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**UKRAINE ENTERPRISE LAND  
SALES PROJECT  
Final Report**

*Contract EPE-I-00-95-00063-00  
Task Order OUT-EPE-I-800-95-00063-00*

**Submitted to:  
U.S. Agency for International Development**

**By:  
The Recovery Group  
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January 2001

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UKRAINE ENTERPRISE LAND PRIVATIZATION AND SALES PROJECT

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## **Executive Summary**

The Ukraine Enterprise Land Privatization and Sales Project (UKRels) was established by USAID, commencing October 1, 1997. By modification and extension dated August 27, 1999, the project was scheduled to conclude at the end of December 2000, with the primary task order covering the period through October 31, 2000.

The contractor was specifically responsible for establishing a national network of commercial land offices that would implement a system of private non-agricultural land ownership. UKRels also was charged with establishing a model for a secondary market, and therefore required to ensure professional training and development, support for an enabling environment, new methods of commercial land financing, and various outreach or public support initiatives. Consequently, the task order resulted in six operational objectives.

### **A. Overview and Major Accomplishments**

Although the project began with strong ideological resistance and, often, outright antagonism by national and local authorities opposed to land privatization, by the end of the project, there had been a strong and positive change in official behavior. The State Land Resources Committee, rather than oppose UKRels, began to officially contract with the UKRels regional offices for agricultural land transition titling, in July 2000, and issued an official notice to its regional authorities to purposely seek greater enterprise land sales. Also, on December 8, 2000, Derzhkomzem announced that the national budget authority would be required to include income from enterprise land sales beginning 2001, thus mandating full cooperation with non-agricultural land sales initiatives.

These events are substantial evidence that the Ukrainian authorities have made an important transition toward fully implemented land reforms, and accommodation to a competitive private land market.

The pervasive acceptance of municipal financing of land sale transactions, and the support by banks and investors for commercial financing implemented through UKRels, suggests there is strong potential now for establishing a viable mortgage market. When the project began, local officials and state representatives were harsh critics of all forms of financing, and although laws for collateral financing or an official mortgage capability are still required, these initiatives are going forward with greater emphasis by government.

Today, there is accelerated interest in financing and market concepts of land sales, including commercial financing, as modeled by UKRels and implemented through the non-agricultural land sales project.

The contractor expanded the original task order, creating new and ambitious benchmarks for the extended task order in 1999 and 2000. The results for each task objective follow in Section B below, and the UKRels directors offer recommendations as summarized in Section C below. As a general conclusion, the contractor suggests that:

Subsequent to the task order responsibilities, the project results exceed all expected benchmarks required. UKRels has delivered a complete and successful project for non-agricultural land sales in Ukraine on behalf of USAID. that can be the foundation for future real estate reforms and a competitive private sector market in Ukraine.

Not least among the project's accomplishments has been a fully developed network of professional real estate and land sales entities. This goes beyond the formal regional office network, but includes a World Wide Web program with bilingual linkages to the United States and Ukraine on land sales, investments, financing, municipal development, and complete documentation on laws and procedures of land appraisal, land sales, and titling in Ukraine. This is further coupled through a real estate association established by UKRels as a national nonprofit organization among commercial private enterprises, supported by sustaining members and the more than 250 professionals trained by UKRels.

UKRels has established a sustainable real estate land association, a system of commercial offices, and an electronic network, all of which enhances Ukraine's market economy, but which also are valuable resources that USAID could further employ in future projects.

Through the project's networks and development activities, there are new university courses, comprehensive textbooks for appraisal and land sales procedures, study manuals for privatization, and "how to" manuals for enterprise managers and local legislatures. And while there was no requirement to create employment through the UKRels project, these networks and development activities, coupled with broad outreach and development initiatives, have had a substantial impact on local employment creation for real estate specialists.

UKRels is directly responsible for more than 640 professionals employed or in ownership positions in private business. In addition, the project's regional offices have a system of contract agents, employing more than 100 independent persons, and as private enterprises, they have begun to contract with state agencies for agricultural activities, further employing more than 250 attorneys, appraisers, and surveyors.

UKRels leaves behind a system of comprehensive manuals, courses, and seminars that provide licenses, credentials, or practical knowledge about land sales, real estate appraisals, and legal requirements.

## Summary of Critical Issues Emerging during UKRels Implementation and Their Solutions

- Impossibly high land prices established by Council of Ministers guaranteed no land sales could take place.  
**Solution:** Added appraisers to staff though they were not budgeted or called for in the Task Order. Developed market-based valuation procedure that gained acceptance by State Land Resources Committee. Then Cabinet of Ministers issued resolution to utilize this methodology in land privatization. Then presidential decree required expert valuation using this methodology. Now accepted procedure. (Note: We are approaching 5000 widely disbursed land sales. Thus, now in Ukraine a real and credible sense of land values exists, nationally and by region.)
- Absence of market-oriented appraisers with understanding of land and land markets.  
**Solution:** Recruited specialist with at least some familiarity with land. Designed and implemented special training programs certifying land appraisers. Now have these appraisers around the country in numbers close to meeting national needs.
- Broad and universal confusion / misinformation about land issues.  
**Solution:** Organized national series of region-wide focused seminars. Added local seminars. Utilized local media. Produced complete, reliable, and popular "How To" manual. Devised strategy to spread sales to new regions (now 76 percent covered).
- Distrust of legality and permanence of land sales.  
**Solution:** Prepared for the first time in Ukraine a comprehensive well-reasoned legal brief on this specific issue. Part of How To manual. Integrated this in all outreach efforts. Discussed this new reality with potential land buyers: Land sales are taking place now, involving many enterprises, all over Ukraine.
- Low awareness of importance and potential of enterprise land sales.  
**Solution:** Did much original research creating convincing data on value of land sales, especially to local budgets. This caught attention of GOU and led to strong presidential administration support resulting in stronger local interest. Also gained attention of media.
- Absence of any type of land financing.  
**Solution:** Introduced concept of seller financing. New concept, quickly accepted. Created new opportunities. Now used in 40 to 60 percent of regional sales. Explored other financing schemes. Several banks now interested in land financing.
- Need to gain confidence of enterprises.  
**Solution:** Disseminated factual, local information regarding land potential. Highlighted actual, not theoretical, results in Ukraine through seminars and use of media in public outreach.
- Serious ideological resistance.  
**Solution:** Accepted ideological views; did not argue or debate ideology. Described choices of locals in economic terms. Assured our acceptance of local decisions. UKRels walked away from a number of potential regional office sites (only to return later at invitation of same local authorities).

## B. Task Order Objectives and Results

### 1. Network of Land Sales Offices

The contractor was responsible for establishing a network of commercial enterprise land sales offices across Ukraine. This would include staff training and professional development required

to position at least 10 of these offices as self-sustaining service providers by meeting 75 percent of the funded expense levels through independent income.

The UKRels project has achieved the deliverable and exceeded requirements by fully commercializing 26 regional offices. It also has positioned the two single-person city offices for professional fee-based income. Specifically, 23 of the 26 primary offices, and 25 of the 28 entities exceeded benchmark requirements for self-generated and independent fee-based revenues. Each of these offices individually has commercialized its activities by establishing for-profit legal entities, and all offices are highly likely to sustain themselves as market-based private firms.

## **2. Privatization and Sale of Enterprise Land Parcels**

Privatization and sale of non-agricultural land plots, arguably, was the most important deliverable under the contract. The task order directed land privatization to represent all interests but to address needs of large and medium-sized enterprises that had, themselves, been privatized. The task order required at least 3,000 land sales to be completed with no more than 500 pending by project end.

The conclusive result is that Ukraine Enterprise Non-Agricultural Land Privatization project substantially exceeded all deliverables required under the task order, more than matching every benchmark specified in the contract. A total of 4,638 land parcels were privatized and sales completed by December 31, 2000, and the project generated a total income of UAH 173,260,423 (or approximately US\$ 34,577,437) that accrued directly to local budget government constituents. At end December, 2000, there also were 2,349 transactions pending closure or in the UKRels pipeline. This represents additional potential sales over the next quarter which will provide UAH 87,750,912 (US\$ 16,556,776) for local budgets. The total of sales to date and pipeline sales will amount to approximately 261,011,335 UAH (US\$ 51,134,213) by the end of March 2001.

UKRels' current rate of sales and income (average over last three months) as of 31 December 2000 is 21.9 sales per working day, generating 1,016,435 UAH (US\$ 191,780) per working day. Remarkably, the income generated through UKRels through the life of the project amounts to US\$ 40,710 every working day since project inception. These funds have accrued to the Ukrainian authorities for reallocation to public programs and economic development.

Note that the figures for income earned for local budgets are not adjusted for inflation. If this were done, the incomes given above would be approximately 14 percent higher over the life of project.

Perhaps as important as the land sales themselves was the distribution of sales. Ukraine is divided into 651 administrative territorial units, including municipalities and rayons. UKRels accomplished land sales in 76 percent of all these administrative units. Thus the geographical range of sales (or project penetration) was as impressive as the number of sales accomplished. This distribution means that there is likely no city or rayon in Ukraine that has not observed a

land privatization transaction directly or in a nearby location. In other words, the legality, practice, and reality of land privatization has come to the attention of nearly every concerned official and enterprise owner in Ukraine.

The leveraging factor of the UKRels program is dramatic. Current production requires only 14.25 working days (far less than one calendar month) to earn for local budgets the equivalent of the entire annual UKRels budget. This means that in one year the project generates for local budgets nearly 18 times its total cost. In addition, the UKRels regional offices employ an average of three land specialists of various types, who are not paid by the project budget. This constitutes another major leveraging element, though it shows in no calculation of project cost and benefit.

The UKRels project has addressed the needs of large and medium-sized enterprises and delivered a higher percentage of land parcel sales in these categories than is represented by large and medium-sized enterprises in the general population of eligible enterprises.

### **3. Secondary Sales Transactions**

The task order directed the contractor to encourage a secondary land market through client enterprise land holdings generated in the privatization process. The task order held the contractor responsible for securing at least 300 secondary sales over the life of the project.

Within the definition of a secondary market, the UKRels project has achieved approximately 130 formal secondary land conveyances, and based on sales data for primary land parcels, this represents a 3.6 percent turnover. On the surface, this falls short of the targeted benchmark of 300 sales in the task order. However, this number includes only "formal" conveyances. This report argues conclusively that an "informal" or shadow economy exists to support many more sales and secondary conveyances. Information from our field offices confirms that the majority of secondary sales take place informally, the principals wishing to avoid tax implications and government involvement in this direct buyer to seller relationship. The project has no authority, control, or involvement over secondary sale procedures and cannot alter this business behavior. Therefore the project's ability to collect more complete data was seriously hampered. However, even in this area the project has affected change. Through UKRels initiative and assistance, Dershkomzem now requires detailed secondary sales information from its network of regional and rayon offices. Prior to UKRels involvement such data was not systematically collected. Following initial assistance by the project in installing a secondary sales data collection mechanism in Dershkomzem, data was collected over two months. At that point it became clear that UKRels' informal method of identifying secondary sales through its regional offices was more reliable and thorough than a similar approach by Dershkomzem using its network. Modifications were made to the DKZ approach and should elicit better data in the near future. The role of UKRels to sensitize DKZ to the need to collect and analyze reliable secondary sales information was key. In this regard, note the quoted comment below that emerged from a UKRels study on the secondary sales market.

“In sum, in Ukraine at this point, due to the absence of a land titling registration system, it is extremely difficult to identify all enterprise land secondary sales since such transactions are only supported by buy-sell agreements between two legal entities and are very often not notarized and registered. Besides, new and old owners of land parcels often are not willing to disclose information about such transactions due to tax implications and general fear of government involvement in the firm’s affaires. As a result, the full development of the land market in Ukraine is difficult to evaluate and as other markets it goes into “shadow.”

A final comment on secondary sales progress in Ukraine is in order: Even excluding the “shadow” transactions, that we know are happening in the secondary market, identifying a turnover rate of 3.6 percent of UKRels sales would be normal in any Western real estate land market. Land normally turns over at about a rate of 4 percent in such markets. This rate was confirmed again at the CEREAN conference in Prague partly sponsored by USAID in October of this year. This being the case and given that Ukraine’s market is just forming, it was perhaps arbitrary and unrealistic to expect a transparent secondary sales rate of double this. Nevertheless, given the current dynamism of this market, UKRels is confident that, taking into account “shadow” transactions taking place, the turnover of land parcels specified in the Task Order was met, if not exceeded.

#### **4. Support for Legal and Regulatory Initiatives**

The contractor was required to identify and recommend necessary revisions to the legal and regulatory framework for a land market in Ukraine. Commensurate with these activities, the contractor was also expected to advocate for legal amendments, assist in drafting or modifying proposed legislation, and provide seminars on advocacy and lobbying. This broadly defined component had several deliverables defined with results as follow:

Project specialists served on GOU executive committees and task forces charged with pilot programs in land registration, agricultural and enterprise land reforms, advisory services to the President’s committee on land titles, and advisory services to the Cabinet of Ministers Committee on Urban Land Registration.

UKRels specials also have drafted 22 proposals and 11 reports or memoranda that were subsequently presented to the offices of the President, the GOU Land Reform Commissions, and to the State Land Resources Committee in 1998 and 1999. These resulted in 18 adoptions of project reports and inclusion of recommendations in eight separate regulatory initiatives.

In addition, there were 27 briefs and addendum proposals forwarded to GOU constituents in 2000, including attendance by UKRels legal staff in 18 GOU committee meetings. The entire legal staff has met with, worked with, and assisted counterparts in all regional State Land Resource Committee locations each of the past three years, often with repeated trips or hosting representatives to UKRels conferences.

It is arguable that the most significant accomplishment by UKRels in the legal reform area is the subtle but enormously significant change in the national budget process that began with the 2001 year budget (which appeared in November, 2000 and is expected to be signed by the president imminently). This annual budget, for the first time ever, requires that at least one per cent of the annual budget be generated through non-agricultural land sales. This requirement stems directly from the success of the UKRels project and land privatization has now been codified as a legitimate and effective means of meeting budget income goals. It should be further noted that the budget requires that 90 percent of the funds collected through these land sales remain at the local level, thus preserving the local incentive to continue privatizing non-agricultural land.

## **5. Municipal and Commercial Land Financing**

The contractor was charged with the responsibility to demonstrate the value of land as collateral, thus encouraging and implementing a system of land financing. The task order required that the contractor achieve at least 100 municipality financed primary land sales, working with local authorities to systematically implement buy-sell agreements. Ideally, these would be long-term loans for one-to-three years if municipalities were prepared to administer loans. The contractor was required to verify that at least 50 land sales transactions had been financed through commercial institutions or private investors.

The UKRels project has achieved 2,784 municipally-financed primary land sales transactions, thus substantially exceeding the task order requirements. These include 289 known to have terms exceeding one year (one of these for 30 years), while the remainder reflect various terms and payment schedules negotiated between enterprise owners and local authorities.

The UKRels project successfully accomplished 86 commercial or privately backed transactions for registered primary and secondary land sales, thus far exceeding the task order requirements. Of these, 28 were considered long-term loans (term notes for more than one year). Additionally, there were 33 transactions pending, 16 for secondary long-term sales, as the project closed.

It should be noted that, when UKRels began its work, financing of land purchases was unknown in Ukraine. UKRels established a land financing concept and successfully generated in every participating local rada an understanding of the importance and dynamics of land financing. The concept, which has now become a nationally accepted and basic funding mechanism, is known as "seller-financing". This mechanism allows the local rada to negotiate and agree with the land buyer on a payment schedule over time. In turn, this allows the enterprise to privatize the land parcel on an affordable basis and not have to pay the entire land parcel price immediately with cash. Getting this concept accepted by local authorities was difficult, but proved revolutionary, and set the stage for the rapid land privatization UKRels subsequently accomplished and which continues today. The more sophisticated land financing schemes developed by UKRels finance specialists used the seller-financing experience as the technical base for their much more advanced formulas.

## 6. Training, Professional Development, and Outreach

Under the task order, the contractor was required to establish appropriate training and development for project specialists, government participants, and enterprise managers. In addition, the project was to provide extensive public outreach activities in support of privatization of non-agricultural land sales. A minimum of 10 seminars for professional training and development were required, to reach a total of 2,250 participants. A national conference on land sales was also required to bring together at least 150 government and enterprise participants. The UKRels project held 34 formal seminars, 358 workshops, 26 courses with diplomas or credentials, 32 professional development training programs, 3 national conferences, and 4 roundtable meetings during the task order contract. This comprises a total of 457 formally organized training and professional development activities. Note that this amounts to 2.8 major events per week beginning from project inception.

