PRIVATIZATION OF AGRICULTURAL LAND AND LAND TITLING IN RUSSIA

ANNEXES

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ANNEX A:
DOCUMENTS PREPARED BY CHEMONICS INTERNATIONAL FOR THE IFC LAND PRIVATIZATION PROJECT IN NIZHNI NOVGOROD

The following documents were composed in April-May 1993 by the Chemonics experts on the IFC Nizhni Novgorod land privatization project:

A.1 "East European Experience with privatization of State and Collective Farms and Relevant World Experience"

A review of the experiences with privatization of state and collective farms in East Europe (especially Latvia, Hungary and Albania) and relevant experiences from Latin America, Malaysia and the Homestead Acts in the US.

A.2 "Farm Restructuring Plan"

This document (written by Chemonics on the basis of discussions of the IFC team) is the basic guide for the IFC activities in privatization of pilot state and collective farms.

A.3 "Work Plan--IFC Land Privatization Project"

This is the bar chart for implementation of the "Farm Restructuring Plan".

A.4 "Risk Analysis"

This document discusses the major risks of failure inherent in the privatization process outlined in the "Farm Restructuring Plan" and the measures which the IFC project management should take to monitor and mitigate those risks.

A.5 "Principles of Land Titling in the IFC Land Privatization Project"

This document discusses the strategic objectives of land privatization in Russia, the specific land privatization objectives of the IFC Nizhni Novgorod project, the required infrastructure for land titling, and required actions by the IFC.

A.6 "Procedure for Issuing Titles for Land"

This fax discusses a method for land titling which is legal (at least under the legislation current in April 1993) and could be a feasible alternative for issuing land titles.

A.7 "Guidelines for the Farm Restructuring Commission"

This document details the tasks to be undertaken by the commissions set up to

manage the land auctions and restructuring on each former state and cooperative farm.

A.8 "Experience in Central and Eastern Europe and the Baltics with Auctions Relevant to Privatization"

This document describes the basic conditions which must exist to make effective auctions, the experience with land auctions in Hungary and Latvia and their lessons for Russia.

A.9 "Governance of Enterprises Resulting from the Restructuring of Privatized State and Collective Farms"

A discussion of the existing situation of governance on former Russian state and collective farms and the forms of ownership and governance of the new enterprises (family farms, partnerships, joint-stock companies, etc.) resulting from the privatization process.

A.10 "Possible Legal Forms for Organizing your Economic Activity"

This document contains the material of document #7 in a form accessible to the new farm entrepreneurs, as a part of the IFC promotion activities.

A.11 "Post-Reorganization Tasks"

This document discusses the steps necessary after the distribution of land and farm property to reorganize the transformed farms into smaller, more efficient, market-oriented enterprises: (1) restructuring the existing debts, (2) obtaining a proof of ownership, (3) implementing the carry-over tasks left to the successor association, and (4) dealing with the problem of cash flow until the next harvest.

A.12 "Inclusion and Exclusion of Recipients of Land Share Entitlements"

This memo discusses the problems which occurred on the Nizhni Novgorod land privatization project during the distribution of land share entitlements and proposes solutions.

A.13 "Trip Report--Visit to Pravdinskaya Association"

This memo discusses the problems in preparing for land auctions in the pilot reorganization of a former state farm, and proposes steps to be taken.

EAST EUROPEAN EXPERIENCE WITH PRIVATIZATION OF STATE AND COLLECTIVE FARMS AND RELEVANT WORLD EXPERIENCE

Chemonics International

Executive Summary

This short review of experiences with privatization of state and collective farms (SCF) in Eastern Europe, of land reform in other countries, and of some characteristics of US agriculture, has the following possible lessons for land distribution in Russia:

1. *The example of Latvia is the most relevant to the privatization of Russian SCF. The Latvia example shows that individual land ownership is the real driving force behind the dismemberment of SCF.*

2. *In Latvia, land reform resulted in the creation of many sub-subsistence farms, resulting in reduced agricultural production and creating pressures for farm subsidies which Latvia can ill afford. The Latvian experience indicates that big is not necessarily bad and small is not necessarily beautiful; the SCF should be reorganized into economically-sized units consistent with present technologies and markets.*

3. *The auction procedures used in Latvia show several problems which designers of on-farm auctions in Russia should be aware of (eg. lack of effective competition, regulations which reduced the market price of assets, cannibalization of machinery).*

4. *Latvia shows that price policies should be consistent with privatization objectives. Bringing agricultural prices up to world market levels is an appropriate long-term goal, but rapid price liberalization can cause excessive distortions in input/output price ratios, leading to avoidable shortages of farm products.*

5. *Hungary shows that farm privatization can be effectively blocked by the lack of agricultural policies regarding land conveyance and regarding input/output price policies. In the absence of policy, privatization occurs spontaneously by gutting the state enterprises and transferring their assets directly or indirectly to new private companies, through a process which does not provide equitable distribution and poses constraints to new investment.*

6. *In the Czech Republic the collective farms--which form the bulk of the farm sector--have escaped privatization so far by transforming themselves formally into US-style farm cooperatives, without real changes in property or labor relations.*

7. *Albania provides a sobering example that a rush to divide the (admittedly inefficient) SCF into individual plots without adequate price policies and*

agricultural services for the new small farms can result in dramatic declines of production and major food security problems.

8. *This lesson of Albania is amply corroborated by the experience of most agrarian reform in Latin America. Division of the land to farmers in sub-subsistence plots, without credit, inputs, extension and marketing services, resulted in rural stagnation.*

9. *On the other hand, many state-owned cash crop estates in Latin America and in Malasia have been successfully privatized during the past 25 years to their employees, either in individual farms of economic size with proper supporting services, or as farm corporations with professional management through an ESOP or ESOP-like structure. These experiences are potentially the most applicable to Russia. The major difference is that such export-oriented cash crop estates had strong connections to the international market.*

10. *The case of Mexico shows that small, inefficient farms can be reconsolidated into large farmer-owned agricultural companies providing high yields and economies of scale. In Mexico this reconsolidation was driven by agricultural credit.*

11. *The experience of the Homestead Acts in the US shows that:*

- *the farm units created must be viable;*
- *the existence of individual land titles helps economic mobility.*

12. *US family farms are much larger and more capital- intensive than their Russian counterparts, and thus do not provide a realistic model the Russian post-reform agriculture sector. Similarly, the US model of farm co-ops cannot be transferred to Russia without significant adaptations.*

A. Introduction.

The agricultural sector of Central and East European (CEE) countries is characterized by large state and collective farms, which are legacy of the former regimes. Exceptions exist where (eg. in Poland) the former regimes did not succeed in gaining control of the land of small farmers. On state farms the land legally belongs to the state, and on collective farms it legally belongs to the farmers, but in practice there is not much difference between the two forms. Both comprise large farms (typically several thousand hectares each) which are conglomerates of production, agroindustrial and non-agricultural activities. They are characterized by over-investment in buildings and equipment--which are often inappropriate or obsolete--and show low production efficiencies by Western standards. Thus an important objective of the drive to market economics is the restructuring of SCF into economic units.

In Poland, Hungary, Czech and Slovak Republics, Romania and the former Yugoslavia, no significant restructuring of SCF has yet taken place. In Bulgaria

the process is only starting. In Lithuania we understand that the process has been slowed due to the resistance of SCF employees to dismemberment of the farms. We have little direct information on the experiences of Estonia. Consequently, the paper discusses the two CEE countries which have had significant restructuring of SCF: Latvia and Albania. The paper also discusses the main reasons for the slow progress on privatization of SCF in Hungary and the Czech Republic.

Many developing countries, especially in Latin America and South East Asia, have state farms. Usually those state farms originated from the nationalization of foreign or locally-owned cash crop estates. Over the past 25 years most such state farms have been subject to various processes of privatization, and these experiences are directly relevant to privatization of SCF in Russia.

In addition, these countries have also had various experiences with agrarian reform, meaning the distribution of land held by a few large privately-owned estates to many small farmers. The paper discusses the experiences of such land reform in Latin America, particularly in Mexico, which are relevant to the restructuring of SCF.

In the US there was large-scale distribution of previously uncultivated Federal lands under the Homestead Acts. The paper discusses the experience of the Homestead Acts and some other features of US agriculture system which may be relevant to the reorganization of SCF in Russia.

All restructuring of large farms had to deal with certain basic issues:

- how to formulate a politically, economically and administratively viable process for distributing the land;
- how to provide for the reconsolidation of farm plots into economically viable units;
- how to provide credit, inputs, marketing, information and other essential services to the many new farm units.

The salient features of farm restructuring in the above countries, and the possible lessons of experience for restructuring of SCF in Russia, are discussed in the following.

B. Latvia.

In Latvia, all land is being restituted to its pre-1939 owners or to their heirs. Most land has already been restituted, but 2-3 years will be necessary to complete the process. Many SCF employees and pensioners received land through restitution. This made it difficult to keep the SCF together since many of the beneficiaries wanted to farm individually: over a short period, more than 60,000 small private farms were formed.

Non-land assets of the SCF were distributed to their employees (including pensioners). The asset distribution process consisted of four stages:

1. **Corporatization:** The SCF were transformed into shareholding companies. As a part of this process, the non-land assets were valuated.

2. **Distribution:** Shares representing the non-land assets of the new corporations were distributed to all employees and pensioners. The number of shares allocated to each person depended on seniority and position.

3. **Voting:** The beneficiaries voted on whether to keep the farm as a corporation with undivided ownership of the assets, or to dismember it.

4. **Auction:** If the vote was for dismemberment (this occurred in the majority of cases), a local "privatization commission" established for each SCF divided the assets into economic units (dairies, grain stores, etc.) The commission assigned value to each unit, and beneficiaries bidded on the units with their shares. Assets not pertaining to economic units were auctioned individually.

There were three rounds of auctions:

- **Round #1:** Assets were auctioned at the price determined by the privatization commission. Only shares could be used. Beneficiaries could buy shares from others (including on credit) or form partnerships to bid.

- **Round #2** took place 30 days later, at discounted prices, for assets not sold in the first round. Only shares could be used.

- **Round #3** took place 30 days later for the remaining assets, at further discounted prices. Cash could be used as well as shares, and non-beneficiaries could bid.

In order to acquire service units (eg. tractor or vehicle repair centers), the employees were encouraged to associate voluntarily in "cooperatives" (which in Latvia are private stockholding companies under the Company Law). Employees who had surplus shares (over the necessary to purchase the assets of their production unit) could invest them in these service companies.

After settling the debts of the farm, any remaining cash from the auction was distributed to the beneficiaries in proportion to their shares. Beneficiaries could also use shares or cash to buy, from beneficiaries of land restitution, the land necessary for operation of the new units.

Housing units were also auctioned, so that people usually used their shares first of all to buy their apartments. Schools and clinics were transferred to the local government. Paid services such as restaurants were privatized.

The experiences of Latvia to date suggest the following lessons:

- In areas where there were few land claims, corporations resulting from the reorganization of SCF survived better than in areas where large land claims are being processed. This suggests that **individual land ownership is the real driving force behind the dismemberment of SCF.**

- The asset privatization law encouraged persons with rights to farm property to claim these rights. This complemented the land restitution law and also contributed to the collapse of SCF due to lack of equipment.

- The transformation process, apparently designed to break up the SCF, has resulted in reduced production and the creation of sub-subsistence farms whose owners exert pressure for subsidies, which the Latvian economy can ill afford. This suggests that **big is not necessarily bad and small is not necessarily beautiful.**

- Planners of the farm privatization process responded in part to political pressures for breaking farms into small pre-war size holdings. Insofar as the political objectives permit, the SCF should rather be reorganized into economically-sized units consistent with present technologies and markets.

- Dividing the farm into economically viable units, then corporatizing these units and placing them into one management holding company, can provide a structure within which privatization of individual units can take place.

- There were several problems with the Latvian farm auction process, notably:

  - Because of pre-auction understandings among bidders, there was often no effective competition at the auction.

  - The asking price (the price which the government expected for each asset) was announced at the start of the first round of auctions. As a result, the asking price became a ceiling price--no one bidded over it, which drove the market down. Universal experience with auctions teaches that the seller should have in mind a floor price (the lowest price he is willing to accept), but should not make it known to the bidders.

  - The auction regulations specified that if there were no bids, the property would be auctioned again 30 days later at a lower price. As a result, often nobody bidded in the first and second rounds, in expectation of lower prices later.

  - Employees often removed parts from machinery, making it unusable to the farm, in order to buy the machinery cheaply when it was auctioned, since only the possessor of those parts could use it.

  - Farm managers and local government officials could often influence the auction procedures to their advantage.

- Two sets of leadership changes--first from the former SCF leadership to the privatization commissions to implement the restructuring, then to management of the new units--inevitably disrupted production. To minimize disruption, any leadership changes should happen during the agricultural slack season and take place as quickly as possible. Unless compelling political reasons exist for removal of existing farm managers, decisions for their continuation as managers of a privatized unit should be based on objective criteria.

- Price policies should be consistent with privatization objectives. Bringing agricultural prices up to world market levels is an appropriate long-term goal, but rapid price liberalization has caused excessive distortions in input/output price ratios, leading to avoidable shortages of farm products.

C. Hungary.

Hungary has traditionally been a major food exporter. Its 121 state farms (totalling 800,000 ha) and 1200 collective farms (totalling 4,800,000 ha) have traditionally been the best-managed in East and Central Europe. About 80% of Hungary's agricultural exports have been destined for the COMECOM market. However, since the collapse of the COMECOM market in 1989, the Hungarian agricultural sector is in deep crisis. About 15% of the state farms and 35% of the collective farms have declared bankruptcy, and these numbers are expected to top 50% by the end of 1993.

Although in other sectors Hungary has been the first CEE country to start privatization, very little privatization has taken place so far in the agricultural sector. The main reasons for this have been:

1. Land ownership: This is a politically charged issue. About 30% of the land should be restituted to its pre-1949 owners (this restitution is proceeding very slowly). There has been no willingness to distribute the other 70%, which belong to the state or to collective farms, among their employees. The present political climate does not permit the sale of farm land to Hungarians, let alone to foreigners. Even long-term leases are not acceptable. In the absence of security of access to land, the market showed little interest in the other farm assets, which are mostly obsolete. **Thus lack of government policy on the land conveyance issue deadlocks the privatization of Hungarian SCF.**

2. The policy of cash privatization: Until very recently, the only accepted method of privatization in Hungary was cash purchases (sometimes supported by special bank credits). There has been no free distribution of SCF assets to their members as in Russia, or through coupon schemes to the public as in Poland and the Czech Republic. Given the low viability of agriculture and agro-industry due to the collapse of the COMECOM market and the barrier to entering the EC market, few investors are ready to risk their own funds or incur credit obligations in order to buy non-land farm assets.

3. The EC orientation: The macro-objective of Hungarian economic policy since 1989 has been to secure full EC membership. Since agricultural and agro-industrial production is important (accounting for about 53% of Hungary's GDP) and in many cases more efficient than in the EC, there seems to have been an unspoken policy of restraining agricultural production so that it will not impede EC membership.

In this context of market depression and policy stagnation, most privatization in the farm sector has been spontaneous and unofficial. In practice, it is a continuation of the *szakcsoport* ("section-team") system which has been prevalent and semi-official under the former regime. Under the *szakcsoport* system, teams of workers and managers contracted with the state enterprise to deliver certain goods or services. In practice there were several dozens of private-sector companies working inside the state enterprise, in relationships which allowed the state enterprise to be marginally profitable at best and siphoned off the profits into the private companies.

At present this system is gaining official status. Various groups of managers and employees organize as partnerships or joint-stock companies to lease assets of the state enterprise or form joint ventures with it. The relations between the state enterprise and the new ventures are characterized by lack of transparency. Privatization is happening de facto by letting the state assets deteriorate, channelling the profits into the private companies and acquiring new assets by the new companies.

The advantages of this so-called "goulash privatization" are that:

- rational, market-oriented economic units are being established
- the dislocation of labor, albeit large, is gradual and so far has not caused major instability

The disadvantages of the system are:

- lack of clear legal status of the new units, creating disincentives to investment
- lack of equitable distribution--the former oligarchy reaps most of the benefits

In addition, the lack of agricultural policy caused inappropriate input/output price rations, resulting in major production distortions--eg. Hungary turned from a major exporter of pork and wheat in 1991 to an importer in 1992.

D. The Czech Republic.

The CEE country which has made most progress on privatization is the Czech Republic (an estimated 70% of privatizable state assets have been privatized so far). Much of this privatization took the form of free transfer of state assets to the public through voucher auctions. State farms are also being privatized through such voucher auctions.

However, most of the Czech farm sector consists of collective farms; and collectives are the one sector which escaped privatization so far. Czech collective farms have lobbied successfully to be allowed to transform themselves into US-style farm cooperatives,[1] rather than be sold to investors for cash or to the public for vouchers. In these new farm co-ops members still do not have defined individual property rights, so that in practice the relationships which existed on collective farms are maintained.

E. Albania.

Albania is the poorest country in Europe and the one most dependent on agriculture. 65% of the population live in rural areas and 50% of the work force is employed in agriculture. Albania has had for 46 years one of the most orthodox Communist regimes anywhere. Until recently there has been very little private ownership of land or productive assets, and almost all agricultural production took place on SCF.

With the fall of the Communist regime in Albania, a democratically-elected government implemented an intensive program of agricultural reforms and economic liberalization reforms starting in 1991. Since the country has a strong tradition of small independent family farms, there was a hunger for land to which the government responded by distributing most SCF land in individual plots.

However, far from increasing agricultural production, the land distribution and economic reforms reduced it dramatically. Agricultural production in 1991 diminished to one half of its 1990 level, and marketed supplies decreased even more. The main reasons for the decline were:

- Lack of clear titles to land caused much land to be left uncultivated and prevented productive investment and the consolidation of plots into more economic sizes.
- The farmers shifted from grain production for urban consumption to meat, milk and vegetable production for family consumption.
- The former large-scale production and distribution systems broke down and were not immediately replaced by more efficient ones.

As a result Albania lost its former self-sufficiency in food production, and only a large food aid program saved the population from widespread famine. At present there is a massive USAID program, with the involvement of the Land Tenure Center, to create rational holdings and provide titles.

The sobering example of Albania shows that it is not enough to demolish the state-run agricultural system, distribute all land in individual plots, and the market will

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[1] *In this they have been supported by US technical assistance.*

take care of the rest. While land ownership can and should be individual, production must be managed in systems which allow economies of scale. This is especially the case in Russia, where a similar drop in food production would have far more disastrous consequences since it would hardly be possible to deliver sufficient food aid to a population 50 times the size of Albania's spread over a huge area with inadequate transport systems.

F. State Farm Privatization in Latin America and South East Asia.

Most countries of Latin America and the Caribbean have state farms. These state farms were typically created through the nationalization of estates growing cash crops (sugar, bananas, rice, coffee, citrus, etc.) which had been established by foreign interests or by local rulers (eg. Somoza). During the last 25 years, these state farms have been undergoing various processes of privatization. Such privatization was driven both from within (by government efforts to stem the losses which those state farms typically generated) and from without (by the example of US banana and sugar companies, which for economic reasons divested their direct production operations to focus on processing and marketing). The privatization of state farms took several forms, including:

- establishment of economically-sized individual farms supported with credit, extension, marketing etc. by the central processing facility;
- sale of the production facilities to their employees on credit through an ESOP (employee stock ownership plan).

This privatization of estates in Latin America has in principle many similarities to the privatization of SCF which could take place in Russia. The important differences are that state farms in Latin America:

- were relatively more efficient than in Russia to start with;
- were based on the production of cash crops;
- had ties to the world market and often to multinational corporations.

A somewhat similar experience of state farm privatization occurred in Malaysia. At the time of independence the coffee, coconut, and rubber estates were nationalized. To stabilize its political base which depended on the Malay majority, the government had the political imperative to prevent concentration of wealth in the hands of the Chinese and Indian minorities. To this end, the government launched the policy of *bumiputera* ("sons of the land", meaning the Malays). Through this policy, the state-owned estates were turned over without cost to their (predominantly Malay) workers, without division of the land. Private-sector professional management (in some cases, the former owners) was contracted to operate the estates. The profits were divided among the workers as shareowners. Through *bumiputera*, the Malaysian government is apparently achieving its goal of transforming the have-not Malay majority into owners of 30% of the national economy by the year 2000.

G. The Experience of Land Reform in Latin America.

Aside from the relatively recent privatization of state farms discussed above, land reform in Latin America consisted over many decades mostly of distributing to peasants the land of large private estates *(latifundias)*. This process has had many elements in common with the privatization of SCF, so that some of its lessons are likely to be relevant. The common factors are:

- The estates were large--typically several thousands or tens of thousands of hectares.
- The estates were usually established on land owned by ancestors of the local farmers.
- The formerly independent smallholders became wage laborers on the estates, with small private plots.
- The estates were often maintained for motives other than economic and cultivated at lower than optimal efficiency.

Many Latin American governments, responding to the land hunger of the peasants, distributed some land in small individual farms *(minifundias)* without adequate infrastructure of input supplies, marketing, agricultural information and especially agricultural credit. This has typically resulted in a significant decline in the production of food and cash crops. In Latin America, most of the land reform sector is the site of subsistence agriculture and rural stagnation. Thus most land reform experience in Latin America corroborates the example of Albania.

H. Mexico's "Smallholder Agricultural Corporations".

An exception is the case of Mexico. The Mexican Revolution brought about a large-scale land reform starting in 1936. Of the land of each estate, 100 hectares were left to the former owner and the rest expropriated and transformed into an *ejido*--a legal entity established to hold title to the land, but without an economic function. To avoid reconcentration of land, peasants were not given titles but only permanent rights for use of plots (typically 6-10 ha), without right of transfer except among family members. The results were similar to those of other Latin American countries--the reformed sector stagnated, while the 100-hectare farms owned by former large owners who had adequate credit resources and market access were the site of dynamic progress. Many efforts to established production cooperatives or collective farms collapsed since these were even less efficient than the subsistence family farms.

In 1970, however, a new concept was introduced with the establishment of "smallholder agricultural corporations". Land of the *ejidos* was reconsolidated, typically in blocks of about 1000 hectares each. Participating peasants voluntarily

joined the corporation as shareowners, contributing as equity the use of their land but retaining the right to take it out and revert to individual cultivation. A special bank was established to provide credit to such corporations--not to individual farmers. Credit was conditioned on the corporation hiring, with some of the credit resources, technical management (typically a farm manager, an accountant and a master mechanic). The management employed as many of the peasants as were necessary for efficient cultivation (the others lived off their rent and started other rural enterprises or migrated to towns). At the same time, management was accountable to the general assembly of the peasants as shareholders. Net profits, after making a reserve for investments, was distributed to the peasants as shareholders.

This new system rapidly spread during the 1970s to most of Mexico's 24,000 *ejidos*--practically all of those which had a potential to improve production through economies of scale. The productivity of the smallholder corporations often exceeded that of the 100-hectare private farms due to larger size, adequate credit and professional management.

The Mexican system shows that land distribution to small farmers in individual plots can be combined with economic efficiency by organizing a production system based on:

- rights of ownership (or at least of permanent use) to identifiable plots;
- large-scale cultivation with professional management;
- corporate governance by the peasants as shareholders; and
- adequate and timely credit.

I. Relevant Experiences from the United States.

1. The Homestead Acts.

US agriculture developed under conditions of essentially no limitation on the available land; each early settler laid claim to as much land as he could cultivate. A land market, based on land surveying and titling, developed early in the colonization process, and had been established for several centuries by the time of the Homestead Acts.

The Homestead Acts (from the 1860s to the early 1900s) constituted a massive privatization of Federal land with the aim of populating the Mid-West and West of the US and increasing agricultural production. There was a significant operational infrastructure for surveying land and granting titles (the Army had an important role). To obtain title to land, applicants had to fulfill the requirements (cultivate the land for at least two years).
As cultivation proceeded westwards into areas of poorer agricultural potential, the standard size of land allocation (160 acres) became insufficient for a farm family to make a living, and there was a high failure rate. However, since farmers had title to their land, they could sell it and move to other economic opportunities.

Thus the experience of the Homestead Acts shows that:

- the farm units created must be viable
- the existence of individual land titles helps economic mobility[2]

2. Some Relevant Features of US Agriculture.

The US has developed from a predominantly agricultural country to a land of capital-intensive agriculture, where currently less than 3% of the population grows almost all of the domestically consumed food and generates significant food surpluses. US agriculture is characterized by a mixture of three types of farms:

- corporate farms, which are often huge
- capital-intensive family farms
- part-time family farms

US agriculture is sometimes described as a sector composed mostly of family farms supported by service cooperatives (for inputs, marketing, credit, etc.) However, this description may be misleading since it neglects several important characteristics:

- About 78% percent of US food and fiber is produced by 26% of the farmers, while the remaining 22% are produced by 74% of the farmers. Thus the perception that US agriculture is dominated by small family farms is inaccurate; the bulk of agricultural production takes place on large farms.

- Moreover, US farms are very large by European standards. A farm typically comprises assets in excess of $1 million.

- The US co-op movement had historically an important role in the development of US agriculture. However, effective competition by corporate agribusiness (especially since the 1950s) has caused a substantial decline in the farm co-op movement, and currently it controls only 12% of US farm business.

- Farmer associations adapted to local conditions can play an important role in providing farm services; but the US co-op model is a specific business structure built on a US legal and tax infrastructure, and its introduction to Russia without this infrastructure is likely to fail.

Thus the model of small family farms supported by a network of service cooperatives cannot be claimed as an accurate representation of US agriculture. Furthermore:

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[2] *However, economic mobility requires that other sectors of the economy can absorb the excess farm population--a condition which existed in the US at the time but not presently in Russia.*

- US family farms do not provide a realistic model for how Russian post-reform agriculture sector should look like;

- The US farm co-op model cannot be transferred to Russia without significant adaptations.

Budapest, April 1, 1993

IFC
PILOT PRIVATIZATION OF STATE AND COLLECTIVE FARMS IN THE NIZHNII NOVGOROD OBLAST

FARM RESTRUCTURING PLAN

A. Purpose of the Farm Restructuring Process.

Russian state and collective farms are conglomerates, typically measuring several thousand hectares each and including many different crop, livestock, agro-industrial and non-agricultural economic activities. They were established during the former regime on criteria other than those of economic rationality. Recent legislation has converted such state and collective farms into corporations wholly owned by their employees (including management and former employees) as joint property. Thus from a legal point of view, the farms have already been privatized. However, for the most part land and property shares have not yet been distributed to the employees and no corporate governance (stockholders' assemblies, board of directors) has been established. Thus in most cases corporatization has not resulted in changed organizational form or production relationships. Many of the features which made Soviet collective agriculture sub-optimal have been preserved, and individual employees do not have an identifiable land plot or a share of the farm property.

The purpose of the restructuring plan is to reorganize the farms into economically-sized, more efficient enterprises, and distribute their assets among all eligible members so that every member will have an identifiable, lwgal and negotiable land plot and non-land property or share in such property. The restructuring plan will combat the two extremes of (1) conserving the existing conglomerate as it is, and (2) atomizing it into individual sub-subsistence farms.

The restructuring plan consists of two parallel processes:

1. Distribution of land and other property: At the end of this process every member will have an identifiable, legal and negotiable land plot and non-land property or share in such property.

2. Reconsolidation of individual properties into economic management units: This process will reorganize the individual properties into management units of rational size: family farms, partnerships, joint-stock farming companies, etc.

B. Overview of the Farm Restructuring Plan.

The farm restructuring process envisioned by this plan unfolds in ten steps, which are detailed in section D. The steps are not necessarily sequential, and some may occur in parallel. The process is designed to be driven by emerging local leadership, with the expert team in the role of catalyzing and guiding it.

The objective of this restructuring plan is that people will reorganize the farm, based on their land and property shares, into smaller and more efficient enterprises than the present conglomerate. This plan is driven by the assumption that a number of leaders (entrepreneurs) will emerge who will have an enterprise plan, but probably will not have enough land and property shares to realize the plan on their own. The law provides that such leaders may accumulate additional shares from other employees by associating with partners, leasing from other employees, buying shares for cash, or acquiring them on credit, so that the enterprise leader will assemble enough property and land shares to establish the enterprise of his choice.

Persons who according to the law are not qualified to set up a farm will not be able to use their land shares to set up a private farm. They may be able to prove their qualifications, based on past experience, or take a "course" to become qualified. This regulation has been established so that the qualified leaders who want to reconstitute the farm into economic enterprises will be able to acquire the use of the unqualified persons' land (through partnerships, leases, exchanges, purchases, etc.).

Today most farm employees do not understand how the distribution and reconsolidation of land and property shares will work. Therefore the team should talk to the broadest possible number of people in order to generate an understanding of the restructuring process.

Once the team identifies the broadest base of potential new leaders, these potential leaders must be informed on how the process works and what are their options under the law for acquiring the use of additional land and property shares.

The process begins with preparation of:

- the list of employees and pensioners eligible for distribution of land and property;
- the list of land parcels to be distributed, with a number of points assigned to each hectare according to its production potential;
- the inventory of non-land properties to be distributed, in October 1992 balance sheet values.

Based on these lists, the management of the state or collective farm (hereinafter: "farm management") and the land commission calculate the land share and the property share to which every member is entitled (the land share is equal for each

member; the property share is dependent on each person's position and seniority).

The project team will identify crop, animal production and service units into which the farm could be restructured. However, the team will not prepare a restructuring plan to be implemented by the farm. Rather, the expert team will catalyze, guide and oversee a process of indigenous emergence of economic leaders and formation of new enterprises.

This process begins with an explanation to all farm members regarding their right to land and property shares as specified by the law. Next comes the most critical step--the identification of potential leaders who are qualified by experience and attitude to establish new enterprises. Existing chiefs of production units ("brigades") are natural candidates for becoming leaders of new enterprises, but other qualified and interested candidates will be encouraged. These potential leaders will receive from the expert team guidance throughout the process of establishing new enterprises within the farm.

Each potential leader of a new enterprise will:

- determine how much land, buildings and machinery he needs for the crop, animal production or service enterprise he envisions;
- assemble a number of beneficiaries with enough land shares to acquire the desired land area, through forming a partnership with some beneficiaries, making lease agreements with others, exchanging property for land shares with some, and/or buying land with cash from others;
- assemble a number of beneficiaries (the same persons and/or others) with enough property shares to acquire the desired buildings, machinery and other non-land assets;
- apply to the farm management and the land commission for acquisition of land and other property with the land shares and the property shares his group has accumulated;
- legally establish the new enterprise (as a limited or general partnership, a joint-stock company, etc.).

In case two or more new enterprises want to acquire the same land area or property, the farm management and land commission will allocate the land or property among them in an transparent and competitive way (eg. through an auction).

The surveyors will divide the land obtained into plots of equal value (considering the point value of each hectare). The plots will be distributed among the persons who grant the enterprise the use of their lands in a transparent and competitive way, also taking into account family ties, preferences, etc. Each member will obtain a legal and negotiable title to his plot. The property share certificates of

the newly formed corporations (or percentages in partnerships) will likewise be distributed to their members.

Social assets (schools, nurseries, clinics, etc.) will be transferred to the *raion* authorities, which will establish for them legal status and make budget allowances for their operation and maintenance. Houses and apartments will be assigned to their dwellers free of charge. Common property which accompanies housing (heating, water, gas, electricity, internal roads, maintenance services, drainage ditches, etc.) will be transferred to service organizations, or to the county authorities.

Service organizations will be created (as associations, partnerships, joint-stock companies, or with individual ownership) to provide to their members/clients a broad spectrum of services such as input supply, processing, marketing, repair and maintenance, transport, financial services, cafeterias, stores, social clubs, etc.

The project team will encourage with the Agricultural Bank the establishment of new branches in the area to serve the new farm enterprises. Likewise the project team will promote with the local agricultural authorities the provision of technical assistance to the new enterprises.

C. Operating Guidelines of the Restructuring Plan.

Background.

Based on earlier legislation, state and collective farms have technically been privatized as stockholding companies, so that all the employees are the present owners. This process has not continued into developing corporate governance in the Western sense. The corporations continue to be managed as if they were state farms or collectives.

The same enabling legislation gave the state farms and collectives the authority to decide after corporatization, by a democratic process, on reorganization into smaller units. In the case of the six farms subject of the pilot project, this decision has been taken.

Subsequent to the privatization legislation, a land ownership law which provides specific guidelines and covenants was enacted. The restructuring plan is based on both the original privatization legislation and the newer land ownership legislation.

Operating Guidelines of the Restructuring Plan.

1. Distributing all land and other productive assets of the farm to eligible persons, in such a way that every beneficiary will obtain (1) a land share of equal value and (2) a property share with a value depending on position and seniority. As a result, all land of the farm will be distributed to individuals possessing legal and negotiable title to specific plots of land, and all non-landfarm property will be distributed to individuals or to organizations privately owned by such individuals.

2. Maintaining maximum involvement of the individual beneficiaries in making the restructuring decisions, so that the decisions will fit local conditions and preferences.

3. Mobilizing the existing and potential management capacity and experience on the farm to create the new enterprises.

4. Encouraging the development of enterprises of economically optimal sizes, including family farms and small farming companies, while avoiding the creation of sub-subsistence farms.

5. Creating opportunity for the new owners to reallocate their land, property or labor resources in the future.

6. Building flexibility into the restructuring process itself so that the structures can continue to evolve and adapt.

D. Steps in the Farm Restructuring Process.

The restructuring process is conceived in the following ten stages. For each stage, the plan describes the actions which must be undertaken by (1) the farm management, (2) the restructuring and communications team, (3) the team of agricultural experts, (4) leaders of the new enterprises, and (5) other stakeholders in the process of farm restructuring.

1. Preparation of Lists of Lands to Distribute and of Beneficiaries.

The farm management should complete before the visit of the restructuring team the questionnaires regarding land shares that had been distributed to them, which include:

a. The list of beneficiaries entitled to the distribution of land and property shares (farm employees and pensioners), by village and family.

b. The list of lands to be distributed.

Based on these two lists and the on map of land quality (which assigns a point value to every hectare), the farm management will determine the equal number of

land shares which every beneficiary is entitled to.

The restructuring and communications team will meet with the farm directors and the farm commission for distribution of land shares, explain the law to them, review the process with them and make sure that the proposed division of land shares has been done in accordance with the law (eg. whether all entitled pensioners and short-term workers were included, and whether all agricultural lands and properties were included). Cases may be discovered where people through ignorance of the law have made mistakes in the division of land shares.

The team will bring back and analyze all questionnaires which have been filled by the farm management.

2. Preparation of the Inventory of Properties to be Distributed.

The farm management should complete before the visit of the restructuring team the questionnaire regarding property shares, which includes:

a. The inventory of farm properties (other than farm land) to be distributed, with their description and October 1992 balance sheet value.

b. The list of workers in farm brigades (eg. tractor operators) by brigade, job classification, and age.

Based on the inventory of properties and the list of beneficiaries (including pensioners), the farm management will calculate the value of property shares (in Oct. 1992 rubles) which should be assigned to every beneficiary.

The restructuring team will:

- Examine the list to ascertain that (1) it includes all farm assets appearing in the inventories which form the basis of the last available annual balance sheet, and that (2) the assets have been reevaluated at October 1992 prices and depreciation accounted for. The team will assist management to ascertain that the process was made according to the law.

- In case the beneficiaries are dissatisfied with distribution of property shares based on book value, suggest transparent and competitive methods of disposing of the property.

The agricultural team will look at the condition of the inventory.

3. Determination of the Enterprises to be Created through Reorganization.

The expert team must project the trends for restructuring the farm, based on the distribution of land and property shares and the reconsolidation of those shares. This means that the expert team must estimate what leaders will do with their land and property shares. One source of information about this at present are managers,

brigade leaders and technical staff (agronomists, veterinarians, etc.). Based on the conclusions, the team will make tentative recommendations on options for new farm enterprises and individual farms contemplated by the enterprise leaders.

The agricultural team will:

- Based on data from potential new enterprise leaders, establish preliminary optimum enterprise sizes and compositions which maximize the profitability of the enterprises.[1]

- Make recommendations based on profiles of the new production enterprises which may emerge in the reconstituted farm, regarding the availability and adequacy of input supplies, machinery and equipment, marketing, storage and other critical services which will sustain the new enterprise.

- Establish (1) whether a commercial relationship between crop farmers and livestock/dairy farmers can take place based on current prices and possible future trends, and (2) whether livestock/dairy operations can succeed if they do not produce their own feed.[2]

- Make a special analysis and recommendation regarding new dairy enterprises. Most existing units have 100-200 cows with their corresponding milking parlors, lots, equipment, etc. The present inclination is to keep them as enterprises and have leaders emerge from the existing workers at the enterprise. It is expected that such leaders and other workers will pool their property shares to acquire the cows, parlors and equipment. However, they may not have enough property shares to do this. Therefore they have several options:

  - Trade their land shares for property shares (in which case they may not have enough land shares left to obtain land for feed production).

  - Buy with cash or credits other people's property shares.

  - Obtain property shares from others by allowing those with shares to participate in the new enterprise as investors. In this case, the enterprise should be legally organized as (1) a stock company or (2) a partnership or

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[1] *The four basic options of production enterprises are:*

- *crop farming only*
- *crop and livestock farming*
- *livestock only*
- *dairy only*

[2] *All forms of livestock production—meat and milk—are unprofitable or marginal under the distorted present price relationships, whereas crop production is profitable. If these price relationships cannot be corrected, it is unlikely that the restructuring of the farm can be based on the separation of animal production from crop production.*

a limited partnership. Either form could rent land, cows and equipment acquired by other people with their land and property shares.[3]

- Make recommendations concerning service organizations (eg. for marketing, input supplies, repair and maintenance, processing, transport, construction, financial services). Such service organizations could be organized either (1) as service companies (partnerships or corporations), in case their workers and other persons acquire the facilities with their property shares, or (2) as service associations, if all farmers who benefit from the service acquire the facilities with their property shares, and contract those who work there as employees. The organizational form should be determined by free choice of the beneficiaries.

The restructuring and communications team will:

- Ascertain that all farm members obtain a general understanding of the restructuring process, including their right to land and property shares, the steps through which these will be obtained, and their right to form new farm enterprises.

- Identify (with the help of a questionnaire formulated for this purpose) persons who are qualified by experience and attitude to establish new enterprises, and list the names of such potential leaders and the nature of the enterprise (eg. crops, livestock, services, etc.)

- Explain to such qualified persons the process they need to go through (see below) in order to create such new enterprises.

- Guide those qualified persons through the legal and organizational aspects of the establishment of the new enterprises.

- Counteract any tendency to preserve the farm as a single conglomerate.

- Gather, and adapt where necessary, the legal documents needed for restructuring, such as:

  - model charters and statutes for the new enterprises
  - land deeds
  - share certificates
  - model land lease contracts

Potential leaders of a new enterprises will:

- determine how much land, buildings and machinery he needs for the enterprise he has in mind.

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[3] *The same series of options may apply to repair shops, grain storage, warehouses, etc.*

- based on the list of land beneficiaries and the land shares which have been allocated to each, assemble a number of persons with enough land shares to acquire the desired land area, through one or more of the following methods:

  - forming a partnership with some other beneficiaries
  - making lease agreements with some beneficiaries
  - exchanging property for land shares with some beneficiaries
  - buying land from some beneficiaries with cash or on installments

- legally establish the new enterprise as a partnership or a joint-stock corporation.[4]

4. Allocation of Land.

At the start of step 4 every beneficiary has been assigned a land share and a property share, every one is aware of the restructuring options, potential leaders have been identified and production entities formed. Since employees may have a preference to own the land they have been cultivating and the property they have been using, in many cases the production entities will probably be based on the brigades which have worked in those places before.

At this stage the land recipients know only the general location of their land will-- not the specific plot.

The new enterprise leaders will make applications to the farm management and the land commission, describing the activities of their enterprise, the amount of land and property required. At this point the leader should have already reached agreement with those who will grant to the enterprise the use of land obtained with their land shares.

If the leader's plan is approved by the commission, the enterprise leader has to register the enterprise as a legal entity. He must have executed his leases and concluded his exchanges or purchases of land or property shares.

The farm management and the land commission will, in case two or more new enterprises want to acquire the same area, allocate the land among them in an transparent and competitive way (eg. by auction).

The survey team will divide the area they acquire into a number of plots equal to the number of members.

The plots will be distributed among the members by a transparent process (eg. a lottery or a draw). Each member will end up with a single plot of land.

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[4] *The partnerships may either (1) consist of only active partners, in which case each partner has a voice in management and receives a profit share proportional to his investment, or (2) consist of both active partners and non-active ones (eg. pensioners), in which case the latter do not participate in day-to-day management.*

At the end of step 4, it will be known which enterprises will be created, and who is the owner of each parcel of land.

5. Allocation of Non-Land Property among Enterprises.

A similar process to that of step 4 will occur in the case of non-land property (eg. cow-sheds and livestock, land cultivation machinery). Each enterprise leader will decide which property he wants his enterprise to obtain, and gather a number of persons with enough property shares to acquire that property. If two or more enterprises want the same property, the property will be allocated among them by a transparent method (eg. auction).

6. Treatment of Social Property.

a. Social Assets (schools, nurseries, clinics, etc.)

The farm management will transfer social assets to the *raion* authorities, and submit to the authorities a realistic projection of the operating and maintenance budget for these assets.

The *raion* authorities will establish legal status for such social assets, and make in their annual budget an allowance for their operation and maintenance.

These social assets will be operated by the appropriate local authorities (eg. local office of the Ministry of Health) or by a local association (eg. a parents' association).

b. Houses and Apartments

The farm management, in the case of state farms, will allocate houses and apartments to their present dwellers at no cost. Collective farms may allocate their houses and apartments as they wish (eg. sell them for property shares).

The farm management will decide how to dispose of the common property which accompanies housing (heating, water, gas, electricity, internal roads, maintenance services, etc.), eg. transfer them to users' associations, or to the county authorities.

The restructuring team will oversee the process of transfer of houses, apartments and social assets, identify and seek solutions to any problems.

7. Preparation of the New Leaders to Operate the Enterprises.

The restructuring and communications team will meet with leaders of the new enterprises and counsel them about any questions which they may have, so that they in turn could explain the matters to their members. The team will advise the new leaders about how to:

- lease, rent, purchase and exchange land
- prepare applications for the distribution of parcels
- finalize a list of the property claimed by the enterprise
- lease, rent, purchase and exchange non-land property
- prepare the necessary legal documents
- obtain credit to start operation of the enterprise

The agricultural team will guide the new enterprise leaders through the technical aspects of establishment of the new enterprises.

8. Giving Beneficiaries Title to their Land.

The restructuring team will consult with the *raion*-level committee for land surveying to determine the timing, manner and cost of surveying the lands of the new enterprises and issuing to every beneficiary a title to his plot.

The *raion*-level committee for land surveying will undertake the surveying of plots and issuing to every beneficiary a title to his plot.

9. Creating Credit Services for the Beneficiaries.

The restructuring team will meet with the Agricultural Bank to discuss the opening of branches in suitable locations to serve the new enterprises.

10. Coordination with the Agricultural Authorities.

The restructuring team will meet with the *raion*-level agricultural authorities to assure that they give maximum technical assistance to the new enterprises during the process of their formation and later.

Throughout the farm restructuring process, the expert teams will identify during the field work problems and issues, consult them with project headquarters and other experts, and bring the suggested solutions back to the beneficiaries.

Nizhny Novgorod March 9, 1993

Legend:

Intensive work	XXXXX
Ongoing work	//////////
Work on "as needed" basis	———
Deadline	#

WORK PLAN--IFC LAND PRIVATIZATION PROJECT

Communications team	April 18	April 25	May 2	May 9	May 16	May 23	May 30	June 6	June 13	June 20	June 27	July 4	July 11	July 18	July 25	August 1	August 8	August 15	August 22
Distribute leaflet I (Plan, Principles)		XX																	
Survey all workers (YCS)			XX																
Distribute Leaflet II (Auction/Division)			XX																
Seminars for Information Points						XX													
Create/Distribute catalog		XX	XX	XX	XX	XX	XX												
Support restructuring team (notices, maps, etc.)	//	//	//	//	//	//	//	//	//	//	//								
Feedback to other IFC teams	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//				

Agricultural specialists team	April 18	April 25	May 2	May 9	May 16	May 23	May 30	June 6	June 13	June 20	June 27	July 4	July 11	July 18	July 25	August 1	August 8	August 15	August 22
Help technical division w/ind. farms		//	//	//	//														
Participate in seminars						//	//												

Restructuring team w/ commission:	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Review distribution of entitlements	XX	XX																	
Ensure that all farms are issued a deed to land	XX	XX																	
Oversee transfer of social assets	XX	XX																	
Create and distribute entitlements		XX	XX	XX	XX	XX													
Develop auction methodology	//	//	//	//	//	//	//	//	//	//	//								
Develop recommendations for technical div.	XX																		
✓ Develop application forms		XX	XX																
→ Visit farms to discuss individual plans		XX	XX																
Distribute Applications				XX		XX		XX		XX		XX		XX					
Collect Applications						XX		XX		XX		XX		XX		XX			
Post Auction Notices									XX		XX		XX		XX		XX		XX
Oversee auctions												XX		XX		XX		XX	
Help enterprises to develop legal documents				//	//	//	//	//	//	XX	XX	XX	XX	—	—	—	—	—	—
Review debt situation & develop action plan		XX																	
Determine manner+cost of surveying plots	—	—	XX	XX	XX														
Oversee formation of reorganization commissions		XX	XX																
Oversee issuing of land titles											XX	//	//	//	//	//	//	//	//

Restructuring team: on regional level:	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Discuss w/Agric. Bank opening new branches	//	//	//	//	//	//	//												
Lobby ag. authorities to support new enterprises	—	—	—	—	—	—	—	—	—	—	//	//	//	//	//	//	//	//	//
Help Land Reform Committee create land reigistry												XX	XX	XX	XX	XX	XX	XX	XX
Draft amendments to current legislation	//	//	//	//	//	//	//	//	//	//	//								
Formulate new legislation												XX	XX	XX	XX	XX	XX	XX	XX
Draft manual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	XX	XX	XX	XX

WORK PLAN--IFC LAND PRIVATIZATION PROJECT

Legend:

Intensive work	XXXXX
Ongoing work	//////////
Work on "as needed" basis	———
Deadline	#

		May					June				July				August			
New farmers/entrepreneurs (first farm)	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Work through business plan (land, assets, labor)		XX	XX	XX	XX	XX	XX	XX	--	--	--	--							
Gather a group with enough land+property			XX	XX	XX	XX	XX	XX	--	--	--	--							
Make application to Land Commission						#													
Bid on blocks of land and on property													XX						
Make agreements with partners/investors			//	//	//	//	//	//	//	//	//	//	XX	XX	XX				
Register the new enterprises														XX	XX	XX	--	--	--

	April		May					June				July				August			
Farm Management	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Complete lists of beneficiaries/employees/lands/ass	#																		
Issue letter of commitment to plan		#																	
Clean debts of farm		XX	XX	XX	XX	XX	XX	XX	XX	XX	XX								
Submit to raion plan for transfer of soc. assets		XX																	
Transfer social assets to raion authorities		//	//	//	//	//	//												
Dispose of facilities associated w/housing		//	//	//	//	//	//	//	//	//	//	//	//	//	//				

	April		May					June				July				August			
Local (Raion) authorities	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Allocate budgets for transferred social assets			XX	XX	XX	XX													

		May					June				July				August			
Local (raion) land surveying committee	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Lay out grid for title survey			//	//	//	//	//	//	//	//	//								
Survey plots for titles												XX	XX	XX	XX	XX	XX	XX	XX

		May					June				July				August			
Land Reform Commission	18	25	2	9	16	23	30	6	13	20	27	4	11	18	25	1	8	15	22
Issue land deeds to former collective/state farms		XX	XX	XX	XX	XX													
Issue titles												XX	XX	XX	XX	XX	XX	XX	XX
Create registry of titles												//	//	//	//	//	//	//	//

CHEMONICS INTERNATIONAL DRAFT
IFC/USAID

March 8, 1993

PILOT PRIVATIZATION OF STATE AND COLLECTIVE FARMS
IN THE NIZHNI NOVGOROD OBLAST

RISK ANALYSIS

The document titled "Farm Restructuring Plan" stated that Russian state and collective farms have already been privatized, from a legal point of view, into corporations wholly owned by their employees as **joint** property, but that no stock in these corporations has been issued to the employees and no corporate governance (board of directors contolled by a general assembly on the principle of one-share one-vote) has been established. The restructuring plan described in the above document has the objective of de-conglomerating the farms into economically-sized, more efficient enterprises, and distributing titles to the farm land and shares representing the other farm assets equally among all eligible members.

This reorganization plan is designed to be driven by emerging local leaders willing to form smaller production units through the process described in the above document. The principal risks of this process are:

1. Risk: No Leader or only a Few Leaders Emerge.

Issue: If this happens, deconglomeration will not happen at all or only to a very limited extent.

Discussion: It is a universal experience that in every group of people there are at least some who have the entrepreneurial attitude to excel by undertaking economic activities involving innovation and risk. Even under the former regime which suppressed such attitudes, persons with more entrepreneurial spirit have emerged (usually as top and middle managers of state enterprises, or in those private-sector activities which were tolerated).

The restructuring plan does not call for **every** employee to become an entrepreneur, but for the establishment of enterprises of **economic size**. On a typical farm there may be formed about 10-30 such enterprises. From the above discussion, it may be taken for granted that in a group of several hundred employees on a typical state or collective farm there will exist a similar number of persons with entrepreneurial attitude who are able and interested in establishing the new enterprises.

