

USAID Project to Develop Land and
Real Estate Markets in Moldova
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Strategy to Develop Agricultural Land Markets in Moldova

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Executive Summary

Agricultural strategy in Moldova should encompass three primary goals: (1) raising rural incomes; (2) increasing agricultural production; and (3) promoting democratization. A prerequisite for realization of these goals is development of agricultural land markets. The challenge of developing such markets can be approached from four complimentary groups of strategies.

First, some agricultural land remains to be privatized. Because enough agricultural land is privately owned to support a private land market, completing privatization is not a high priority, but could be accomplished alongside the following market-focused strategies.

Second, it is necessary to develop new land market institutions, and to foster cooperation among existing land market institutions, to ensure that land market professionals -- brokers, surveyors, appraisers -- have a vested interest in minimizing oppressive government regulation. Such cooperation could be fostered through creation of a private umbrella organization.

Third, legal protections for landowners remain under challenge. Although USAID land market attorneys have made substantial progress in developing a functioning legal framework that allows landowners -- and in particular, rural landowners -- to participate in the land market, it is necessary to continue strong support for legislative and regulatory protections of landowners and land market processes.

Fourth, farmers must have access to medium-term credit with which to finance investment, including purchase of additional agricultural land. Such purchases could become an important means of consolidating agricultural land holdings. Moldovan commercial banks and rural Savings and Credit Associations should continue to receive training in mortgage financing.

Strategy to Develop Agricultural Land Markets in Moldova **October 2000**

The Booz-Allen & Hamilton project team prepared this policy paper to assist USAID in planning future activities in Moldova. Although the paper focuses on agricultural land, most recommendations contained in the report -- in particular, suggestions related to further improvement of the legal and regulatory framework and simplification of the transaction process -- apply with equal force to development of land markets for residential and enterprise land.

This paper is divided into five major sections: one that describes policy objectives, and four that describe groups of strategies for developing agricultural land markets in Moldova.

I. Objectives of Developing Markets for Agricultural Land

Three primary goals of the agricultural strategy for Moldova are: (1) to increase rural incomes; (2) to increase agricultural production; and (3) to strengthen rural democratization. Development of agricultural land markets promotes these goals.

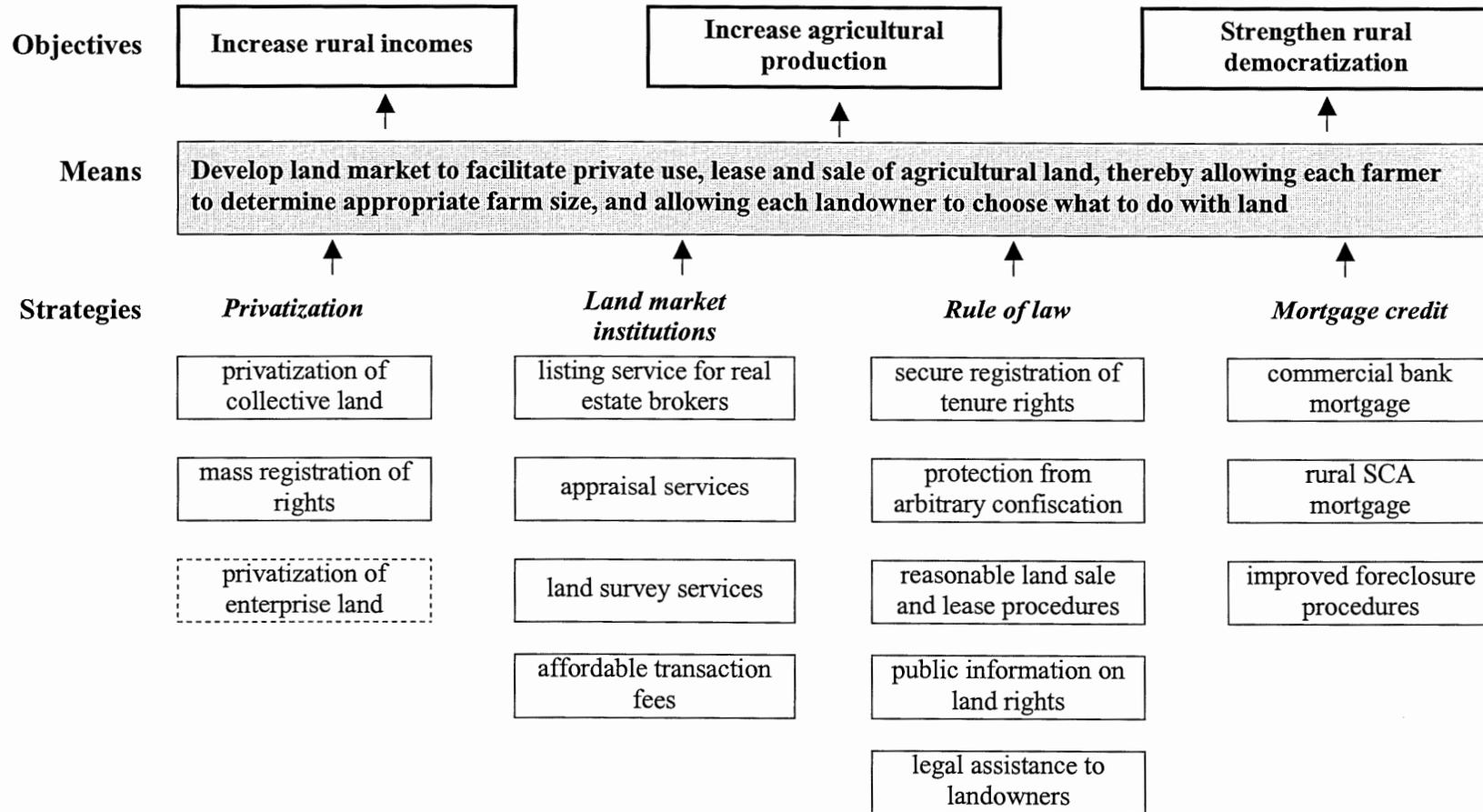
Rural household incomes are among the poorest in Moldova. For many of these households, agricultural land received during privatization is the asset most likely to generate revenue. Decisions regarding the use, lease and sale of such land will have an important impact on rural household income. A freely functioning market for lease and sale of land would give landowners the best opportunity to realize fair value for this asset.