Participation in the formal development activities included 1,024 government officials, 1,862 enterprise managers, 430 project managers and staff, 221 journalists, and 3,337 others. The last category includes real estate business persons, bankers, investors, foreign participants from other donor activities, and university students.

Outreach meetings and public relations or press events reached a total of more than 13,000 persons in all regions and in Ukraine's major cities; more than 20,660 persons attended or participated in UKRels training, development, and outreach activities. Note also that as the UKRels field network gained experience and visibility, the regional offices organized directly increasingly more local seminars, using limited or no specialists from the UKRels Kiev office. Many of these official but locally-organized meetings took place without participation of the central office either in the planning or implementation phases. Therefore many such meetings took place to meet local UKRels office needs and were not counted in the total attendance figures given above.

Separating the general public from project constituents, the project verified participation by a total of 6,400 enterprise managers and local authorities, and there were 670 media journalists in attendance at conferences and news events.

Special attention was given to the number of women in attendance, and women were particularly encouraged to be involved in development and outreach activities. Consequently, approximately 42 percent of all participants in UKRels programs were women, although few of those were enterprise managers or in official government positions. It is interesting to note, however, that one of the most successful UKRels regional offices, Volyn, was entirely staffed by women. Due to the importance of and local impact of this Volyn office, the women managers and specialists associated with it have gained significant regional notoriety and esteem.

## SECTION I

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### Introduction

#### A. Background

The United States and Ukraine have pursued multifaceted cooperative development initiatives for more than eight years, included a fruitful program of land reformation and ownership through a variety of projects under the direction of the United States Agency for International Development. These project activities have sought to create effective land markets in support of private enterprise development and transition to a viable market economy in Ukraine. Particular activities have focused on legislative changes, registration, land utilization, land reform measures, urban property development, and privatization of enterprise land specifically in populated areas.

Assistance programs and cooperative endeavors are only beginning to realize necessary results in the long-term framework of transition. Much important work remains, including vital legislative initiatives beyond the general Law of Ukraine, which provides little guidance for land reform. The 1992 Land Code of Ukraine, although broad and substantially outdated, lays down a legal basis for land reforms, empowering local authorities with administrative responsibilities for both urban and enterprise land reforms. The Constitution of Ukraine ultimately provides individual rights to private land ownership and personal property rights. USAID's land reform projects ultimately became possible following the Decree of the President of Ukraine #608 of July 12, 1995 "On Privatization and Lease of Non-Agricultural Land Parcels for Entrepreneurial Activities." In effect, this was the enabling legislation for this project.

#### 1. Project Concept

The Ukraine Enterprise Non-Agricultural Land Privatization Project (UKRels) was intended to design, implement and roll out model procedures for privatizing land associated with, or virtually under, privatized enterprises. The project was also responsible for pursuing secondary sales among client enterprises whereby private land was resold or leased to private third parties. This would provide a framework for competitive land markets and demonstrate a model for restructuring and marketing excess land holdings.

In concert with the principal objectives of land privatization and sales, the project was positioned to enhance the skills of national and local officials in procedures for urban land privatization and market development. Further, UKRels was responsible for helping to develop an enabling regulatory environment, locally and nationally, for non-agricultural land privatization markets. These tasks were important to not only ensure cooperation by the appropriate administrative authorities, but to minimize barriers to private sector land and real estate development.

The principal mandate for UKRels has been to establish a strong national network of commercial real estate offices as a foundation for future land privatization and subsequent secondary markets that are essential to a free enterprise economy. Self-sustaining and independent land sales and real estate offices represent an entirely new dimension to commerce in Ukraine. The UKRels project, therefore, became the first groundbreaking effort to establish a competitive real property market in the country. As such, the primary land sale initiative has been limited to land associated with privatized enterprises. A secondary market for land sales has been virtually nonexistent, and, quite obviously, Ukraine has had little need of land appraisers, property information systems, marketing systems, or adjudication systems for private titles or land rights. The project has had to address these issues commensurate with a viable system of private, competitive, real estate markets.

## **2. Project Authorization**

The Ukraine Enterprise Land Privatization and Sales Project was established by USAID, commencing with the roll-out period October 1, 1997 through September 30, 1999. By modification and extension dated August 27, 1999, the project was scheduled to conclude at the end of December 2000, with the primary task order covering the period through October 31, 2000. As described in the modification and extension document, the contractor met or exceeded all initial benchmarks during the roll-out period, established a close working relationship with GOU counterparts, and developed proven approaches to enterprise land sales in Ukraine. This performance therefore created an opportunity for even more extensive enterprise land privatization. It also was vital to expand and nurture the emerging network of regional offices with an end sight of sustainability, and continue to pursue all other activities under the project's task order.

### **B. Project Objectives and Task Order Deliverables**

USAID/Kiev recognized the value of continuing this activity to further strengthen the transition to private land ownership and to continue support for private enterprise business development. Specifically, the project's activities reduced investor risk and provided enterprises with valuable assets for collateralization or capitalization. Consequently, UKRels was charged with the task of rapidly expanding activities to privatize the non-agricultural land market, and also to establish a model for a secondary market in enterprise land.

These activities would require professional training and development, support for an enabling environment, new methods of commercial land financing, and various outreach or public support initiatives. Consequently, the task order resulted in six operational project objectives. These are described in the following paragraphs together with measurable benchmarks and deliverables.

#### **1. Network of Land Sales Offices**

The contractor was responsible for establishing a network of commercial enterprise land sales offices across Ukraine. This would include staff training and professional development required to position these offices as self-sustaining service providers.

Before the end of the roll-out period, UKRels had established 24 regional sales offices, and have provided extensive professional training and development. Consequently, the modified scope of work dated August 27, 1999, specified that these offices were to be maintained and expanded as necessary. At the end of the task order, the contractor would be required to demonstrate sustainability by commercialized regional offices through fee-based land sales activities. Two essential benchmarks were defined as follows:

- At least ten (10) commercialized project offices will be able to demonstrate self-sufficiency and sustainability at the end of project.
- Sustainability would be demonstrated as an office achieving income from professional fee-based activities amounting to 75 percent or more of its total expenses.

## **2. Enterprise Land Privatization**

The project was responsible for privatization and sale of land plots associated with small and medium-sized enterprises that had, themselves, been fully privatized. The scope of work emphasized that during the latter stages of the project, the contractor would focus more on parcels represented by large and medium-sized enterprises.

Prior to completion of the roll-out period, sales projections had been accomplished beyond initial expectations. The modified task order subsequently specified that through the end of project, the contractor would achieve the following:

- Verify that at least 3,000 land parcels had been fully privatized.
- Ensure that at least 200 of these transactions represented plots of one (1) hectare or larger, associated with medium-sized enterprises.
- At the end of project, no more than 500 of these transactions will have remained “in process” or pending.

## **3. Secondary Sales Markets**

The project was to encourage secondary sales as a foundation for future real estate industry development, and in this process, to assist enterprises with conveyance of excess land holdings. Secondary markets commonly are defined as direct sales of privately held real estate assets, lease or rental of those assets to third parties, and conveyance through gift or bequeath to heirs and legal beneficiaries. One deliverable was specified in the task order:

- The contractor was specifically responsible for securing at least 300 secondary sales by the end of project.

#### **4. Commercial Land Financing**

Demonstrate the value of land as collateral, thus encouraging and implementing a longer-term commercial financing program in conjunction with commercial and municipal resources. The contractor was to achieve commercially financed land purchases, and ideally pursue long-term agreements (defined as 1 to 3 years or longer). These would be financed through private investors or commercial institutions. In effect, UKRels would be a catalyst, not an active lending activity, to encourage mortgage lending and collateralization of land resources. As defined in the extended scope of work, the contractor would:

- Demonstrate that the project has achieved at least 100 municipality financed primary land sales.
- Verify that at least 50 primary or secondary land sales have been commercially financed by institutions or private investors.

#### **5. Policy, Legal, and Regulatory Initiatives**

The contractor was required to identify and recommend necessary revisions to the legal and regulatory framework for a land market in Ukraine. In concert with these efforts, the project would establish public outreach activities to establish a broad awareness of the benefits of enterprise land sales, and to pursue cooperation among other donor activities and the GOU with interests relevant to land privatization. Commensurate with these activities, the contractor was expected to advocate for legal amendments, assist in drafting or modifying proposed legislative acts, provide seminars on advocacy and lobbying, or provide study tours for Ukrainian officials. The extended scope of work suggests an optional study tour for 15 Ukrainian officials. More specifically, the contractor was to achieve the following:

- Contribute to development and implementation of urban land development strategy currently being proposed by GOU.
- Monitor passage of a draft Law on Hypotek and to participate in implementation of the law if appropriate.
- Provide assistance to SPF for the development of policies and procedures to allow for the privatization of enterprise land simultaneous with enterprise (legal and physical entity) privatization.

#### **6. Professional Development, Outreach, Education**

Given the sensitivity of private ownership of land, lack of understanding, skills and experience in land sales, real estate development, and most aspects of demand-driven land marketing, the project was responsible for a broad-based public outreach effort. This included professional, governmental, and public education, training, and informational services. The modified scope of work also emphasized professional development for regional office staff. This would include

land sales and appraisal methods, survey techniques, legal titling procedures, real estate management, and business management.

Specific training and development topics were left to determined by the contractor. However, they might include legal services, financing, restructuring assistance, information networking, and market reforms. In addition, the project was to pursue cooperative work with local real estate associations or professional groups, and if appropriate, to support new associations through outreach and communication activities. This may include, for example, providing materials, information, procedural manuals, and access to on-line and public information resources. Specifically, the contractor was to accomplish the following by the end of the task order:

- To have held at least 10 professional real estate seminars on appropriate topics for training and development involving professional staff, client organizations, and interested government participants.
- To ensure that such outreach and professional development training reached a target of 2,250 participants for the composite programs.
- In addition, the contractor will have organized a national conference on enterprise land sales with a minimum of 150 participants.

### **C. Report Purpose and Organization**

This report was prepared according to the task order guidelines, specifically Section IX, "Reporting Requirements: Final Report," of the Ukraine Enterprise Non-Agricultural Land Privatization Project (UKRels) Scope of Work, modification and extension, dated August 27, 1999. This requires the contractor to articulate the project's activities, identify its accomplishments, and to explain how results were achieved.

The final report is to clearly describe the contractor's objectives and deliverables, address the task order requirements, and indicate the project's status as of October 31, 2000. In the event that a 30-day operational extension occurred, or the project concluded at a date different that October 31, 2000, the report will reflect the status and results through that date. In this instance, the final date is December 1, 2000, with disbursements and reconciliation of accounts by December 22, 2000.

The report is organized in five sections, including this introduction section, with annexes for all referenced statistics, tabulated results, and relevant information on laws, regulations, and commercial initiatives. Section II that follows develops the background information on economics, constraints facing the project, and opportunities that influenced the contractor's strategy. Section III represents the core of this report with individual sub-sections corresponding to each of the primary objectives and task order deliverables. Section IV analyses the impact of income from sales on state and local recipients, benefits to private enterprise clientele, and implications of intervention assistance in land privatization and sales activities. Section V

concludes with lessons learned and recommendations for further USAID assistance or improvements in similar project activities that may be contemplated.

## SECTION II

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### **Project Environment and Contractor Strategy**

#### **A. Economic and Regulatory Environment**

This project was initiated at a crucial period when economic circumstances were beginning to cycle back from a prolonged period of decline. At the beginning of 1998, it was not at all clear when economic conditions would improve. Inflation persisted even though hyperinflation was under control. Official unemployment seemed small (less than 5 percent by government records), but structural unemployment probably approached 25 percent including those “underemployed” by bloated state industries. Privatization, although said to have been successful, had not yet run its course with continued employment reductions and industrial contraction. Monetary revaluation clouded conditions of banks and national accounts. And agricultural output was suffering with mounting arrears and hidden costs buried in state accounting procedures for farm cooperatives.

The roll-out period of this project, therefore, came at a time when the economy was ripe for change, yet also struggling with serious monetary and fiscal problems. There were many more important priorities than land reform. Concerns with legislation required for enterprise privatization and urban planning, or revisions to the Law of Ukraine concerning land, property rights, or private enterprise development, were simply not high on the priority list. By 1999, however, a number of important initiatives had been taken through various Verkhovna Rada acts and Presidential Decrees that gave a non-agricultural land project sufficient foundations to pursue fully privatized land sales.

#### **1. Enabling Laws and Regulations**

The primary law governing land ownership and land rights has been the Law of Ukraine, and specifically the Land Code of 1992. The relevant sections of that law provide legal justification for legitimacy of private land ownership with obvious exemptions for state priorities and the public in general. One glaring exemption is pervasive restrictions on agricultural land, yet in 1996, the Constitution of Ukraine (Articles 8, 13, 14, and 41), granted broad land ownership rights to all individuals. Everyone became entitled to certain rights to farm plots or restructured cooperatives through certificates, or they were allocated land rights under private enterprises and certain urban constructions. These constitutional rights, however, did not provide enabling legislation to implement ownership programs.

The President of Ukraine Decree “On Privatization and Lease of Non-agricultural Land Parcels to Implement Entrepreneurship,” dated July 12, 1995 provided the necessary enabling legal framework to pursue private sales of enterprise land. Interpretations and refinements to the Land Code itself provided a legal basis for the Rada of People’s Deputies to administer urban land and to transfer, assign, or sell land to authorized enterprises with land rights. Article 4 of the Land

Code determined the exemptions to this authority, which became possible only with the presidential decree noted above. Still, there were serious gaps in legislation and government regulations. Subsequent decrees or resolutions by the Cabinet of Ministers have solidified local rada authority for land sales, prompted legislation on land rights under constructions, addressed utilities and retail gas and oil enterprise rights, authorized revisions to monetary valuation (appraisals), approved new standards for surveys and land plot definitions, and empowered more than 20 commissions.

Some of the most relevant commissions established in 1998 and early 1999, include working groups on land titles and registration systems, urban planning (zoning), proposed mortgage banking regulations, notary jurisdiction, and land taxation. These and several new commissions continued work in 2000 with few issues resolved. (Section B below discusses these “constraints”.)

The two pieces of legislation that have occupied the time of numerous task groups and committees for at least three years is a law on hypothecation (collateral) and a new Land Code. Both were mandated by the Supreme Rada (Verkhovna) to be submitted in draft form by April 30, 2000. A draft Land Code was tabled under the auspices of a Presidential Decree “On the Execution of Land Legislation for Reforming the Agrarian Sector of the Economy,” June 2000, and although delayed, a new Land Code had passed its first reading and was before the Verkhovna Rada as this project closed. A law on hypothecation is widely recognized as essential to establish a mortgage lending capability, yet it has not been formally written or proposed at appropriate levels of government.

## **2. Considerations for Land Reform**

At mid-year 2000, a special series of reports by EU TACIS and joint commissions on land legislation concluded that radical and pervasive land reform would be essential before the country could make significant economic progress. These reports indicated clearly that the constitution does not provide for collective land ownership (referring to the difficulties of agriculture), and that a “paper land holding” does not put into service actual land for productive economic use. The national privatization of agrarian land through certificates only created claims for certain categories and sizes of plots that would require costly surveys and titling procedures. In addition, the reports noted that without registries and proper appraisal capabilities with title security, little progress could be made in land reform. TACIS was adamant that all land — urban, agricultural, private titled properties, government reserves, enterprise land, and industrial restructured parcels — require a major and consistently adjudicated reform system.

The same series of reports emphasized major requirements for mortgages and for the rights of farm land owners to hypothecate their assets. Even with collateral rights in place, however, agrarian land owners are prevented by law from circulating or selling certificate shares, or from selling or transferring rights to land itself. These regulations will remain in place, without reforms, until at least 2004 together with full prohibition against bankruptcy against farm and land holdings. Consequently, a commercial lender would have little or no protection under

current laws for collateralized farm loans. Although these restrictions are specified for agrarian land rights and owners, the situation with non-agricultural or urban land is equally confusing. Bankruptcy laws exist for individuals and enterprises, but legal process is not clearly defined in terms of satisfaction of leveraged debts. Collateral procedures for capital asset accounting, and other concepts such as rules of evidence for land claims common to national land registries, are not reconciled through formal legislation. A commercial code (or civil code with effective commercial clauses), has not yet been formulated beyond the 1992 Law of Ukraine, original Land Code, and the constitution.

