-items:
- a) and b) – are written off;
  - b) and d) – are settled in the way determined in article 17;
  - e) – are settled according to item (1), article 12.

Article 15. Settlement of historical farm debts to the state through offsetting

- (1) Based on extracts from the farm's personal accounts, the property commission shall ensure settlement of its historical debts to the state through transfer of the following assets to the following agencies with the sequence being as follows:
  - (a) public assets - transferred into the ownership of local governments, local maintenance companies and organizations in the order established by the Government;
  - (b) mills and/or oil mills – into the local governments' ownership;
  - (c) other agricultural input processing facilities – into the local governments' administration for their privatization by the respective authorized central body;
  - (d) portfolio shares (shares and stocks) – to the respective central body authorized to privatize them;
  - (e) accounts receivable which can be really collected – to the territorial tax offices for forcible collection in conformity with the Law on Tax and Other Levies Collection Procedure.
- (2) If public assets value is insufficient for settling historical farm debts to the state, the public assets transferred gratis in 1992 and the following years into the ownership of local governments, local maintenance companies and organizations based on the statements certified by the territorial cadastral bodies, shall also be taken into account.
- (3) The property mentioned in sub-items a), b) and c) of item (1) is transferred according to the book (residual) value together with equipment, inventory and other assets.
- (4) The property mentioned in item (1) can be used for settling other farm's debts in conformity with the present Law only after full repayment of historical farm's debts to the state.
- (5) The property commission shall ensure transfer of farm's property defined in item (1) within 30 days after the date of:
  - a) publication of farm liquidation notice – when settling through offsetting historical farm debts to the state. Such debt amount is determined by the farm based on the extract from its personal accounts as of the date when the farm liquidation notice was published;
  - b) the Republican Commission's decision on acceptance by the state of historical farm's debts to other creditors - when settling through offsetting historical farm debts to other creditors transferred to the state. Such debt amount is determined based on the extract from the farm's personal accounts as of the date when the Republican Commission's decision is fulfilled.
- (6) Local governments, local maintenance companies and organizations defined by the Government, shall be obligated to accept the corresponding property from the farm based on the corresponding statement within 10 days after being notified of its transfer.
- (7) Historical farm debts to the state shall be settled through offsetting by:
  - a) territorial tax offices – farm debts to the national public budget;
  - b) the Ministry of Finance – credits obtained from the mentioned Ministry and guarantees issued by the Government and executed by the latter.
- (8) Within 5 days after presenting bills of transfer (orders of transfer), the Ministry of Finance and territorial tax office shall offset the historical farm's debts and notify the debtors about relinquishment to the state of claims on settling their debts to the farm.

Article 16. Writing off historical farm debts to the state

- (1) Historical farm debts to the state are written off only if:
  - a) these debts are subject to writing off as defined in sub-item b), item (6), article 8;
  - b) some part of historical farm debt remains unsettled (unsettled historical debt balance) after transfer to the state of all the farm property defined in item (1) article 15.
- (2) The request on writing off historical farm debts to the state remaining unsettled is signed by the property commission chairman and together with supporting documents is sent to the territorial tax office which, within 5 days, verifies the mentioned documents and sends them to the Republican Commission.
- (3) The decision on writing off historical farm debts to the state remaining unsettled is taken by the Republican Commission within 15 days after receiving the necessary documents and shall be published in the Official Monitor of the Republic of Moldova.
- (4) Writing off historical farm debts to the state remaining unsettled is done by:
  - a) territorial tax office – on the date when the corresponding decision of the Republican Commission is received;

- b) the farm – within three days after the corresponding extracts from its personal accounts are received.

Article 17. Settlement of current farm debt

- (1) Current debts of the farm under liquidation are settled as defined in the first paragraph of item 1, article 36 of the Law on Entrepreneurial Activity and Enterprises, with agricultural goods and other assets, except for those pledged, seized or designated for settling historical farm debts to the state pursuant to item (1) article 15.
- (2) Revenues resulting from sale of farm property previously seized by the territorial tax authorities shall be considered as repayment of current farm debts to the state and in case there are none, the mentioned seizure shall be canceled.
- (3) Upon agreement with farm creditors and the private farm created by farm members, a part of current debts of the farm under liquidation can be transferred to the private farm together with a part of property whose appraised value equals the amount of the transferred debt. Penalties on the mentioned debts shall not be accrued during 12 months after the date of their transfer.
- (4) Upon agreement with the local council and the mentioned creditors, current farm debts to priority creditors can be transferred to the municipal enterprise, created on the basis of a mill and/or an oil mill, transferred to the local government, provided that the total debt amount does not exceed 10% of the value of assets transferred to the local government.
- (5) Real estate can be transferred to a creditor from the corresponding waiting list for settling current farm debts to this creditor based on:
  - a) direct negotiations – if agreed upon with the creditors from the given waiting list provided that the amount claimed by them is not less than one third of the total claim amount of creditors from the same list, or
  - b) auction held among creditors of the given waiting list.
- (6) Current farm debts unsettled in connection with lack of farm property or creditors' refusal to receive non-cash assets shall be regarded as settled. Creditor's failure to give a written answer within 20 days after being sent a corresponding proposal by the property commission shall be treated as refusal.

Article 18. Settlement of historical farm debts relinquished to the state

- (1) Historical farm's debts to other creditors relinquished to the state shall be repaid by the Ministry of Finance in equal installments over a five year period through offsetting of all types of payments (taxes and other levies) to the state and local budgets accrued on each creditor (tax credit).
- (2) Tax credit shall be applied beginning with the calendar year following the year when the claim for repayment of historical farm debts to other creditors was relinquished to the state (debt deferral).
- (3) Upon a creditor's request, each such tax credit transaction shall be confirmed with an extract from its personal accounts.
- (4) State liabilities stipulated in item (1), (2) and (3) shall be documented as Treasury notes issued by the Ministry of Finance in form of entries on personal accounts in the Treasury Notes Registry.
- (5) Treasury notes of the Ministry of Finance as defined in item (4) shall not be regarded as securities, or alienated and can be transferred by the creditor only to its successor.
- (6) Entries on historical farm debts relinquished to the state are made by the Main State Tax Office in the Treasury Notes Registry of the Ministry of Finance within one month from the day when the Republican Commission adopts a decision on acceptance by the state of the mentioned debts.
- (7) If a creditor's tax payments to the state and local budgets accrued over a five-year period proved to be less than the amount of historical farm debts relinquished by it to the state, the maturity fixed for the treasury notes shall not be extended.

**Chapter V**  
**COMPLETION OF PROPERTY PRIVATIZATION**  
**AND FARM LIQUIDATION**

Article 19. Farm property privatization after settlement of its debts

- (1) For in-kind allocation of property left after settling all farm debts, the property commission shall calculate the value of the property share in the property unit claimed by each farm member out of the remaining assets and shall ensure its transfer.
- (2) Intangible assets, constructions, including unfinished constructions and other property items unclaimed while calculating the remaining property share values shall be transferred free of charge into the local government's ownership based on the transfer bill. Should the latter reject them in a written form, the property commission based on the corresponding statement shall write them off.
- (3) Property units which have not been claimed in-kind before completion of the farm liquidation, shall be transferred by statement into the local government's economic management, while unclaimed land shares shall remain at the disposal of the latter until they are claimed in compliance with the Law.
- (4) Privatized assets transferred into the local government's economic management are allocated to their owners in-kind and with account of their normal depreciation within 30 days after they file applications.
- (5) Applications mentioned in item (4) can be filed till July 1, 2001. No applications filed after this date shall be considered and the unclaimed property shall be transferred into the ownership of the respective local government.

Article 20. Preparation of farm liquidation documents

- (1) To exclude the farm from the State Commercial Registry, the property commission shall:
  - a) ensure, within 10 days after the settlement of all farm debts, the compilation of the farm liquidation balance sheet and submit it for the approval of the general meeting of farm employees and pensioners (stockholders, shareholders or members of cooperative), and be it impossible to convene such a meeting - shall approve the mentioned balance sheet in conjunction with the local council;
  - b) forward the approved liquidation balance sheet together with other supporting documents to the territorial tax office which, within five days, shall certify the farm liquidation balance sheet and return it to the property commission.
- (2) The social fund, customs' authorities and, if needed, other administrative bodies, within three days from request submission, shall issue to the territorial tax office or property commission the corresponding documents on debts of the farm under liquidation.
- (3) Within five days from the day of receiving the documents stipulated in the Law on Entrepreneurial Activity and Enterprises, the State Registration Chamber within the Ministry of Justice shall exclude the liquidated farm from the State Commercial Registry, issue an extract from the State Commercial Registry to the property commission and inform the Main State Tax Office and Department for Statistical and Sociological Analysis about the latter.

**Chapter VI**  
**SPECIFICS OF PROPERTY PRIVATIZATION**  
**AND RESTRUCTURING OF SOME FARMS**

Article 21. Specifics of property privatization in economic companies and cooperatives

- (1) Joint Stock Companies, Limited Liability Companies and other economic companies, as well as production and production-consumption cooperatives created earlier as a result of reorganization of kolkhozes, sovhozes and other farms are obligated to physically distribute property shares to the owners of land shares allocated in-kind should they request them. To effectuate such a property transfer no decision of the general meeting of members (stockholders, associates) of the economic company and cooperative is needed.
- (2) Number of stocks (stakes, shareholdings) held by a stockholder (stakeholder, member of cooperative), who is disbursed a critical property share in-kind, shall be decreased based on:
  - a) book value of this property and
  - b) value of all assets of the economic company or cooperative according to the latest quarterly balance-sheet as per one outstanding share (one paid-off stake, one paid-off shareholding).
- (3) Transactions on alienation or transfer in collateral of stocks (stakes, shareholdings) held by an individual who submitted an application pursuant to item (1):
  - shall be suspended from the day of filing such an application and
  - can be renewed starting the day when the corresponding entry on decrease in the number of stocks (stakes, shareholdings) held by the mentioned individual is made in the Registry of Stockholder (stakeholder, shareholder) in connection with in-kind allocation of critical property share to the given individual.

Article 22. Farm restructuring based on the local council's decision

- (1) If, due to the discontinuation of the farm's economic activities without liquidation under the procedure established in the legislation or due to some other reasons, it is impossible to hold a general meeting of farm employees and pensioners (stockholders, shareholders or members of cooperative) to make a decision on its restructuring or liquidation in compliance with this Law, such decisions shall be taken by the local council.
- (2) If the property commission has discontinued its activity or the farm itself has ceased its economic activity without its liquidation under the procedure established in the legislation, the local council shall create a property commission which is also empowered with the rights and responsibilities of the liquidation commission.

**Chapter VII**  
**FINAL AND TRANSITIONAL PROVISIONS**

Article 23

- (1) Provisions of this Law covering the aspect of settlement of historical farm's debts to the state through offsetting shall also apply to economic companies and cooperatives, peasant farms and their associations created by farm members based on land parcels and privatized property received in-kind, as well as to farm members who were transferred historical debts to the state of the farms reorganized before bringing this Law into effect.
- (2) The documents to be used for settlement of historical debts to the state as defined in item (1) shall be approved by the management of the private farm or farm members. Such documents shall be submitted and considered under the procedure established by the present Law.

Article 24

Transactions on transfer by farms of property defined in item (1), article 15 as repayment of historical debts to the state through offsetting shall be reflected in the balance sheets of local governments, local maintenance companies and organizations based on the bills of transfer (orders of transfer) and shall not be reflected in the report on cash fulfillment of the national public budget.

Article 25

- (1) If the farm property defined in item (1), article 15 was seized by the territorial tax office for settling historical farm debts to the state but was not sold by the day when the present Law came into effect the indicated property is no longer used for sale but is used for settling historical farm debts to the state under the procedure stipulated by the present Law. After complete settlement of such debts (should the farm have no current debts to the state), the seized property is released from custody by the territorial tax office within 10 days and is used by the farm for other purposes without contradicting the present Law and other legislative acts.
- (2) The farm property other than the one defined in item (1) of article 15, seized by the territorial tax office for settling historical farm debts to the state (should the farm have no current debts to the state) is released from custody by the territorial tax office within 10 days after the present Law comes into effect and is used by the farm for other purposes which do not contradict the present Law and other legislative acts.

Article 26

Proceeds from privatization of assets transferred by the farm as repayment of its historical debts to the state shall be wired to the state budget, local budget and social insurance budget pro rata to the debt amounts to the mentioned budgets.

Article 27

The Government shall:

- a) within fifteen days approve the Republican Commission membership;
- b) within thirty days approve the following:
  - procedure of transferring public assets into the ownership of local governments, local maintenance companies and organizations;
  - procedure for documenting historical debt transfer to the state and settlement in the process of farm reorganization;
  - procedure of settling historical debts relinquished to the state;
  - quarterly schedule for transfer to the state of historical debts and their repayment by farms included in the National Land Program and submit this schedule to corresponding public administration bodies for monitoring its execution;
- c) monitor farm reorganization process and should any violations be disclosed, present to the General Prosecutor's office materials for checking financial situation of farms with the purpose of pursuing the individuals responsible for deliberate bankruptcy of farms, misappropriation or theft of their property;
- d) take measures for ensuring registration of:
  - real estate assets and vehicles allocated to farm members in-kind;
  - (peasant) farms and other private farms created by farm members;
- e) ensure exclusion from the State Commercial Registry of the farms liquidated in the privatization process

Article 28

To take decisions that:

- the deadline for historical debt formations (by January 1, 1999) shall not be extended;
- quarterly reports of the Republican Commission on the results of farm restructuring in the process of farm privatization shall be considered and approved by the Government, while the corresponding annual reports – by the Parliament.

Article 29

The Commission on Economy, Industry and Privatization and the Commission on the Budget and Finance shall monitor execution of the present Law.

Article 30

This Law is effective until July 1, 2001.