Agricultural production depends in part upon efficient use of land. Agricultural land is perhaps the most important natural resource of Moldova, well suited to growing a host of valuable crops for domestic and export markets. Agricultural production has declined markedly in recent years. The lease and sale of agricultural land in a freely functioning land market helps to ensure that each farmer is able to access the quantity and quality of land appropriate to that farmer's production. The only way to effect a transition from individually allocated plots to efficiently-sized private farms, without a massive interference in current private ownership rights, will be through a well-functioning land market. This re-allocation of farmland through the market is likely to play an important role in reversing the decline in agricultural production.

Democratization of rural Moldova depends on many factors, not least of which is the economic independence of citizens. Land relations often determine not only economic relations, but social relations as well. A citizen who has no practical choice but to allow her land to be used by one farmer in the village may find that she is unable to participate fully in the political life of the village. A freely functioning land market, which allows citizens either to use their land individually, or to lease or sell it to whomever they choose, can create a sense of empowerment that encompasses not only economic wellbeing, but social and political life as well.

Development of the land market includes a number of concrete strategies. Simply put, land must be privately owned, barriers to a freely functioning land market must be removed, and resources essential to its functioning -- including rule of law, information, and credit -- must be made available to market participants. Strategies listed in Chart 1 fall into four related groups: (i) privatization; (ii) land market institutions; (iii) rule of law; and (iv) mortgage credit. Sections III - VI explore each group of strategies and how it contributes to the objectives outlined above.

Chart 1. Agricultural Objectives and Strategies Related to Land



II. Land Privatization Strategies

Although privatization of agricultural land in Moldova is largely complete, some former collective farms, including practically all farms in the Transnistria region, have not yet distributed land to members. Mass registration has not been completed on over 350,000 privatized parcels, impeding the owners of these parcels from participating in the land market. In contrast to agricultural land, the great majority of enterprise land remains to be privatized.

A. Privatization of collective land

As of September 2000, a total of 699,881 Moldovan citizens have received ownership of 2.05 million agricultural land parcels under the USAID-funded National Land Program, which is implemented jointly by Booz-Allen & Hamilton (BA&H) and East-West Management Institute (EWMI). These figures represent completion of 628 former collective farms and 129 groups of independent farmers.

BA&H became involved in the land privatization and land titling effort on the first pilot farm in Mayak, Nisporeni in November 1996. Based on experience gained on the pilot, the BA&H team assumed responsibility for design and implementation of a streamlined and decentralized process for privatizing and titling agricultural land. BA&H drafted (and persuaded the National Agency for Cartography, Land Resources and Geodesy [NACLGRG] to approve) simplified survey standards that made it possible to complete privatization and titling for approximately \$2.25 per parcel.

In June 1997, BA&H became concerned that independent farmers -- that is, farmers who had exited the collective farm with their land during prior to beginning of the USAID program -- were excluded from the program. BA&H appealed to USAID and received permission to complete privatization and titling of the independent farmers. As of September 2000, the BA&H team has worked to provide titles to 145,148 independent farmers, which represents approximately 20% of the agricultural landowners who benefited from USAID assistance. This work with the land was undertaken singly by the BA&H team and was not part of the joint work with EWMI.

The BA&H team also drafted amendments to the Land Code enacted in 1998 to streamline the procedure by which agricultural land is allocated into private ownership. During 1997 and 1998, the team worked with the Ministry of Privatization to resist the repeated attempts by the NACLGRG to re-centralize the process of land privatization. The team drafted numerous policy papers for circulation within the Government and marshaled support of the IMF and World Bank to prevent obstruction of the privatization process.

During 1997 and 1998 the BA&H team undertook extensive rewriting of the draft Law on Real Estate Cadastre to ensure that the new registration system implemented with World Bank loan financing did not interfere with land privatization work. The team also drafted and edited numerous Government Decisions related to implementation of this law, taking care to ensure that none would impede the privatization process. The BA&H team drafted lease forms and other forms used during various stages of land privatization. The team also participated in drafting amendments to the Privatization Program for 1997-1998 to insulate vineyards, orchards and farm machinery from claims of farm creditors.