Whether these potential entrepreneurs do in fact emerge depends mainly on one variable--the attitude of top management. Therefore the pilot farms have been selected only where top management has shown its commitment to the restructuring process. If on any pilot farm the commitment of

top management to restructuring proves in practice to be doubtful, the affiliation of that farm with the project should be reconsidered.

2. Risk: Farmers may Refuse to Join the New Enterprises for Fear that they will Lose in Practice their Land Ownership Rights.

Issue: There may be a perception among the beneficiaries of land distribution that the land is not really theirs unless they have a fence around it and cultivate it in person.

This perception is strengthened by the fact that in the Central and Eastern Europe and the Newly Independent States, under the former regimes, in most cases the land of collective farms (as distinct from state farm land) has never been nationalized. In many cases the collective members even retained titles to individual plots. However, they were obliged to work the land communally and had no control over production decisions, no right to sell the land and no right to rent income from their land, so that their ownership rights were stripped in practice.

Discussion: The Russian land privatization law contemplates--and in our opinion provides--unconditional ownership of the land.[1] Consequently, individuals who place their land at the disposal of the new enterprises (as partners, equity holders, lessors, etc.) have reasonable rights of ownership and control which they could use, if they so choose, over the enterprise leaders.

Another mitigator of this risk is the fact that Russian farmers have lived under the collective system for three generations and have little or no recollection or family tradition of making a living as independent farmers (which is very different from deriving a side income from part-time work on garden plots which are dependent on the state or collective farm for free inputs). Therefore it is expected that farmers will prefer to continue farming as salaried workers in a group. In fact, farmers expressed to the project team their anxiety over the prospect of breaking up the large farm and having to subsist as independent operators on six-hectare plots.

Thus we do not expect a significant risk that farmers will refuse to join the new production enterprises, if the system is set up as designed and explained to them adequately.

3. Risk: Farmers will Pull their Land out of an Enterprise if it Performs Poorly.

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[1] *While the law poses certain restrictions on sale or other conveyance of land during the first ten years of ownership, such conveyance is not impossible.*

Issue: Although farmers are expected to let their land be cultivated on a joint basis, there is a risk that if the new enterprises perform poorly, farmers who have leased their land to them--and even farmers who have joined as partners or shareholders--will become dissatisfied and decide to work their land individually. Even if a farmer's land is in the middle of a block, he may to decide cultivate it himself with rental machinery or to trade it for a more favorably located plot. If enough farmers decide to pull their land out, the enterprise may not survive. This is likely to result in a dramatic decrease of efficiency.

Discussion: We consider that this risk is real, and that it depends mostly on macro-economic variables out of the project's control. If the entire agricultural system fails (eg. because of input/output pricing or marketing policies), there will be a massive return to subsistence farming on individual plots averaging six hectares, resulting in grinding poverty in the countryside and food crisis in the urban areas. The problem could be mitigated if a land market emerges so that people can sell their land to move and seek better prosepects elsewhere (as was the case during reconsolidation of homestead land in the US), and if the urban/industrial sector is expanding and creating jobs. At present, neither of these conditions exists.

This situation underlines the responsibility of those who set agricultural policy for the Russian Federation, and the need for the project management to watch these macro-economic signals.

4. Risk: Western Concepts may not Function in the Russian Setting.

Issue: The project assumes that western business, ownership, management, and technology concepts will operate successfully in a country with very different history and traditions. For example, there is no experience that the concept of a farming corporation, with professional management but under effective control of the owners, will work successfully in the Russian countyside.

Discussion: The events currently taking place in Russia--extensive removal of state control over production decisions and massive, no-cost transfer of state property to a large number of individuals--has no precedent in human history, and there is no model to follow. The purpose of pilot projects such as this one is precisely to provide models and to identify the problems which might arise, before large-scale application is attempted.

Doubtlessly, Western concepts must be adapted before being applied to Russian reality. The project team, with interaction among Russian and US experts of the same level, is set up to achieve such adaptation.

5. Risk: The Restructuring Plan may be Abused by the Rural Leadership to Perpetuate its Position.

Issue: The restructuring plan envisions a prominent role for present top and middle management of state and collective farms as leaders of the new enterprises to be created, although other qualified persons are equally encouraged to create new rural enterprises. It may be accused of conserving the present rural social structure under a new guise.

Discussion: It is indeed expected that present leaders of production units ("brigades") will emerge in many--perhaps most--cases as leaders of the new enterprises. In most cases, these are the most qualified persons for the task, having achieved their positions through a process of natural selection in a difficult environment. Certainly, managing an independent enterprise which depends on profit for its survival is very different from managing a production division within a large enterprise in a command economy. Still many of the human and technical skills these managers have acquired make them the most qualified candidates under the new conditions.

The real issue is not whether the former leadership will stay in control, but whether it will exploit its new position to the detriment of the membership. The new ownership rights--particularly the freehold ownership of a defined plot of land, which the owners can withdraw of they are dissatisfied--give the membership ultimate control over the restructuring process and provide a safeguard aganainst abuse.

6. Risk: Breakup of the Conglomerate Farms may Destroy the Meat and Dairy Sectors.

Issue: A particular sectoral problem arises in Russia at present because of price imbalances in the grain and livestock sectors. For a long time Russia has imported much of its grain, particularly wheat, from the West. Because of the current hyperinflation, the price of Western grain in rubles is two or three times the price of Russian grain. This drives up the price of Russian grain and makes Russian grain production profitable. On the other hand, domestic meat and milk prices have not increased to the same extent, while livestock producers are faced with higher feed grain prices. The crisis is especially acute in the dairy sector.

A conglomerate farm, in which the profitability of a single branch has lower priority than other considerations (eg. emplolyment), would be likely to continue dairy operations during such an adverse period. But a single-purpose dairy operation is likely to be unable to buy feed grain at current prices, and may be forced to slaughter its milch cows. Since cattle reproduces slowly, the negative effect of the present price imbalance could be felt for many years.

PRINCIPLES OF LAND TITLING IN THE IFC LAND PRIVATIZATION PROJECT

Chemonics International

A. The Strategic Objective of Land Privatization in Russia.

The goal (strategic objective) of the privatization of farm land in Russia ia to transfer to private persons--in the most absolute way possible in the current situation--ownership of specific plots of land, with full ownership rights (right to control the use of the land, enjoy the returns from it, and be able to dispose of it).

This goal is essential to assure that reconstitution of the land plots into larger production units happens equitably. When individuals contract their land be managed as a part of a larger production unit, they will be able to obtain fair returns only if they know exactly which plot of land they own, and if they have the ability to withdraw it from the production unit if they are not in agreement with the way it is managed.

Furthermore, only individual land ownership--secured by a legally binding title--will break the inertial forces of maintaining the current management structures of state and collective farms (SCF). The experience of Latvia[1] shows that individual land ownership was the driving force behind the breakup of state and collective farms.

Such individual ownership of land will also create social mobility. At present there is significant excess labor on the SCF, and the land area to be parcelled to each worker cannot support a family even in the minimal conditions prevailing today. If individuals have land ownership with the right to sell it, some will sell their land and use the income to support their future mobility in Russian society. This will also facilitate the reconsolidation of land into units of more economic size.

Individual ownership of land will also bolster political democracy. The experience of countries which had a wide distribution of farm land to individual owners (US, Western Europe, Costa Rica), compared with that of countries where ownership of farm land was concentrated (eg. most of Latin America) proves that wide-spread individual land ownership promotes democracy and political stability.

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[1] *Discussed in the paper "East European Experience with Privatization of State and Collective Farms, and Relevant World Experience", Chemonics International, 3/31/93.*

B. The Land Privatization Objective of the IFC Project.

The overall objective of the IFC land privatization project is to convert the present SCF into privately-owned, economically rational entities capable of surviving and competing in the new market environment. For achieving this purpose, the project has two simultaneous strategies:

- converting all the land and other assets of the former SCF to private property widely distributed among all employees and pensioners of the farms; and
- based on the new ownership pattern, reconsolidating the land and other assets into economically rational business units.

For the plan to succeed it is necessary to break down the past centralized management structures of the farms. This will require ownership to be conveyed to individual farm workers. The instrument for conveyance of ownership is a title to the land. For the plan to succeed, the validity of this title must be guaranteed in the most affirmative terms possible in Russia today.

A certificate of land ownership may be technically known as a **deed**, a **title** or a **patent**. The differences between these are a matter of technicalities in Anglo-Saxon common law and not relevant to the present situation in Russia. Consequently, this paper denotes all land ownership certificates as "titles". The paper focuses on the conveyance mechanisms and infrastructure (legal, surveying, registration, etc.) necessary to support and sustain individual titles to land ownership.

C. The Required Infrastructure for Land Ownership.

The present land ownership legislation in Russia is headed by a Presidential decree, which has the force of law. In addition, the legislation includes decrees at the *oblast* level which authorize and regulate land transfers. This legislation provides for rights of land ownership, although with certain limitations (eg. 5-10 years before titles may be transferred). However, there is a lack of legal, organizational and technical infrastructure to support the legislation, such as surveying, legal description, titling, registration, etc. It is therefore imperative that the IFC project will take all the actions, in conjunction with the local and national government, necessary to establish for the pilot project--even on a provisional basis--the following:

- individually surveyed and identified plots
- titles which convey all the rights provided by law to each owner
- legal description which constitutes an integral part of the title
- a local land register at the *raion* or *oblast* levels

This system must be recognized by the federal government.

The basic requirements of a land title are that it must:

- be in the form specified by the competent authorities
- contain the name of the owner
- contain a legal description of the parcel
- be based on measurement by a licensed surveyor
- be accompanied by a map
- cite the legal power on which it is based
- be signed by an authority which has undisputable power to deed the land[2]
- be registered by a local authority
- be impossible to falsify
- be defensible in court
- contain a mechanism to resolve disputes
- be irreversible to the extent possible

The establishment of valid titles has two essential institutional/technical prerequisites:

1. **Valid surveys:** The key to defensible titles is having absolute and unique identification of the plot of land. There must not occur cases where two titles lay overlapping claims to the same piece of land. Any change of ownership must be recorded on the title. The mechanism to resolve disputes should be based on the original survey process and the authority of the original issuer of the title.

2. **A register of titles:** Each new land owner, after receiving his title, must have it registered by a local authority, thus establishing his irrevocable ownership right to a specific plot of land. Such a register is essential for making it possible to transfer titles. It is also necessary for issuing a replacement if the title is lost or destroyed, and for resolving conflicting claims to the same piece of land. The register must contain for every title:

- name of the owner
- date on which the title was issued
- legal description of the land

The project must to obtain the legislative infrastructure (decrees) necessary to issue and register titles on the pilot farms, and assure that the institutional capacity to register the titles is created.

The above is a very abbreviated functional description of the registration process--the bare minimum required to give the process legitimacy and durability. It is expected that in the medium term, land ownership policies and infrastructure will

[2] *In the US, titles issued under the Homestead Acts were signed by the President.*

be strengthened in Russia overall.[3] The local legislation supporting the titles to be issued under the IFC pilot project must specify that these titles will be recognized by any future legislation.

To the extent that the land titling infrastructure is weakened (eg. the surveys are not accurate, there are conflicting claims, titles are not in the owners' individual possession), the land ownership title loses credibility and as a result the whole concept of ownership is weakened. Thus an indecisive approach to building a land titling infrastructure enhances the chances of regression to state and collective land ownership.

D. Steps which the IFC should Take to Strengthen Individual Land Ownership.

To assure that all beneficiaries of land distribution under the IFC project obtain a valid title, the project must undertake the following actions:

1. Define and contract for all the necessary land surveying. This may include aerial mapping, grids, measurement of individual plots, and issuing the legal descriptions. The survey must identify common lands (roads, ditches, etc.) to define easements and rights of way. The process must be scheduled to coincide with the needs of privatization plans of the pilot farms.

2. Provide the assistance required to set up a register of titles.

3. Draft the decrees necessary for the issuing of titles and establishment of registers, and assure their enactment by the competent authorities.[4]

Budapest, April 1, 1993

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[3] *The US government will start in the summer of 1993 a project to assist the development of such land ownership policies and infrastructure.*

[4] *Such decrees must deal--even if on a provisional basis--with the issues of:*

- *rights of way (assuring for individuals access to their plots if this necessitates passage through other plots); and*
- *condemnation of land by the authorities, against fair indemnification, if the land has a higher common use (eg. roads).*

FACSIMILE

To: Becky Fair/Vincent Morabito
Fax: 095-923-2742 IFC office, Moscow
From: Itil Asmon/Jonathan Nighswander
Fax: 8312-391-087 IFC office, Nizhni Novgorod
Date: April 28, 1993 Pages to follow: 3

SUBJECT: PROCEDURE FOR ISSUING TITLES FOR LAND

Today we discussed this subject with Mr. Vladimir Prakofyevich Sukhomlin of the Survey Department of the Oblast Commission on Land Reform and Land Use.

The bottom line is that there exists in Russia a "Testimony of Right for Property of Land" (SVIDETIELSTVA) which (1) can be issued relatively quickly by the raion administration, (2) is valid up to the issuing of a State Act (deed), and (3) according to our source, gives all the powers of a State Act, including the powers to mortgage or sell the land, and thus **could serve as a feasible mechanism of issuing proofs land ownership for the purposes of the IFC project.** POINT (3) SHOULD BE VERIFIED WITH THE LAWYERS. A copy of the form is attached.

Details:

1. The sovkhoz/kolkhoz maps which we have (prepared between 1989 and 1992) were done by surveying on land the outside boundaries only,[1] then drawing the individual fields on the basis of aerial photos and measuring their area on the photos. Consequently, **there are no surveyor's notes of individual fields, on the basis of which a legal description necessary for issuing a deed could be established** as we assumed.

2. To establish boundaries for individual properties, as necessary for issuing a deed, our respondent estimated that the effort required would be on the order of 10 man-days for 100 ha, 30 man-days for 300 ha, or 3 man-days for 5 ha. (A surveying team consists of 1 instrument man and 1-2 rod men; the field work varies considerably as a function of the complexity of the borders, and there is a fair amount of office work). Thus **providing deeds within the time frame and budget of the IFC project would not be practicable, even for splitting a farm into a few large TOOs.**

---

[1] *Wherever the maps show circles connected by solid lines -------o------- , these circles represent stake points which may probably still exist in the terrain and in the archives. Where the maps show circles connected by dashed lines - - - -o- - - -, the boundary is more tenuous.*

3. However, there exists the mechanism for issuing a temporary "Testimony of Right for Property of Land" (SVIDETIELSTVA). Most private ownership (eg. for dachas, house plots in villages) is based on such testimonies. According to our respondent this Testimony gives all the powers of a State Act, including the rights to mortgage and sell the land. As legal description, the Testimony includes only the total number of hectares and the number in each category (arable land, perennial grass, fallow, hay, pasture), plus an outline of the land on the back. Apparently a State Act, involving surveying, is necessary only to resolve (or pre-empt) land disputes.

4. A Testimony is issued by the local (raion) authorities. The outline on the form is made by the local administration, and can be made on the basis of the kolkhoz/sovkhoz maps which we have.[2] The process could take a month, of which only some 20 minutes are necessary to sketch in the outline; what takes time is to assure that there are no conflicts and counter-claims, eg. to obtain the assent of the TOO to the land share of a member who wants to leave.

5. From the above, it looks like the SVIDETIELSTVA is a feasible mechanism of issuing proofs land ownership for the purposes of the IFC project. The major point to verify with the lawyers is whether indeed (or to what extent) a Testimony carries all the powers of a State Act, including the powers to mortgage or sell the land.

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[2] *In principle, it looks like such a Testimony could also be issued for an individual small property within a field or plot.*

УТВЕРЖДЕНА
постановлением Правительства
Российской Федерации
от 19 марта 1992 года №177

Форма

СВИДЕТЕЛЬСТВО
о праве собственности на землю

Свидетельство выдано _____
(фамилия, имя, отчество гражданина

_____
наименование предприятия, учреждения, организации, которым

_____
предоставлен земельный участок, его местонахождение или адрес

в том, что ему (ей) решением _____
(наименование органа местной

_____
администрации)

от _____ 199 года № _____ для _____
(целевое назначение

_____ предоставлено
использования земель)

Вид предоставления земли	Всего, га	В том числе сельхозугодий	Из них					Прочих угодий
			пашни	многолетних насаждений	залежей	сенокосов	пастбищ	

Свидетельство составлено в двух экземплярах, из которых первый выдан

_____
(Ф.И.О. гражданина, наименование предприятия, учреждения, организации)

второй хранится в _____
(наименование органа, выдавшего свидетельство)

Свидетельство является бессрочным документом и действует до выдачи соответствующего государственного акта установленной формы.

Свидетельство № _____ выдано _____
(дата выдачи)

М.П. _____
(подпись)

_____
(должность лица, выдавшего свидетельство)

Ч Е Р Т Е Ж

границ земель, находящихся в собственности, владении, пользовании

_____

/Ф.И.О. собственника, владельца, пользователя земли/

Председатель комитета по земельной реформе и земельным ресурсам _____

М.П. *района /города/* _____

/подпись/ _____ *ф.и.о.*

GUIDELINES FOR THE FARM RESTRUCTURING COMMISSION

The Farm Restructuring Commission ("Commission") obtains its legal powers from Act No. 86 of the Government of the Russian Federation of December 29, 1993, dealing with "the Procedure for Reorganization of Kolkhozes/Sovkhozes", in particular Articles 3 and 4. The rules of procedure of the Commission are embodied in "Provision on Commission for Land Privatization and Reorganization of Kolkhozes/Sovkhozes" adopted by the Agricultural Ministry of the Russian Federation of January 22, 1992.

The tasks of the Commission are as follows:

1. Tasks Necessary for Establishment of the Commission.

   a. The sovkhoz/kolkhoz director, who is chairman of the Commission, will establish the list of members of the Commission according to Annex A.

   b. All members of the Commission shall familiarize themselves with the two documents cited above.

   c. The chairman shall organize a general assembly of the work collective of the sovkhoz/kolkhoz for the purpose of approving the establishment of the Commission with the membership list conforming to Annex A.

2. Establishment of the List of Beneficiaries.

   a. Establish a list of the persons entitled to free distribution of farm land and property (employees and former employees, including employees in the social services--hereinafter "Beneficiaries"). The persons entitled to free distribution of land and property are:

- all persons working on the farm (regardless of when they were hired, and of whether or not they are members of the workers' collective)
- all persons who have retired and are living on the sovkhoz/kolkhoz (regardless of how long ago they retired)
- all persons who were discharged after 1/1/92 not because of discipline

Persons not entitled to distribution of land and property are:

- those employed before 1/1/92 who left of their own accord
- those fired for disciplinary reason, regardless of date
- those discharged before 1/1/92 for reasons other than discipline
- those who retired and went to live elsewhere

3. Tasks Related to the Division of Land.

a. Establish a map of the sovkhoz/kolkhoz, including the area of fields in hectares and the point value (1 to 100) assigned to every field according to its soil quality.

b. Determine the land area of the former kolkhoz/sovkhoz transferred free of charge to the successor organization(s). **All of this land should be distributed**--none should be placed in a reserve fund.[1]

c. Of the land available for distribution, multiply every hectare by the number of value points assigned to it. The result is the total number of land points available for distribution.

d. Divide the total number of land points by the number of Beneficiaries. The result is the land area to which every beneficiary is entitled, expressed in land points ("Land Entitlement").[2]

e. Issue and distribute to each Beneficiary a certificate of his Land Entitlement, expressed in hectares and in "land points".

4. Tasks Related to the Division of Farm Property.

a. Establish an inventory of all non-land property of the sovkhoz/kolkhoz (including products in storage and in process).

b. Assign to each item an indicative value in rubles according to the latest balance or re-evaluation (taking depreciation into account).

c. Group the property items into "rational production units" (eg. a barn with all animals and equipment, a workshop with all tools, a single tractor) and establish the indicative value of each "rational production unit".

d. Calculate the part of the farm property which each Beneficiary is entitled to, according to the criteria established by the workers' collective of the kolkhoz/sovkhoz. Multiply this by the total value of the farm property.

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[1] *In general, the number of Beneficiaries should be multiplied by the norm (in hectares) for maximum distribution of free land per Beneficiary in the raion. If the total is less than the land area of the sovkhoz/kolkhoz, the excess area should be assigned to the "Special Land Redistribution Fund". However, in the farms of the Nizhni Novgorod Pilot Land Privatization Project this problem does not arise--therefore* ***all the land should be distributed.***

[2] *For example, on a sovkhoz/kolkhoz of 3000 hectares with an average land quality of 70 points per hectare, the total number of points is 3000 x 70 = 210,000. If there are 600 Beneficiaries, each receives 210,000/600 = 350 points. With 350 points a Beneficiary can get 5 hectares worth 70 points each, or 7 hectares worth 50 points each, etc.*

The result is the value of farm property, in rubles, which each Beneficiary is entitled to ("Property Entitlement").

e. Obtain approval of the *raion* Land Reform Committee for the procedure for distribution of property.

f. Issue and distribute to every Beneficiary a Certificate of his Property Entitlement.

5. Distribution of Applications.

a. An application may be for:

- a family farm (including both land and property)(Enclosure 1)
- a limited partnership (TOO), mixed partnership (ST) or joint-stock company (A/O) for crop and/or animal production (including both land and property)(Enclosures 2,3,4)
- a limited partnership (TOO), mixed partnership (ST) or joint-stock company (A/O) for services (property only)(Enclosures 2,3,4)[3]
- a self-employment activity (property only)(Enclosure 5)

For the best legal form to use in given conditions, see the document titled "Possible Legal Forms for Organizing your Economic Activity".

b. An applicant may represent himself only, or a group of people who have given him their land and property entitlements in exchange for certain rights in the new business enterprise which is formed.

c. The Commission will designate appropriate locations for the distribution and of applications. These should be central and easily accessible locations. They should be the same as the "information points" which have already been established to distribute information about the land and property auctions. Each information point will be marked with a sign and display the following:

- a map of the sovkhoz/kolkhoz with the area and point value of every field
- a list of the "rational production units" with the indicative value of each
- copies of each application to be distributed

[3] *A group of employees may form an association, which may enter as one of the partners in a TOO, ST or A/O for services.*

- examples of filled-out applications
- the deadline for submitting completed applications
- a bulletin board on which Beneficiaries can leave notices
- a list of dates and rules of the auctions

d. a person designated by the Commission will supervise each point and be prepared to answer any questions concerning completion of applications.

6. Collection of Applications.

a. The Commission will appoint five (5) of its members who will be responsible for the collection and checking of applications for land and property, hereafter designated as the "Panel". It is recommended that the Panel include the chief accountant and economist.

b. Completed applications will be collected two weeks after their distribution. The collection point will be the same as the distribution point. No applications received after the deadline will be admissible.

7. Procedure for Checking Applications.

a. The Commission must verify that each application is correct. Applications will be considered irregular if:

- application is not legible
- application lacks signature(s)
- applicants are not entitled to land and property distribution
- applicants appear on more than one application
- applicants stated incorrectly the size of their Land or Property Entitlements
- the amount of applicants' Land and Property Entitlements is incorrectly totalled
- applicants claim more land or property than the total of their Land or Property Entitlements
- the inventory number of the property does not coincide with the property description, or the cost of the property does not correspond with its indicative value according to the last valuation.

b. Applicants will be notified within two days if an irregularity exists in their application. Applicants thus notified will have one week to resolve the irregularity and turn in a corrected application. The corrected applications will be verified by the Panel and if irregularities still exist said application will not be considered for approval.

c. In addition, at least one of the members of the proposed new enterprise must have the technical qualifications to manage such an enterprise.

d. An application will not be approved if the Commission determines that the new enterprise cannot be reasonably expected to be viable (eg. a single person claiming land without the means to cultivate it). In particular, persons who want to acquire animals must also have the land area to grow at least one-half of the animals' feed requirements, since under present conditions in Russia an animal farm cannot expect to purchase the majority of its feed requirements.[4]

e. Applications approved by the Panel will be submitted to the Commission for final approval. Any disagreement in the Commission will be resolved by a majority vote. In case of a tie, the chairman will have the casting vote. The date and place of the final vote will be made public in advance.

f. Each application approved by the Commission will be signed and stamped by the Chairman and returned to the applicant. The bidding will be done on the basis of approved applications.

g. A list of approved applications will be posted.

8. Preparations for the Auctions.

a. The auctions will take place in rounds. A maximum of three rounds may occur:

- In the first round, all land and farm property will be offered. Blocks of land will be offered at the point value assigned to them, and property lots will be offered at the value calculated on the basis of the most recent valuation. In the auction, applicants may bid these prices up but not down. If any land or property were not disposed of in the first round, a second round will be held.

- The second round will take place not less than one week and not more than two weeks after the first round. If in the first round land and/or property

[4] *For example, in the Nizhni Novgorod oblast it is estimated that 2.12 ha are necessary to feed one cow and 0.78 ha are necessary for her heifer (total 2.90 ha per cow and replacement). Therefore a dairy operation with 100 cows and their replacements needs 290 ha, and should have at least one half of this area (145 ha) as own property.*

value were bid up, for the second round the asking prices will be adjusted down proportionately (see 9.f). In the second round, applicants may bid these prices up but not down.

- If any land or property were not disposed of in the second round, a third round will be held with the adjusted prices, not less than one week and not more than two weeks after the second round. In the third round any offering prices will be accepted, and all land and property will be disposed of.

b. The Commission will approve dates and locations for the auctions.

c. The Commission will approve and appoint a working group which will organize and supervise the auctions.

d. The working group will assure that the information points (see 5.c) will contain:

- a large map which will show land plots and their point value
- a list of all property lots ("rational production units") with the indicative value of each
- auction rules and procedures
- a bulletin board and meeting area will be established to facilitate information exchange
- if deeded useful, the Commission may call for an extraordinary general assembly of the work collective of the sovkhoz/kolkhoz to explain the auction procedures and answer questions

9. Auctions for Land.

a. The land will be offered for bidding in blocks. Blocks will be fields or plots within fields, of approximately the same quality, which have been defined as such for technical reasons and marked on the sovkhoz/kolkhoz maps. Such blocks normally measure from 20 to 170 ha, although a few are smaller than 20 ha. Those bidders (expected to be only a few) who want to acquire less than 20 ha for a family farm, will be oriented to bid on those smaller plots, which are usually peripheral to the main fields. Only in exceptional circumstances will a plot be divided.

b. Enterprise leaders will bid on blocks of land by depositing with the auctioneer an appropriate number of "Certificates of Land Entitlement" (see

3.d) which belong to their group.[5]

c. If there is only one bidder for a block, he will acquire it at the starting price (in land points). If there are several bidders, the price in points will be increased until only one bidder remains.

d. In case the final point value for which a block was acquired does not correspond to an integral number of Land Entitlements[6], the Commission will issue to the bidder a certificate for the "small change" left over. The bidder may (1) use this certificate in the bidding for another block of land, (2) sell it to another Beneficiary, or (3) exchange it with another bidder for a Property Entitlement.

e. Land which did not attract bids in any round will be offered again at the next round.

f. If there were several bidders and the price increased, in the next round of bidding the price of every remaining hectare (in land points) will be adjusted downwards proportionately.[7]

g. The winning bidder will receive a certificate for the land he acquired. With this certificate he can apply to the local authorities for a deed to the land.

10. Auctions for Property.

a. Farm property will be auctioned in lots representing "rational production units" (see 4.c).

b. Enterprise leaders will bid on "rational production units" by depositing with the auctioneer an appropriate number of "Certificates of Property Entitlement" (see 4.f) belonging to their group.

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[5] *In the example above, the Land Entitlement will be 350 points. If the land value is 790 point per hectare one entitlement can acquire 5 ha, so that 10 Entitlements will be necessary to acquire a block of 50 hectares.*

[6] *In the above example, in an area where one Land Entitlement corresponds to 5 hectares, the block size is 47.5 ha, the bidder offered 10 Entitlements so that one-half of an Entitlement is left over.*

[7] *In the example, the 3000 hectares of the kolkhoz corresponded to 210,000 land points. Suppose that in the first round 2000 ha were acquired, and they should have gone for 160,000 points, so that there would be 1000 ha and 50,000 points left. Suppose however that the first 2000 ha were bidded up to 180,000 points (only 30,000 points left). Consequently, to adjust the demand and the supply, for the second round of bidding the value of every remaining hectare (in land points) must be multiplied by 3/5.*

c. If there is only one bidder for a property lot, he will acquire it at the starting price. If there are several bidders, the price will be increased until only one bidder remains.

d. If there were several bidders and the price increased, in the next round of bidding the price of every remaining property lot will be adjusted downwards proportionately (see 9.f).

e. The winner will receive a title (for a building), a bill of sale (for machinery), or another appropriate document which evidences the transfer of ownership.

f. It is expected that most conflicts regarding both land and property will be settled by the auction procedure. Any disputes not resolved by the auctions will be arbitrated by the FRC based on considerations of fairness. The decision of the FRC will be final.

11. Land Deeds.

a. The Commission will help to arrange for survey of the new agricultural enterprises and their legal description.

b. The Commission will assist the applicants to obtain deeds from the appropriate authorities on the basis of the certificates they acquired at the auction and the land maps and legal description provided by the surveyors.

Nizhni Novgorod, April 22, 1993

GUIDELINES FOR WORK OF THE FARM RESTRUCTURING Commission
ANNEX A
LIST OF MEMBERSHIP OF THE FARM RESTRUCTURING COMMISSION

Chairman (Director of the sovkhoz/kolkhoz): _____

Other members of the sovkhoz/kolkhoz: _____
(at least 4 - 6)

_____

_____

_____

_____

_____

Representative of the *raion* Land Reform and Land Resources Committee: _____

Representative of the *raion* Department of Agriculture: _____

Representative of major creditors of the Sovkhoz/Kolkhoz, if any: _____

IFC LAND PRIVATIZATION PROJECT

EXPERIENCE IN CENTRAL AND EASTERN EUROPE AND THE BALTICS WITH AUCTIONS RELEVANT TO PRIVATIZATION

Chemonics International

A. The Basic Characteristics of Auctions.

The auction process, often referred to as "the market maker", has existed for centuries in many countries and cultures. Its objective is to create a competitive market for the asset, in order to obtain for the seller the best price available at the time. The process consists of a public sale of property which owners have consigned for sale. The sale is conducted by a professional auctioneer, assisted by a team of stewards. The auctioneer stimulates the potential buyers to exceed each other's bids. When no higher bid is forthcoming, the person who has offered the highest price is declared to be the new owner.[1]

This auction concept is a very simple, but in order to work effectively a number of factors must be present:

- A willing seller and a number of willing buyers, enough to create competition among the buyers.
- A benchmark of value--the potential buyers must have their own idea of what the property to be sold at the auction is worth. People who do not have an idea of the value of the property auctioned are generally at a disadvantage.
- Commonly there is a floor price established by the seller (the minimum price he will accept), which only the seller and the auctioneer know.[2] If the market does not offer the floor price, the seller effectively buys back the property at that price. In some cases there is no floor price and the property is sold for whatever it may bring.
- There must be a universally acceptable means of exchange (usually money).

A distinction should be made between auctions and tenders with closed bids. In the tendering process, the buyer offering the highest initial bid becomes the owner, usually without further competition among the buyers.[3]

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[1] *A variant is the "Dutch action", in which the auctioneer starts above market value and progressively reduces the price. The first person to agree to the auctioneer's price becomes the new owner.*

[2] *This floor price is usually higher than the auctioneer's starting price (which evidently is known). The auctioneer often starts below the minimum price acceptable to the buyer in order to create upward competitive momentum.*

[3] *In some cases the buyers are invited to make a second round of "best and final" bids.*

B. Use of the Auction Process for Privatization.

Where auctions have been used in the privatization process in Central and Eastern Europe (CEE) and the Baltics, in almost all cases they did not comply with the above principles of a auction marketing system and therefore for the most part did not make a market. Instead, the "privatization auction" has typically become an equitable and transparent mechanism for the distribution of assets. This is of course is the case with the proposed auction mechanism proposed for use in the IFC Land Privatization Project. In the following, the experience with privatization auctions in the CEE and Baltic countries is briefly reviewed.

C. Experience with Privatization Auctions in Hungary.

In Hungary, there were two important experiences with privatization auctions:

1. Auctions for Land and Other Assets with Restitution Bonds.

In Hungary, persons who could lay claim to land or other property nationalized after World War II were provided with "restitution bonds" denominated in Hungarian forints. Tracts of land and shares in state-owned companies were offered in auction for purchase with restitution bonds. The land was offered at a floor price, which was announced before the auction (thus violating the principle that the floor price must be unknown to the buyers).

The result of the restitution auctions was that for every parcel normally only one buyer (usually a local resident) made a bid, and no one exceeded the floor price. The potential bidders had evidently reached an agreement before the auction. Thus the restitution auctions definitely did not establish a land market. However, they are achieving the objective of settling claims to nationalized land and other property.

The phenomenon of pre-auction agreements among the buyers, with the result that only one buyer bids for any asset and the floor price is not exceeded, has been observed elsewhere in the case of auction sales of land in closed communities. Thus it is also likely to be the case in the pilot farms of the IFC project--there will probably not be much bidding by different buyers (enterprise leaders) for the same plots of land.

2. Liquidation Auctions.

In the case of auctioning the assets of Hungarian state enterprises which are being liquidated, the medium of purchase is cash. The objective of liquidation auctions is to maximize revenue from sale of the assets. For all items, the government announces ahead of time what the floor price will be (again breaching the principle that the floor price must be kept secret).

Moreover, the announced floor price had been was calculated by a valuation method which typically inflated the value of the assets. As a result, most potential buyers did not participate since they believed the price was too high from the very beginning. The relevant lesson in this case is that for the auction to result in a sale, the floor price must be reasonable (at or below the market price).

Another problem with the Hungarian liquidation auctions is that if the floor price is not obtained, the government retires the property and offers it again later at a reduced price. This system gives all interested buyers an incentive to wait for the price to come down, and consequently slows the privatization process.

It might be noted that in addition to auctions, tenders with closed bids are being used in Hungary, usually for small-scale privatization (eg. shops).

D. Privatization Auctions in other CEE Countries.

In Poland, Romania, Bulgaria and Albania, to our knowledge auctions have not been a significant tool of privatization. We are not aware of the situation in other CEE countries.

E. Privatization Auctions in Latvia.

Perhaps the most relevant auction experience for the IFC project is that which occurred in Latvia. There, all employees (including managers and pensioners) of state and collective farms were given the opportunity to purchase the property of the farms through auctions. Under the privatization law, all state and collective farms were obliged to corporatize and to make a valuation of their assets. Then stock certificates (denominated in Latvian rubles) corresponding to the value of the net assets of the farm were distributed to all employees. The value of certificates received by each employee was related to his length of service and level of responsibility. Employees and pensioners were allowed to sell the stock certificates, but among themselves only (typically the certificates were traded at a 50% discount off their face value).

Then privatization auctions were held, using stock certificates as the medium of exchange. Prior to the auction date, lists were published describing the property to be auctioned and the floor price. It was also announced that if at the auction an item did not bring the equivalent of the floor price in stock certificates, it would be revalued and sold at a second auction within 30 days. If the item was not sold in the second auction, a third auction would take place at a yet lower floor price. In the third auction outsiders were allowed and cash as well as stock offers were accepted.

While this auction system eventually accomplished the distribution of property on the state and collective farms which opted to reorganize, it exhibited several problems:

1. Many items were intentionally damaged (eg. tractor operators dismantled an essential part of the tractor) so that at the auction they would not sell at their floor value, and the possessor of the essential part would be able to buy them later for a lower price. This resulted in complaints from other buyers that the process was unfair.

2. An obvious mistake, as in the Hungarian case, was to announce an unacceptably high floor price (based on a non-market-related method of asset valuation) and to make known the seller's intention to hold another auction if the floor price was not met. This slowed the disposal of assets which otherwise might have cleared at the first auction.

3. Since the total of floor prices for all items equalled the assessed value of all the farm properties, auctioning an item below the floor price lowered the value of all the remaining stock certificates. At the end of the auction process, some stock certificates were left without corresponding property and were valueless.

4. The absence of professional auctioneers and stewards made the auctions somewhat chaotic.

Nizhni Novgorod, March 11, 1993

IFC LAND PRIVATIZATION PROJECT

GOVERNANCE OF ENTERPRISES RESULTING FROM THE RESTRUCTURING OF PRIVATIZED STATE AND COLLECTIVE FARMS

Chemonics International

A. The Existing Situation of Ownership and Governance on Former State and Collective Farms.

Recent legislation has converted state and collective farms into joint-stock companies wholly owned by their employees (including management and former employees) as joint (undivided) property. Thus from a legal point of view, the farms have already been privatized, and their present owner is no longer the state but all of their employees. The same enabling legislation gave the state farms and collectives the authority to decide after corporatization, by a democratic process, on whether (1) to operate as a joint-stock company, or (2) to reorganize into smaller units. Most former state farms and collectives have not decided to avail themselves of the second option (reorganization). Therefore, although they have transformed into joint-stock companies, they remain for the most part unchanged in terms of management, corporate governance and economic activities. These joint-stock companies stopped short of distributing stock (shares) to their employees. All employees may "own" the farm in theory, but in practice no one possesses a stock certificate which constitutes his ownership of a part of the net worth of the company. New charters have not been established to specify management responsibilities, division of profits, sale of stock by owners, etc. These joint-stock companies continue to be managed as if they were state or collective farms.

In theory, it would be possible to apply modern and equitable corporate governance mechanisms within these joint-stock companies. In practice, this may prove quite difficult given the resilience of past management practices and the socio-economic environment. In addition, Russia does not possess at present the adequate body of laws and regulations which in the West provides checks and balances to corporate governance. Since it is not the objective of the project to improve former state and collective farms in their present configuration, this option is not discussed here further.

B. Reorganization of Farm Enterprises under the Proposed IFC Agrarian Land Privatization Project.

The IFC Agrarian Land Privatization Project is based on the farm privatization legislation and the land ownership law. The project works with six pilot state and collective farms which have decided to implement the option of reorganizaion provided by the law. The objective of the project is to change irrevocably the management systems and structures which existed on state and collective farms. The surest way to de-conglomerate the former state and collective farms is to give each employee the real ownership of a defined plot of land and of specific farm property. The distribution of both land and property assets to employees will be carried out, in an equitable and transparent manner, through the following steps:

1. Every beneficiary will receive, based on criteria defined in the law, a "land share" and a "property share".[1] The sum of "land shares" ~~and property shares~~ represents claims to the total area of the former state or collective farm, while the sum of "property shares" represents claims to the total other property of the farm.

2. The recipients will exchange their shares for physical land and property. The exchange process will be carried out in an equitable and transparent manner which may include auctions, lotteries, etc.

3. When each plot of land, animal, piece of equipment and other property has a legal owner, these persons must determine a way to manage their assets. The project gives the beneficiaries a number of ways to organize the management of their assets, including family farms, individual enterprises, limited or unlimited partnerships, joint-stock companies, or leasing their assets to any of the above.

   Thus it is through individual ownership, and the rights associated with it, that the system of state and collective farms will be changed to such an extent that the probability of reverting to it will be very remote.

C. Forms of Organization of the New Enterprises and their Ownership and Governance.

The third stage of reorganization above envisions that leaders (entrepreneurs) will emerge. Such a leader-entrepreneur may represent a family or a group of families, a group of individuals associated through a partnership or a joint-stock company, or only himself. Each such leader-entrepreneur will develop a certain idea of an agricultural, an agribusiness or a service enterprise. The project envisages a number of mechanisms through which such entrepreneurs will be able to acquire sufficient land and property shares, or the use thereof, to constitute the enterprise. Next, the entrepreneurs and the persons associated with them must

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[1] *These "shares" are means to convye the ownership of land or property assets of the farm, and will therefore be exchanged during the distribution process for titles to plots of land and to other farm property. They must not be confused with stock in a joint-stock farming company.*

decide what legal form will be assumed by the enterprise created through these means. A number of possibilities exist:

1. **Family Farms.**

When one or more families pool their resources to carry out the activity together under the leadership of one individual or family, this does not mean that the families turn over their rights of ownership in land or other assets, but that they agree on an equitable way to use the assets for a given purpose. The ownership of the property which each individual contributes (eg. land, machinery or livestock) is unchanged. Thus each family member is free to remove his assets from the activity at will, based entirely on his perception of his own best interest.

The economic relations between members in such a family unit are based mostly on personal relationships. They may not be formalized in a written contract. Even if they are, such contract will be much simpler than for other forms of association.

2. **Partnerships.**

In Russia, the partnership is an accepted legal concept. It consists of formalizing through a contract the relationships between partners, the treatment of assets which they bring to the partnership or may acquire during its existence, and the manner of dividing the revenue from the activities of the partnership. A partnership can agree through a contract between partners on:

- who will lead the partnership
- how decisions will be taken
- the division of labor
- the salaries and other remunerations to partners
- who can legally bind the partnership in agreements
- how the partnership will deal with dissolution

Persons who wish to associate through a partnership format must agree on the above issues and others through a partnership contract. While a partnership contract is usually necessary, the governance of a partnership does not need to be regulated through many formal mechanisms. Governance issues are normally managed through relationships among the partners. Consequently, in practice the governance of a partnership enterprise is rather informal and not necessarily transparent.

3. **Joint-Stock Companies.**

In a joint-stock company, the interest of every investor is represented by the number of shares he owns. Joint-stock companies may be of two types:

- public (not in the sense of being state-owned but in the sense of having their shares available to the general public, eg. through a stock exchange); or

- private (closely held), in which case the stock is held be a defined group of investors.

The size of public joint-stock companies is generally too large and the regulations controlling their governance too complicated to make them a feasible option for the enterprises which may result from the reorganization of state and collective farms. Thus the rest of the discussion is limited to the governance of closely-held joint-stock companies.

For the establishment and operation of a new enterprise resulting from the restructuring of a state or collective farm, we are not aware of any advantage (eg. from legal, tax or liability standpoints) which the joint-stock company would have in Russia over other forms of association.

The only compelling reason to establish a private, closely-held joint-stock company would be that of size (number of associates). Family businesses and partnerships generally involve smaller groups, so that their governance--while it may be based on a contract--can be managed through personal relationships between the participants.

In the closely-held joint-stock company model, individuals contribute either funds or other assets in return for stock. The investors give up ownership of their money or assets in exchange for stock of equal value. To do this, they must have a good deal of faith in the management of the company and its chances to generate for them dividends and/or capital gains in the future.

A persistent problem for investors in closely-held joint-stock companies is how investors can realize their gains through sale of their stock. If the company prospers, the company or some other stockholders may purchase his stock. If the company is extremely successful it may decide to go public (register itself on a stock exchange), thus providing an exit mechanism for the investors.

The joint-stock company model may be too complicated for the present reality of the former state and collective farms. The main issues with this model are:

- whether a person who gives up his property in exchange for stock has any reasonable assurance that there will be a market for the stock if he wishes to sell it for any reason;

- whether the normal requirements for governance of a joint-stock company (a board of directors, a board of supervisors, annual stockholders' meetings, audited financial annual reports) could be imposed in the present conditions of former state and collective farms;

- perhaps the largest problem with this model is that--given the socio-cultural realities and depending on the size of the enterprise--there exists the danger of reverting, on a smaller scale, to the present situation: a joint-stock company which in practice functions much like a state or collective farm.

4. Joint-Stock Companies to which Investors Contribute the Use of their Assets.

Where the formula of a small joint-stock company is preferable to that of a partnership, the following model should be considered: the individual land and property owners could contribute to the company the use of their land or property in exchange for stock. The investors would thus be entitled to dividends from the profits of the company, while retaining their full ownership rights. This form of organization, which has precedents in the West, will have the following advantages:

- the investors are likely to obtain higher returns than by leasing their land or property to the company, since as investors they would be entitled to the full profit corresponding to their shares;
- the investor may always exit the company by withdrawing the use of his assets and surrendering his stock;
- the investor's control over company governance will be enhanced, since management knows that he can exit with his property if he is dissatisfied with the governance;
- the risk of re-collectivization will be avoided.

5. Cooperatives.

Cooperatively-owned enterprises may be established from the reorganized state and collective farms.[2] Such co-ops will probably not be used for agricultural production functions. They may however be reasonable ownership alternatives for certain types of services such as input supplies, grain storage, marketing, irrigation infrastructures, etc. The basic differences between such a service co-op and a company or a partnership providing the same services are:

- a co-op will be owned by all of its users, while a company or partnership is owned by its investors or partners;
- consequently, the purpose of a co-op is to minimize the cost of services to its members, while that of a company is to maximize profits to its owners;
- in a company the owner exits with his share of the retained earnings, so that there is a motivation to reinvest profits, which is generally not the case in a cooperative;
- the basic difference regarding governance is that a co-op is based on the principle of one-man one-vote, while a company is based on the principle of one-share one-vote.

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[2] *In this paper the word "cooperative" is used in the Western sense (corresponding to the Russian "association", not in the Russian sense, where it denotes what in the West is known as a "collective".*

The creation of a working co-op governance model in the present environment of former state and collective farms, without intensive long-term technical assistance, is likely to have a high risk of failure.

D. Legal Documents Necessary for the Governance of Farm Enterprises.

The IFC farm restructuring project foresees the development of certain basic legal documents such as leases, partnership contracts, company and cooperative charters and statutes, etc. As the process evolves, the IFC technical specialists will develop the model documents required to implement the required business structures or transactions.

These model documents must conform to existing Russian law and be developed with an understanding of the socio-economic environment in which they will be applied. Special consideration must be given to develop mechanisms for the leasing of land and property by users (individuals, family farms, joint-stock companies, co-ops, etc.)

Nijni Novgorod, March 11, 1993

POSSIBLE LEGAL FORMS FOR ORGANIZING YOUR ECONOMIC ACTIVITY

Russian law provides you with several legal forms to organize your economic activities. Different legal forms may be most suitable for different situations. The possibilities are:

- individual private family enterprise
- limited liability partnership (TOO)
- mixed partnership (ST)
- joint-stock company (A/O)
- individual labor activity
- service association

This paper provides only a short explanation of the major features of each legal form. It does not discuss its tax aspects, which may make it more or less advantageous in a given situation.

1. Individual Private Family Enterprise.

This form will be suitable for a family (possibly with relatives or other close persons) who wants to cultivate its own farm. The land is registered on the name of the head of the family. The family assumes unlimited liability (with the assets of all family members) for any credits which the farm takes. Upon death of the head of the family, the land passes to one person (eg. wife) and cannot be divided.

2. Limited Liability Partnership (TOO).

This form is suitable for a group of persons (even dozens or hundreds of persons) who want to engage together in an economic activity. Each partners contribute his land and property entitlements to the partnership. With these entitlements the partnership acquires land and property, which are registered on the name of the partnership. In return, the partner receives a right to a part (percentage) of the TOO, which entitles him to a percentage of the profits. It also entitles him to a work place in the partnership. A partner is responsible for the liabilities of the partnership only to the extent of the assets he contributed to the partnership (in case of bankruptcy, creditors have no claim on his other assets). The bylaws of the partnership specify whether a member who wants to leave is entitled to take his land, or only its cash equivalent.

3. Mixed Partnership (ST).

The mixed partnership consists of active partners, who contribute both their assets (eg. land and property entitlements) and labor, and passive partners who contribute their land and property entitlements only. Thus the mixed partnership is advantageous for associating pensioners with active employees. Each partner is entitled to a percentage of the profits in proportion to his contribution of assets. The bylaws should safeguard the passive partners against appropriation of all profits to the active members through increasing their wages. In other respects, an

ST is similar to a TOO.

4. Joint-Stock Company (A/O).

A joint-stock company is formed by a group of persons who decide to invest in a common economic activity. In return for the assets (eg. land and property entitlements) which each person invests, he receives a number of shares of the company. An investor is entitled to a part of the distributed profit (dividends) of the A/O proportional to his number of shares. He is responsible for the liabilities of the company only to the extent of his investment--creditors of the company have no claim on his other assets. Major decisions are taken by the general assembly of shareholders, where each person has number of votes equal to the number of voting shares he holds.

The fundamental difference between a partnership and an A/O is that a partnership is formed by persons who want to **work** together, whereas a corporation is formed by persons who want to **invest** together. In a corporation, ownership of shares does not guarantee a work place. Employees may own shares in the A/O they work for, but their rights as part owners are completely separate from their rights as employees. It is easier for people to move in and out of an A/O than in and out of a partnership, since in the case of an A/O this involves only buying or selling shares.

A family farm may be legally organized as an individual family private enterprise, a partnership or an A/O, according to the form which offers greater advantages (eg. favorable tax treatment, flexibility, protection from creditors) in particular circumstances.

5. Individual Labor Activity.

This legal form is appropriate for a person who intends to work by himself with his own property (eg. a truck owner/driver, a veterinary with his own practice). In this form, he may not hire other persons as employees. He is responsible for his debts with all of his assets.

6. An Association.

An association may be formed by members who wish to obtain services (eg. supply of inputs, marketing of products) jointly through the association. To become a member, a person must pay an entry fee, and there may be an annual fee. In the general assembly of the association, every member has one vote.

An association may be one partner in a partnership or a shareholder in an A/O. For example, all users of the services of a repair workshop may form an partnership with the employees of the workshop, where 51% (or another percentage) of the partnership would belong to the users through the association, and the remainder to the employees of the workshop and possibly other persons.