Chairman of the Parliament  
Chisinau, May 13, 1999  
No. 392-XIV

DUMITRU DIACOV

**B. Decision on the Republican Commission on Settling Farm Debts**

Published on August 19, 1999  
in the Official Monitor of the RM

**DECISION****808****On the Republican Commission on Settling Farm Debts**

To ensure the fulfillment of the Law on Restructuring of Farms undergoing privatization No 392-XIV of May 13, 1999 (Official Monitor of the Republic of Moldova, 1999, No 73-77, article 341), the Government of the Republic of Moldova adopts the following DECISION:

1. To approve:  
the nominal membership of the Republican Commission on Settling Farm Debts (subordinated to the Government) according to Annex No 1;  
the Regulation on the Republican Commission on Settling Farm Debts according to Annex No 2.
2. To have all the decisions passed by the above-mentioned Commission published in the Official Monitor of the Republic of Moldova using the resources of the Government reserve fund.
3. The Republican Commission on Settling Farm Debts shall submit to the Government quarterly and annual reports about the results of the restructuring of farms undergoing privatization not later than the 10<sup>th</sup> date of the month following the reporting period.
4. The Ministry of Finance shall be responsible for the clerical services of the oft-mentioned Commission.
5. Item 5 of the Decision of the Government of the Republic of Moldova No 1022 of October 6, 1998 "On the unfolding of the agrarian reform" (Official Monitor of the Republic of Moldova, 1998, No 94-95, article 992) shall be annulled.
6. Mr. Alexandru Muravschi, Vice-Prime-Minister, Minister of Economy and Reforms, shall be appointed in charge of overseeing the fulfillment of this Decision.

Prime Minister of the  
Republic of Moldova

Ion Sturza

Countersignature:

Minister of Finance  
Minister of Agriculture  
and Processing Industry

Anatol Arapu

Valeriu Bulgari

Chilindu, 9 August 1999  
No 767

Annex 1  
to the Government Decision  
of the Republic of Moldova  
No 767 of August 9, 1999

**NOMINAL MEMBERSHIP  
of the Republican Commission on Settling Farm Debts**

Luchian Nicolae - Vice-minister of Finance, Chairman of the Commission

**Members of the Commission:**

Bodiu Zosim - Vice-minister of Agriculture and Processing Industry  
Iopac Vera - Head of the General Division for the national economy finances, Minister of Finance  
Mija Alexandru - Head of the Main Division on Agrarian Reform, Ministry of Economy and Reforms  
Cojocari Gheorghe - Deputy Head of the Main State Tax Office  
Sverdluc Liudmila - Vice-director of the Social Fund

Annex 2  
to the Government Decision  
of the Republic of Moldova  
No 767 of August 9, 1999

**Regulation of  
the Republican Commission on Settling Farm Debts**

**General provisions**

1. Regulation of the Republican Commission on Settling Farm Debts (hereinafter referred to as "Regulation") is drafted in compliance with the Law on restructuring of farms undergoing privatization No 392-XIV of May 13, 1999.
2. The present Regulation envisages the procedure of organizing the activity of the Republican Commission on Settling Farm Debts (hereinafter – Commission), as well as the functions, rights and obligations of the latter.
3. The activity of the Commission will be performed under the rules of the Constitution of the Republic of Moldova, Law on Restructuring Farms Undergoing Privatization, Civil Code, Tax Code, Law on Privatization Program for 1997-1998, Decrees of the President of the Republic of Moldova, Decisions of the Government, the present Regulation and other normative acts in this respect.

**Rights, obligations and organization of the Commission's activity**

4. The Commission decides on the following:  
taking over by the state of the historical debts of agricultural farms (hereinafter – farms) due to other creditors;  
annulment of the amount of farm's historical debts to the state remained unsettled;  
cessation of the fiscal and financial moratorium imposed on the farms which fail to fulfill their obligations stipulated in the contract for participation in the National Land Program;  
publication of their decisions in the Official Monitor of the Republic of Moldova.
5. To ensure the fulfillment of the functions granted to it, the Commission is entitled to:  
create working groups which will examine the issues related to settlement of farm's debts and forward suggestions for their resolution;  
request and receive necessary documents on the issues under its competence;  
involve specialists from ministries, departments, other central government organs, if there is a need to control some disputable situations;  
provide suggestions to the respective bodies concerned for eliminating the deviations identified, within its terms of reference;  
suspend or annul the adopted decisions if the farm failed to meet the obligations stipulated in the contract for participation in the National Land Program or if it was found out that the documents presented contain some distorted data;  
not adopt any decision in case of incomplete or incorrect preparation of the documents submitted to the Commission or if the documents contain inauthentic data;

- forward suggestions to the Government for solving some of the problems related to their field of activity.
6. The Commission is required to:
    - examine, within the deadlines established by the Law on restructuring of farms undergoing privatization, the documents received from the territorial tax office; to pass corresponding decisions and submit them to the respective bodies for execution and publication;
    - if violations are discovered, submit respective materials to the General Prosecutor's Office for the purpose of organizing controls of the financial and economic situation of the farm and, afterwards, present the respective documents to the court body in order to bring charges against the individuals who deliberately committed the actions acknowledged as intentional bankruptcy of the farm, misappropriation or embezzlement of farm's property;
    - provide quarterly and annual reports to the Government within the established deadline.
  7. Decisions of the Commission shall be adopted at its meetings.
  8. Commission's secretary shall be in charge of organizing and carrying out the Commission's meetings.
  9. Commission's meeting shall be considered deliberative if they are attended by no less than two thirds of the Commission's membership as recorded in writing.
  10. The Commission shall adopt its decisions by open ballot of the majority of votes of its members present at the meeting and shall be signed by the Chairman of the Commission and certified by the Ministry of Finance seal.
  11. If a member of the Commission disagrees with a decision adopted at the meeting, he/she is entitled to attach his unique opinion to the Commission's minutes.
  12. All members present at the meeting and the Commission's secretary shall sign minutes of the Commission's meetings.
  13. The decisions of the Commission adopted within its terms of reference shall be fulfilled by the Ministry of Finance, territorial tax offices, customs' control department within the Ministry of Finance and the Social Fund.

#### Final provisions

14. Members of the Commission shall be liable under the terms of the law.
15. Quarterly reports of the Commission shall include data on the following:
  - number of the farms which published liquidation notices pursuant the Law on restructuring of farms undergoing privatization;
  - amount of aggregate debts and historical debts of farms due to the state and other creditors;
  - structure and value of farms' property transferred to the state to repay debts to the state;
  - list of farms liquidated during the restructuring process;
  - settlement by the state of the debts which were relinquished during the farm's restructuring process;
  - problems related to the farm restructuring and suggestions for their resolution.
16. The activity of the Commission shall be ceased once the Law on restructuring of farms undergoing privatization becomes void.

Published on September 23, 1999  
in the Official Monitor of RM

### GOVERNMENT OF THE REPUBLIC OF MOLDOVA DECISION No. 854

of September 17, 1999

#### *On state support in restructuring of farms undergoing privatization*

As a follow-up of the Law of the Republic of Moldova No. 392-XIV of May 13, 1999 On Restructuring of Farms Undergoing Privatization (Official Monitor of the Republic of Moldova, 1999, No. 73-77, art. 341), the Government of the Republic of Moldova DECIDES:

1. To approve:
  - Regulation on the procedure of preparing documents for transfer of historical debts to the state and their settlement during the farm restructuring process, pursuant to Annex 1;
  - Regulation on the procedure of transfer of public assets into the ownership of local governments, local maintenance companies and organizations during the farm restructuring process, pursuant to Annex 2;
  - Regulation on the procedure of settling historical farm debts relinquished to the state, pursuant to Annex 3;
  - Quarterly schedule for transfer to the state of historical debts and their settlement by farms participating in the National Land Program, pursuant to Annex 4.

2. The National Press Agency “Moldpress” shall collect the publication fee from the farms participating in the National Land Program for publishing the liquidation notice in the Official Monitor of the Republic of Moldova in the amount of 10% of the established fee provided that other costs are covered out of the reserve fund of the Government.
3. The provisions stipulated in items 2-4 of the Enactment of the Parliament of the Republic of Moldova No. 251 of March 17, 1997 “On Implementation of Enterprise Registration Certificates” (Official Monitor of the Republic of Moldova, 1997, No. 21, art. 265, No. 29, art. 324, No. 72-73, art. 714) shall not cover kolkhozes and sovkhazes, factory-sovkhazes and agricultural enterprises of other legal forms which have published liquidation notices.
4. The State Registration Chamber at the Ministry of Justice:
  - within five days, shall provide the Department of Privatization and State Property Administration at the Ministry of Economy and Reforms with information from the State Commercial Registry about the farms participating in the National Land Program (NLP) if the latter is requested;
  - shall issue extracts from the State Commercial Registry to the farms liquidated during the restructuring process if the given farms lost their state registration certificates.
5. Within 5 days the Department of Statistic and Sociological Analysis shall submit to the Republican Commission for Settling Farm Debts, if requested, the electronic version of the accounting balance sheets for 1998 submitted by farms participating in the NLP.
6. The Ministry of Finance shall:
  - determine specifics of reflecting transactions on liquidation of farms undergoing privatization in accounting records and financial reports – within 20 days;
  - determine the specifics of settling current debts of farms under liquidation due to the state together with the Social Fund and Customs Control Department – within 30 days;
  - ensure storage of documents presented by farms and privatization participants to the Republican Commission for Settling Farm Debts, as well as of the minutes of Commission’s meetings – within 5 years.
7. Within 10 days the Ministry of Finance together with the Social Fund shall create working groups within the state territorial tax offices and their bureaus, including representatives of state territorial tax offices, customs control department at the Ministry of Finance and Social Fund, which will perform immediate checks of farms’ debts to the national public budget for the farms which published liquidation notice in compliance with the Law No 392-XIV of May 13, 1999.
8. The Ministry of Agriculture and Food Processing Industry together with the Ministry of Economy and Reforms will create judet (regional) working groups including representatives of their territorial divisions for the purpose of timely changing the membership of property commissions and taking ad hoc decisions on any other issues which appear during the fulfillment of the quarterly schedule for transfer to the state of historical debts and their settlement by farms participating in the NLP.
9. Mayor’s offices shall:
  - ensure the prompt submission to territorial tax offices of the information needed for tax record-keeping of farm members which received land share in-kind and individuals who leased in land for a long term;
  - ensure verification of claims filed in relation to settlement of debts to the local budget by the farms which published liquidation notice in compliance with the Law No 392-XIV of May 13, 1999;
  - ensure timely acceptance (receipt) of public assets, agricultural input processing units and other assets transferred as settlement of historical farm debts to the state onto the balance sheet of the mayor’s office.
10. Buildings housing educational institutions, cultural and health facilities transferred into the ownership of Mayor’s offices as repayment of farm debts to the state shall continue be used as such if the local government does not decide otherwise.
11. The Ministry of Interior shall:
  - ensure timely re-registration of auto and motor vehicles, tractors and other propelling machines, devices and trailers allocated in-kind to farm members regardless of farms’ arrears to the road fund;
  - collect payment for the re-registration of these transportation means in the amount of 50% of the established fee.
12. Under the established procedure, the Ministry of Economy and Reforms together with the Ministry of Labor, Social Protection and Families shall, within 20 days, submit for the consideration of the Government the draft Regulation on the manner of calculating periodical payments computed pursuant to the Law of the Republic of Moldova No 123-XIV of July 30, 1998 “On capitalization of periodic payments” (Official Monitor of the Republic of Moldova, 1998, No 85-86, article 570.
13. To take decisions that:
  - documents pertaining to the Archive Fund of the RM and the formal staff of the liquidated farm shall be transferred to the corresponding territorial state archives, while the other documents for temporary storage – to mayors’ offices;
  - the simplified procedure for transferring respective documents shall be established within a period of 15 days by the State Archive Service;
  - payment of 10% of the official fee shall be charged for processing the documents of farms liquidated during the restructuring process and for preparing the list of files, as well as for transferring documents according to the lists for storage of the latter with the territorial state archives.
14. It shall be established that if a farm participating in the NLP is being liquidated in connection with settlement of all its debts, the seal of the mayor’s office shall confirm the documents on privatization of the remaining property.

15. Ministry of Economy and Reforms, Ministry of Finance, Ministry of Agriculture and Processing Industry, Ministry of Labor, Social Protection and Family, Department of Statistic and Sociological Analysis, State Archive Service and local governments shall:
  - bring their normative acts in compliance with the Law on Restructuring of Farms Undergoing Privatization and the present Decision;
  - issue explanations on how to organize the fulfillment of the present Decision within their terms of reference;
  - take necessary practical actions for fulfillment of the quarterly schedule of transferring farm's historical debts to the state and their settlement by the farms participating in the NLP;
  - submit documents needed for inspection of the farm's financial situation and bringing charges against the officials responsible for deliberate bankruptcy of farms, misappropriation and theft of farm property to the Prosecutor General, should any violations be revealed.
16. Paragraph 5 of item 14 to the Decision of the Government of the Republic of Moldova No 361 of June 10, 1993 On Approval of the Regulation on Farm Property Commission (Official Monitor of RM, 1993, No 6, article 345) shall be added with the following wording:

"shall transfer to farm members and mayor's office the farm's property remained after liquidation as required by the current legislation".
17. Alexandru Muravschi, Vice-Prime Minister, Minister of Economy and Reforms, and the Republican Commission for Settling Farm Debts shall be responsible for overseeing the implementation of the present Regulation.
18. The present Regulation is effective until July 1, 2001, except for paragraph 4 of item I which is valid until March 1, 2007.