Technical Assistance Needs. As many as 60 former collective farms (representing as many as 105,000 eligible citizens) are likely not to complete land privatization during 2000. Most of those will have completed half or more of the land privatization process by that time. Approximately 110 former collective farms, including approximately 80 farms in the

Transnistria region, have not participated in the privatization program, and members of such farms (as many as 170,000 eligible citizens) will not have received their land in ownership.

B. Mass registration of rights to land

Although the privatization of agricultural land is complete once ownership is registered in the village Cadastral Registry of Landholders and a title certificate is signed, the owner cannot sell, bequeath or mortgage the land until it is registered in the Real Estate Register maintained by the raion-level Territorial Cadastre Office (TCO). Unless the privatized parcels are registered soon after privatization, there is a risk that information will get lost or become irrelevant through death of landowners. To avoid such problems, and to promote development of the land market, the BA&H team proposed that USAID allow the team to work with the NACLRG to ensure that the new rights could be registered as quickly and as cheaply as possible.

In the summer of 1999 the BA&H team designed a streamlined procedure for "mass registration" of rights and negotiated a Memorandum of Understanding with the NACLRG to implement it. Mass registration began in the fall of 1999. By the spring of 2000 it had become clear that the NACLRG did not have sufficient resources to complete mass registration of parcels undergoing privatization. BA&H negotiated an addendum to the agreement, providing that USAID will pay the TCO's a discounted tariff for mass registration. As of September 2000, the BA&H team has prepared more than 1.27 million parcel files for mass registration, through which 1.04 million parcels have been mass registered by the various TCO's.

Technical Assistance Needs. Roughly 350,000 parcels will remain to be mass registered in 2001.

C. Privatization of enterprise land

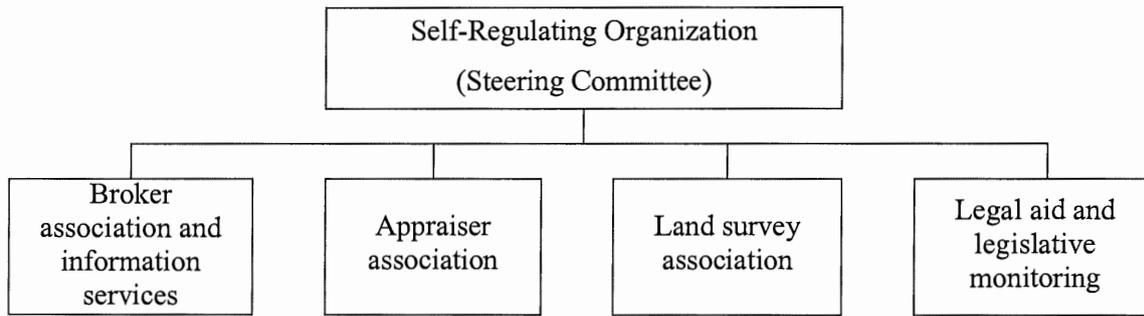
Although the focus of this policy paper is development of markets for agricultural land in Moldova, many observations and recommendations also apply to development of a market in enterprise land. The great majority (87%) of enterprise land remains to be privatized. See "Draft Report on Strategies for Accelerating Enterprise Land Privatization in Moldova" (Booz-Allen & Hamilton, September 28, 2000).

III. Land Market Institution Strategies

One significant potential impediment to land market development is high transaction costs. Excessive State regulation of land market institutions poses a pervasive threat in this regard. Creation of private institutions capable of high quality self-regulation, and financially dependent on an efficient market, would insulate the land market from over-regulation and help keep transaction costs affordable.

One approach to establishing independent land market institutions would be to form an umbrella self-regulating organization (SRO) to act as a steering committee for associations of brokers, appraisers, and surveyors. The SRO would coordinate the activities of the associations and help each to establish criteria for training, certification and licensing, professional conduct, and dues. The divisions would generate income by charging minimal dues to members. The SRO could also embrace a legal aid and legislative monitoring group, which would provide information and assistance to landowners, and would assist the associations to stave off excessive State control over land market transactions.

Chart 2. Private, Self-Regulating Land Market Institutions



Each participating association would operate independent of the State. Because the associations would be financially dependent upon a well-functioning land market, each would be motivated: (1) to keep State regulation and interference in a land market to a minimum; and (2) ensure that other associations do not charge unnecessarily high fees for their services. For example, although the brokers' association might favor a State proposal requiring all land market purchase and sale transactions go through a certified broker, the brokers' support would be tempered if not eliminated by opposition of the SRO as a whole, which would oppose this regulation as an obstruction to market transactions that would reduce the incomes of the other professionals.

Technical Assistance Needs. An umbrella SRO should be created: (1) to coordinate the development and activities of participating associations of brokers, appraisers and land surveyors; (2) to help these associations to regulate their members through training, licensing, etc., thereby escaping excessive State regulation. The umbrella should also include a legal aid and legislative monitoring group to provide assistance to landowners and to help the associations in their relations with the State.

A. Real estate brokers: listing service and price information database

A threshold requirement for a freely functioning land market is access to information on prospective sellers, purchasers, lessees, and lessors, as well as information on prices, rents, valuation procedures, and mortgage opportunities. Effective access to information reduces costs involved with each transaction, which is especially important in Moldova given the small size of many land plots. The absence of effective systems for organizing and delivering land market information in Moldova may prevent willing participants from concluding agreements.