This discussion may seem to be of little relevance to the UKRels project or to enterprise land privatization and sales, yet the issues all are crucially important. They are presented here to provide USAID with a perspective of how this project has coped with land reform in general and with the economic and legislative environment. With that said, UKRels has not encroached on other donor activities, nor has it exceeded its mandate to address non-agricultural land privatization. No budget allocations were made to activities beyond the project's mandate, and regional offices, staff, and project specialists focused intensely on UKRels priorities. Nevertheless, it was impossible to draw a sharp line between "enterprise" activities and all other categories of land issues.

UKRels worked on or drafted key legislation and procedures for land survey, technical plot mapping, international appraisal standards, national monetary valuation methods, hypothecation, and the Land Code itself. None of these procedures or legislative proposals segregate categories of land or real property assets. Surveys, standards, mapping, and appraisal techniques are applicable. Also, collateral and the methods required to capitalize real assets, are issues common to all categories of land, even though special considerations may apply to public or private ownership or to protected sectors such as agriculture. Financing, and adjudication of claims against any land right or property title will follow the same legal requirements. UKRels has had to address these issues with each land sale and every client enterprise.

In addition to legal and financing considerations, UKRels has had to consider the priorities of their project constituents — enterprise clients, municipal and regional authorities, state commissions, and urban interests. In most instances, the project was able to remain separate in its operations, focusing squarely on non-agricultural land, yet as the report will show, the indigenous local managers often worked outside the project boundaries in related areas. They generated independent income from work with agrarian landholders, conversion of certificate rights, and literally subcontracted with state agencies for restructuring, surveying, appraising, and land titling.

## **B. Constraints to Land Sales and Development**

### **1. Economic and Regulatory Constraints**

Elaborating on the introductory comments in Section A above, a brief but important list of constraints can be summarized. The following reflects legal and regulatory issues:

- a) The absence of a new Land Code will continue to leave a void in enabling legislation and a cloud over land rights or adjudication process for ownership claims to private property.
- b) Absence of a law on hypothecation prevents a primary mortgage market, and relegates secondary markets in land or real property to private financing, venture capital, or other means separate from a commercial mortgage system and from commercial banking.
- c) Ironically, Ukraine banks have sufficient monetary assets to make loans, and the national savings rate has increased each of the past three years, yet the total value of loans and the turnover in lending has not increased in any sector except consumer durables. Bank loan processing, specifically the willingness to make property loans, is almost nonexistent.
- d) Lack of title registration may not impede privatization or primary sales of enterprise land or agrarian interest, but the absence of a reliable registration system prevents the country from having rules of evidence regarding title rights, and therefore seriously restricts all secondary sales. There is clear title through land sales recording by local rada, but leases and other forms of secondary conveyances are not systematically protected.
- e) A revised Tax Code has not yet materialized, and under current regulations, some land parcels and proceeds from both primary and secondary sales are actually subject to VAT levies. This, coupled with many other economic factors, drives the secondary market into the informal (shadow) economy. Sales, leases, and bequeaths simply are not often made public to tax authorities through records or registries.
- f) The absence of urban planning systems and property zoning other than previously mandated government allocations determining land utilization seriously restricts private development. More importantly, without such regulation, there is no method for consistently seeking the highest-and-best uses for land, for protecting properties, or for holding enterprises accountable for proper use of land resources.
- g) There is no regulation that clearly establishes procedures or rights under foreclosure by private parties. There are no similar procedures or rights under foreclosure by public entities (such as process of eminent domain or public seizure). These limitations substantially stop foreign investors and private investment groups from pursuing private land titles. In effect, there only is a clouded concept of what constitutes due process.
- h) There are obvious economic constraints common to transition economies. Inflation is not rampant, yet still presents problem for financing. Interest rates fell in 2000 and may be lowered again in 2001, yet they are still very high for long-term lending. Employment restrictions and the prevailing large wage and salary arrearages present significant problems for local administrations and national accounts. And a very high structural system of levies for social fund programs dramatically limits investments and savings.

- i) The combination of the previous factors discourage foreign investors who might place funds in joint ventures or domestic enterprises. They are unlikely to consider any asset valuation that includes land as a basis for investment. In effect, domestic enterprises cannot easily enhance their balance sheets to attract investors or to capitalize their land.

## **2. Political and Ideological Constraints**

The political system, even though evolving toward a truly constitutional form of government, retains many features of a command economy. This has been one of the most difficult constraints facing this project. At the outset, government administrative branches were more hindrance than help. The State Land Resources Committee (Derzhkomzem) often purposely blocked efforts by UKRels to pursue cooperation with regional rada or to pursue land sales. Until near the end of the project, in major metropolitan centers such as Kiev and in each region, it required long negotiations, public awareness programs, and patient relationship developments to secure cooperation with local branches of Derzhkomzem. During the early stages of the project, a similar pattern of reluctance or outright resistance to land privatization occurred throughout the regions with rada deputies and various other state and local committees.

Resistance was not surprising, and it is important to note that progress has been made. There has been a concerted effort by Derzhkomzem during the last few months of this project's operations to seek UKRels help. The agency has openly offered contracts to regional land offices for privatization work, appraisals of public lands, and legal assistance with land sale documentation. (See Section III (B) for results). A prevailing psyche of command economics persists, but during the past three years, UKRels believes that many representatives of state agencies have made a significant ideological shift in thinking about private enterprise and land ownership rights. They have also become keenly aware of the benefits of private land ownership and the impact of land sales on national income accounts.

A systematic and broadly-based effort to inform rada officials and enterprise managers of the benefits of land privatization was an essential priority. A substantially heavier focus occurred early in the task order for outreach and information directed toward these persons in an effort to secure their cooperation. The extreme eastern and western regions were more amenable to UKRels proposals, which underscored the project's strategy of starting in these areas rather than in strongholds of communist support such as Kiev and regional capitals. In effect, UKRels created a situation where the "tail wagged the dog," and through consistently effective sales, a growing track record, and public information, the project generated a demand-driven activity. Nevertheless, the project faced an uphill struggle to break through a monopoly mentality by those in control of land resource decisions.

There is a general mistrust of government by private citizens, which is captured in results of periodic surveys conducted through UKRels specialists and contracted research. This research revealed, for instance, that the single most important reason given by enterprise owners for privatizing land was to insulate and protect their land assets, land rights, and titles from capricious government decisions. A second reason was to secure some form of title and right to

use land that could not be seized or corrupted. Interestingly, motives for land purchase changed during the course of the project, moving to more business-related decision-making.

One would have expected “economic” rationales for purchasing enterprise lands, but economic factors were much lower in priority, including, for example, the ability to capitalize land assets to attract investors. The upshot of this is that a competitive secondary market is severely hampered by prevalent mistrust of official administrations. Sales, if they occur, will seldom be made public, and leases or other income-generating activities will seldom be revealed. Indeed, sales and leases that are publicly recorded tend to show no gains or to record “losses,” thus avoiding taxes or penalties. In other words, there is little accurate public information on actual market mechanisms that drive land sales or leases.

Finally, corruption remains problematic and a constant challenge, and there is an ever-present temptation to set “administered” prices by state and local authorities. This not only subverts land markets in general but creates exploitative prices through which local authorities have opportunities to misappropriate proceeds. Under a market system, the appraisals are reasonably fair, but in all cases, they are transparent in terms for how prices were achieved and what the prices represent. Indeed, one of the key achievements of this project was to hold prices to fair market values by consistently following appraisal rules and carefully documenting procedures.

### **C. Opportunities for Enterprise Land Development**

A grand view of the potential Ukraine land market would encompass the entire range of privatized enterprises and their associated land rights under enterprises. This would not be very meaningful for several reasons. First, many large privatized enterprises were bloated in terms of both land and capital assets. Second, huge land parcels under manufacturing or processing plants have little economic use as they exist. Third, many of the early mass-privatized enterprises were poor performers and have disappeared, or they continue as marginal companies. And fourth, many of the remaining highly valuable enterprises with similar high potential economic value in land utilization are the least likely to be approved for privatized land sales by administrative authorities.

The greatest potential for immediate land privatization and economic development of land resources rests with smaller parcels of sustaining enterprises (or new ventures) that can be approved by rada and put into economic service. Consequently, the market of primary land sales is for parcels that can be easily sold, converted to productive use by buyers, or repositioned in secondary markets for sale or lease. Based on surveys commissioned by UKRels in early 1999 and in January 2000, the size of these parcels range between 0.007 and 3.9 hectares, averaging close to 1.0 hectare. This is based on 1,533 enterprises surveyed in 1999, and 3,700 enterprises researched through records of the State Privatization Fund. This database represented about 8 percent of privatized enterprises across the total regions served by UKRels, and approximately 0.1 percent of the total land under privatized enterprises.

## **1. Market Potential for Primary Non-Agricultural Land Sales**

Studies done together with information in 1998 and 1999 from the State Land Resources Committee indicated that the probable market for sales of non-agricultural land in Ukraine through the end of 2000 was between 2,600 and 3,700 parcels. As this report will show, the forecasts seriously understated the motivation and intention of enterprises to purchase land. Indeed, by the end of this project, 4,638 parcels had been privatized and sold in the primary market. In addition, as of the end of December 2000, there were 2,349 sales pending or in the UKRels pipeline, with about 1,500 of these awaiting local rada approvals.

Information from 26 commercialized UKRels offices in October 2000, based on their business plans for the year 2001, predicted annual market for at least 3,300 parcel sales. We now believe this is far understated. In addition, this estimate projected fee-based transactions in 2001 for urban land appraisals or legal advisory services to be 3,120. Based on the current UKRels network performance, however, this potential may be understated by 50 percent or more. The October projected market for 2001, therefore, was estimated to represent an increase over UKRels annual sales in 2000 of about 8.5 percent. Our revised thinking as of project end is that this market increase will be closer to 25 percent. It is reasonable to conclude that an 8.5 percent growth rate, provided in October estimates, understates actual market potential as UKRels has experienced an average monthly rate of growth through 2000 of approximately 8.6 percent. And growth rate acceleration in November and December, 2000, far exceeded even this. If the same rate applied to year 2001 and beyond, annualized growth rates would approach 100 percent. The original and modest 8.5 percent growth rate is therefore easily defendable and is more likely to be at 20 to 25 percent, and the primary market is most likely to generate continued growth through 2004 with follow-on restructuring thereafter as Ukraine authorities restructure larger land parcels and generate economic utility in currently unproductive sites.

## **2. Market Potential for Secondary Non-Agricultural Land Sales**

No "formal" secondary market can exist officially without a privatization and legal titling of primary land. Consequently, the three-year history of UKRels to establish a critical mass of primary enterprise holdings was unlikely to generate more than a few official secondary sales. With that said, this report will show that a secondary market emerged in 2000. A detailed report of secondary sales is presented in Section III C under "results," but there are several explanations to explore here.

UKRels actually registered 130 secondary sales or leases through October 31, 2000 (most recent verification date of official data), representing a 3.6 percent turnover of client holdings. Critics will argue that a 3.6 percent turnover is unacceptably low. Proponents will argue that a high turnover percentage strongly implies a speculative market with exploitative prices. Instead, a turnover of 4-to-8 percent would suggest a healthy market comparable to competitive markets in western countries. The position of this report is that a 3.6 percent rate is reasonably healthy given the lack of a mortgage market, an economy in recovery, and relatively little actual land eligible to be resold. Clearly, there is little speculation occurring, suggesting effective market controls on the buy-sell process and equitable prices. However, the secondary market in Ukraine clearly has

a significant "informal" component whereby sales and leases are nontransparent and unrecorded. As a parsimonious argument, the informal market may match or exceed the formal market, despite lack of mortgage markets or sector growth in land sales or financing.

### **3. Market Potential in Agricultural Land Sales**

Regional UKRels offices, acting independently during transition to commercialized enterprises, have already begun to work with agricultural land sales. This activity was not expected nor supported by the project. Ironically, the conversion of agricultural land certificates was prompted by regional representatives of the State Land Resource Committee who approached UKRel project managers with contracts to survey, appraise, and convey agricultural land parcels.

Based on the Derzhkomzem projections for agricultural "certificate rights," there are approximately 11,600 farm cooperatives, excluding existing private holdings or agrarian rights. These represent a total number of approximately 4.6 million parcels to be surveyed, appraised, and conveyed. This would be an impossible task in the near term, and it will not happen without a major land reform program with enabling legislation. It will also require years of extensive work with cooperative managers, owners, and certificate holders. This process has, nevertheless, begun as a grass-roots effort by a number of cooperatives, and it is being encouraged by the actual fee-based contracts offered through Derzhkomzem.

It makes no sense to suggest what the market potential is for agricultural land in the absence of research that would account for the shift in behavior by the Land Resources authorities. The IFC has worked with a large number of state cooperative farms during the past several years, but their projects are not currently active. Also, a number of legal and regulatory initiatives are needed (some are in the pipeline) that could dramatically influence land reforms. With that said, several UKRels commercialized offices have already secured contracts that promise UAH 1.0 million to UAH 4.0 million for the year 2001, reflecting work on 600 to 2,400 individual land parcels in Mykolaiv and Kherson. In effect, the agricultural land market could exceed the total enterprise privatization activity within two or three years.

### **4. Perspective of Opportunities for the UKRels Project**

Although much has been presented on future markets and opportunities in both enterprise and agricultural land sales, there was very little knowledge of this potential at the outset of the project. Indeed, at the beginning of the UKRels work, it was not at all certain that the time was right to pursue enterprise land privatization. Early results of land sales were marginal and difficult to achieve suggesting that land sales potential may have seemed too optimistic. Also, national and local authorities were difficult to convince that private land sales would be beneficial, and enterprise managers were reluctant to participate.

As described later in this report, some of these early assumptions did not persist, even though accurate at the time. The contractor's strategy of establishing regional offices with well-qualified and motivated indigenous staff generated the markets. In effect, UKRels became a major catalyst for pervasive enterprise land sales activities, for legislative changes, for effective regulations

concerning technical surveys, appraisals, and legal processing of sales, and for a certain level of creative financing to support the emergence of a secondary market.

UKRels also became the catalyst for a sustainable network of real property land, survey, and appraisal professionals that will perpetuate land reforms and markets in primary and secondary enterprise and agricultural markets. This was accomplished through the inception of a self-sustaining association, called the Ukrainian League for Promotion of Land Markets Development. This UKRels-supported group is now independent and will join with the nonprofit Land League of Ukraine in 2001 to pursue private land and real estate market development.

#### **D. Contractor's Strategy**

The UKRels project benefited from institutional knowledge of the contractor and the chief of party's experience with a similar project in Russia. Lessons learned from that project stressed the importance of having a strong indigenous network of offices from the outset. In Russia, a prevailing centrist psyche also hampered performance. Indeed, the sharp delineation between bureaucratic agencies and government offices coupled with intransigence often resulted in interdepartmental fighting, but in every situation, presented major barriers to the project for achieving cooperation. The presence of a land privatization activity also led to speculation, and often to outright exploitation, by officials in position to influence sales, set high prices, and subvert the land market. These and other experiences influenced the strategic approach of this project.

A proclivity toward centrist government prevails in Ukraine, but compared to Russia, it is much different. The Ukrainian people in general, many local rada deputies, and a number of administrators in regional state offices were at least warm to the idea of a cooperative effort by UKRels to pursue land sales and private enterprise initiatives. But as noted earlier, this accommodation did not evolve without a concerted outreach and education effort by UKRels. A prevailing psyche of command economics remains entrenched in the central regions and near to the seat of national power, but the general lack of experience with private land ownership presented the obvious challenge as the project was implemented.

With these points in mind, UKRels set out to accomplish the project mandate based on leveraging its experience. The project strategy is described in the following points:

1. Establish a network of regional offices, beginning with receptive rada and oblast executive committees far removed from the central government power base. Create locally responsive and fully staffed local offices, and establish an early success record around a critical mass of activities. Then expand the network nationally by emphasizing what the project had achieved, and therefore how much more could be achieved.
2. Establish a methodology for privatizing enterprise land together with a manual of procedures, protocols, and marketing techniques. Work directly with local offices to

create cooperative linkage with local rada and state authorities, providing them with a fully articulated program of privatized land sales.