Nizhni Novgorod, April 23, 1993

IFC LAND PRIVATIZATION PROJECT

POST-REORGANIZATION TASKS

Chemonics International

Of the four former sovkhozes/kolkhozes which are the object of the IFC Land Privatization Project, three have been legally transformed into limited-liability partnerships (TOOs) and one (Pravdinskaya) into an association. However, no significant change has taken place in the production practices and management relationships. The objective of the project is to reorganize the transformed farms into smaller, more efficient, market-oriented enterprises. Certain functions will be taken over by an Association which will be a legal successor to the existing TOO or association. This transition involves several issues:

1. restructuring the existing debts and other liabilities;

2. obtaining a post-auction proof of ownership;

3. implementing the carry-over tasks left after the farm restructuring to the successor association;

4. dealing with the problem of cash flow until the next harvest, by assuring credit to the new enterprises and establishing a "transition and restructuring security fund".

These issues are discussed in the following. Since Pravdinskaya is planned to be the first farm to go through the restructuring process, it is used in this paper as a case. In Pravdinskaya the first auction is planned for June 28, 1993. If all land and property assets are not disposed of in the first auction, there will be a second auction and possibly a third. The "cutoff date" is the date of the last auction, upon which the present TOOs and association will cease operations, and the new enterprises will take over.

A. Restructuring Plan for Debt and Other Liabilities.

It is expected that each of the transformed sovkhozes/kolkhozes will have significant bank debts and other liabilities, which must be resolved prior to the cutoff date.

1. Settlement of Accounts.

A competent Russian accountant should visit Pravdinskaya by May 15 and establish the following:

a. determine (or estimate) as of June 28 the amounts of all liabilities including maturing date and terms of:

- debts (short term, long term, others)
- local taxes, social liabilities, other
- accounts payable trade (name/terms/collectibility)
- payroll (as of June 28)
- inventories (categorized and values) (June 28)
- cash on hand as of June 28
- other liabilities
- future value of crops in field
- inventories

While it would be advantageous to prepare a detailed balance sheet and closing statement for the Pravdinskaya Association as of June 28, it is not absolutely necessary if precise information of the above is available.

2. Resolution of Remaining Debt.

Will Pravdinskaya have sufficient cash as of June 28 to settle all liabilities and therefore transfer only assets to the successor association?

If at the June 28 cut-off the projection involves liabilities, several strategies for dealing with them should be considered and the most appropriate one implemented prior to the cut-off date. The objective is to transfer as few liabilities as possible to the successor association. (Because it has been determined that debt forgiveness is not an option, it is not discussed in the following). Some options for dealing with the carryover debt are as follows:

a. Divide debts between all land share and property share holders in proportion.

b. Divide the debt between new successor enterprises in proportion to the land and property shares issued. In this case the new enterprise (eg. joint stock or limited liability company) is responsible for repayment and not the individual members.

c. Sell debts and liabilities to workers or pensioners at face value in exchange for additional property shares which can be used at the June 28 auction to acquire property. The proceeds of the sale would be used to pay debts or liabilities prior to the cut-off date, or held in trust by the successor association which will pay the creditors according to the maturity and term of the obligations.

Example (in rubles):

- Total assets: 500 million
- Total liabilities 50 million
- Property share relationship:
  - 90% (450 million) distributed free
  - 10% sold for 50 million
  - net 500 million in property share value

d. In all of the above cases, the successor association may play a role in administrating the assumed debt issue on behalf of its members and the creditors.

Several issues arise with the model proposed in c. above:

- Fairness: Do individuals who have cash available today and decide to use it to buy additional property shares benefit from 30% per month inflation rate? If the fair market value of all property that they acquire with purchased property shares appreciates at the same rate as inflation, the perception could be that they got an advantage compared to those who did not purchase or could not. However, the fact is that those who purchased took risk and received a reward for it. This may be considered fair, but may give rise to jealousies.

  If, however, people are allowed to purchase property shares on a payment scheme matching the terms and conditions of payment of the original obligation (ie. annual interest rate of 0-28%), there will be a fairness issue only to the extent that the market value of the property purchased on credit increases considerably in excess of the interest rate.

  Options a. and b. mitigate the fairness issue by treating all individuals or all the new enterprises proportionally the same. In option c., the fairness issue will be mitigated if this option is implemented through an auction or a lottery process, although this is perhaps more complicated.

  Any conversion of liabilities to property entitlements, through any of the options suggested above, demands prompt action based on facts (eg. establish cut-off date liabilities and number of property shares and assign, auction or lottery them at least 30 days prior to the auction (in the case of Pravdinskaya, May 28).

Before discussing the attributes of the successor association, it must be determined--based on fact and reliable estimates--which assets, liabilities and administrative responsibilities will be transferred to the successor association on the cut-off date. As stated previously, the successor association may have its own new business agenda, based on its post-restructuring role. However, it will inherit from its predecessor the responsibility to manage assets, liabilities, transition salaries, marketing of harvest, etc.

In the case of Pravdinskaya, with a cut-off date of June 28, work should begin as soon as possible on a charter for the new association which will permit it to undertake and accomplish the successor's responsibilities described earlier.

Because Pravdinskaya is already legally organized as an association, this task may only require a modification of the original charter. (IFC lawyers should determine this, draft the changes, and assure that the necessary steps are taken to facilitate changes in bylaws prior to June 28). This issue may indeed prove more complicated in the case of the remaining three farms which are presently TOOs (these TOOs may need to be dissolved and successor associations established).

B. Post-Auction Proof of Ownership.

It is assumed that on the day of auction, some proof of ownership will be given to successful bidders. Immediate possession of land and perhaps of certain property will not be possible at the date of auction because of crops still standing in the field. The temporary proof of ownership and the process of acquiring legally binding documentation are as follows:

a. For land: A temporary ownership certificate ("quick-claim deed") containing--

- description of parcel
- names of new owners
- rights and attributes
- date and conditions for final land deed
- date of physical possession
- signature of the appropriate authority

b. For property: A bill of sale containing--

- description of property
- serial number or other identification
- name of new owner(s)

- special conditions
- signature of the appropriate authority

It is not the purpose of this paper to discuss the entire auction procedure, only that part which deals with the issues pertaining to the conveyance of ownership, to possession of the land and to special conditions.

In the case of land, a delay is in envisioned between the day of auction and actual possession. At the planned auction and cut-off date of June 28, the current agricultural production activities of the existing association are at their annual peak. All lands are under growing crops, with maximal labor and equipment requirements. It will therefore be impossible to give physical possession of land and perhaps of some property until a later date.

In the case of certain property, eg. grain storage, drying facilities, combines, trucks, etc., while physical possession is feasible at the date of auction, it should be given on the condition that the new owners under their own supervision lease back these equipment and facilities to harvest, transport and store this year's production. This condition should be specified on the bill of sale. (All such forms of conditional possession of property may provide income sources for the new owners.)

As discussed earlier, the successor association will manage the winding-down of these activities. However, in order to make the auction process as credible as possible in the eyes of the participants:

- official conveyance documents should be issued to each successful bidder or group of bidders at the end of each auction;

- these documents must convey the new ownership rights and clearly establish the necessary conditionalities based on issues discussed above;

- the documents should be printed in an official and dignified format.

In addition, a delay is envisioned between the auction date and the receipt of final official land deeds, to provide for necessary surveying and issuing of deeds in accordance with the process prescribed by law.

The following draft framework documents are attached to this paper:

- Annex A: Temporary Land Ownership Certificate (Quick-Claim Deed)
- Annex B: Property Ownership Certificate (Bill of Sale)

These drafts need to be reviewed by IFC lawyers.

C. Post-Restructuring Tasks of the Association.

On the day that the TOO or Association (Pravdinskaya) ceases its business activities, it will be necessary to constitute a successor association to assume those functions which are carried over from its predecessor.

Depending on the final business nature of the association, many other activities and responsibilities may be included.

In order to deal effectively with these issues, a cut-off date must be established for each reorganizing farm. The final cut-off date is the date when current associations and TOOs cease all commercial activity and the date a successor association takes over all or part of its financial and administrative responsibilities.

The date of the last land and property auction could be established as the cut-off date. The cur-off dates for the four pilot farms should be determined at present.

This section discusses in more detail specific legal and administrative responsibilities associated with the cut-off date which the new association must undertake on behalf of its members--the former employees or pensioners. The main tasks of the new association will be:

a. Legal reconstitution of the Farm Restructuring Commission (FRC), whose tasks will not be completed at the cut-off date. The FRC will continue to oversee the following activities:

- the final surveying and deeding process;
- giving possession of land and property to new owners in accordance with conditions prescribed on the land certificates and bills of sale;
- final arbitration of any dispute arising from land and property allocation.

b. Management of all farm-related activities necessary after the cut-off date, including management of crops in field, harvesting, drying and storing, transport, and marketing.

c. Management of all lease arrangements of machinery, equipment, building, etc. from new owners to facilitate the above.

d. Management of cash and collection of accounts receivable received from the previous association as of June 28 (these accounts should be segregated

from the other activities of the association).[1]

e. Payment of all liabilities (accounts payable) associated with restructuring on winding-down process, including salaries and lease-back payments.

f. Sale of any carry-over inventories, eg. feed, seed, fuel, fertilizer, etc. (proceeds from such sales should be segregated into the credit account for subsequent distribution to former employees and pensioners).[1]

D. Transition and Restructuring Security Fund.

In the process of analyzing the cutoff dates and debt restructuring, it became apparent that as of the cutoff dates the employee/employer relationships in which the farm employees have been involved for years will come to an end. This may mean for many workers an end to predictable salaries and to other employee benefits they have been receiving.

It has been the assumption that the new enterprises created will re-employ most or all of the workers. While this in fact may be true, the question is whether the new enterprises will have sufficient working capital to provide salaries and other employee benefits, when many of these enterprises (with the possible exception of dairies) will have little or no income until late fall of 1994. Without wishing to over-dramatize the issue, if this fact becomes apparent to farm employees they may become quite reluctant to participate in this restructuring plan.

If the new association has significant cash after the sale of this year's crop (from accounts receivable, from sales of inventory or from cash transferred on the cut-off date), a special fund could be created. The purpose of this fund will be to provide transitional salaries to employees and pensioners of the new enterprises, since these enterprises (with the possible exception of dairy) will have no income until the fall of 1994, and their working capital is likely to be insufficient. For this reason, it is imperative to create the successor association and to project the cash flows on the cutoff date.

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[1] *In case the successor association is not owned in the same proportions as the land and property shares were divided, it will be imperative for the successor association to keep all asset and liability accounts separate from its own accounting, since any final cash payments would have to be made proportional to the distribution of land and property shares.*

The other apparent solution to the problem is to provide to the new enterprises access to credit comparable to that enjoyed by the former sovkhozes/kolkhozes. This is a matter of policy to be negotiated with the banks providing agricultural credit.

ANNEX A: TEMPORARY LAND OWNERSHIP CERTIFICATE (QUICK-CLAIM DEED)

A quick-claim deed should contain the following elements:

- Description of land parcel
- Number of hectares
- Location based on official survey (exact coordinates will be on the final deed)
- Name of the new owner or owners
- Date when physical possession will be given
- Date when official deed will be issued
- Signature of the appropriate authority
- Rights and limitations should be printed on the reverse side

ANNEX B: PROPERTY OWNERSHIP CERTIFICATE (BILL OF SALE)

A bill of sale should contain the following elements:

- Description of property (identification or serial number)
- Name of the new owner or owners
- Special Conditions, for example:
  - in the case of a granary that will be used for this year's harvest, the new owner may take possession but must agree with the new association to leave space for this year's harvest
  - in the case of tractors, combines, trucks, wagons, etc., where physical possession on the day of the auction will be given, the new owners must agree to lease them for carrying out necessary tasks related to the winding-down activities (eg. harvest, marketing, etc.)
- In the case of property assets which cannot be given into possession immediately, a certificate must given until possession date. Furthermore, if the property is damaged between the time of sale and possession, the successor association must agree to repair or replace it
- Signature of the appropriate authority

MEMORANDUM

To: Mr. Alan Bigman/Ms. Becky Fair
IFC office, Nizhni Novgorod
From: Vince Morabito/Itil Asmon, Chemonics International
Date: April 24, 1993

SUBJECT: INCLUSION AND EXCLUSION OF RECIPIENTS OF LAND SHARE ENTITLEMENTS (LSE)

As a result of discussions with Dr. Uzun, Natasha, Becky and Jonathan, and a meeting with Oblast land privatization authorities, it became apparent that the following problem needs to be addressed by the IFC lawyers.

1. Background.

Each former sovkhoz/kolkhoz in the IFC pilot project constituted in accordance with the law their own Farm Restructuring Commission (FRC). Prior to the legally mandated date of March 1, 1992, general assembly meetings were held by each farm with the objective of producing a list of all members and workers, including pensioners, who in accordance with the law were eligible to receive land share entitlements (LSEs). The list of eligible persons was forwarded to the raion land privatization authorities on or before the March 1, 1992 deadline.

- According to the oblast authority, while at the moment this list was issued and officially recognized by the raion authority, the individuals named on the list according to the law had the established right of future ownership.

- Based on this list, the raion land authority will, within the next several weeks, extend a land title to each of the transformed sovkhozes/kolkhozes in the IFC pilot project. This deed will contain the name of each individual from the original list. At this point they will become owners (see IFC lawyers' memo of 4/23/93).

2. The Problem.

As of today, 13 months after the submission of the original eligibility list to the raion authority, each of the four ex-sovkhozes/kolkhozes and their FRCs assert that the original list submitted:

- excluded certain individuals who as of 3/1/92 were eligible and should have been included (on each farm there were from 5 to 20 such individuals). Most of these were reported to be pensioners; and/or

- the list included individuals who were either not eligible at the time, or today the FRC deems that they should not be eligible. In the case of Pravdinskaya the number of such individuals is reported to be 100.

The reasons for wishing to exclude these persons today seem to focus on issues of fairness. For example, an individual who as of the 3/1/92 list may only have had

a short tenure as a member or worker, and who left the farm and moved to the city shortly after the eligibility list was prepared. Another example is the case of members or workers who were the subject of disciplinary actions either before or after the establishment of the list, but who were not dismissed.

3. Proposed Solutions.

a. Solution #1.

also courts

The oblast land privatization authority, when presented with this problem, said that the only remedy was for the respective FRCs to make a formal petition to the raion authority asking for modification of the original eligibility list, stating their reasons and justifications for the changes. The raion authority would then either accept or reject the petition, in part or in total. This solution would present the following issues:

- If the FRC were to prepare and submit such a list today, there is no assurance that the raion authority would act with any sense of urgency or that they would rule in favor or the petition.

- Such a petition would cause an indefinite delay in the extension of the deed with the list of owners, which would render the issuance of land share entitlements impossible. This of course would mean that the IFC restructuring plan could not proceed according to its present timetable.

b. Solution #2.

Notwithstanding the fact that the final deeds and list of owners will be extended within two weeks by the raion land authority, the FRCs would like to hold a new general assembly at which a new list of eligible persons would be established. Based on this list, they would like to add or subtract names from the list attached to the official deed. (It should be noted here that the oblast authority did not believe this was possible under the law.)

The FRC's appears to have two basic motives for these proposed changes:

- Fairness issues: The view generally held by the farm workers is that individuals who have not earned the right to an LSE should be excluded.

- A smaller number of eligible persons who appear as owners under the master deed, will result in a somewhat larger LSE for the recipients.

It should be noted that the oblast authorities stated that during the last year, the local courts have adjudicated a number of complaints from individuals from other farms who have been excluded and not received LSEs. It is also reported that the court ruled about half the time in favor and half the time against such suits. It is interesting to note that in the cases where the court ruled in favor, monetary fines were levied on the farms involved. It is not clear whether, in addition, the individuals received a land share.

Apparently they received a cash settlement. What may be important is that the courts have never reversed the process of issuing land share entitlements, obliging the kolkhozes/sovkhozes to start the process over again.

The IFC lawyers are asked to provide a legal opinion as to which of the two courses of action--or any other they would suggest--would provide a legal and feasible solution to the problem.

From the IFC's point of view it would be counter-productive to let this issue constitute an unnecessary delay in the restructuring process. It has been recommended by an IFC consultant that the IFC adopt the following position: That the lists as originally promulgated and as they will appear in the deed be used to extend land and property share entitlements, and that individuals who have been for any reason excluded from the list may if they wish seek remedy through the courts. Alternatively, the FRCs could give those persons inadvertently excluded a cash settlement.

determine amounts entitled to restitution of those who left & work in town

While this may appear to be a somewhat simplistic solution, the fact is that excluding individuals today will not significantly increase the size of the LSEs, and that the relatively few persons who have been excluded can if they choose seek a remedy or be indemnified in advance. At present, any other solution is likely to open a Pandora's box which would likely delay the entire restructuring plan for the pilot farm.

TRIP REPORT

To: Alan Bigman/Gretchen Wilson
From: Itil Asmon/Jonathan Nighswander
Date: April 28, 1993

Subject: VISIT TO PRAVDINSKAYA ASSOCIATION

A. Objective of Visit.

The objective of the visit was to (1) assist the Pravdinskaya Farm Reorganization Commission (FRC) to produce maps and property lists for the auctions, and (2) refine the auction methodology on the basis of this "ground truth". These objectives correspond to the team's Scope of Work of April 20.

B. Persons Interviewed.

- Valery Shatov, Director General, FRC Chairman
- Ivan Valodia Gusev, Chief Economist, Assistant FRC Chairman
- Valentina Nikolayevna, Chief Agronomist

C. Overall Conclusion.

The land of Pravdinskaya is likely to be split into four farming units only (plus maybe a few small farms in addition to the seven already formed). These units have reportedly taken already from the Association all the equipment they need for their operations--thus the "bundling of property into rational production lots" has de facto been accomplished. The land auction is likely to be a formality in which only the four unit directors will bid each for his unit area, with no effective competition. In this situation, **the task is not to assign land to people but to assign people to land, ie. to make sure that every worker of non-farming units and pensioners is included in one of the four farming units.**

Furthermore, **the really important problem is not the auction procedure but the legal task of designing exit mechanisms in the statutes of the farming TOOs, so that in the future members could leave with their land** to form smaller farming units.

D. Detailed Observations and Conclusions.

1. Auctions for Land and Property.

The management staff interviewed seemed decidedly lukewarm about auctions, and feel that all allocations could be done by the enterprise leaders "without a scandal", as the Chief Economist put it. **The Director General (DG) feels that auctions should be held in October** after the harvest, not in the growing season, and claims agreement on this with Alan Bigman. If IFC's understanding is

different, **this needs to be followed up.**

2. Area of Pravdinskaya.

The area of Pravdinskaya is:

Source of Information	Arable Land	Hay Fields	Pasture	Total
Chief economist	2924	140	480	3544
Dr. Uzun's list	2958	140	540	3638
Our measurements on map in office	3051	584	not included	3635
Map of soil quality points	3105	not included	not included	3105

Thus the farm area seems to be a moving target, albeit the range is not too large.[1] The important thing is to define a list of land plots for the land division, and make the land entitlements according to that list. The economist and agronomist promised to have such a list prepared "during May". **Follow-up is necessary.**

Management is now in agreement with the principle of dividing **all** the land--no reserves. They talk of 5.55 ha/person total entitlement, and of adding about 100 pensioners which were incorrectly excluded (see #4 below) to the existing list of about 499 beneficiaries. Thus **the land area to be distributed, the number of beneficiaries and the average area per beneficiary will need to be determined together.**

3. Private Farms.

Seven workers have established individual farms, on the basis of 5.45 ha per entitlement. They were given land in the most outlying area of the farm. These lands are excluded from the farm area, and these workers will not receive entitlements in the planned division of the farm.
It is not clear whether any workers who will opt for private farms during the division will get land in the location of their choice or in the same most unfavorable location.

4. Pensioners.

Many pensioners entitled to land distribution were incorrectly excluded. The few

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[1] *The above area does not include the land allotment of 5.55 ha each made to 7 private farmers, and these farmers will not receive further land entitlements.*

included were assigned to the most unfavorably located block of land. This is the main reason for recalculation of the number of beneficiaries.

There seems a tendency of unit workers to exclude pensioners and workers of the central units, whom (according to management) they regard as encroachers on "their" land. This tendency will have to be guarded against in the final land allocation.

5. TRUD Lumber Mill.

The TRUD lumber mill has been purchased by its six workers with their property allocations, so that it does not appear among the Association's assets, and its workers will get only land entitlements.

6. Number of Farming Units.

We have the impression that the DG is firmly in control and what he intends is what will happen. The DG plans to split the area into the four existing farming units--Tsentralnoe (1149 ha), Lipovki (596 ha), Rodina (433 ha) and Zamyatinskoe (1314 ha). The last one is already legally formed. The size of these units has been established on the basis of the land necessary to support one cattle barn (Tsentralnoe and Zamyatinskoe have two barns each; Rodina has a smaller area because it has the best soils). Consequently, **in the future Tsentralnoe and Zamyatinskoe may be split into two units each.** However the current division will likely to be made into four farming units only, plus any private farms.

Lack of time prevented the team from interviewing the farm unit directors. **It should be verified from the survey of beneficiaries and interviews with the unit leaders whether it is realistic to expect a split into more than four major farming units.** If this is the case, **the Agland experts should verify what additional equipment is necessary to split Tsentralnoe and Lipovski into two units each.**

7. Taking Land Quality into Account (the Point system) and Assigning Beneficiaries to Farming Units.

The procedure designed by the IFC for giving land allocations taking into account the point value of the land is technically correct. However, Pravdinskaya management is used to working with a map similar to the one which hangs in the IFC office, which does not include the point values.

The farm also has a map which includes the land quality (in points) of every plot. However this map is cumbersome (2x2 meters), still new (1992), has different plots from those of the old map, and management is not used to thinking in terms of these new plots. The new map is used only for determining land tax. **(IFC office should obtain this map from the oblast authorities).**

However, if there will be only four farming units, **there is a way to combine the**

advantages of the old map (familiarity) with those of the new map (more fairness in land distribution). The four "massives" of the new map correspond *grosso modo* to the four farming units. Thus the average point values of the "massives" closely represent the average point values for the four units (the same would not be true for individual plots). The problem, as stated above, is to assign beneficiaries equitably between the four units. The procedure is as follows:

1. Multiply the area of each unit by the average point value of the corresponding massive, to get the point value of each unit.

2. Sum the point values of the units to get total point value.

3. Divide the total number of beneficiaries by the total point value and multiply by the point value of the unit, to get the number of beneficiaries to be included in that unit ("rule of 3").

4. Divide the unit area by the number of beneficiaries in the unit to get the land allocation per beneficiary in that unit.

Assuming that the number of beneficiaries is 600 and the unit areas are as in Dr. Uzun's list, the results are as follows:

DIVISION OF BENEFICIARIES TO THE FOUR UNITS

Name of Unit	Area, Ha	Point Value	Total Points	No. of Benef.	Ha. per Benef.
Tsentralnoe	1149	70.20 (massive 1)	80,659.80	208	5.52
Lipovki	596	65.29 (massive 2)	38,912.84	100	5.96
Rodina	433	76.21 (massive 3)	32,998.93	85	5.09
Zamyatinskoe	1314	61.10 (massive 4)	80,285.40	207	6.35
Total	3492	n/a	232,856.97	600	5.82

If the unit areas or the total number of beneficiaries are changed, recalculate as per the above procedure.

8. Property of the Association.

The assets of the Association (excluding the repair shop and garage, which will become new enterprises) have a book value of 8,439,315 Rb. Most of this consists of the following common non-productive assets:

Fire station 14,604
Gas pipeline 81,660
Gas pipeline 34,195

Road	19,410
Road	148,421
Gas pipeline	910,000
Road	3,570,000
Water pipeline	821,000
Club	2,654,000
Total	8,253,290
Remaining assets	186,025

This small remaining value consists of three elements:

- A shop area and two stores to be purchased by the "trading house" enterprise
- Mostly useless or non-existent agricultural machinery (the units took all they need)
- Fixed assets used by all units such as stores, sheds, etc.

Consequently, to simplify the auction procedure it is proposed to **transfer the above remaining assets (186,025 Rb. less those sold to the trading house) free of charge to the Association**, which will be owned by all members through the new enterprises.

9. The Auction Procedure for Property.

It should be noted that the property list does not include cash on hand, inputs and products in store, spare parts and other inventories, heifers, etc. To get the assets to match the property entitlements, the following procedure is necessary:

1. Valuate the above short-term assets.

2. Add value of long-term assets to obtain total asset value.

3. Divide total asset value by the total of property allocations (7,723,800 Rb.).

4. Multiply every person's property allocation by the coefficient thus obtained, to get the real allocation.

5. Add the property allocations of all members of each enterprise, to get total property allocations of members of the enterprise.

6. Insofar as the totals do not match total assets of the enterprise, some non-working members of an enterprise will get their property shares in another enterprise.

The only way to get the allocations to match is to do all of the above steps at the same time.

10. Tax Treatment.

In the director's view, the main issue with privatization is that the garage and maintenance workshop which will spin off from the Association will have to pay taxes like industrial and service enterprises--not at the preferential rate of agricultural enterprises which is now in force. He feels that all other issues, such as allocation of land and property, can be handled internally. He recommends lobbying for a decree to preserve the privileged tax status of enterprises which spin off from former sovkhozes/kolkhozes, at least for a transition period.

IFC PLAN FOR LAND PRIVATIZATION IN THE NIZHNI NOVGOROD REGION

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1. Introduction: IFC Objectives for Agrarian Land Privatization

2. Principles of Farm Enterprise Privatization in Nizhegorodskaya Oblast

3. Overview of Nizhegorodskaya Oblast Agriculture

4. Draft Decrees
   a. Decree of the Administration of the Nizhegorodskaya Oblast *"On the Reorganization of Farm Enterprises in the Nizhegorodskaya Oblast"*;
   b. Decree of the Nizhny Novgorod Oblast Soviet of People's Deputies *"On Property Shares of Employees of Farm Enterprises with Collectively Shared Property"*;
   c. Decree of the Soviet of People's Deputies of the Nizhny Novgorod Oblast *"On the Sale of Farm Land for Vouchers"*.

5. Draft Workplan

6. List of Farms Participating in Agrarian Land Privatization Program

7. Background Paper

IFC OBJECTIVES FOR AGRARIAN LAND PRIVATIZATION PROJECT IN NIZHEGORODSKAYA OBLAST

State and collective farms are large enterprises with several thousand hectares of farmland and hundreds of workers. Farm enterprises that undergo the process of reregistration according to new restructuring legislation receive the ownership of all land and assets from the state. Although theoretically all farm members are now owners of the land and assets, collective ownership without assignment of actual property to individuals represents no change from the old system. It does not create individual responsibility for economically effective operation of the formally privatized farm enterprise.

Individual Ownership Creation

The main objective of the IFC program is to create individual private ownership of land and productive assets.

The ultimate form of individual ownership is the private family farm, and the IFC program aims to put the maximum amount of production possible into the hands of family farms.

Not all collective farmers are ready to take the responsibility for working a privately-owned family farm. Farmers may thus create small corporate farms, each centered around no more than 10-20 workers. The individual members joining each group may invest their asset shares in the enterprise, but must maintain full ownership of their land shares. Land shares may only be leased to the enterprise.

Each small enterprise may accept asset shares and lease land shares from passive investors or partners.

Formation of a Service Cooperative Network

We envision that a former large-scale farm will reorganize into a system of private family farms and small corporate farms. These small units will need a variety of support services to survive in the new economic environment, which can be supplied by service cooperatives. To this end, the small units may form an association that will jointly use the former farm enterprise management for various professional services, such as accounting, finance, agronomy, veterinary medicine, etc. The association may be used to take care of input supply and product marketing services jointly for all the small units. The association is also a natural administrator for any social responsibilities that may remain on the territory of the former farm enterprise.

Different units in related businesses, such as several dairy farms or several vegetable growers, may form functional service cooperatives of their own to take care of their

specific needs or to establish cooperative processing facilities for their products. These functional cooperatives in turn may also use the professional services of the association.

PRINCIPLES OF FARM ENTERPRISE PRIVATIZATION
NIZHEGORODSKAYA OBLAST

1. Farm Privatization and Restructuring Goals

In 1992, most collective and state farms formally reorganized in accordance with the prevailing legislation and received their land and assets into private ownership from the state. The majority of farm enterprises in the oblast thus have been "denationalized" or privatized in a sense, and most of their land and production assets have been divided into shares among members and workers. However, the formal legal transfer of ownership from the state or the collective to individuals has not produced any actual changes in land relations and in organization of agricultural production. Only a small minority of the workers exercised their right of exit and left the collective enterprise with their land and asset shares to start a private family farm. The rest left their shares in collective use and opted to remain workers in the collective.

Successful continuation of agrarian reform requires extending the rights of land and asset owners and allowing them to create more efficient production structures consistent with a market-oriented economy.

This overall objective will be achieved by implementing a number of basic tasks:

- physically distribute the farm land between land share owners;
- organize private family or corporate farms based on small groups of owners;
- create service cooperatives and private support enterprises to enable the producers to function in a market economy;
- allow the family and corporate farms to form associations of producers on the territory of the former large-scale farms.

2. World Experience with Organization of Agricultural Production

World experience shows that private production in agriculture is more successful than production in collectives and cooperatives. Production cooperatives have generally failed in South America and Africa, where they were usually established in conjunction with land reform programs. In China, the recent transition from production in communes to small-scale family farming has resulted in a tremendous increase in agricultural output.

Production cooperatives are virtually unknown in Western agriculture. Family farming

ensures that the productive assets and the output are owned by small groups of private individuals who share the profits resulting from their labor. Individual farming, however, relies on a highly developed net of service cooperatives. These service cooperatives specialize in supply of farm inputs, leasing and maintenance of agricultural machinery and transport, marketing of farm products, provision of professional management and extension services, and development of farm-management training programs.

The provision of various farm-related services by cooperatives allows the farmers to concentrate on production, without spending time on ancillary activities or development of extensive expertise in business and finance. Cooperatives also operate regional processing plants as part of vertical integration schemes and thus allow their member farmers to achieve greater overall profitability.

Western agriculture thus can be described as a sector based on private producers supported by nets of service cooperatives. For service cooperatives to succeed, however, their creation must be the result of a perceived need by farmers and membership must be voluntary.

3. Central and East European Experience with Reorganization of State and Collective Farm Enterprises

Agrarian reforms in Central and Eastern Europe and the Baltic republics initially focused on issues of restitution of land to pre-collectivization owners or their heirs. State land not subject to restitution was made available for purchase or leasing. While restitution is not an issue in Russia, the result of East European distribution has been the creation of private land owners who know where their land parcels are physically located.

Although cooperative members have the right to exit with their land and asset share, the proportion of private farmers remains small. Even after the adjustment of the internal economic relations in accordance with new legislation, cooperatives still retain their leading role in agricultural production, although their relative importance is declining. The role of private farmers and other forms of private production is gradually increasing.

The role of private farming in Central and Eastern Europe is gradually increasing. In Hungary, collective farmers have been reorganizing similarly to Russian kolkhozes: they have gone through the phase of small lease groups and cost-centered subdivisions and are now dividing into associations of individual farmers. In GDR at the beginning of 1992 private farmers cultivated 24% of farmland. In Poland, more than two thirds of agriculture has always been based on private farming. Polish state farms are aggressively seeking Western expert assistance in devising appropriate restructuring and privatization strategies.

4. Principles of Farm Enterprise Privatization and Reorganization for Nizhegorodskaya Oblast

The privatization and reorganization program will be conducted in compliance with existing Russian legislation. Some of the proposed principles relating to new land relations require appropriate modification of existing laws.

An existing large-scale farm may be reorganized into:

- an association of family farms, with land and assets owned by private family farms, which may create service cooperatives and other enterprises;
- an association of corporate farms created on the basis of former productive subdivisions. Some of the producers in these associations may create independent family farms.

The main privatization principles are listed below:

In the area of land relations:

1. Land parcels are allocated to specific owners-users (private family and corporate farms). The size of the plots will be determined according to a point system which accounts for land quality, location, and infrastructure. The mechanism for increasing the size of the private farms will include share swapping, buy and sell transactions, leasing of land shares, buying and leasing of state land from the undistributed reserve.

2. Land leased from the state may be purchased for vouchers.

3. Privately owned land parcels can be leased by owners to and from one another.

4. Corporate farms, cooperatives, and joint-stock companies are allowed to use the land of their members only through proper contractual arrangements.

5. The lease payments will be negotiated between the lessee and the lessor, ignoring the existing provisions of the Law on Payment for Land.

In the area of property relations:

6. All non-land assets are assigned to specific family farms, corporate farms, service cooperatives, and other legal bodies created in the process of privatization. Corporate farms are created on the basis of indivisible facilities that are too large to be taken over by a single family. Asset shares may be exchanged for land shares; swapping, as well as buying and selling of asset shares is allowed.

7. Individuals who are not accepted as members of the newly created structures will be compensated for the value of their asset shares. The compensation conditions will be negotiated between the parties allowing for inflation.

8. Members of corporate farms, cooperatives, and other enterprises with share ownership will receive dividends in an amount that depends on the value of their share and is independent of their labor contribution.

9. ~~The balance sheet~~ All assets and liabilities of the former farm (with the exception of the social assets transferred to the local authorities) will be divided in full between the new structures. The new balance sheets will reflect transfer and financial transactions between the different organizations.

In the area of new enterprise organization:

10. A new enterprise is created when an active individual is willing to assume managerial responsibilities.

11. Corporate farms and other enterprises enter into three types of contracts with the former workers of the large-scale farm enterprise:

- a lease contract (with individuals willing to lease out land);
- a membership contract (with individuals willing to invest their asset share);
- a hiring ~~contract~~ agreement (with individuals invited as hired labor).

12. ~~The family and corporate farms should be based on diversified livestock and crop production. It is undesirable to create livestock farms without sufficient land resources.~~

13. Juridically independent ~~family farms~~ individual farm owners may form informal societies for joint cultivation of land. The entry and exit from these societies does not require any legal formalities.

14. The reorganization of a large-scale farm enterprise will be accompanied by creation of village-level banking and financial services.

15. Subsidiary household farms with significant commercial production will be allowed to join associations of private farms, even though they are recognized as legal bodies.

In the social sphere:

16. Social assets and services are transferred to the responsibility of the local council.

Appropriate budgets will be provided by district and region authorities for continued maintenance of these assets and services.

Taxation and subsidies:

17. Members of associations of private family and corporate farms will be exempt from VAT on transfer transactions within the association. Subsidiary household farms with significant commercial production will be entitled to the same benefits as private family farmers.

5. Validation of the Proposed Principles and Development of Privatization Strategy

Before the proposed privatization and restructuring principles can be applied on a large scale, they have to be tested on a small number of farm enterprises with the object of developing a general privatization manual. The sample farms selected for the pilot project must be typical for Nizhegorodskaya Oblast and Russia.

No special conditions and benefits will be allowed in the process of reorganization for the participating farm. The participating farms will not receive any additional subsidies, discretionary credits, preferential treatment in input supply and product marketing, etc.

The farms for the pilot project have been selected on the basis of the following criteria:

1. Farms are eligible for ordinary privatization and are not part of the restricted privatization order (experimental and industrial farms, unprofitable farms, etc.).

2. Farms must show demonstrated readiness for reorganization (experience with lease groups, existence of productive subdivisions as cost centers, land and assets divided into shares, private farmers exist and cooperate with the farm enterprise).

3. Farm management, including the chief professional specialists, as well as members and line workers must show willingness for reorganization and be capable of participating in the creation of private farms, cooperatives, or associations of producers.

A preliminary survey of the activity of 14 farm enterprises in Nizhegorodskaya Oblast, including meetings with managers and specialists, has enabled the IFC team to identify five candidates for participation in the privatization project:

(a) Emel'yanov Joint Stock Company (formerly kolkhoz), Gorodets District;
(b) 60th Anniversary of October Revolution kolkhoz, Gorodets District;
(c) Niva Limited Liability Corporation (formerly feedlot farm enterprise), Buturlino District;
(d) Krasnyi Shturmovik kolkhoz, Buturlino District;

(e) Zavety Il'icha kolkhoz, Lyskovo District.

The selected farms are typical for the region: by farmland area, number of workers, capital intensity, crop yields, and livestock productivity they are close to the oblast averages. The economic position of the farms is fairly stable. There is a certain diversity among the farms as determined by their specialization, availability of processing facilities, and nonagricultural subsidiary activities.

The farms included in the project require methodological assistance in continuing and extending their reorganization. They primarily need help in developing lease relations among land owners and users, creation of legally independent family and corporate farms, organization of input supply and product marketing cooperatives, processing enterprises, and financing services. They also need a variety of instructional farm-management programs focusing on legal, economic, and financial topics for their future managers and members.

OVERVIEW OF NIZHEGORODSKAYA OBLAST AGRICULTURE

The agriculture in Nizhegorodskaya Oblast is typical of the non-chernozem soil zone in Russia. On the whole, it emphasizes livestock production at the expense of crop production, with the exception of the southern raions, where large-scale farmlands are conducive to crop cultivation. Thus, the livestock-to-cropland ratio for all farms in the oblast in 1991 was 0.54 heads of cattle per hectare of cropland compared to 0.58 in the Russian non-chernozem zone and only 0.42 in all Russia.

With its area of 74,600 square kilometers and population of 3.7 million, Nizhegorodskaya Oblast represents less than 0.5 percent of the total land area in Russia, yet its population accounts for 2.5 percent of all Russian population and its rural population is 2.2 percent of the Russian rural population. Thus, the Nizhegorodskaya Oblast is more urban than the rest of Russia, with only 22.5 percent of its population living in rural areas (compared to 26% in all Russia). The rural population is administered by 517 rural councils ("sel'sovety").

The oblast agriculture in 1991 employed a total of 221,000 people, which represents 6 percent of the oblast population and 26 percent of the rural population. Roughly 2/3 of the labor force were employed in livestock enterprises and 1/3 in crop production.

Production in State and Collective Farms

As throughout Russia, agricultural production in the oblast is organized in large-scale socialized farms. In 1991, there were 485 collective farms (kolkhozes) and 192 state farms (sovkhozes) in the district, with an average of around 4,100 hectares of cropland, 1,500 heads of cattle, 670 pigs, and 260 sheep per farm. The collective and state farms are highly capital intensive, with fixed assets representing around 70 percent of the aggregated balance sheet.

The collective and state farms in the oblast appear to be profitable according to reported financial results. Only 14 large-scale farms in the oblast (2 percent) reported losses in 1991. This is reflected in very low debt levels of the farms in the oblast. Their equity capital was over 85 percent of the aggregated balance sheet in 1991. These figures, however, are not necessarily indicative of real economic profitability and must be treated with extreme caution. Profitability of large-scale farms has been artificially maintained by government pricing policies and high equity ratios have been achieved by periodic write-offs of debt. As recently as in 1990, the central government forgave 1.1 billion rubles of debt to collective and state farms in Nizhegorodskaya Oblast, which constituted 12 percent of their aggregated balance sheet and nearly 18 percent of their equity.

The main agricultural products in the oblast are meat, milk, and eggs in the livestock and poultry enterprises (over 2 percent of Russian output), potatoes (over percent of Russian output), vegetables (over 2 percent), and grain (less than 2 percent) in the crop

enterprises. The oblast is an important producer of flax in Russia (around 4 percent of the Russian flax production). It produces small quantities of wool from its sheep and grows some sugar beet, which is used as animal feed and also for sugar production. In 1991 (an exceptionally good year), the oblast produced over 28,000 tons of sugar, which represents less than 1% of the total sugar production in Russia.

The gross agricultural product of the oblast has remained fairly stable (in constant prices) during the recent years. The 1991 product is virtually equal to the 1986 product. Livestock numbers show a declining trend: the total number of cattle decreased 8 percent during the five-year period 1986-1991; the number of cows dropped 6 percent, the number of pigs 11 percent, and the number of sheep declined dramatically by 36 percent between 1986-1991. Farmland also contracted during this period, although by a mere 2 percent. Despite the decrease of resources, neither livestock products nor crops show any downward trend during this period, presumably because of technological progress.

The yields of livestock and crop enterprises in Nizhegorodskaya Oblast are not significantly different from the Russian averages. The previous year, 1991, appears to have been relatively favorable in the oblast, as the local yields in 1991 were higher than the Russian average. However, the yields in the oblast, as well as the Russian averages, are consistently much lower than the corresponding yields in the USA.

Subsidiary Household Farms

As in all Russia, an important component of agricultural production has always originated in the subsidiary household farms of kolkhoz and sovkhoz families. In 1991, the subsidiary household farms accounted for 28 percent of total agricultural output, evenly split between livestock and crop products. This proportion is close to the Russian average.

The production in subsidiary household farms is the result of individual effort, which may involve daily more than 4 hours of work by family members on the household plot after their regular work on the large-scale socialized farm. Yet the performance of the subsidiary household farms is highly dependent on close cooperation with the "host" farm, which is the source of many inputs in the form of fertilizers, seeds, young animals, and even pasture land. These inputs are often supplied to the families as payment in kind for their work on the socialized farm and thus constitute a side benefit supplementing their salary. Many socialized farms keep noncommercial pig breeding facilities whose only function is to supply their members with young animals. Pasture land is often set aside for the use of the household farms, because their plots are too small for grazing or growing feed. At the other end of the production cycle, the subsidiary household farm relies on the "host" farm for sale of its commercial products. This aspect of the relationship makes the subsidiary household farms interesting for the "host" farm, as their output is ultimately added to its production figures.

The subsidiary household farms are in a process of rapid expansion as a result of the new land reform legislation. Municipal lands recently transferred from collective and state farms to the management of local councils have been earmarked for augmenting the size of subsidiary household plots. As a result of distribution from this reserve, the total area of subsidiary household farms increased in 1992 by nearly 11 percent to 120,000 hectares. Of this, over 60,000 hectares has already been registered as private property.

Emergence of Private Farming

A recent development in Russia, including in the Nizhegorodskaya Oblast, is the establishment of private farms outside the kolkhoz/sovkhoz structures. The objective of these farms is to engage in independent production on private land, without the close symbiotic links that characterize the relations between the subsidiary household farms and the large-scale "host" farms. The number of private farmers increased from 29 in 1990 to 367 in 1991 and 1,941 in 1992. Today (February 1993), there are 2,502 private farms in Nizhegorodskaya Oblast on a total area of 51,402 hectares. Of these, however, only 428 farms (21 percent) were established by individuals exiting the collective and state farms in the oblast. The remaining 79 percent are farms of families from urban and other areas. The average farm area is around 20 hectares and there are very few larger farms. Only five rayons with 256 farms have average farm sizes between 30 and 40 hectares. The local farms are thus smaller than the Russian average of 40 hectares per farm.

Most of the private farms have organized only recently and no detailed performance data are available at this stage. Preliminary data collected by the Oblast Statistics Authority indicate that the crop yields of the private farmers are lower at present than those in collective and state farms: the grain yield on private farms is 15.6 centners per hectare compared to the oblast average of 20.6 centners per hectare; the potato yield is 67 centners per hectare compared to 114.9; and the vegetable yield is 84.5 centners per hectare compared to the oblast average of 169.6. The contribution of private farming to the total agricultural product is still negligible, of the order of 1%.

Despite their short experience, private farmers are already running into serious difficulties with supply of farm inputs and machinery, product marketing, and credit. These difficulties may partially explain the low yields currently observed for private farms and they are responsible for the decision of 72 farmers to date to abandon their new farms. The local branches of the national AKKOR organization are instrumental in helping the new farmers to obtain credit and purchase agricultural machinery. In some areas, the private farmers are beginning to form local service cooperatives that are intended to help them survive in the new environment.

Reorganization of Collective and State Farms

In line with recent legislation, the large-scale socialized farms are reorganizing into new structures that are intended to ensure a closer link between the individuals and the productive resources, while keeping the advantages of cooperation. As of January 1, 1993, the centrally organized agriculture in the oblast includes 485 collective farms, 169 state farms, and 31 other state agricultural enterprises. Of these 685 enterprises, 580 enterprises (85%) have undergone some form of reorganization by January 20, 1993, forming 613 new entities. The breakdown by new organization types is as follows:

• Joint-stock companies	107	
• Corporate societies (tovarishchestva)	219	
• Associations (of farmers, societies, enterprises)	21	
• Kolkhozes (with new bylaws)	203	
• Other transitional forms	50	
• Converted into subsidiary farms of industrial enterprises		13
	613	

It is significant that 203 kolkhozes (42 percent of all kolkhozes in the oblast) have chosen to reorganize on paper only; they remain registered as kolkhozes, albeit with new bylaws and now with private ownership of land received from the state. They appear to be poised for future reorganization, pending concrete decisions by the collective.

Of the 105 enterprises that still have not reorganized, 36 are industrial state enterprises whose reorganization and privatization is subject to special legislation. The remaining 69 collective and state farms appear to be in the process of preparing the relevant reorganization plans and documents. The main incentive for any kind of reorganization, however formal and restricted, is the opportunity to receive the ownership of land from the state upon registration of the new form of organization.

Decree of the Nizhny Novgorod Oblast Soviet of People's Deputies

ON PROPERTY SHARES OF EMPLOYEES OF FARM ENTERPRISES WITH COLLECTIVELY SHARED PROPERTY

In order to increase the rights of owners of property shares, perfect the system through which property is received in shares and compensate for the shares' cost the Nizhny Novgorod Oblast Soviet of People's Deputies decrees:

1. Additional rights shall be given to the owners of property shares in the Gorodets, Buturlino, Voskresensck, and Balakhna districts of the Nizhny Novgorod Region.

2. Members of farm enterprises with collectively shared property shall be paid dividends, the size of which shall depend upon the results of farm activity. The size of the dividend shall not depend upon the level of worker input or the relationship of the worker to his duties.

3. Owners of property shares have the right to receive a property share (buildings, machinery, livestock, feed, seed, etc.) to organize a private family farm, to increase the size of a personal subsidiary farm, or to participate in another type of farm enterpise. When property is divided into shares, the value of the property should coincide in price with the pre-calculated value of the shares.

   If a farm is not able to give property for the share, then it will compensate those shares with cash. In this case, the price of the share should be adjusted for inflation. If the compensation for the share is paid in installments, then the installments must also be adjusted for inflation.

   By March 31 the Department of Agriculture will prepare and present methodological recommendations on the individual value of shares when compensated for with money.

4. Property shares can be exchanged for land. The price of property, land, and the proportions in the exchange are to be mutually agreed upon.

5. A property share may be sold to a farm or its employees, as well as to private family farms which are organized or in the process of organizing. When a share is sold to a farm the price should be adjusted for inflation. When a share is sold to employees the price should be mutually agreed upon.

6. The owner of a property share may bequeath or give his/her share. Inheritors or those who were given shares, who are not employees of the farm, nor heads or

members of private farms or cooperatives may not lay claim on physical realization of their property shares.

7. Agreements on purchase and sale, inheritance or gifts of shares shall be registered in the administration of the enterprise. The new owner of a share shall be accorded all rights belonging to the previous owner.

8. A worker who has exchanged, bequeathed or otherwise transferred his share, or has received physical compensation or money shall surrender his status as a member of an enterprise with collectively shared property.

9. When an enterprise with collectively shared property is transformed into an association of private farms, partnerships and cooperatives, all assets and liabilities will be divided among the newly formed enterprises and debts and credits will be distributed mutually. Inflation shall be taken into account after the last re-evaluation of assets.

10. If, during the reorganization process, the owner of a share does not become the founder (member) of one of the newly formed enterprises he shall be compensated according to the value of his share.

what about corporate or cooperative governance!

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Decree of the Administration of the Nizhegorodskaya Oblast

ON THE REORGANIZATION OF FARM ENTERPRISES IN THE NIZHEGORODSKAYA OBLAST

1. To adopt "The Restructuring Principles of Land Privatization and Reorganization of Farm Enterprises of the Nizhegorodskaya Oblast," presented by the International Finance Corporation team, the Oblast Department of Agriculture, the Oblast Committee on Land Reform and Land Resources, and AKKOR.

2. To approve the proposals of the joint-stock company "imeni Emel'yanova" (Gorodets district), the kolkhoz "60th Anniversary of the October Revolution" (Gorodets district), the limited liability partnership "Niva" (Buturlino district), the kolkoz "Krasnyi Shturmovik" (Buturlino district), the limited liability partnership "Pravdinskii" (Balakhninskii district) and the joint stock company "Yolkinskii" (Voskresenskii district) on reorganization and formation of associations of peasant farms and partnerships.

3. The above-mentioned farms will prepare by March 15, 1993 documents on the transfer of the social assets to the local council.

4. The Department of Finance will provide in the budgets of the second and following quarters additional funds to the Gorodets, Buturlino, and Lyskovo districts for the support of the social assets transferred from the above-mentioned farms. The local councils on whose territory the above-mentioned farms are located are instructed to accept the transferred assets and to provide financial support from their budget.

5. The Department of Agriculture, the Oblast Committee on Land Reform and Land Resources, and the Oblast Property Committee together with IFC will prepare and submit the drafts of the decrees "On sale of farmland for vouchers" ,"On improving land relations", and "On land shares" to the Soviet of People's Deputies of Nizhegorodskaya Oblast in the first quarter of 1993.

6. The Oblast Committee on Land Reform and Land Resources will conduct land survey work in the above-mentioned farms in accordance with the decisions on reorganization and formation of private farms and partnerships and physically distribute the land shares to all families.

7. The Department of Agriculture, the Oblast AKKOR branch, and the Department of Finance will develop and submit for approval to the oblast administration proposals for extending to subsidiary household farms with significant commercial

production all the credit and financing benefits to which private peasant farms are eligible.

8. The Department of Agriculture will supervise the implementation of the present decree.

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Decree of the Soviet of People's Deputies of the Nizhny Novgorod Oblast

ON THE SALE OF FARM LAND FOR VOUCHERS

In order to increase the private land holdings of the peasants and raise the price of vouchers, the Soviet of People's Deputies decrees:

1. It is permitted to conduct experimental sale for vouchers of land plots owned by the state in the Buturlino, Gorodets, Balakhna and Voskresensk districts of the Nizhny Novgorod Oblast;

2. Private farms have the right to buy for vouchers land plots leased from the state for agricultural production.

3. Workers of farm enterprises with collective ownership shares have the right to buy for vouchers farmland leased from the state by the farm enterprise.