The BA&H team has addressed this information gap in several ways. First, the team established and trained four land transaction consultant firms to identify and bring together buyers and sellers of agricultural land. To date, these consultants successfully facilitated over 1,270 of the first sale transactions of agricultural land in Moldova, and so have played a critical role in initiating an agricultural land market. The project assisted the consultants to become increasingly independent over time. They currently operate as independent contractors receiving private commissions from land purchasers in addition to minimum-level commissions from the project.

Second, the BA&H team has used the monthly "Farmer's Hour" publication to publish articles on land sales and lease prices, thereby delivering market information directly to 30,000 rural households in over 1,000 villages.

Third, the team has begun development of a national multiple listing service to provide information to brokers and directly to potential participants in the sales and lease markets for agricultural land.

Technical Assistant Needs. In the next year, it would be desirable for private brokers to form a voluntary self-regulating organization. One mandate of this organization would be to create and maintain a multiple listing service. The database could be designed to include information on real estate sold, which the listing service could in turn make available to banks, appraisers, brokers and the general public.

B. Appraisal services

Private Moldovan real estate brokers began providing appraisal services to clients and banks as early as 1993-1994. Sometime later, independent appraisal firms emerged and some commercial banks developed appraisal skills. As of 1997, roughly 20 private Moldovan firms were engaged in real estate appraisal activities, and each belonged to one of three self-regulating non-governmental associations of appraisers. During 1998-1999, an EU-TACIS project provided financial and technical support to one of the three associations and helped it to merge with one of the other associations to form the National Real Estate Chamber of the Republic of Moldova, which is an associate member of European Group of Appraiser Associations (TEGOVA).

Market-price based real estate appraisal in Moldova remains problematic for several reasons. First, appraisers do not share information with one another regarding transactions, and there is no common database of transactions. Second, Moldovan appraisers have not agreed to uniform appraisal standards, each preferring to use a unique method. Third, appraisals remain unaffordable to general citizens, and are particularly expensive for rural citizens, who must pay appraisers from Chisinau to travel to rural areas. Fourth, State licensing officials, who have no knowledge of appraisal techniques, abuse their position to restrict artificially the entry of new appraisers into the market.

Technical Assistance Needs. The listing service described in the previous section should be designed to include information on actual sale prices of real estate, and the information should be sold to appraisers for reasonable fees. Assistance should be given to creation of an association of rural appraisers, including appraisers with skill in appraising agricultural land. The Law on Licensing should be amended to provide that appraisers can be licensed or certified by one or more self-regulating appraiser associations.

C. Land survey services

In order to avoid the unreasonable price demands of the State surveyor establishment, the BA&H team helped establish the first private land survey firms in Moldova, which now number more than 50. For several years, the BA&H team has worked to defend the private land survey firms from unreasonable licensing procedures that the NACL RG -- the State agency empowered to license and regulate the work of surveyors -- threatened to impose (and sometimes did impose) upon surveyors.

Technical Assistance Needs. In the next year, it would be desirable for private surveyors to form a voluntary organization to resist unreasonable regulation by the NACL RG. Eventually, the private surveyor organization should license and regulate the activity of all land survey professionals, replacing entirely the licensing and regulatory functions of the NACL RG.

D. Affordable transaction fees

Fees for land transactions in Moldova remain unreasonably high given the value of real estate and the services provided. Two primary sources of high transaction fees are notarization and registration.

State notaries were privatized in April 1997. In July 1998, the State fee for land transfer (equal to 5% of land value) was abolished and the private notaries began collecting 2% of the land value as their fee for private services. What had been a tax to support the State budget became a method to enrich private notaries. The BA&H team worked closely with the IMF to promote reduction of notary fees, and the BA&H amendments to the law were passed in July 1999 to dramatically reduce fees. After the Constitutional Court declared the amendments to be unconstitutional, the team continued lobbying for reduction in the fees, and published articles in the Chisinau press questioning the fairness of the fees. These articles prompted the notary cartel to threaten legal action against the BA&H team.

The team subsequently met with representatives of the notary cartel to negotiate a reduction of notary fees for transactions involving agricultural land. Fees for notarization of sale of agricultural land were reduced to an average of only 30 Lei per parcel (\$2.5) in cases involving sale of several parcels by one owner.

Since the State transfer fee was "privatized" in favor of the notaries, there have been periodic calls to reintroduce the State transfer fee. The BA&H team has opposed reintroduction of the State transfer fee.

The BA&H team has also worked for some time to reduce fees charged by TCO land registries. The team worked closely with the World Bank and SIDA (Swedish Aid) consultants to determine appropriate fee levels that do not discourage land market participants from registering transactions. Registration fees can be particularly burdensome in cases where a farmer purchases or mortgages 20 or 30 parcels. In March 2000 the BA&H team persuaded the NACLRG to reduce fees for registration of transactions involving multiple agricultural parcels.

Technical Assistance Needs. Notary fees should be reduced further, especially for transactions involving agricultural land. Continued monitoring of private notaries will be necessary during the market formation period to prevent further obstructions. Registration fees should be monitored to determine whether they pose a constraint on development of the market.