3. Strongly demonstrate to local authorities the financial benefits of private land sales, as experienced in other regions, and the opportunities of privatization for economic growth. UKRels would then make this process extremely easy by providing a turnkey program of enterprise land privatization.
4. Introduce an external program of public education, seminars, and promotional materials for local and state officials, including a comprehensive information program for private enterprises capable of pursuing land privatization.
5. Immediately introduce professional development activities for project staff appraisers, attorneys, and project directors to establish UKRels's credibility, a fully functional professional real property activity at each office, and a network of national support spearheaded by an active, responsible, and capable central office.
6. Work with Ukraine institutions, certificate organizations, and university faculties for professional development, attaining formal credentials for staff, and refining the projects educational and outreach efforts.
7. Establish a system of appraisal and valuation that supports a competitive land market at prices determined by economic use of real property assets. This would be essential as a foundation for secondary sales and leaseholds, while also countering potential corruption or exploitation.
8. Establish a profile of municipality financed land sales thereby encouraging more rapid transactions without the constraint of immediate equity payment by enterprises.
9. Pursue commercial lending and the formation of a mortgage market, recognizing the significant constraints of a regulatory environment that lacks collateral lending laws, adjudication processes, and an effective title registration system.
10. Advocate for regulatory reform, and when possible, recommend or draft initiatives relevant to land, titling, registration, collateral lending, zoning, surveying, and appraisal. The project would not exceed its mandate or encroach on activities beyond its purpose.
11. Create a central pool of intellectual resources for legal advice, information management, communications, appraisal, regulatory support, and project development. Couple this through an efficient information network to link all offices, and reinforce these activities with fully attended monthly meetings, seminars, and follow-up development training.
12. Seek cooperation from, and offer support to, other USAID project activities and donors with compatible interests. This was initially viewed as an important part of the strategy

whereby UKRels could develop links to legal and regulatory reform projects, to financial programs, and to other land or private enterprise initiatives.

13. Pursue national and regional links with organizations involved in real property development, and to establish an internal land and real estate association that would become the focal point for sustaining commercialized offices after the project ends.
14. Establish a mandate early with each office to pursue independent commercial interests, to purposely generate self-derived income from appropriate fee-based services, and eventually to commercialize before the project concluded. The ultimate aim was not simply to meet the sustainability deliverable in the project's scope of work, but to earnestly set each office on course for rapid growth as a self-determined enterprise.

## SECTION III

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### **Benchmark Deliverables and Results**

#### **A. Regional Network of Land Sales Offices**

As of December 15, 2000, there were 28 regional offices in the UKRels network. Of these, 26 were fully supported and professionally staffed activities. The two remaining offices of Sevastopol City and Kiev City, were both staffed during the final quarter of the project's activities. Each had one individual manager assigned to initiate enterprise land sales as the final expansion phase of the project. Annex A provides profile information on these offices, their commercialization, and their performance.

At the project conclusion, 23 of the 26 regional offices achieved independent revenue levels in excess of the benchmark required by USAID as evidence of sustainability. The two newest city offices also exceeded the benchmark revenue, but only generated initial income from activities near the end of the task order. Two of the three remaining offices achieved independent revenues slightly below the benchmark.

#### **1. Benchmark Deliverable Defined**

The benchmark requirement was to be, in all cases, revenues in excess of 75 percent of the office expenses provided by UKRels funding. UKRels tracked total office expenses, including prorata support for communications, email, and various pooled services for all regional activities. However, most of the regional offices had hired additional staff or agents, not paid for under the project budget, for independent fee-based services. This means that, in terms of meeting the benchmark revenues generated, the performance of UKRels offices tended to far exceed the target amounts given below.

Consequently, UKRels established a "Budgeted Expense" that reflects USAID-funded support. This amounted to UAH 9,900 per month, and included salaries for professional staff, office support, transportation, telecommunications, variable costs associated with project land sales activities, and prorata expenses from pooled activities. The benchmark income at 75 percent would therefore be UAH 7,425 per month.

The budget parameters of UAH 9,900 for expenses and UAH 7,425 for benchmark income apply to 25 of the 28 offices. There are three exceptions. The city offices of Kiev and Sevastopol, recently established, were budgeted at one employed staff and modest overhead support with total overhead approximately UAH 1,400 (the expense level) providing a benchmark level of UAH 1,050. The Rivne office, commercialized as "Niva-Expert Company," has been supported through UKRels at UAH 8,000 (versus UAH 9,900) due to location and reduced overhead requirements. Therefore, the Rivne benchmark is UAH 6,000 (versus UAH 7,425).

## **2. Self-Generated Revenues**

The reported revenues in Annex A reflect only earned income by the regional offices through fee-based activities. This includes monetary valuations (appraisals), surveys, plot mapping, legal assistance, document preparation, fees associated with secondary sales, assistance by staff with client applications and registrations, and a percentage of fees retained from independent contract agents. UKRels did require monthly revenue reports beyond the project requirements. However, at the end of the task order a comprehensive statement of expenses and income was accumulated. The revenue reported in Annex A was verified but is unlikely to be complete. The offices were likely to have systematically understated their actual income from independent activities. In addition, we did not factor in the value of the average of three non-project-funded employees retained by each regional office. This value would ensure that every office not only met the target revenue test but far exceeded it.

With that said, several offices have far exceeded expectations. Five offices exceeded 100 percent of total expenses and even greater against the 75-percent benchmark for each the past several months. This illustrates actual profitability from independent fee-based revenues prior to the end of the project. Combined, there are eight offices not only operating above the benchmark, but also generating net profits as they transit to commercialized enterprises.

In addition to the eight fully profitable enterprises, there were 15 commercialized offices reporting independent income in excess of the benchmark but less than the full budgeted monthly expense level. The Kiev City and Sevastopol City offices may be excluded from calculations as lacking sufficient history to be properly assessed. However, both have generated fee-based services that matched the project support funding levels, and they may therefore also be considered as reaching sustainability under benchmark criteria.

All offices were assisted by a team of UKRels business planning consultants to generate sensible business plans, to convert offices to registered legal entities, and to capitalize their assets. In addition, UKRels has ensured that every office will retain fully functional equipment, computers, software, network connections, and full communication access to one another and to the professional association created by this network. Finally, each office has had full training to ensure that professionals hold credentials and formal qualifications for legal, appraisal, valuation, survey, and licensed real estate activities.

The UKRels project has achieved the deliverable and exceeded requirements by fully commercializing all 26 regional offices. It also has positioned the two single-person city offices for professional fee-based income. Specifically, 23 of the 26 primary offices, and 25 of the 28 entities exceeded benchmark requirements for self-generated and independent fee-based revenues.

## **3. Initiatives with Rada and the State Land Resource Committee**

The State Land Resources Committee together with local radas have begun to pursue fee-based contracts, directly contracting with the UKRels regional offices for a broad range of services.

This is an extraordinary change in behavior that may signal a shift in strategy by Derzhkomzem. In several oblasts, state and local officials are proactively cooperating with UKRels staff to develop urban land programs, more extensive private enterprise land sales, and perhaps most importantly, agricultural land privatization and titling programs.

These initiatives only became apparent to UKRels as the project drew to a close in early December. They are vitally important because cooperation by state and rada authorities represent a major turnaround in fundamental thinking about land and real estate reforms. At the outset of this project, most rada deputies and virtually all representatives of the State Land Resources Committee were counterpoised to UKRels and the concept of competitive land sales markets. If anything, UKRels was viewed as encroaching on activities conducted by the State Land Resources Committee and posing an ideological threat to a prevailing psyche in Ukraine. Now, however, there is clear evidence of change, greater cooperation, and, ironically, actual contracting by the state for services provided through the commercialized UKRels project offices. Specific information follows.

*Agricultural land initiatives in the Mykolaiv Region.* As of December 15, 2000, the State Land Resources Committee contracted for the Mykolaiv office UAH 1.0 million over a one-year period to create a pilot agricultural "land transition" program. If successful, an understanding was initiated by the state authority for an additional UAH 3.0 million project. The office is hired to perform the following:

- Develop a system for cooperative farm agricultural reform, thus transforming certificate rights to fully titled Land Acts.
- Survey and plot all land parcel rights, mapping with geodetic survey criteria "land in kind" for conveyance to individual owners.
- Preparing all monetary valuations (appraisals) of cooperative farms, partial plots, and individual agricultural holdings.
- Preparing all legal documents for title transfer from certificates to land acts, providing these to cooperative farm authorities and the state committee, and completing titles, allocations, and final registration of documents.

The scope of this activity is huge. The Mykolaiv Oblast has approximately 620 collective farms, each ranging in size from 2,200 to 11,400 hectares. The average plot size (i.e., certificate right) is approximately 8 hectares, ranging between 4 and 16 hectares for the oblast's collective enterprises. Averaging the farms and plots, then, each collective will be restructured into approximately 400 parcels (ranging 200 to 600). This represents a total market in cooperative agricultural land for 248,000 conveyed parcels. These require several fee-based activities (e.g., appraisals, surveys, legal preparations), suggesting nearly a million agricultural land transactions covering approximately 20 million hectares.

The Mykolaiv office in cooperation with the State Land Resource Committee has prepared estimated expenses for fee services that range between UAH 60 and UAH 200. The average cost of a transaction will be approximately UAH 85, which is based on fees already paid for these services since August 2000 as the parties to the contract conducted about 100 sample services for actual farm plots.

*Agricultural land initiatives in the Kherson Region.* The program developed among the State Land resource Committee, representatives from farm cooperatives, and the regional office in Mykolaiv has been replicated in the Kherson Region. Indeed, the Kherson regional authorities may have launched these initiatives before other regions. A report by the UKRels regional office in Kherson indicates that a total of UAH 63,000 in fees have been paid through the Land Resource Committee or transferred through four cooperative farms to the regional office staff and to an affiliated private geodetic survey enterprise. These fees began in July 2000 with survey and plot mapping, then extended to monetary valuations in August and September, with legal documentation and registration activities in October and November by members of the farm cooperatives.

The regional UKRels office contracted directed with the State Land Resources Committee for their services, and subcontracted the engineering survey work to eight survey technicians licensed in the oblast by Derzhkomzem. As this UKRels office commercializes, it is merging with the private engineering firm to form an enterprise with 18 professional staff. This will be required to service a contract now pending with the state authority to initiate a complete program of agricultural land title transition in the oblast. This has already begun with the initial contract noted above, but has a continuation contract signed November 2000, for UAH 110,000, and activities for the year 2001 under a UAH 250,000 contract.

*Urban land initiatives in Mykolaiv and Kherson.* In addition to the extraordinary fee-based contracts now being implemented through these regional offices for Derzhkomzem regarding cooperative agricultural land, there are sizeable urban land projects being implemented. Local rada, often funded through the State Land Resource Committee, have contracted directly with UKRels offices to provide comprehensive public land surveys and monetary valuations. In October and November 2000, this represented UAH 20,000 of fees to Mykolaiv associates and UAH 16,000 to Kherson associates. A minimum amount of this income appeared on the reported income statistics for UKRels offices, but represented "receivables" carried on the books of the commercialized enterprises in both regions.

The urban land activities have been primarily technical (surveys and appraisals), with no intent of privatization. However, this has resulted in careful registration of land resources in 37 villages or townships. Projections by the regional office directors is for approximately 400 rada contracts in Mykolaiv and 250 contracts in Kherson during the year 2001, all of which will be directed at village and township land holdings. Approximately 80 percent of the costs will be covered by regional Derzhkomzem, and approximately 20 percent will be derived from income generated through enterprise land sales (UKRels) and reallocated to these projects.

*Agricultural and urban land initiatives in other regions.* The information provided in the previous paragraphs came to the attention of UKRels on December 1, when, unfortunately, there was very little time remaining to follow up with more meaningful assessments. Indeed, many project staff terminated on December 1, and those that remained became focused on winding down the project. Consequently, informal inquiries were made among regional office directors by project attorneys. Their responses are unconfirmed and provided no specific revenue activities.

There are at least nine other regional offices that have engaged in some urban land contract activities with local rada for appraisals, plot mapping, surveys, and legal services under their commercialized framework. Apparently regional offices of the State Land Resources Committee have been in negotiations with at least four other UKRels regional directors concerning agricultural land "transition services" similar to those noted in paragraphs (a) and (b) above. It is also important to note that the State Land Resources Committee, conducted a general meeting on the afternoon of December 1, 2000. One of the main agenda items concerned a national effort to pursue agricultural land transition under commercial contracts based on the two model programs in Mykolaiv and Kherson.

## **B. Privatization and Sale of Enterprise Land**

Privatization and sale of land plots, arguably, was the most important deliverable under the contract. The task order specifically directed the contractor to address land privatization and sales associated with small and medium-sized enterprises that had, themselves, been fully privatized. With respect to this mandate, the contractor did not encourage or track regional activities that occurred independently of project responsibilities. This section of the report, therefore, is focused entirely on the task order requirements for enterprise land sales, with statistical summaries provided in Annex B.

The conclusive result is that Ukraine Enterprise Non-Agricultural Land Privatization project substantially exceeded all deliverables required under the task order, more than matching every benchmark specified in the contract.

A total of 4,638 land parcels were privatized and sales completed by the end of project implementation activities. These data are verified as of December 31, 2000, and the project generated a total income of UAH 183,269,423 (or approximately US\$ 34,577,437) that accrued directly to government constituents through local budgets. There were approximately 2,349 transactions pending closure or in the UKRels pipeline, with an estimated additional revenue of UAH 87,750,912, which will bring the total revenue to UAH 271,011,335 (approximately US \$51,134,213) by the end of March 2001. This represents an income generated through UKRels of nearly US \$40,710 every working day since project inception, which has accrued to the Ukrainian authorities for reallocation to public programs and economic development.

## 1. Project Performance Trends

The successful results of land privatization and sales were achieved by implementing the combined strategies described earlier. During the roll-out year in 1998, an initial core of regional offices were established in the far western and eastern oblasts. The network was enhanced later in the year with southern oblasts. In early 1999, further expansion occurred with central regional offices. Initial sales in 1998 were parsimonious; only two small parcels were privatized in January 1998, then four more were completed in February, eight in March, four in April, and only one in May. This meager beginning was not unexpected as UKRels was prominently concerned with staffing and training, and with promotional programs with prospective client enterprises. A huge effort was necessary to attain minimal cooperation from regional State Land Resource Committees and fledgling interest by local rada.

July 1998 was the first month with double-digit sales. Completed transactions increased to 33 parcels, generating UAH 3.0 million, yet the project made only incremental progress through the remainder of 1998. By the end of that year, UKRels had generated UAH 7.6 million on 264 sales but seemed to plateau. At that time, it may have been reasonable to question the viability of the project. As described elsewhere in this report, there were few legislative initiatives to support an enabling environment. The regional authorities under Derzhkomzem seemed determined to resist cooperating with UKRels. Other donors were unable to help the project overcome limitations such as financing land sales or solidifying cooperation with local rada administrations.

In early 1999, UKRels began an earnest effort to pursue “creative financing.” These methods are described in below, but essentially comprised two approaches. First, regional offices worked with local rada to develop a system of municipal financing with partial front-end payments and installments, performance-based contracts between enterprises and rada, and utilization of third-party insurance to benefit rada in the event of default. More importantly, UKRels had begun to accumulate the institutional knowledge required for expert appraisal and technical assistance with surveys, plot mapping, and legal assistance. Leveraging its early sales record and taking its record of success directly to the public, UKRels reached a second landmark of activity at the beginning of the second quarter 1999. Land sales increased consistently thereafter with monthly revenue exceeding UAH 1.0 million and also growing with sales of larger parcels.

In 1999, the project generated UAH 36.9 million on 1,274 sales, bringing the total project activity to 1,538 sales and UAH 44,583,434 in revenue. This represented a four-fold increase in both sales and gross revenues (483 percent annual increase). In the year 2000, a total of 3,100 sales were achieved and UAH 128,676,987 in revenue (excluding pending sales). Therefore, sales more than doubled including those pending, and revenues increased by nearly 300 percent. These results were achieved with a 44 percent net increase in regional offices and professional staff during 1999, and a net increase of only two regional offices and two associates in city activities in 2000.

## 2. Focus on Larger Parcels and Medium-sized Enterprises

The task order, as modified and extended in August 1999, emphasized that during the latter stages of the project, the contractor would focus attention on medium-sized enterprises. This constitutes a benchmark activity, specified as privatizing a proportionate share of land parcels of one hectare or more (1 ha) that would correspond to medium-sized private enterprise land rights.