Prime Minister  
of the Republic of Moldova

Ion STURZA

Countersigned by:

Minister of Finance

Anatol ARAPU

Annex 1

to the Decision of the Government  
of the Republic of Moldova  
No.854 of September 17, 1999

**Regulation**  
**on the procedure of preparing documents for transfer of historical debts to the state and their settlement during the farm restructuring process**

**I. GENERAL PROVISIONS**

1. Regulation on the procedure of preparing documents for transfer of historical farm debts to the state and their settlement during the farm restructuring process (hereinafter - Regulation) has been drafted on the basis of the Law on Restructuring of Farms under Privatization, Tax Code, Law on the State Tax Service, Law on Accounting, National Accounting Standards (NAS), and other normative acts.
2. The present Regulation covers:
  - a) agricultural enterprises (hereinafter - farms) undergoing out-of-court liquidation according to Law No. 392-XIV, of May 13, 1999, on Restructuring of Farms under Privatization (hereinafter – Law No. 392-XIV, of May 13, 1999);
  - b) private enterprises and privatization participants stipulated by Article 23 of Law No. 392-XIV, of May 13, 1999.
3. The notions used in the present Regulation are as follows:
  - a) *debts to the national public budget* – debts to the state and local budgets, the state social insurance budget and off budget funds;
  - b) *initial historical farm debts to the state* – historical farm debts to the state indicated in the registry of all farm's debts as of January 1, 1999;
  - c) *historical farm debts relinquished to the state* – historical farm debts to other creditors relinquished to the state in conformity with Law No. 392-XIV, of May 13, 1999;
  - d) *unclaimed debts* – farm debts claims on which have not been declared within one month after publication of farm liquidation notice (except for debts to priority creditors and farm employees);
  - e) *date of debt origin* – date of expiration of the fiscal period or any other date before the expiration of this period that is indicated in the calculations of taxes and fees, penalties and fines, payments for repayment of credits or loans, interest and penalty payments, payments for products, services or date of origin of other legal factors resulting in farm financial liabilities during the indicated period;
  - f) *date of transfer to the state of farm historical debts owed to other creditors* – date as of which the registry of creditors' claims is compiled, in conformity to which the farm is subject to liquidation under out-of-court procedure or date when the court confirms that conditions stipulated in paragraph 11 of Article 8 of Law No. 392-XIV, as of May 13, 1999, and designed for farm liquidation under out-of-court procedure are met;
  - g) *portfolio shares* – shares of different issuers belonging to the farm;
  - h) *stakes* – a shareholding of the farm in the statutory capital of inter-farm enterprises, limited liability companies, cooperatives and other economic entities;
  - i) *initial liquidation balance* – balance sheet prepared as of the day the farm liquidation notice is published;
  - j) *final liquidation balance* – accounting balance prepared as of the date all farm debts are liquidated;
4. The present Regulation establishes the procedure for maintaining:
  - a) registries of historical farm debts;
  - b) creditors' claims registry;
  - c) farm debts reconciliation statements;
  - d) statements of farm debt annulment;
  - e) documents necessary for:
    - offsetting of farm's historical debts owed to the state by using the assets transferred to the state;
    - transferring to the state of farm's historical debts owed to other creditors;
    - writing off the remaining unsettled historical farm debts owed to the state.
5. The basis for preparing of documents:
  - a) specified in sub-paragraph a) - e) of paragraph 4 is the property commission notice about farm liquidation according to Law No. 392-XIV, of May 13, 1999 (hereinafter – farm liquidation notice);
  - b) specified in sub-paragraph f) – g) of paragraph 4 is the registry of creditors' claims pursuant to which the farm is to be liquidated under out-of-court procedure, or when the court confirms that conditions stipulated in paragraph 11 of Article 8 of the Law No. 392-XIV of May 13, 1999, and designed for farm liquidation under out-of-court procedure are met.
6. Farm liquidation notice is published in the Official Monitor of the Republic of Moldova on presentation of the contract of participation in the National Land Program which provides for the reorganization of the farm in accordance with Law No. 392-XIV, of May 13, 1999, including the Farm Registration Certificate (extract from the State Commercial Registry) with "under liquidation" note.

## II. PREPARATION OF REGISTRIES OF FARM DEBTS

7. The property commission maintains the registry of all the farm debts, as of January 1, 1999, according to the format given in Annex 1.
8. Registry of all the farm's historical debts as of January 1, 1999, is maintained on the basis of:
  - a) farm's balance sheet for 1998;
  - b) extracts from farm personal accounts maintained by local tax office (hereinafter – tax office), Customs Control Department and Ministry of Finance for 1998;
  - c) Ledger, registries of orders and registries of summary and analytical accounts of financial and economic activity of the farm (hereinafter – accounting records of the farm);
  - d) primary documents confirming dates of farm's historical debts origin and their amounts, if necessary.
9. When determining the farm debts to the national public budget for a period of time up to January 1, 1999, the respective data of the farm balance sheet for 1998 shall be added with penalties and fines, interest and exchange rate differences, reflected in the extracts from the farm personal accounts maintained by the tax office and Ministry of Finance for 1998, except for taxes and fines recalculated and applied during the inspections conducted after January 1, 1999, but not reflected in the farms' balance sheet;
10. Historical debts owed to the state and transferred to the farm by other economic entities shall be determined by the tax office based on its decision about the transfer of indicated debts.
11. Overpayments of taxes and fees to the national public budgets made by the farm before January 1, 1999, shall not reduce the farm's historical debts and shall be used to settle the farm's current debts to the respective budget.
12. For the purpose of verification of the registry of all farm debts as of January 1, 1999, the tax office shall do the control calculation in accordance with Annex 2.
13. Differences of exchange rates or changes in the sum of the principal debt, due to inflation, that are provided in the additional agreements to the contracts signed with the farm after January 1, 1999, shall not be classified as historical debts but as farm's current debts regardless of the dates when these contracts are signed.
14. The control calculation shall be based on:
  - balance sheet of the farm for 1998;
  - extracts from the farm's personal accounts maintained by the tax office and Ministry of Finance for 1998.
15. The result of control calculation shall coincide with the total amount indicated in the registry of all the farm debts as of January 1, 1999.
16. In case if farm's historical debts to other creditors reduced from January 1, 1999 until the expiration of one month for filing of the creditors' claims, the property commission shall prepare the registry of farm's historical debts transferred to the state as of the date of expiration of one month term and submit this registry to the tax office in the manner as is provided in paragraph 2 of Article 13 of Law No. 392-XIV, as of May 13, 1999.
17. The registry of farm's historical debts transferred to the state shall be compiled according to Annex 3 and can be put together with the registry of all the farm's debts as of January 1, 1999.
18. Upon the local tax office request, the farm and other creditors whose historical debts are transferred to the state, shall submit to it copies of primary documents, contracts, invoices, payment orders, proxies and other primary documents that prove the origin and amount of farm's historical debts owed to these creditors.
19. The sum of farm's historical debts to each creditor that are transferred to the state as of the date of expiration of a one month period from the date of publication of the farm liquidation notice shall not exceed the sum of debts determined in the registry of all the farm's debts as of January 1, 1999.
20. Within 10 days from the receipt of documents listed in paragraph 17 and 18 the tax office shall verify these documents and submit them together with the copy of the tax office certified 1998 balance sheet to the Republican Commission for Settling of Farm Debts (hereinafter – Republican Commission).

## III. PREPARATION OF CREDITORS' CLAIMS REGISTRY

21. Creditors' claims registry shall be drawn up by property commission according to Annex 4.
22. Creditors' claims registry shall be prepared as of the date of farm liquidation notice publication on the basis of:
  - extracts from farm personal accounts maintained by the tax office and Ministry of Finance as of the date of farm liquidation notice publication;
  - claims of other creditors;
  - farm debt reconciliation statements and court decisions.
23. The initial amount of creditors' claims shall be determined on the basis of extracts from the farms' personal accounts maintained by the tax office, Ministry of Finance, Customs Control Department and other creditors' claims, and the reconciled amount of these claims – based on the data from reconciliation statements and court decisions.

24. Within 5 days after publication of the farm liquidation notice, the Ministry of Finance, Social Fund, tax office and Customs Control Department shall submit to the property commission extracts from respective personal accounts of the farm for drawing up creditors' claims registry and verification of the farm's debt to the state.
25. The extract from the farm's personal account maintained by the tax office shall reflect all the farm's debts owed to the national public budget, including debts determined by the Social Fund and fines applied for failure to repatriate the currency by the National Bank of Moldova or Main State Tax Office.
26. When preparing the extracts from the personal accounts kept by the Ministry of Finance and tax office, one shall exclude the interest and penalties accrued for the respective period provided by paragraph 1 of Article 4 of Law No. 392-XIV, as of May 13, 1999, on the farms which submitted to the tax office their contracts for participation in the National Land Program (copies of the contracts certified by the Department of Privatization and State Property Administration within the Ministry of Economy and Reforms) irrespective of the year when these contracts are signed. Signing of additional agreements to the indicated contracts due to farm restructuring under Law No. 392-XIV, as of May 13, 1999, shall not suspend and cease the action of these contracts.

*Example 1. Limited liability company "EEE" signed on September 30, 1998, a participation contract with the National Land Program.*

*According to paragraph 1 of Article 4 of Law No. 392-XIV, as of May 13, 1999, the interest and penalties accrued on the debts of the "EEE" company owed to the state shall not be calculated beginning with January 1, 1999.*

*Example 2. The "BBB" collective farm signed on August 20, 1999, a participation contract with the National Land Program.*

*According to paragraph 1 of Article 4 of Law No. 392-XIV, as of May 13, 1999, the interest and penalties accrued on the "BBB" debts owed to the state shall not be calculated beginning with August 20, 1999.*

27. If the creditor's claim does not indicate the chosen manner of farm liquidation, this claim shall not be considered when indicating in the creditors' claims registry the manner of farm liquidation.
28. When indicating the manner of farm liquidation in the creditors' claims registry, one shall take into account the reconciled claims determined based on the farm's debts reconciliation statements prepared without any discrepancies or court decision.
29. If the farm debts reconciliation statement is prepared with discrepancies, when indicating the manner of liquidation in the creditors' claims registry one shall take into account the non-conforming part of the claims.
30. The registry of the creditors' claims shall be signed by the chairman of the property commission and mayor of the village (commune, town, municipality) on which territory the respective farm is located and shall be send to each creditor who filed a claim due to farm liquidation, within five days after the expiration of one month period from the date of farm liquidation notice publication.

#### IV. PREPARATION OF FARM DEBTS RECONCILIATION STATEMENTS

31. Verification of farm debts shall be made as of the date the farm liquidation notice is published and shall be documented according to the forms shown in Annex 5 - 10.
32. Verification of farm debts owed to the state shall be made based on:
  - a) extracts from the farm's personal accounts maintained by the tax office, Customs Control Department and Ministry of Finance, and other creditors' claims as of the date of farm liquidation notice publication;
  - b) primary documents of the farm;
  - c) accounting records of the farms;
  - d) initial liquidation balance sheet.
33. The initial liquidation balance sheet of the farm shall be prepared based on the balance of farm accounts as of the date of farm liquidation notice is published, and serves as a basis for the tax office to check taxes and duties paid by the farm to the national public budget for the period before the specified date and compilation based on its results of the reconciliation statement of farm debts owed to the national public budget.
34. Initial liquidation balance sheet shall be forwarded to the tax office within one week after the notice on farm liquidation is published.
35. Historical farm debts to the state social insurance budget, local and state budgets as of the date the farm liquidation notice is published shall be estimated through:
  - a) decreasing historical farm debts as of January 1, 1999, to the mentioned budgets by the sum of all payments made to these budgets after January 1, 1999;
  - b) increasing the total calculated according to sub-paragraph a) by the amount of payments made for settlement of current farm debts owed to the corresponding budgets.

36. Payments made by the farm to the national public budget after January 1, 1999 shall be considered as payments used for settlement of current debts owed to respective budget if it is indicated in the farm's payment orders.
37. The Tax Office, Social Fund and farm shall verify their entries on farm debts owed to the state social insurance budget and note the results in a tripartite statement prepared according to Annex 8. In case of discrepancy between these entries, farm's accounting data shall be used for verification purposes.
38. The reconciliation statement indicated in paragraph 37 shall serve as a basis for including the adjusted entries into the farm's personal accounts maintained by the tax office and local office of the Social Fund. Results of this reconciliation, including Social Fund data shall be reflected in the extract from personal account maintained by the tax office.
39. If after the reconciliation made under paragraph 38, additional calculation of debt owed to the Social Fund was made in the farm's personal account maintained by the tax office, then these calculations shall refer to the period of time when this debt was created.
40. When reflecting the results of the farm's debts reconciliation in the farm's accounting records, the differences in exchange rates shall be taken into account only in case when:
  - a) pursuant to the agreement concluded with the farm the latter has obtained a credit or loan in foreign currency, and is required to repay it in foreign currency as well;
  - b) pursuant to the agreement concluded with the farm on the import of goods (services), the latter is required to pay for goods (services) in foreign currency;
  - c) pursuant to the agreement mentioned in sub-paragraph a) or b), the third party, including the Ministry of Finance fulfilled the guarantee in the foreign currency and the farm is required to repay this guarantee to the third party in the foreign currency as well.
41. The amount of difference specified in paragraph 40 shall be calculated by the farm based on the sum of principal debt and difference in the national currency rate set by the National Bank of Moldova as of the date the liquidation notice is published and the date of the last entry in the farms' accounting books on the difference in exchange rates related to the obligations to repay the credit or loans, pay for goods (services) or repay the guarantee executed by a third party in foreign currency.

*Example. On July 19, 1997, agricultural cooperative "ABC" obtained a budget loan from the Ministry of Finance in the amount of US \$145,000. The loan maturity term is 18 months.*

*However, by December 19, 1998, (maturity date stipulated in the contract), cooperative "ABC" transferred only US \$120,000 to the Ministry of Finance as repayment of the principal. As of July 29, 1999 (the date the notice on cooperative liquidation was published), the balance of the principal equaled US \$25,000 (145,000 – 120,000).*

*Based on the data of the National Bank of Moldova, as of July 29, 1997, the national currency exchange rate was 475.3 lei, and as of July 29, 1999 – 1,102.0 lei per US \$100.*

*Thus, the balance of the principal in national currency as of July 29, 1997, equaled 118,825 lei (475.3 : 100 x 25,000), and the national currency exchange rate as of July 29, 1999, was 275,500 lei (1,102.0 : 100 x 25,000).*

*Therefore, the sum of the exchange rate difference for the period starting from July 29, 1997 until July 29, 1999, equals to 156,675 lei (275,500 – 118,825) – [(1,102.0 – 475.3) : 100 x 25,000] which shall be reflected in the accounting records of the farm which did not keep records of this exchange rate difference.*

42. If the sum of the creditor's claim corresponds to the data from farm's accounting records, the reconciliation statement as a consolidated document may not be compiled. In this case the creditor's claim and farm's accounting record certifying the authenticity of creditors' claims (Annex 11) shall be considered as reconciliation statement drawn in the form of two documents.
43. Debt reconciliation statements backed by court decision, which was made before the day the liquidation notice was published, may not be compiled.
44. Statements of reconciliation of debt owed to the national public budget that have no discrepancies and are signed by the tax office confirm the execution of a tax examination for a period up to the liquidation notice is published.
45. Debt reconciliation statements do not substitute the preliminary documents and without reference to them do not have any legal power.