4. Farmland will be sold for vouchers at the average normative price based on the land tax rate as approved by the Supreme Soviet of the Russian Federation in 1991.

5. Vouchers will be used to purchase land plots at their face value. For example: If the normative price of one hectare of land is five thousand (5,000) rubles, then one voucher can buy two (2) hectares of land.

6. If there is more than one interested buyer for one land plot, the plot will be sold at an auction. Only employees of the farm which is leasing the plot will be allowed to participate in the auction. The starting price will be set at the level of the normative price.

7. A land plot purchased for vouchers becomes the property of the head of the peasant farm, who will receive title to this land from the state. A land plot purchased for vouchers by a worker of a farm enterprise with collective property shares is added to the worker's land share. Certificates for the additional land shares will be provided according to established procedure.

8. The sale of land plots for vouchers should be conducted in compliance with the oblast limit on total land area owned by one private peasant farm.

9. The sale of land plots for vouchers is organized by the State Property Committee and the State Land Reform Committee in Nizhegorodskaya Oblast.

LAND PRIVATIZATION
NIZHNY NOVGOROD
WORKPLAN

Key Target Dates:

By February 5	•	Select five farms to work with in reorganization and privatization (see **Selection Criteria**)
By February 12	•	Finalize Restructuring Principles for Farm Privatization; obtain IFC management approval, oblast administration approval, and announce to farm management and peasantry
By March 26	•	Submit farm restructuring plans to IFC management for approval, local administration for approval, and present to farm management and peasantry for formal approval
By April 16	•	Final Charter Documents
By June 4	•	Distribution of land and property
By July 2	•	Finalize manual and provide instruction

DATES	TASKS: IFC TEAM	TASKS: FARMS	OUTPUT
Jan.11 - Feb.5	•Select 10-15 farms to visit •Develop farm questionnaire •Visit farms and interview with farm managers and workers	•Complete data request (questionnaire) •Submit intentions for reorganization	IFC •Farm questionnaire •Trip reports •Criteria for farm selection FARM •Farm questionnaire •~~Cooperation agreement~~

DATES	TASKS: IFC TEAM	TASKS: FARMS	OUTPUT
Feb. 8 - Feb. 12	•Oblast Agricultural Overview •Develop **Restructuring Principles for Farm Privatization** •Get approval for **Restructuring Principles for Farm Privatization** from IFC, oblast administration, local (raion) administrations, and the farms themselves	•Accept/reject principles, including vote by work collective •If accept, agree to restructuring work	•Overview report on agriculture •**Restructuring Principles** •Written endorsement/adoption of **Restructuring Principles** from oblast and local officials, and farms

DATES	TASKS: IFC TEAM	TASKS: FARMS	OUTPUT
Feb. 15 - March 26 (March 1)	•Develop restructuring plans with five selected farms -list new operational units to be created from farm reorganizations -develop plan for dividing land, property and labor among new operational units -target possible production improvement techniques that can be systematically applied -develop recommendations for taxation mechanism within the new enterprise to support the rural social sphere -develop mechanism for transfer of social assets to local soviets •Development on the oblast level of taxation mechanism to support transferred social assets •Initiate public awareness campaign on the farm level •Obtain IFC management approval for farm restructuring plans •Obtain oblast and local	•Determine preliminary parameters of the enterprises to be created •Clarify (if necessary) division of land and property in shares •Identify people to head private farms, other private enterprises, partnerships, associations •Allocate human resources among operational units •Transfer social assets to the local soviets •Formal approval of the plans	<u>IFC</u> •Restructuring plans •Informational materials / seminars / meetings for peasants to explain rationale behind suggested reorganization •Report on peasant feedback to be used in modifying public relations campaign •Legal clearance from the district attorney •IFC management approval •Official resolution of the oblast and local soviets •Final version of materials to peasants <u>FARM</u> •Formal approval of plans

DATES	TASKS: IFC TEAM	TASKS: FARMS	OUTPUT
March 29 - April 16	•Redistribution of land and property -Develop a mechanism for purchase and sale, exchange, leasing, grant, inheritance of land and property shares -Develop a mechanism for leasing contracts of state-owned land and for purchasing it with vouchers •Begin survey work •Develop a method for valuing land and property •Oversee the drafting of charter documents for new enterprises (i.e. farms, cooperatives, partnerships, marketing cooperatives, procurement cooperatives, processing repair and maintenance services, construction, land improvement, financial services) •Oversee registration of new enterprises	•Organize purchase and sale, leasing, grant, inheritance of land and property shares •Buying and leasing state-owned land (possibly with vouchers) •Develop charter documents for new enterprises (i.e. farms, cooperatives, partnerships, cooperatives specializing in marketing, procurement, processing, repair and maintenance services, construction, land improvement, financial services) •Register new enterprises	<u>IFC</u> •Projection of farm structure after reorganization •Method for land valuation •Method for dividing and distributing other assets <u>IFC and FARM</u> •Final charter documents

DATES	TASKS: IFC TEAM	TASKS: FARMS	OUTPUT
March 29 - May 14	•Develop regulations on allotment of plots to newly created enterprises and to their families •Create a mechanism to divide property on the basis of shares, their purchase and lease •Provide seminars/instruction to farmers on evaluation and distribution of land and property	•Distribution of plots to all enterprises and to the families that have shares (in conjunction with *raigoskomzem* (government organ)) •Conduct surveying work (*raigoskomzem*) •Distribution of property to the new enterprises. •Transfer of all assets and liabilities of the former farm to the new enterprises. •Make balance sheets for the new enterprises, determine debts and credits	IFC •Produce documents which can be given to the farmers indicating which piece of land and what property they own •Seminar/instruction session FARM •New balance sheets
March 29 - May 14	•Develop a mechanism to sell undistributed land through auctions •Public awareness campaign to support land sales	•Organize and conduct auctions for sale of land from the redistribution fund and the remaining farm property. •Publications and interviews with the managers of newly created enterprises and associations.	IFC •Proposal to IFC management, local officials re: auction of undistributed land for vouchers •Voucher land auctions •PR campaign/media blitz
March - July	•Support program for newly privatized/reorganized farmers -dispatch experts to privatized farms for consultations	•Provide necessary conditions and a place for the training	
May 17 - June 4	•Distribution of land •Distribution of property		

DATES	TASKS: IFC TEAM	TASKS: FARMS	OUTPUT
May 24 - June 11	•Sell remaining land through auctions -develop method using vouchers -PR campaign to support auction		<u>IFC</u> •Voucher land auctions •PR campaign/media blitz
June 7 - July 2	•Write manual •Prepare suggested amendments to the current legislation, normative acts; prepare drafts for new legislative documents. •Ensure that all preliminary documents are made official. •Continue oblast and national PR; hold press conference for international press.		<u>IFC</u> •Published manual •Suggestions for amendments to legislation •Public awareness campaign
July - Sept	•Distribute the manual to all collective farms and state farms •National rollout		

List of Participants

Organization	Contact	Telephone
Department of Agriculture	Kolpakov, Evgenii Pavlovich	39-12-31
State Committee on Land Reform	Korotin, Iurii Veniaminovich	39-17-09
State Committee on Property	Bigman, Alan	39-75-21
"Bornukovo" Ltd.	Bryzgalov, Pavel Veniaminovich	272 25645
A/O "Emelianov"	Emelianov, Valerii Ivanovich	261 23992
60th Anniversary of October Kolkhoz	Panin, Mikhail Aleksandrovich	261 21332
"Niva" Ltd.	Mikheev, Evgenii	272 21710
Pravdinskaia	Shamov, Valerii Borisovich	244 3219
A/O Yolkinskii	Poliashov, Viacheslav Aleksandrovich	
Land Bank	Ovsiannivkov, Karpov	39-19-15
Department of Economics	Karpov, Igor Iurevich	33-96-91
Buturlinskii Raion		
-Administrative Head	Soloveva, Nina Yegorovna	2-13-22
-Agriculture	Saveliev, Ivan Borisovich	2-17-23
Balakhninskii Raion		
-Administrative Head	Boitsov, Alexei Nikolaevich	34-09
-Agriculture	Maklagin, Aleksandr	23-74; 34-92
Voskresenskii Raion		
-Administrative Head	Sleptsov, Vladimir Tikonovich	9-12-50
-Agriculture		
Gorodetskii Raion		
-Administrative Head	Trufanov, Viktor Alekseevich	2-10-80
-Agriculture	Sidyagin, Iurii Petrovich	2-10-81

FARM PRIVATIZATION IN RUSSIA: IFC PILOT PROJECT IN NIZHEGORODSKAYA OBLAST

Historical Background

Russian agriculture has been totally collectivized since the early 1930s. All agricultural production was organized in the so-called socialized sector consisting of large-scale collective and state farms (kolkhozes and sovkhozes). Each of these farms cultivated an area of several thousand hectares, had a livestock enterprise of over a thousand head of cattle, and employed a labor force of several hundreds. Despite pervasive collectivization, however, around 30% of agricultural output has always been produced on subsidiary household farms - small plots cultivated by families and individuals in their spare time, after a full day's work at their regular jobs on the collective or state farm.

Farm collectivization has never really accomplished its objective of feeding the growing urban population and ensuring food self-sufficiency. As a result, Russian agriculture has become the object o repeated reform attempts aimed to increase production. One of the most notable and lasting attempts was initiated in the mid-1980s by Gorbachev in his role as Party Secretary for Agriculture. Gorbachev was the first to try and change the relations between the workers and the means of production. Without changing the actual ownership relations, Gorbachev strived to increase the motivation of the collective members to produce more efficiently by organizing them in small productive subdivisions that operated as cost centers with profit-sharing incentives. This led to the division of the large-scale collective and state farms into small "lease groups" or "lease cooperatives" with relative autonomy in production decisions. The small lease subdivisions continued relying on the central farm management for farm input, product marketing, finance, and other professional services.

The semi-autonomous lease groups became a widespread phenomenon in Russian agriculture in late 1980s. Some farms had divided all their enterprises among such small groups, while in other a large number of enterprising individuals opted for this form of production relations. The nature of the relations between the small productive subdivisions and the socialized farm, however, remained restricted to leasing of production assets and permission to use the land, because private property was not allowed at that stage.

Transition to Private Property

The 1991/1992 legislation that recognized private ownership of both land and production assets provided for the first time a real opportunity for changing the ownership relations in the farming sector. One of the striking consequences of the new legislation was the emergence of individual private farmers in Russia. The number of private farms today is over 170,000, but the average plots are small (around 40 hectares) and they still produce less than 2% of total agricultural product. A remarkable feature is that less than 30% of the new private farmers are former members of collective and state farms: the remaining 70% are newcomers to agriculture. Kolkhoz and sovkhoz members are not rushing in great numbers to take advantage of the new private ownership opportunities. The original expectations that privatization legislation would lead to a quick dismantling of the existing large-scale farms apparently will not materialize in the near future.

There are many different reasons for the reluctance of collective farm members to exit and start operating as private farmers. Despite government encouragement in the form of free land, subsidized credit, and start-up assistance, the basic economic conditions for private farming still do not exist. Supply and marketing channels are largely monopolized by the state, markets for farm inputs in the Western sense of the word do not exist, financial and banking systems largely act as government fiscal institutions. All these factors create tremendous obstacles to the operation of independent private farmers outside the traditional collective and state system. These difficulties are further exacerbated by the fear of the individuals that they will lose all their social benefits and services if they exit the collective structure and by seven decades of education and conditioning against private property and private entrepreneurship.

These difficulties and concerns act to hold the rural population in the fold of collective structures. Yet these structures themselves are reorganizing in accordance with recent legislation. The most notable change is sweeping privatization or "denationalization" of the large-scale farms: by the very act of "re-registering" as a new organizational form under the new Law of Enterprises and Entrepreneurship the large-scale farms get their land and assets into private ownership from the state. State farms are reorganizing as collective farms with the explicit purpose of getting their land and assets transferred from state to private ownership. Thus, although the agricultural sector is not breaking up into private family farms, it is undergoing a kind of privatization in the senses that the ownership of land and assets is transferred from the state to the farms.

Division of Land and Assets to Individual Owners: IFC Pilot Project

The next stage of the process, namely the transfer of ownership from the large-scale farms to the individuals, is much more complicated and much less clearly defined in current legislation. IFC's objective is to help Russian agriculture accomplish the next step of the transition and thus create true individual ownership of land and assets as a prerequisite for private farming.

IFC will work toward achieving its objective by focusing on a small number of representative farms and developing a privatization model that will be ultimately applicable to the entire Russian farming sector. The IFC pilot project will be conducted in Nizhegorodskaya Oblast, with its capital of Nizhny Novgorod (formerly Gorky) some 450 km east of Moscow, on the river Volga. The farms in this oblast are typical of the Russian non-chernozem soil zone and the privatization models developed for these farms will therefore be replicable through most of Russia. Moreover, the Governor and the rest of the local administration are reform-minded and eager to cooperate with IFC on this farm privatization project. Their active support and involvement are crucial for the success of the project.

Five farms were selected by IFC for the pilot project in Nizhegorodskaya Oblast. This number of farms is logistically manageable for the IFC operational team and at the same time provides sufficient diversity to ensure replicability and future applicability on a national scale. In all five selected farms the local management is ready and willing to continue the process of privatization and there are individuals capable of heading family farms or small corporate farms.

The guiding principle for IFC in its pilot project is to help the existing large-scale farms distribute their

land and production assets to individual owners. The ownership of all land and other assets will be allocated to concrete individuals. The individual owners will then proceed to form family farms or alternatively different individuals will invest their land and asset shares in a small "joint-stock enterprise" to form a corporate farm. Relations between land and property owners within the system will be regulated by contractual arrangements based on lease and other contracts.

The family and corporate farms carved out on the territory of an existing large-scale collective farm may form an association of producers that will continue to use the services of the former central management or establish functional service cooperatives for their specific needs. The relevant functions may include management services, such as accounting and finance, the professional services of agronomists and livestock specialists, and most importantly central input supply and product marketing services. An important category of service cooperatives may include processing enterprises, established as an alternative to existing large-scale monopolistic processors in the food sector. These service cooperatives will be designed to help the small producers overcome the difficulties associated with inadequate infrastructure and limited markets. The relations between the producers and the service cooperative will be based on appropriate contracts and membership in the cooperative will be voluntary.

The IFC approach is thus expected to produce, on the territory of each existing large-scale collective farm, a group of family and corporate farms supported by a net of service cooperatives. One of the problems that will have to be resolved in the process of privatization is the responsibility for the social services on the territory of the former large-scale collective farm. Current legislation provides for the transfer of all social assets and responsibilities to the local municipal authorities, supported by appropriate tax revenues and government budgets. The actual implementability of this approach will have to be tested on the sample farms and appropriate recommendations will need to be developed for the future.

The privatization project will be carried out as far as possible in accordance with existing Russian legislation. Instances when departure from current laws is needed will be flagged and appropriate recommendations for changes in legislation will be prepared.

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NIZHNY NOVGOROD LAND PRIVATIZATION
IFC PILOT FARM REORGANIZATION

LAND DISTRIBUTION PROCEDURE

Principles:

- Land will be distributed in a transparent, competitive manner through the auction method.
- All distribution decisions are driven by the choices of fully-informed holders of land entitlements.
- While the auction is the final arbiter of distribution, it is recognized that holders of land entitlements may enter into agreements with each other before the auction.

Procedure:

1. Applications are submitted by new private farmers/entrepreneurs

   Persons planning to farm land will prepare and submit applications to ~~the farm management and~~ Land Commission that states the amount of land requested, the location of the land requested, the number of land entitlements he/she has in possession, the type of farming that he/she wishes to engage in, and any other regional or land preferences. It is envisioned that persons not wanting to farm land will sell, trade or lease their land entitlements to the new private farmers/entrepreneurs.

2. Land Reform Commission divides up farm into plots

   The Land Reform Commission will divide the state and collective farms into plots, the size of which will be determined by the applications submitted by the new private farmers/entrepreneurs. Using a point system of land valuation to account for differences in land quality, plots will be created on the based on an integer multiple of one land entitlement. The size of the ~~plots~~ plots will vary, with the largest not more than 1/3 to 1/2 of the size of the largest ~~requests~~ applications. The smallest plot may ~~be limited to one land~~ be two times of one entitlement.

3. Auction notice

   A large map indicating the land plots to be auctioned will be posted in a central location an the state or collective farm. A bulletin board and meeting area will also be established to facilitate information exchange. Here auction rules and dates will be posted. In the pilot program, auction rules and procedures will carefully be explained to each participant by the IFC team.

4. Auction Procedures

At the time of the auction, the following will be the case:

- Land will have already been divided into normatively equal plots, that is equal in quality-corrected value, not size;

- Holders of entitlements also have equal claims on a single normative land plot

- The farm has been divided into "blocks" based on an integer multiple of a single allotment, as discussed above

The auction will begin with each land entitlement being assigned an equal number of points (1,000,for example). A new farmer entrepreneur having at his disposal seven land entitlements would thus have 7,000points to bid with. Each block of land to be auctioned will also have a starting price based on the number of normative plots it contains. A block containing five normative plots would thus have a starting price of 5,000points (see annex for an example).

New farmers/entrepreneurs will bid on blocks of land. If there is only one person who wants the block, he/she can acquire it for the starting price. If there are more than one, the price in points will increase.

After each round of bidding, all land will be revalued equally to bring the amount of land points left in line with the number of points left among the entitlement holders. Land not bid on in a particular round will be offered again at the next round.

After distribution, the winners are given a formal legal document from the entity that represents the old collective farm. This document will provide the basis for issuance of deeds.

5. Swapping

It is envisioned that the auction may leave some opportunities for land swapping and selling. This will be encouraged and facilitated in the weeks following the auction.

6. Land titling

All land entitlement holders will exchange their entitlements for an official deed to an equal share of the land acquired by their group. Stakes will be driven into the ground if requested by the new owners.

ANNEX

Illustration of the auction process:

1. A farm has six hundred people entitled to land and 3,000 hectares. After being corrected for quality, normative plots range in size from three to eight hectares each.

2. New farmers/entrepreneurs submit applications stating the number of land entitlements they will have at their disposal.

3. The farm's six hundred normative plots are bundled into blocks ranging in size from one normative plot to ten normative plots, based on applications from new farmers/entrepreneurs.

4. Each normative land plot and each land entitlement are assigned an equal, arbitrary number of points (1,000,for example). A new farmer/entrepreneur with eight land entitlements at his/her disposal would thus have 8,000 points. A block of land plots comprising six normative plots would be assigned a value of 6,000 points.

5. The prices can be bid up, and are reduced if land is not allotted in a given round by the same mechanism that all starting prices are adjusted after each round.

6. Starting prices are reduced for all remaining land when the number of points left among the bidders exceeds the number of points left in the land. If, for example, the first hundred normative plots sold for 200,000 points, bidders have left 400,000 points for land that had a starting price of 500,000 points. All remaining blocks of land would then have their starting price adjusted by a coefficient of .8. A block of land that had a starting price 6,000 points but was not bid on in the first round would be offered again at a price of 4,800 points in the second round.

September 8, 1993

ANNEX B:
OTHER DOCUMENTS RELEVANT FOR THE "PRIVATIZATION OF AGRICULTURAL LAND AND LAND TITLING" PROJECT

The following documents prepared by the IFC Nizhni Novgorod land privatization project are relevant to the "Privatization of Agricultural Land and Land Titling" project:

B.1 "IFC Plan for Land Privatization in the Nizhni Novgorod Region"

This preliminary document (from about 1/1/93) contains:

- *the objectives of the IFC land privatization project;*
- *principles of farm privatization in Nizhni Novgorod*
- *overview of Nizhni Novgorod agriculture*
- *draft decree on the "Reorganization of Farm Enterprises"*
- *draft decree on "Property Shares of Employees of Farm Enterprises"*
- *draft decree on the "Sale of Farm Land for Vouchers"*
- *draft workplan for the IFC project*
- *list of participating farms*
- *background paper*
- *draft land distribution procedure*

B.2 "Principles of Land Privatization and Reorganization of Agricultural Enterprises in the Nizhny Novgorod Oblast"

This is an update of the "principles of farm privatization" contained in the IFC land privatization plan (B.1)

B.3 "Land Distribution Procedure--Draft"

This is an update of the "draft land distribution procedure" contained in the IFC land privatization plan (B.1)

B.4 "Property Distribution Procedure--Draft April 20, 1993"

This paper outlines the process for distribution of state and collective farm property other than land.

B.5 "Procedure of Acquiring Documents Certifying the Right of People for a Land Entitlement"

This document points out the problems with the distribution of land entitlements and proposes corrections (see also memo A.12). A model "Certificate on Property

Rights for a Land Share" is appended.

B.6 "Support Service Organization"

This paper points out the need and methods for setting up service organizations to support the new farm units created by the breakup of former state and collective farms, in particular accounting and finance organizations.

PRINCIPLES OF LAND PRIVATIZATION AND REORGANIZATION OF AGRICULTURAL ENTERPRISES IN THE NIZHNY NOVGOROD OBLAST

Land Relations

1. The Rural Soviet of People's Deputies shall give each land entitlement owner proof of ownership.

2. A land entitlement gives its owner the right to property, either in a shareholding company or in the form of land. Entitlement holders also have the right to sell the land entitlement to other farm employees, to swap the land entitlement for property entitlements, to bequeath the entitlement or grant it.

3. If the entitlment is exchanged for ownership of joint stock company shares, the land shall become the property of the joint stock company. A shareholder shall have the right to get dividends, to bequeath shares, to grant and sell them to other shareholders, or third parties with the consent of the joint stock company Board.

4. If the entitlement is exchanged for a land plot, the land shall become deeded to an individual as personal property. With the consent of entitlement holders, the state deeds may be given to the head of the family. In this case the land shall become joint common property of all the members of the family.

5. The size of the land plots allotted to individuals and organizations against their land entitlements shall be determined on the basis of the quality of land, its location and other factors as determined through auction.

6. Leasing of land is permitted. The limitations of the Land Code of the Russian Federation for leasing land shall be lifted.

7. Lease payment shall be determined by the agreements between the lessor and the lessee. The limitations on the size of lease payment provided by the Law "On Land Payments" shall be lifted.

8. The initial distribution of land among private farms, partnerships, joint stock companies and other claimants shall be done through auction open to entitlement holders.

Property Relations

9. The Rural Soviet of People's Deputies shall give each property entitlement owner a proof of ownership.

10. A property entitlement gives its owner the right to property, either in a shareholding company or in the form of assets held by the owner's former state or collective farm. Property entitlement holders also have the right to sell property entitlement to other employees of the farm, to swap property entitlement for the land entitlement, to leave them as inheritance or to grant them.

11. A shareholder shall have the right to get dividends, to acquire shares by inheritance, to grant and sell them to other shareholders or other parties (with the consent of the Board). A shareholder shall have no right to claim the property of the joint stock company in kind.

12. When property entitlements are exchanged for physical assets by individuals or coprorations for purposes other than the formation of purely agricultural enterprises, the party receiving these assets must serve, at fair market prices, persons and organizations belonging to the association formed from the former collective state or collective farm for a period of one year.

13. All the property shall be assigned to specific private farms, partnerships, joint stock companies, service companies and other natural persons and legal entities.

14. Distribution of property among the claimants shall be done through the auction.

15. The new owners shall be given the appropriate documents for large property objects.

Setting Up New Enterprises

16. New enterprises shall be set up where there are new farmers/entrepreneurs desiring to undertake the organization of such enterprises.

17. Joint stock companies, partnerships and other enterprises that will be set up shall make three types of contracts with the former employees of the farm:

- contract of land transfer to the joint stock company ownership (with those who want to get land for shares) or a lease agreement (with the land plots owners willing to lease them);
- membership agreement (with those who wants to invest their property entitlement in the partnership);
- contract of employment (with those who are hired to work).

18. Members of joint stock companies, partnerships and other enterprises shall be paid dividends depending on the farm's efficiency and the size of the share, but independent from their work participation in the farm.

19. The newly set up private farms and enterprises shall take upon themselves all the assets and liabilities of the former farm (apart from the property transferred to the rural administration).

20. Private farms may join into informal partnerships to farm the land together. It is not necessary to legally document one's participation in such partnerships or withdrawal from it.

21. Private farms and partnerships shall set up service organizations for marketing, input, processing, repair and maintenance, transportation, etc. They shall also form a voluntary association on the basis of the former enterprise.

22. It is advisable to establish a banking service in the villages (a branch or a subsidiary of Rosselkhozbank - the Russian Agricultural Bank, a settlement center on the basis of the farm's accounting department or another organization).

23. Subsidiary household farms involved in manufacturing shall be allowed to join associations on the same terms as private farms.

Social Assets

24. Social assets shall be either transferred to the local administration budget or shall stay in the association. The oblast and rayon budgets shall allocate finance to maintain the social assets.

Taxation and Subsidies

25. Rates of profits taxes, deductions to the insurance and pension funds set for agricultural enterprises shall be applicable to the farms association members, including service organizations, partnerships, joint stock companies manufacturing and processing agricultural produce, providing services within the association. Subsidiary household farm involved in manufacturing shall enjoy the same privileges as private farms.

NIZHNY NOVGOROD LAND PRIVATIZATION
IFC PILOT FARM REORGANIZATION

LAND DISTRIBUTION PROCEDURE

Principles:

- Land will be distributed in a transparent, competitive manner through the auction method.
- All distribution decisions are driven by the choices of fully-informed holders of land entitlements.
- While the auction is the final arbiter of distribution, it is recognized that holders of land entitlements may enter into agreements with each other before the auction.

Procedure:

1. Applications are submitted by new private farmers/entrepreneurs

   Persons planning to farm land will prepare and submit applications to the Land Reform Commission that states the amount of land requested, the number of land entitlements he/she has to dispose of, the type of farming that he/she wishes to engage in, and any other regional or land type preferences. It is envisioned that persons not wanting to farm land will sell, trade or lease their land entitlements to the new private farmers/entrepreneurs.

2. Land Reform Commission divides up farm into blocks

   The Land Reform Commission will divide the state and collective farms into blocks, the size of which will be determined by the applications submitted by the new private farmers/entrepreneurs. Using a point system of land valuation to account for differences in land quality, blocks of land plots will be created based on an integer multiple of one land entitlement. The size of the blocks will vary, with the largest not more than 1/3 to 1/2 of the size of the largest application requests. The smallest blocks may be the size of a single land entitlement.

3. Auction notice

   A large map indicating the land plots to be auctioned will be posted in a central location an the state or collective farm. A bulletin board and meeting area will also be established to facilitate information exchange. Here auction rules and dates will be posted. In the pilot program, auction rules and procedures will carefully be explained to each participant by the IFC team.

4. Auction Procedures

At the time of the auction, the following will be the case:

- Holders of entitlements also have equal claims on a single land plots;

- The farm has been divided into "blocks" of plots, based on an integer multiple of a single entitlements.

The auction will begin with each land entitlement being assigned an equal number of points (1,000, for example). A new farmer entrepreneur having at his disposal seven land entitlements would thus have 7,000 points to bid with. Each block of land to be auctioned will also have a starting price based on the number of plots it contains. A block containing five normative plots would thus have a starting price of 5,000 points (see annex for example).

New farmers/entrepreneurs will bid on blocks of land. If there is only one person who wants the block, he/she can acquire it for the starting price. If there are more than one, the price in points will increase.

After each round of bidding, all land will be revalued equally to bring the amount of land points left in line with the number of points left among the entitlement holders. Land not bid on in a particular round will be offered again at the next round.

After distribution, the winners are given a formal legal document from the entity that represents the old collective farm. This document will provide the basis for issuance of deeds.

5. Swapping

It is envisioned that the auction may leave some opportunities for land swapping and selling. This will be encouraged and facilitated in the weeks following the auction.

6. Land titling

All land entitlement holders will exchange their entitlements for an official deed to an equal share of the land acquired by their group. Stakes will be driven into the ground if requested by the new owners.

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Illustration of the auction process:

1. A farm has six hundred people entitled to land and 3,000 hectares. After being corrected for quality, plots range in size from three to eight hectares each.

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3. The farm's six hundred plots are bundled into blocks ranging in size from one plot to ten plots, based on applications from new farmers/entrepreneurs.

4. Each land plot and each land entitlement are assigned an equal, arbitrary number of points (1,000, for example). A new farmer/entrepreneur with eight land entitlements at his/her disposal would thus have 8,000 points. A block of land plots comprising six plots would be assigned a value of 6,000 points.

5. The prices can be bid up, and are reduced if land is not allotted in a given round by the same mechanism that all starting prices are adjusted after each round.

6. Starting prices are reduced for all remaining land when the number of points left among the bidders exceeds the number of points left in the land. If, for example, in the first round blocks valued at a total of 100,000 points sold for 200,000 points, bidders have left 400,000 points for land that had a starting price of 500,000 points. All remaining blocks of land would then have their starting price adjusted by a coefficient of .8. A block of land that had a starting price 6,000 points but was not bid on in the first round would be offered again at a price of 4,800 points in the second round.

DRAFT APRIL 20, 1993

NIZHNY NOVGOROD LAND PRIVATIZATION
IFC PILOT FARM REORGANIZATION

PROPERTY DISTRIBUTION PROCEDURE

Principles:

- Property will be distributed in a transparent, competitive manner through the auction method.
- All distribution decisions are driven by the choices of fully-informed holders of property entitlements.
- While the auction is the final arbiter of distribution, it is recognized that holders of property entitlements may enter into agreements with each other before the auction.

Procedure:

1. Land Reform Commission establishes lots of property

   The Land Reform Commission will divide the assets of the farm based on smallest possible productive unit. A tractor repair shop, for example, would be bundled together with its tools and equipment, as would a cow-shed; a tractor brigade would be offered as individual tractors.

2. Auction notice

   A chart indicating the lots to be auctioned will be posted in a central location at the state or collective farm. A bulletin board and meeting area will also be established to facilitate information exchange. Here auction rules and dates will be posted. Auction rules and procedures will carefully be explained to each participant.

3. Auction Procedures

   The auction will begin with each property entitlement holder being assigned a number of points equal to the "rubles" of property entitlements at his/her disposal. Each lot to be auctioned will have a starting price based on its balance sheet value.

New farmers/entrepreneurs will bid on lots. If there is only one person who wants the lot, he/she can acquire it for the starting price. If there is more than one person bidding, the price in points will increase.

After each round of bidding, all property will be revalued equally to bring the amount of property points left in line with the number of points left among the entitlement holders. Property not bid on in a particular round will be offered again at the next round.

After distribution, the winners are given a formal legal document from the entity that represents the old collective farm. This document will depend on the type of asset acquired (technical passport for a truck, deed to cow-shed, etc.) and will transfer ownership to the physical or juridical person that has acquired the property.

4. Trading

Assets become the property of the person that has acquired it and may be freely bought, sold, given, bequeathed, and traded after the auction.

Procedure of Acquiring Documents Certifying the Right of People for a Land Entitlement

1. Why is it necessary to review the present practice?

Agricultural enterprises made lists of people who would get land in collective-share ownership as of March 1, 1992.

The collectives of agricultural enterprises have not been given out State Deeds for land yet.

This resulted in the fact that these lists include people who according to the Land Code, Presidential Decrees, Governmental Acts are not entitled to get a land share: people who left the agricultural enterprise of their own volition after January 1, 1992 and are now working in the industry and many of them live in the cities. At one of the farms selected for the Project - the "Pravdinskaya" Association - there are more than 100 such people many of whom had worked at the farm for less than a year.

If the lists are not reviewed, the State Deed will be given out to: those who:

- are not workers of the farm;
- are not the farm's pensioners;
- are not working in the farm's social sphere.

This gives rise to a lot of legal problems. It is evident that an owner acquires his rights after the State Deed has been given out to him, and not vice versa.

At the moment one is given the State Deed and thus gets the land of the former kolkhoz/sovkhoz in collective-share ownership, one has to be either employed by the farm, or to be a pensioner retired from the farm, or to work in the social sphere of the farm. Here should also be included people who have been discharged on grounds of staff reduction (and not those who left of their own volition), since it could have been the intention of the administration to get rid of possible claimants for land entitlements. These categories of people shall have priority in getting land shares of the farm's lands.

Such priority will not be given to industrial workers and other groups of population that are not directly involved in agriculture or in providing services to the rural population.

Should the accuracy of the lists not be checked, the Deeds will include, for example, people from the industry or from entrepreneurship structures who used to work on the land, but are no longer working on it and will not work in the future. And those who really work on the land will have to farm somebody else's land and will have no special motivation for good work.

This does not mean to say that everyone who has been allotted a plot of land will have to farm this very little plot in the future.

The same goes for workers of rural social sphere.

If, on specifying the list, land entitlement for a person will be above the norm of free land distribution, the excess area can be sold to other entitlement holders, farmers working on the territory of the farm, new workers of the enterprise, or transferred to the local Soviet.

Farm enterprise collective receives proforma State Deed for the right to collective-share property with stipulated entitlement (share) for each collective member. The Deed can be received at the raion Soviet of people's deputies.

The State Deed entitles the same body to issue within a week individual certificates to entitlement holders which specify the size of land entitlement (land share). It's recorded in the Book account on land entitlements. The copy of the certificate is enclosed.

If within the period of issuing the State Deed and the certificates the number of farm collective members is reduced, then the certificate is given to the person enrolled in the Deed or to his heirs. If the number of farm members is increased, then new workers can acquire land entitlement through inheritance, buy out, donation, etc.

Should a farm member whose name is enrolled in the Deed or his heir fail to apply for the certificate on land entitlement within six months since the certificate is issued, the right to the entitlement is withdrawn from them.

Such land entitlement is transferred to the local rural Soviet.

On receiving land entitlement the Soviet can sell it to other entitlement (share) holders, lease it to the enterprise which uses land as collective-share property, sell it to the new worker of the enterprise, to other enterprises including farms operating on the territory of the former kolkhoze\sovkhoze.

The enterprise uses land entitlements as collective-share land property only on signing the contract between entitlement holder and a farm enterprise.

Land entitlement (share) holder can:

sell it to other entitlement holders, new workers, rural Soviet;

receive the plot for his share while quitting the farm for setting up his private farm;

lease or sell his land entitlement (share) to other farm enterprise including private farm located on the territory of the former kolkhoze\sovkhoze.

The reduction of the number of land users and land owners is an objective process and it is often a desirable one, but it is governed by different norms - those of disposing of the property of agricultural workers, pensioners and of inheriting it.

On the other hand, the Rayon Commissions for Land Reform do not check the accuracy of the lists. All responsibility rests with the farm reorganization commissions which lack full information about what procedure they should follow.

Eventually at each of the selected farms violations of this or that kind have been found out, which enables one to assume that such violations can be found on many farms throughout Russia:

- very often the lists do not include people who had worked at the farm for less than a year by the time of the general meeting when the form of the ownership for land was chosen;

- at the kolkhoze they often did not list the kolkhoz workers who were not members of the kolkhoze;

- very often even when the land entitlement was smaller than the average rayon norm of free land distribution, not all the land was divided into entitlements, but a certain reserve fund was formed;

- workers often breaking the rules of the discipline were not included into the lists, which is not very well justified from the legal point of view.

Thus, the already prepared State Deeds listing people who had been registered as of January 1, 1992, should not be given out. The procedure of including into the lists people entitled to get land into collective-share ownership needs to be made more specific and further developed. There has to be developed a procedure of acquiring and the form of individual documents, certifying the right of the owner for the land entitlement when land is in collective-share ownership.

2. Checking the Accuracy of Acquiring Documents for the Rights of Collective-Share Ownership for Land.

The accuracy of all the lists for the right of collective-share ownership of the land should be checked before giving them out. People to be listed there by all means are:

full-time workers of the agricultural enterprise;

pensioners of the enterprise;

farm enterprise workers who were reduced after January, 1, 1992.

Should any enterprise acquire the right to lease or to own entitlement (share) of another enterprise, including private farm, land entitlement (share) is to be distributed in the form of land plot with issuing State Deed on this plot for the owner.

All entitlement operations are to be registered in the Book account on farm entitlement where entitlements are registered.

Appendix I

CERTIFICATE

On Property Rights for Land share

Under Appendix I and State Deed No _____, approved by the decision No _____ dated _____ of _____

_____,
(the title of the local administration)

person_____,
(surname, name, father's name)

who is entitled to land property distributed as collective-share property _____
(the title of the proprietor)

is assigned to the land share, area _____ ha of the farm land, including _____ ha of arable land.

Stamp

The Head of _____
(the title of the local administration)

_____ (signature)

_____ (surname, name, farther's name)

SUPPORT SERVICE ORGANIZATION

Background

Agricultural production is only the first link in a long chain of activities that lead to the ultimate objective of profit maximization. Production must have inputs, which requires purchasing and supply capability. Products must be converted into cash, which requires marketing skills. Production needs money to bridge over the timing gap between the purchase of inputs and the sale of output, which is the function of financial management. Financial management reinforced by accounting is also needed to determine if the production is profitable, i.e., if revenues on average exceed costs, and to help the producer decide in what assets and production technologies to invest for future growth.

In large corporate businesses, these different managerial functions are often handled by different departments and different professional managers. In farming, the basic business units – family farms, small partnerships, small enterprises – may be too small to justify the overhead of a full management structure. Thus, farmers, in addition to the traditional role of production managers, also must be good technical managers, marketing and procurement managers, accountants and financial managers.

Need for Shared Service Structures

Unlike managers of corporate businesses, farmers must have expertise in all standard areas of business management. Even in established market economies, these diverse professional demands place a serious burden on the smaller farming operations. In Russia, where market traditions do not exist and managerial and entrepreneurial skills still need to be developed, it is difficult to expect that the private farms and partnerships forming in the process of kolkhoz/sovkhoz reorganization will be able to manage all the basic business functions in addition to production. Even if possible, this may not be the most efficient solution in the present economic and banking environment in Russia.

Division of land and assets will create a relatively large number of smaller private producers – private farmers, partnerships, or comparatively small corporate farms – in place of the existing kolkhozes and sovkhozes. Yet it may not be economically efficacious, at least not initially, for these small producers to assume full responsibility for managing all the support functions of agricultural production, such as procurement, sales, accounting and finance. These support functions require special professional skills other than farming, and it may be easier for the new emergent producers if they are handled not by each producer independently but by specialized structures serving all the producers in the village or on the territory of the former kolkhoz/sovkhoz.

The main support functions that require advanced professional preparation and special skills and should therefore preferably be organized in specialized structures include the following:

- agricultural machinery and vehicle pool;
- mechanical repair shop;
- construction (housing, farm buildings, roads, etc.);
- input supply: purchasing and stores;
- product marketing and storage facilities;
- transport services;
- accounting;

- financial management;
- professional and management consulting.

Private Service Enterprises and Service Cooperatives

These shared support structures may be organized in two alternative forms:

- private enterprises established by individual owners;
- service cooperatives established jointly by all interested producers.

In either case, the support structures will supply the services to all producers for a fee. The only basic difference between the two forms is that of ownership and distribution of profits:

- private enterprises are owned by individuals who invest their shares and possibly cash in the business and are entitled to keep the profits generated by their operations;

- service cooperatives are owned directly by the users who invest their cash and possibly shares to establish the cooperative and any profits generated by the cooperative are distributed back to the users (after retaining a certain percentage for reinvestment and growth).

Private enterprises and service cooperatives may be established according to following scheme, coexisting and competing with one another.

<u>Agricultural Machinery Enterprises</u>

Machinery pools, repair shops, and construction brigades may be organized as private enterprises by skilled individuals who swap their land shares for additional asset shares and invest all their asset shares in the capital-intensive businesses. In addition to being owners, these individuals will also normally work in these enterprises, taking advantage of their special skills. Their labor input can be augmented by hired workers as needed. Mechanical service cooperatives normally will be established by the farmers themselves: they will put some of their asset shares in the cooperative and provide some cash for

purchasing additional equipment as necessary, but normally they will not work in the cooperative. Their main work will be farming and they will use the cooperative as a source of jointly owned machinery to be used on their farms for a service fee. The workers in these service cooperatives will be hired labor.

Input Supply and Marketing

Input supply and product marketing can be organized as a private commercial office run by a group of individuals with relevant experience in "external relations" (e.g., the former director with some of the former management team). The only capital assets required by this operation are storage capacities for farm inputs and products. Other than the stores, the main "investment" will be the time devoted by the owners to their work in the commercial office. The commercial office will serve all the interested producers for a fee or charge a percentage of sales/orders and the profits will be used to compensate the owners for their work. If organized as a marketing/purchasing cooperative, on the other hand, it will be owned by the farmers who use its services and the professionals will work as hired employees for a salary.

Transport Services

Transport services can be similarly organized as a private trucking company or as a transport cooperative. Moreover, they can be organized as an independent unit or combined with the marketing/purchasing operations as a support facility.

Accounting and Financial Services

In addition to these concrete physical services, farms will need "soft" managerial services that include mainly accounting and finance. No business can function without these services, either legally or practically. A natural option is to entrust these functions to each new producer unit formed in the reorganized farm. This option suffers from at least two weaknesses, however:

- the farmers forming the new producer units lack the basic skills necessary for handling accounting and finance functions;

- the rural banking system, despite its recent growth and expansion, is probably physically incapable of absorbing the ten-to-hundred-fold increase in the volume of transactions that will occur if each producer unit opens an independent business account.

It is therefore preferable to devise an alternative accounting and financial system that will (a) relieve the producers from responsibility for technical matters outside their competence and enable them to concentrate on production and (b) avoid the danger of clogging up the banking system by reducing the number of individual contacts between producers and banks. Some alternative

structures are discussed in the next section.

Accounting and Finance in the Reorganizing Farms

Accounting and Finance Functions in Business

In a typical business organization, accounting and finance functions are the responsibility of a staff unit headed by a vice-president. This unit is normally subdivided into two sections:

- the accounting section in charge of accounts and reporting (mainly paper and information flows within the organization);
- the finance section in charge of actual cash flows.

The accounting section is inward oriented: it records and manipulates information flows that originate within the organization and produces reports intended mainly for internal management decisions. Its reports based on internal information also serve outside users, mainly tax authorities, banks and other official bodies. The financial section works with the outside world, where cash originates and to where cash payments have to be made in one form or another. Internal transactions between divisions within the organization usually do not involve actual exchange of cash and are therefore handled by the accounting section, in the form of paper records.

In line with this organizational and functional division, accounting and finance sections normally employ different work teams of different professional specialization and are headed by different managers. The accounting section staff are normally people with bookkeeping and accounting education: their main function is to process and record the information flowing through the organization. They also produce overall accounting reports, such as the balance sheet and the profit and loss statement, which are used both by management and by outside official bodies, such as tax authorities. The internal information is additionally summarized and analyzed in the form of cost-accounting reports for management decision making. One of the main functions of these cost-accounting reports is to enable the management to set prices so as to ensure profitabile operation of the enterprise. Alternatively, if the prices are set by competitive markets, the cost-accounting reports enable the management to control costs and to maintain efficient production, again with the object of achieving profitability. The preparation of these reports for management decision making often requires the combined skills of accountants, cost-accountants, and economists: all these professionals normally work in the accounting section of a large organization.
The finance section employs people with less technically specialized backgrounds: these are business-school graduates and economists whose function is generally described as "financial

management". Financial management broadly consists of two components:

- "working capital" management, which basically involves taking care of payments to suppliers and collection from customers and managing the current accounts at the banks;

- "debt management", which basically involves deciding on the amount and the term structure of credit, negotiating loan facilities with the banks, and taking care of interest payments and principal repayment.

It the firm is profitable, i.e., its revenues exceed its costs by a sufficient margin, and it manages its working capital properly, then cash inflows from operations, including cash balances at the bank, will be sufficient to cover all cash needs. Such a firm will be internally financed and will not have to borrow from the banks.

However, "self-financing" is a theoretical ideal in most cases, as internally generated cash flows are usually insufficient to maintain the target growth rate of the firm. Western firms do borrow from the bank: they borrow to cover short-term working capital needs, i.e., to bridge over timing gaps between payments and receipts; they also borrow long-term to finance part of the investment in productive fixed assets. Western firms treat moderate levels of debt as a normal business phenomenon: they do no strive to repay all their debt; on the contrary, their usual policy is to maintain a relatively constant "target" debt level over time, taking new loans when time comes to repay earlier loans (this is called "debt rollover").

The above description of accounting and finance functions was developed from the perspective of a business organization. It is quite general, however, and equally applies to partnerships, cooperatives, small enterprises, and even family farms. While medium and large corporations have their own accounting and finance departments, small businesses in the West often contract these functions to outside specialists. Thus, in practice, it is not necessary for every farmer to develop expertise in these fields and farmers may rely on outside professionals to do the actual accounting and financial management work.

Accounting and Finance in Nizhny Novgorod Farms Today

All existing collective and state farms have a central accounting department, which is responsible for all intrafarm accounts, reporting, and contacts with the banks. Cost-accounting appears to be the shared responsibility of the accounting department ("uchetchiki") and the farm economist (a separate function in the organization). The operating procedures of the accounting department are prescribed by government bodies and one of the main functions, if not the principal function, of the accounting reports today is to satisfy the monitoring requirements of

"upper-lying" organizations, such as the Department of Agriculture and the statistical service.

The accounting reports are used for tax purposes. The Russian tax policy and tax system is characterized as "chaotic" (in the words of a tax inspector): the tax laws are being continuously updated and it is very difficult to know what the correct rules and principles are unless you are a professional. Tax officials strongly recommend that accounts of all producers and businesses be prepared by professional accounts to avoid severe fines as a result of errors in reporting.

The banking system is strictly differentiated between individual and business accounts ("physical" and "legal" bodies). Only legal bodies are allowed to open a business account — "raschetnyi schet", which is needed for routine non-cash transactions, such as payments to suppliers and collections from customers. Therefore, to open a bank account, the entity must first register as a legal body and obtain all the necessary documents and certificats of registration.

Bank transactions between business accounts take a relatively long time to clear, because the newly established clearing systems ("raschetno-kassovyye tsentry") is still cumbersome and inexperienced. Cash withdrawals are a relatively complicated procedure: to withdraw cash from an account, you must make a written application at least 24 hours in advance. The accounting department in collective farms is usually equipped with a safe for holding small amounts of cash on the premises. The maximum amount of cash that may be held on collective farm is set by agreement with the bank.

Holders of business accounts are entitled to receive subsidized credits from the bank (at 25% annual rate). This is mainly directed working-capital financing to cover current needs. Commercial credits are also available at rates varying between 80% and 120% per annum. All credits, both subsidized and commercial, must be secured by a collateral.

Seven banks serve the rural areas in the Nizhny Novgorod Oblast. The market is segmented by territory and there is still no competition between the banks. The largest of the rural banks is the former state agricultural bank, Russel'khozbank, but some areas are served by banks of non-agricultural specialization. Thus, the Pravdisnakaya Association is served by Promstroibank — traditionally an industrial and construction bank. The reason is purely historical: this particular bank happened to have a branch in the local town center and it took over the service to farms, without interference from the other banks.

The banks today have mostly a single account for each collective or state farm and all transactions are handled by an experienced professional — the farm chief accountant. There are no branch banks on the farms and the accountant travels to the nearest town

to transact the farms' banking business. The only exception to this rule is Sberbank, the Savings Bank, which has a small one-person branch outlet on each farm to provide saving deposit and withdrawal facilities to individuals ("physical bodies"). Sberbank has recently been equated to other banks: it has been granted a license to deal with "legal bodies" and manage business accounts. So far, however, Sberbank does not have access to subsidized credit facilities and does not make business loans. Commercial banks are developing in the oblast, as in all Russia, and they may soon introduce a totally new dimension to banking services.

A large local bank branch serving both farms and industrial corporations employs around 30 people and may have up to 600 accounts. Banks that serve mainly agriculture are of course much smaller, with only a few tens of accounts (the number of accounts basically equals the number of farms). Division of existing collective farms into a large number of producer units, each organized as a legal body with its own account, may increase many-fold the number of accounts and the transaction volume in branch banks. The existing system will be swamped and the already low banking efficiency will become totally unacceptable. Ultimately, the banking system of course will expand and adjust to the increased load, but in the present environment this will be a long-drawn process during which banking operations will suffer.

Proposed Accounting and Finance System for Reorganizing Farms

A typical collective farm may split into several tens of producer units. The number of producers may eventually exceed a hundred if many family farms are created in addition to various partnerships and corporate farms. For the purpose of presentation, we view all the producers units forming on the territory of a collective farm as an association of independent producers. All these units will register as legal bodies and open independent bank accounts. They all will require accounting and finance service for their separate operations.

The accounting and finance needs of the new association of producers can be efficiently served by a local accounting service bureau that will based on the existing professional accountants, cost-accountants, and economists of the collective farm. Each producer will sign an annual contract with the accounting service bureau: the accountants will take care of the producer's accounting and reporting needs and his relations with the bank in return for an annual fee.

This accounting and finance service will relieve the individual producer of the need to physically travel to the bank branch in the town for his banking needs. One or several people in the accounting bureau will be designated to act as an interface between the producers on the farm and the bank. Every day, during the first morning hours, they will receive instructions and

requests from the farmers regarding that day's banking business. They will fill all the necessary forms and apply all the requisite stamps and signatures with professional expertise, and later during the day travel to the local town center to execute the banking transcations in the name of all their clients. This arrangement has obvious multifold advantages:

- the accounts of all producers are handled in an equally professional and timely manner, in compliance with all relevant tax and other legal requirements;

- the bank deals with a small number of experienced professionals instead of tens of inexperienced individuals, thus streamlining banking operations;

- the producer is allowed to concentrate on production - presumably his main function and area of expertise.