The UKRels project has essentially addressed the needs of medium-sized enterprises and delivered a higher percentage of larger land parcels during the second half of the project's contact period. This is a higher percentage represented by medium-sized enterprises than the private sector population of private interests.

Statistically, the average sales price of parcels privatized in 1998 was UAH 28,787, and in 1999, UAH 28,963. This average price rose to UAH 42,109 in 2000. The average size parcel in 1998 was approximately 0.8 hectares, in 1999 approximately 0.9 hectares, and in 2000, approximately 1.2 hectares. Although these data do not suggest vast differences, the statistical data are skewed in all years.

Specifically, there were only 11 "large" sales in 1998 of the total 264 transactions. The price of these 11 parcels averaged UAH 98,000 with 1.44 hectares. The remaining parcels for that year represented an average sales price of UAH 9,460 and 0.37 hectares. Therefore, sales in 1998, indeed, small and concerned smaller, more rural enterprises.

During 1999, there were approximately 150 larger parcels sold at an average price of UAH 84,000, six at an average of UAH 131,000, and the remaining parcels at an average UAH 17,666. The 156 larger parcels ranged between 1.0 and 4.6 hectares. Several of the most expensive parcels were small in size, yet located in prime locations under substantial medium-sized joint-stock companies. Consequently, the data is skewed for 1999 in two ways. First, an average sales price very close to that achieved in 1998 regressed to the mean by the sheer number of parcels that fail to account for the 156 larger parcels. Second, the enhanced activities by regional offices that brought project activities into more urban and industrial areas late in the year addressed more medium-sized enterprise needs, yet often with smaller-sized land allocations.

The experience of trying to distinguish services to small or medium-sized enterprises based solely on plot allocation size prompted a refined description for this deliverable. UKRels determined that "large and medium-sized land parcels" would be defined in three ways. First, any parcel 1.0 hectare or more would qualify, regardless of location. Second, any parcel sold at UAH 100,000 or more, and also at least 0.2 hectares would qualify. This corresponds to prevailing urban enterprise land allocations in populated municipalities. Third, a land parcel of 0.5 hectares or more located beneath the main building of a privatized or joint stock company would be considered. This requirement corresponds to prevailing land allocations in municipal office areas and those that resulted from land restructuring.

Using these definitions, there were a total of 486 “large and medium” land parcels privatized and sold over the life of the project. Of that total, 319 occurred during 2000, which also reflects the notable average price increase in 2000 to approximately UAH 42,109. The average parcel size exceeded one hectare for all annual sales, but compared to 1999 and 1998, this was a 25 percent and 33 percent increase respectively. The total number of “large and medium” land parcels represents approximately 11.5 percent of all UKRels sales.

Based on a UKRels completed in January 2000, the ratio of privatized large and medium-sized enterprises to small enterprises is 1.7 to 8.0, or 22 percent, and the percentage of medium-sized enterprises to all private enterprises is about 9.2 percent. Although official statistics must be used with caution, the 11.5 percent “large and medium” parcels privatized by UKRels exceeds (or is at least representative of) the eligible population of enterprises that could pursue and afford land privatization.

### **C. Secondary Sales**

The task order directed the contractor to encourage a secondary land market through client enterprise land holdings generated in the privatization process. The specific deliverable in the task order held the contractor responsible for securing at least 300 secondary sales over the life of the project. This would represent the first formal effort in Ukraine to establish a competitive land market, and in this process, the project was to assist enterprises with conveyance of excess land holdings.

Secondary markets commonly are defined as direct sales of privately held real estate assets, lease or rental of those assets to third parties, and conveyance through gift or bequeath to heirs and legal beneficiaries. By definition, there was no secondary land market prior to the inception of this project because other than isolated conveyances subsequent to enabling legislation in late 1995, there were no private enterprise land holdings in Ukraine. These isolated transactions invariably resulted from joint investment initiatives generated through the State Privatization Fund in conjunction with the State Land Resources Committee, and they were generally limited to conversion of a state enterprise with its land for specific use, not for resale, lease, or third party benefit. Examples are the joint stock privatizations in the energy and mineral extraction sectors.

#### **1. Secondary Market Performance Within the Task Order**

This report reflects only secondary market results associated with competitive private sector enterprise land holdings generated through the UKRels privatization activities. Annex C illustrates the latest information of verifiable land conveyances.

Within the definition of a secondary market, the UKRels project has achieved 130 formal secondary land sales or legal conveyances which, on the surface, falls short of the targeted benchmark of 300 sales in the task order.

There are several caveats to this result. First, the reported number includes only those conveyances that are formally documented through October 31 when a specific study was conducted on 3,564 sales conducted to that date. Second, they exclude any activities that have occurred in an informal economy. Third, in the absence of a unified land title registration system, the number reported is substantially understated by the inability of the project (or any state agency) to fully account for "formal" registrations that occur through at least four different agencies. Fourth, the definitions of land sales or legal conveyances are substantially different among the state agencies and their local administrations, resulting in grossly unreliable official statistics. And fifth, UKRels could not conduct a comprehensive study of secondary sales without contacting each of 4,208 enterprises, and then verifying that their information would be accurate at the close of the project. These points are discussed more thoroughly in the following passages to provide a realistic explanation of performance.

## **2. The Informal Economy and Land Market**

Ukraine is not unlike most other transition economies with a substantial informal sector (often called a shadow economy). Perhaps the situation is even more aggravated in Ukraine than in many other Central and Eastern countries due to ineffective tax regulations, inefficient tax administration, and a virtually nonexistent commercial code with respect to real estate and land transactions, agency relationships, and adjudication processes for protection of individual rights.

The shadow economy is further entrenched by a prevailing social psyche that: (1) historically has retained all land ownership and rights of use, allocation, or conversion in state hands; (2) politically has solidified all decisions about land use, land values, and taxation in the hands of several powerful central authorities; and (3) socially has generated widespread mistrust among business persons and enterprise owners concerning all forms of government intervention. The result has been to drive private enterprise underground during much of the past decade. This has not been merely to avoid taxes (the common reason expressed for informal sectors in transition economies), but to distance enterprises as much as possible from government regulations.

Elsewhere in this report, surveys taken among UKRels project managers and their enterprise clients emphasize that, in addition to economic reasons, a significant motivation for privatizing land in the first place is to gain a degree of protection against government interference with rights to private assets, particularly to real property rights. Those respondents specifically noted that one of the most important benefits of purchasing and titling land was to substantially protect their assets against capricious decisions and corrupt practices by state and local officials.

Ironically, registration of titles and recording of transactions makes enterprise sales, leases, or conveyances fully transparent. This becomes a two-edged sword. On one hand, formal registration provides the best current protection for adjudication of property rights, contracts associated with land and realty transactions, and claims, such as those that might arise against capricious seizure of property. On the other hand, recordation in a Land Office or registration of a conveyance (sale, lease, or bequeath) opens the enterprise to full scrutiny by tax authorities or competitors, a condition most enterprises view with ambivalence, if not outright concern.

The combined effect of these circumstances has been to fully record all primary privatized land sales, and to register land titles with the assistance of UKRels staff under the State Land Resources Committee. However, there has been an equally prominent practice to avoid recording secondary transactions and to withhold information on titles. UKRels only has subjective evidence of the size of this informal market, but there is no doubt that it exists.

UKRels specifically set out to conduct a study of secondary sales during the summer of 2000, working through the official channels of the State Land Resources Committee, and providing full cooperation by UKRel's regional offices for Derzhkomzem's inquiries. This study required more than three months to complete and resulted in an official list of only 33 secondary sales. Ironically, these had already been identified and verified by UKRels, and Derzhkomzem was unable to make further distinctions.

This prompted UKRels to carry out an independent study of secondary sales. The study was completed in October 2000. The report called attention to three findings. First, the regional agencies through which registrations could occur inconsistently tracked transactions, and in most instances, provided conflicting reports on formally recorded land sales. Second, enterprise owners were strongly reluctant to give the researchers any information about land sales or leases, even though a physical site selection of a sample of enterprises revealed actual and obvious leasing by third parties, and in several instances indicated fully articulated sales. Third, regional managers reported that they were clearly aware that sales and leases in their territories were officially unreported and unregistered.

The evidence for secondary transactions rests with notarized sales or conveyances, including notarized leases, specific performance rental contracts, and bequests. Based on the ROMIS study and solicited responses from all UKRels regional managers by the project's legal staff, that there is every reason to believe all secondary transactions are notarized, but as few as 20 percent are officially recorded. By notarizing transactions, enterprise land owners create an enforceable title right, and they establish an actionable claim for contractual performance under the law. In effect, notarization establishes judicial evidence when the law itself does not include rules for evidence based on title registration. Furthermore, there is no requirement and no penalty at law (by state or local authorities, tax administration, or land resource administrations) to record private land sales, leases, or land titles.

If the secondary market legitimately includes sales and lease transactions that have occurred in the informal (shadow) economy, then actual performance under this task order is substantially larger than the reported 130 transactions. An extreme case could be made that the 130 formal transactions represent as few as 20 percent of the total transactions, and therefore 650 secondary conveyances have occurred among UKRel client enterprises. This would be as equally unbelievable as the officially reported 130 transactions.

An accurate count is somewhere between the extremes, and UKRels is prepared to defend the logic that among each of the regional sales offices, each with hundreds of transactions, there has

been at least one informal sale and one unrecorded income-generating lease in each region. If that assumption is acceptable, then for 26 regional offices, there has been at least 52 additional secondary conveyances. Added to the verified 130 transactions, a reasonable case can be put forward that among UKRels client enterprises, there have been at least 182 secondary conveyances through the October 31 cut-off date for statistics. Based on 3,564 parcels sold at that time, 182 secondary sales represent a 5.1 percent turnover. The 130 verified transactions represent 3.6 percent turnover.

As a supporting observation, real property turnover rates in advanced western societies fluctuate between 3.5 percent and 8.0 percent. Moreover, a high turnover rate is associated with an expanding economy, high new construction starts, and low interest rates. Low turnover rates correlate with rising interest rates, tight mortgage markets, low starts, and a contracting economy. Ukraine has been experiencing high interest rates, no mortgage market, and a contracting economy. In a recent USAID project study of land turnover in Russia the turnover parameters were between 0.9 and 4.5 percent, and in Russia, there is mandatory land registration with substantial penalties for nonperformance. There has also been strong evidence of land exploitation through administered prices and land allocations.

These points support an argument that the initial task order for 300 secondary sales (10 percent turnover of privatized sales) could only occur in a highly exploitative market or an extremely healthy economy with a substantial secondary mortgage market. The formal result of 130 sales (3.6 percent) is, on its own merits, a successful achievement in this market, and a total estimated turnover of 182 sales (5.1 percent) suggests that Ukraine has established the foundations of a competitive secondary market.

### **3. Effects of Administrative and Regulatory Constraints**

The absence of primary and secondary mortgage markets severely constraints all real estate and land reform initiatives. Without long term commercial lending and the ability to either capitalize or collateralize real property assets, business owners, leasehold owners, farmers, and independent investors cannot leverage their assets nor actively pursue risk-adjusted returns on those assets. With respect to secondary markets, there are several additional considerations that severely restrict enterprises from putting their properties into play for income-generating returns, or for enhancing their balance sheets to attract independent (or foreign) investments.

The absence of a unified land title registration process prevents Ukraine from having a verifiable system of judiciary process regarding land and property rights. Unlike western countries where registration (country or state property title registration) is so evident that it is *prima facie* evidence for claims, covenants, easements, and regulatory initiatives such as eminent domain, Ukraine relies exclusively on local rada land books or notaries to pursue claims.

The country also suffers from several layers of bureaucracy (and often contradicting or competing administrations) that can affect land sales and titling. Specifically, the regional branches of the State Land Resources Committee ostensibly control decisions and licenses

regarding land rights and usage. However, the Regional Administrations on City Construction and Architecture claim decision-making authority over any land restructuring or permits for conversion when buildings or structural fixtures are attached to property. In addition, the Bureaus of Technical Inventory require (at least officially) that land and building transactions be registered with regional offices, and all use permits cleared through applications. These would include leases, rental contracts, subcontracting, and partial conveyances. Finally, the Local Executive Committee of each rada, or rayon when appropriate, claims jurisdiction for recording land sales and lease transactions, and only then when approved by the committee or licensed by private parties.

Consequently, there are conflicting and competing definitions for land sales and registration (or recordation) processes, and there are no clear jurisdictions for pressing land rights, titles, or claims by private parties. This pattern reinforces the existence of a secondary informal market, complicates any formal legal transaction, and dramatically hampers private enterprise development. These circumstances also substantially prevent commercial lenders from pursuing a mortgage market — even a primary market with short-term lending — because there is no audit trail or rule of evidence on transactions. Should Ukraine enact a collateral law (the Hypotec legislation), these administrative constraints would continue to restrict market development. It should be emphasized that while private enterprise and commercial bankers are disadvantaged by this convoluted system, Ukraine itself is undoubtedly losing many millions of dollars in taxable revenues from land sales, earnings on interest-bearing loans, and real property turnover. It is also suffering from lack of private sector development and a system (or lack of one) that substantially blocks foreign investment where astute investors demand unclouded title to property or to lease rights.

#### **D. Legal and Regulatory Support**

The contractor was required to identify and recommend necessary revisions to the legal and regulatory framework for a land market in Ukraine. Commensurate with these activities, the contractor was also expected to advocate for legal amendments, assist in drafting or modifying proposed legislation, and provide seminars on advocacy and lobbying. This broadly defined component of the task order identified four deliverables:

- Contribute to development and implementation of urban land development strategy currently being proposed by GOU.
- Monitor passage of Draft Law on Hypotek and participate in implementation thereof, if appropriate.
- Provide assistance to SPF for the development of policies and procedures to allow for the privatization of enterprise land simultaneous with enterprise (legal and physical entity) privatization.
- Provide an optional study tour for 15 Ukrainian officials as an optional means of supporting regulatory initiatives for land privatization.

Meeting the objectives of this deliverable represents a pervasive number of activities by UKRels legal staff, its appraisers, project managers, and outreach specialists. A summary of legal and regulatory initiatives, together with involvement by UKRels personnel, is documented below. Various training and outreach activities also apply, and they are also referenced below.

The UKRels projects has substantially met or exceeded all benchmark activities for legal and regulatory support, often initiating recommendations on legislation, drafting proposals that have influenced Presidential Decrees, and generating widespread public awareness for necessary enterprise land reforms, registration, titling, and hypothecation.

### **1. Legal and Regulatory Intervention Assistance**

The legal and regulatory framework relevant to land ownership and all forms of real property privatization is presented in Section II (A) of this report. This framework is further described in Section II (B) with respect to constraints on private sector development, and specifically on non-agricultural land sales. This section focuses narrowly on activities and results achieved explicitly through the UKRels project.

During the first year of the project, 1998, UKRels legal staff conducted a complete analysis of the legal and regulatory environment. The two project attorneys worked with one expatriate attorney who has had nearly eight years experience in Ukraine. Both Ukrainian attorneys also are adjunct faculty members at the Kiev National University, where they teach commercial and contractual law. The expatriate attorney specialized in real property development and titling, and he had direct experience serving on GOU executive committees and task forces charged with pilot programs in land registration, agricultural and enterprise land reforms, advisory services to the President's committee on land titles, and advisory services to the Cabinet of Ministers Committee on Urban Land Registration.

This early analysis of the legal and regulatory environment resulted in 22 draft proposals by UKRels staff. It also resulted in 11 reports or memoranda presented to the offices of the President, the GOU Land Reform Commission, and to the State Land Resources Committee during late 1998 and through 1999. In addition, there were 27 briefs and addendum proposals forwarded to GOU constituents in 2000, including attendance by UKRels legal staff in 18 GOU committee meetings. The entire legal staff has met with, worked with, and assisted counterparts in all 27 regional State Land Resource Committee locations each of the past three years, often with repeated trips or hosting representatives to UKRels conferences.

Ukrainian legislation with which the project has been directly involved follows, with a brief description of participation and results:

- a) Proposals in 1998 for inclusion of non-agricultural land parcel privatization in a revised Land Code drafted in part by the Derzhkomzem and attorneys for the President of Ukraine. These proposals were revised several times, and although a new Land Code is

still forthcoming, sections of the UKRels proposals were adopted for inclusion in the President's Decree "On Non-Agricultural Land Parcels Sale," dated January 19, 1999.