## V. WRITING OFF FARM DEBTS

46. Unclaimed historical farm debts shall be written off by the property commission and recorded under the form shown in Annex 12.
47. The following shall serve as a basis for writing off of unclaimed debts stipulated by sub-paragraph a) of paragraph 6, Article 8 of Law No. 392-XIV, as of May 13, 1999:
  - a) creditors' failure (except for priority ones and farm employees) to file their claims related to its liquidation, or

- b) filing claims by the mentioned creditors after expiration of one-month period from farm liquidation notice publication.
48. Historical farm debts with the expired general prescription term shall be written off by the property commission and recorded under the forms shown in Annex 13.
49. Bases for writing off of historical debts with expired prescription term according to sub-paragraph b), paragraph 6, Article 8 and sub-paragraph b), paragraph 3, Article 14 of Law No. 392-XIV, as of May 13, 1999 are:
- creditors' claims registry;  
primary documents confirming the date of origin and amount of historical farm debts to these creditors.
50. The expiration of the general prescription term of farm's historical debts stipulated by sub-paragraph b), paragraph (6), Article 8 of Law No. 392-XIV, as of May 13, 1999, shall be determined as of the date of farm liquidation notice is published, and debts specified in sub-paragraph b), paragraph (1) of Article 14 of the same Law – as of the day the farm transfers to the state its historical debts owed to other creditors, as determined in sub-paragraph f), paragraph 3 of this Regulation.
51. The amount of historical debts with general prescription term expired and owed to the state and local budgets, as well as to the Social Fund shall be estimated by the tax office through:
- a) decreasing the amount of historical debts to the mentioned budgets as of the date separating historical debts with expired general prescription term from those of later origin by the amount of all farm payments to these budgets made before the farm liquidation notice publication;
- b) increasing the result obtained on sub-paragraph a) by the amount of payments made after January 1, 1999, and until the farm liquidation notice publication.

*Example. Cooperative "XXX" published its liquidation notice on July 29, 1999. Following below is the estimation of all farm' historical debts owed to the state budget with expired general prescription term done as of July 29, 1999, by the tax office on the basis of the farm's personal account (in lei):*

1) Historical debts owed to the state budget as of July 29, 1996 .....	132,600
2) Payments to the state budget for the period of July 29, 1996 through July 29, 1999 .....	(112,400)
3) Payments to settle current debts to the state budget made from January 1, 1999, until July 29, 1999 .....	18,000
4) Historical debts to the state budget with expired prescription term (1-2+3) .....	38,200

52. If the date of expiration of the general prescription term of farm's debt on wages to employees does not coincide with the first day of the calendar month, the farm salary arrears for the given month shall not be accounted for as debts with expired general prescription term and shall not be written off.
53. The process of writing off in conformity with sub-paragraph a), paragraph (3), Article 14 of Law No. 392-XIV, as of May 13, 1999, of farm debts to other farms – participants in the National Land Program, or to the farms undergoing the liquidation process, shall be documented by the statement in conformity with Annex 14.
54. Farm debts written off by the property commission shall be accounted for to the farm's income within 3 days after the corresponding statement is drawn up.

## VI. SETTLEMENT THROUGH OFFSETTING OF INITIAL HISTORICAL FARM DEBTS TO THE STATE

55. Within 5 days after receiving statements and other documents on transfer to the state of property envisaged in paragraph (1), Article 15 of Law No. 392-XIV, of May 13, 1999, the tax office shall offset initial historical farm debts to the Ministry of Finance and national public budget in the amount stated in these documents. The tax office decision on the offsetting of debts shall be documented under the format given in Annex 15.
56. Public and other assets shall be transferred to the state in accordance with the Regulation on the procedure of transferring public assets into the ownership of public administration authorities and local maintenance enterprises in the process of farm restructuring, approved by item 1 of this Decision.
57. Transfer of portfolio shares to the state shall be done based on the duly prepared bill of transfer addressed to the Department of Privatization and State Property Administration within the Ministry of Economy and Reforms.
58. In case when portfolio shares are transferred on the balance of the farm which was created in the process of collective farm reorganization, reorganization of state farm, factory farm or other farm with collective and/or state property without legalization of the transfer of title over these shares, the latter shall be registered in the established manner in the name of the successor-farm, before they are transferred to the state.
59. In the event of the portfolio shares are transferred on the balance of the farm which was created through split of collective farm, state farm, factory farm or any other farm with collective and/or state property without legalization of the transfer of title over these shares, the latter shall be registered in the farm's name upon the presentation of:

- a) farm's foundation documents;
- b) farm's registration certificate;
- c) divisional balance sheet of the farm;
- d) farm's accounting record that confirms the transfer of indicated shares.

In this case, the order of transfer shall be signed by the mayor and Chairman of property commission or person authorized by them.

60. Extract from shareholders registry confirming execution of the order of transfer shall be submitted to the Department of Privatization and State Property Administration within the Ministry of Economy and Reforms for registration of the mentioned transfer and shall be sent to tax office for settlement of historical farm debts to the state through offsetting with a note "registered".
61. Transfer to the state of a stake belonging to an enterprise shall be done by introducing according to the established procedure of changes in the foundation documents of the inter-farm enterprises and other enterprises which confirm the transfer of ownership right over these stakes to the state represented by the Department of Privatization and State Property Administration within the Ministry of Economy and Reforms.
62. Transfer to the state of actually collectable receivables shall be documented according to the statement given in Annex 16.
63. The bill of transfer of receivables that can be collected by the farm shall be completed based on reconciliation statements drawn according to Annex 17.
64. Receivables that can be collected by the farm shall include the debt with non-expired general prescription term confirmed by reconciliation statement with the debtors who:
  - a) are on the territory of the Republic or in other countries with which the Republic signed respective contracts (agreements);
  - b) have no debts to the national public budget;
  - c) own liquid assets that are sufficient for settlement of this debt.
65. In case when the amount of receivables that can be collected by the farm is not sufficient for settlement of all the farm's historical debts owed to the state, with the tax office consent, the debt of the debtor's to the farm who refuse to prepare reconciliation statements shall be received as payment of the indicated debts. In this case, the receivables reconciliation statement prepared by the farm shall have attached:
  - a) primary documents which confirm the date of debt origin and sum of this debt;
  - b) document confirming the refusal of the debtor to prepare the debt reconciliation statement.
66. Transfer to the state of portfolio shares (stakes) and collectible receivables as payment of historical debts shall be made at their book value.
67. The tax office shall notify debtors that the claims on settlement of their debts to the farm are relinquished to the state by issuing them corresponding extracts from personal accounts and sending notification to debtors having no permanent connection with the budget system of the Republic.
68. Settlement of historical farm debts to the state through offsetting shall be done pro rata to the farm debt amounts due to the state and local budgets, as well as the Social Fund and Ministry of Finance. Correlation between the specified debts shall be determined on the basis of debt reconciliation statements as of the date the notice on farm liquidation is published.

*Example. Based on the data from the debt reconciliation statements of "BBB" collective farm, one can see that its initial historical debt to the state equals to 849,270 lei, including – 248,000 lei debt to the state budget, or 29.2%, 123,500 lei, or 14.5% - to the local budget, 318,450 lei, or 37.5% - Social Budget and 159,320 lei, or 18.8% - Ministry of Finance.*

*As repayment of the mentioned debts to the state, the collective farm transferred assets in the amount of 735,290 lei according to the established procedure.*

*Based on this data, historical debts of "BBB" collective farm to the state budget shall be repaid in the amount of 214,705 lei (735,290 x 29.2 : 100), to the local budget – 106,617 lei (735,290 x 14.5 : 100), to the Social Fund – 275,734 lei (735,290 x 37.5 : 100) and to the Ministry of Finance – 138,234 lei (735,290 x 18.8 : 100).*

69. The tax office shall inform the Ministry of Finance, Customs Control Department and Social Fund about the respective sums of settled debts.
70. If during the period since transfer of collectible receivables to the tax office till the date farm's bank accounts are closed, the given funds aimed at settling collectible receivables come to these accounts, the mentioned funds shall be transferred to the Social Fund. Within 3 days, the property commission shall notify the tax office about this fact by transferring to it copies of farm's payment orders executed by the bank.

## VII. TRANSFER TO THE STATE OF FARM'S HISTORICAL DEBTS OWED TO OTHER CREDITORS

71. Based on its decision, the Republican Commission shall divide the farm's historical debts owed to other creditors and transferred to the state (except for priority creditors and farm employees) into:
- a) the farm's debts that are transferred to the state;
  - b) the claims to settle the farm's debts that are transferred to the state.
72. Dividing of farm's historical debts indicated in paragraph 71 shall be made based on:
- a) the registry of all the farm's debts as of January 1, 1999, and if necessary, registry of farm's historical debts transferred to the state;
  - b) extracts from personal accounts of the creditors of the farm maintained by tax offices, Customs Control Department and Ministry of Finance, historical debts to whom are relinquished to the state. The Republican Commission shall issue the mentioned extracts within 3 days upon receiving a request.
73. Transfer to the state of farm's historical debts owed to other creditors shall be done within the limit of the historical debts of this creditor owed to the state determined based on the extracts from the personal accounts of the subject creditor maintained by the tax office, Customs Control Department and Ministry of Finance.
74. Claims for settlement of farm's historical debts owed to other creditors shall be relinquished to the state:
- a) in the total sum if the creditor does not have any historical debts to the state, or
  - b) in the sum remained after the transfer to the state of farm's historical debts owed to this creditor.

*Example. According to the registry of historical debts transferred to the state, the "AAA" agricultural cooperative has 235,000 Lei of historical debts owed to LLC "ZZZ".*

*Based on the extracts from LLC "ZZZ" personal accounts that are maintained by the tax office and Ministry of Finance, this creditor's historical debts to the state constitute 148,500 Lei.*

*Thus, cooperative "AAA" historical debts to LLC "ZZZ" in the amount of 148,500 Lei can be transferred to the state. The remaining part of cooperative "AAA" historical debts to LLC "ZZZ" in the amount of 86,500 Lei (235,000 – 148,500) is subject to relinquishment to the state.*

75. The Republican Commission shall be entitled to request from the tax office, Customs Control Department and Social Fund, as well as from the farm and other creditors primary and other supporting documents that confirm the date of origin and sums of farm's historical debts that are relinquished to the state.
76. When transferring historical farm debts to the state, the tax offices and the Republican Commission shall also check the enforcement of all restrictions stipulated in Article 14 of Law No. 392-XIV, of May 13, 1999.
77. Decision of the Republican Commission on acceptance by the state of farm's historical debts owed to other creditors shall serve as basis for:
- a) reflecting the historical debts owed to the state in the accounting records of the farm and other creditors, as well as their personal accounts maintained by respective tax offices;
  - b) settlement by the farm of its historical debts owed to other creditors and transferred to the state in accordance with sub-paragraph a), paragraph (6) of Article 13 of Law No. 392-XIV, as of May 13, 1999;
  - c) settlement by respective tax office of the creditor's historical debts transferred to the state under sub-paragraph b), paragraph (6) of Article 13 of Law No. 392-XIV, dated May 13, 1999;
  - d) settlement by the state of farm's historical debts owed to other creditors and transferred to the state under Article 13 of Law No. 392-XIV, as of May 13, 1999, and the Regulation on the manner of settlement of farms' historical debts transferred to the state and approved by item 1 of the present Decision.
78. Settlement by the farm of historical debts to other creditors transferred to the state shall be documented according to the procedure determined in paragraphs 56-70 of this Regulation.

## VIII. WRITING OFF UNSETTLED HISTORICAL FARM DEBTS OWED TO THE STATE

79. The property commission shall forward to the tax office the request for writing off of remained unsettled farm's historical debts owed to the state, attaching estimation of the amount of the mentioned remaining debt documented according to Annex 18.
80. Calculation of unsettled historical farm debts owed to the state shall be done by the property commission based on:
- a) the registry of farm's historical debts transferred to the state;

- b) the decisions of the Republican Commission on acceptance by the state of farm's historical debts owed to other creditors;
  - c) the bills of transfer of public assets and primary agricultural processing facilities;
  - d) orders of transfer related to the portfolio shares;
  - e) changes and amendments to the foundation documents of the farm, in which the enterprise holds a share, regarding transfer of the share to the state;
  - f) statement of acceptance and transfer of receivable debt that can be collected;
  - g) other primary documents, if necessary.
81. Within 5 days after filing the application specified in paragraph 79 the tax office shall verify the correctness of the estimation of unsettled historical farm debts owed to the state and send it together with the application to the Republican Commission for approval of respective decision.

#### IX. SPECIFIC FEATURES OF THE SETTLEMENT OF SOME HISTORICAL DEBTS

82. Economic entities, cooperatives, peasant farms and their associations created by farm members based on the privatized property and land shares received in-kind shall settle historical debts owed to the state and transferred to them before July 15, 1999, in accordance with Article 23 of Law No. 392-XIV, of May 13, 1999, based on the decision of the Republican Commission, provided that the share of these land plots and property in the statutory capital of the private farm is 50%.
83. Managers of private farms defined in paragraph 82 shall apply to the Republican Commission with a request to settle historical farm debts according to Article 23 of Law No. 392-XIV, of May 13, 1999. This application shall have attached the documents which confirm the compliance with the provisions of paragraph 81, as well as the balance sheet prepared for most recent reporting date.
84. Within 10 days from submitting of the application, the tax office shall verify the documents indicated under paragraph 83 and forward them together with the extracts from private farm's personal account maintained by the tax office and Customs Control Department to the Republican Commission for approval of respective decision.
85. Within 10 days from receipt of documents stipulated by paragraph 83, the Republican Commission shall adopt the decision stating that the historical debts owed to the state and transferred to the private farm are going to be settled in accordance with Article 23 of Law No. 392-XIV, of May 13, 1999.
86. Expiration of the general prescription term of historical debts of private farms and farm members owed to the state shall be determined based on the date of the decision of Republican Commission indicated in paragraph 84.
87. Writing off of debts with the expired general prescription term that were transferred to the private farm, settlement through offsetting of historical debts with non-expired prescription term, as well as writing off of remained unsettled historical debts shall be done in the manner as is provided by the present Regulation.
88. Registration by privatization participant of the settlement of historical debts owed to the state and transferred to it shall be made in the manner as is provided by paragraph 83-86.
89. Preparation of documents necessary for settlement of historical debts owed to the state and transferred to the privatization participant shall be made based on proxy by the person which leases the property privatized by privatization participant or other persons.