Some producers, and especially individual farmers, may not like this common service arrangement, which they may construe as intrusion into their private financial affairs. They may try to do their own accounting and handle their own finance. The system is totally voluntary and the producers must pay for the service, based on the volume of their operations. We believe that the advantages of the common service outweigh by a wide margin any disadvantages that it has.

An incidental advantage of a common accounting and finance service is the capacity to handle accounts between producers within the association on a non-cash clearing basis, without resorting to the bank. All transfer transactions between producers using the same accounting service bureau can be accumulated in the accounts and only the net balances will have to be transferred to the bank once a month, say.

For the system to work successfully, all the information in the accounting service bureau must be kept up to date, transaction backlogs must not be allowed, and all producers must have immediate and free access to the state of their respective accounts. The producers must immediately realize the difference between the old system with a centralized accounting department that did not intend to serve the individual and the new system where they share a common accounting service and the information belongs to them. This requires a radical change in the attitude of the accountants that will work in the accounting service bereau.

Ownership Structure

The accounting service bureau can be organized as a private enterprise by the accounting staff, who will actually work there. They will invest their asset shares in the enterprise, manage it as a private business, set the rates and the fees for their services, and divide the profit among themselves. One of the

staff will be elected as the manager. "Passive investors", such as pensioners and other producers, may invest their shares in the accounting office and receive dividends.

An alternative is to organize the accounting office as a service cooperative owned by the producers, who are the users. In this case, the building and the equipment will be provided by the users, who will invest some of their asset shares in the cooperative. The accounting staff will be employed by the cooperative and will receive a regular salary. The users will appoint a manager. The rates will be set so as to minimize the service costs to the users, while meeting the operating needs of the organization. Profits in excess of what is needed for maintenance and normal growth will be distributed back to the users.

It is probably most efficient to have one accounting and finance service bureau for the entire association. We do not rule out the possibility, however, that several such offices may be created. For example, a separate accounting and finance bureau may be established in each village on the territory of the former collective farm. Alternatively, a private accounting enterprise may coexist and compete with an accounting service cooperative in the same area. Another alternative is the coexistence of relatively large accounting service bureaus with individual professionals who provide private accounting and finance services to the producers in the village. All these modes are possible simultaneously in large villages, although fragmentation of accounting and finance services may rule out internal transfer accounting between different producers inside the association and force all transactions to go through the bank account.

Summary

The creation of adequate accounting and finance services is an essential component of farm enterprise restructuring. While designing the physical template for the new association of independent producers, thought must be given to the establishment of these standard management services that are required by every business.

One of the possibilities is to establish a central financial accounting service bureau in line with the principles outlined above. A more detailed description of the service bureau is given in the Appendix. This requires

- identifying the professional staff that will work in the service bureau;
- deciding on the scope of functions and responsibilities for the service bureau;
- developing a charter or a constitution for the operation of

the service that will regulate its relations with the clients;

- setting a fee structure for the accounting and finance services.

Blueprint for a Financial Accounting Service

The purpose of an accounting service is to simultaneously streamline relations between agricultural producers and a bank while allowing those producers full and independent control over their own cash flow. One way to facilitate this is to create a financial accounting service (FAS) on the basis of the state or collective farm accounting department. This service will:

- provide accounts for every enterprise or individual within the association. All transactions will then clear through the center. If for example, a dairy enterprise buys corn from a grain farmer, the amount of the transaction will be debited from the dairy's account and credited to the farmer's. Intra-association transactions will be handled on a non-cash basis.

- handle transactions outside the association, such as marketing and input purchases. For example, inputs such as seeds or fertilizer would be purchased in bulk by a service cooperative. The purchase would be debited from the FAS's bank account to the suppliers account, the FAS would then debit that amount from the accounts of the members of the supply cooperative. Revenues from the realization of production would be credited to producers accounts in a similar fashion. It is desirable that marketing and supply service associations be members of the FAS.

- act as a liaison between association members and the nearest bank, at which the FAS will have an account. As often as resources permit (i.e. every day if a computer is available, two or three times a month otherwise) members accounts within the accounting service bureau will be adjusted according to the transactions that have taken place over that period. The FAS will then adjust its account accordingly. It may also be possible for every member to hold a separate account but the FAS would still control all transactions.

- The FAS will distribute cash for payroll and day-to-day needs. Members who need to withdraw a larger amount of cash will apply through the FAS which will obtain cash from the bank. The FAS would then debit the amount from the applicants account.

- provide accounting and financial management services for its members. This may include, for example, assistance in preparing credit applications, tax returns, and applications for subsidies. They might also provide advice on financial strategy or even courses for farmers who want more control over their own books.

Structure of the FAS

The FAS may be a service association or a private enterprise. Members will pay a fee to use its services and these fees will constitute the FAS's main source of revenue. These fees should cover the FAS's expenses and provide funds for some capital improvements such as the purchase of computers.

The FAS will not have its own capital fund with which to loan or borrow. Eventually the FAS will probably want to develop into a profit-making operation offering credit, investment services and other lucrative ventures. However, most of the specialists available will have little experience in these fields. Therefore, to minimize the dangers of mismanagement, these operations should be limited for the short-term.

The personnel will consist of a number of accountants and a treasurer who will handle cash dispersal and act as a liaison with the local bank. These specialists will in most cases be the present SCF book-keepers.

Although it is envisioned that the FAS will be formed on the basis of the SCF accounting department, there is no reason why there must be only one per former SCF. In fact, if man-power permits it would be preferable to create more than one in order to provide for some competition. For example, since the goal is to provide *local* financial services, ideally every well-populated village should have one.

The creation of an FAS should not mean membership is mandatory for all members of the former collective farm. If any enterprise leader feels he is capable of managing his own finances he should be free to do so.

Management

Governance of the FAS will depend on whether the FAS in question is an association or a private corporation. There are two options for creating an FAS:

1) The present accounting department could be privatized as a joint-stock company or partnership. For example, the present accountants could decide to privatize as a unit, using their property shares to purchase accommodations and equipment. Enterprise leaders could also be invited to invest in the corporation, as well as the local bank. The investors would have control in proportion to their investment and would hire the managers (in reality these would in most cases be share-holders, although this is of course not necessary). They could then offer their financial services to potential customers for whatever price they can get. A joint-stock company would be preferable to a partnership since a board of directors with outside investors could help prevent abuse.

- There is a danger that given the lack of regulation, a monopolistic profit maximizing structure of this type could be

September 8, 1993

ANNEX C:
LEGAL DOCUMENTS AND LEGAL OPINIONS REGARDING LAND OWNERSHIP IN RUSSIA

C.1 "Legal Review: Land Reform in Russia", Nizhni Novgorod, 12/25/92

This review summarizes the legal status of land reform in Russia as of that date.

C.2 Act of Government of the Russian Federation no. 86 of 12/29/91 regarding "The Procedure for Reorganization of Kolkhoze/Sovkhoze"

This Act set up the commissions (headed by sovkhoze/kolkhoz directors) who are charged with the division of sovkhoz and kolkhoz land.

C.3 "Provision on Commission for Land Privatization and Reorganization of Kolkhoze (Sovkhoze)" adopted by the Russian Federation Agriculture Ministry on 1/22/92

This Provision sets the executive regulations and guidelines for work of the commissions charged with the division of sovkhoz and kolkhoz land.

C.4 "Transformation of State and Cooperative Farms into Associations", 1992

This is the basic text regarding the transformation of sovkhozes and kolkhozes.

C.5 Memorandum dated 4/16/93 from White & Case to the IFC

This memo clarifies some aspects of Russian law regarding land ownership and the governance of agricultural enterprises.

C.6 Memorandum dated 4/23/93 from Chadbourne, Parke, Hedman & Union of Advocates to the IFC

This memo gives the opinion of the lawyers regarding the process envisioned by IFC for conveying land of state and collective farms to successor entities, and methods for breaking the state and collective farms into smaller units.

C.7 Follow-up memorandum dated 4/29/93 from Chadbourne, Parke, Hedman & Union of Advocates to the IFC

This memo, pursuant to discussions of the lawyers with Chemonics expert and an IFC representative, examines (1) whether and how lists of persons entitled to receive land may be amended; (2) whether a shareholder of a new farm enterprise who contributed his land entitlement to the enterprise may take it upon leaving; (3) whether a new farm enterprise should be registered before or after the land auction; and (4) the legality of the application forms proposed by the IFC for the auctions.

Legal Review: Land Reform in Russia
Nizhny Novgorod, Russian Federation
December 25, 1992

This review summarizes the legal status of land reform in the Russian Federation as of December 25, 1992. It is based on a review of normative documents published before December 24, 1992, interviews with legal experts at the national and oblast levels, and a review of literature on the problems of land reform in Russia. It does not purport to be a complete review of all legal documents concerning land reform; its intent is to provide a brief overview of the legal background in the context of a proposed IFC program involving pilot privatization and reorganization of state and collective farms in the Nizhny Novgorod Province.

Contents:

I. **Background**
II. **Key Issues**
III. **Organizational Structure of Land Reform Administration**
IV. **Implications for Proposed IFC Program**
V. **Selected Laws, Decrees, and other Normative Documents**

I. Background

A. Land privatization has been a very difficult issue for Russian legislators, which accounts for some ambiguity in the law. State ownership of land was one of the great achievements of the October Socialist Revolution. Collective farming of state land, forced on the peasantry during the First Five Year Plan, had been a cornerstone of the Soviet command-administrative system. While some attempts were made to encourage private farming during the Gorbachev era, progress was limited due to ideological reluctance to permit private property. It has therefore only been in the last year, since the collapse of Soviet power, that attempts to put in place a real framework for massive private land ownership have begun.

B. As of this writing, the legal framework for land privatization is in place with laws mandating privatization of collective and state farms and permitting many property rights for agricultural land. The collectivized peasantry has a large role to play in the process, choosing between full separation into individual households or maintenance of the collective intact. This choice gives the reorganization a highly subjective character; a conservative kolkhoz chairman could convince his peasants to choose to continue the collective, while a radical local administration could play a role in encouraging farmers to set up individual farms.

II. Key Issues

A. Private Property on Land

The principle of private property on land is supported in the RSFSR Constitution in an ambiguous fashion. Article 12 states that "Land plots for production of agricultural products is granted by the state for use, lifetime use with rights of inheritance, or property." The right to transfer property, other than to one's heirs, is prohibited except to the local government. For land which is granted as property, sale will be permitted after ten years in a method established by the Congress of Peoples' Deputies or a referendum.

ie prohibited for ten years!

The Land Codex of the RSFSR of 1991 provides for several forms of "ownership:"

- State property;
- Private property;
- "Ownership" (*vladeniya*) with right of inheritance;
- Leasehold.

The Codex also provides for collective ownership, either as "collective joint ownership" or "collective share ownership." Under the first form, land is jointly owned by a collective. Under the second form, land is jointly owned, but each member has the right to separate with a concrete share of land. (I think)

The Decree of the President 323 of December 27, 1991 also provides for immediate sale at free prices of land shares in the following cases:

- If the sale is to other members of the collective;
- Upon retirement;
- Upon inheritance;
- Upon moving to another area to establish a farm on free land from a redistribution fund;
- If the money gained from the sale is invested in processing, trade, construction, and service enterprise in the village.

In addition, temporary transfer to a bank of land possessed for loan defaults is allowed. The only bank that has the right to engage in this activity is the Land Bank, located in Nizhny Novgorod.

The trend toward loosening the moratorium on land sales continues. A law was passed by the Supreme Soviet on December 23, 1992, that apparently removes the moratorium for a broad range of transactions. Thus, while full ownership rights are not yet in place, it is likely that they will be in the near future.

The Draft Land Codex now under consideration would eliminate the "lifetime use with right of inheritance" form of "property." It also provides for the sale of land granted free to peasants after ten years, or land purchased by peasants

after five years, to anyone who will continue to use the land for agriculture.

The draft Program of the Development of Agrarian Reform in the Russian Federation for 1992-1995 states the government's intention to reduce *gradually* the moratoriums on land sale and encourage a *regulated* market in land [emphasis added], reflecting the continuing ambivalence in the Ministry of Agriculture.

B. Transformation of Collective and State Farms

Two principal laws regulate the reorganization of collective and state farms: Decree 323 of December 27, 1991 and its corresponding Decision 86 of the Government of the Russian Federation of December 27. These laws were expanded on in the Regulations on the Reorganization of Collective Farms, State Farms, and Privatization of State Agricultural Enterprises.

The Decree of 12/27/91 mandates the transformation of all collective and state farms into forms recognized by the RSFSR Law "On Enterprises and Entrepreneur Activity." by January 1, 1993. This meant that all farms would be transformed into joint-stock companies, limited liability companies, or cooperatives. The Decree also sets procedures for determining the amount of free land to be given to a collective farm at a district level, and arrangements for selling additional farmlands on a competitive basis.

While the Decree and its corresponding Decision recognize the reorganization of collective and state farms as units, they mandate the transfer of land to members of the collective that wish to leave and establish fines to be levied against collective and state farm managers that refuse to grant this land. Collective property granted to reorganizing farms under any arrangement (except as noted below, under Decision 86) is of the "collective-share" type; that is, the right of land holders to a concrete land share is recognized. In September, the mandatory reorganization was softened by Decision 708, which permits collective and state farms to re-register as kolkhozes and sovkhozes if the collective so decides.

Attached to Decision 86 was a list of enterprise types that are to be privatized whole. Land under these enterprises is of the "collective-joint" type. These included experimental farms, horse farms(!), large animal husbandry enterprises, and fish farms. This was modified in the set of laws of September 4 to permit individual privatization of some parts of these enterprises.

Unlike non-agricultural enterprises, which corporatize under Decree 66 in accordance with the Law on Enterprises and Entrepreneurial Activity, agricultural enterprises are given to their employees gratis, in land up to the district norm. Peasants receive equal land shares, corrected for differences in quality and location. The share of capital received depends on labor contribution. If the farms has land less than the district norm, land will be added from a Reserve Fund. If the collective farms has land exceeding the district norm, land will be taken away and added to the Reserve Fund.

necessary some will get plots away from farm

Additional land may be purchased by peasants for agricultural purposes, but only up to a normative limit.

The law also provides for the physical division of assets, based on the principle of giving preference to those who used the assets, and then offering them for an intra-enterprise auction. As with land, however, the assets can remain collective property until such time as peasants declare their intention to separate.

In addition to laws passed by the government, the Ministry of Agriculture has issued "Recommendations on the Reorganization of Collective and State Farms." This offers the Ministry's advice on how to reorganize collective farms into new organizations on the basis of private ownership, including recommendations on how to conduct the meeting of the workers' collectives and divide the land and capital.

III. Organizational Structure of Land Reform Administration

A. Federal

1. Congress of People's Deputies
   Provides legislation which regulates land reform. Can take decisions on land purchase and sale in accordance with Article 12 of the Russian Federation Constitution.

2. President of the Russian Federation
   Issues decrees and other normative acts affecting land reform. At the present time, the primary basis for land reform in the Russian Federation are Presidential Decrees.

3. Federal Government
   Issues normative documents which provide for the implementation of laws and decrees.

4. Vice-President
   In accordance with Presidential Decree 193, the Vice-President has special responsibility for agriculture. He fulfills this role in respect to land reform through the Federal Center of Land Reform (see below).

5. Ministry of Agriculture (MOA)
   Has responsibility, along with the GKI, for implementing reform measures (in many cases through its filial organizations on the oblast levels and its Committee for Land Reform). Forms joint Republican Commission for Land Reform jointly with the GKI of the Russian Federation and manages its work. Prepares instructions on the transfer, sale, and lease of the social assets and infrastructure of collective and state farms to local authorities. Prepares list of

enterprises that do not fall under Decree 86 (i.e. privatize whole). Prepares for the government, in conjunction with the Ministry of Economy and Finance, suggestions for the determination of normative land prices.

6. State Committee for State Property Management (Federal GKI)
Has responsibility, along with the MOA, for implementing land reform, including through its filial organs on the oblast level. Forms the Joint Commission for Land Reform in conjunction with the MOA. Works out in conjunction with the MOA instructions for transfer of social assets and infrastructure to local authorities. Works out jointly with the MOA the list of enterprises not subject to privatization under Decree 86.

where are they?

7. Federal Center for Land and Agro-Industrial Reform
Body under Vice President. Has responsibility for promoting a highly effective agro-industrial complex in the Russian Federation by setting priorities in the implementation of reform. Develops, assesses, and contributes to the realization of target programs. Is granted a special Fund to carry out its tasks. Establishes a Council of experts to advise the government.

8. Republican Joint Commission for Privatization of Land
Leads the work of its affiliates on the oblast, raion, and enterprise level.

9. Committee for Land Reform and Land Resources of the Ministry of Agriculture of the Russian Federation. Administers its affiliates on the oblast and raion level.

10. Ministry of the Economy and Finances
Works out the procedure for determining normative land prices in conjunction with the MOA. Participates in the formation of tax and credit policy.

B. Oblast

1. Oblast Soviet of Peoples' Deputies
Takes decisions which regulate reforms in the oblast, including the determination of maximum sizes of plots to be given to peasants. Works out average tax rates for agricultural land, which are the basis for land prices and lease payments.

2. Oblast Administration
Creates, in conjunction with the oblast GKI and Department of Agriculture (DOA) oblast and raion joint commissions for privatization of land of collective and state farms and for the reorganization of these enterprises. Can set limits on land size in the case of a failure to do so on the part of the oblast Soviet of Peoples' Deputies. The head of administration (governor) creates, under the Committee for Land Reform, Social Councils on Land Reform with the participation of local powers and agencies of peasant self-government. The administration can also declare collective and state farms bankrupt.

3. Oblast GKI
Creates, in conjunction with the oblast administration and the Department of Agriculture, a joint commission for privatization of land.

4. Oblast Department of Agriculture
Creates, in conjunction with the oblast administration and the oblast GKI, the oblast commission for privatization of land. Bears primary responsibility, mostly through its Land Reform Committee, for implementation of land reform in the oblast.

5. Oblast Land Reform Committee
Leads the work of raion level Land Reform Committees. Resolves questions of land distribution in farms through its local affiliates in accordance with federal and oblast regulations. Reports directly to its head office in Moscow and to the oblast administration, although it is a part of the oblast Department of Agriculture. Responsible for bringing to court those who violate land reform regulations by failing to discharge their duties or causing excessive delays and complications, and for repealing rulings of local and oblast organs that are not in accordance with land reform regulations.

6. Oblast Joint Commission for Privatization of Land
Takes part in the formation (along with the oblast administration, oblast GKI, and oblast Department of Agriculture) of commissions in raions and collective and state farms. Monitors the work of these commissions.

7. Social Councils
Act as a consultative organ to the administration on questions of land reform. Offers suggestions and advice to the government.

C. Local (Raion)

1. Raion Soviet
Registers new enterprises formed on the basis of collective and state farms. Acts as purchaser for land sold back to the state.

2. Raion Administration
Takes, on the recommendation of the raion Land Reform Committee, decisions on the redistribution of land. Implements reorganization of collective and state farms and the creation of peasant (individual) farms. Implements auctions and tenders for the sale and lease of land from the land redistribution fund. Works out in conjunction with the Land Reform Committee the differential average raion norm of free transfer of land to people on the basis of population density in given zones of the raion. Responsible for providing citizens with certificates of ownership for their land. Responsible for ensuring the timely and proper distribution of land shares to workers of collective and state farms. Takes, on the recommendation of the Land Reform Committee, decisions on the provision of additional lands to reorganized farms.

3. Raion Land Reform Committee
Issues recommendations to the raion administration on the redistribution of land and on the provision of additional land to reorganized farms for agricultural production. Works out, in conjunction with the administration, the differential average raion norm for free transfer of land. Provides documents for right of property on land plots given to citizens for personal farming, gardening, and dwellings in rural areas. Monitors the fulfillment of land reform in the raion.

4. Raion Joint Commission for Privatization of Land
Receives requests for land privatization. Works with farm commissions to divide the land currently being used by collective and state farms, separating land to be given to citizens as individual or collective property from land to remain as state property. Implements privatization and reorganization of land formerly used by state and collective farms in conjunction with enterprise commissions.

D. Farm level

1. Rural Village Soviet
Receives social objects and infrastructure of privatizing collective and state farms. Accepts stocks and other certificates of property for shares of farms not taken by citizens.

2. Farm Commission for Privatization of Land
The commission bears responsibility for the reorganization and privatization of the farm. The commission consists of representatives of the local administrative bodies, the administration of the enterprise, the labor collective, the department of agriculture, the land reform committee, and creditors of the enterprise. Acts as a liquidations commission in the case of bankruptcy. The work of the commission is led by the director of the enterprise.

3. Farm Management
Implements privatization of the farm through the Farm Commission. The kolkhoz chairman or sovkhoz director bears personal responsibility for the fulfillment of land reform regulations, and can be fined for failing to do so.

4. Labor Collective
Decides whether workers in their social spheres receive shares of the property of the collective farm. Conducts the physical division of land and other assets. Decides on the size of the land and property shares within the limits set by oblast and raion regulations. Determines the legal form of the enterprise after reorganization. Can declare the farm bankrupt.

IV. Implications for Proposed IFC Program

A. Possibility of Influencing Reorganization

Presidential Decree 323, and the set of documents that followed it, primarily concern themselves with reorganization of collectivized agriculture on the basis of smaller units working on market principles and based on an increasing recognition of private property. The law is flexible, mandating re-registration but allowing peasants to choose any for of organization from collective farm to individual peasant smallholding. Thus, the individual desires of the peasants (and how they are advised by their administrations and people they respect) will play a major role in the reorganization of collective farms.

objective should be to create structures which assure mobility - give farmers income from land (e.g. through leasing) while allowing them to move out if they are redundant - avoid static minifundia

B. Organizational Role of IFC

Working through the GKI, the IFC can participate in the joint commissions on the oblast and raion level. This will give IFC the access to farm privatization commissions and labor collectives. Since the only possible (or desirable) method of causing an efficient reorganization is persuasion, the access provided should be sufficient. In addition, the role of the oblast administration and the oblast GKI are adequate to ensure that obstacles posed by slow-moving or obstructive government structures can be overcome rapidly.

V. Selected Laws, Decrees, and other Normative Documents

A. Legislation passed under Soviet Rule

Throughout the history of collective farming in the USSR, peasants have been permitted to farm small private plots. While property rights (such as the right to buy, sell, bequeath, or lease) were absent, the land was not collectively used. Up to a third of agricultural output was produced on these plots, which accounted for about 3% of land under cultivation.

1. RSFSR Constitution, Article 12;
   Prohibits sale for 10 years except to the raion soviet, and after 10 years only upon a national referendum or vote of constitutional majority. Recognizes private property with the above limitations.

2. Land Code of the RSFSR of 1991;
   Provides the basis for individual, collective, and state ownership of land. Gives exclusive right to make decisions on land redistribution to local Soviet of Peoples' Deputies.

3. Law On Land Reform (11/23/90; changed and amended 12/27/90);
   First attempt at producing legal basis for reorganization of collective farms. Mostly outdated by more recent legislation.

4. Law On Peasant Farms (12/22/90; changed and amended 12/27/90);
   Regulates individual farms.

B. Principle Russian Federal Documents Dealing Specifically with Land Reform

The basis for privatization of agriculture and de-collectivization is Decree 323, signed two days after the dissolution of the USSR. Further measures serve primarily to implement and flesh out this decree.

1. December 27, 1991 Presidential Decree 323 "On Urgent Measures On Implementation Of Land Reform"
   Presidential Decree giving peasants land for free, establishing procedures for determining normative sizes and prices of plots in the oblasts, temporary procedures for documenting land ownership, and the basis for punishing local officials and farm managers with personal fines for failing to enact this law in a timely manner. Also provides for the re-registration of collective and state farms in accordance with the Law "On Enterprises and Entrepreneur Activities" in 1992.

2. December 29, 1991 "Decision Of The Russian Government #86 On Procedure Of Reorganization Of Kolkhozes And Sovkhozes;"
   Decision of the Government to implement Decree 323 above. Sets out procedures and assigns responsibilities.

3. March 2, 1992 Presidential Decree 213 "On Regulations For Determination Of Norms Of Free Transfer of Land To The Property of Citizens;"
   Establishes procedures for determining normative sizes of free land plots on the oblast and raion levels.

4. March 4, 1992 "Regulation 138 of the Government of the Russian Federation on the Pace and Development of Land Reform in the Russian Federation"

5. June 27, 1992 Presidential Decree 718 "On Organizational measures to carry out land reform in the Russian Federation." Establishes a federal center for land and agro-industrial reform in Russia under the Vice President (Rutskoi). This center is given responsibility for carrying out the program for land reform, including encouraging entrepreneurship and market structures.

6. September 4, 1992 "Decision of the Government of the Russian Federation No. 708", with attached "Regulations on reorganization of the collective farms, state farms, and privatization of the state agricultural enterprises." Allows workers' collectives to register as associations, joint-stock companies, agricultural production cooperatives, private farms, or association of farms. Enterprises may also maintain their old form of organization (i.e. to re-register as collective and state farms. The collectives receive their land as private (communal) property. Individual workers have, however, a right to a share of the property of the collective.

C. Nizhny Novgorod Oblast Normative Documents

1. February 13, 1992 Decision #4-m of the Oblast Soviet Of People's Deputies On Implementation Of The Law On Payment For Land;

2. March 30, 1992 Decree #100 Of the Head Of The Oblast Administration On Regulations on Determination of the Norms of Free Transfer of Plots To the Property Of Citizens. In accordance with Decree 213, this establishes responsibility for determining normative prices and sizes for land plots, and places responsibility in the hands of the oblast Land Reform Committee and the oblast Department of Agriculture.

3. Governor's Decree #745-r On Confirmation of the List of the Enterprises Which Are Not Subject To Decree 86 of the President.

D. Documents Expected

1. Decision of the Supreme Soviet of December 23, 1992. Unpublished, rumored to simplify the procedure for selling and buying agricultural land.

2. Draft Land Codex of the Russian Federation. Sets a ten-year moratorium on sale of land given to peasants for free, a five-year moratorium on land sold at normative prices. Recognizes two forms of property: state and private. Private property is recognized as either individual, joint-collective, and share-collective. Revokes that lifetime use with right of inheritance form of property. Is expected to be adopted in mid-January, 1992.

3. Constitutional Amendment. Rumored to be under consideration. Would more explicitly recognize full private property rights for agricultural and non-agricultural land.

E. Other Documents that Affect Land Reform

The documents either implement the above listed acts or play a role in forming the broader normative framework within which land reform occurs.

1. Law On Privatization Of State And Municipally Owned Enterprises;

2. Law On Property;

3. Law On Enterprises And Entrepreneurship;

4. Law On Local Self-Rule;

5. Law On Changes And Amendments to the Constitution;

6. Law On Regional Soviets Of Peoples' Deputies And Regional

7. June 1, 1992 Presidential Decree "On confirming the method of selling land plots during the privatization of state and municipal enterprises, the expansion and additional construction of these enterprises, and also provision of land to citizens and their organizations for entrepreneurial activities."

8. December 21, 1991 Law "On Social Development of Agricultural Areas."

9. 25 February 1992 Decision #112 of the Russian Government on Confirmation of Procedure of Determination of Tax Rates On Land;

10. February 26, 1992 Presidential Decree "On the Duties and Powers of the Vice President of Russia"

11. January 14, 1992 "Recommendations on Reorganization of Sovkhozes and Kolkhozes," prepared by the Ministry of Agriculture

12. Decree of the Vice President on Implementation of March 2, 1992 Presidential Decree #213;

13. March 16, 1992 Telegram from Vice President Rutskoi;

14. Feb. 10 1992 Decision of the Presidium of the Supreme Soviet of Russia on Financial and Credit Support of Peasant Farms

ACT OF THE GOVERNMENT OF THE RUSSIAN FEDERATION
No 86, December, 29, 1991

"THE PROCEDURE FOR REORGANIZATION OF KOLKHOZE/SOVKHOZE"

3. To privatize land and reorganize its farm, each kolkhoze/sovkhoze sets up a commission. The staff of the commission is formed by representatives of local authorities, farm administration, work collectives, the raion management board of agriculture, committees on land reform, creditors. The management of these commissions is carried out by kolkhoze/sovkhoze directors who are personally in charge of fulfilment of the Act. Under Decree of the President of the Russian Federation "On urgent measures for implementation of land reform in the Russian Federation" those officials responsible for impairing the procedure and timetable for privatization are subject to answer for that.

4. The raion and intrafarm commissions are to carry out the division of land using by kolkhoze/sovkhoze by separating land that is preserved as state property and land that is transformed into private, individual and collective-shared property of the citizens.

PROVISION

ON COMMISSION FOR LAND PRIVATIZATION AND REORGANIZATION OF KOLKHOZE (SOVKHOZE)

(Adopted by the Russian Federation Agriculture Ministry on January, 22, 1992)

I. GENERAL PROVISIONS

Article 1. **Establishment of the comission for land privatization and reorganization of kolkhoze (sovkhoze)**

1.1. The commission for land privatization and reorganization of kolkhoze (sovkhoze) _____, hereinafter referred to as "the commission", is the body authorized by the raion administration to implement farm reform in compliance with the Act of the Government No 86 dated December, 29, 1991, "The procedure for reorganization of kolkhozes and sovkhozes".

1.2. The commission is set up by the general meeting (conference) of the kolkhoze (sovkhoze) work collective in compliance with the Act of the Government of the Russian Federation "The procedure for reorganization of kolkhozes and sovkhozes".

1.3. The commission reports to the general meeting (conference of the authorized representatives) of the kolkhoze (sovkhoze) work collective, the raion commission for land privatization and reorganization of kolkhozes and sovkhozes.

Article 2. **Membership of the commission**

2.1. The members of the commission are authorized representatives of the work collective, 5-7 members at least. Apart from that, the staff of the commission is formed by the raion authority representatives, rural (village) Soviet of people's deputies, farm administration, raion management board of agro-industrial complex, committee on land reform and land resources, farm creditors. Representatives from the branches of State Property Commission can also enter the commission.

Article 3. **The purpose of the commission**

The commission's priority is to set the framework for kolkhoze (sovkhoze) reform, to transform land and other productive funds and assets to private property of kolkhoze members (sovkhoze workers), other citizens, legal entities and to ensure just distribution of property, preventing accumulation of private property at the hands of a limited number of citizens.

Article 4. **Objects for the commission's activity**

Objects for the commission's activity are: land, basic funds and assets; property of kolkhoze (sovkhoze).

Article 5. Subjects for the commission's activity

Subjects for the commission's activity are all members of kolkhoze (sovkhoze workers), as well as workers of social sphere located on the farm territory, legal entities taking part in the contest for the settlement of kolkhoze (sovkhoze) debts in case of its bankrupcy, auction bidders for sale of the property of the bankrupt farm.

Article 6. Guidelines of the commission's activity

check in final version all this is addressed

The guidelines of the commission's activity are: to study the financial situation in kolkhoze (sovkhoze); to make inventory of farm property; to assess the value of kolkhoze (sovkhoze) land and property; to choose the option for land privatization and for division and evaluation of land entitlements; to change the management structure of kolkhoze (sovkhoze), to ensure that kolkhoze members and sovkhoze workers can choose organizational and legal forms of farming; to determine the list and directions of using of social infrastructure assets; to prepare data on the current reorganization of kolkhoze (sovkhoze); to work out statutory documents to set up enterprises.

Article 7. Commission's function

For the guidelines to be acomplished, the commission carries out the following functions: it works out the blueprint for kolkhoze (sovkhoze) reorganization as well as the plan for land privatization; it supervises for the compliance with the law while land and property entitlements holders are quitting the farm; it acts as liquidation commissions for bankrupt farms; it sets up the rational system for land survey on the territory of the restructuring farm, determines areas of land for urgent distribution for establishing peasant (private) farms; it renders legal and economical advisory services for kolkhoze (sovkhoze) workers; it works out the draft list of those who are going to receive land and property entitlements in the farm; it maintains the linkage between individual work of kolkhoze (sovkhoze) workers and production cooperative of peasant (private) farms; it informs people about on-going restructuring, etc.

Article 8. Legal status of the commission

8.1. The commission enjoys its rights and observes its obligations under this interim provision.

8.2. The commission acquires the rights and obligations inherited in its activity since the day its staff is adopted by the general meeting (conference) of kolkhoze (sovkhoze) work collective.

8.3. The commission is entitled to set up inward working groups, it

can, when practicable, employ for consultations some experts, independent auditory agencies to confirm the authenticity of the data.

8.4. Legal basis for the commission's activity is provided by;

Land code;

Law of the Russian Federation "On peasant (private) farm";

President's Decree "On urgent measures for implementation of land reform in the Russian Federation";

The Government's Act "The procedure for reorganization of kolkhozes and sovkhozes";

Law of the Russian Federation "On enterprises and entrepreneurship"

and other acts of legislature.

II. THE MANAGEMENT OF THE COMMISSION AND FRAMEWORK FOR ITS ACTIVITY

Article 9. The management of the commission

9.1. Under the Act of the Government of the Russian Federation "The procedure for reorganization of kolkhozes and sovkhozes", the management of the commission is carried out by the kolkhoze (sovkhoze) director who reports to the general meeting (conference) of the farm work collective.

9.2. The chairman of the commission:

directs the commistion's activity, holds its meetings;

determines the competence and duty functions of the commision's members, the schedule for their work;

supervises the implementation of the procedure and timetable for farm restructuring and land privatization;

is personally in charge of kolkhoze (sovkhoze) reorganization and the commision's activity;

decides on other issues related to the commission's activity.

9.3. The members of the commission:

are responsible for the adopted decision to be legal;

organize the activity of experts and specialists invited to implement land privatization and kolkhoze (sovkhoze) reorganization;

are responsible for the arrangement of the calendar plan to be accomplished;

implement instructions of the commission chairman;

coordinate their actions with the farm administration;

carry out some other functions they are assigned to.

Article 10. **The commission's activity and remuneration of its members**

10.1. Officials and public representatives - members of the commission - are paid at the office of their prime job.

10.2. To fulfill their duties, members of the commission are entitled to be exempt either partially or fully from their prime job.

10.3. The commission is entitled to hold meetings and adopt decisions on the issues under consideration.

10.4. Under the commision's recomendation its members can be rewarded for fulfilment of their duties.

10.5. Under Decree of the President of the Russian Federation "On urgent measures for implementation of land reform in the Russian Federation", those officials responsible for impairing the procedure and timetable of land privatization and kolkhoze (sovkhoze) restructuring are subject to answer for that.

10.6. The mandate of the commission is considered to be accomplished after all enterprises formed on kolkhoze (sovkhoze) territory (private farms, joint stock companies, etc.) are registered under the set procedure.

III. RIGHTS AND OBLIGATIONS OF THE COMMISSION

Article 11. **The rights of the commission**

11.1. On studying the financial situation in kolkhoze (sovkhoze) the commission is entitled to examine:

sale of the production, profit and effectiveness;

current accounts on standard proprietorial circulating assets;

payment balance in terms of: a) operations with assets, b) sources of assets;

perspective indicators of financial situation in the enterprise and improvement of its economy, etc.

11.2. On making inventory the commission is entitled:

to set up working groups for making inventory of property;

to identify actual availability of basic funds, fixed assets and money as well as volumes of unfinished production in physical form;

to determine fixed assets partially losing their initial quality;

to identify unused and extra fixed assets with the view of selling them in future;

to supervise for the compliance with the regulations and requirements for preserving fixed assets and money, regulations for storage and use of machinery, equipment and other fixed assets;

to determine the procedure for making inventory, its compliance with instructions and others;

to ensure that land privatization and farm restructuring do not violate the rules of law in force.

11.3. On assessing the value of land and property in kolkhoze (sovkhoze), the commission is entitled:

to determine the procedure for evaluation of farm land and property under the effective instructions.

The final decision on the procedure for evaluation of land and property is adopted by the raion commission.

11.4. Concerning land privatization arrangement, the commission has the right:

to ensure that distribution of land entitlements among members of work collectives who want to set up private farms is legally valid;

to supervise for compliance with the norm of free land distribution as well as for the purpose of it lease and swap;

to distribute land taking into account its quality, etc.;

to determine the method of payment for the swapped land and the terms for free land distribution among private farms.

11.5. To transform the organizational structure of kolkhoze (sovkhoze), the commission:

makes arrangements to prepare enterprises for restructuring and land privatization;

forms from kolkhoze (sovkhoze) new formations, determining

their statutory funds;

encourages the establishment of associations, cooperatives and other private farm associations.

11.6. To determine the list and directions of using social infrastructure assets, the commission is entitled:

to arrange privatization of department housing funds under the respective legislature;

to determine the procedure of free distridution of social sphere to new formations as their collective-shared property;

to determine the value of social assets which are to be privatized;

to supervise for preserving the status of social infrastructure assets;

to determine the procedure for transforming social assets into municipal property or into the property of legal entity and others.

11.7. To prepare information on restructuring kolkhoze (sovkhoze), the commission in entitled:

to ask the administration of the restructuring enterprise to prepare the necessary information;

to inform workers of the restructuring enterprise about current reorganization and land privatization.

11.8. To prepare statutory documents for establishment of new enterprising structures, the commission is entitled:

to set up working groups for preparing statutory documents, involving up-graded experts from scientific centers and practitioners;

to use services of the outside organizations while working out statutory documents.

Article 18. The obligations of the commission

The commission undertakes:

to ensure that land privatization and farm restructuring do not violate the rules of law in force;

to observe the set procedure and timetable for land privatization and restructuring of kolkhozes and sovkhozes;

to abide by the principles of social justice and guarantees for the people, economical efficiency of the conducted changes;

to submit all major decisions on the issues of its competence for the approval by the work collective of the farm;

to ensure openness while conducting all procedures for land privatization and farm restructuring:

to ensure the access by all persons affected by restructuring process towards respective regulations and instructions;

to encourage experts to render consultative services when it is difficult to settle the current problem without outside help;

to inform the raion commission on privatization and restructuring about current performance and results of reform in farms.

IV. LIQUIDATION OF THE COMMISSION

The commission for land privatization and restructuring stops functioning due to the decision of the general meeting of the reorganized collective.

Following the set procedure, the commission has to submit all documents adopted by the meeting of the reorganized collective.

АССОЦИАЦИЯ
КРЕСТЬЯНСКИХ (ФЕРМЕРСКИХ)
ХОЗЯЙСТВ
И СЕЛЬСКОХОЗЯЙСТВЕННЫХ
КООПЕРАТИВОВ РОССИИ

СЕЛЬСКИЙ
ПРЕДПРИНИМАТЕЛЬ

ПРЕОБРАЗОВАНИЕ КОЛХОЗА (СОВХОЗА) В АССОЦИАЦИЮ СЕЛЬСКИХ ПРЕДПРИНИМАТЕЛЕЙ

МОСКВА
АККОРИНФОРМИЗДАТ
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В подготовке материала к печати принимала участие Кунина Е.Ф.

При подготовке рекомендаций использован накопленный опыт преобразования колхозов и совхозов в ассоциации сельских предпринимателей, включающих крестьянские хозяйства и другие сельские частные, кооперативные, акционерные предприятия и товарищества.

Методические рекомендации рассчитаны на работников колхозов, совхозов, кооперативных, коллективных и акционерных предприятий, сотрудников Госкомитета по земельным ресурсам и землеустройству, АККОР и других организаций, участвующих в проведении аграрной реформы.

1. Введение

Проводимая в Российской Федерации аграрная реформа стимулирует преобразование колхозов и совхозов в крестьянские хозяйства. Экономические выгоды такого преобразования вполне очевидны. Крестьянские хозяйства:

освобождаются от уплаты налога на землю в течении пяти лет после их создания. Так как в сельском хозяйстве налог на землю включает в себя и налог на прибыль, то освобождение от налога на землю означает одновременно освобождение от налога на прибыль. Другие сельскохозяйственные предприятия платят налог на землю, а предприятия иных сфер деятельности — и налог на прибыль;

платят налоги в страховой и пенсионный фонд в размере 5% фонда потребления. Колхозы и совхозы платят в эти фонды около 27% расходов по фонду потребления;

получают из бюджета компенсации платежей по кредитам при ставках выше 8% годовых. Колхозы и совхозы также получат компенсации, но начиная с 25% годовых, а другие предприятия — платят коммерческий процент и льгот не имеют;

при создании крестьянского хозяйства переселенцами выделяются субсидии из бюджета. Они составляют 75 тыс. руб. на главу крестьянского хозяйства и 15 тыс. руб. на члена хозяйства (по ценам апреля 1992г. с последующей индексацией);

получают льготы из фонда "Российский фермер" при создании фермерских кооперативов, проведении мелиоративных и иных землеустроительных работ;

имеют определенные преимущества в материально-техническом обеспечении через созданный специальный фонд для фермеров.

Предоставленные льготы создают экономический стимул к полному преобразованию колхозов и совхозов в крестьянские хозяйства и кооперативы с последующим объединением их в ассоциации. При этом не всегда учитываются сложность процесса коренного преобразования общественного хозяйства, долгосрочные последствия поспешного юридического раздела хозяйства на части, допускается множество ошибок. Часто преобразования носят формальный характер и имеют цель получить налоговые и иные льготы.

В данных методических рекомендациях дано обоснование и изложена последовательность работ по преобразованию общественных хозяйств в ассоциации сельских предпринимателей. Рекомендации основаны на научном анализе практического отечественного и зарубежного опыта. Следование предлагаемым рекомендациям уменьшит вероятность ошибочных решений.

2. Приватизация и неизбежность преобразований

1. Приватизация сельскохозяйственных земель представляет собой их передачу из государственной собственности в собственность (владение) граждан, которые ее обрабатывают. Основная часть земель передается в собственность по установленным среднерайонным нормам

атно, остальная — выкупается или арендуется с правом последующего выкупа. Не подлежат приватизации опытные поля, сортоучастки, земли остающихся в федеральной или муниципальной собственности предприятий.

2. Приватизация средств производства — это их передача из государственной и неделимой колхозно-кооперативной собственности в индивидуальную собственность работников. Передача осуществляется в колхозах и совхозах бесплатно, в государственных хозяйствах индустриального типа — частично за выкуп. Распределение собственности между работниками (нынешними и бывшими) производится в соответствии с их трудовым вкладом. Форму использования собственности — частная, коллективно-долевая (в акционерном или кооперативном предприятии), добровольно выбирает сам ее владелец.

3. Владелец земельного или имущественного пая в колхозе, совхозе, акционерном обществе или кооперативе имеет право добровольного выхода из него и создания самостоятельного крестьянского хозяйства или иного предприятия. Собственники, не способные вести самостоятельное хозяйство из-за недостатка квалификации, по состоянию здоровья или другим причинам, имеют право на передачу своей собственности по наследству, продажу или аренду паев другим работникам, получение компенсации стоимости земли и средств производства.

4. Раздел земли и имущества на паи, предоставление права выхода из хозяйства с паями создает необходимую юридическую и экономическую основу для преобразования колхозов и совхозов. Оно может осуществляться двумя путями:

— постепенное отпочковывание от коллективного хозяйства отдельных крестьянских хозяйств, кооперативов или малых предприятий на основе заявлений владельцев земельных или имущественных паев;

— единовременная реорганизация коллективного хозяйства в систему крестьянских хозяйств, производственных и обслуживающих кооперативов, частных и акционерных предприятий.

Первый путь наиболее приемлем в тех случаях, когда число собственников, желающих выйти из хозяйства, незначительно и есть возможность удовлетворить их просьбы без существенной реорганизации функционирующих подразделений. Трудности на этом пути могут возникнуть по следующим причинам:

выход отдельных работников нарушает сложившуюся технологию производства. Например, уходящий забирает землю, а оставшийся в хозяйстве скот нельзя обеспечить кормами; фермер забирает скот, остаются животноводческие помещения, или наоборот;

создаваемые одиночные фермерские хозяйства либо отсекаются от производственной инфраструктуры колхоза или совхоза (мастерских, складов, нефтехранилищ и заправок и т.д.), либо возникают сложные проблемы взаимоотношений при пользовании указанной инфраструктурой, обеспечении семенами, посадочным материалом, молодняком животных, кормами и т.д.;

фермерские хозяйства либо отсекаются от социальной инфраструктуры (детских садов, жилого фонда и т.д.), либо встает вопрос о

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дополнительных налогах с фермеров для поддержания социальной инфраструктуры;

постепенный выход одного за другим работников вносит нервозность в коллектив, превращает реорганизацию в мучительный процесс, негативно сказывающийся на объемах производства.

Второй путь — единовременная реорганизация, наиболее приемлем в тех хозяйствах, где число собственников, желающих выйти из колхоза (совхоза), достаточно велико.

В этой ситуации необходимо составить комплексный план реорганизации хозяйства, предусматривающий взаимоувязанное решение технологических, экономических и социальных проблем, возникающих при проведении реорганизации.

План единовременного комплексного преобразования хозяйства в ассоциацию сельских предпринимателей включает в себя следующие разделы:

определение состава вновь создаваемых предприятий (крестьянских хозяйств, кооперативов по производству, переработке сельскохозяйственной продукции, обслуживанию предприятий, созданных на базе колхоза (совхоза) малых предприятий, акционерных обществ и товариществ различных типов, а также ассоциаций сельских предпринимателей);

закрепление земли, имущества, финансовых средств, кредитной задолженности за вновь создаваемыми предприятиями, передача отдельных объектов муниципалитету;

разделение баланса преобразуемого хозяйства и формирование балансов вновь создаваемых предприятий;

юридическое оформление новых предприятий и ликвидация прежнего хозяйства.

3. Предприятия, создаваемые на базе колхоза (совхоза)

При определении перечня вновь создаваемых предприятий необходимо исходить из следующих объективных и субъективных факторов:

наличие желающих, способных создать и вести самостоятельные предприятия;

техническое и технологическое оснащение вновь создаваемых предприятий;

соблюдение технологической целостности производства основных продуктов;

эффективное использование объектов производственной инфраструктуры, обеспечение доступа вновь создаваемых предприятий к этим объектам;

формирование кооперативных и частных обслуживающих предприятий;

обеспечение возможности иметь работу в частном, кооперативном или ином предприятиях всем бывшим работникам хозяйства (в качестве главы или члена хозяйства, наемного работника);

желание руководителей и членов вновь создаваемых предприятий объединиться в товарищества или ассоциации.

Перечень вновь создаваемых предприятий, как правило включает в себя следующие.

1. Крестьянские хозяйства. Создаются путем объединения земельных и имущественных паев членов одной семьи или близких родственников. Могут выкупить или арендовать паи других работников хозяйства. На сумму собственных, арендованных или выкупленных паев получают основные фонды, скот, материалы. При передаче земли и имущества крестьянским хозяйствам целесообразно соблюдать преемственность, т.е. предоставить преимущественное право членам хозяйства получить то, чем они пользовались работая в колхозе или совхозе. Целесообразно создавать крестьянские хозяйства, сочетающие растениеводство и животноводство.

2. Товарищества по совместной обработке земли (ТОЗ).Для переходного периода, особенно в самом его начале, целесообразно сохранить взаимодействие людей в звене или бригаде, которые существовали прежде. Поэтому если на месте бригады или арендного звена создано несколько юридически самостоятельных крестьянских хозяйств, то они могут формально или неформально объединиться в ТОЗ. При неформальном объединении они работают добровольно на основе устного соглашения и могут разойтись в любое время. При этом, учитывая более высокий уровень подготовки бывшего бригадира (звеньевого), по договоренности глав крестьянских хозяйств, вошедших в ТОЗ, его счет в банке может быть активным, через него проводятся большинство операций, осуществляется кредитование расходов, а счета других крестьянских хозяйств менее активны, на них перечисляются лишь доходы по итогам всей работы, проводятся расходные операции по итогам каждого месяца, начисляется амортизация, проводятся ряд других операций по мере необходимости.

3. Производственные кооперативы. В каждом колхозе и совхозе есть крупные производственные объекты, которые не могут быть без потери эффективности расчленены на крестьянские хозяйства. Причинами, препятствующими разделу таких объектов на семейные хозяйства, могут быть: поточная технология производства (на свинокомплексах с законченным циклом воспроизводства, на молочных фермах, на фермах, имеющих общую кормокухню, водоснабжение и т.д.); большое количество работников; высокая стоимость основных фондов, которые не может выкупить отдельная семья.

В некоторых случаях не снижая эффективности, можно изменить технологию и отдать отдельные помещения крестьянским хозяйствам, приспособить их для других целей (склады, хранилища и т.д.). Если все это не удается, то на базе таких объектов создаются производственные кооперативы, представляющие собой, по сути, мини колхозы. Члены кооператива — бывшие работники фермы, вносящие свои земельные и имущественные паи в качестве первоначального взноса. Производственные кооперативы целесообразно создавать в молочном скотоводстве и свиноводстве. Желательно включить в состав работников таких кооперативов механизаторов и передать им земельные угодия, необходимые для производства кормов и пастьбы скота.

4. Акционерные общества, товарищества с ограниченной ответственностью.В описанном выше случае вместо производственного кооператива может быть создано акционерное общество. Выбор предпочтительной формы организации зависит от членов коллектива. Если паи членов коллектива примерно равные, то предпочтение может быть отдано кооперативу, где каждый член имеет один голос. Если же паи существенно различаются, то предпочтительнее акционерное общество, где участие в управлении определяется суммой акций у члена общества.

Товарищество с ограниченной ответственностью отличается от акционерного общества лишь тем, что формально здесь не выпускаются акции, нет их купли-продажи.