- b) Continued advisory services during a six-month period in 1999 concerned the proposed Land Code with enhanced stipulations in the President's Decree reflecting monetary valuation and registration passages drafted by UKRels staff.
- c) UKRels worked unofficially in liaison with legal staff of the International Finance Corporation during 1998 and early 1999 on land certification and transition titling. Although the IFC was focused on agrarian issues, there was a mutual interest in urban land, titling of all private land, and a comprehensive land registration system. This resulted in several proposals for land title and registration, and led to joint meetings on pilot registration and urban zoning initiatives by PADCO and RONCO.
- d) UKRels legal staff and its licensed appraisers worked through task groups and committees appointed under the Cabinet of Ministers to propose a system of Expert Monetary Valuation. This work consisted of more than seven months of periodic meetings and assessments in which UKRels staff drafted the principle procedures for monetary valuation that were approved and put into force by the Cabinet of Ministers of Ukraine, June 1999.
- e) Between August 1998 and May 1999, UKRels staff attorneys and appraisers worked on separate proposals in cooperation with the President's committee on land privatization and registration to draft procedures for restructuring and privatizing enterprise land parcels. This resulted in the President of Ukraine Decree "On Specifics of Privatization of Unfinished Constructions," May 28, 1999.
- f) During 1999, and extending well into the year 2000, the project attorneys participated in special task committees charged with drafting proposals on land development, urban land regulation, a Land Code of Ukraine, and revisions to the laws on rights and uses of land for entrepreneurial enterprises. One result of this participation was adoption of UKRels proposed Guidelines for Development and Regulation of Land in Ukraine, which became part of the Decree of the President of Ukraine "On Measures to Develop and Regulate Urban and Other Non-Agricultural Land Markets," February 4, 2000.
- g) With respect to the participation on committees and task groups noted in the previous item, draft proposals by UKRels staff territorial planning were incorporated into a new section of the Law of Ukraine, "Territories Planning and Development," adopted by the Supreme Rada (Verkhovna Rada), April 20, 2000.
- h) Also in conjunction with the previously mentioned commissions and committees, the Verkhovna Rada solidified several proposals by UKRels legal staff. They also adopted or, in effect, ratified previously enacted Decrees by the President of Ukraine to adopt the "Law On Specific of Privatization of Uncompleted Constructions" in September 2000, thus replacing previous presidential decrees and contradicting regulations.

- i) The project's legal specialists and appraisers participated as members of a commission called the "Working Group on Draft Law for a Land Code of Ukraine." This commission met periodically throughout 1998 and 1999, but became intensely occupied with draft legislation on a Land Code in early 2000. UKRels field experiences with regional offices and land sales, its legal assessments, and the collective weight of previous proposals and memoranda generated "institutional knowledge." This resulted in significant contributions to the Draft Law, which was passed in its first reading by the Verkhovna in July 2000. At this time, the legislation remains in chambers, but when it is adopted, it will constitute a definitive legal basis for formation and development of land markets in Ukraine.
- j) As the project draws to a close, there are important unresolved legal and regulatory initiatives which UKRels staff have contributed to and assisted with through proposals, assessments, and recommendations. These are briefly described below:
  - 1. A Civil Code of Ukraine is expected to be addressed following enactment of the Land Code, and it has been under advisement with participation by UKRels staff.
  - 2. The Law on Hypothecation (Hypotec) has been in committee or under study for three years with only a rough draft that has not been presented to the Verkhoma for formal consideration. UKRels has been pervasively engaged in commissions and committees on Hypotec, but generally not included in the Supreme Rada's monetary and banking task groups. Consequently, the project has been able to write proposals and to urge consideration, noting the importance of collateralization of land assets, but there has not been effective progress toward legislation.
  - 3. A Law "On Real Estate Title Registration," has been proposed at least seven times with both presidential and legislative commissions. UKRels, PADCO, RONCO, the IFC, and the World Bank have participated in proposals and discussions, including a substantial pilot study by a consortium. UKRels was not a direct participant in this pilot study, but project staff were substantially involved with all donors and agencies, including appointments to presidential commissions. At this time, no viable draft legislation has gone forward to the point of formal consideration either by the Supreme Rada or the Cabinet of Ministers.
  - 4. Other considerations include continuing work by UKRels project specialists on proposals for a Law of Ukraine on Land Privatization, a Law On Specifics of Agricultural Land Privatization, a Law On Purchase and Sale of Land Parcels, and a Law On Land Appraisal. The project's legal specialists believe that all these, together with Hypotec and a viable Commercial Code are essential to establish a sustainable long-term competitive real property market.

## **2. Assistance to State Agencies for Strategies and Land Markets**

Many of the activities summarized in the previous subsection on legal and regulatory support directly relate to the benchmark requirement for assistance to state agencies for land development strategies. In addition, project specialists in land valuation and technical appraisals provided direct assistance to the State Privatization Fund (SPF), the State Land Resources Committee (Derzhkomzem) and the State Committee on Architecture and Construction (SCAC). Legislative or regulatory initiatives not previously listed but specific to this deliverable include the following:

- a) UKRels appraisers drafted methodological recommendations on Monetary Valuation of Land Parcels that was approved in November 1998 by a joint commission of SPF, Derzhkomzem, and SCAC. This was subsequently written into a methodological manual by UKRels and published for use by the local land resources committee and SPF.
- b) Project specialists in conjunction with SPF and SCAC technical advisors wrote a detailed resolution for valuation of non-agricultural land parcels, which was approved by the Cabinet of Ministers on June 16, 1999.
- c) UKRels appraisers wrote a procedure for monetary valuation of non-agricultural land that was subsequently enhanced through cooperation with the Ukraine Academy of Agrarian Sciences in May and June 1999. This was adopted by the Joint Commission on Land Reform and Development comprised of SPF, Derzhkomzem, SCAC, and the Academy of Agrarian Sciences on July 8, 1999.
- d) The joint commission noted above forwarded the manual for monetary valuation and UKRels recommendations on appraisal standards to representatives of the Verkhovna Rada as a proposed National Standard in April 2000.
- e) In addition to participation in recommendations for Presidential Decrees and Verkhovna Rada draft laws on Land Code noted earlier, the project's appraisers developed a separate procedural recommendation for regulating urban and other non-agricultural land markets, which was presented to the Cabinet of Ministers and approved on February 4, 2000.

Many assistance activities that would apply directly to a benchmark for supporting state agencies in land development, including public awareness and advocacy for market reforms among government officials, fall under the category of "professional development, outreach, and education." These are addressed below. However, several important distinctions can be made here.

Most important are the professional publications composed and printed by UKRels staff, and currently in use by the State Privatization Fund, the regional offices of the State Land Resources Committee, the State Committee on Architecture and Construction, and local government executive committees in 26 regions. UKRels has published 32 professional papers with broad circulation, and four Procedure Manuals on scientific valuation methods, land appraisal

principles and applications, and land parcel markets. These include practical "how to" guidelines for privatizing land, valuations, title preparation, and registration.

The UKRels staff also have authored and published a manual on International Valuation Standards with 500 copies printed and distributed to government agencies, local rada, and university faculty who teach credential courses in property law and valuation. This manual was completed in mid-1999, revised, and updated with secondary printings in 2000. A second manual evolved from this research, printed as a textbook entitled Property Valuation: Land Parcel Description and Valuation. UKRels published more than 1,000 copies in its primary and revised forms.

Rather than mount a study tour for a select number of government officials, UKRels held several types of seminars and conferences on land privatization, valuation, sale procedures, and land parcel restructuring. One of these series of seminars was called "Partnership of Communities" in which the benefits of land development and the process of non-agricultural and urban land privatization were presented. There were 127 total participants from 25 local rada and municipalities, rada deputies, representatives from 14 district State Land Resource Committees, representatives from the State Privatization Fund, and 16 other local government agencies. These seminars were held in Cherkasy, Kherson, Lviv, and Donetsk to encourage the widest participation by government constituents.

A second type of seminar was introduced jointly with the State Privatization Fund that included 42 total participants, 27 from UKRels regional offices and attendees from local government offices. This 12-contact-hour seminar series on "Property, Property Rights, and Business," resulted in certificates issued by the State Privatization Fund.

A third program on "Land Valuation for Mortgages" was held in summer 2000 as a joint effort with the Ukrainian Financial Banking School. This included 12 selected participants from UKRels and 18 representatives from state and local agencies, with a certificate issued by the UFBS.

Further education initiatives and specific training for project managers, government participants, enterprise owners, and local rada constituents are described in the education and outreach section below. As a final comment, however, it should also be noted that UKRels project specialists presented scientific papers or facilitated workshop sessions in conferences and seminars organized through state agencies or commissions on land privatization and development during 1999 and 2000.

#### **E. Enterprise Land Sale Financing**

The contractor was charged with the responsibility to demonstrate the value of land as collateral, thus encouraging and implementing a system of land financing. There were two components to this deliverable. First, buy-sell agreements with municipal underwriting of sales through various installment plans, and second, sales generated through commercial loans, institutional

underwriting, or private investments. Ideally, the market would respond to long-term financing, defined as promissory notes for longer than one year. UKRels was not authorized nor funded to make loans, or to engage in any aspect of banking behavior. Instead, the project was directed under the task order to introduce land financing methods and to assist enterprises and municipalities in commercial lending and collateralization of land resources.

## **1. Municipal Land Sales Financing**

The task order required that the contractor achieve at least 100 municipality financed primary land sales, working with local authorities to systematically implement buy-sell agreements. Ideally, these would be long-term loans for one-to-three years, but municipalities were not prepared to administer loans as commercial banks would. Indeed, local authorities simply were not structured for processing documents or payments associated with servicing loans. Nevertheless, this became a prevalent way to achieve sales.

The UKRels project has achieved 2,784 municipality financed primary land sales transactions, thus exceeding the task order requirements. These include 289 known to have terms exceeding one year, while the remainder have various terms and payment schedules negotiated between enterprise owners and local authorities.

As noted earlier when reporting privatization and sales results, the UKRels project achieved its maximum performance for the past three years in November 2000, with 645 sales and UAH 30.8 million in revenue. Most of these sales were completed through buy-sell agreements, with approximately two-thirds carrying term payments and notes negotiated through project offices and their specialists who are now operating as commercial enterprises. The manner in which these sales occurred and the explanations required in the task order to support how the project achieved its results are presented in the following paragraphs.

UKRels staff created the loan application forms, notes, and loan servicing documents required. UKRels also assisted the enterprises with filing legal and financial documentation, and instituted workshops for local rada staff and enterprise managers. The actual terms of notes, interest required, and collection processes remain proprietary to the municipal authorities. The project has had no method of recording income to municipalities from interest payments, rates of default, if any, or actual length of term loans. With that said, a profile has been constructed of loan portfolios based on the number of regional office assistance transactions reported. These indicate the number of loan applications processed and the number of transactions completed for municipalities by regional offices.

By the end of the first year of land sales operations, there were approximately 42 applications processed. That roll-out year, 1998, saw very little term loan activity as municipal authorities were struggling with the concept of private land sales; financing those sales became a mental stretch. However, several regional offices began to report an increase in periodic payment agreements in early 1999. The use of insurance-based agreements also emerged, and a sprinkling of bank loans and asset factoring transactions were completed. Consequently, by mid-year 1999,

there was a clear indication that municipalities would adopt flexible financing practices to support a higher growth rate of privatized land sales.

Between July 1, 1999 and December 1, 2000, approximately 70 percent of all primary land sales have had some form of extended payments or financing. Only two percent (2.0 percent) of all land sales transactions have been financing through commercial channels (described in subsection 2 below), while 30 percent were paid from company equity. There has been no discernable pattern to municipal financing except that few parcels carry long-term notes. Most municipal agreements are initially written for one year or less, yet slightly more than one percent (1.0 percent) have extended terms between one and three years.

UKRels estimates that a between 40 and 50 percent of the loan-based agreements require at least 50 percent cash as the transaction is closed; half require at least 25 percent. Less than 10 percent, therefore, are substantially leveraged with low initial down payments. Approximately half are repaid in several lump sums, scheduled in two or three payments over a 12-month period. Half of the remainder have one-payment settlements at a specific date, such as 6, 9, or 12 months after closing. The remaining 25 percent of agreements are amortized with even-monthly payments, and these include the longer term loans, several for a period of 2 or 3 years. UKRels estimates that half of all loans carry low interest charges, and most of the remainder, if not all, have moderate interest charges with penalties for untimely satisfaction of notes.

There have been interesting financing approaches worth mentioning. For example, in Lviv, the municipal authorities began offering incentives to enterprises in May 2000. One form of incentive was a 5-to-10 percent price reduction on the face value of an appraised property for a total cash settlement at closure. This was not very successful as enterprises were still faced with finding capital in commercial or private markets. However, Lviv also introduced the equivalent of a "price rebate" on term loans. For example, if a one-year loan written for payment terms carrying 20 percent interest (a typical scenario) was paid off early, a portion of interest was credited back to the enterprise. If paid off in 6 months, the enterprise paid 10 percent annualized interest (approximately 5 percent on the face value for six months credit). If the loan was repaid inside the six-month date, interest was entirely forgiven. Several variations on this theme — land price adjustments, flexible interest rates, and interest relief — were subsequently initiated in six other regions during September and October 2000.

As a conclusion to this section, it is important to emphasize several observations. First, there has been a tremendous change in behavior by municipal authorities who fully appreciate the value of land sales. It is far more than money for budgetary relief, but the growth potential for private enterprises, new employment opportunities, and an accelerated tax base. Second, municipal officials and enterprise managers have come to realize the crucial role of effective financing and the need for a mortgage market. And third, incentives drive market behavior. Incentives extend to motivations for sellers to finance (or to make financing terms enticing), to motivations for buyers who can find value in ownership and new economic use of land, and among broker-agents who are profiting from their services in the emerging real estate markets.

## 2. Commercial and Creative Enterprise Financing

The contractor was required to verify that at least 50 land sales transactions had been financed through commercial institutions or private investors. The deliverable would apply to primary or secondary sales in which a legal conveyance (title) had occurred.

A description of how the project pursued “creative” approaches to underwriting is described in Annex D. These transactions are summarized momentarily, but results are confirmed through October 31, rather than December 1, 2000. It was not logistically possible to research the final month’s transactions after the project came to a conclusion. The results can be described as follows:

The UKRels project successfully accomplished 86 commercial or privately backed transactions for registered primary and secondary land sales, thus fully meeting or exceeding the task order requirements. Of these, 28 were considered long-term loans (term notes for more than one year). Additional, there were 33 transactions pending, 16 for secondary long-term sales, as the project closed.

- a) *Collateralizing land with other assets to secure financing.* Used primarily as a means to finance purchases from local rada, enterprises capitalized marketable assets such as inventory, materials, or service contracts to obtain financing for land parcels. Creditors included local rada, private investors, other enterprises, and in some instances, banks which wrote loans on marketable assets other than land. In most instances those assets were inventory or materials. This is comparable to factoring in western societies and is a common practice for companies lacking cash flow to finance acquisitions of other assets. Separating those transactions that dealt directly with local rada (which qualifies for municipal financing), there were 36 private or commercial transactions, three for term payments longer than one year, 33 short term loans.
- b) *Purchasing land with foreign exchange by private creditors.* This method was useful to purchase two rather sizable enterprise parcels from local rada by securing loans through promissory notes with foreign investors. In both cases (one Canadian and one Slovenian), the investors held some equity interest in the enterprise but kept separate the land notes for repayment and titling to the Ukraine enterprise. In essence, a foreign exchange transfer was made to rada for land through the NBU with a FOREX registration certificate based on regulations allowing transactions on specific performance promissory notes. Without a viable foreign investment profile in Ukraine, this method has limited use, yet it is extremely common in market economies where international companies are assured of legal recourse for default. As noted, there were two (2) commercial transactions with repayment notes written for 3 years and 5 years respectively.
- c) *Joint equity investment to secure funds.* Several parcels were purchased by private enterprises with aspirations to attract foreign capital or to pursue domestic joint stock enterprises with key investors. In effect, they used the strength of their land sites and potential for enhanced balance sheets to create a legal entity that was authorized to

purchase privatized land. This authorization had to be obtained through the Ministry of Economy for the equity transaction, and further approved by the local rada. New equity investments from stockholders were allocated to the land buy-sell agreements. This may be an equity stake rather than a formal loan, but UKRels has not assessed proprietary records. Verbal inquiries indicate, however, that seven (7) land parcels were financed, with two (2) amortized longer than 1 year.