IV. Rule of Law Strategies

Sustained efforts to protect the agricultural land market from undue regulatory and legal interference will be necessary to secure hard-won gains of the past several years. The role of regulatory and legal "watchdog" could, in the future, be assumed by private institutions and individuals who have vested interests in minimizing state interference. However, while these "vested" interests are forming, foreign assistance with laws and regulations will be important to ensure: (1) secure registration of tenure rights; (2) protection from expropriation and land use interference; and (3) reasonable sale, lease, and exchange procedures. Establishing systems to provide information about land rights and legal protection of these rights to rural landowners will also be important.

A. Secure registration of tenure rights

Parcel boundaries are an essential aspect of the land right, and must not be changed unless the owner consents or a court orders that the boundaries be adjusted based upon some mistake in

the process of allocation. In order to forestall mayors and village survey engineers from changing the location of parcel boundaries it is important to mass register the parcels in the Real Estate Registry of the TCO. The BA&H team drafted provisions in the Law on Real Estate Cadastre to ensure that boundaries of parcels privatized in the USAID-sponsored program cannot be changed during registration.

In late 1999, the BA&H team assisted the Ministry of Economy and Reforms to oppose a proposal by the NAACLRG to require the re-survey of parcels during each resale of a registered parcel. This proposal would have greatly increased the cost of transactions and would have rendered the registered boundaries subject to relocation upon each sale.

In 2000 the BA&H team persuaded the NAACLRG to propose a series of legislative amendments to increase protections to persons who submit real estate transactions for registration.

Technical Assistance Needs. Current proposals to add protections for persons dealing with the real estate registry should be enacted. Mass registration of agricultural land should be completed without change of parcel boundaries.

B. Protection from undue governmental interference

Excessive government restriction upon the use of privately owned land can depress the value of the land and dampen the landowner's interest in making long-term investments in land. It is important to safeguard the new private owners from interference by overzealous officials, particularly in an economy that is emerging from several generations of central control over farm decisions. For the past four years, the BA&H team has closely monitored these issues, obtaining copies of every land-related legislative draft through contacts in the Government and Parliament, and advising USAID, the IMF and the World Bank of any serious threats to land ownership and land markets.

Periodically, the zealotry of the agricultural bureaucrats finds expression in draft laws to ensure that owners use agricultural land "rationally". The BA&H team has battled versions of "rational land use" laws for several years. In 1999 the BA&H team worked with the World Bank to encourage the parliament to reject an amendment to the Land Code proposed by the President that would have facilitated expropriation of farmland for non-use. Amendments eventually passed by Parliament provide fines for non-use of land rather than expropriation.

To protect the interests of landowners facing expropriation of land, the BA&H team proposed modifications to the draft Law on Expropriation to require that the State pay the expropriated landowner the market value of the land, which must not be less than the normative price.

Recently there has been discussion in Government and Parliamentary circles of the need for a law to "consolidate" ownership of agricultural land. It is important that any such law focus on ways to reduce transaction costs so that consolidation occurs voluntarily through the lease and land sale market, rather than through mandatory sale of private land. Although mandatory measures of this type would hopefully be ruled unconstitutional, the threat remains real. Finally, a new Land Code draft was presented in September 2000. Although the existing Land Code is far from adequate, introduction of a new code must be viewed with caution.

Technical Assistance Needs. To preserve recent accomplishments in land privatization and to ensure that the emerging land market remains insulated from overzealous regulators, a competent organization should continue monitoring, and participating in, legal developments in the land area over the near term. It is important to continue opposition to laws that would

empower bureaucrats to confiscate agricultural land either: (a) in order to achieve "consolidation" of land into larger farms; or (b) on the basis of alleged non-rational use of land. Existing provisions of the Land Code that require rational use of land and preservation of soil quality should be annulled. The new Land Code draft should be reviewed.

C. Reasonable sale, exchange and lease procedures

1. Sale and exchange

The right to sell land is the most valuable right associated with land, matched in importance only by the right to use one's land. The right to sell land converts it into a capital asset that forms the basis for development of a mature credit system through mortgage financing. Transaction procedures that interfere with the free sale of land, reduce the value of such land.

For several years, the BA&H team has fought to force the Moldovan notary cartel, which controls the work of private notaries, to respect the law and refrain from imposing additional, extra-legal requirements during sale of private land. One such requirement adopted by the cartel was to force buyers and seller to purchase expensive "forgery proof paper" for each page of the sale contract, greatly increasing costs. Notaries have also refused to accept contracts drafted by parties, forcing parties to pay the notary to redraft the agreement, and insisted that clients produce documents not required by legislation for conclusion of transactions.

In 1998, the BA&H team lobbied successfully to annul a legislative provision that prevented private survey companies from conducting cartographic works necessary for privatization of land. Competition among private survey companies has greatly reduced the cost of land surveys over recent years; such costs are no longer an obstacle to land transfers.

BA&H has also developed procedures for "exchange" of agricultural land. The majority of arable (field crop) parcels created in the USAID-financed land privatization program are located in the middle of a large field, without access to an existing road. Although every parcel in the middle of a large field is provided access to a "projected" road that is not yet constructed, if the owner of such a parcel desires to sell or lease out the parcel, it is usually much more convenient for the owner to conclude an exchange contract with the owner of a parcel that already borders an existing road. BA&H land sale consultants have helped owners to conclude, notarize and register the only known exchanges of agricultural land in Moldova.