#### X. FINAL PROVISIONS

90. The date for filing of claims by the farm creditors due to farm liquidation, as well as the date of expiration of general prescription term of farm's historical debts shall be determined according to the provisions of Articles 109 and 110 of the Civil Procedure Code.

*Example. The liquidation notice of "DDD" cooperative was published on July 29, 1999, in accordance with Law No. 392-XIV, as of May 13, 1999.*

*Based on the primary documents it was established that historical debts of the cooperative created prior to July 29, 1996, amount to 44,800 Lei, including debts to the state – 34,060 Lei.*

*Thus, the property commission of "DDD" cooperative is entitled to write off the aforementioned historical debts since the general prescription term established for these debts has expired prior to the date of publication of the cooperative liquidation notice.*

91. The sums indicated in the forms stipulated by the present Regulation shall be rounded to 1 Leu. No corrections and erasures can be made in these documents.
92. The Tax Office or the Republican Commission shall be entitled to refuse to accept and/or settle the historical debts of the farms, as well as the remained unsettled historical debts only in case when:
- a) submitted documents are not presented in the established manner or are incomplete, or

- b) submitted documents do not correspond to the primary documents or accounting records of the farm, or
  - c) there are violations of other requirements of Law No. 392-XIV, as of May 13, 1999, or other legal acts.
93. In case of refusal to transfer and/or accept the farm's historical debts, the tax office or Republican Commission shall notify in writing the farm with explaining of the causes of refusal and indicating the term for their elimination.
  94. If the property commission does not fulfill its functions associated with farm's liquidation after the settlement of its debts, given to it by Law No. 392-XIV, of May 13, 1999, the Republican Commission shall be entitled to suspend or revoke its decisions on receipt by the state of farm's historical debts owed to other creditors, as well as on settlement of unsettled residual historical farm debts owed to the state.
  95. The tax offices shall report on a monthly basis to the Main State Tax Office about the unfolding of the transfer and settlement of farm historical debts determined by the Main State Tax Office.
  96. The decisions of the Republican Commission stipulated by the present Regulation shall take effect from the date of their approval.
  97. The Republican Commission shall publish every month announcements in the Official Monitor of the Republic of Moldova in accordance with Annex 19.
  98. After publication of farm liquidation notice, the farm shall file the initial liquidation balance sheet with the Department of Statistical and Sociological Analysis, and no other reporting forms are needed for submission.
  99. The final liquidation balance sheet of the farm shall be prepared as of the day when all debts have been repaid, and is submitted to the tax office for the purpose of verifying farm payments on taxes and fees to the national public budget for the period after the notice on farm liquidation is published and prior to the day when the specified balance sheet is approved.
  100. The following documents shall be attached to the final liquidation balance sheet of the farm:
    - a) certificate (express-note) or other confirmation from the service bank (banks) on closure of the farm account (accounts);
    - b) brief explanatory note.
  101. Charges shall be brought against individuals who are liable for forgery of documents on transfer and repayment of farm debts under the legislation.

Annex 2  
To the Decision of the Government  
of the Republic of Moldova  
No 854 of 17 September 1999

#### Regulations

on the procedure of transferring public assets into the ownership of local governments<sup>26</sup>, local maintenance enterprises and organizations

### I. GENERAL PROVISIONS

1. Regulations on the procedure of transferring public assets into the ownership of local governments, local maintenance enterprises and organizations (hereinafter referred to as "Regulations") are developed on the basis of the Law on Restructuring of Farms Undergoing Privatization, Law on Privatization Program for 1997-1998, Law on State Enterprises, Law on Local Governments, and other normative statutes.
2. In compliance with item a), paragraph (1), article 15 of the Law on Restructuring of Farms Undergoing Privatization No. 392-XIV of 13 May 1999, (hereinafter referred to as Law No. 392-XIV of 13 May 1999), the present Regulations stipulate the following:
  - a) list of public assets to be transferred to offset historical debts of agricultural enterprises (hereinafter referred to as "farms") under restructuring payable to the state;
  - b) list of local governments and maintenance enterprises and organizations subject to receive public assets in their ownership to repay by offsetting the historical farm debts to the state;
  - c) procedure of transferring public assets into the ownership of local governments, local maintenance enterprises and organizations.
3. Public assets shall be transferred into the ownership of local governments, local maintenance enterprises and organizations in compliance with the list of public assets subject to be transferred to offset farm historical debts, provided in Annex 1, as well as list of local governments, local maintenance enterprises and organizations subject to receive these assets.

<sup>26</sup> Tr. Note: Local Government meaning local public administration authorities

4. By the consent of the mayor or local authority, local public assets classified as unfinished construction and stipulated in Annex 1 may be transferred to offset farm's historical debts to local maintenance enterprises and organizations, if the assets are not less than 75% finished.
5. The following public assets may not be transferred to repay farm's historical debts:
  - a) those which are a part of the common property complex;
  - b) those which are seized under the decision of the court or territorial tax office, or are collateralized.
6. Leasing out public assets by the farm shall not serve as a basis for refusal to transfer or receive such assets as offset of farm's historical debts to the state.

## II. PROCEDURE OF TRANSFERRING PUBLIC ASSETS

7. Within the deadlines stipulated in paragraph (5), article 15 of the Law 392-XIV of May 13, 1999, property commission shall do the following:
  - a) perform inventory of property which are part of the public assets to be transferred;
  - b) inform local governments, local maintenance enterprises and organizations about the forthcoming transfer of the respective public assets;
  - c) transfer public assets into the ownership of local governments, local maintenance enterprises and organizations.
8. Property commission shall perform the inventory of public assets and draw the bill of transfer/receipt of public assets (hereinafter referred to as "transfer bill"), which also serves as an inventory statement. Sample statement is provided in Annex 2.
9. Transfer and receipt of public assets shall be done by means of physical examination of the asset and signing the transfer bill within 10 days after notifying local governments, local maintenance enterprises and organizations about the forthcoming transfer.
10. The transfer bill shall be signed:
  - a) by farm director and chief accountant – on behalf of the farm being liquidated;
  - b) by the mayor and chief accountant - on behalf of local governments;
  - c) by enterprise manager and chief accountant – on behalf of local maintenance enterprises and organizations.
11. If storages of mineral fertilizers, chemicals and other ecologically harmful substances
12. are transferred to repay farm's historical debts, the transfer bill shall list the ecologically harmful components of those objects.
13. Public assets shall be transferred together with the equipment, tools and implements at
14. their book value estimated as of the end of the month preceding the assets transfer.
15. Property reappraisal shall be performed, if necessary, by the property commission or an independent expert based on the Methodical guidelines on calculation of the appraised value of the property fund of the enterprise and establishment of the sale price for property (stocks) held by the state, approved by the Government Decisions No 1056 of November 12, 1998, On measures for the implementation of the Privatization Program for 1997-1998.
16. If there are disagreements between the farm and the local governments, local maintenance enterprises and organizations regarding the value of the object being transferred, the value of the object shall be reappraised by an independent expert having the respective license. The value of the object reappraised by such an expert shall be considered as final.
17. The results of the reappraisal of the public asset shall be reflected by the farm in accounting records in compliance with the National Accounting Standards (NAS) 2 "Inventory" and NAS 16 "Accounting for long-term tangible assets".
18. If the value of the public assets being transferred onto the balance-sheet of local governments, local maintenance enterprises and organizations is not sufficient to offset the historical farm debts to the state, the value of assets provided for in paragraph (2), article 15 of Law 392-XIV of May 13, 1999, previously transferred gratis to the mayor's office, shall also be accounted for as repayment of these debts, provided the following conditions are being met:
  - a) authenticity of the transfer of these assets into the ownership of the mayor's office shall be certified by the territorial cadaster entity and an entry shall be made on the transfer bill reading "The existence of the objects is certified". The fact that the specified unit is not registered with the territorial cadaster entity may not serve as a basis for decline to perform the above certification;
  - b) chairman of the property commission and territorial tax office shall certify in the accounting record the fact that public assets stipulated in Annex 1 are not accounted for in the balance sheet of the farm.
19. If the farm, which had transferred public assets to the mayor's office free of charge, later on was reorganized by way of spin-off or split-up, the specified units shall be distributed under the statement of the property commission between the basic and/or newly created farms pro rata to the final total amounts of the divisional balance sheet. Historical debts of each of these farms to the state shall be repaid by the offset of public assets specified in the above statement.
20. If the farm and the mayor's office do not have transfer bills for the assets transferred earlier to the mayor's office free of charge, farm and mayor's office shall prepare an accounting record certifying the gratis receipt of the public assets by the mayor's office. The sample form of the given record is provided in Annex 3.

21. If the value of public assets transferred earlier free of charge to the mayor's office was not indexed before the transfer as required, the offset of their value as repayment of farm's historical debts can be done at the value reappraised by the mayor's office and confirmed by an accounting record certified by the mayor and mayor's office chief accountant.
22. If public assets are transferred to local state-owned maintenance enterprises and organizations, the value of the given property units shall be included in the equity capital of the given enterprise.
23. If public assets are transferred to local maintenance enterprises founded based on the private or mixed (both state and private) ownership, these farms must prepare, in compliance with the legislation requirements, the documents certifying the share of the state in their statutory capital, and shall be submitted to the Department of Privatization and State Property Administration within the Ministry of Economy and Reforms for record keeping.
24. To officially confirm the state share in the statutory capital of local maintenance enterprises, public assets shall be transferred for temporary economic management of these enterprises, or the mayor's office. The specified transfer serves as a basis for repaying farm's historical debts to the state in the corresponding amount.
25. If a public asset belongs to several enterprises based on the joint ownership right (pro rata to the share-holding of each enterprise), transfer bill for the given asset shall be signed by representatives of each enterprise. In addition, the transfer bill shall specify the share-holding of each enterprise-owner in the value of the unit transferred.
26. Mills, oil-mills, or other objects of agricultural input processing units stipulated in items b) and c), paragraph (1), art. 15, as well as assets stipulated in paragraph (2), art. 19 of the Law No. 392-XIV of 13 May 1999, and assets stipulated in item b), paragraph (1), art. 34 of the Law on the Privatization Program for 1997-1998 shall be transferred in compliance with items 8-15 and 20-23 of these Regulations.

### III. FINAL PROVISIONS

27. 25. Issues related to changes in labor relations which appeared as a result of the transfer of public assets to local governments and local maintenance enterprises and organizations shall be settled in compliance with the labor legislation and individual or collective labor agreements.
28. 26. If local governments and local maintenance enterprises and organizations refuse to accept public assets into their ownership or economic management, the farm is entitled to appeal against this refusal in the higher bodies and/or the court.
29. 27. If the transfer of public assets involves infringement of normative statutes, these Regulations inclusive, the offset historical farm debts may be suspended or canceled by the Republican Commission for Settling Farm Debts.
30. 28. Persons liable for violating the procedure of transferring/receiving public assets are held responsible under the legislation.

Annex 3  
to the Decision of the Government  
of the Republic of Moldova  
No. 854 September 17 1999

#### Regulation on the procedure of settling historical farm debts relinquished to the state

##### I. General provisions

1. Regulation on the procedure of settling historical farm debts relinquished to the state (hereinafter referred to as "Regulation") was developed in conformity with the Law on Restructuring of Farms Undergoing Privatization, Tax Code, Procedure of Documenting Historical Debt Transfer to the State and Debt Settlement in the Farm Privatization Process and other normative acts.
2. According to Article 18 of Law No 392-XIV of May 13, 1999 on Restructuring of Farms Undergoing Privatization (hereinafter referred to as Law No 392-XIV of May 13, 1999), the present Regulation establishes:
  - a) main requirements to maintaining Treasury Notes Registry of the Ministry of Finance (hereinafter referred to as "Registry");
  - b) grounds and procedure for preparation and repayment of Treasury Notes of the Ministry of Finance (hereinafter referred to as "Treasury Notes");
  - c) procedure for reporting on preparation and repayment of Treasury Notes.
3. The given procedure is based on the following concepts:
  - a) *Treasury Note* – non-commercial financial document, confirming the state's obligation to provide tax credit of payments of creditor holding Treasury Notes to the state and local budgets;
  - b) *Registry* – unified system for recording information on Treasury Notes and their holders (creditors);
  - c) *Personal account* – an aggregate of records in the Registry documenting origin, change and termination of Treasury Note holders' rights;

- d) *Chronological journal of transactions* – chronologically numbered records of all transactions performed within the registry system;
- e) *Extract from registry* – non-commercial document confirming that the given person has the right of Treasury Note holder as of its issuance date.
- f) *Creditor – physical entity* – citizen of the Republic of Moldova or some other state, as well as person without citizenship having direct contractual relations with the farm whose historical debts to the given creditor are relinquished to the state;
- g) *Creditor–enterprise* – enterprise of any legal form having direct contractual relations with the farm whose historical debts to the given creditor are relinquished to the state;

## II. Main requirements to maintaining the Registry

- 4. Registry system shall contain:
  - a) hard copies of primary documents serving as a basis for making records in the registry
  - b) personal accounts of creditors entered in the registry;
  - c) records on the amounts of historical farm debts accepted by the state; the obligations to repay them are documented in the form of Treasury Notes;
  - d) records on repayment of Treasury Notes;
  - e) chronological records on all transactions performed in the registry system;
  - f) other records needed for registration of Treasury Notes and their holders.
- 5. Treasury Notes registry shall be maintained electronically.
- 6. All records in the registry shall be based only on hard copies of properly arranged primary documents.
- 7. Each primary document received or created by the registry system shall be marked with date and time when it was received or created.
- 8. Should a need arise to enter in the Registry a record reflecting changes in the information on some creditor (a change in creditor's address or that of the territorial tax office (hereinafter tax office) where the creditor is served, etc.), the record shall be entered not later than within three work days after a corresponding creditor's application with supporting documents is received. The given record shall be entered in the chronological journal of transactions.
- 9. All measures aimed at providing security (integrity) of the data entered in the Registry shall be observed. These measures shall include creation of back up files, printing out data and other security measures.
- 10. All operations connected with maintenance of the registry shall be recorded in the chronological journal of transactions, which is compiled under Annex 1.
- 11. The chronological journal of transactions shall be started as of the date of entering the first record on historical debt relinquished to the state and shall be maintained on all registered creditors throughout a calendar year closing after the latter expires.
- 12. When maintaining the registry, it will be necessary to provide a possibility for screening at the terminal and printing out any document mentioned in the present Regulation.
- 13. The Registry shall be maintained in a separate computer room with limited access.
- 14. Software and financial information contained in the registry computers shall be protected by a password.
- 15. Administrator of the registry appointed by a corresponding instruction of the Main State Tax Office shall be responsible for maintaining and keeping the latter.
- 16. Access to the documents and computers of the registry shall be allowed only for the persons authorized by the corresponding instruction of the Main State Tax Office.
- 17. Individuals having access to the registry shall have no right to pass information from the registry to other persons except for the cases envisaged by the legislation and the present Regulation.