- d) *Direct loans from domestic banks.* The obvious choice of commercial lending would be domestic banks, if, in fact, there was a collateral law and a viable mortgage market. Surveys by UKRels indicate that as many as one-third of all enterprise clients had applied for a bank loan, and almost all entirely turned down or offered extraordinarily high interest rates for only short-term notes. Nevertheless, UKRels continued to introduce clients to banks and encouraged bank lending. Over the course of the project, approximately 1,400 bank applications were made, and a total of five (5) loans were placed, four of these with one-year notes, and one with a two-year note.
- e) *Partial mortgage bank loan for secondary sales financing.* An unusual description of loans were made in two instances by banks, which were called "mortgages," but were probably equivalent to operating loans with liens on land parcels as partial security. They were made on very small parcels under retail establishments, and loan proceeds included credit for merchandise, fixtures, and delivery vans. There were two (2) loans placed by banks for terms of one and two years to pay for resale of privatized land parcels.
- f) *Leveraging securities to secure bank loans.* This is a bank-backed personal promissory note negotiated between the bank and the enterprise owner(s). It is not a collateral bank loan against a land parcel, yet the loan proceeds were utilized for land purchases from local rada. In several instances the notes also included money for equipment or cars in addition to the land purchases, and all loans were installment credit. Enterprises pledged stock or negotiable securities together with settlement papers on land purchases to their bankers. Once executed, the banks directly paid for land purchases and held the company's stock or securities against payments. UKRels prepared legal documents for use in this regard which were adopted by several bank branches in five regions. A total of seven (7) loans were placed for terms between 12 months and 42 months, with four (4) pending closure at project end.
- g) *Supplier credit used to finance land purchase.* Although common in western societies, supplier credit is an entirely new concept in Ukraine for financing other assets. Nevertheless, two regional offices introduced this method toward the end of the project's activities. In this situation, a Ukrainian enterprise concludes a long-term agreement (1 or 2 years), which provides initial funds to the enterprise for land purchase. These funds are repaid after the enterprise converts supplies or turns a profit from materials provided by the crediting supplier. In effect, the supplies are not paid off until after they have been converted, and a portion of profits goes to pay installments on the original note. There

have been two (2) completed transactions, but there were 13 similar transactions being processed as the project closed.

- h) *Third-party insured loans.* Following approval by local rada, an enterprise secures a trilateral agreement with an insurance company that guarantees to the rada payments promised by the enterprise. In essence, the municipal authority is issuing a loan, but financial leverage comes from the agreement by the insurance company which also holds a specific performance note against default on the enterprise. Should the enterprise fail to make a payment, the insurance company pays, then collects or obtains court relief from the enterprise. The insurance industry is not yet comfortable with this type of transaction, yet a number of loans have been concluded. Only one long-term (2-year) transaction was reported in Poltava, and approximately 16 short-term (less than one year) notes. However, the rada and insurance companies in Kremenchuk have been eager to use this trilateral agreement. In that region, 39 land sales transactions were completed, with 14 of those for periods in excess of one year. Therefore a total of 15 trilateral insured transactions occurred for terms of one year or more.
- i) *Secondary market financing by enterprises.* Although UKRels introduced in late 1999 the concept of “corporate paper” or “taking back paper,” in real estate jargon, this did not seem to catch on until near the end of the task order. This is a prevalent practice in virtually all western real estate markets for land, commercial properties, and homes, yet it is only beginning to emerge in Ukraine for secondary sales. In this instance, an enterprise sells an entire parcel or a plot after restructuring to an entrepreneur or investor. The seller takes a partial payment and arranges payments or term notes with a notarized claim against the title, which cannot be registered in the new owner’s name until the note is satisfied. As an interesting observation, these are legitimate secondary transactions yet do not appear in the secondary sales statistics because the debts have not been satisfied (thus title conveyance not recorded). At the close of the project, there were ten (10) notarized agreements in effect for terms of one year or more. In addition, 16 agreements were reported as existing among enterprises but probably short-term and unregistered.

## **F. Professional Development, Outreach, and Education**

Under the task order, the contractor was required to establish appropriate training and development for project specialists, government participants, and enterprise managers in relevant topics of land privatization and sales. In addition, the project was to cooperate with local real estate associations or professional groups, and if appropriate, to support new associations through outreach and communication activities. This may have included, for example, the provision of materials, information, procedural manuals, and access to on-line and public information resources. Specific deliverables, summarized, include:

- Completion of 10 seminars on appropriate topics for training and development involving professional staff, enterprise managers, and government participants.
- Outreach and professional development that includes at least 2,250 participants.

- Organize a national conference on enterprise land sales with a minimum of 150 participants.

The UKRels project held 34 formal seminars, 358 workshops, 26 courses with diplomas or credentials, 32 professional development training programs, 3 national conferences, and 4 roundtable meetings during the task order contract. This comprises a total of 457 formally organized training and professional development activities.

Participation in the formal development activities included 1,024 government officials, 1,862 enterprise managers, 430 project managers and staff, 221 journalists, and 3,337 others. The last category includes real estate business persons, bankers, investors, foreign participants from other donor activities, and university students.

Outreach meetings and public relations or press events reached a total of more than 13,000 persons in all regions and Ukraine's major cities. Tracking of participation was impossible, but some effort was made to identify enterprise managers and local authorities, which approximated 6,400 persons. Also, 670 media specialists and journalists were verified for participation in the special new events.

Special attention was given to the number of women in attendance, and women were particularly encouraged to be involved in development and outreach activities. Consequently, approximately 42 percent of all participants were women, although very few of those were enterprise managers or in official government positions.

UKRels has far exceeded all task order benchmarks, and through its persistence has achieved major changes in land privatization legislation, education, and the public acceptance of land ownership as a pivotal concept in a free enterprise economy.

The task order expectations are addressed under several headings that follow. In each part, the report separates training and development according to the nature of assistance and the participants, and then explains how the activities were achieved.

## **1. Project Management and Land Marketing**

During the initial year, UKRels pursued a three-pronged approach to professional training among its recruited regional staff. This was enhanced and essentially repeated throughout the project's task order. This section identifies the primary training focused on project management and marketing efforts. Further training and development activities are described in subsections 2, 3, and 4 below.

Each person employed or supported through the project was required to successfully complete a program of project management, land marketing, appraisal, and the specific procedures for completing a thorough privatization and sale agreement. These programs were presented by teams of expatriates, local specialists, and special facilitators from the State Land Resources

Committee and State Privatization Fund. Complete manuals for project activities were developed and regularly updated. A second component was a scheduled series of regional seminars to reinforce training, review performance by regional offices, and provide direct intervention assistance. These site visits and seminars involved virtually all specialists from UKRels, visiting expatriates, and regular invitations for cooperative seminars with land resource officials. The third prong involved managers and staff in public programs, workshops, seminars, and conferences. Specific project management initiatives include:

- During the first six months of operations, four regional workshops were conducted with newly recruited managers and staff at UKRels offices. These workshops focused on management of the project and prepared them for marketing the concept of private land sales to both local rada and enterprise managers. They varied in length and often included several trips to each region with follow-up individual mentoring by teams of project expatriates and local specialists. This type of training is described in the annex as “broker seminars and workshops.” A total of 52 project managers and directors responsible for project marketing were initially trained, each with a minimum of quarterly follow-up sessions through July 2000.
- In the Autumn 2000, UKRels provided an in-depth training program for real property brokers, focusing on enterprise land privatization and sales. This was part of the project’s effort to help regional offices in their commercialization process, but also to prepare new brokers who were not associated with the project. This was facilitated by an experienced attorney and real estate broker from St. Petersburg, who had worked in Moscow and in Ukraine, thereby understanding these markets and the challenges of a transition economy. UKRels underwrote this program for 52 professional participants.
- The project periodically organized one-day workshops around visiting expatriate specialists in real estate, law, financing, and appraisal held at regional offices throughout the project’s three-year task order. These required attendance by UKRels professional staff, but they were also opened to local government officials, bankers, and enterprise managers. There were 13 programs presented in 16 locations, identified in the annex as “professional seminars.” Total attendance included 74 project staff, 51 government officials, 14 bank or financial professionals, 46 independent real estate professionals, 37 enterprise managers, and 8 media journalists.
- There was a wide variety of public seminars, new events, workshops, and conferences explained in separate paragraphs below. Each of these were organized by several UKRels managers and teams of project specialists, and most were attended by regional project directors, their staff, and their privately-hired agents. Actual participation in more than 400 events over the three-year project cannot be verified, but such participation served as periodic follow-up training or professional support. It

is not counted in this summary, but only noted as an important dimension of continued professional development.

## **2. Education Related to Survey and Monetary Valuation**

There was no method of land valuation when the project began, and it was a major priority to establish a system of appraisal backed by professional surveys and techniques consistent with recognized international standards. Project staff also had to be thoroughly trained in these matters. Therefore, early emphasis was on expatriate-based training contracted through specialists from the United States, Europe, and Moscow. All educational initiatives were also carefully coordinated with assistance from the State Land Resources Committee and other government agencies, including faculty from Ukraine universities.

All project specialists became leading experts in these techniques. They were licensed and registered with state agencies, and became course facilitators at training centers and universities. UKRels specialists and contracted specialists from the United States and Europe provided a number of courses for participants from UKRels, private enterprises, and government administrations. These are summarized in the following:

- a) Between January 1998 and December 2000, the project taught or facilitated 22 courses or seminars with government-approved diplomas and certificates at two universities, two technical colleges, and four state-approved training centers. These programs focused on technical survey and land valuation procedures. The program also provided professional development courses for practicing real property agents through sponsored workshops. The UKRels project successfully trained 840 participants who received credentials or diplomas by universities and or the State Land Resources Committee. Of those, 152 were trained as appraisers and subsequently licensed by the state.
- b) With respect to appraisal activities and related topics, the project specifically provided periodic training courses for regional staff. These courses served as “refreshers” for existed staff, but also provided new information to recruits. Seminars were routinely opened to local government participants and enterprise managers. The number of participants external to UKRels is not reported. UKRels appraisers held 24 regional seminars or refresher courses on property rights and valuation topics. The courses were attended by 116 persons associated with UKRels project, with 42 additional certificates issued by the State Property Fund for qualified specialists.
- c) A formal series of courses provided by a licensed U.S. appraiser and real property attorney was held in 1999. This series included four regional courses for professional development, each coordinated with regional offices of the State Land Resources Committee and the International Center of Privatization. The project courses included site visits to 25 UKRels offices, providing seminars to staff members and invited local enterprise managers. There were 36 persons officially registered and licensed through the four regional seminars, plus 58 government and 24 enterprise participants in the regional site visit symposia.

- d) Appraisers from the UKRels central office created a cooperative program with the Ukrainian Financial Banking School in Kiev to offer a unique course in land valuation for mortgage purposes. The intent of this course was to introduce bankers or representatives from local rada working in land privatization to land valuation methods and how land can be valued as collateral. The UFBS issued a certificate of completion on this course for 30 participants in 2000.
- e) A course on the Legal Framework for Property Assessments was provided in 1999 through the Eastern European Real Property Foundation (IRPF). This program was facilitated by experts on property assessment and valuation standards in the United States and Western Europe, and by working with representatives from the State Land Resources Committee, the program developed recommendations for a National Standard in Ukraine on monetary valuation. The initial course held in July 2000 was repeated in September 2000, with a total participation of 71 persons, 18 of those from government offices. Officially, there were 53 registered participants receiving a European Certificate on Legal Assessment Methods.

### **3. Workshops for Government Participants and Enterprise Managers**

The project organized both formal and informal development programs. Formal programs carried certificates or diplomas, and informal programs were characterized as brief seminars and workshops held in the regions. These were designed to include both government officials and enterprise managers with the idea of creating a common understanding among them through the development activities. Most project activities provided privatization documents and procedures for key members of local rada committees and for enterprise managers. These are explained below:

- a) Seminars were held jointly with USAID's "Partnership of Communities" program in March, July, September, and December 1999, and in February and March 2000. This was a series of eight regional two-day seminars for local government participants and representatives from regional land departments. They were held in Cherkasy, Kherson, Lviv, and Donetsk, where participants also received a full "how to" manual with complete land sales documents and procedures on completion. A total of 180 persons attended these seminars with an official registration of 127 persons receiving completion certificates from an applications workshop.
- b) A two-day seminar was presented jointly with the Ukraine Institute of Business and Technology in January 2000 on "Non-Agricultural Land Parcel Privatization." This was attended by enterprise managers who were selected as applicants for privatizing large enterprises or larger land parcels. The program was repeated in February 2000, drawing participants from six regions and two city centers. A total of 42 enterprise managers completed the seminars, and each was provided complete documentation on land sales privatization procedures and valuations.

- c) Identified in the annex as “oblast seminars,” UKRels sponsored 59 regional programs that reached all 25 oblasts and three urban centers during the period January 1998 through September 2000. Many of these were two- or three-hour meetings of general information that attracted large audiences, sometimes exceeding 100 persons. These seldom had the effect of “training” or “development,” however, at least 27 of these were targeted to local government committee members and candidate enterprises by invitation. Consequently, these represented one-day workshops, complete with privatization documents and exercises to indoctrinate participants in privatization and sale method. Total attendance in all these activities approached 5,300 persons, but a total of 270 participants are counted as having benefited from formally organized workshops.
- d) Specific one-day and two-day workshops were structured in each of 25 regional offices and two municipal centers for invited local government participants and enterprise managers. These were facilitated by UKRels teams of legal and property specialists, including expatriate consultants who were piggybacked from other primary assignments. They are identified in the annex as “workshops for authorities and managers.” These workshops were mandated in every office on a monthly basis as a sustained marketing and development activity. Consequently, a total of 320 regional workshops were held over a period of 33 months, reaching 6,980 participants.

#### **4. Conferences and Development Meetings**

The project organized several conferences and roundtable discussions specifically designed to address crucial issues of land development and cooperative assistance. These were invited conferences of one- or two-day sessions; several extended their meetings with official commissions or working committees on land privatization. They are summarized in the annex and explained below:

- a) There were three national conferences organized by UKRels in cooperation with the State Land Resource Committee, State Privatization Fund, and local government offices. These were held in Kiev and targeted investment companies, bank loan specialists and bank managers, and budget representatives from national and regional governments. In each conference, media journalists were also invited to attend. A total of approximately 250 individuals participated in these conferences.
- b) UKRels organized four special events, called “roundtables” or public debates during 1999 and 2000. These were held in the western, eastern, southern, and central regions, with participation by invitation. Agendas were concerned with land market problems, new legislation, municipal and commercial financing, and monetary valuations. Participants included UKRels regional specialists, municipal deputies and mayors, land committee representatives, and journalists. A total of 350 persons participated, 210 of those from government, 65 UKRels staff, 33 journalists, 18 bank officers, and 29 others.

## 5. Outreach and Public Relations

The UKRels project maintained a continuous outreach program with a wide variety of public relations activities. These included more than 50 published news releases, and a monthly newsletter circulated to regional offices, local government offices, and various commissions and committees. The project also created on-line Internet announcements early in the project cycle of activities, and in 2000, established a Web page with open Internet access in both English and Ukraine languages. In addition to formal procedural manuals, texts, training materials, and privatization support documents, UKRels published land lists, information within the regions on land sales, financing, and land investment opportunities. Finally, UKRels worked with several different informal real estate associations, but established its own nonprofit association with sustainable membership.

- a) Specialists from the Kiev UKRels office and visiting expatriates traveled extensively to hold public forums and brief meetings in local cities, townships, and rayon villages. These are described as "informational meetings." Over the course of 35 months, a total of 160 trips were made, often with several local meetings. An estimated total of 6,400 individuals from government, enterprises, and the public attended these meetings.
- b) UKRels worked with several other USAID contractors during its three-year history to organize special media sessions. These were called "press conferences" or "press clubs" and they were held in each of 25 regions and the city of Kiev, with two or three sessions monthly since January 1999. A total of 670 journalists attended these meetings in addition to UKRels and other contractor representatives.
- c) As the project concluded, there were three press clubs scheduled (end of November and early December), and one roundtable with Ukraine Union of Bankers. These are important to note because collateral laws and new cooperation initiatives with the State Land Resource Committee were agenda discussions. However, as this goes to press, the UKRels office is closing without resources to further document activities.

## G. Other Accomplishments

There have been many benefits associated with this project for public constituents, enterprise managers, and Ukrainians involved in real estate, both within this project and among outside interests. The project leaves behind a legacy of demand-driven real property marketing together with a system of land sales, legal advocacy, and professional monetary valuation that will not only be sustained but greatly enhanced.