To promote sale of agricultural land, the BA&H team authored the 65-page "Practical Guidelines Regarding Sale and Purchase, Exchange, Lease, Donation and Inheritance of Private Agricultural Land", several thousand copies of which were published by the EU-TACIS AgroInform project. This is the only basic manual available in Moldova on agricultural land privatization and land transactions.

Technical Assistance Needs. It is important to prevent notaries from imposing extra-legal requirements during land transactions, and to monitor legislation to ensure the State does not: (1) monopolize transaction services, such as surveying; or (2) impose new mandatory requirements, such as appraisal, on private transactions.

2. Lease

An estimated 80% of the agricultural land privatized through USAID assistance is used by farmers who lease it from the landowner, and lease is likely to remain the most common land transaction for the foreseeable future.

The BA&H team has been involved in improving agricultural land leases for several years to provide protections to landowners. In 1998, the BA&H team authored and successfully lobbied for amendments to the Law on Lease to simplify the lease agreement by eliminating many unnecessary mandatory provisions. The team drafted model lease contracts that were distributed to all landowners in the USAID-financed land privatization program. The BA&H team has argued publicly for several years of the need to advise landowners to conclude shorter rather than longer term leases. In addition, the team authored or co-authored with the EU-TACIS AgroInform team a series of brochures to inform agricultural landowners regarding what to consider when leasing their land.

Many landowners remain victimized by unscrupulous "leaders" who rent land from large numbers of landowners, and then refuse to pay the full rent bargained for or to allow the landowners to reclaim their land. The relative economic and political power of the "leaders" allow them to dishonor contracts with impunity.

Technical Assistance Needs. The Law on Lease should be amended to outlaw various practices of agricultural lessees, and to stiffen penalties for failure to pay rent on agricultural land. Rural landowners should continue to receive legal aid and information on rents, needs that are addressed in the following two sub-sections.

D. Public information on land rights

The effectiveness of a reallocation of land rights depends on the extent to which people are informed of their new rights. In Moldova, this type of information often originates in Chisinau, and stops at the office of the local primaria or farm "leader", where it remains outside the reach of ordinary rural citizens.

In October 1997, just after the BA&H team became involved in privatization of agricultural land, the team began sponsoring the weekly Moldovan radio program "Good Morning Farmers" to present agriculturally related content to peasant farmers once per week. This sponsorship provided widespread coverage of the land titling on the original 72 farms involved in land privatization, which resulted an increased demand for privatization and titling by rural citizens. In addition, the team supervised extensive mass-media coverage of accomplishments and obstacles encountered by the land privatization program.

In December 1997, the team began publishing the monthly "Land Markets" newsletter, which was transformed in May 2000 into the "Farmer's Hour" publication to reflect the increased focus upon rural land markets and other issues of concern to farmers and rural landowners. "Farmer's Hour" reports on a range of topics affecting landowner households, including land rights. Examples of published articles include: "What Is the Status of Your Lease Agreement?"; "Why the Buyer of Land Does Not Need a Title Certificate of Landholders Rights"; and "What Can the Landowner Expect in Court?". Each month, "Farmer's Hour" is mailed directly to a list of 23,000 rural households in over 1,000 villages, while an additional 7,000 copies are distributed through other channels. This makes "Farmer's Hour" the most widely distributed rural publication in Moldova and the primary ongoing source of information on land issues in rural Moldova.

As explained below, the project's ten legal aid centers ("Problem Solving Teams") have provided an additional source of household-level information, largely through media coverage of the teams' successes in defending landowners' rights.

In close cooperation with the EU-TACIS Agroinform project, the BA&H team authored a series of publications directed to rural landowners explaining how to transact land. In addition

to the comprehensive "Practical Guide to Sale and Purchase, Exchange, Donation, Lease and Inheritance of Land," the two projects produced and distributed a number of shorter brochures.

Technical Assistance Needs. "Farmer's Hour" should be continued to ensure delivery of information on land rights to rural households. This would require: (1) continued support for the publication staff; (2) support for increased circulation; (3) assistance with making the publication self-sustaining through advertising and paid subscriptions; and (4) continued cooperation with both legal staff experienced in land reform and rural legal aid teams to provide high-quality information on legal rights related to land markets.

E. Legal assistance to rural landowners

Land rights attained by rural people are irrelevant unless they are understood by citizens and respected by authorities. Rural landowners suffer abuse at the hands of farm "leaders" who have rented their land but refuse to honor their commitments, and at the hands of local authorities who impede many landowners from withdrawing their land from "leaders" to use it themselves or lease it to another farmer. In response to the large volume of reported abuses during the past two years, the BA&H team created eight regional legal aid centers -- known as "problem solving teams" (PST's) -- to provide assistance to rural landowners both during the land privatization process, as well as after land had been privatized. Each team includes one lawyer and one agricultural expert. The BA&H legal team in Chisinau, which has worked extensively on legal and regulatory aspects of land reform for the past five years, provides guidance and support to the teams.

Through an approach to problem solving that combines education, mediation and litigation, the PST's have promoted a critical component of land reform in rural Moldova: the rule of law. This has allowed a growing number of people to participate in the land market, to withdraw from "leaders" to begin private farming, and to use their land to generate household income.