5. Частные предприятия с наемной рабочей силой. В тех случаях, когда работники ферм или отдельных бригад не желают организовать крестьянские хозяйства, кооперативы, акционерные общества, товарищества, но имеются отдельные лидеры-предприниматели (это могут быть и бывшие руководители указанных подразделений, специалисты хозяйства), то могут быть сформированы частные предприятия, в которых предприниматель выкупает или арендует земельные или имущественные паи работников и нанимает их на работу. В этом варианте управление предприятием осуществляется как частным, а наем работников регулируется законодательством. Часть бывших работников может оказаться после реорганизации безработными.

6. Обслуживающие фермерские кооперативы. Создаются для обслуживания крестьянских хозяйств на базе имеющейся производственной инфраструктуры. Такие кооперативы создаются добровольно крестьянскими хозяйствами. С этой целью они вносят первоначальные небольшие равные вступительные взносы, а в последующем — паевые взносы, на которые выкупаются основные и оборотные фонды, передаваемые из бывшего колхоза или совхоза кооперативу. Председателем, членами такого кооператива являются фермеры, а исполнительный директор и работники принимаются по найму. Все работы в таком кооперативе выполняются наемными работниками. Наемными работниками могут быть и сами фермеры. Учредители определяют условия функционирования таких кооперативов.

Для оказания услуг крестьянским хозяйствам могут быть созданы частные предприятия, акционерные общества или товарищества. При наличии возможностей для создания нескольких обслуживающих предприятий (например, по реализации продукции), конкурирующих между собой, формы предприятий могут быть разными: кооперативными, частными, акционерными. Если же создается одно предприятие данного профиля, то предпочтение следует отдать кооперативу, так как фермеры при этом сохранят контроль за его деятельностью, ценами. При передаче имеющейся колхозной или совхозной инфраструктуры частному сервисному предприятию, являющемуся монополистом по данному виду деятельности фермеры теряют за ним контроль и вынуждены будут платить монопольно высокую цену.

Например, если мастерские колхоза или совхоза станут частным предприятием, то за ремонт придется платить назначаемую этим предприятием монопольную цену, так как в ближайшей округе нет другого такого предприятия. Если же такое предприятие будет кооперативным, то фермеры будут определять цены на услуги, распределение прибыли кооператива исходя из своих интересов.

Приведенные аргументы не являются исчерпывающим доказательством преимуществ кооперативов. В некоторых случаях частное предприятие может оказывать даже более дешевые услуги, чем кооперативное. Поэтому, как видно из приведенного в данной работе описания практического опыта реорганизации отдельных колхозов и совхозов в ассоциации сельских предпринимателей, предпочтение не всегда отдано кооперативам.

Основными типами обслуживающих крестьянских кооперативов (предприятий) являются следующие.

6.1. *Кооперативы по реализации продукции (маркетинговые кооперативы).* Материальной базой для его создания являются имеющиеся зернотока с оборудованием, зернохранилища, склады готовой продукции, магазины, базары, ларьки, т.е. все объекты, которые могут быть использованы для реализации продукции фермеров. В такой кооператив могут быть переданы также транспортные средства, холодильные установки. Таким кооперативам целесообразно передать необходимые телефонные, телеграфные, телефаксные средства связи.

На постоянной основе в этом кооперативе могут работать по найму те же работники, которые ранее обслуживали перечисленные объекты. По временным трудовым соглашениям могут работать по найму в маркетинговом кооперативе и сами фермеры.

Альтернативой кооперативному маркетинговому обслуживанию являются частные предприятия по реализации продукции фермеров. Возможно и сочетание разных типов предприятий. Например, для сервисных услуг по первичной переработке и реализации сельскохозяйственной продукции создается кооператив, а магазины, ларьки, столовые, базары становятся частными предприятиями. Отдельные кооперативы или частные предприятия могут быть созданы на базе крупных складов, холодильников и т.д.

6.2. *Кооператив по материально-техническому снабжению.* Они создаются с использованием имеющихся нефтехранилищ, складов запасных частей, удобрений, ядохимикатов, строительных и других материалов и оборудования. В этот кооператив передаются необходимые транспортные и телекоммуникационные средства.

Работниками такого кооператива могут быть бывшие экспедиторы, специалисты, которые основное свое время уделяли вопросам снабжения. Уровень торгово-сбытовых наценок и распределение прибыли в снабженческом кооперативе осуществляется в соответствии с решениями правления и общего собрания.

Наряду или вместо кооператива могут быть созданы частные предприятия по снабжению. Однако, если они монополизируют рынок, то

негативные последствия для фермеров будут те же, что и при монополизации других видов обслуживания.

6.3. *Кооператив по переработке продукции.* Материальной базой при его создании являются имеющиеся перерабатывающие и подсобные предприятия: хлебопекарни, маслобойки, комбикормовые цеха, крупорушки, цеха по переработке овощей, фруктов, винограда, мяса, молока и т.д. Работниками кооператива могут остаться те, кто работал на указанных предприятиях до реорганизации колхоза (совхоза). В зависимости от характера перерабатывающих предприятий, может быть создано несколько перерабатывающих кооперативов разного профиля, которые в последствии будут объединены по вертикали: на районном, областном, республиканском уровнях в союзы молочных, мясных, льняных, винодельных и иных кооперативов.

На базе отдельных принадлежавших ранее колхозу (совхозу), перерабатывающих предприятий могут быть созданы частные (акционерные) предприятия. Прежде всего это относится к хлебопекарням, маслобойкам.

Многие колхозы и совхозы стали акционерами крупных перерабатывающих предприятий. При реорганизации целесообразно акции этих предприятий реализовать крестьянским хозяйствам и производственным кооперативам соответствующего профиля (акции маслосырзавода — крестьянским хозяйствам и производственным кооперативам по молочному животноводству и т.д.).

6.4. *Кооператив по ремонтно-техническому обслуживанию.* Материальной базой его создания являются ремонтные мастерские и их оборудование. Как правило, в них есть и квалифицированный персонал, который может продолжать работать в мастерских в качестве наемного персонала.

Крестьянские хозяйства, создавшие ремонтно-технический кооператив, оплачивают стоимость мастерской, нанимают на работу персонал, определяют предельные цены на услуги, участвуют в распределении прибыли.

Если взносов крестьянских хозяйств будет недостаточно для создания кооператива по ремонтно-техническому обслуживанию с использованием имеющейся материально-технической базы, то на базе мастерской может быть создано акционерное предприятие или товарищество. При этом средства производства выкупают сами работники ремонтной мастерской.

6.5. *Кооператив по транспортному обслуживанию.* Основная часть автомашин при реорганизации колхоза (совхоза) будет передана крестьянским хозяйствам, кооперативам, частным предприятия. Вместе с тем, часть машин, особенно большегрузных и специальных, целесообразно сохранить в общем пользовании для оказания услуг крестьянским хозяйствам и кооперативам. Они могут быть переданы в крестьянский кооператив, если крестьянские хозяйства вступят в этот кооператив и выкупят автомашины и гаражи, а водителей наймут на работу. В противном случае вместо кооператива может быть создано акционерное предприятие или товарищество, в которое войдут сами

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водители и за счет своих паев, а при необходимости — и дополнительных средств, выкупят автомашины и гаражи.

6.6. *Кооператив по строительству.* Материальной базой для его создания являются здания, сооружения и оборудование строительного цеха, кирпичного завода, столярных мастерских, других строительных объектов. Указанному кооперативу могут быть переданы также объекты незавершенного строительства. Работниками кооператива могут стать строители бывшего колхоза (совхоза).

Строительный кооператив создается при условии, если крестьянские хозяйства и кооперативы желают и имеют средства для оплаты средств производства, передаваемых кооперативу, согласии строителей стать наемными работниками в кооперативе. Если эти условия невозможно обеспечить, то вместо кооператива может быть создано частное строительное предприятие. Оно может быть акционерным обществом, товариществом, индивидуальным предприятием. При создании товарищества или акционерного общества средства производства выкупаются членами предприятия, как правило, бывшими работниками строительного цеха, за счет своих паев или с привлечением дополнительных источников финансирования.

6.7. *Кооператив по мелиоративному обслуживанию.* Создается для рационального использования ирригационных сооружений, техники, оборудования, решения вопросов распределения воды между крестьянскими хозяйствами. Желающие вступить в этот кооператив обязаны вложить средства на приобретение имеющихся фондов. В кооперативе могут работать по найму ранее занятые в данной сфере колхозники и работники совхоза.

В области мелиоративного обслуживания, как правило, нежелательно формирование частных предприятий, так как при дефиците водных ресурсов это может привести к чрезвычайному завышению цен на воду и услуги.

6.8. *Кооператив по финансовокредитному обслуживанию.* Формирование на месте одного колхоза (совхоза) множества юридически самостоятельных предприятий, имеющих самостоятельные счета, порождает огромное количество взаиморасчетов с использованием банковской системы. Прежняя банковская система справиться с этой работой не может. Кроме того, бухгалтер и кассир колхоза (совхоза) могли часто ездить в банк, а главы крестьянских хозяйств и кооперативов, занятые своей текущей работой, часто ездить в банк в район не смогут. В связи с этим возникает объективная необходимость создания отделения банка на центральной усадьбе. Отделение может быть открыто любым коммерческим банком, готовым обслуживать сельские предпринимательские структуры.

Создание отделения банка решает проблему удобства обслуживания, особенно при многочисленных взаиморасчетах. Однако при формировании на месте одного крупного колхоза (совхоза) множества мелких предприятий увеличивается риск при кредитовании. Чтобы повысить гарантии возврата кредита, а также увеличить кредитные ресурсы за счет взаимного кредитования, необходимо сформировать

кредитный кооператив. Его членами могут быть крестьянские хозяйства и кооперативы.

Работниками отделения банка и кредитного кооператива могут стать, после соответствующей переподготовки, бухгалтера и счетоводы колхоза (совхоза). При компьютеризации обработки и передачи информации они вполне справятся с возросшим объемом банковских и кредитных операций.

Не всегда целесообразно создавать все перечисленные виды кооперативов. При определенных условиях (отсутствие инициативных людей, способных возглавить кооперативы, недостаточная развитость отдельных сфер производственной инфраструктуры) число создаваемых кооперативов может быть сокращено до 3-4 за счет объединения маркетингового и перерабатывающего кооперативов; снабженческого, ремонтно-технического и транспортного кооперативов и т.д.

7.Муниципальные предприятия по социальному обслуживанию инфраструктуры. На базе переданных колхозами (совхозами) муниципалитетам детских садов, клубов, бань, стадионов и других объектов социальной инфраструктуры могут быть сформированы самостоятельные предприятия. Многие хозяйства указанные объекты не передали муниципалитетам по своей инициативе или из-за отсутствия средств у муниципалитетов для их финансирования из бюджета. При преобразовании таких хозяйств в ассоциации целесообразно на базе указанных социальных объектов сформировать частные предприятия на индивидуальной или акционерной основе.

Для обслуживания электросетей, системы водо, тепло и газоснабжения, дорожной сети при муниципалитетах необходимо создать соответствующие подразделения, передав в них персонал из колхозов и совхозов.

В связи с недостатком средств в местном бюджете, одновременно с передачей предприятий и служб муниципалитету необходимо решить вопрос о дополнительных налогах на крестьянские хозяйства и других сельских предпринимателей с целью поддержания социальной сферы.

8. Ассоциация сельских предпринимателей. Материальной базой для создания ассоциации являются здания, техника и оборудование, ранее использовавшиеся администрацией колхоза или совхоза.

Вступление в ассоциацию для всех вновь созданных на месте общественного хозяйства предприятий является добровольным. В связи с этим на месте одного колхоза или совхоза может быть создана одна или несколько ассоциаций.

Ассоциация, как координирующий орган вновь созданных предприятий и организаций, призвана обеспечить постепенность перехода от административной системы ведения хозяйства к отраслевым союзам крестьянских кооперативов. В начальный период, обычно до 5 лет, участие вновь созданных предприятий в ассоциации может быть предусмотрено как обязательное. Это следует рассматривать не как элемент принуждения, а как гарантию их успешного функционирования до тех пор пока они наберут опыт, наладят связи, укрепят свое финансовое положение в новых экономических условиях.

4. Закрепление земли и имущества за вновь создаваемыми предприятиями

1. Процедура закрепления земли и имущества за вновь создаваемыми предприятиями включает в себя:

— раздел земли и имущества на паи;
— сбор заявлений от каждого владельца пая с указанием его пожеланий по использованию земельного и имущественного пая;
— определение перечня вновь создаваемых предприятий;
— купля-продажа, обмен и аренда земельных и имущественных паев;
— сбор заявлений от руководителей вновь создаваемых предприятий о вступлении в кооперативы с указанием размера паевых взносов в их деятельность;
— раздел земли и имущества в натуре и закрепление их за вновь создаваемыми предприятиями.

2. Раздел земли и имущества на паи между работниками колхоза или совхоза осуществляется на основе действующих законов, указов Президента РФ, Постановлений правительства, методических рекомендаций*.

Важнейшими методическими особенностями расчета паев, которые должны быть учтены в связи с преобразованием колхоза или совхоза в ассоциацию, являются следующие:

а) оценку стоимости земли и имущества предпочтительнее осуществить по текущим рыночным ценам. В этом случае цена будет отражать истинную стоимость, что значительно облегчит куплю-продажу паев, их обмен, правильное определение размера арендной платы. При оценке имущества по остаточной балансовой стоимости все захотят получить его в натуре и не согласятся продать по номинальной стоимости;

б) из общей суммы распределяемого по паям имущества заранее необходимо вычесть стоимость объектов, которые будут переданы ассоциации.

Пример распределения земли и имущества по индивидуальным паям приведен в табл. 1.

3. В результате раздела земля и имущество перейдут в собственность работников хозяйства, пенсионеров, занятых в социальной сфере. Однако не все они желают и могут организовать самостоятельные хозяйства. Поэтому необходимо выявить желающих создать крестьянские хозяйства или другие виды предприятий, стать членами крестьянских хозяйств, производственных кооперативов, акционерных предприятий, товариществ, продать свои паи, передать их в аренду.

По результатам анализа заявлений составляется сводная таблица заявлений (пример приведен в табл. 2) и перечень крестьянских хозяйств, частных сельскохозяйственных предприятий и производственных кооперативов, которые могут быть образованы.

* Министерством сельского хозяйства в январе 1992г. утверждены и разосланы во все хозяйства "Рекомендации по реорганизации колхозов и совхозов".

Таблица 1

Распределение земли и имущества по паям (условный пример)

№ лицевого счета владельца	Земельный пай		Имущественный пай в оценке восст. стоим. тыс. р.	Сумма стоимостей земельного и имущественного паев
	га сельхозугодий	тыс. рублей по норм. цене		
1	15	150	160	310
2	15	150	20	170
3	15	150	80	230
4	15	150	10	160
5	15	150	200	350
6	15	150	140	290
7	15	150	40	190
8	15	150	90	240
9	15	150	150	300
10	15	150	60	210
11	15	150	160	310
12	15	150	130	280
13	15	150	50	200
14	15	150	40	190
15	15	150	160	310
16	15	150	150	300
17	15	150	120	270
18	15	150	110	260
19	15	150	180	330
20	15	150	130	280
21	15	150	140	290
итого	315	3150	2320	5470

Уже на стадии подготовки и анализа заявлений на создание новых предприятий необходимо строго следить за тем, чтобы претенденты соответствовали предусмотренным в законе требованиям. Это особенно важно для претендента на главу крестьянского хозяйства, за которым в дальнейшем будет закрепляться земля. Он должен быть, в соответствии с законом, дееспособным гражданином Российской Федерации, достигшим 18-летнего возраста, имеющим опыт работы в сельском хозяйстве и сельскохозяйственную квалификацию, либо прошедшим специальную подготовку. Многие владельцы паев, особенно престарелые, не соответствуют указанным требованиям и не могут претендовать на роль главы крестьянского хозяйства.

4. Главы вновь создаваемых предприятий вступают в переговоры с отдельными владельцами земельных и имущественных паев, изъявивших желание их продать, и заключают сделки купли-продажи с оформлением соответствующих документов перехода собственности от одного владельца к другому и выдачей свидетельств новым владельцам. Цена реализации паев может быть нормативной или договорной.

Таблица 2

Заявления владельцев паев о намерениях их использования

N лицевого счета	Заявления владельцев земельных паев о намерении:					Заявления владельцев имущественных паев о намерении			
	Стать главой к.х.	Стать членом к.х.	Передать землю в произ. коп.	Сдать пай в аренду	Продать зем. пай	Получить имущество	Передать в производ. коп.	Сдать имущ. пай в аренду	Продать пай
1			+				+		
2	+					+			
3		+				+			
4	+					+			
5			+				+		
6	+					+			
7		+				+			
8			+				+		
9	+					+			
10		+				+			
11			+				+		
12		+				+			
13			+				+		
14	+					+			
15					+				+
16					+				+
17					+				+
18		+				+			
19				+				+	
20				+				+	
21					+				+
итого:	5	5	5	2	4	10	5	2	4

Продавать паи в первую очередь будут пенсионеры. Многие из них не желают в соответствии с законом получать стоимость паев в рассрочку в течении 10 лет и соглашаются продать их по меньшей цене, но с выплатой стоимости единовременно.

Одновременно проводятся переговоры и заключаются договора на аренду земельных и имущественных паев.

Вновь создаваемые предприятия договариваются между собой об обмене земельных паев на имущественные и наоборот. Обмен осуществляется либо по номинальной стоимости (рубль стоимости земельных угодий на рубль стоимости фондов), либо условия обмена определяются по соглашению сторон.

В табл.3 и 4 приведены примеры перераспределения земельных и имущественных паев между вновь создаваемыми предприятиями с учетом пожеланий как индивидуальных владельцев паев, так и руководителей и коллективов вновь создаваемых предприятий.

Таблица 3

Пример распределения земельных паев вновь создаваемыми предприятиями

Наименование хозяйства	Площадь земли	В том числе:								
		Пай главы хоз. и его членов		Выкупаемые паи			Получаемые по обмену (+) передаваемые (-)			Арендуемые паи
		га	н.л.с*	га	тыс. руб.	у кого н.л.с*	га	у кого н.л.с*	га	н.л.с*
Кр. хозяйство №1	30	30	2,3	-	-	-	-	-	-	-
Кр. хозяйство №2	45	30	6,7	15	150	17	-	-	-	-
Кр. хозяйство №3	75	45	9,10,12	15	150	21	+15	8	-	-
Кр. хозяйство №4	30	30	14,18	-	-	-	-	-	-	-
Частное предприятие с наемным трудом	75	15	4	30	300	15,16	-	-	30	19,20
Производственный растениеводческий кооператив	60	30	1,5	-	-	-	+30	11, 13	-	-
Производственный животноводческий кооператив	-	45	8,11,13	-	-	-	-45	-	-	-
Итого	315	225	-	60	600	-	-	-	30	-

* н.л.с. — номера лицевых счетов работников хозяйства по табл. 1 . Например, по первой строке четвертой графе таблицы 3 стоят цифры 2,3. Это значит, что в крестьянское хозяйства N1 входят два владельца паев , имеющих номера лицевых счетов 2 и 3.

В приведенных примерах рассмотрен вариант, когда предложенные к продаже и заявленные к покупке площади земли и стоимость имущественных паев совпадают. Если они не совпадут и в результате переговоров не удастся прийти к согласию, то вместо продажи земля и имущественные паи могут быть переданы в аренду.

После того, как завершен процесс распределения земельных и имущественных паев между крестьянскими хозяйствами и сельскохозяйственными производственными кооперативами, реорганизационной комиссии необходимо наметить перечень обслуживающих предприятий, которые целесообразно создать, и собрать заявления руководителей вновь создаваемых предприятий о вступлении в кооперативы с указанием размеров паевых взносов.

Таблица 4

Пример распределения имущественных паев по вновь создаваемым предприятиям

Наименование хозяйства	Стоимость фондов	в том числе:									
		Пай главы хоз. и его членов		Выкупаемые паи		Арендуемый пай		Получаемые по обмену на землю		Передаваемые в обмен на землю	
		тыс. руб.	н.л.с*	тыс. руб.	н.л.с*	тыс. руб.	н.л.с*	тыс. руб.	н.л.с*	тыс. руб.	н.л.с*
Кр. хозяйство №1	100	100	2,3	-	-	-	-	-	-	-	-
Кр. хозяйство №2	330	180	6,7	150	16	-	-	-	-	-	-
Кр. хозяйство №3	350	340	9,10,12	160	15	-	-	-	-	-150	8
Кр. хозяйство №4	150	150	14,18	-	-	-	-	-	-	-	-
Частное предприятие с наемным трудом	580	10	4	260	17,21	310	19,20	-	-	-300	11,13
Производственный растениеводческий кооператив	60	360	1,5	-	-	-	-	-	-	-	-
Производственный животноводческий кооператив	750	300	8,11,13	-	-	-	-	450	8, 11,13	-	-
Итого	2320	1440	-	570	-	310	-	450	-	-450	-

* н.л.с. — номер лицевого счета по табл. 1.

На основе заявлений составляется сводная таблица, анализ которой позволяет определить перечень создаваемых кооппеpативов и их возможный уставной фонд (пример в табл. 5).

Если нет желающих вступить в кооператив или вносятся паи для формирования уставного фонда в недостаточном размере, то вместо кооператива может формироваться либо товарищество или акционерное общество (с использованием паев работников), либо частное предприятие (на основе выкупа паев или имущества). После того, как завершены все операции по перераспреде лению паев между крестьянскими хозяйствами, производственными и сервисными кооперативами, частными предприятиями, акционерными обществами, товариществами, необходимо приступить к разделу земли и имущества в натуре и его закреплению за отдельными предприятиями.

Для раздела земли в натуре необходимо провести землеустройство и выделить каждому крестьянскому хозяйству и кооперативу землю в натуре. При этом отдельные документы выдаются на землю, находящуюся в собственности и арендованную.

Таблица 5

Паевые взносы крестьянских хозяйств и производственных сельскохозяйственных кооперативов в обслуживающие кооперативы

Наименование хозяйства	Паевые взносы в кооперативы				Всего во все кооперативы
	маркетинговый	снабженческий	ремонтный	кредитный	
Кр. хозяйство №1	10	-	-	-	10
Кр. хозяйство №2	10	10	-	10	30
Кр. хозяйство №3	20	10	20	10	60
Кр. хозяйство №4	-	10	10	10	30
Частное предприятие с наемным трудом	10	30	40	20	100
Произв. растениеводческий кооператив	10	20	-	10	40
Произв. животноводческий кооператив	10	10	40	-	60
Итого	70	90	110	60	330

Площади сельхозугодий, которые указывались в паях, были рассчитаны исходя из средней оценки угодий в колхозе или совхозе. При выделении земли в натуре должно быть учтено как плодородие, так и местоположение участков. Площадь выделяемых участков в натуре рассчитывается по формуле:

$$Si = Пi * B : Bi$$ где:

Si — площадь участков i-го вновь создаваемого предприятия по полученным, приобретенным, обменянным и арендованным паям;

Пi — земельные паи, включая арендованые, в пересчете на среднюю оценку земельных угодий в хозяйстве;

Bi — оценка участков, выделяемых i-му крестьянскому хозяйству в баллах с учетом плодородия и местоположения;

B — средняя оценка сельхозугодий по реорганизуемому хозяйству в целом.

Например, первому крестьянскому хозяйству выделено по паям 30 га (Пi = 30 га). Средняя оценка сельхозугодий по реорганизуемому хозяйству равна 60 баллов (B = 60), а на участке, который выделяется первому крестьянскому хозяйству, оценка составляет 80 баллов (Bi = 80). Выделяемая в натуре площадь составит: S = 30 * 60 : 80 = 22,5 (га). Паи второго крестьянского хозяйства составляют 45 га. Допустим, ему также выделяется 22,5 га плодородной земли с оценкой 80

баллов за 1 га, а остальная земля выделяется на пастбище с оценкой 20 баллов за 1 га. В этом случае необходимо рассчитать общую площадь земель крестьянского хозяйства в баллогектарах (45 * 60 = 2700), площадь выделяемой пашни в баллогектарах (22,5*80=1800), определить площадь пастбища в баллогектарах (2700 - 1800 = 900) и, разделив ее на оценку одного гектара пастбищ, определить площадь пастбища в натуре (900 : 20 = 45га). Таким образом, этому хозяйству, имеющему пай на 45 га, выделяется 67,5 га сельхозугодий, из них 22,5 га пашни и 45 га пастбищ.

Аналогичным образом расчитываются паи по всем хозяйствам. Результаты расчетов приведены в табл. 6.

Фактическая площадь закрепленных при землеустройстве участков может на небольшую величину отличаться от расчетной (по формуле). Оплата излишков или компенсация за недостаток земли осуществляется по договоренности сторон.

Закрепление участков должно осуществляться с учетом преемственности землепользования (при наличии нескольких претендентов преимущество при закреплении земли имеют те, кто ранее работал на ней), а также близости участков к месту жительства работников. При равенстве претендентов решение может приниматься на основе жребия.

Для закрепления имущества в натуре необходимо собрать заявления руководителей вновь создаваемых предприятий с указанием перечня зданий, сооружений, технических средств, животных, семян, материалов, на которые претендует хозяйство с учетом имеющихся паев (полученных, выкупленных, обмененных, арендованных).

Как и в случае с землей, при наличии нескольких платежеспособных претендентов на один и тот же объект, предпочтение отдается прежним пользователям, а при равенстве претендентов — претендент выбирается на основе жребия.

При разделе имущества чрезвычайно важно сохранить технологическую целостность выделяемых отдельным предприятиям ресурсов, т.е. передавать животных вместе с животноводческими помещениями, мастерскую с оборудованием, зерносклады и ток вместе с машинами по очистке и погрузке зерна и т.д.

Сохранение технологической целостности может привести к тому, что отдельные предприятия получат имущество, стоимость которого превышает стоимость паев (пример в табл. 6), а другие, наоборот, меньше. В связи с этим может вновь возникнуть необходимость купли-продажи паев, их аренды, обмена. Если стоимость фактически полученного имущества не согласуется со стоимостью паев, то задолженность должна быть оформлена как кредит. Условия кредитования определяются по соглашению с дебиторами.

После закрепления земли и имущества за вновь образованными предприятиями необходимо разделить баланс преобразуемого хозяйства и сформировать балансы вновь созданных. Прежнее предприятие при этом ликвидируется. Его правопреемником может стать создаваемая ассоциация сельских предпринимателей.

Таблица 6

Закрепление земли и имущества по предприятиям

Наименование хозяйства	Сельхозугодия, га			Стоимость, тыс. руб.			
	закреплено в натуре	было по паям	+, - (2-3)	переданного имущества	имущественных паев*	вкладов в кооп.	+, - (6-5-7)
1	2	3	4	5	6	7	8
Кр. хозяйство №1	23	30	-7	150	100	10	-60
Кр. хозяйство №2	67	45	+22	230	330	30	+70
Кр. хозяйство №3	52	75	-23	370	350	60	-80
Кр. хозяйство №4	27	30	-3	120	150	30	-
Частное предприятие с наемным трудом	75	75		400	580	100	+80
Произв.растениеводческий кооператив	71	60	+11	300	60	40	-280
Произв.животноводческий кооператив				420	750	60	+270
Кооператив по реализации продукции (маркетинговый)				70	70		
Снабженческий кооператив				90	90		
Ремонтный кооператив				110	110		
Кредитный кооператив				60	60		
Ассоциация сельских предпринимателей				200	200		
Итого	315	315	0	2520	2850	390	0

* Включая собственные, выкупленные, обмененные, арендованные.

5. Организация взаимоотношений между членами ассоциации

Основным регулятором взаимоотношений между членами ассоциации является Устав ассоциации. Он регулирует права и обязанности, ответственность членов ассоциации и включает в себя: цели и задачи ассоциации, права и обязанности, собственность и ответственность ее членов, управление в ассоциации, условия прекращения ее деятельности. В Уставе должны быть ограничены особен-

...ти взаимоотношений членов ассоциации. В ассоциации "Весна", например, введено ограничение права собственности на имущество, полученное от бывшего совхоза: запрет на реализацию, минуя Совет ассоциации. В Уставе может содержаться порядок отчисления части прибыли членов ассоциации на содержание объектов социальной инфраструктуры.

Одной из главных целей создания ассоциации является обеспечение плавного перехода от государственной к частной собственности на землю и имущество хозяйства, от административно-командных методов управления всеми подразделениями колхоза (совхоза) к взаимоотношениям, которые определяются интересами собственников отдельных подразделений.

Подразделения хозяйства были взаимосвязаны между собой. В условиях рынка некоторые связи могут стать невыгодными. Например, растениеводческим крестьянским хозяйствам выгоднее продавать зерно на бирже. Производители животноводческой продукции, из-за относительно низких закупочных цен на мясо, не могут покрыть издержки, покупая зерно по биржевым ценам. Или, например, ремонтной мастерской выгоднее выпускать какие —либо простейшие товары народного потребления и продавать их населению, а не ремонтировать технику и оборудование фермерам.

Для смягчения таких ситуаций в ассоциации может быть введена система договорных цен на оказание услуг и поставку продукции внутри ассоциации. Основой для установления таких цен будут издержки на производство продукции или услуги и надбавка, гарантирующая небольшую прибыль поставщику продукции и услуг. Эти цены могут устанавливаться не на все услуги и продукцию, а только на те, которые оказываются членами ассоциации. Причем, даже в этом случае, цены должны устанавливаться не на все услуги и объемы, а только на часть. Количество продукции, перечень услуг и цены на них устанавливаются по решению Совета ассоциации. Договора между поставщиком и получателем продукции и услуг заключаются по указанным ценам, если стороны по взаимному согласию не пришли к иному решению.

Кроме продукции и оказания услуг предметом договора могут быть — аренда земельного пая (земельного участка), имущества. Между членами ассоциации (пенсионерами и членами ассоциации) могут заключаться договоры по займу имущественных паев (денежных средств). В таких договорах указывается размер займа, условия погашения, процент за кредит заемщику, срок заема. Договора могут заключаться и между отдельными членами и ассоциацией в целом.

Все договора должны быть зарегистрированы в Совете ассоциации, который берет на себя обязанности арбитра при нарушении договоров и возникновения споров. В Уставе ассоциации оговариваются случаи применения различных санкций нарушении договоров.

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6. Подготовка учредительских документ...

Комиссия по реорганизации колхоза (совхозов) должна подготовить следующие документы:

— протоколы общего собрания работников колхоза (совхоза) об утверждении размеров земельных и имущественных паев работников, утверждении раздела хозяйства на отдельные крестьянские хозяйства, товарищества, кооперативы, об организации ассоциации, утверждении ее Устава;
— схему землеустройства с указанием собственников земельных участков и арендаторов;
— баланс хозяйства до раздела и балансы всех вновь создаваемых предприятий, включая и ассоциации.

Для регистрации в районной администрации готовятся документы:

Крестьянское хозяйство.

1. Государственный акт собственности на землю, договора на аренду земельных участков.
2. Заявка на регистрацию крестьянского хозяйства.

Товарищества, кооперативы.

1. Выписка из протокола учредительского собрания или учредительский договор.
2. Заявка на регистрацию товарищества, кооператива.
3. Устав.

Ассоциация сельских предпринимателей.

1. Учредительский договор или выписка из протокола учредительного собрания.
2. Заявка на регистрацию ассоциации сельских предпринимателей.
3. Устав.

7. Договора об обмене, аренде и купле-продаже паев, взаимных поставках и услугах между членами ассоциации

7.1. ДОГОВОР N

от "___" _____ 199 г.

об обмене земельными и имущественными паями

Владелец земельного пая _____
ф.и.о.

с одной стороны и владелец имущественного пая _____
ф.и.о.

заключили настоящий договор об обмене _____ га _____
площадь прописью

сельскохозяйственных угодий стоимостью _____ руб. _____
(сумма прописью руб. за 1 га)

по средней в хозяйстве нормативной цене на имущественный пай стоимостью _____ руб. _____
сумма прописью

Собственность на земельный пай площадью _____ га переходит к

гр. _____

а владельцем имущественного пая становится гр. _____

Свидетельствую подлинность подписей граждан, которые сделаны в моем присутствии.

Председатель Совета ассоциации
(колхоза, кооператива, акционерного общества,
коллективного предприятия)

7.2. ДОГОВОР N

от "___" _____ 199 г.

о передаче земельного пая в аренду

Арендодатель с одной стороны _____
ф.и.о.

и _____
наименование организации

в лице руководителя _____
ф.и.о. должность

именуемый в дальнейшем арендатор, заключили договор о передаче земельного пая.

1. Арендодатель обязуется:
   1.1. Дать в аренду земельный пай в количестве _____ га

на срок до _____

2. Арендатор обязуется:
   2.1. Своевременно уплачивать арендную плату за землю в размере _____

   2.2. Эффективно использовать землю в соответствии с целевым назначением, повышать ее плодородие, осуществлять комплекс мероприятий по охране земель, не допускать ухудшения экологической обстановки на территории в результате своей хозяйственной деятельности.

   2.3. Продать по ценам договоренности арендодателю следующие виды сельхозпродукции:
   1. _____
   2. _____
   3. _____

Изменения в договор вносить по согласованию сторон. Споры рассматриваются в соответствии с установленным порядком.

Арендодатель Арендатор

Свидетельствую подлинность подписей граждан, которые сделаны в моем присутствии.

Председатель совета ассоциации:

7.3. ДОГОВОР

от "___" _____ 199 г.

о передаче имущественного пая
в аренду или кредитовании финансовых ресурсов

Вкладчик _____
ф.и.о.

_____ с одной стороны и _____
наименование организации

в лице руководителя _____
ф.и.о. должность

именуемый в дальнейшем заемщик, заключили настоящий договор о передаче финансовых ресурсов в виде имущественного пая или его доли.

1. Вкладчик обязуется:

1.1. Предоставить заемщику помощь в виде передачи имущественного пая или финансовых ресурсов в сумме _____ тыс. руб. для укрепления экономики и финансового положения заемщика на срок _____
год, месяц

1.2. Изменения в договор вносить по согласованию сторон.

2. Заемщик обязуется:

2.1. Принимая в заем средства, использовать их для внедрения передовой технологии, осуществлять мероприятия и такие виды работ, которые способствуют его финансовому оздоровлению.

2.2. Возвратить в срок до _____ предоставленные средства _____

2.3. Уплачивать проценты за пользование позаимствованными средствами в сумме _____ всего, в т.ч. вкладчику _____ тыс. руб.

2.4. Продать по ценам договоренности вкладчику следующие виды сельскохозяйственной продукции, строительных и прочих материалов:

1. _____
2. _____
3. _____

2.5. Выполнить следующие виды работ или услуг:

1. _____
2. _____
3. _____

2.6. При наличии свободных денег, по согласованию сторон, производить досрочное погашение позаимствованных средств.

2.7. В случае несвоевременного возврата позаимствованных средств и невыполнения договорных обязательств по поставке сельскохозяйственной продукции, строительных материалов, работ и услуг размер процентной ставки за пользование средств повышать на 300% и взыскивать в доход вкладчика.

Вкладчик: *адрес и реквизиты*

_____
_____

Заемщик: *адрес и реквизиты*

_____
_____

Свидетельствую подлинность подписей граждан, которые сделаны в моем присутствии.

Председатель Совета ассоциации:

7.4. ДОГОВОР N

от "___" _____ 199 г.

о продаже земельного пая

Владелец земельного пая _____
ф.и.о.

и покупатель земельного пая _____
ф.и.о.

заключили настоящий договор о купле-продаже ____ га _____

_____ сельскохозяйственных
площадь прописью

угодий по средней в хозяйстве нормативной цене _____ руб. за 1 га.

Общая сумма договора _____ руб.
сумма прописью

Собственность на земельный пай площадью _____ га переходит к гр. _____
ф.и.о.

Владелец земельного пая _____
Покупатель земельного пая _____

Свидетельствую подлинность подписей граждан, которые сделаны в моем присутствии.

Председатель Совета ассоциации
(колхоза, кооператива, акционерного
общества, коллективного предприятия)

7.5. ДОГОВОР N

от "___" _____ 199 г.

о продаже имущественного пая

Владелец имущественного пая _____
ф.и.о.

и покупатель имущественного пая _____
ф.и.о.

заключили настоящий договор о купле-продаже имущественного пая на сумму ____ руб. _____.
сумма прописью

Собственность на имущественный пай на указанную сумму переходит к гр. _____, о чем должна
ф.и.о.

быть сделана запись в документе учета паев.

Продавец _____
Покупатель _____

Свидетельствую подлинность подписей граждан, которые сделаны в моем присутствии.

Председатель Совета ассоциации
(колхоза, кооператива, акционерного
общества, коллективного предприятия) _____

7.6. ДОГОВОР N

от "___" _____ 199 г.

о взаимодействии членов ассоциации

Мы, нижеподписавшиеся, с одной стороны "Поставщик" и с другой "Потребитель" в присутствии члена Совета ассоциации, действующие на основании Государственных законодательных актов о предпринимательстве и Уставных положений ассоциации, кооперативов и малых предприятий, заключили настоящий договор о нижеследующем.

1. Предмет договора

Предметом договора являются поставки продукции, выполнение работ и оказание услуг (ненужное зачеркнуть), а также порядок взаиморасчетов за них, перечисленные в приложении к договору, являющиеся неотъемлемой частью договора и заверенном подписями сторон отдельно по каждой позиции договорных отношений.

2. Обязательства сторон

Каждая из сторон принимает на себя обязательства неукоснительно выполнять согласованные в приложении поставки продукции, работы и услуги в полном объеме, ассортименте и по срокам, а также

оплачивать их по ценам, утвержденным Советом ассоциации. При невыполнении договорных обязательств виновная сторона выплачивает неустойку и штраф.

3. Санкции

За невыполнение или неполное выполнение обязательства с виновной стороны взыскиваются стоимость недопоставки (работ, услуг) и упущенная выгода или нанесенный убыток в полном объеме — в пользу потерпевшей стороны и стоимость недопоставки — в фонд компенсации Совета. В виде дополнительных санкций ассоциация может принудить любую из сторон выполнить нарушенные договорные обязательства.

4. Особые условия

Каждая из сторон может предложить другое изменение своих договорных обязательств в обмен за определенные компенсации или на других взаимовыгодных условиях. Все изменения должны осуществляться при участии и согласии члена ассоциации, визирующего действительность настоящего договора. При отсутствии такого согласия изменения могут быть признаны недействительными Советом ассоциации и к обеим сторонам будут применены штрафные санкции как к нарушителям договора.

Срок действия договора — 199 г.

Поставщик: _____ Потребитель _____

Расчетный счет N _____ Расчетный счет N _____

Договор зарегистрирован в правлении Совета ассоциации
"___" _____ 199 г. N
Полномочный член Совета _____

8. Уставы основных типов предприятий, формируемых на базе колхоза (совхоза)

Зарегистрирован
_____ районным
Советом народных депутатов
"___" _____ 199 г.
N протокола

Утвержден
Общим собранием
членов кооператива
"___" _____ 199 г.
N протокола

8.1. ПРИМЕРНЫЙ УСТАВ КООПЕРАТИВА ПО РЕМОНТУ СЕЛЬСКОХОЗЯЙСТВЕННОЙ ТЕХНИКИ

Местоположение:

1. Общие положения

1.1. Кооператив " " (именуемое в дальнейшем "кооператив") является организацией, созданной на основе добровольного соглашения пайщиков, объединивших свои паевые взносы.

1.2. Целью организации является обеспечение качественного обслуживания по приемлемым расценкам членов кооператива.

1.3. Основными видами деятельности является ремонт и техническое обслуживание техники и оборудования, изготовление и монтаж оборудования для членов кооператива, другие виды деятельности, не противоречащие Законам России.

1.4. Кооператив является юридическим лицом, права юридического лица преобретаются им с момента регистрации в районном Совете народных депутатов.

1.5. Кооператив отвечает по своим обязательствам всем принадлежащим ему имуществом.

1.6. Члены кооператива отвечают по его обязательствам в размерах своих паевых взносов.

1.7. Кооператив по обязательствам своих членов ответственности не несет.

1.8. Кооператив обладает полной хозяйственной самостоятельностью в вопросах определения формы управления, принятия хозяйственных решений, сбыта, установления цен, оплаты труда, распределения чистой прибыли.

1.9. Кооператив вправе совершать все действия, предусмотренные Законом. Его деятельность не ограничивается оговоренной в Уставе. Сделки, выходящие за пределы уставной деятельности, но не противоречащие действующему законодательству, признаются действительными.

II. Учреждение кооператива

2.1. Учредителями являются крестьянские хозяйства, товарищества, созданные на базе реорганизованного колхоза (совхоза) внесшие в фонд кооператива вступительные паевые взносы:

1.Крестьянское хозяйство Иванова И.И. — 50000 руб.

2.Крестьянское хозяйство Сидорова И.И. — 50000 руб.

. . . . . .

9.Товарищество по откорму КРС — 450000 руб.

ИТОГО — 1360000 руб.

III. Имущество кооператива и паевые взносы

3.1.Имуществом кооператива являются ремонтная мастерская, оборудование, материалы, незавершенное производство, денежные и другие активы, готовая продукция, приобретенные на средства кооператива.

3.2. Стоимость имущества кооператива состоит из паев каждого члена и совместной, неделимой части.

3.3. Источниками средств кооператива могут быть:

— вступительные и другие взносы членов в соответствии с Уставом;

— доходы от деятельности;

— кредиты;

— прочие поступления.

3.4.Кроме вступительных паевых взносов члены кооператива в обязательном порядке вносят паевые взносы раза в год в соответствии с объемами обслуживания каждого пайщика.

3.5. Соотношение между объемами деятельности и количеством паев, сроки и порядок внесения паевых взносов определяются общим собранием кооператива.

3.6. Кооператив образует неделимый резервный фонд. В него перечисляются средства из прибыли. Конкретный размер резервного фонда и отчислений для него определяется общим собранием, но фонд не может быть меньше 20% размера паевого капитала, а отчисления — не менее 10% от прибыли.

3.7. Имуществом кооператива распоряжаются только его члены через органы управления кооперативом.

3.8. Перечень других финансовых фондов кооператива, порядок их формирования, использования, делимость по паям определяются общим собранием.

IV. Распределение доходов и покрытие убытков

4.1. Доходы кооператива распределяются в следующей последовательности:

а) осуществляются платежи внешним организациям;

б) производятся отчисления в финансовые фонды кооператива;

в) производятся выплаты членам кооператива пропорционально их участию в деятельности кооператива.

4.2. Убыток кооператива покрывается по решению общего собрания за счет резервного фонда или остается для погашения в следующем периоде.

4.3. Убыток кооператива, полученный по вине конкретного члена кооператива, покрывается за счет уменьшения его доли в паевом капитале.

V. Права и обязанности членов кооператива

5.1. Членами кооператива становятся граждане и юридические лица, признающие его Устав, внесшие паевой взнос при вступлении и ежегодные взносы, готовые участвовать в его хозяйственных операциях.

5.2. Прием в члены кооператива производится на собрании его членов.

5.3. Член кооператива имеет право:

— на ремонт, техническое обслуживание кооператива по ценам, установленным пайщиками или Правлением кооператива;

— участвовать в управлении кооператива, вносить предложения по улучшению его работы;

— владеть частью паевого (долевого) фонда и получать на него проценты от прибыли ;

— получить паевой взнос в случае выхода из кооператива, прекращении его деятельности. Размер паевого взноса в этом случае может отличаться от первоначального паевого взноса и составляет долю пайщика в имуществе кооператива;

— передавать права пайщика и паевой взнос по наследству в соответствии с Гражданским кодексом РСФСР;

— при выходе на пенсию сохранить свой пай и получать на него долю прибыли при ее распределении.

5.4. Член кооператива обязан соблюдать Устав, выполнять обязательства, связанные с участием в операциях кооператива, своевременно платить взносы в кооператив.

5.5. Члены кооператива исключаются из его состава при нарушении настоящего Устава. Решение об исключении принимается общим собранием пайщиков.

VI. Управление кооперативом

6.1. Управление делами кооператива осуществляется на основе активного участия его членов в решении всех вопросов внутрикооперативной жизни.

6.2. Высшим органом управления является общее собрание пайщиков.

6.3. Собрание пайщиков созывается по решению Правления, Председателя, его членами, составляющими не менее 1/3 от их численности.

6.4. Общее собрание:

— рассматривает и утверждает Устав, вносит в него изменения и дополнения;
— избирает и отзывает председателя и правление кооператива, ревизионную комиссию, определяет их функции и структуру управления, заслушивает отчеты правления и исполнительного директора;
— утверждает смету расходов кооператива;
— утверждает условия, цены и тарифы в кооперативе по оказанию услуг пайщикам;
— утверждает решения председателя по вопросам, относящимся к компетенции общего собрания;
— принимает и исключает членов, рассматривает все вопросы по выходу из кооператива;
— устанавливает порядок распределения доходов;
— рассматривает другие наиболее важные проблемы функционирования, а также вопросы реорганизации и прекращения деятельности кооратива.

6.5. Собрание правомочно в случае присутствия не менее 2/3 членов. Решение считается принятым, если за него проголосовало не менее 50% присутствующих членов. При голосовании по наиболее важным вопросам собрание может установить принятие решений при положительном голосовании не менее 2/3 от числа присутствующих. Каждый член кооператива имеет один голос, независимо от доли в имуществе кооператива.

6.6. В период между общими собраниями управление кооператива осуществляет его Председатель.

6.7. Если число членов кооператива превысит 10 человек, то из числа его членов избирается Правление. Число членов Правления должно быть не менее 3 человек.

6.8. Члены Правления избираются на [illegible] года с ежегодной заменой [illegible] его членов.

6.9. В полномочия Правления входит:

обеспечение выполнения решений общего собрания пайщиков;

разработка цен и тарифов на услуги кооператива пайщикам, сторонним лицам;

Утверждение решения Председателя правления о приеме и оплате Исполнительного Директора;

6.10. Правление принимает решение простым большинством голосов. Правление считается правомочным принимать решение, если на его заседании присутствовало не менее 2/3 состава Правления.

6.11. Заседания Правления проводятся по мере необходимости.

6.12. Выборы Правления и Председателя производятся открытым (или тайным) голосованием большинством голосов (более 50%) из числа членов кооператива.

6.13. Председатель Правления:

— представляет интересы кооператива во внешних организациях;
— разрабатывает вместе с Правлением стратегию развития кооператива;
— контролирует текущую работу Исполнительной дирекции;
— действует без доверенности от имени кооператива.

VII. Ревизионная комиссия

7.1. Контроль за финансово-хозяйственной деятельностью кооператива осуществляет ревизионная комиссия. Комиссия в своей работе руководствуется Уставом и действующим законодательством. Она подотчетна только общему собранию членов кооператива и избирается из их числа сроком на 5 лет. Члены ревизионной комиссии не могут быть членами Правления.

7.2. Проверки осуществляются ревизионной комиссией по поручению общего собрания, собственной инициативы, отдельных членов кооператива.

7.3. Члены ревизионной комиссии вправе требовать от Исполнительной Дирекции, Правления, Председателя предоставления всех необходимых документов и личных объяснений.

7.4. Ревизионная комиссия составляет заключение по годовым отчетам и балансам, без которого собрание пайщиков не может его утвердить.

7.5. Члены ревизионной комиссии обязаны потребовать созыва чрезвычайного собрания членов кооператива, если возникла угроза его интересам.

VIII. Организация и оплата труда

8.1. Все работы в кооперативе выполняются наемными работниками.

8.2. Наем работников производится Исполнительной дирекцией, которая действует в рамках сметы, утвержденной общим собранием.

8.3. Оплата труда наемных работников производится по договоренности, но не ниже, чем по государственным нормам и тарифным ставкам, окладам.

Наемные рабочие не участвуют в распределение прибыли.

8.4. Продолжительность и распорядок рабочего дня, порядок отпусков регулируется существующим трудовым законодательством РФ.

8.5. За нарушение Устава или договора при приеме на работу Исполнительная Дирекция, Правление или Председатель в рамках их компетенции могут наложить дисциплинарные взыскания и другие наказания, вплоть до увольнения.

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IX. Исполнительная дирекция

9.1. Для организации и выполнения текущей работы Председатель кооператива нанимает Исполнительного директора, который формирует исполнительную дирекцию.

9.2. Исполнительная дирекция нанимает работников кооператива и устанавливает им оплату в рамках сметы, утвержденной собранием кооператива.

X. Реорганизация, прекращение деятельности, ликвидация.

10.1. Вопросы объединения кооператива с другими кооперативами, присоединения, разделения решается общим собранием. Условия реорганизации вырабатываются Правлением и утверждаются общим собранием его членов.

10.2. Кооператив прекращает деятельность:

— по решению общего собрания;

— по решению суда

— при объявлении кооператива банкротом.

10.3. Кооператив, прекративший свою деятельность по основаниям, указанным в статье 10.2, ликвидируется.

10.4. Объявление о прекращении деятельности и ликвидации публикуется в печати.

10.5. При прекращении деятельности по решению общего собрания оно назначает ликвидационную комиссию, ее председателя и определяет срок ликвидации. В ликвидационную комиссию могут входить и не члены кооператива.

10.6. При прекращении деятельности по решению суда суд назначает ликвидационную комиссию, ее председателя и назначает срок ликвидации.

10.7. Ликвидационная комиссия имеет права и обязанности Правления. Председатель ликвидационной комиссии наделяется правами Председателя кооператива.

10.8. Ликвидационная комиссия заканчивает текущие дела кооператива, реализует его имущество, взыскивает платежи с дебиторов, рассчитывается по обязательствам кооператива.