## III. Grounds and procedure for preparing Treasury Notes

- 18. Each creditor having relinquished to the state historical farm debts shall be opened a personal account in the registry to the name of the given creditor at the time of entering a record on the first historical debt amount accepted by the state.
- 19. Every personal account in the registry shall have a unique number coinciding with the fiscal code of the creditor having permanent tax relations with the republican budgetary system. The format of creditor's personal account is given in Annex 2.
- 20. Decision of the Republican Commission for Settling Farm Debts (hereinafter referred to as "Republican Commission") shall serve as grounds for making registry records on historical farm debt accepted by the state.
- 21. Within 3 days after receiving the extract indicated in item 20, the Main State Tax Office shall enter in the registry a record on historical farm debt relinquished to the state by the corresponding creditor.
- 22. Treasury Notes shall be prepared within ten days after the end of the calendar year by summing up all historical debts relinquished to the state throughout the given year and deferral of the mentioned sum pursuant to item (1), Article 18 of Law No 392-XIV of May 13, 1999.

23. Five-year deferral of the state debts to the creditor recorded in the registry shall be done within ten days after the end of the calendar (fiscal) year during which the state accepted historical farm debts to the given creditor.

Example. In 1999 creditor “XXX” relinquished to the state under the established procedure historical farm debts in the total amount of 600,005 lei. These state debts shall be deferred throughout 2000-2004 in the following way:

Year	2000	2001	2002	2003	2004
Annual debt amount to be repaid, lei	120,001	120,001	120,001	120,001	120,001

24. After entering records in the creditor’s personal account no corrections shall be allowed. Modifications in the existing records shall be made by entering amended and correct data based on the statement drawn according to Annex 3.

#### IV. Grounds and procedure for Treasury Notes repayment

25. Treasury Notes shall be subject to repayment by offsetting taxes and dues accrued during their repayment period as defined in item (2), Article 18 of Law No 392-XIV of May 13, 1999.
26. Treasury Notes repayment via tax credit shall be done by the Main State Tax Office in the process of accrual of all kinds of payments to the state and local budgets.
27. Treasury Note shall be repaid via tax credit only within the annual amount subject to repayment, which is reflected in the creditor’s personal account.
28. Within 10 days after the end of the calendar year, the Main State Tax Office shall ensure transfer of the creditor’s personal account to the tax offices via computer network in order to present data on the annual limit subject to repayment in the current reporting year and information on Treasury Notes repayment for the previous year against each creditor. Electronic copy of the creditor’s personal account shall be protected by a password and tax offices shall have no right to introduce any amendments or corrections in it.
29. Should the amount of payments to the state and local budgets accrued to a creditor be smaller than the one subject to annual repayment, the remaining state debt to creditor shall be transferred to the next years of the repayment period.
- Example. In 2000 creditor “XXX” described in item 23 is accrued payments to the state and local budgets in the amount of 100,001 lei. The debt limit to be repaid via tax credit is fixed for the given year in the amount of 120,001 lei (see the example in item 23). Consequently, the amount of payments (100,001 lei) to the consolidated budget accrued in 2000 is subject to offsetting via tax credit, while the remainder of the amount to be repaid equal to 20,000 lei (120,001 – 100,001) is transferred to the year 2001.
30. If the amount of payments to the state and local budgets accrued to a creditor is larger than the one stipulated in the conditions for deferral, payments to the mentioned budgets shall be offset within the annually repaid debt amount. The remainder of payments accrued during the tax period and remaining unsettled via tax credit shall be paid by the creditor to the state and local budgets under the general procedure established by the tax legislation.

Example. In 2001 creditor “XXX” described in item 23 is accrued payments to the state and local budgets in the amount of 130,501 lei though the allowed repayment amount is equal to 120,001 lei.

Consequently, the amount of creditor’s debts to the state and local budgets to be offset in 2001 is equal to 120,001 lei.

The remainder of payments accrued in 2001 in the amount of 10,500 lei (130,501 – 120,001) which is not subject to tax credit shall be paid by the creditor to the state and local budgets under the procedure established by the tax legislation.

31. Treasury Notes shall be offset via tax credit of all kinds of payments to the state and local budgets accrued against each creditor based on the instruction of the Main State Tax Office on tax credit (hereinafter tax credit instruction) drawn as shown in Annex 4.
32. Tax credit instruction shall be issued by the Main State Tax Office based on the tax credit request prepared by the tax office as shown in Annex 5.
33. The tax credit request mentioned in item 32 shall be drawn based on tax declaration and/or other tax estimates submitted by creditor and verified by tax office within three workdays after their submission. Tax office shall send the request to the Main State Tax Office within the same deadline.
34. Within three workdays after receiving the tax credit request, the Main State Tax Office issues a tax credit instruction on offsetting all kinds of taxes and dues accrued against the creditor and sends this instruction to the tax office for entering a record in the creditor’s personal account on offsetting the accrued taxes and dues.
35. Record on Treasury Notes repayment shall be entered in the registry within three workdays after the Main State Tax Office issues a tax credit instruction
36. On creditor’s request and based on the record proving the repayment of accrued taxes and dues the creditor is issued by the tax office an extract from the creditor’s personal account. This extract serves as a basis for entering in accounting registries a record proving the repayment of accrued taxes.
37. Tax office shall not accrue against creditors any penalties on the offset debts and dues from the date they present tax declaration or some other tax estimates till the date the mentioned payments are offset.

38. Creditors having arrears to the Customs Control Department of the Ministry of Finance present customs declarations to:
  - a) the tax office or
  - b) the Main State Tax Office
39. Should Treasury Notes not be repaid by the end of the five-year period determined according to item 23, their legal force shall not be extended and unfulfilled obligations of the state are annulled.
40. The Main State Tax Office shall have the right to deny tax credit to creditor should a tax office draw a tax credit request for the amount exceeding the annual limit of Treasury Notes subject to repayment or violating some normative acts including the present Regulation. The denial shall be motivated and presented in a written form.
41. For the purpose of control, tax offices and customs shall present to the Main State Tax Office monthly reports on state debts to creditors written off via offsetting. The Main State Tax Office shall establish when and in what forms the mentioned reporting shall be done.

#### **V. Grounds and procedure for Treasury Notes repayment**

42. Treasury Notes can be transferred by creditor-enterprise only to its successor created by reorganization (merger, affiliation, split or spin off) of the creditor-enterprise. The mentioned records shall be entered in the chronological journal of transactions.
43. In case of merger or affiliation of the creditor-enterprise its Treasury Notes shall be transferred to the successor-enterprise based on transfer balance sheet.
44. When reorganizing a creditor-enterprise via splitting or spinning off, its Treasury Notes shall be transferred to the successor-enterprise based on divisional balance sheet.
45. For entering a record on Treasury Notes transfer to the successor-enterprise, the creditor and the successor-enterprise shall submit a joint application to the Main State Tax Office with indication of the amount of Treasury Notes transferred. The application must be supported by:
  - a) foundation documents of the successor-enterprise;
  - b) state registration certificate of the successor-enterprise;
  - c) transfer or divisional balance sheet with an accounting certificate on the amount of Treasury Notes transferred.
46. Should a creditor-physical entity die, the Treasury Notes belonging to it shall be transferred to heirs under the procedure established by the Civil Code.
47. Should a creditor-physical entity be registered as an independent entrepreneurial entity during the period of its Treasury Notes repayment, the repayment of the mentioned Treasury Notes via offsetting of payments to the state and local budgets accrued against its newly created individual enterprise shall continue.

#### **VI. Issuance of extracts from creditor's personal accounts and reporting**

48. On creditor's requirement each record in its personal account listed in the registry shall be confirmed with an extract drawn according to the format given in Annex 6.
49. Extracts from creditor's personal account are issued to it within one workday.
50. Issuance of extracts shall be registered in the journal prepared according to Annex 7.
51. In order to monitor the process of entering records on historical farm debt amounts accepted by the state, in the years 1999 – 2001 the Main State Tax Office shall prepare monthly reports on historical debts accepted by the state and shall present them before the tenth day of the month following the month of reporting to the Republican Commission and Ministry of Finance in the format given in Annex 8.
52. For monitoring the progress of repayment of debts to creditors deferred by the state, in the years 2000 – 2007 the Main State Tax Office shall present monthly reports to the Ministry of Finance before the tenth day of the month following the month of reporting. Formats of these reports are given in Annexes 9 and 10.

#### **VII. Specifics of preparation and repayment of Treasury Notes held by creditors who do not have regular fiscal relationships with the Republic's budgetary system**

53. Entering records on historical debt accepted by the state and owed to creditor who does not have regular fiscal relations with the republican budgetary system, as well as preparation of corresponding Treasury Notes shall base on items 18-24 of the present Regulation.
54. Unique number for personal account of creditor who does not have regular fiscal relationship with the republican budgetary system shall be assigned in conformity with the classifier approved by the Main State Tax Office.
55. Creditors who do not have regular fiscal relationship with the republican budgetary system shall file customs declaration on payments accrued to taxes and duties with the Main State Tax Office.

56. Within one workday after receiving customs declaration, the Main State Tax Office shall issue a tax credit instruction on customs payments accrued to the creditor who does not have regular fiscal relations with the republican budgetary system and hand it over to the given creditor.
57. Treasury Notes of creditors who do not have regular fiscal relations with the republican budgetary system shall be redeemed by the Customs Control Department on the day when the instruction specified in item 56 is presented.
58. Should creditor who does not have regular fiscal relations with the republican budgetary system be registered as entrepreneurial entity, its Treasury Notes shall be redeemed under general conditions pursuant to the procedure defined by the present Regulation.

#### VIII. Final provisions

59. Historical farm debts relinquished to the state and owed to a creditor-physical entity that is or is not an entrepreneurial entity shall be repaid via offsetting of all accrued payments to the state and local budgets under the procedure established by the present Regulation.
60. Should data in the registry and records in the creditor's personal accounts in the tax office and Customs Control Department diverge, priority is with the records in the registry.
61. Grounds for closing creditor's personal account shall be as follows:
  - a) liquidation of creditor-enterprise or death of creditor-physical entity should the latter have no heirs, or
  - b) repayment of all creditor's Treasury Notes, or
  - c) expiration of all creditor's Treasury Notes legal force.
62. Closing date and time shall be specified in the creditor's personal account should the latter be closed.
63. All primary documents, journals, reports and other kinds of registry documentation shall be kept in the registry premises not less than 5 years after the arrival of the document but not later than January 15, 2007.
63. After expiration of any of the periods specified in Item 63, the mentioned documents shall be transferred to the Main State Tax Office archives to be stored not less than 5 years after the transfer date.
64. Persons guilty of falsifying information in the registry shall be called to account for their actions in conformity with legislation.
65. Treasury Notes holder has the right to appeal against actions (negligence) of tax authorities and customs in an administrative and/or court procedure.
67. The registry shall be closed on December 31, 2006.

Annex 4  
to the Decision of the Government  
of the Republic of Moldova  
No 854 of "17" September 1999

#### QUARTERLY SCHEDULE

##### for transfer to the state of historical debts and their settlement by farms participating in the National Land Program

Number of farms participating in the National Land Program which will transfer historical debts to the state and will settle them over the period of 1999-2000, by administrative and territorial unit (judet) of the Republic.

Administrative-territorial unit (ATU)	1999		2000			Aggregate total
	III	IV	I	II	III	
Jude_B_l_i	1	48	27	13	25	114
Jude_Cahul	1	34	18	9	17	79
Jude_Chi_in_u	1	53	27	14	26	121
Jude_Edine_	1	50	23	12	22	108
Jude_L_pu_na	1	47	24	12	22	106
Jude_Orhei	1	36	23	12	22	94
Jude_Soroca	1	50	25	12	23	111
Jude_Tighina	1	24	12	6	11	54
Jude_Ungheni	1	44	18	9	17	89
Chi_in_u municipality	1	4	3	1	2	11
G_g_uzia ATU	-	-	-	-	1	1
<i>Total</i>	10	390	200	100	188	888

**D. Decision on completion of the restructuring of farms undergoing privatization****GOVERNMENT OF THE REPUBLIC OF MOLDOVA****DECISION No 173**

of 25 February 2000  
Chi\_in\_u

**On completion of the restructuring of farms undergoing privatization**

To accelerate and ensure completion of the farm debt restructuring and current debt settlement, the Government of the Republic of Moldova DECIDES:

1. To approve:
  - the Regulations on settlement of current farm debts to the state in the process of privatization, in accord with Annex 1;
  - Membership of the Republican Commission for Settlement of Current Farm Debts to the State, under Annex 2;
  - the Regulations of the Republican Commission for Settlement of Current Farm Debts to the State, under Annex 3;
2. The Ministry of Finance will cancel the circular letter No 10-19-4512 of December 20, 1999 and the Social Fund will cancel the circular letter No 14/48 of January 20, 2000.  
The leadership of the Ministry of Finance and the Social Fund will undertake respective actions to bring charges against the people responsible for issuance of the mentioned circular letters.
3. The attention of the Prefects of B\_i\_jude\_ (Mr. Lup\_cescu), L\_pu\_na (Mr. Carau\_) and Ungheni (Mr. Gladco) shall be drawn on the unsatisfactory execution of the provisions stipulated in the Law on restructuring of farms undergoing privatization No 392-XIV of May 13, 1999 and the Government Decision "On the state support of the restructuring of farms undergoing privatization" No 854 of September 17, 1999, as well as the urgent need to accelerate the works related to the restructuring of farms from the above-mentioned judet.
4. Local public administration authorities will undertake additional measures to ensure the execution of the provisions stipulated in the Law on restructuring of farms undergoing privatization No 392-XIV of May 13, 1999 and the Government Decision "On the state support of the restructuring of farms undergoing privatization" No 854 of September 17, 1999, as well as the liquidation of farms on the basis of the monthly schedule for debt settlement and liquidation of farms included in the National Land Program, in accord with Annex 4.
5. The Prefects shall be required to submit reports regarding the execution of the Law on restructuring of farms undergoing privatization No 392-XIV of May 13, 1999 and the Government Decision No 854 of September 17, 1999 "On the state support of the restructuring of farms undergoing privatization" to the Government on a monthly basis, but not later than the 5<sup>th</sup> date of each subsequent month. It is considered expedient to analyze the given reports at the Government meetings in accord with the schedule provided in Annex 5.
6. Mr. Valeriu Cosarciuc, Vice-Prime Minister of the Republic of Moldova shall exercise control over the execution of the present Decision.