The PST's represent a unique approach to resolving rural land disputes since they do not purport to be neutral but are instead squarely and unambiguously on the side of the landowner in disputes involving "leaders" or public authorities. Rural landowners -- even in large groups -- tend to be relatively powerless in such disputes since they lack access to information and access to courts. The PST's give a voice to landowners and work as advocates for their rights.

The PST's inform landowners regarding all land rights, and are available to assist with land transactions, including sale and exchange. The teams also invite farmers to participate in the two mortgage lending programs conducted jointly by BA&H and CNFA.

The approach of the PST's is proving extremely effective and popular in rural areas. Since mid-April 2000, the PST's have investigated 1,223 cases and assignments involving 25,823 landowners, and have resolved 1,114 of these incidents "on the spot," without resort to court. Due to the volume of work, the BA&H team added two additional regional teams in July and hired a second attorney for five offices. Through media coverage and word of mouth, the work of the PST's reaches a much greater audience than those households directly assisted. The teams have also written and published in regional newspapers nearly 50 articles on land rights and related topics. Their work has also been widely broadcast through unsolicited coverage by newspapers, radio and television.

(For additional information on the legal aid Problem Solving Teams, see "Resolution of Rural Land Disputes Through Advocacy: Case in Support of the Booz Allen Problem Solving Teams" (September 25, 2000)).

Technical Assistance Needs. The need for continued and expanded legal aid services to rural landowners is evident. As rural people hear of the teams' success defending landowners' rights, queues outside PST offices have grown longer, and phone calls nearly constant. Carrying forward work begun by the centers provides a low-cost, highly effective opportunity to solidify gains of land privatization in Moldova and to ensure that rural households can participate in benefits flowing from the land market. This requires: (1) continued support for the ten existing regional teams; and (2) support for continued advice and coordination for the teams from a central legal team staffed by lawyers with extensive experience in legal and regulatory aspects of land market development. The legal aid teams should continue to act as advocates for landowners rather than a neutral mediators.

V. Mortgage Credit Strategies

Although many Moldovan farmers are interested in buying additional land to expand their farm operation, the great majority have little cash to invest in land purchase. One obvious solution is to allow farmers to use the land being purchased as security for the loan (what is often called "purchase money mortgage" in the West). Beginning in February 1999, BA&H and CNFA jointly created a program to help facilitate mortgage loans to Moldovan farmers. The loan program uses USDA monetization funds (administered by CNFA) and technical assistance financed by USAID (provided by BA&H).

A. Commercial bank mortgage

Two Moldovan commercial banks have made 23 loans to agricultural entrepreneurs, including 12 loans used to purchase more than 250 hectares of agricultural land; disbursements under the program total \$225,228. The technical assistance has enabled the Moldovan banks to implement appropriate internal bank procedures, standardized loan documents for mortgage lending, and proper loan servicing practices. BA&H also assists farmers to prepare business plans and otherwise find their way through the loan process.

Although the focus of the program has been land mortgage, half of the loans under the program have been used to make other types of capital investments, using both land and other capital assets, such as large farm machinery, as security for the loans. This process could be expanded as a way to help fund the inventory of USAID-financed farm stores created by CNFA. (The BA&H team is now working with CNFA to help the owners of those farm stores to purchase the land associated with the farm store building, and has helped to conclude one such purchase to date.)

B. Rural SCA mortgage

Many Moldovan farmers who want to purchase land cannot obtain credit from commercial banks because they have no documented credit history, and because commercial banks are generally not interested in making loans of less than \$2500 to farmers. To address this demand of small farmers, BA&H and CNFA cooperated to implement a model mortgage lending program at six rural Savings and Credit Associations (SCA's). The BA&H credit team trained the SCA's in the basics of mortgage lending, helped them to establish mortgage credit policies and procedures for making mortgage loans. The program provides small farmers with the opportunity to establish a verifiable and documented credit history, which can be used to obtain commercial banks loans in the future. To date, the six SCA's have disbursed \$13,720 to 12 farmers who have purchased a total of 37 hectares of agricultural land. All loans are secured by agricultural land. The SCA's work closely with borrowers to assist in the preparation of business plans and other documentation necessary to obtain mortgage loans. This

documentation will serve to establish a verifiable credit history for the borrower, allowing him to graduate from unsecured micro-credits to commercial bank loans.

Although the focus of the program has been upon agricultural land, the lessons learned by commercial banks can translate immediately into mortgage finance of non-agricultural land.

Technical Assistance Needs. Both joint BA&H-CNFA mortgage lending programs should be expanded to include additional commercial banks and SCA's to make mortgage credit more widely available to Moldovan farmers. Banks and the general public should be educated further regarding the benefits of mortgage credit, and in particular the benefits of using mortgages to purchase real estate. In addition, the commercial mortgage lending program could be expanded to assist wineries, canneries and other agricultural enterprises (including the CNFA farmstores) to use mortgage to obtain operating capital to invest in their business.

C. Improved banking laws and foreclosure procedures

Mortgage gives rural land owners the ability to leverage their new land rights to access capital for farm investment, such as purchase of machinery or construction of processing facilities. In addition, purchase money mortgage facilitates investments in land, and thus directly fuels the land market. Because land is often the most valuable asset held by private farmers, access to mortgage credit is especially important to their development and success, which in turn will drive markets for purchase and lease of agricultural land.