10.9. Долевые взносы возвращаются членам кооператива после выполнения остальных обязательств. Если имущества недостаточно, то оно распределяется пропорционально взносам. Если остаются невостребованные активы, то они распределяются между членами кооператива пропорционально их долевым взносам.

10.10. Средства на содержание ликвидационной комиссии выделяются за счет кооператива. Зарплата членам ликвидационной комиссии выплачивается раньше всех других платежей.

10.11. После окончательного распределения имущества ликвидационная комиссия созывает общее собрание кооператива и предъявляет ему на утверждение отчет. Если кооператив ликвидируется по решению суда, то отчет предъявляется суду.

10.12. Кооператив считается ликвидированным после исключения его из регистра действующих предприятий.

Зарегистрирован
_____ районным
Советом народных депутатов
"___" _____ 199 г.

N протокола

Утв[illegible]н
Общим собранием
членов товарищества
"____" _____199 г.

N протокола

8.2. ПРИМЕРНЫЙ УСТАВ ТОВАРИЩЕСТВА С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ

Местоположение товарищества:

I. Общие положения

1.1. Товарищество " " (именуемое в дальнейшем "товарищество") является организацией, созданной на основе добровольного соглашения работников объединивших свои средства.

1.2. Товарищество " " является товариществом с ограниченной ответственностью.

1.3. Целью организации является защита интересов членов товарищества, повышение их заинтересованности в результатах своего труда, эффективности использования средств производства.

1.4. Основными видами деятельности является производство молока и говядины, молодняка крупного рогатого скота и другие виды деятельности, не противоречащие Законам России.

1.5. Товарищество является юридическим лицом, права юридического лица преобретаются им с момента регистрации в районном Совете народных депутатов.

1.6. Члены товарищества отвечают по обязательствам предприятия в пределах личного вклада в капитал товарищества.

1.7. Товарищество не отвечает по обязательствам его членов.

1.8. Товарищество несет ответственность по своим обязательствам всем своим имуществом.

1.9. Товарищество обладает полной хозяйственной самостоятельностью в вопросах определения формы управления, принятия хозяйственных решений, сбыта, установления цен, оплаты труда, распределения чистой прибыли.

1.10. Товарищество вправе совершать все действия, предусмотренные Законом. Его деятельность не ограничивается оговоренной в Уставе. Сделки, выходящие за пределы уставной деятельности, но не противоречащие действующему законодательству, признаются действительными.

II. Учреждение товарищества

2.1. Учредителями являются бывшие работники колхоза (совхоза) "_____", внесшие в уставной фонд товарищества свои имущественные паи и объединяющие свои трудовые усилия для участия в деятельности товарищества:

1.Иванов И.И. — 16890 руб.
2.Никоноров П.Т. — 27955 руб.
3.Васильев А.Р. — 48670 руб.
4.Сидоров В.П. — 23678 руб.
5.Петров Н.Г. — 8560 руб.
6.Михайлова Е.И. —9638 руб.
7.Ерофеев С.Р. — 36789 руб.
8.Ермолаев В.И. — 5762 руб.
ИТОГО — 177942 руб.

2.2. Товарищество создано на основании плана преобразования хозяйства в ассоциацию сельских предпринимателей и Учредительского договора, подписанного членами товарищества.

III. Собственность товарищества

3.1. Собственностью являются ферма, скот, оборудование, переданные с баланса хозяйства на баланс товарищества на сумму паев работников и привлеченных кредитных средств, денежные и другие активы, готовая продукция, долевое участие в других предприятиях и организациях.Ежегодные приросты указанных фондов и средств, начиная с "____ " _____ 199 г. также являются собственностью товарищества.

3.2.Стоимость доли имущества каждого работника ежегодно корректируется в соответствии с приростом фондов товарищества с учетом заработной платы и приравненных к ней выплат каждого отдельного постоянного работника за год прироста фондов. Если прирост остаточной стоимости имущества отрицательная величина, то стоимость имущества каждого члена товарищества снижается.

VI. Распределение прибыли на имущество

4.1. Ежегодно часть прибыли направляется членам товарищества на выплату по паям. Размер окончательных выплат в расчете на один пай пая определяется общим собранием членов по предложению правления. Выплата не может быть больше рекомендованного правлением, но может быть уменьшена собранием.

4.2. Владельцы паев могут получить начисленные деньги или увеличить на них сумму своего пая.

V. Права и обязанности членов товарищества

5.1. Членами товарищества становятся работники бывшего хозяйства, а также другие граждане,изъявившие желание работать в товариществе, признающие настоящий Устав, принявшие на себя обязательства по осуществлению деятельности в интересах товарищества. Членами товарищества могут быть лица, не работающие в товариществе, но внесшие в него какое-либо имущество, землю, деньги.

5.2. Прием в члены товарищества производится на собрании его членов. Право на вступление имеет постоянный работник, проработавший в товариществе более 1 года.

5.3. Член товарищества имеет право:

— участвовать в управлении товарищества, вносить предложения по улучшению его работы, избирать или быть избранным в состав правления;

— владеть частью паевого (долевого) фонда товарищества и получать на него проценты от прибыли ;
— продавать свой пай другим работникам товарищества. При отсутствии средств допускается рассрочка платежей в течении лет;
— передавать имущественный пай по наследству в соответствии с Гражданским кодексом РСФСР;
— при выходе на пенсию сохранить вещественный пай за собой и получать отчисления от прибыли товарищества на него;
— получить компенсацию стоимости имущественного пая при ликвидации товарищества или при выходе из него.

5.4. Член товарищества обязан:

— соблюдать Устав и правила внутреннего распорядка, выполнять решения общих собраний и указания непосредственного руководителя;
— возмещать нанесенный предприятию ущерб за счет своего накопленного пая;
— выполнять производственную программу, добросовестно трудиться и соблюдать трудовую дисциплину;
— при купле-продаже пая у других работников зарегистрировать эту операцию у главы товарищества;
— нести ответственность за убытки товарищества в пределах стоимости принадлежащего ему пая.

5.5. Члены товарищества исключаются из его состава при нарушении настоящего Устава. Решение об исключении принимается общим собранием членов товарищества.

VI. Управление товарищества

6.1. Управление делами товарищества осуществляется на основе активного участия его членов в решении всех вопросов внутрихозяйственной жизни.

6.2. Высшим органом управления является общее собрание членов товарищества.

6.3. Собрание членов товарищества созывается руководителем товарищества, его членами, имеющими не менее 10 % акций.

6.5. Общее собрание:

— рассматривает и утверждает Устав предприятия, вносит в него изменения и дополнения;
— избирает и отзывает председателя товарищества, ревизионную комиссию, определяет их функции и структуру управления, заслушивает отчеты;
— утверждает решения председателя по вопросам, относящимся к компетенции общего собрания;
— принимает и исключает членов товарищества;
— принимает решение об распределении прибыли учреждении новых формирований внутри товарищества, вступлении в кооперативы по производству, переработке, обслуживанию и другим видам деятельности, не запрещенным действующим законодательством;
— рассматривает планы социального и экономического развития предприятия;

— рассматривает другие наиболее важные проблемы, а также вопросы реорганизации и прекращения деятельности товарищества.

6.6. Собрание правомочно в случае присутствия не менее половины членов товарищества или их законных представителей (по общей стоимости паев).

6.7. Вопросы на собрании решаются голосованием, больший вес имеет член товарищества, вложивший больший пай в имущество товарищества. В случае равенства голосов голос председательствующего является решающим.

6.8. В период между общими собраниями управление товариществом осуществляет его Председатель.

6.9. Если число членов товарищества превысит 10 человек, то из числа членов товарищества избирается Правление, которое руководит между собраниями членов товарищества. Число членов Правления должно быть не менее 3 человек.

6.10. Члены Правления избираются на года и могут переизбираться неограниченное число раз.

6.11. В полномочия Правления входит решение всех вопросов деятельности общества, если они не отнесены к исключительной компетенции общего собрания.

6.12. Правление принимает решение простым большинством голосов. Правление считается правомочным принимать решение, если на его заседании присутствовало не менее 2/3 состава Правления.

6.13. Заседания Правления проводятся по мере необходимости.

6.14. В компетенцию Правления входит:

— принятие решений об участии товарищества в деятельности других предприятий, организаций, объединений по производству, переработке и сбыту продукции, материально-техническому снабжению, строительству, техническому, ветеринарному и другим видам обслуживания;
— утверждение нормативных документов о текущей деятельности предприятия, расходы средств на аппарат управления, условий взаимоотношений между членами товарищества;
— привлечение на консультации специалистов,прием на работу наемных работников, назначение и освобождение руководителей внутренних подразделений, специалистов, заслушивание отчетов об их деятельности.

6.15. Выборы Правления и Председателя производятся открытым или тайным голосованием большинством голосов (более 50%) из числа членов товарищества.

6.16. Председатель Правления:

— осуществляет руководство предприятием в периоды между собраниями и заседаниями Правления, контроль и организацию выполнения решений собраний, Правления:
— в пределах своих полномочий издает приказы, распоряжения, открывает счета предприятия, заключает договора, представляет интересы товарищества в отношении с другими предприятиями и организациями;
— действует без доверенности от имени товарищества;

VII. Ревизионная комиссия

7.1. Контроль за финансово-хозяйственной деятельностью товарищества осуществляет ревизионная комиссия. Комиссия в своей работе руководствуется Уставом и действующим законодательством. Она подотчетна только общему собранию членов товарищества и избирается из их числа. Члены ревизионной комиссии не могут быть членами Правления.

7.2. Проверки осуществляются ревизионной комиссией по поручению общего собрания, собственной инициативы, отдельных членов товарищества.

7.3. Члены ревизионной комиссии вправе требовать от должностных лиц товарищества предоставления всех необходимых документов и личных объяснений.

7.4.Ревизионная комиссия составляет заключение по годовым отчетам и балансам, без которого собрание членов товарищества не может его утвердить.

7.5. Члены ревизионной комиссии обязаны потребовать созыва чрезвычайного собрания членов товарищества, если возникла угроза его интересам.

VIII. Организация и оплата труда

8.1. Основные работы в товариществе выполняются постоянными членами коллектива. Правление может для выполнения отдельных видов работ привлекать по договору наемных работников. Оплата труда наемных работников производится по договоренности, но не ниже, чем по государственным нормам и тарифным ставкам, окладам.

Наемные рабочие не участвуют в распределение прибыли.

8.2. Доходы каждого работника-члена товарищества определяются в соответствии с положением об оплате труда и порядком распределения прибыли, утвержденным общим собранием членов товарищества.

8.3. Продолжительность и распорядок рабочего дня, порядок отпусков регулируется существующим трудовым законодательством РФ и Правилами внутреннего распорядка товарищества.

8.4. За нарушение Устава или Правил внутреннего распорядка на виновных лиц общим собранием, Правлением или Председателем в рамках их компетенции могут быть наложены дисциплинарные взыскания и другие наказания, вплоть до увольнения.

8.5. Члены товарищества несут ответственность за причиненный предприятию материальный ущерб за счет накопленного пая.

8.6. Споры членов товарищества,возникающие в связи с деятельностью товарищества, рассматриваются Правлением, общим собранием или в судебном порядке.

IX. Прекращение деятельности товарищества

9.1. Товарищество прекращает свою деятельность:

— по решению собрания его членов;
— по решению суда, в случае неплатежеспособности или нарушения товариществом действующего законодательства России;
— по истечении срока, на который оно было создано.

9.2. Прекращение деятельности товарищества происходит путем реорганизации (слияния, присоединения, разделения, выделения, преобразования) или ликвидации.

9.3. Добровольная ликвидация производится ликвидационной комиссией, назначенной собранием членов товарищества, а в случае ликвидации по решению госарбитража или суда — ликвидационной комиссией, назначенной этими органами. С момента назначения ликвидационной комиссии к ней переходят полномочия по управлению товариществом.

9.4. Ликвидационная комиссия оценивает наличие имущества товарищества и реализует его, выявляет дебиторов и кредиторов, рассчитывается с ними, принимает меры к оплате долгов работников и работникам, составляет ликвидационный баланс и представляет его общему собранию членов.

9.5. Имеющиеся средства, в т.ч. от распродажи имущества, после расчетов по оплате труда, выполнения обязательств перед кредиторами и бюджетом, распределяются между членами пропорционально их доле в имуществе предприятия.

9.6. Ликвидация считается завершенной, а предприятие прекратившим свою деятельность с момента внесения записи об этом в реестр государственной регистрации.

9.7. Ликвидационная комиссия несет ответственность в соответствии с гражданским законодательством.

Зарегистрирован решением
исполкома Тарасовского
районного Совета народных
депутатов
Регистрационный N
от 1.04.91г.

Утвержден
учредительным собранием
членов ассоциации

Протокол N
от "___"_____ 199 г

8.3. УСТАВ АССОЦИАЦИИ КРЕСТЬЯНСКИХ (ФЕРМЕРСКИХ) ХОЗЯЙСТВ, КООПЕРАТИВОВ И МАЛЫХ ПРЕДПРИЯТИЙ "ВЕСНА"

1. Общие положения.

1.1. Ассоциация крестьянских хозяйств, кооперативов и малых предприятий "Весна" создается по решению общего собрания крестьянских хозяйств-учредителей Весеннинского сельского Совета на базе ликвидированного совхоза "Степной".

Ассоциация организуется в соответствии с Законом РСФСР "О крестьянском (фермерском) хозяйстве" на основе права крестьянских хозяйств создавать любые добровольные объединения и ассоциации.

1.2. Местонахождение ассоциации "Весна":
346050, Ростовская обл., Тарасовский район, п. Весенний.

1.3. Ассоциация является самостоятельным хозяйствующим субъектом с правами юридического лица, имеет счет в банке, круглую гербовую печать, угловой штамп, бланки со своим наименованием и другими реквизитами, пользуется правилами и выполняет обязанности, связанные с ее деятельностью, обладает имуществом на правах собственности, аренды и других предусмотренных законами основаниях.

1.4. Участники ассоциации "Весна" сохраняют самостоятельность и право юридического лица. Такими же правами они могут наделять кооперативы, малые предприятия, объединения, созданные внутри ассоциации "Весна".

1.5.Юридический статус ассоциации "Весна" — общество с ограниченной ответственностью. Ассоциация в лице Совета несет ответственность перед своими членами в пределах делегированных ей полномочий, а члены ассоциации — в границах принятых перед нею обязательств.

2. Цели и задачи.

2.1. Главной целью ассоциации является содействие во всемерном росте доходов и уровня социально-экономических условий жизни ее членов.

2.2. Путем объединения усилий участников ассоциации оказывает социальную, экономическую и правовую поддержку в организации высококультурного и эффективного производства, способствует гармоническому развитию личности крестьянина, становлению социальной общности крестьян.

2.3. Задачами ассоциации является:
- коллективное регулирование взаимоотношений между хозяйствами учредителями и между ними и созданными ими совместно обслуживающими организациями и предприятиями;
- внедрение эффективных форм кооперации во всех сферах деятельности:
- формирование сбалансированной материально-технической базы и социальной инфраструктуры коллективного пользования;
- коллективная защита законных интересов и прав участников перед другими предпринимателями, организациями и учреждениями.

3. Членство в ассоциации, права и обязанности участников.

3.1. Членами ассоциации "Весна" являются крестьянские хозяйства, фермерские хозяйства, кооперативы и малые предприятия, сферы обслуживания, сервиса и соцкультбыта, сохраняющие полную юридическую, экономическую и хозяйственную самостоятельность. Ассоциация организуется на основе добровольности и с согласия всех участников.

3.2. Учреждаемым хозяйствами-участниками обслуживающим и перерабатывающим подразделениям внутри ассоциации могут придаваться права полной хозяйственной и юридической самостоятельности, право иметь расчетный счет в банке и право быть членом-учредителем ассоциации.

Подразделения внутри ассоциации "Весна" могут иметь статус кооператива, малого предприятия, арендного коллектива и объединения

(товарищества) нескольких хозяйств, выделившихся самостоятельно, но ведущих совместно свое производство.

3.3. Каждый из участников-учредителей ассоциации как юридическое лицо вправе участвовать в любых других предприятиях и организациях: совместных, государственно-кооперативных, в кооперативах и других формированиях в качестве учредителя или на договорной основе.

3.4. В качестве членов ассоциации "Весна" могут участвовать крестьяне-пенсионеры, бывшие работники совхоза или члены крестьянских хозяйств, вышедшие из его состава. Для участия в ассоциации они предварительно объединяются в союз, выступая как коллективный член.

Если пенсионеры вносят свои имущественные паи в крестьянские хозяйства-учредители, они не являются юридическими членами ассоциации.

3.5. В качестве членов ассоциации могут выступать предприятия и организации, покупающие ее акции, выпускаемые на основании принятого решения всех учредителей.

3.6. Прием в члены ассоциации "Весна" производится решением общего собрания глав крестьянских хозяйств-учредителей ассоциации, руководителей малых предприятий и кооперативов.

3.7. Член ассоциации имеет право:

— участвовать в управлении всеми делами ассоциации, вносить предложения по улучшению ее деятельности, устранению недостатков в работе органов, подразделений и должностных лиц;
— на пользование услугами обслуживающих и перерабатывающих подразделений, консультативных, информационных и внедренческих служб ассоциации;
— на получение в исключительных случаях финансовой и материальной помощи от ассоциации в порядке, определенном ее общим собранием.

3.8. Член ассоциации обязан:

— вести аккуратно и добросовестно свое хозяйство согласно его назначению;
— руководствоваться в своей деятельности настоящим уставом, выполнять решения общего собрания членов ассоциации и ее Совета;
— участвовать своими средствами в формировании общих средств и фондов ассоциации, необходимых для создания совместных служб в соответствии с утвержденным общим собранием порядком.

3.9. Член ассоциации может быть исключен из нее в случаях несоблюдения действующего законодательства, нарушения устава, нерадивого отношения к своим обязанностям, игнорирования интересов ассоциации, несоответствия его деятельности целям и задачам ассоциации.

Решение об исключении принимается общим собранием участников ассоциации.

4. Собственность ассоциации "Весна" и ее членов.

4.1. В ассоциации "Весна" на равных правах сосуществуют и функционируют три формы собственности: коллективная (общинная), кооперативная (групповая) и личная, или частная, собственность.

4.2. Субъекты собственности:

— коллективной (общинной) — Совет ассоциации, делегирующий полномочия распорядителя Председателю Совета, его заместителям, а также в порядке оперативного управления делами — исполнительному органу Совета — исполнительной дирекции;
— муниципальной — Весенинский поселковый Совет в лице исполнительного комитета;
— кооперативной (групповой) — кооперативы, малые предприятия, товарищества по совместной обработке земли (ТОЗы) и общества по совместной обработке земли (СОЗы);
— личной (частной) — каждый из членов ассоциации "Весна".

4.3. Объекты собственности и источники их образования:

— коллективная собственность образуется от передачи в ведение ассоциации 40% имущества и финансовых средств ликвидируемого совхоза "Степной", не подлежащих приватизации и распределению между членами ассоциации при ее создании. К объектам коллективной собственности относятся: дороги общего пользования, линии электропередач, водопроводная и канализационная сети, а также некоторые другие объекты, определяемые и утверждаемые Советами ассоциации. Объекты коллективной собственности не могут быть приватизированы в первые пять лет после создания ассоциации, но могут быть переданы в аренду с правом выкупа 60 процентов стоимости, (в отдельных случаях по решению общего собрания — до 100 процентов) в течение пяти лет. В процессе деятельности ассоциации увеличение коллективной собственности будет осуществляться за счет отчислений от прибыли членов ассоциации, безвозмездной передачи и пожертвований, приобретения выморочных ненаследуемых ценностей, государственных субсидий, реализации неиспользуемых остатков резервных и страховых фондов;
— кооперативная (групповая) собственность формируется путем добровольного объединения материальных и денежных средств членов кооперативов и товариществ как на договорной основе, так и без договорных обязательств друг перед другом, а также за счет безвозмездно переданных коллективам товарно —материальных ценностей. Субъектом собственности является коллектив с преимущественными правами пользования и распорядительства тех членов добровольного объединения, чей вклад (пай) в объект собственности больше. Решение о продаже (ликвидации) объекта собственности принимается пайщиками, сумма паев которых превышает 51 процент его стоимости;
— частная, или личная, собственность образуется из личных накоплений (сбережений) главы хозяйства и членов его семьи, трудовых, материальных и денежных вкладов в средства производства и банковские учреждения, из безвозмездно полученных товарно-материальных ценностей. Субъектом и распорядителем частной собственности является глава хозяйства или его доверенное лицо.

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4.4. Ответственность за эффективное использование собственности ассоциации "Весна" лежит на следующих полномочных распорядителях:

— по коллективной собственности — на Совете и его исполнительной дирекции согласно договору (контракту);

— по групповой собственности — на полномочном представителе коллектива в пределах делегированных прав, обязанностей и ответственности;

— по частной (личной) собственности — на владельце собственности или его полномочном представителе.

Мера ответственности за правильное и эффективное использование собственности определяется договорными обязательствами и положением об экономических взаимоотношениях членов ассоциации.

4.5. Ограничение права распорядительства всеми видами собственности. В целях наиболее эффективного использования имеющихся ресурсов для расширенного воспроизводства и увеличения доходов членов ассоциации, а также упреждения хаоса в первые пять лет функционирования этого формирования вводятся следующие ограничения на право распорядительства всеми видами собственности:

а) по землепользованию:

— лицам и коллективам, не имеющим соответствующей квалификации и опыта работы или не проверенным на практике в совхозе "Степной" (в дальнейшем — в ассоциации "Весна"), земельный надел передается в аренду на 2 года, после чего по заявлению арендатора он может быть передан во владение или собственность с учетом положительных результатов работы в первые два года. Решение об этом принимается Советом с последующим утверждением на общем собрании;

— земельный надел (или часть его) может быть передан в субаренду или отчужден в соответствии с земельным законодательством после рассмотрения вопроса Советом ассоциации, независимо от причин возникновения этого вопроса;

б) по незавершенному производству:

— продукция, получаемая с объектов незавершенного производства (посевы озимых, многолетних трав, плодовых насаждений, окультуренных угодий и проч.), переданных во владение члену ассоциации безвозмездно или по государственным расценкам (нормативам), реализуется по каналам ассоциации. По объектам, проданным по договорным ценам, продукция является собственностью члена ассоциации (или постороннего пользователя) и реализуется по его усмотрению;

в) по животноводству:

— животные основного стада и молодняк, переданные безвозмездно или проданным членам ассоциации по государственным закупочным ценам (нормативам) или ниже их, могут быть реализованы только с ведома и согласия Совета или его полномочных представителей. Скот и птица, приобретенные у ассоциации или на стороне по ценам договоренности или выращенные собственноручно, реализуется владельцами по своему усмотрению;

г) по технике и сельхозинвентарю и другим товарно-материальным ценностям:

— трактора, автомобили, сельхозтехника, стройматериалы и прочие товарно-материальные ценности, полученные через ассоциацию, не могут быть проданы или переданы другим пользователям, минуя Совет ассоциации, — техника и другие товарно-материальные ценности должны в первую очередь использоваться на удовлетворение потребности в них внутри ассоциации, в противном случае Совет ассоциации применяет штрафные санкции;

д) по финансам:

— финансовые средства (включая кредиты банка), полученные при участии ассоциации, не могут служить в качестве заемных средств для третьих лиц в порядке ростовщичества или других целей. При избытке кредитных, а также собственных ресурсов или других финансовых источников, член ассоциации может передать их Совету с полученнем соответствующих финансовых или материальных выгод.

4.6. Для устойчивого обеспечения ассоциации "Весна" и ее членов финансовыми и материальными ресурсами создаются следующие фонды:

— уставной фонд в размере 40 процентов переданного безвозмездно имущества совхоза "Степной", выручки от его реализации и остатков средств на счетах ликвидируемого хозяйства. Уставной фонд является основой для формирования фондов Совета ассоциации: регулирования и компенсации, резервно-страхового, благотворительного и представительского;

— фонды фермеров, кооперативов и малых предприятий на осуществление производственной деятельности;

— фонды исполнительной дирекции;

— муниципальные фонды (фонды поселкового Совета): жилищно-коммунального хозяйства, культфонд, содержание дошкольных и учебных заведений, социальной защиты односельчан и оказание им единовременной помощи.

4.7. Ответственность за целевое и эффективное использование фондов несут:

— Уставной фонд и его составляющие — Совет ассоциации и его исполнительная дирекция,

— фонды фермеров, кооперативов и малых предприятий — главы хозяйств и руководители коллективов,

— фонды исполнительной дирекции — исполнительный директор и бухгалтер,

— муниципальные фонды — исполком поселкового Совета народных депутатов.

Использование общественных (коллективных) фондов всеми структурами ассоциации осуществляется под контролем ее Совета.

Отчет об использовании этих фондов рассматривается и утверждается общим собранием ассоциации.

4.8. Неприватизированная собственность совхоза "Степной" передается в попечительское ведение Совета ассоциации "Весна" с предоставлением ему права передачи в аренду неприватизированного имущества и зачислением доходов на счет фонда компенсации и регулирования.

4.9. Первоочередное право аренды неприватизированного имущества предоставляется исполнительной дирекции ассоциации "Весна". Решением Совета ассоциации это право может быть реформировано в обязанность.

4.10. В целях сохранения реального финансового состояния ассоциации "Весна" и ее членов все фонды подлежат индексации в соответствии с решением правительственных органов.

5. Организация взаимоотношений и ответственность членов ассоциации.

5.1. Правовой основой взаимодействия и взаимоотношений членов ассоциации "Весна" является Гражданский кодекс РФ. Основными способами оформления взаимоотношений служат договоры, контракты, согласительные беседы и односторонние обязательства. Все члены ассоциации несут взаимную ответственность и ответственность перед Советом ассоциации и его исполнительной дирекцией за соблюдение условий, зафиксированных в договорах, дополнительных соглашениях к ним, в контрактах и по прочим обязательствам, принятым главой хозяйства, руководителем кооператива, малого предприятия или другим полномочным представителем.

5.2. В качестве субъектов претензий (претендентов) могут выступать главы фермерских хозяйств, руководители малых предприятий и кооперативов, Совет и исполнительная дирекция ассоциации. Сторонние организации и ведомства не могут выступать субъектами претензий по принятым настоящим Уставом нормам.

5.3. Объекты претензий — нарушенные договорные обязательства (как двусторонние, так и односторонние) между субъектами договоров.

5.4. Ответственность за нарушенные договорные обязательства может быть трех видов:

— льготированная, то есть со скидкой с полного объема ущерба ввиду возникновения непредсказуемых обстоятельств (стихийные бедствия, эпидемии, пожары и прочее). Льготирование может быть предоставлено как со стороны контрагента (т.е. другой стороны, подписавшей договор), так и за счет фонда регулирования и компенсаций,

— полная — в полном объеме невыполнения обязательств и затрат по устранению последствий,

— повышенная — в размерах, превышающих полную ответственность, — наступает в случаях злостного уклонения от выполнения принятых обязательств, при значительных потерях в цепи контрагентов, способных разрушить систему договорных отношений как внутри ассоциации, так и с ее партнерами [illegible] кооперации за границами ассоциации "Весна".

5.5. Претензии оформляются главой хозяйства или руководителем кооператива (малого предприятия), исполнительным директором или Председателем Совета, в отношении которых допущено нарушение обязательств.

5.6. На предоставление объяснения и признание (непризнание) факта нарушения обязательств и согласие (несогласие) с претензией ответчику дается недельный срок. В случае необходимости экспертной оценки срок может быть продлен.

5.7. Претензии рассматриваются Советом в двухнедельный срок (если не было пролонгации). Решение Совета ассоциации может быть обжаловано через народный суд или госарбитраж.

5.8. Материалы по претензиям, бесспорно принятым к удовлетворению ответчиком и претендентом, с визой Председателя Совета или признанными Советом ассоциации направляются в банк (расчетный центр) для списания со счета ответчика суммы претензионного иска. При исполнении претензии в натуральном или комбинированном виде Совет ассоциации принимает решение о порядке ее удовлетворения.

5.9. Ответственность работников органов управления (исполнительной дирекции) и специалистов реализуется прямым уменьшением денежных средств на их счетах или достоверным расторжением контракта на основе акта-претензии, предъявленного специалистами и утвержденного Совета.

5.10. Все факты нарушения сторонами обязательств, даже если они пришли к взаимному согласию, рассматриваются Председателем Совета, который принимает решение — оставить исправление нарушенных обязательств на достигнутом уровне или передать дело на рассмотрение Совета.

5.11. Ответственность за хищения и умышленную порчу имущества как членами ассоциации, так и населением, проживающим на территории ассоциации, реализуется в двух формах: в полном возмещении причиненного ущерба и, независимо от размера ущерба, в форме штрафа в размере от 500 до 1000 рублей, которые поступают в фонд компенсации ассоциации.

Возмещение ущерба и уплата штрафа за несовершеннолетних детей и недееспособных граждан производят их родители и опекуны.

6. Управление в ассоциации "Весна".

6.1. Высшим органом управления ассоциации является общее собрание глав крестьянских, фермерских хозяйств, кооперативов и малых предприятий.

Общее собрание ассоциации:

— утверждает (или дает мотивированный отвод) членам ассоциации, делегированным в состав Совета от входящих в ассоциацию формирований согласно квоте, а также назначенных Советом в состав исполнительных органов ассоциации лиц, и заслушивает их отчеты;

все решение которых находится в его компетенции;
— принимает в члены ассоциации и выводит из ее состава;
— утверждает решения об учреждении новых формирований внутри ассоциации по производству, переработке, обслуживанию и другим видам деятельности, не запрещенным действующим законодательством;
— рассматривает и утверждает перспективные планы развития ассоциации;
— утверждает порядок образования и использования централизованных фондов;
— принимает решение по формированию сбалансированной материально технической базы и социальной инфраструктуры коллективного пользования;
— рассматривает другие наиболее важные вопросы деятельности ассоциации, а также вопросы реорганизации и прекращения ее деятельности.

6.2. В период между общими собраниями, которые проводятся не реже одного раза в год, управление ассоциацией осуществляет Совет. Совет формируется путем делегирования в его состав полномочных представителей по следующим квотам;
— от обособленных крестьянских и фермерских хозяйств один человек от пяти глав хозяйств; такое же представительство от кооперативов и малых предприятий с численностью занятых в каждом до 3 человек;
— от кооперативов и малых предприятий с численностью 3 и более человек — один представитель от каждого коллектива;
— от неассоциированных рабочих и служащих (наемных работников и арендных коллективов) — один представитель с правом совещательного голоса от 5 человек.

6.3. В компетенцию Совета входит:
— принятие решения об участии ассоциации в деятельности других предприятий, организации, объединений по производству, переработке и сбыту продукции, материально техническому, водохозяйственному, ветеринарному, агрохимическому, консультативному и другим видам обслуживания;
— утверждению нормативных документов о текущей деятельности ассоциации, расходов на аппарат управления, условий взаимоотношений между участниками ассоциации;
— распределение обязательств ассоциации "Весна" перед государством, другими предприятиями и учреждениями между ее участниками, а также распределение материально-технических средств, квот, дотаций и льгот;
— определение функций и структуры управления ассоциацией;
— назначение и освобождение от работы специалистов и других наемных работников, заслушивание их отчетов о работе;
— принятие решений о выходе участников из ассоциации.

6.4. Совет собирается на свои заседания не реже одного раза в месяц. Решение принимается простым большинством голосов. Решение

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менее 2/3 его состава.

6.5. Участники ассоциации могут вывести из состава Совета любого члена досрочно, делегировав в его состав нового представителя или, без этого.

6.6. Совет избирает Председателя сроком на 3 года с наделением его следующими полномочиями:
— защита интересов членов ассоциации на всех уровнях и перед любыми организациями и учреждениями без договоренности;
— подготовка решений по перспективам развития ассоциации в целом и каждого его участника для последующего их рассмотрения и утверждения в Совете;
— подготовка материалов для разработки программ развития, заключения договоров и разрешения конфликтных ситуаций, для рассмотрения их в Совете;
— внесение предложений по наиболее целесообразному и эффективному использованию общественных фондов ассоциации и право единоличного распорядительства представительским фондом;
— контроль и координация деятельности членов ассоциации и ее исполнительной дирекции;
— принятие единоличных решений по оперативному управлению делами, обязательных для исполнения всеми участниками ассоциации, и осуществление мер по их реализации;
— разработка и осуществление системы агротехнических, зооветеринарных и инженерных мероприятий по увеличению производства, повышению его качества и росту доходности;
— наложение штрафных санкций на нарушителей договорных обязательств, экологических требований на членов ассоциации, проводящих мероприятия, наносящие ущерб природе и другим членам ассоциации с последующим утверждением в Совете.

6.7. Председатель вносит на утверждение Совета кандидатуру своего заместителя, который выполняет функции исполнительного директора ассоциации и работает по бессрочному контракту. Исполнительный директор, исходя из условий контракта, самостоятельно формирует рабочий аппарат управления и представляет его на утверждение Советом ассоциации.

6.8. Исполнительный директор:
— разрабатывает и реализует мероприятия по обеспечению нормальной повседневной деятельности участников ассоциации и выполнению перспективных программ; организует материально-техническое снабжение;
— в пределах компетенции, регулируемой положением об исполнительной дирекции, издает приказы, распоряжения, открывает счета ассоциации, заключает договоры, представляет интересы ассоциации в отношениях с другими предприятиями и организациями;
— действует без договоренности от имени ассоциации;
— распоряжается доверенным ассоциацией имуществом;

— вносит предложения о применении санкций к нарушителям положения о взаимоотношениях и Устава ассоциации.

6.9. Специалисты и другие работники аппарата управления ассоциации назначаются на должность и освобождаются от нее Советом по представлению исполнительного директора.

6.10. Полномочные представители избирают ревизионную комиссию в составе 3 человек, которая в своей работе руководствуется настоящим уставом и действующим законодательством, осуществляет контроль за финансовой деятельностью Совета и должностных лиц. Она подотчетна собранию полномочных представителей и подотчетна ему же при проведении ежегодных хозяйственно-финансовых ревизий. Текущие оперативные проверки комиссия проводит по распоряжению Председателя Совета.

6.11. Председатель Совета, аппарат управления и исполнительная дирекция содержатся на средства ассоциации и вместе с ними несут полную материальную ответственность за неправильные действия в пределах делегированных полномочий.

7. Выход из ассоциации, прекращение ее деятельности.

7.1. Участник ассоциации вправе выйти из нее, сохранив обязательства по договорам. Неделимые фонды остаются в распоряжении ассоциации. При этом безвозмездно переданные члену ассоциации основные фонды (паи) возмещаются ассоциации в размере их остаточной стоимости.

7.2. Прекращение деятельности ассоциации осуществляется путем ее ликвидации или реорганизации (преобразование, слияние и т.д.) по решению ее участников.

7.3. Ликвидация ассоциации осуществляется в порядке, установленном действующим законодательством для ликвидации предприятия. Имущество, находящееся в коллективной неделимой собственности и оставшиеся после ликвидации ассоциации, распределяются между входившими в нее участниками пропорционально накопленному ими паю.

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Типография Минстанкопрома

Заказ 2276 Тираж 3000

MEMORANDUM

April 16, 1993

TO: The International Finance Corporation

In connection with the land reform project undertaken by you in Nizhny Novgorod, you have asked us certain questions relating to the legal status of land used by, and the governance structure of, farming enterprises created on the basis of pre-existing kolkhoz and sovkhoz.

Complete answers to such questions cannot be given without a review of the documentation of each farming enterprise, including the certificates of land ownership, if any, which documentation has not been made available to us. It is possible, however, to discuss generally the laws applicable to agricultural land ownership and to the organizational structure of a farming enterprise organized on the basis of a kolkhoz or sovkhoz.

1. Rights to Land

Russian land legislation employs many classifications of land use rights, including ownership, perpetual use, inheritable possession, lease, entitlement and others. In addition, the laws distinguish among the potential owners or users of land--the state, collectives of individuals, individuals, joint stock companies, farming enterprises and others--such that each form of land use rights is restricted to certain types of owners (users). For agricultural enterprises organized on the basis of a kolkhoz or sovkhoz, such restrictions are expressed in several legislative acts and appear to be mutually inconsistent.

In accordance with Article 3 of the "Land Code of RSFSR," land may be owned by "the state, individuals, kolkhozes,

collectives of other agricultural enterprises and joint stock companies, including those created on the basis of sovkhoz and other state agricultural enterprises." Although there is some ambiguity in the word "collectives" as used in this section, it appears that joint stock companies and other enterprises may not themselves "own" the land but that the "collectives," presumably the workers' collectives, of such enterprises may.

In the event of a reorganization of a kolkhoz or sovkhoz, the Land Code provides that at the request of the workers' collective the land used by such kolkhoz (Articles 8 and 9) or sovkhoz (Article 6) may be transferred to the ownership of the collective. The land subject to such transfer may not exceed a specified norm of land entitlement per worker prevailing in the relevant region of the country. The form of collective ownership may be collective-undivided ownership, which does not specify each member's share of the whole (Article 8), or collective-share ownership, which specifies each member's share of the whole "expressed in terms of size" (Article 9).

Excess land that, although previously used by the kolkhoz or sovkhoz, is not subject to transfer to the collective ownership of the workers as in excess of the specified norm remains state owned and is transferred for the "indefinite (perpetual) use" of the enterprise (joint stock company) organized on the basis of a kolkhoz or sovkhoz. (Article 9)

At the same time, in accordance with Article 9 of the Land Code, evidence of ownership of the land is not issued to individual members of the collective or even to the collective as a whole but to the relevant enterprise to which such land or land use rights may have been contributed. (The prescribed form of the evidence of ownership is a "state act" completed in the manner specified in Resolution No. 493 of the Council of Ministers of RSFSR, dated 17 September 1991.) In addition, Article 8 of the Land Code, which refers to the "joint stock company land," appears further to undermine the concept of individual or collective, as contrasted with corporate, ownership of land expressed in other sections of the Land Code.

what is it?

The inconsistent treatment of agricultural land ownership rights within the Land Code is exacerbated by the provisions of the Resolution of the Government No. 86, dated 29

then it is up to the enterprise to distribute land shares to its workers/owners

December 1991 "On the Reorganization of Kolkhoz and Sovkhoz" ("Resolution No. 86"), which provides that "enterprises created in the course of reorganization of kolkhoz and sovkhoz may purchase [and presumably, as a consequence, own] land and property of the former kolkhoz workers ...." (Section 13)

Hence, it is not possible to conclude with certainty the permissible forms of land ownership in a reorganized kolkhoz or sovkhoz. The legislative provisions discussed above alternatively allow and prohibit collective (individual) and corporate ownership of land. While we do not know the interpretation of law favored by the Nizhny Novgorod kolkhoz or sovkhoz, it appears unlikely that a definitive statement as to the legality of the existing land ownership could be made in view of the legislative inconsistencies.

2. Governance

The internal governance of agricultural enterprises depends on the legal form of their organization and land use rights available to them. For enterprises organized on the basis of a kolkhoz or sovkhoz, there is some uncertainty as to the permissible forms of legal organization and, as a consequence, possible forms of governance.

In accordance with section 1 of Resolution No. 86, all kolkhoz and sovkhoz are required prior 1 January 1993 to reorganize themselves into legal entities recognized under the Law "On Enterprises and Entrepreneurial Activity." Kolkhozes so reorganized would appear to be governed in their operations and management structure by the general rules applicable to joint stock companies, partnerships or other entities, as the case may be.

but not oblige!

At the same time, section 5 of Regulation "On the Reorganization of Kolkhoz, Sovkhoz and the Privatization of State Agricultural Enterprises," adopted by Government Resolution No. 708, dated 4 September 1992, appears to permit kolkhoz and sovkhoz to retain its existing legal form. For such kolkhoz, Soviet-era management structure and operations would likely be retained. We are not aware that laws, other than the generally applicable law, such as the Civil Code, regulate the internal

governance of kolkhoz.

3. Clarification of Inconsistent Treatment

We understand that, in recognition of the legislative inconsistencies, you intend to obtain favorable clarification from the Nizhny Novgorod Council of People's Deputies with respect to the critical issues proposed by the program, and we have considered draft regulations and clarifications proposed by you.

Although local councils are charged with the implementation of several aspects of land legislation, we note that Article 21 of the Land Code specifically describes the powers of an oblast council of people's deputies with respect to the regulation of land relations. Such Article does not vest in the councils the power to issue interpretive rulings or to waive the applicable requirements of the law. Thus, a clarification or regulation issued by the Nizhny Novgorod Council may not be sufficient as a matter of law resolve existing inconsistencies or to clarify ambiguities.

want to see!

Please do not hesitate to discuss any of the above with Alex Papachristou, Leonid Rozhetskin or Natalya Artemyeva.

White & Case

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MEMORANDUM

To: Ms. Gretchen Wilson, IFC Washington
Mr. Anthony Doran, IFC Washington
Mr. Alan Bigman, IFC Nizhny Novgorod
Ms. Rebecca Fair, IFC Nizhny Novgorod

cc: Jennifer Sullivan, Esq., IFC Washington

From: Alexander Buyevich, Esq.
Melissa J. Schwartz, Esq.

Date: April 23, 1993

Re: Nizhny Novgorod Land Privatization Project: Preliminary Memorandum

Pursuant to your request, we have reviewed the materials provided to us on April 19, 20 and 21, 1993. The following is a preliminary analysis of the two major issues you requested we examine, namely (i) the process of conveying land of collective farms (kolkhozes) and state farms (sovkhozes) to successor entities, and (ii) methods of further breaking the kolkhozes and sovkhozes into smaller units (e.g., family farms, private joint stock companies and limited liability partnerships).

I. General Conclusion.

Although there are many obstacles to overcome in the current land legislation, the legislation appears to provide a basis on which the land privatization project ("Project") envisioned by the IFC may proceed. Certain modifications to the Project may be required. Please note that it may be prudent to attempt to obtain certain clarifications with respect to the current legislation prior to proceeding with the Project and/or concurrently with the implementation of the Project.

МЕЖДУНАРОДНЫЕ АДВОКАТЫ
CHADBOURNE, PARKE, HEDMAN & UNION OF ADVOCATES

II. Conveying Ownership of Land and Property from State and Collective Farms to Successor Entities: General Framework.

a. Necessity to Convert Into Different Type of Legal Entity.

Decree No. 86 of the Russian Federation Government "On the Order of Reorganization of Kolkhozes and Sovkhozes", dated December 29, 1991, as amended by Decree No. 138 of the Russian Federation Government, dated March 6, 1992, required kolkhozes and sovkhozes to bring their legal status into conformity with current legislation no later than January 1, 1993. Article 1 of Decree No. 86 required kolkhozes and sovkhozes to convert into joint stock companies, limited liability partnerships, individual farms or another form of legal entity permitted under current Russian legislation, including the Law on Enterprises and Entrepreneurial Activity, dated December 25, 1990.

Resolution No. 708 "On the Reorganization of Kolkhozes and Sovkhozes and the Privatization of State Agricultural Enterprises", dated September 4, 1992, established the principle that the workers may freely choose the type of legal entity (entities) into which the kolkhoz and sovkhoz will be converted.

b. Distinction Between Kolkhozes and Sovkhozes With Respect to Conversion.

Although enacted prior to the onset of privatization, Articles 8 and 9 of the Land Code of the RSFSR, dated April 25, 1991 ("Land Code"), as applied to the conversion process, [redacted] These articles list those entities which may transfer land into the collective-share ownership of citizens (defined below). The list includes kolkhozes, joint stock companies created from state agricultural enterprises (sovkhozes), and other agricultural cooperatives. Sovkhozes are not specifically included in this list

According to the Land Code, it appears that a kolkhoz may be reorganized into either one or several legal entities, and may distribute shares of land to any or all of these legal entities Thus, in one step the kolkhoz may (i) be converted into different types of legal entities, (ii) be broken down into smaller units, and (iii) distribute shares of land to the successor entities. The intermediate transformation of a kolkhoz, in its entirety, into, for example, a joint stock company or a limited liability partnership [redacted] this interpretation of the Land Code.

Sovkhozes, based on this reading of the Land Code, are required to go through the intermediate step of converting, in their entirety, [redacted] as a pre-requisite to the break-down of the sovkhoz's successor legal entity into smaller units and the distribution of shares of land. [redacted] which is created from the sovkhoz may distribute shares of land, not the sovkhoz itself. This will lengthen the process of distributing the shares of the sovkhoz's

land and may complicate the process. We will attempt to confirm this interpretation of the Land Code.

c. To Whom are Shares of Land Distributed?

With respect to the distribution of the land, Resolution No. 708 requires that each citizen having rights to the land of the kolkhoz or its successor legal entity or the sovkhoz's successor legal entity (e.g., workers and pensioners who worked on kolkhoz or sovkhoz) ("Member") receive a share of the land. [redacted] ~~Resolution states that the shares must be valued in both monetary terms and in terms of size~~.

It appears from the wording of Decree No. 86 and Resolution No. 708 that until the actual geographical area of a particular share of land is determined, the share remains an indivisible (ideal) part of the entire land of the kolkhoz or its successor legal entity or the sovkhoz's successor legal entity. The entire plot of land is subject to the collective-share ownership of all Members of the kolkhoz or its successor legal entity or the sovkhoz's successor legal entity. At this stage, the Member does not have an identifiable (real) plot of land, [redacted] ~~the option to receive a plot, the geographic location of which is not yet specified~~. Please note that this division of shares of property into specific (real) shares and indivisible (ideal) shares was customary under Soviet legislation (e.g., it was common for an individual to own an indivisible (ideal) share in a multiple-family house or dwelling in an agricultural area).

d. Transferability of Shares of Land and Rights Thereto.

Current legislation places restrictions on the ability to sell, transfer or dispose of specific [redacted] shares of land, the location and dimensions of which are known. The legislation does not specifically apply these restrictions to indivisible [redacted] shares. Therefore, a Member may be able to transfer to another entity an indivisible (ideal) share prior to its conversion into a real share (i.e., prior to determination of the plot's geographic location). We will attempt to obtain confirmation of this point from the appropriate authorities.

e. Method of Distribution of Shares of Land.

Because the Resolution does not define a procedure for the distribution of specific [redacted] shares of land to the Members, it appears that the Resolution does not prohibit [redacted] ~~different forms of distribution, including by contest, lot or as anticipated in the Draft Land Distribution Procedure, auction. We will attempt to obtain confirmation of this point.~~

МЕЖДУНАРОДНЫЕ АДВОКАТЫ
CHADBOURNE, PARKE, HEDMAN & UNION OF ADVOCATES

[redacted]

III. Break-Down of Kolkhozes and Sovkhozes into Smaller Units: The Mechanics in Brief

a. Kolkhoz.

1. The workers' collective must select one of the land ownership forms specified by legislation (e.g., [redacted]). With respect to the Project, collective-share ownership (whereby each Member owns an indivisible (ideal) share of the entire land plot), as described in Articles 9 and 10 of the Land Code, may be the most appropriate form of land ownership for the Members because it appears that only this type of ownership permits transfer or alienation of rights to shares of land prior to the distribution of shares of land (see discussion in Section II(d) above).

2. Under Article 9 of the Land Code, the workers' collective then must apply to the Regional Commission on Land Privatization and Agricultural Enterprises Reorganization ("Regional Commission"), requesting a grant of the land of the kolkhoz to the collective-share ownership of the Members of the kolkhoz and providing the data stipulated in Resolution No. 708.

3. The internal commission of the kolkhoz, established pursuant to Decree No. 86, together with the Regional Commission must designate which plots of land ultimately may not be subject to further division and which plots may be transferred into the collective-share ownership of the Members.

4. At this point, the workers' collective must assign an indivisible (ideal) share to each Member. The Land Code states that this share must be defined at least in terms of its size. We must investigate further whether the size of the indivisible (ideal) share may be defined in terms of points as envisioned in the Project.

5. If the workers' collective chooses collective-share ownership of the land, the workers' rights to the land are recorded by a State [redacted] given to the kolkhoz designating which land of the kolkhoz remains state property and containing a list of co-owners of the remainder of the land of the kolkhoz and their respective indivisible (ideal) shares of land (Land Code, Article 9). In addition, a co-owner's rights with respect to his share of land must be certified by special documents issued by local Soviets which state the size of the land share (Land Code, Article 9).

6. Assuming collective-share ownership, in the interval between the indivisible (ideal) share distribution and the auction (whereby indivisible (ideal) shares will be transferred into specific (real) shares), it appears that the workers may have the right to dispose of their indivisible (ideal) shares in one of the following ways: (i) by contributing the shares to the joint stock company or limited liability partnership which is in the process of being established, or (ii) by sale or lease to the other shareholders

on terms stated in a written agreement (Decree No. 86, Section 16);

7. As noted above, auctions appear to be a legal method of distributing specific (real) land shares. We will attempt to obtain confirmation of this point. In any case, the workers' collective must approve the procedures by which the shares of land are distributed, and, by implication, the transformation of the shares from [illegible] share ownership to a variety of forms of ownership (Land Code, Article 10).

b. Sovkhoz.

It appears that the procedure by which sovkhozes may be reorganized into smaller units is different in certain respects from that applicable to kolkhozes. Most importantly, as described above, sovkhozes may first have to be converted, in their entirety, into joint stock companies, limited liability partnerships or another type of legal entity listed in the Law on Enterprises and Entrepreneurial Activities and as referred to in the Land Code. Only after this first conversion is completed may the shares of land be distributed to the Members. This extra intermediate step will increase the time needed to complete the Project with respect to sovkhozes.

Further research is needed to determine how, if at all, the distribution of the land of the sovkhoz's successor legal entity differs from the distribution of the land of the kolkhoz.