Prime Minister of the RM

Dumitru Braghi\_

Countersignatures of:

Vice-Prime Minister,  
Ministry of Economy and Reforms

Eugen\_lopac

Ministry of Finance

Mihai Manoli

Ministry of Agriculture and Food

Ion Russu

Ministry of Labor, Social Protection  
and Labor

Valerian Revenco

Ministry of Justice

Valeria\_terbe\_

Annex 1  
To Government Decision No. 173  
of February 25, 2000

**Regulations**

**on settlement of current farm debts to  
the state in the process of privatization**

1. Regulations on settlement of current farm debts to the state in the process of privatization (hereinafter called Regulations) set a procedure for settling current farm debts to the state in the process of restructuring and are developed in conformity with requirements of the Law on Restructuring of Farms Undergoing Privatization No. 392-XIV of May 13, 1999 (hereinafter called Law No. 392-XIV of May 13, 1999).
2. The Present Regulations shall cover agricultural farms going through the out-of-court liquidation procedure (hereinafter called farms) in conformity with the Law No. 392-XIV of May 13, 1999.
3. In conformity with subitem g), article 2, Law No. 392-XIV of May 13, 1999 current farm debts to the state (state budget, local budgets, state social insurance budget and the Ministry of Finance) shall include:
  - a) all kinds of debts, fines and penalties to the national public budget accrued on the farm for the period after December 31, 1998 and unsettled during the farm liquidation process;
  - b) historical farm debts to the national public budget formed as a result of transfer to the farm of its creditor's historical debt to the state, including debts formed in accordance with item (2), Article 31 of the Law on State Budget for 1997, item (8), Article 39 of the Law on the Budget for 1998 except for historical debts formed as a result of transfer to the farm of the historical debts in conformity with Resolution of the Government No. 422 of April 9, 1998, No. 457 of May 18, 1999 and No. 885 of August 19, 1998;
  - c) debts on credits extended by the Ministry of Finance and guarantees secured by the Government including the main sum, interest, difference in the exchange rate and fines accumulated for the period after December 31, 1998.
4. Current farm debts to the state shall be settled only after repayment of all farm debts to beneficiaries and farm employees, as well as of the historical farm debts to the state.
5. After fulfillment of item 4, current farm debts to the state shall be settled following this priority order and by the following means:
  - a) compensation using farm's overpayments to the national public budget;
  - b) cash obtained from property sale;
  - c) transfer to the state of portfolio shares at their appraised value;
  - d) relinquishment of state debts to farm's debtors having fiscal relations with the republican budget;
  - e) transfer of debts to private farms formed by privatization participants upon their agreement.
  - f) compensation using non-cash property.
6. Settlement of current farm debts owed to the state in credit of farm's overpayments to the national public budget shall be done as follows:
  - a) overpayments with general prescription term expired as of the date of publication of farm liquidation notice in the Official Monitor of RM shall be written off;
  - b) overpayments formed through cash repayment and remaining after settlement of all current farm debts to the relevant budget shall be used for settling current debts on other taxes, fines and penalties owed by the farm to other budgets;
  - c) overpayments formed by offsetting (counter-claims offsetting) and/or by decreasing the tax or levy amount in accordance with the Government Decision of the Republic of Moldova and remaining after settlement of all current debts to the relevant budget shall be written off;
  - d) overpayments formed through money repayment to the corresponding budget and remaining after settlement of all current debts to the national public budget can be transferred to the private farm formed by the privatization participants.
7. Farm portfolio shares shall be transferred to the Department of Privatization and State Property Administration to be traded through Moldova's Stock Exchange.
8. Within 3 days after receiving extracts from a respective share registry, confirming the facts of transfer transactions mentioned in item 14, the tax office shall offset current farm debts to the state for the amount equaling the appraised value of portfolio shares transferred to the state.
9. Receivables as defined in subitem d), item 5 of the present Regulations shall be transferred to the tax office at their book value calculated as of the date of compilation of the statement on debt relinquishment.
10. In order to settle current farm debts to the state using the remaining non-cash property the farm shall submit to the tax office an offer including a list of property remaining after fulfillment of items 4 and 5 of this Regulation.
11. Within 10 days after receiving the offer, the tax office shall take legal measures to sell the proposed property.
12. In case of failure to sell farm property within not more than 10 days after receipt of farm's offer, the tax office together with the mayor's office shall draw a written notice listing the balance of farm debts to the state remaining unsettled and the list of property items subject to be transferred into the mayor's office ownership, indicating their book value, which shall be sent to the Main State Tax Office.
13. Within not more than 3 days after the territorial tax office receives the farm's offer, the Main State Tax Office shall verify submitted documents and send them to the Republican Commission on Settling Current Farm Debts to the State (hereinafter called Commission).
14. Within 7 days the Commission shall take the following decisions on:
  - offsetting of current farm debts to the state with non-cash assets;

- obliging respective mayors' offices to receive farm property accepted as settlement of current debts to the state; cancellation of the residual current farm debt remaining unsettled (because of lack of property or refusal to accept it).
15. The Commission shall submit reports to the Government on a quarterly basis or upon request.
  16. Within 3 days after the Commission takes a respective decision:
    - a) property commission shall transfer and mayor's office shall accept the property listed in the Commission's decision;
    - b) the Ministry of Finance and the Social Fund shall make entries in the farm's account on settlement and/or cancellation of current debts and issue to the farm a certificate stating that it is clear of debts on payments administered by them;
    - c) territorial tax office shall make entries in the farm's account on settlement and/or annulment of current debts and issue to the farm a certificate stating that it is clear of debts to the national public budget.
  17. Papers needed for documenting the transactions envisaged by the given Regulations shall be drawn in conformity with the forms approved by the Ministry of Finance and coordinated with the National Land Privatization Program.

Annex 2  
To Government Decision No. 173  
of February 25, 2000

**MEMBERSHIP  
OF THE REPUBLICAN COMMISSION FOR SETTLING  
FARM CURRENT DEBTS TO THE STATE**

Cosarciuc Valeriu	-	Vice Prime Minister (Chairman of the Commission)
Plamadeala Natalia	-	Head of Division, State Tax Office (Secretary of Commission)
<b>Commission Members</b>		
Badir Iurie	-	Prime Vice Minister of Economy and Reforms
Bodiu Zosim	-	Vice Minister of Agriculture and Processing Industry
Luchian Nicolae	-	Vice Minister of Finance
Pop Mihail	-	Head of Main State Tax Office
Zubatii Filip	-	Social Fund Executive Director
Oleinic Alexandru	-	Director of the Department of Privatization and State Property Administration within the Ministry of Economy and Reforms

Annex 3  
to Government Decision No. 173  
of February 25 2000

**REGULATION OF THE REPUBLICAN COMMISSION  
FOR SETTLING OF FARM CURRENT DEBTS OWED TO THE STATE**

1. The Republican Commission for settling of farm current debts owed to the state (hereinafter referred to as – The Commission) shall decide upon:
  - writing off the remaining unpaid farm current debts owed to the state, including farm debts owed to persons receiving disability pensions as a result of disability obtained in respective farm;
  - transfer of farm property to local public administration authorities (mayor's offices) as payment of remaining unpaid current debts owed to the state, under paragraph 6 of Article 17 of Law No. 392-XIV, of May 13, 1999, On Restructuring of Farms Undergoing Privatization.

2. In order to execute its functions, the Commission shall have the right to:
  - request and receive necessary documents that are within its terms of reference;
  - attract specialists from ministries, departments and other public authorities for review of disputes, if necessary;
  - within the limit of its competence, come up to appropriate bodies with proposals on elimination of noted violations;
  - not adopt the decision in case of filing of incomplete or incorrect documents to the Commission or if these documents contain inaccurate data.
3. The Republican Commission shall:
  - within 10 days, review the documents received from the Main State Tax Office;
  - adopt respective decisions and submit them to competent bodies for execution;
  - if violations are detected, submit necessary materials to the General Prosecutor's Office for review of financial and economic situation of the farms, with the following submission of mentioned materials to the court to bring charges against persons which carried out deliberate actions qualified as willful bankruptcy of the enterprise, embezzled and misappropriated the property of these entities.
4. The Republican Commission meetings shall have the quorum if no less than two thirds of its staff members are present at the meeting.
5. The Commission decisions shall be adopted at its meetings.
6. The Commission decisions shall be adopted by open vote of the majority of its members present at the meeting.
7. All the members present at the meeting and the secretary of the Commission shall sign the minutes.
8. The Commission decisions adopted within the limits of its competence shall be binding upon the Ministry of Finance, Main State Tax Office (local tax offices), Customs Control Department within the Ministry of Finance and the Social Fund.

Annex 4  
To Government Decision No 173  
of February 25, 2000

MONTHLY SCHEDULE  
for debt settlement and liquidation of farms participating  
in the National Land Program

Number of farms – participants in the National Land Program which will settle all debts and be liquidated in 2000, by administrative - territorial units of the republic

Administrative-territorial unit	Monthly tasks for the year 2000							Total
	Feb.	Mar.	Apr.	May	June	July	Aug.	
B l i jude	25	32	5	4	4	13	12	95
Cahul jude	15	22	3	3	3	9	8	63
Chi in u jude	20	28	5	5	4	13	13	88
Edine jude	20	28	4	4	4	11	11	82
L pu na jude	20	29	4	4	4	11	11	83
Orhei jude	16	23	4	4	4	11	11	73
Soroca jude	20	28	4	4	4	12	11	83
Tighina jude	10	12	2	2	2	6	5	39
Ungheni jude	20	31	3	3	3	9	8	77
Chi in u Municipality	3	3	1	0	0	1	1	9
Gagauzia TAU	0	0	0	0	10	10	10	30
Total	169	236	35	33	42	106	101	722

Annex 5  
to Government Decision No 173  
of February 25, 2000

**Time schedule**  
**for the reports on fulfillment of the Law no. 392-XIV of 13 May 1999**  
**and the Government Decision No 854 of 17 September 1999, as well**  
**as of the monthly schedule for debt settlement and liquidation of farms**  
**participating in the National Land Program, which shall be submitted**  
**by the Prefects of the Republic of Moldova in 2000**

B_l_i jude_	February July
Cahul jude_	February July
L_pu_na jude_	March July
Ungheni jude_	March July
Tighina jude_	April July
Orhei jude_	April July
Chi_in_u jude_	May July
Edine_jude_	May July
Soroca jude_	May July

**E. Law No. 953-XIV on Amendments and Additions to the  
Law on Restructuring of Farms Undergoing Privatization**

The Parliament adopts this organic law.

Art. 1. The Law on Restructuring of Farms Undergoing Privatization No. 392-XIV of 13 May 1999 (Official Monitor of the Republic of Moldova, 1999, No. 73-77, Art. 341) shall be modified and amended as provided below:

1. Article 2:

subitem f)- words “accrued before January 1, 1999, and remaining unsettled by date of their transfer, offset or writing-off;” shall be replaced by “accrued (calculated) for the period until 1 January 2000, and unsettled by the date of publishing the farm liquidation notice, in compliance with this law”;

subitem g) the characters “1998” shall be replaced by characters “1999”.

2. Article 4:

item (1):

in the introductory part, after the words “National Land Program” the words “or the “Land” Pilot Project” shall be added;

the item shall be added subitem c) with the following contents:

“c) penalties and fines for infringements detected by territorial tax office controls, regardless of the period under control.”;

item (3) – the words “transferring, offsetting, canceling its historic debts” shall be replaced by the words “settling its historic and current debts”.

3. Article 6:

item (1), the words “in accord with the privatization legislation” shall be added after the words “individual who”;

two new items (5) and (6) with the following content shall be added:

“(5) The Mayor’s office shall inform the State Tax Office, within 10 days from the approval of the decision on attributing in-kind equivalent land shares to privatization participants, on the approval of this decision and shall include the data on the new land tax payers.

(6) Land tax payers for the distributed in-kind land shares shall be:

- a) from the beginning of the fiscal year until the month of the mayor’s office’ approval of the decision indicated in item (5) – the farm undergoing privatization;
- b) from the month immediately following the mayor’s office’ approval of the respective decision indicated in item (5) until the end of the fiscal year – persons who were allocated land shares or the lessees of these fields, if this is stipulated in the lease agreements.”

4. In the title of chapter III, after the word “Reason” the words “for liquidation initiation” shall be added.

5. Article 7:

In the title of the article, the words “for liquidation initiation” shall be added after the word “Reason”;

item (1) – the words “liquidating” shall be replaced by the words “liquidation initiation”;

item (4):

in subitem c) words “historic debts” shall be replaced with the words “debts and other financial obligations”;

subitem d) shall have the following content:

“d) the property commission shall be additionally empowered with the rights and responsibilities of the liquidation commission, in accord with the legislation on privatization;”;

subitem e) shall be completed with the words “, even the one previously seized shall be removed from under sequester”;

subitem f), the words “and penalties shall cease being accrued” shall be replaced with the words “by difference in exchange rate, and application of penalties and fines”;

Item (4) shall be added a new subitem (i) with the following content:  
 “i) cease the execution of court decisions regarding the farm”.

6. Article 11:

item (2), the words “and current debts” shall be added after “historic debts”;

in item (3) the words “Main State Tax Office” shall be added the words “of the Ministry of Economy and Reforms.”;

a new item (4) with the following content shall be added:

“(4) Decisions adopted by the Republican Commission shall be published in Official Monitor of the Republic of Moldova on a monthly basis and prior to the 10<sup>th</sup> date of the month following the month of report submission.”