In 1998 the BA&H team drafted amendments to the Law on Pledge and the Law on Real Estate Cadastre to simplify the process for mortgage of land, including clarification of the law to allow purchase money mortgage, and to improve protection of lenders during foreclosure. Parliament adopted those amendments in July 1999. Despite these amendments, many Moldovan banks remain unsatisfied with the protections available to mortgage lenders, particularly with respect to the length of time required to pursue foreclosure remedies when the borrower defaults on the loan.

Also in 1998 the BA&H team drafted new model forms for mortgage of land and began working with Agroindbank to implement streamlined bank procedures for land mortgage. This work eventually developed into the joint BA&H-CNFA mortgage credit program, which is discussed below.

Technical Assistance Needs. It is necessary to overhaul antiquated Moldovan banking laws that impose cumbersome restrictions on the ability of banks to make mortgage loans. It is also necessary to modify the Law on Pledge and perhaps the Civil Procedure Code to improve foreclosure procedures. The bankruptcy law should also be reviewed and modified as needed. It may also be advisable to work with select Moldovan courts to improve their capacity to process foreclosure cases.

VI. Recommendations

Development of an agricultural land market is a prerequisite for achieving the underlying goals of agricultural assistance in Moldova: raising rural household incomes, increasing agricultural production, and promoting democracy in rural communities. Recommendations for a successful program addressing land market development are summarized in the following table.

Strategy

Technical Assistance Need

Privatization of collective land	Complete the privatization of roughly 60 former collective farms (representing up to 105,000 citizens) left unfinished during 2000, as well as approximately 110 former collective farms that did not participate in the privatization program (representing as many as 170,000 eligible citizens).
Mass registration	Complete mass registration of roughly 350,000 parcels that were not mass registered in 2000.
Land market institutions	Create an umbrella SRO to coordinate the development and activities of participating associations of brokers, appraisers and land surveyors. The SRO would help these associations regulate their members through training, licensing, etc., thereby avoiding excessive State regulation. The SRO would include a legal aid and legislative monitoring group to assist landowners and to help the associations in their relations with the State.
Real estate brokers: listing service and price database	Assist private brokers to form a voluntary self-regulating association and assist this association to create and maintain a multiple listing service. The listing service database should include information on real estate sold, and information will be made available at reasonable cost to banks, appraisers, brokers and the general public.
Appraisal services	Assist rural appraisers to form a voluntary association (including appraisers with skill in appraising agricultural land) and amend the law to provide that the association, rather than the State, can license and regulate the activity of all real estate appraisers.
Land survey services	Assist private surveyors to form a voluntary association to resist unreasonable regulation by the State, and work to amend the law to provide that the association, rather than the State, can license and regulate the activity of all land survey professionals.
Affordable transaction fees	Work to reduce notary fees further, especially for transactions involving agricultural land. Continue monitoring private notaries to prevent them from introducing obstructions to real estate transactions. Monitor registration fees to determine whether they pose a constraint on development of the market.
Secure registration of tenure rights	Work to enact current proposals to strengthen protections for persons dealing with the real estate registry. Ensure that mass registration of agricultural land is completed without change of parcel boundaries.
Protection of landowners from governmental interference	Continue monitoring, and participating in, legal developments related to land over the near term. Oppose laws that would empower bureaucrats to confiscate agricultural land either: (a) in order to achieve "consolidation" of land into larger farms; or (b) on the basis of alleged non-rational use of land. Work to annul existing provisions of the Land Code that require rational use of land and preservation of soil quality.
Reasonable sale and exchange procedures	Work to prevent notaries from imposing extra-legal requirements during land transactions, and monitor legislation to ensure the State does not: (1) monopolize transaction services, such as surveying; or (2) impose new mandatory requirements, such as appraisal, on private transactions.

Reasonable lease procedures	Work to amend the Law on Lease to outlaw various practices of agricultural lessees, and to stiffen penalties for failure to pay rent on agricultural land.
Public information on land rights	Continue support for the "Farmer's Hour" publication to ensure delivery of information on land rights to rural households, including maintenance of editorial staff and assistance with making the publication self-sustaining through advertising and paid subscriptions.
Legal aid to rural landowners	Continue support for the ten legal aid centers ("Problem Solving Teams") composed of lawyers who work as advocates for rural landowners. Continue support for continued advice and coordination for the teams from a central legal team of experienced land lawyers.
Mortgage for land purchase	Continue and expand work with Moldovan commercial banks to make mortgage loans to farmers for purchase of land. Continue and expand work with rural Savings and Credit Associations that make similar mortgage loans to smaller farmers. Provide additional education to banks and the general public regarding benefits of using mortgages to purchase real estate. Consider expanding the commercial mortgage lending program to assist wineries, canneries and other agricultural enterprises (including the CNFA farmstores) to use mortgage to obtain operating capital for their businesses.
Improved banking laws and foreclosure procedures	Work to overhaul antiquated Moldovan banking laws that impose cumbersome restrictions on the ability of banks to make mortgage loans. Work to modify the Law on Pledge and perhaps the Civil Procedure Code to improve foreclosure procedures. Review the bankruptcy law and propose any necessary modification to facilitate mortgage lending. Work with select Moldovan courts to improve their capacity to process foreclosure cases.