Please note that our analysis of the legality of the distribution procedures for the Project is fairly aggressive. We have based our conclusions, for the most part, on the fact that certain items are not prohibited by current legislation and on the presumption that that which is not prohibited by law is permitted. In addition, the analysis contained in this Memorandum is limited to the distribution of land and does not necessarily apply to material property attached thereto (e.g., buildings, social assets, equipment).

As you may know, we have had preliminary discussions with Dr. Ikonitskaya. Our joint conclusion was two-fold: (i) many provisions of the current legislation are utterly ambiguous and inconsistent, and (ii) the conclusions reached must be further investigated to ensure reliability.

Once you have had an opportunity to review this memorandum, please do not hesitate to contact either Alexander Buyevich, Robert Langer or Melissa Schwartz with any questions or comments you may have.

VIA FACSIMILE

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MEMORANDUM

To: Ms. Gretchen Wilson, IFC Washington
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Mr. Alan Bigman, IFC Nizhny Novgorod
Ms. Rebecca Fair, IFC Nizhny Novgorod

cc: Jennifer Sullivan, Esq., IFC Washington

From: Alexander Buyevich, Esq.
Melissa J. Schwartz, Esq.

Date: April 29, 1993

Re: Nizhny Novgorod Land Privatization Project: Follow-up Memorandum

Pursuant to your memorandum dated April 25, 1993 and our discussions with Ms. Rebecca Fair, Mr. Morabito and Dr. Ikonitskaya this week, the following is an analysis of the four issues you requested we examine: (i) whether and how lists of persons eligible to receive land, as presented by the general meetings of kolkhozes and sovkhozes to the appropriate authorities, may be amended; and if so, on what basis rights may be confirmed or challenged; (ii) whether a shareholder of an enterprise who contributed an indivisible (ideal) share of land to such enterprise may, upon leaving the enterprise, take its share of land; (iii) whether a new entity, which will be created for the main purpose of owning land, should be registered prior to or after the auction at which the shares of land are distributed; and (iv) the completeness and legality of the application forms attached to your memorandum dated April 25, 1993.

I. May the List of Those Eligible to Receive Land Share Entitlements Be Amended, and If So, On What Basis May Rights Be Confirmed Or Challenged?

Conclusion:

It should be possible to amend a list of persons entitled to receive shares of land at any time prior to the vesting of rights to the land--that is, prior to issuance and registration of a State Act confirming rights to the land.

It is not clear whether a list could be amended after a State Act has been issued and registered, but it is likely that a court would order such an amendment where a person could show a right in effect under law existing at the time the list was created; and it is possible that a court would order such an amendment in other circumstances on equitable grounds.

Rights are granted to those persons eligible under law in effect on the date of the State Act confirming the rights; but there is a tenable legal argument that persons eligible under law in effect on the date of creation of the list also have rights, and in practice it may be preferable to include them in order to avoid litigation.

A. The Facts.

As a pre-requisite to the distribution of shares of land, the general meeting of each kolkhoz and sovkhoz submitted an application to the District Committee On Privatization of Land and Reorganization of Agricultural Enterprises (the "Committee") which (i) stated the type of ownership of land (collective share, collective joint, or individual) chosen by the general meeting, and (ii) listed the employees, pensioners and other individuals entitled to obtain shares of land pursuant to Decree No. 86 of the Russian Federation Government "On the Order of Reorganization of Kolkhozes and Sovkhozes", dated December 29, 1991, as amended by Decree No. 138 of the Russian Federation Government, dated March 6, 1992 ("Decree No. 86").

The application was submitted by each kolkhoz and sovkhoz to the appropriate Committee at some point between December 29, 1991, the date of adoption of Decree No. 86, and September 4, 1992, the date of adoption of Resolution No. 708 "On the Reorganization of Kolkhozes and Sovkhozes and the Privatization of State Agricultural Enterprises" ("Resolution No. 708"). The appropriate local Soviet, based upon the review of the application by the Committee, is required to issue and register a State Act which certifies the ownership right to the share of land. To the best of our knowledge (and we assume for the purposes of this memorandum), the State Acts have not yet been registered.

There are many reasons to believe that the lists presented to the Committee by the general meetings of the kolkhozes and sovkhozes may no longer be entirely accurate. For

example, Resolution No. 708 amended the list of persons entitled to receive shares of land as set forth in Decree No. 86. Therefore, people entitled to receive shares of land may not be included in the lists, and people who are not entitled to receive shares of land may be included. Issues of accuracy arise as to the following specific groups of people:

(i) those who were entitled to shares of land pursuant to Resolution No. 708 but were not entitled to shares pursuant to Decree No. 86;

(ii) those who resigned after the application was submitted to the Committee but prior to the issuance of the State Act;

(iii) those hired after the application was submitted to the Committee but prior to the issuance of a State Act;

(iv) pensioners or others entitled to receive shares of land who were absent from the General Meeting or otherwise mistakenly omitted from the list; and

(v) people who were included mistakenly in the list.

B. Issues

The issues you have asked us to analyze are (1) whether it is possible to revise the lists which were presented to the Committee, and if so, how; and (2) on what basis may rights be confirmed or challenged.

C. Analysis.

1. Is it possible to amend the list of people entitled to receive shares of land after the list is submitted to the Committee, either prior to or after the issuance and registration of State Acts?

Conclusion:

It should be possible to amend a list of persons entitled to receive shares of land at any time prior to the vesting of rights to the land--that is, prior to issuance and registration of a State Act confirming rights to the land.

It is not clear whether a list could be amended after a State Act has been issued and registered, but it is likely that a court would order such an amendment where a person could show a right in effect under law existing at the time the list was created; and it is possible that a court would order such an amendment in other circumstances on equitable grounds.

Discussion:

(i) Amendment before State Act

Based upon our interpretation of the Land Code of the RSFSR, dated April 25, 1991 ("Land Code"), it appears that rights to shares of land vest upon issuance and registration of State Acts. Article 9 of the Land Code states the following: "The State Act certifying the ownership rights or rights to perpetual use of land shall be given to the appropriate agricultural enterprises, indicating the amount of land in state and/or collective property, and listing the property-owners and the land shares of each of them.". (Please note that this is an interpretation of the law; there have been no court rulings nor has the legislature stated the point in time at which rights to land vest.)

We shall attempt to obtain confirmation of this point.

Because rights do not vest until a State Act is issued and registered, it appears that the list of persons entitled to shares of land which is submitted to the Committee may be amended at any time prior to the issuance and registration of such a State Act. Neither Resolution No. 708 nor Decree No. 86 prohibits amendments of the lists.

(ii) Procedure for Amendment before State Act

It follows that the list submitted to the Committee may be amended by the general meeting of the kolkhoz or sovkhoz, according to the same procedure used initially, at any time prior to the issuance and registration of the State Act.

Unfortunately, neither the Land Code, Resolution No. 708 nor Decree No. 86 discusses methods of amending the list included in the applications. It appears that this is a procedural issue, rather than a legal issue.

(iii) Amendment After State Act

The Land Code is silent as to the possibility of amending the list once the State Acts are issued. It appears likely that, thereafter, only a court could invalidate or amend State Acts and recognize a person's right to land, thus creating a basis for the issuance of a new State Act. Unfortunately, there are no precedents by which to estimate the likelihood of success of such a case. However, it may be possible that the plaintiff, if successful, would receive its share of land out of that portion of the land of the kolkhoz or sovkhoz which is retained by the State (and granted to the sovkhoz or kolkhoz for perpetual use), rather than out of the land granted to the other holders. (For a fuller discussion of this division between private and State ownership of land, see section I.C(2) below.)

Likewise, any person who is mistakenly granted land by a State Act could lose the land by court action. Such land

probably would revert to the State and be included in the land granted to the enterprise for perpetual use.

2. On what basis may rights be confirmed or challenged?

Conclusion:

Rights are granted to those persons eligible under law in effect on the date of the State Act confirming the rights; but there is a tenable legal argument that persons eligible under law in effect on the date of creation of the list also have rights, and in practice it may be preferable to include them in order to avoid litigation.

Discussion:

(i) Rights under law in effect on date of State Act

The document which confers a right to land must conform to the legislation in effect at the moment of its issuance. In the present case, as described above, it appears that rights are conferred at the moment of issuance of State Acts. Since no such Act has yet been issued, the list of persons entitled to receive shares of land should be defined by the most recent law--in this case, by Resolution No. 708, which contains a list generally broader than that contained in Decree No. 86 which was issued earlier. This is true whether or not they are on the original list. Included in this category are persons subsequently hired, pensioners, and other persons mistakenly omitted.

Special consideration must be given, however, to persons whose name appears on the original list but who would be ineligible on the date of the State Act. This includes persons who withdrew from the sovkhoz or kolkhoz or who died, as well as persons mistakenly included. If the State Act confers rights to shares of land, none of those persons should receive shares of land. Therefore, it follows that these people may be removed from the amended list, since rights to land do not vest until State Acts are issued. However, this conclusion is not expressly supported by any legislation nor by any ruling of the Supreme Court. It is also subject to possible modification as discussed in (ii) immediately below.

(ii) Rights under law in effect when the list was issued.

In spite of the foregoing conclusions, there is a plausible legal argument that persons who were entitled to receive shares of land under law in effect when the list was issued may have a right to receive a share of land, either by virtue of law or because they were included on the original list by action of the general meeting. The status of a general meeting is not defined by law, however. Therefore, such a right cannot clearly be established in the absence of precedent.

(iii) Practical considerations.

Amendments which exclude persons from the list may lead to litigation, especially suits by persons who resigned from the kolkhoz or sovkhoz expecting to receive shares of land based upon the legislation in effect at the time of their resignation. Regardless of whether such a right exists, considerations of equity may lead a court to rule that these persons are entitled to shares of land and should not be penalized by a change in law. The outcomes are uncertain. The most practical approach may be to include this category of persons in the final list.

(iv) Effect of added persons on size of individual plots.

Inclusion of additional persons in the group to receive shares of land may not adversely affect the other holders of land. When the kolkhoz or sovkhoz is divided into shares, a certain portion of the total land is distributed to persons entitled to receive shares of land. The size of this portion is based upon the number of persons who are to receive shares of land. The remainder of the land of the kolkhoz or sovkhoz is retained by the State with a grant of perpetual use to the agricultural enterprise (Land Code, Article 9). Therefore, it appears that those persons who are entitled to receive shares of land under the legislation would not receive a smaller share by virtue of the inclusion of the extra persons in the list; rather, the portion of land allocated to the State would be smaller.

We will attempt to obtain confirmation of this analysis.

II. <u>May a shareholder of an enterprise who contributed an indivisible (ideal) share of land to such enterprise, upon leaving the enterprise, take his/her share of land?</u>

Conclusion:

Yes (unless he ceased to be a member by selling his share--which may be sold only to another member). But it may be advisable to amend present laws on this point, as a means of protecting remaining shareholders.

Discussion:

Article 10 of the Land Code states: "Each member of an agricultural enterprise, at the time of exit from it, has the right to receive his/her share in the form of a portion of land for his use on an agricultural basis or for sale to the local Soviet of people's deputies in accordance with Article 11 of this Code. The share of land may be transferred by inheritance. The heir to the share of land has the same rights as a member of the agricultural enterprise."

Thus, this Article provides that a shareholder of an enterprise who contributed an indivisible (ideal) share of land to such enterprise has the right, upon leaving the enterprise, to take his or her (real) share of land.

While this right protects the shareholder, it could raise difficulties for the enterprise, which in effect can be subjected to a series of involuntarily partial liquidations as shareholders withdraw. This arrangement may unduly favor departing shareholders over those remaining. The legislators appear not to have taken into account that upon withdrawal from the enterprise, the shareholder could sell his or her share for cash, rather than receiving the property which had been contributed to the enterprise.

To protect shareholders of enterprises, it may be appropriate to amend the Land Code or to provide for the elimination of this right in the new fundamentals of land legislation which are being drafted. We are able to assist in the drafting of such provisions.

III. If a new entity is created for the main purpose of owning land, should it be registered prior to or after the auction at which the shares of land are distributed?

Conclusion:

The entity could be created either before or after the auction.

The advantages of creating it before the auction are that there is no remaining argument as to the details of its establishment and that it definitely exists (and therefore its right to be granted rights in land by a State Act subsequently issued). The disadvantage is that its shareholders (and therefore the extent of its entitlement to land) must be fixed long enough in advance of the auction to allow time for registration of the entity.

The advantage of creating an entity after the auction is that new founders may continue to be admitted right up to the date of the auction, allowing the greatest flexibility in bidding for land rights. The disadvantage is that care must be taken in drafting agreements to create the entity so that the putative founders are in fact bound to carry through.

Discussion:

As we described in our memorandum dated April 23, 1993, the conversion of a share of land from indivisible (ideal) to specific (real) is critical to the share's transferability. Indivisible (ideal) shares may be transferred[1] to other members

[1]Resolution 708 expressly provides for transfer only by sale or lease, or by contribution to an enterprise being created.

of the collective (or to newly-created enterprises including members of the collective as participants).[2] Once shares become specific (real), their disposal is severely limited. It follows that individuals who participate in an auction and acquire shares may not subsequently contribute those shares to the capital of an entity because the shares would be specific (real). In order for shares to be contributed to the capital of a new entity, the shares should be indivisible (ideal) at the time of contribution.

The issue is whether to establish the entity prior to or after the auction. It should be noted that in order to establish an entity, the foundation documents must be notarized and registered with the appropriate authorities. These processes, especially registration, are not automatic and may take some time to complete.

1. Establishment of Entity Prior to Auction.

It is possible for several persons, each of whom is entitled to receive shares of land in an auction, to establish a new entity immediately prior to the auction. Each person would contribute his/her indivisible (ideal) share of land to the capital of the new entity. This transfer is permissible from the perspective of legislation concerning land transfers because the shares of land are still indivisible (ideal) at this stage.

One issue which must be investigated is whether the capital contribution of indivisible (ideal) shares to the new entity is acceptable to satisfy the capital contribution requirement for registration purposes.

Once formed, the new entity would participate in the auction and receive specific (real) shares of land (i.e., the shares of land would be converted from indivisible (ideal) shares). It should be noted that the formation of the entity prior to the auction limits the flexibility of the entity's founders at the auction (e.g., inability to add shareholders or partners to the entity at the auction in order to acquire a larger piece of land).

2. Establishment of Entity After the Auction.

An alternative would be to register the entity after the auction.

Probably the most convenient way to accomplish this would be for the founders to enter into preliminary agreements before the auction, defining the details of the entity and their obligations to one another, particularly their obligations to contribute their indivisible (ideal) shares.

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[2]There is no authority as to whether non-members of the collective could also be participants in such an enterprise. We have found no legal bar to such participation.

Article 60 of the Fundamentals of the Civil Legislation of the USSR and Republics dated May 31, 1991 provides that preliminary agreements which obligate the parties to conclude certain agreements in the future may be binding upon the parties. Therefore, those persons who will be members of the entity to be formed after the auction should enter into a preliminary agreement to form an entity. Because this preliminary agreement must minimize the possibilities of further negotiations of the terms and conditions of the actual agreements, it is advisable either (i) to attach a form of the foundation documents of the entity to the preliminary agreement or (ii) to agree on procedures of drafting the foundation agreements in the future.

The signatories to the preliminary agreement have more flexibility than persons who form an entity prior to the auction because the signatories may add or eliminate signatories to the agreement even at the time of the auction. The preliminary agreement is not a registered document and therefore, revisions may be made at the last moment. Foundation documents of an entity, on the other hand, must be notarized and registered in order to be effective.

We can find no evidence in existing legislation which would prohibit a preliminary agreement from serving as the legal basis for permitting several people to participate in an auction jointly. This preliminary agreement would be submitted to the Chairman of the Land Privatization and Reorganization Committee together with the appropriate applications for the shares of land. The actual certificates evidencing the shares of land would be issued in the name of the new entity which would be established during the period between the auction and the issuance of the State Acts. Please note that timing issues may arise as two bureaucratic procedures--registration of the entity and issuance of State Acts--must be coordinated. Upon issuance of the State Acts, the new entity would own a specific (real) share of land.

IV. Completeness and Legality of Application Forms.

We have reviewed the forms of Applications provided to us. There are no legal requirements regarding either the forms or their content. Please note, however, that several of the forms refer to entities which are not yet formed as if these entities exist. It may be advisable to mention at the end of the first sentence of the Applications that the entity shall be formed within a certain period after the auction, no later than the date on which the State Acts will be issued.

Once you have had an opportunity to review this memorandum, please do not hesitate to contact either Robert Langer, Alexander Buyevich or Melissa Schwartz with any questions or comments you might have.

VIA FACSIMILE

September 8, 1993

ANNEX D:
OPINION SURVEYS IN THE STATE AND COLLECTIVE FARMS REGARDING LAND PRIVATIZATION

D.1 "Residents' Attitude towards Land Privatization", report on qualitative research by Validata Yankelovich in the Region of Nizhni Novgorod, March 1993

This opinion survey documents the attitude of state and collective farm employees towards privatization. one of the most remarkable findings is that none of the respondents expressed desire to take land in private ownership to work it independently. Also, in the "good" state and collective farms people were more attached to the status quo and less willing to accept reforms than in "bad" farms.

D.2 "Top 15 Fears of the Kolkhozniki"

This document by Validata Yankelovich, based on the above survey (D.1), explains the major reasons why state and collective farm employees do not want to become small private farmers.

The report
on qualitative research
by

VALIDATA YANKELOVICH

in region of NIZNI NOVGOROD
MARCH 1993

RESIDENT'S ATTITUDE

TOWARDS LAND PRIVATIZATION

for BURSON-MARSTELLER

METHOD

The Validata Yankelovich firm is a market research company, affiliate of Yankelovich Partners worldwide in Russia and former Soviet republics. It has been operating in Russia since 1990. The firm's research is based on methods of Yankelovich Partners, known all over the world. The firm is engaged in research in the sphere of politics, economy, business and advertising.

Attitude of people working at collective and state farms to land reform.
Two focus groups were held at the farm "60th October Anniversary" on March 11, 1993.
Two focus groups were held at the farm "Yemelyanovo" on March 12, 1993.
Two focus groups were held at the farm "Niva" on March 16, 1993.
Two focus groups were held at the farm "Barnukovo" on March 17, 1993.

The focus groups held at each farm included a group of ordinary peasants and that of specialists and administrative workers.

Each group comprised 6 to 9 participants. The groups of ordinary peasants consisted of cattle-breeders, drivers, machine operators, metalworkers, etc.
The groups of specialists consisted of economists, chief agronomists, engineers, veterinary surgeons, team leaders.

At all farms, the professional structure was sufficiently similar.
This structure, we believe, may provide a qualitative diversity of views at farms, may represent the difference between views of administrative workers and ordinary peasants. In order to exclude any pressure from farm managers on ordinary peasants, focus groups with the participation of ordinary peasants were held prior to specialist focus groups at each farm.
Ordinary peasants were selected at random and were not warned beforehand about the subject of the research.

Respondents at the farm "60th October Anniversary" were paid 500 roubles each for their participation in focus groups. At the other farms, however, we dropped the practice as people were embarrassed to take the money and refused it.

THE PURPOSES OF THE RESEARCH

The main purpose of the research was to find out the diversity of views regarding the ongoing and future land reform at these farms and the level of awareness of farm workers.

It was also considered important to study peculiar characteristics of the farms and try to understand the common and differing features of people's mentality.

Topics for discussion were determined by the client; they were developed and supplemented in the course of the work.

OBJECTIVES OF THE STUDY

1. Peculiar characteristics of the farms under study. Real living conditions. Management problems in the existing system.

2. Understanding of various ownership forms existing at the farms. General attitude to processes taking place in the countryside, starting with collectivization and concluding with the current reforms.

3.General attitude to processes taking place in the countryside, starting with collectivization and concluding with the current reforms.

4. Attitude to introduction of private land ownership.

5. Reasons for which people do not wish to take land in private ownership.

6. Views regarding genuine potential reforms.

7. Information help.

SUMMARY:

1. The farms under study are divided into relatively "good" ("Niva" and "Barnukovo") and relatively "bad" ("60th October Anniversary" and "Yemelyanovo"). At "bad" farms, people are more inclined to accept reforms. At "good" ones, respondents would prefer to have the status quo preserved, even as they understand that the existing system is not efficient, anyway.

2. People tend to divide all ownership forms into "one's own", "common" and "belonging to other people". The fear to become dependent on a proprietor is greater than that of being dependent on the administration.

3. As of today, people tend to believe that such ownership forms as limited responsibility partnership and joint-stock company change nothing in the structure of farms. The private peasant farm is an absolutely different ownership form which stands apart. In essence, this is the only ownership form that gives people a genuine sense of owning land.

4. No respondents have expressed desire to take land in private ownership for independent work on it. The account gives 15 reasons for which people refuse to do it. The main reasons are the lack of infrastructure required for individual peasant farms, fear of losing support of the collective, absence of entrepreneur abilities.

5. People tend to refer to farm reforms as some kind of association of small farm structures. The concept of comprehensive job contract (team contract) remains very popular.

6. With regard to information support, respondents showed the greatest interest in being able to get acquainted with the experience of farmers showing progress in their work.

1. Peculiar characteristics of the farms under study. Real living conditions. Management problems in the existing system.

The farms under study may be divided into two groups:
1. farms showing relative progress (from the point of view of respondents) - "Niva" and "Barnukovo".

"We live much better than before. There is discipline." - "Niva".
"Over the last four years, life has become much better. We would like to build a gas pipeline now, this project is under consideration." - "Barnukovo".

Wages at these farms are relatively high: approximately R7,000-15,000. Workers, however, find it hard to say what wages they get because there is a very complicated system of payments.

It is important that, although the actual living standards have declined at all farms, peasants working here believe that the situation is getting better.

2. farms showing no progress (from the point of view of respondents) - "60th October Anniversary", "Yemelyanovo".

At these farms, all respondents complained of bad management and stated that the situation is turning for the worse:

"We have formerly been one of the best farms in the region and now we have gone down."

The absolute majority of peasants at all four farms possess their own land lots and approximately half of their profits come from their personal plots. These plots amount to approximately 15 ares each. Virtually all families have a cow, sometimes two, as well as pigs, sheep and other cattle. At virtually all farms, collective farmers receive fodder for their cattle free of charge ("Niva", "Barnukovo"), or at low prices ("Yemelyanovo").

Of all the farms, only "Niva" has hot water supply and a sufficiently developed social infrastructure.

In summer, collective farmers' life is very hard:

"I get up at 4 in the morning, first I must milk my cow, do something in my personal plot, come to work at 7. In the afternoon, I must go to the field and milk my cow there. After work, at about 11 in the evening, I must again do something at home. In summer, people sometimes go to bed at 2 or 3 at night."

(This regime of work mostly makes us think of corvee under the Tsarist regime in Russia).

In winter, the amount of work is substantially less and, instead, problems arise with a lack of employment and, consequently, low wages.

People attach much importance to benefits they obtain from their farms, e.g. apartments or personal houses (sometimes built at half of their estimate cost). There are cheap canteens. Houses of culture have remained at farms from the former, pre-perestroika life. Motion pictures are shown there.

Only "Niva" has its own developed social infrastructure: a kindergarten, a very good gym, a library, there is a new school building under construction. At other farms, the social infrastructure is actually all financed out of the district budget and the farms are not responsible for it.

Before perestroika, there had existed a system of low-price vouches to sanatoria and holiday homes in various regions, now this arrangement is virtually non-existent. Respondents were asked a question which we believe important for understanding their attitude to life:

"Would you like your adult children to stay at the farm or leave?"
The answers were clearly distributed among the two types of farms: "good" and "bad":
in "Yemelyanovo" and "60th October Anniversary":

"They must surely go away, let them work in town, life is easier there and wages are higher".
in "Niva" and "Barnukovo":

"Life is easier here than in town, let them stay here. Life on land is easier".

2. Understanding of various ownership forms existing at the farms. General attitude to processes taking place in the countryside, starting with collectivization and concluding with the current reforms.

In "Yemelyanovo", "Niva" and "Barnukovo" the process of privatization has formally taken place: "Niva" currently is a joint-stock company, "Barnukovo" and "Yemelyanovo" are limited-responsibility partnerships. At the farm "60th October Anniversary", the process of transfer to another ownership form must take place in about a month. All ordinary peasants, however, and even specialists at the three above-mentioned farms state that absolutely nothing has changed in their life following this so-called privatization:

"I don't understand what this partnership means".

"Everything has remained the same, nothing has changed."

"We came to a meeting, the charter of limited-responsibility partnership was read to us, we voted and went away."

"There is no difference between partnerships and collective farms."

At the collective farms "Niva" and "Barnukovo", which have been transformed into limited-responsibility partnerships, some ordinary peasants know that they formally possess property and land shares yet they often do not know their sizes:

"It is written there what share I have, I don't know its size" (a general view).

"We don't know what a property share means."

"We should have been paid dividends on our shares, our state farm has a profit, yet we have not been paid anything, this is why we believe that nothing has changed." ("Niva").

Many collective farmers realize that, juridically, they have a right to leave the farm with their own land and the property share. At the moment of the survey, however, this right has remained absolutely abstract for people.

At the farm "Yemelyanovo", which is formally a joint-stock company, most people simply do not understand what this means and are not interested in it.

Stock certificates are not handed over to people and the management system has not changed following the change of ownership forms.

"Some farms have been turned into joint-stock companies yet they have not become owners of their land."

"No one has given us any stock certificates, yet what do we need them for?"

Surely, specialists are better informed than ordinary peasants, yet even specialists asserted that the transformation of farms into joint-stock companies or limited-liability partnerships does not change anything:

"Nothing has changed, we have just changed our name on paper."

It was only in "Barnukovo" that a change in the farm management system was noted:

"Formerly, we had a board which settled all matters, now we have a director of the partnership who makes all decisions himself."

"Things have become better now: formerly, I was summoned to a meeting of the board and members of the board said, 'Maybe we should pardon him', now the chairman imposes penalties himself, discipline has improved."

Nevertheless, the director himself, who has also noted this change in the management system, gave the following assessment:

"Formerly, matters were settled by the board, and members of the board explained them for their neighbors and other people. Now, I must take all decisions myself, and I have lost links with people as I cannot explain all the time why I have given a bonus or punished a certain person."

The following views were expressed by respondents regarding the collectivization which took place in the '30s:

"We were not there at the time, so we do not know what is better and what is worse."

"Surely, collectivization was not necessary, it resulted in the degeneration of the countryside, land has become infertile, now there is nothing one can do..."

"One cannot restore the old ways now, we have got used to live the life we have now."

"Formerly, everyone had his personal plots and farms, then everyone was driven off, so we have what we have."

"Our consciousness has changed after all these 70 years, it is hard for us to tell how it was then. We have

always been taught to believe that collectivization and planned economy is good, now they say different things, so I do not know myself."

3.General attitude to processes taking place in the countryside, starting with collectivization and concluding with the current reforms.

The attitude to reforms is very reserved, in particular because they are perceived to be a continuation of all previous reforms imposed from above.

"We have had reforms every year, for 10 years or so, but life has become worse and worse."

"One should first improve economy, and only after that transform it."

Very many respondents believe that nothing depends on changes in the farms proper, the only thing that is important is what decisions and actions are taken above. Besides, people usually fail to understand the mechanism of market regulation and free prices; they believe that low prices for their products and high prices for industrial goods have been established by the government. The main demand is that the price ratio be changed.

"As long as a bottle of aerated water costs more than a bottle of milk, nothing can be done."

"Correct prices should be established, let the authorities set the prices right".

"The processing industries get everything, plant workers receive a salary of R40,000, whereas we have only R3,000".

"As long as prices increase at such a rate, we will always be the losing party".

"Everything depends on what happens above, not here."

"We will never achieve anything here if we use the Japanese option; with them, authorities decide whether carrots or beet-roots are to be grown, while here nobody decides anything."

Finally, the most widely held view at all the farms: "We must receive higher wages."

It is important to realize that peasants currently live a much worse life than in early '80s, the time they consider to be a period of prosperity, this is why they consider reforms to be unsubstantiated and leading to mismanagement:

"At that time, I had money to buy a car, everyone could buy a refrigerator, a color TV set. Now high boots cost R20,000. When I wear down the pair I have, what shall I wear then?"

"We had a normal life then, everyone had everything, and now we have again begun to shuffle everything."

"All our life, they lived at the expense of the countryside, now the situation has even become worse." The typical view, characteristic of the Russian people, that they have always been deceived and continue to be deceived is revealed in the absence of trust for the current reforms:

"We have always been deceived. Where are our checks "Harvest-90"? We have never even seen them".

"We are still waiting payment for the meat we sold to the government almost half a year ago. At that time, we could buy a petrol tanker for these R100,000, they have always lived at our expense."

"We do not believe anything any more, neither vouchers nor anything else."

It is important that people refer to reforms in the countryside not as their own active action but as passive participation in what someone else should do with them. For instance, when IFC and its information and consultative assistance were mentioned, specialists of the "Yemelyanovo" said the following:

"Let them help us get a dairy, in this case the situation will improve."

It is important that respondents from the "bad" farms are more prepared to accept reforms and more interested in them. These people, who feel that they are plunging into an economic abyss, are more inclined to have something changed in their life.

At "good" farms, it was obvious that people would prefer to leave everything the way it is and not change anything except prices.

"Something should be changed, it cannot continue like this for a long time" - "60th October Anniversary", "Yemelyanovo".
"We live well, I would not have anything changed, God save us from running apart, for everything may become even worse" -"Niva", "Barnukovo".

There is also a widely held belief that no reforms are required, the only thing that is needed is to make people work better. The call for a "tough hand" concept was exceptionally strong at "bad" farms - "60th October Anniversary" and "Yemelyanovo":

"The attitude to labor should be changed" - "But how?"

"Make people work better".

"The administration should be replaced, maybe even the chairman".

"Order should be imposed, for in this situation nobody needs anything."

"A beam fell down in the cow farm, I come to the administration, tell them about it, and they say, 'It is not my business'. Nobody wants to decide anything."

Respondents from "Niva" and "Barnukovo" noted with respect the chairman's ability to impose strict discipline and order among his subordinates, punish them.

The view that *"there is no other way in which we may be treated, we have got used to this treatment"* shows a habit of passive subordination which has been acquired over dozens of years under the Soviet power.

As far as one may judge by a non-representative quality research, social tensions in "Barnukovo" are higher than at other farms. It is here that respondents most often mentioned the fear of confronting the collective, fear of envy which may even lead to arsons:

"We have had four arsons already".

"Someone attempted arson when I quarrelled at work."

"Formerly, we have never locked the door, and now thieves have already visited all houses."

Note that in "Niva", for instance, people said they do not lock their doors at all and nothing ever happens.

The attitude of the farm administration is as follows.

In "60th October Anniversary" and "Yemelyanovo", administrative workers are interested in changes, yet they habitually operate within the framework of instructions and resolutions and are psychologically oriented to them. Nevertheless, due to the new, freer situation, the administration is engaged in purchase and sale, barter deals and thus, maybe partially, participates in the market process.

"Two months ago, I bought 20 tractor engines, then I sold them at a profit" - the director of "Yemelyanovo". *"We sell metal, spare parts, etc."* - the director of "Niva".

It is important that, unlike private farmers, managers of the farms under study display much less interest in information on exchange prices for their products as they are much more tied with the state procurement plan and state subsidies:

"I cannot sell my products out of the region because the subsidies I get will be canceled immediately."

This circumstance limits the initiative of administrative workers and prevents them from becoming genuine entrepreneurs in their activities.

In "Barnukovo", administrative workers realize that reforms in a certain form are inevitable but they fear increased social tensions at their farm and destruction of the already adjusted system. The director of "Barnukovo" is more inclined to accept reforms than his immediate subordinates are and believes that the efficiency of production may be increased if farm workers have their own property within the farm:

"We gave each family two rows of sugar beet and the harvesting became three times as quick."

In "Niva", the director understands that introduction of private ownership is inevitable in distant future. At present, however, we think that he may actually oppose division of the farm:

"We are currently building a new school, we have a good gym, a kindergarten, everything will go down the drain as soon as we start dividing the property".

It is important, however, that "Niva" managers, for instance, are inclined to develop production on the basis of private ownership:

"We want to start a private fur animal farm, we have several specialists, we may get together and do it."

Some problems in the current farm management system.

At present, unlike before, there exists a differentiated labor remuneration arrangement depending on the work done. However, the following situations still arise:

"If I see that a certain person has earned much more than another one, I try to pay him less because next time he may be displeased if he gets less than this time. I understand that this is wrong but otherwise there may be conflicts."

"We once paid cattle-breeders more than all others because they earned more. but machine-operators called a strike and said that they are not going to resume work unless they were paid the same wages."

The existing labor arrangements permit those who work worse receive the same wages as those who work better:

"We all work together in the hayfield. One of us may lie down and take a nap while you are working - you cannot quarrel with him all the time, can you?"

Views regarding the management system are as follows:

"We have five bosses for each worker" - "Yemelyanovo".

"Formerly, we had a livestock farming brigade, we had a team leader there, now one of us has been put in charge. How can he order me about when he is the same as I am?"

In "Niva" and "Barnukovo", respondents do not believe they have too many administrative workers.

Managers from all farms believe that there is a lack of administrative personnel. When asked whether this management system will be preserved after re-organization, farm managers answered affirmatively:

"God help us to manage everything with the number of people we have now."

The director of "Niva" has a high estimate of his specialists and would like to raise their salaries but cannot do it as he is afraid of what other people may say.

The following responses were received to the question about who must receive higher wages:

"Surely those who work on land, their labor is harder. Specialists sit in warm rooms, why should they receive more?" - workers at all the farms.

"Specialists should be paid higher wages, for everything depends on them" - administrative workers.

The wage-levelling system has been cultivated over the many years of Soviet power, wage differentiation has started growing lately, yet persons who are more well-off may still face general malevolence.

4. Attitude to introduction of private land ownership.

We found a weak theoretical support for introduction of private land ownership at "bad" farms for the reasons mentioned above, although even here a majority of respondents oppose it.
The principal points of view:

"Private ownership is necessary, but restriction should be imposed on land sales."

"If we start selling land, then one cannot say what may happen next."

"If we introduce private ownership, land will become impoverished, and we will have nothing left of it." Although people are now entirely subordinated to their administration, they experience fear of land proprietors for whom they may have to work.

"Someone will buy this land and then I will have to work for him? I will be his slave?"

"And now whose land is this?" - "Common, ours".

There exists a clear division of land into "my own", "our" and "somebody else's". The formal apportionment of land shares does not turn this land into "my own" property, it remains "ours", the attitude to this land is not changed. Respondents confirm that people work more efficiently on "their own" land, yet it remains unclear how "our" property may be turned into "my own".

There was also another consideration:

"They say the collective farm will lease land from old women. Does this mean I will be their sponger?"

"I would vote against the introduction of private land ownership. In any case, I am not able to buy it and I do not want to work for someone."

5. Reasons for which people do not wish to take land in private ownership.

NO RESPONDENTS HAVE EXPRESSED DESIRE TO TAKE THEIR LAND SHARE IN PRIVATE OWNERSHIP FOR WORKING ON IT INDEPENDENTLY.

The main reasons for it are as follows:

1. Absence of small-size equipment and its high cost:

"I may take land but I cannot work it with a shovel, can I?"

"In any case, I will never be able to earn enough to buy equipment".

"You see, the entire arrangement that has been established over these years is not suitable for private farms. Everything is of enormous sizes: tractors, cultivators, etc."

"This reform is 30 years overdue. Formerly, we had not so many machines in the countryside. There were horses everywhere, and now they are gone."

2. Absence of systems for use in realization and warehousing of products, seed growing and the overall production processes, intended for private farmers:

"We already do not know what to do with what we grow in our plot."

"This year, the collective farm has lost the entire potato crops, all potatoes have been fed to cattle, and what can I do with it alone?"

"A private farmer gathered potatoes, wanted to bring them to a collective farm's warehouse for keeping but the administration did not give its permission and all the crops were lost. Growing crops is only half the work, you have to keep them somewhere."

"And where can one take fertilizers?"

"It's fine if you manage to get seeds, and what happens if you don't?"

"To get all your equipment in order, you need connections. The entire maintenance system has remained the same, not suitable for private farming."

3. The existing labor division system has trained people to believe that they can only do one thing well.

"I cannot drive the tractor. I am a cattle-breeder. What shall I do with it? Must I hire anyone?"

"I have never, not a single day, worked on land. I am an economist. What shall I do with this land?"

4. Destruction of the family structure of work on land.

"In order to have one's own farm, it is necessary to have all the family working on it, and our children have already lost this habit."

5. Fear of absence of social protection:

"One of our neighbors took land for himself and broke his leg, so all our village helped him. And what can he do alone?"

"What will happen to my house? At present, the collective farm helps to get some fuel wood, in other things, too. If it is gone, nobody is going to think about it."

6. Fear of hard work.

"Work on land is servitude."

"I am still young, I would like to have a rest sometimes rather than work all the time".

"I won't make it, I am already old."

"I would take land but I would work it only once every five years".

7. Absence of examples of private peasant farms showing progress:

"Show me a person who would become rich on this land without having to work for 20 hours a day."

8. Unwillingness to take on responsibility:

"The way it is, our superiors take decisions for us. Do you want me to take all decisions myself?"

9. One of the very important reasons is fear of losing support of the collective to which people have got used since childhood:

"One cannot conquer alone".

"I want to work in a collective, I have no habit of working alone".

"We all want to remain in a collective".
"We should do everything together".

"I'm afraid to be alone".

10. Fear of having the farm divided into small parts, impossibility to divide spheres of activities, property, apportion land on a fair basis:

"They offered us to take the calf-house on, there are three of us working there. We refused because all parts of the farm depend on one another, they cannot function separately. Tractor drivers, for instance, will have no work at all in winter."

"How shall we divide machines? Maybe, my neighbor will get a tractor body and the wheel will be given to me?" "If we start apportioning land, I may get a sandy lot and another one will get fertile soil, one can never apportion it fairly."

"I may be given a lot in the bog, what then?"

"I don't understand at all how all this may be divvied up, it's just impossible."

11. The large size of the farm prevents its efficient apportionment.

"I work at an enormous calf-house, how can it be divided between us?"

"I live in the center of the collective farm and they may give me land so far from my house that it will be impossible to work there".

12. Fear of possible social conflicts:

"If we start divvying it all up, everyone is going to squabble, fights may begin, everything will go down the drain".

"There will be bloodshed when they start dividing everything up." - "Barnukovo".

"No one will work, everyone will only squabble, everything will fall apart."

"To take land for oneself will mean opposing oneself to the collective" "Barnukovo".

"People will envy you, there may even be arsons."

13. If the farm is divided and people take land for themselves, it is obvious that some will be able to work on it, while others will not. People who are left out will represent a social menace for the rest.

"Look at our personal plots: they show that there are those who can work and those who cannot, what is going to happen to the latter?"

6. Views regarding genuine potential reforms.

As people are opposed to taking land in ownership, other possible ways of farm transformation were discussed, mostly ways of dividing farms.

"We must first divide the farm into partnerships and then set up an association of partnerships" - the director of "60th October Anniversary".

1. Division of the farm into specialized teams (brigades):

"We must divide ourselves in accordance with spheres of activities so as to preserve specialization".

"We should divide into brigades so that each would have its own leader who would be in charge of everything."

The above view, very widely held at all the farms, shows that the concept of comprehensive job contract (brigade contract), fashionable in mid-'80s, continues to enjoy much support. This view, however, has opponents, too:

"Well, suppose we divide into such partnerships and then tractor drivers will refuse to plough our land as they are also their own masters, what then?"

"Cattle-breeders have work all year long, and what about machine operators? Are they going to repair their machines all winter?"

2. Association based on mutual desire:

"It would be better if all people could associate with those they like".

"Relatives might associate into small partnerships".

This proposal also had its opponents:

"Then those who work well will associate with those who also work well; those who show medium results will also get together, and no one will want to associate with those who are bad workers. What will happen to them? They will be in everybody's way" - "Barnukovo".

3. Division into small farms which would include all spheres of activities:

"When there are so many people, one cannot make it work efficiently, a small collective is always better."

Everyone agreed that this proposal is good but it is unclear how it may be implemented in practice.

There was a heated discussion of the future activities of an association which might comprise these partnerships:

"We have a joint-stock company; if someone wishes to take land, our joint-stock company must help this person and he will afterwards pay a certain interest to the company."

"The partnership association must apportion machinery working time."

In essence, this association, according to respondents, would perform the functions which are currently performed by the collective farm but the association would give people a sense of owning the land. Unfortunately, the conversation on this topic was too abstract and people, in effect, do not understand how the entire system must work.

7.Information support, which might be provided by the International Finance Corporation

People showed benevolent interest in the offer of information assistance:

"Of course, it would be good if it were explained to us so that we would understand better what is going on."

The offer to organize weekly meetings with experts and specialists met approval yet it seemed to people that once a week would be too often.

The proposal that a special box be put up for people to put their written questions in aroused different reactions at various farms:

"It would be good, for sometimes you feel ashamed to ask something aloud" - "60th October Anniversary".

"This box will only last two days and then it will be broken" - "Why?" - "Just so". - "Yemelyanovo".

"People will put there complaints against one another" - "Barnukovo".

It should have been expected that organization of telephone consultations on a wide scale is impossible due to the absence of telephones and very poor communications with Nizhny Novgorod. Although such consultations are considered very important by specialists:

"It would be fine if we could, in the process of work, call somebody on the phone, have his advice."

People were very interested in the offer to organize a meeting with real private farmers who have shown progress in their work so as to find out how they manage to settle their problems:

"It would be fine to come to them, see how they live, maybe in this way we can understand everything better."

Farm specialists believe that it would be useful to provide consultations for them so that they would pass information over to other people. We believe, however, that this approach is rather controversial.

INFERENCE

According to the results of all-Russian representative polls, collective and state farmers constitute one of the most conservative social strata. If we compare this survey with the one we have conducted among private farmers in accordance with the same set of methods, we will find a great difference between their socio-psychological types.

We believe it rather dangerous to expect that peasants themselves will be able to cope with the problems which even private farmers cannot always settle.

We believe that we might help future proprietors by showing them the overall scenario of his actions, starting with the purchase of seeds (where and how he can do it) and concluding with realization of crops. From this point of view, it would be useful to meet with farmers.

In conducting reforms, it will be necessary to take certain account of people's strong desire to work in a collective. Collective labor forms may be different but it appears from respondents' answers that they find the form of association the most attractive.

It appears to us, judging by respondents' answers, that all forms of division of the farm into smaller parts leads to increased people's responsibility and thus helps them to prepare psychologically for another ownership form.

One of the biggest problems reformers have to face is the habit of wage-levelling in the countryside. One should try to influence people psychologically so that they would accept the possible future differentiation in the countryside.

Top 15 Fears of the Kolkhozniki
(as ascertained during the focus groups)

1. There is not enough equipment to serve all the new farms, and new farmers will not be able to afford to buy new equipment.

2. Services, needed to run independent farm operations, are unavailable.

3. People are trained to do only one thing and thus are not suited for working on smaller farms where they would have more responsibilities and need to acquire new skills.

4. Social welfare services will cease to exist. (If an independent farmer falls sick, he will go bankrupt. Who will pay for the heating of our houses?)

5. There will be too much work.

6. The number and intensity of responsibilities will increase. Life will become more difficult. Who will make the decisions?

7. We will lose the support of the collective which has helped us since childhood.

8. There are not any good examples of private farms. Private farmers have a difficult time. So, will we.

9. If we split the farm into small plots, it will be impossible to divide all of the farm tasks. Land and property will not be fairly apportioned.

10. The size of the farm and property prohibits it from being divided fairly. (I'll receive land far away from my home. How will we divide the cow barn?)

11. Social tension will explode within the communities.

12. The people who are not invited to join tovarischestvo-s will not be taken care of and, as a result, will become social menaces.

13. The land shares (5 hectares) are too small to run an efficient private farm.

14. Farming provides seasonal work. What will we do and who will take care of us in the winter after the collective has disappeared?

_____

_____

_____

1. What is your position on the Farm?
   (write and code) _____
   a. Manager, chief specialist, manager of a subdivision (division, workshop)
   b. Specialist (agronomist, engineer, veterinary doctor, accountant, etc.)
   c. Skilled labour (milkmaid, technician, foreman, team leader)
   d. Unskilled labour
   e. Support stuff (typist, junior accountant, laboratory girl, etc.)
   f. Other (write what your position is) _____
   _____

The following question is for those who are not presently employed on the farm:

2. If you are not presently employed on the farm, what is your present occupation?

   1. Retired
   2. On leave, taking care of a child
   3. Temporary unemployed (less than half a year)
   4. Busy at my household and plot of land
   5. Unemployed
   6. Employed at a different place
   7. Other _____

3. Gender

   1. Male
   2. Female

4. How old are you? _____

5. What level of education do you have?

   1. Higher, university
   2. College
   3. Vocational training
   4. Complete secondary (10-11 years)
   5. 9 or less years of schooling

6. For how long have you been living in this settlement?

   1. Since I was born
   2. For more than 10 years
   3. 6-10 years
   4. Up to 5 years

7. If you knew that a certain piece of land was your private property, what would have you do with it?

   1. Sell it
   2. Lease it/rent it
   3. Transfer it for collective use, having preserved the existing form of ownership
   4. Become a farmer and cultivate my own land
   5. Join my plot with others, with whom I would like to work
   6. Let other members of my family decide
   7. Do not know

8. What does being an "owner" mean to you?

9. Some people think it is good to be an owner. What do you think attracts them?

   1. The chance to work better
   2. The right to dispose of property as they like
   3. The owner can choose whom to work with
   4. A desire to earn more
   5. A wish not to depend on anyone
   6. Decision not to work any longer with lazy people
   7. The owner knows his rights better
   8. The owner has a right to know about the profit and expenses of his farm or collective, where he works
   9. other:_____
   10. Do not know the answer

10. Do you think many people from your settlement would like to become owners of land, machinery, livestock and other property of the farm?
    1. absolute majority
    2. about half
    3. about one third of all the employees
    4. about one tenth
    5. very few
    6. do not know

11. Do you personally want to become the owner?

    1. yes
    2. no
    3. do not know

12. Some people say it is bad to be the owner. Why wouldn't you agree to become an owner? (mark the most important)

1. I am quite happy with what I have now, there is no point in any changes
2. Do not want to work more and harder than now
3. Do not want to leave my worker's collective
4. Do not want additional concerns and responsibilities
5. The state does not help farmers and other owners
6. The state policy may change, I am afraid of re-kulakization
7. When distribution begins it is sure to be accompanied by conflicts in the collective
8. An owner without vehicles and devices is just a notion
9. Have no skills, education, business qualities
10. Do not want to quarrel with neighbors
11. Do not want to quarrel with the management
12. There is no organization to help at the initial period
13. I am no longer strong, my age and state of health does not permit
14. other: _____

13. What are you happy and not happy with in your life in your settlement? Are you satisfied with your work? (Give an answer on every line)

		yes	no	don't know
1.	Work conditions	1	2	3
2.	Organization/division of labour	1	2	3
3.	Working day schedule	1	2	3
4.	Your profession	1	2	3
5.	Opportunities for professional growth	1	2	3
6.	Discipline in the collective	1	2	3
7.	Attitude of people to their work	1	2	3
8.	Relations with other people	1	2	3
9.	How managers treat you	1	2	3
10.	Payment arrangements	1	2	3
11.	Amount of money you earn	1	2	3
12.	Your housing conditions	1	2	3
13.	Assistance/services for your private plot	1	2	3
14.	Medical service	1	2	3
15.	Organization of trade	1	2	3
16.	Communal services	1	2	3
17.	Opportunities for your children	1	2	3
18.	Education	1	2	3
19.	Opportunities for entertainment	1	2	3
	Other:			
	_____	1	2	3
	_____	1	2	3

14. Is it necessary to reorganize your farm?

1. No need to reorganize anything
2. Reorganization is required
3. Do not know

15. What results do you look forward to from reorganization? (Chevo Vyiu ozhidayete ...)

		Agree	Disagree	Don't know
1.	You will know where your land is	1	2	3
2.	You will become independent	1	2	3
3.	You will always be able to join any association with your property or withdraw from it	1	2	3
4.	You will be able to work with whom you choose	1	2	3
5.	You will make good money from profits	1	2	3
6.	There will be an association of specialists where you will be able to get expertise	1	2	3
7.	Remaining independent you may still stay with the collective	1	2	3
8.	You will be able to use for your own benefit appliances which previously belonged to the farm	1	2	3

16. Do you agree or disagree that this farm reorganization plan is no good for you because:

		Agree	Disagree	Don't know
1.	Collective will be destroyed, each will be left by his own	1	2	3
2.	You will be left without necessary appliances	1	2	3
3.	There might be problems with upbringing, education, entertainments	1	2	3
4.	You will be left without expertise, you will have to produce and market yourself	1	2	3
5.	You may go bankrupt	1	2	3
6.	You will have to work too much and too hard	1	2	3
7.	There will be conflicts when the farm is divided	1	2	3
8.	You will lose all the advantages granted by collective farming (fodder, apartment, fuel, etc.)	1	2	3
9.	Nobody will have to help you	1	2	3
10.	Such a plan is for strong, knowledgeable people with initiative and you are afraid not to cope with it	1	2	3
11.	You will not be able to find a suitable group of people whom to cooperate with	1	2	3

17. Have you heard anything about the Nizhegorodsky Land Reform plan?

1. Yes
2. No
3. No, but, I would like more information.

18. If yes, do you support this plan?

1. Yes, I do and I think that such a plan can help us resolve our problems
2. No, I think that such a plan will not affect our life whatsoever
3. I do not have enough information to be able to give a definite answer