7. Article 13:

item (2), the characters “1999” shall be substituted by characters “2000”;

item (4) shall have the following content:

“(4) Within 10 days after receiving the documents listed in items (2) and (3), the Republican Commission shall issue a decision on state receipt of historic farm debts and submit it for execution to the Ministry of Finance and Social Fund.”

8. Article 14:

item (3), subitem c) shall have the following content:

“c) historic farm debts were formed through transfer by the initial creditor to another creditor, after the date of signing the agreement of participation in the National Land Program by the farm, or after 15 July 1999;”

9. Article 15:

in item (1), subitem d) shall become subitem b), and subitems b) and c) shall become, respectively, subitems c) and d);

item 2) shall be added the words “, including the cost of administrative buildings (share in them) transferred gratis to local governments based on Government Decisions.”;

10. Article 17:

item (1) shall be worded as follows:

“(1) Current debts of farm under liquidation shall be settled with agricultural production and other property, except for collateralized property or property destined for settlement of historic farm debt to the state in compliance with item (1) of Art. 15, in the following order:

- a) debts to beneficiaries;
- b) debts to farm employees;
- c) debts to the state;
- d) debts to other creditors”;

After item (4), items (5), (6), and (7) with the following contents shall be added;

“(5) Current debt to the state shall be settled by:

- a) offset of all financial obligations of the National Public Budget to the farm;
- b) payment of monetary means, including those received after sale of property;
- c) transfer of portfolio shares at the appraised value to a central body which is authorized to manage their privatization;
- d) transfer of debts to the state to farm’s debtors, who have any fiscal relations with the budgetary system of the republic within the limit of the farm’s receivables;
- e) transfer of debts to farms which were created by privatization participants or by other persons, upon their consent.
- f) offsetting with non-cash property (the local governments shall be obligated to receive the property offered by the privatization commission).

(6) If the property indicated in subitems a) – f) of item (5) is not enough, debts remained unsettled shall be written-off by the Republican Commission.

(7) Writing-off remaining unsettled current debts to the state shall be performed in accord with items (2) – (4) of Art. 16.”; items (5) and (6) shall become, respectively, items (8) and (9).

11. Article 18 shall be added item (8) with the following content:

“8) Tax and customs authorities shall not apply to creditor penalty to the amount of debts and levies subject to settlement, starting from the day of submission by creditor of tax (customs) declaration, or other tax calculations, till the offsetting of the mentioned payments.”

12. Article 19:

shall be added items (6) and (7) with the following wording:

“(6) If, in compliance with item (3), portfolio shares held by the farm are transferred into the economic management of the local public administration body, the latter is entitled to prepare the order on transfer of these shares to privatization participants, following the procedure of the National Securities Market Commission and the Republican Commission.

(7) If accounts receivables are transferred into the economic management of the local public administrative body, in compliance with item (3), the latter is entitled to file a claim on the forceful collection of the respective receivables to the benefit of privatization participants. In this instance, collection of the state tax and off-payment of court expenses shall be done after investigation of all causes. Up to 10% of the amount of collected receivables can be left with the local public administration body and used to cover the expenses associated with collection of these receivables.”

13. Article 20:

item (3) shall be added the words “, as well as the National Securities Market Commission, if the Joint-Stock Companies are liquidated”;

shall be added items (4) and (5) with the following content:

“(4) When submitting to the bank documents certifying settlement of all farm debts in accord with this Law, the farm’s collection orders shall be accounted for as executed.

(5) The farm under liquidation shall transfer:

- a) documents related to the State Archive Fund of the Republic of Moldova – to the territorial state archive;
- b) documents listing the staff on the payroll – to the mayor’s office; if the mayor’s office does not have premises for permanent storage of these documents, they shall be transferred to the state territorial archive offices;
- c) documents for temporary storage – to the mayor’ office.”;

14. Article 23 shall be added a new item (3) with the following content:

“stipulations of item 1 shall also cover farms on the left side of river Nistru, undergoing privatization, which have relations with the Republic of Moldova’s budgetary system.”

15. Article 24:

the only existing item shall become item (1);

item (2) shall be added to this article, stipulating the following:

“(2) Offsetting current farm debts to the National Public Budget with non-cash property, as well as offsetting of Treasury Notes of the Ministry of Finance shall not be reflected in the report on cash execution of the corresponding budget.”

16. Article 26 shall be worded as follows:

“Article 26. (1) Offset of historic debts to the state shall be done in the following order: to the Ministry of Finance, state budget, local budget and state social insurance budget.

(2) Cash proceeds gained by the farm from sale of the property as offset of current debts to the state shall be transferred successively to offset debts to the state social insurance budget, local budget, state budget and Ministry of Finance.

(3) The Ministry of Finance shall accept all debts, as of 1 January 1999, including differences in exchange rate of farms participating in the National Land Program, accrued under the concluded agreements (in lei) between the corresponding farms and the Republican Center of Material Resources “Moldresurse”, Joint-Stock Company “Fertilitate” (Calarasi), Joint-Stock Company “Fertilitate” (Straseni), within their indebtedness to the Ministry of Finance, appraised in lei and US dollars.

(4) The Ministry of Finance shall write-off debts as of 1 January 1999, of the Republican Center of Material Resources “Moldresurse”, Joint-Stock Company “Fertilitate” (Calarasi), Joint-Stock Company “Fertilitate (Straseni), on credits from the Ministry of Finance, which were allocated based on Government Decisions, within the limits of current debts (including differences in exchange rate) which correspond to these credits, previously written-off by privatization commissions of the liquidated farms in compliance with item (6), Art. 17.”

17. Article 28, the characters “1999” shall be substituted by characters “2000”.

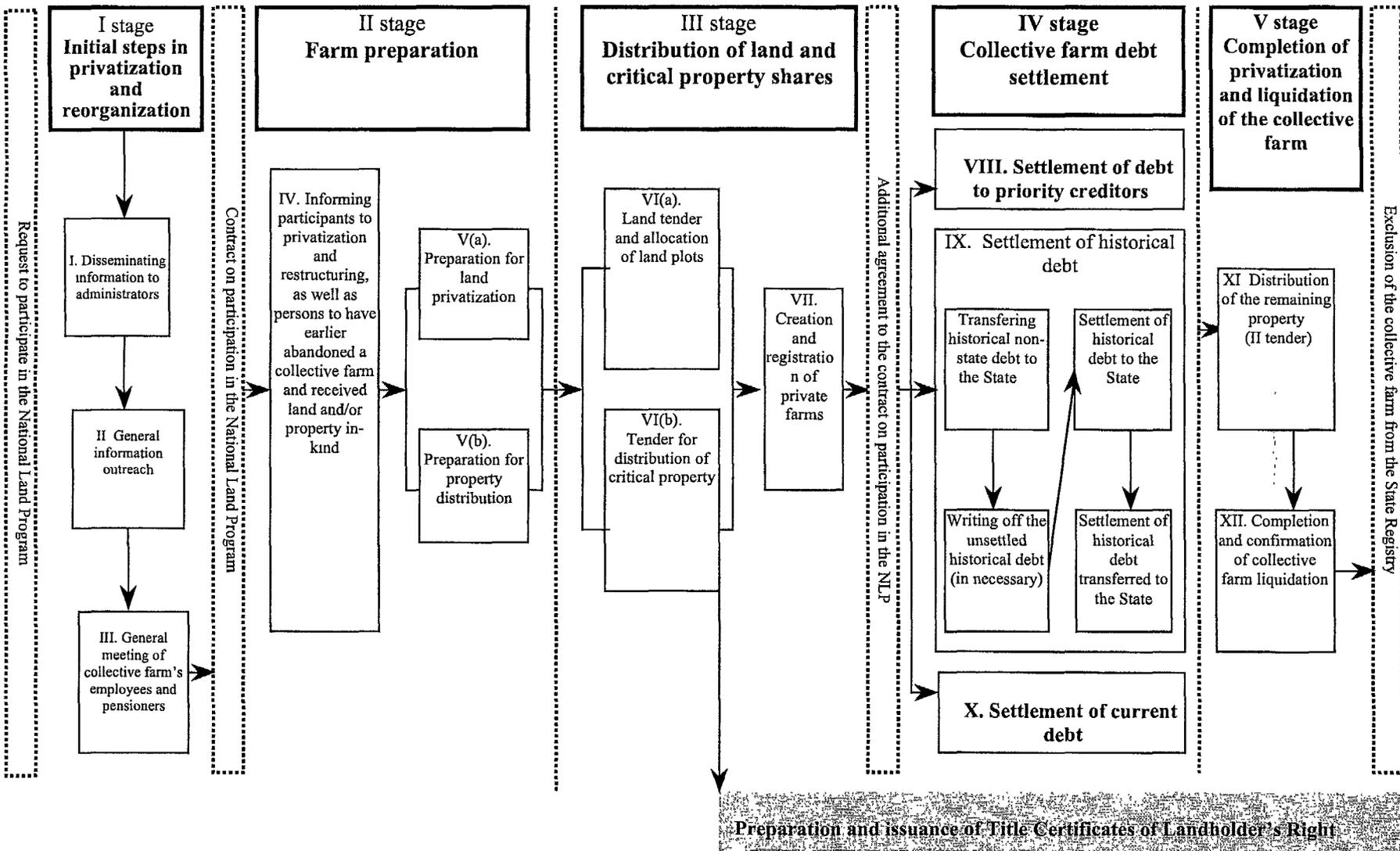
Article II. – The Government shall bring its normative acts to conformity with this Law within a 30-day period.

Chairman of the Parliament

Dumitru Diacov

Annex 5

# National Land Program Methodology



**Annex 6****Public Administration Authorities  
which control the farm debt settlement process**

<b>Ministry / Authority</b>	<b>Items subject to control</b>
1. Ministry of Finance	1.1. Debt on budget credits and state guarantees 1.2. List of public assets built on the account of the state or, transferred earlier to the state in lieu of paying debts to the budget
2. Main State Tax Office	2.1. Completeness and accuracy of documents related to settlement of historic and current debts to the state 2.2. Validity of lifting of the seizure from portfolio shares and other seized assets 2.3. Validity of initial data for preparing of the Ministry of Finance tax vouchers
3. Territorial tax offices (total - 40 judet offices and their raion representations)	3.1. Farm financial and economic activity during the last reporting period which was not subject to inspection 3.2. Completeness and accuracy of documents related to settlement of historic and current debts to the state 3.3. Transfer of assets for paying debts to the state
4. Social Fund	4.1. Amount of debts owed to the Social Fund and settlement 4.2. Amount of debt owed to beneficiaries and their settlement
5. Territorial offices of the Social Fund (total – 37 territorial offices)	5.1. Accuracy of the debt amount payable to the Social Fund 5.2. Validity of calculation of capitalized payments and their settlement 5.3. Validity of the closure of bank account (based on the Social Fund orders)
6. Customs Control Department	6.1. Accuracy of the amount of debt owed to Customs Service
7. State Archive Service	7.1. Completeness of documents transferred to territorial state archives
8. Territorial state archives (total – 36 archives).	8.1. Completeness and accurate preparation of the documents transferred to territorial archives
9. National Securities Commission	9.1. Validity of the regulations/government decisions related to transfer of portfolio shares 9.2. Legality of the registration of portfolio shares in the shareholders registry in lieu of paying the debts
10. Territorial cadastral offices of the National Agency for Geodesy, Cartography and Land Resources (total of 36 territorial cadastral offices)	10.1. In-kind presence of the assets which were previously transferred to the mayor's offices free of charge
11. Mayor's offices	11.1. Record keeping of claims received from creditors 11.2. Transfer of assets in lieu of paying debt to the state 11.3. Disputes between farms and farm members
12. Department of Privatization and State Property Administration	12.1. Disputes between farms and farm members
13. Territorial Agencies of the Department of Privatization and State Property Administration	13.1. Work of privatization commissions 13.2. Disputes between farms and farm members
14. Judet Commissions	14.1. Debt settlement disputes 14.2. Fulfillment of the judet debt settlement and farm liquidation plans

## Summarized information regarding debt settlement of farms participating in the National Land Program (thsd. Lei)

Calculation results based on 539 collective farms  
Liquidated during 22 07 1999 - 30.05.2000

	To the State budget	To the local budget	To the Social Fund	To the Ministry of Finance	To other creditors	Guaranteed by collateral	To beneficiaries	To employees	Total
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
<i>Situation at publication of the announcement in Monitorul Oficial</i>									
Total debts (historical and current)	245 361	131 589	253 821	11 507	286 927	20 699	X	49 717	999 620
<i>Situation after compilation of the creditor claims register and writing off of some debts</i>									
Debts written off with expired statute of limitations	39 758	21 172	53 191	690	15 980	2 688	X	173	133 652
Debts written off as unclaimed	0	0	0	0	44 578	X	X	X	44 578
Other debts written off	X	X	X	X	7 010	X	X	X	7 010
Total debts written off (historical and current)	39 758	21 172	53 191	690	67 568	2 688	X	173	185 240
<i>Initial historical debts to the state</i>									
Initial historical debts claimed	185 229	95 362	191 184	10 700	X	X	X	X	482 474

### Current debt settlement

	To the State budget	To the local budget	To the Social Fund	To the Ministry of Finance	To other creditors	Total
Debts paid off (by cash or assets)	18 215	11 937	8 058	149	13 371	51 729
Debts transferred to a third party	6 139	4 173	2 956	14	21 145	34 426
Debts written off (refusal/insufficiency of assets)	2 093	1 244	1 009	0	11 179	15 526
Total settled	26 447	17 354	12 022	162	45 695	101 681

Total historical debts claimed 660 235

By decision of the Republican Commission:

Historical debts transferred to the 177 761

Hist. debts written off as unsettled remainder 35 265

By order of the Tax Inspector:

Historical debts to the state offset 624971

Total debts written off 237446

Value of assets transferred to offset historical debt:

1. Social assets 818630

2. Mills and oil presses 3192

3. Processing facilities 5443

4. Portfolio shares 11584

5. Accounts receivable 392

Total 839240

### Settlement of priority debts

	Guaranteed by collateral	To beneficiaries	To employees	Total
Debts paid off (by cash or assets)	7 370	1 031	9 494	17 895
Debts transferred to a third party	9 682	5 825	39 890	55 398
Debts written off (refusal/insufficiency of assets)	762	104	550	1 416
Total settled	17 815	6 960	49 934	74 709