The UKRels project offices represent approximately 125 professional land and property specialists who are among the country's most informed experts on land sales and development. These include seasoned attorneys, credential surveyors and land appraisers, and land brokers/agents licensed by the State Land Resources Committee with commercial enterprises approved by regional and local authorities. In addition, UKRels introduced two important concepts that have become rooted in the emerging system.

- First, fee-based activities with monetary and competitive incentives accelerated market behavior and accountability for independent performance among all the offices and associated staff specialists.
- Second, a system of independent agents was created, much like commissioned agents in western countries. Approximately 125 agents worked under regional sales offices during the latter part of 2000, generating an accelerated number of transactions. They not only worked with enterprises, but with rada representatives thereby created competitive markets. Incentives do indeed work, and the concept of performance-based rewards has entered their value system.

The UKRels project managers and specialists have developed extremely close working relationships and a sustaining network of mutual interests. This network has been nourished through monthly project group meetings and combined workshops and staff seminars which generating a highly participative environment of information sharing. Indeed, many staff led workshops or responsibly generated seminars and presentations. In most instances, enterprise managers and public constituents were included in workshops and seminars, and government representatives were always included in social events or regional programs. Several key points are important to emphasize:

- The effect of networking was further enhanced by the formation of the Real Estate and Land Sales Association. This association was launched by the regional managers who fully supported it by their contributions and membership fees. Since commercialization of the offices, this association has been renamed as Ukraine League for Promotion of Land Market Development. It will double in membership in 2001 by merging with a private Ukrainian association called the Land League. It will continue within its charter to pursue all forms of land markets and to advocate for market-driven land reforms.
- The project appraisers and survey specialists have created a “standards and licensing” commission that works independent of any government function, yet is considered an affiliate of licensing commissions of the Ukraine Academy of Agrarian Sciences and the State Committee of Architecture and Construction.

One major strength of UKRels has been its computer information system and comprehensive electronic network. The technical capabilities of this information network include standards of email and internet access, but also a closed LAN with its regional offices and an open access system through its World Wide Web page. The project specifically set out to link all offices with a fully articulated database system. This bilingual system has been created in English and Ukraine languages, and has several important features:

- The electronic network now includes a fully developed Web Page for national access in Ukraine, and a fully developed English version. The English version will be

activated through a US server at no cost, or as recommended, through the USAID system. In either event, the web system can provide access to extraordinary benefits. These include:

- ❑ Open access by local and regional authorities to land sales and all nonproprietary data about the UKRels project.
- ❑ Open access by anyone interested in the procedures and manuals published by UKRels on land sales, appraisals, and legal procedures.
- ❑ A database that can be maintained and updated on enterprise land being privatized, on any sales opportunities that local or regional authorities wish to promote, and on opportunities for commercial or private real estate financing.
- ❑ A system for property “listing” that is similar to advertising and listing of properties in the United States. The network can support, and perhaps become the basis for, a demand-driven secondary market in Ukraine.
- ❑ International access through the Web Page to land sales and related activities in Ukraine. In time, this could become the main channel for researching land and realty in Ukraine, and thus serve as a bridge toward enhanced foreign investments.

Beyond the education endeavors reported elsewhere, UKRels leaves behind a track record of research, publication, and education that will endure. This include books, manuals, and academic or technical research, but also performance through cooperative endeavors with official state agencies and the universities. Although these activities were described in some detail earlier, several additional contributions are worth noting. These are:

- Published a Procedure Manual for Non-Agricultural Land Sales Monetary Valuation, which was distributed to relevant government offices and all land sales offices. It was also provided to university faculties in law and commerce.
- Published a Procedure Manual (known as a “how to manual”) for marketing property, processing land sales, preparing legal documentation, and registering sales or lease transactions. This was provided to all relevant government agencies and regional land sales offices, local rada commissions, and it is available to private enterprises.
- Created and introduced courses on privatization investments and management in urban and enterprise land resources, offered through the International Center of Privatization, and now retained through the State Committee on Land Resources as a post-graduate certificate course.

- Created a course on monetary valuation at Taras Shevchenko National University, which has continued since 1998 with support text materials and teaching ancillaries prepared by the project staff.
- Established the first graduate course for land surveyors in 1999 at Kiev National University of Construction and Architecture, which is supported by project materials and a published teaching manual on survey techniques and international standards.
- Established a diploma course at Kiev Property College that is a basic training seminar for professionals aspiring to enter the land market.
- Established a post graduate course in conjunction with the State Land Resources Committee at the Yanus Training Center, which now carries a recognized certificate of completion.

## SECTION IV

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### **Project Financials Summary and Impact**

#### **A. Income Utilization from Land Sales**

Privatized land sales generate direct revenue to local and regional governments with authority for land allocations. These authorities have various legal and regulatory constraints on how they can use public funds, which can be controversial for land sales receipts. In some instances, the proceeds were treated much like general tax revenues, and therefore land revenues were allocated to general fund priorities. When this situation occurred, significant expenditures were made to reduce "public arrears." In other instances, the local rada earmarked land sales income much like specific-use bond income in western societies, and therefore directed funds into a variety of public projects.

UKRels has had no way of tracking how government offices handle their funds, yet it is important to understand that all land sale transactions were carefully documented and transparent. This diligence was maintained by UKRels managers and the documented procedures for land privatization. All prices, sales expenses, proceeds, and documents relating to appraisals, registration, and financing were processed by UKRels for client transactions.

With respect to actual expenditures by rada, the UKRels regional offices could only periodically request how funds were being utilized; project staff had no authority to require such information. In nearly all instances, however, the local rada cooperated with UKRels. A concerted effort was made in November 2000, just prior to the end of project, to establish how municipalities and regional governments used income generated from land sales. This information was coordinated with monthly regional reports to establish a profile of income utilization over the life of the project (see Annex G).

#### **1. Income Generated for Ukraine Constituents**

As of October 31, 2000, the initial cut-off date under the scope of work for this project, a total of 3,565 private land sale transactions were completed. This generated a total income to regional or local government administrations of UAH 120,080,798. Between October 31 and December 1, an additional (658) transactions were completed, generating UAH 30,829,625 (US\$ 5,566,000). As of December 1, there were approximately (280) sales transactions pending at an average price of approximately UAH 40,000 (US\$ 7,233). In the month of December, 417 sales were accomplished producing an income total of 22,350,000 UAH.

Therefore, the project has generated a total income of UAH 173,260,423 (US\$ 34,577,437) on 4,638 parcels that accrued directly to government constituents through local budgets. These data are addressed in detail under Section III (B), regarding the project's deliverables and results. The results exclude all other forms of income associated with land, which are beyond the scope of

project responsibility and beyond this report. Nevertheless, There have been add-on benefits from land sales, including a higher tax base to privatized land with effective appraisals, highest-and-best-use leasing transactions through municipalities, new fees from registrations and document processing, and actual tax income from an enhanced private sector. This report focuses only on certified income to regional and local governments from primary land sales.

## 2. Income Utilization by Ukraine Constituents

A matrix is provided in Annex G to illustrate 18 itemized lists of income utilization, detailed by the regions in which the project completed land sales. Land Resource Committees and local rada seldom provided UKRels with precise income expenditures, but all respondents described how income had been allocated. The matrix is divided into four categories, and expenditures are defined as “major” or “minor.” Major expenditures indicate that 20 percent or more of income received had been allocated to a particular category and item (such as “gas utility installation” under “Public Works”). Minor expenditures indicate that less than 20 percent of income received had been allocated to an item. The following is a summary of these findings by the approximate order of importance:

- a) *Wage and payment arrears.* This category represents four areas of payments to reduce arrears, and an estimated 35 percent of all land sales proceeds was allocated to these payments. Seventeen of the regions reported expenditures to reduce existing arrearages. Payments to teachers constituted “major” expenditures in nine (9) instances, and “minor” allocations in five (5) oblasts. Payments to doctors and medical staff under public budgets were “major” in eight (8) and “minor” in six (6) oblasts. Pension arrears were paid as a “major” factor in six (6) and “minor” in seven (7) oblasts. Six municipalities also reported some expenditure on “public payables,” which assumes arrears in services or purchases.
- b) *Public infrastructure.* This category has five general areas of expenditure: gas and heating systems; water systems; electricity or telecommunications; roads and public transport; and waste management. Approximately 27 percent of all land sale revenue was allocated to public projects, and 19 regional municipalities or oblasts were involved in some form of public infrastructural improvement project. Installation of gas lines or enhanced heating systems were “major” expenditures in six (6) oblasts, with “minor” projects in three (3) rayon villages. There were four (4) major road projects and five (5) minor repair or resurfacing projects. In two oblasts, public electrical projects represented substantial projects, and there were four (4) solid waste management systems established in rayon villages. Two municipalities spent major sums (20 and 35 percent) on new water and boiler systems.
- c) *School facilities.* Expenditures on school facilities were made by 20 of the regional authorities, and constituted approximately 22 percent of total income allocated. There were more than 80 individual school projects reported, but few represented “major” expenditures. In two instances, major expenditures were coupled with other public funds to erect new municipal nursery schools (pre-school and equivalent of kindergarden).

Also, there were four entirely new village school facilities built with more than 20 percent of the land sales income directly allocated to structural assets. The remaining projects reported a wide variety of "minor" expenditures, including initiatives for school equipment, cafeteria, sports equipment, playgrounds, landscaping, window replacement, repairs, and so on. Few respondents indicated precise budgetary information for these activities, yet there clearly were projects that had significant impact on schools and villages. For example, one village school was provided its first hot water system, thus the first heating facility. Another replaced a village school's "waste trough" with a "real water closet for children."

- d) *Social program support.* There were no "major" expenditures in this category, but nine (9) oblasts reported "minor" support for a broad range of social programs. Only rough estimates of total expenditures can be made, probably ranging between 5 and 10 percent of income derived from land sales. There were 22 examples provided by respondents covering approximately 90 different activities. These included, for example, milk for village schools, food for the elderly, medications or minor treatments for injuries and illnesses, cultural events, and a broad range of individual purchases for hospitals and village clinics such as sterilizing equipment, treatment tables, patient clothes, and pediatric supplies.
- e) *Other allocations.* There were six categories of "other allocations" with 19 different identifiable activities. Only four items were noted as major expenditures, indicating an expenditure of 20 to 25 percent of land sale proceeds. Two of these were earmarked funds for "Planning and Urban Development," which included payments for appraisals and land restructuring maps, and land mapping. In four regions, funds were spent on "monetary valuations," described as surveys, appraisals, and plot mapping documentation of enterprise lands. The urban planning and the monetary valuation categories actually constitute two forms of payments. The first includes fee-based contracted services, including independent contracts with UKRels regional staff appraisers and attorneys. The second includes payments to the State Land Resource Committee, which, until recently, solicited a fee from the local rada for its services. Also in four oblasts, expenditures were made for "Land Information Systems," which included computer-generated databases and revised registration offices and procedures. One region, the Sumska Oblast, created an SME Business Development fund with 25 percent of all land sale funds directed to this activity. The total funds allocated to this category are unclear, but probably range between 5 and 10 percent of land sales revenues.

## **B. Enterprise Benefits of Land Privatization**

Enterprise managers were interviewed periodically by economists from the UKRels project, and they consistently indicated several important benefits to land ownership. The most important were not monetary or concerned with profitability, but often reflected their insecurity with government officials or lack of various protections under law. These points are summarized in Annex G, taken from two independent consulting reports.

## 1. Perceptions of Benefits by Enterprise Managers

- a) Fundamentally, enterprise owners recognize the benefits from land titles and ultimately the right to sell, gift, or convert to lease their properties. Most privatized enterprises have excess land beyond what they can economically use. This occurred through the allocation process to land rights, but even as enterprises control and use the property, they are liable for land tax.
- b) Ironically, there is a shortage of urban land in Ukraine, so enterprises have every reason to purchase, restructure, and sell or lease those excesses. This reduces tax burdens while also adding to their capital asset base.
- c) Aside from pride of ownership and the freedom to use a land asset effectively, most enterprise managers are adamant about the benefit of security from government intervention. Having acquired land and titled it, an owner reduces or eliminates his or her “dependency on officialdom.” This is explained as security against corrupt or capricious practices, seizure without cause, conversion of the land purpose, or fraudulent tax levies. According to research noted earlier, about 60 percent of the Ukrainian companies which have privatized their land parcels consider the right of ownership in land as the guarantee against possible threats or termination by local radas or state agencies.
- d) Often large parcels are appraised at lower values because, as they stand, they are not suited for higher-income leasing or resale. For example, one entrepreneur in Zaporizia oblast privatized a nine-hectare parcel, then sold part, retained ground under his operation, and leased the remainder. The net result was a combined sale and lease income seven times greater than the initial parcel was purchased in whole.
- e) Having acquired land enterprise managers perceive an advantage to attract new investments. If land is not in private ownership, few investors will take the risk to place equity in an enterprise. Land provides some degree of security and certainty to its use. Interviews of two international venture capital funds by UKRels staff economists in the spring 2000 revealed that both funds were prepared to place money in Ukrainian enterprises. In both instances, they cited the full ownership of assets, including land required for operations, to be essential. These funds — Global Finance and Euro Ventures Benelux — reported having US \$100 million allocated for Ukraine, which they would place in increments of US \$500,000 to US \$5.0 million. They indicated that long-term leases (50 years, of 10+10 options for 50 years) would be the minimum requirement; titled land would be preferred. In all investments made by the two funds, the private enterprises did, in fact, have purchased land and could prove title. They included UKRels clientele, OJSC ‘Volyn’, Denetsk OJSC “Winter”, CJSC “Kupiansky canned milk factory”, Lviv CJSC “Halka” and 12 other small merchandising or trade businesses.
- f) Having acquired land, an owner can capitalize the assets and add value to the statutory capital of an enterprise. Eventually, this will become very important when a collateral law exists and titled land can be booked and leveraged for debt underwriting. At the

Moment, this is not the case, yet enterprises perceive the benefit of “booking the asset” now (and paying a reasonable, if not low, price) against the time that land will appreciate rapidly as a bankable asset. In effect, the enterprise is hedging against inflation.

- g) Enterprise owners also recognize that land is a unique asset because, as a finite resource, it preserves value. More importantly, it will become a basis for wealth as in most developed countries, thus not only being bankable, but being an asset in perpetuity. Many of the project’s clients clearly indicate that some if not all land will eventually be bequeathed. Equity companies, of course, note that land runs with the property and not with the tenure of management. This latter characteristic virtually increases the value of undiluted equity shares while building the company wealth component.

## **2. Measurable Benefits of Land Ownership**

It is very difficult to assess increases in value, or effects of income leases, rentals, or various forms of utilization, such as subleasing and contracting. Nevertheless, the secondary sales results suggest that these benefits have begun to emerge. Indeed, the market could reach exponential growth rates within a few years with effective mortgage markets and commercial investments. At the moment, UKRels clients represent the only non-agricultural land owners in Ukraine associated with business enterprises. Consequently, there has been no broad secondary market to analyze yet. However, of the secondary land sales officially verified by the State Land Resources Committee (independent of UKRels’ effort) indicated that in most cases the enterprise had a net taxable gain, even after a heavy VAT levy and costs of sales or conveyances.

**Note:** A survey was carried out by UKRels to identify benefits of land privatization as perceived by enterprises that actually purchased land under the program. Those results are reported in Section V, “Conclusion”.

## **C. Impact of Assistance**

Project impact has been substantially documented in the previous sections, indicating benefits of revenue from land sales to local and regional authorities, and describing the perceived benefits to enterprise managers. In addition, there are several categories of specific monetary and social benefits, and impact associated with general improvements in private enterprise development or state activities. These are briefly summarized here as a reflection of the combined results reported earlier.

### **1. Commercial Land and Property Markets**

Prior to UKRels, there was virtually no land market in Ukraine. Real estate agents were essentially concerned with individual listings, sales, leases, and rentals of domestic housing or commercial office space. These realtors virtually played no role in legal or regulatory reforms, had few linkages to government, and no formal associations other than urban agency interactions. At the end of this project, UKRels had substantially influenced legislation, created

one formal and three informal associations that included local realty interests and private sustaining membership, and had widely promoted the concepts of private ownership of land and property assets.

Through UKRels, a national system of appraisal and monetary valuation had developed to effect not only land, but all real property. This reflects international standards with a growing body of well-articulated documentation and procedures that will continue to solidify all real estate market behavior in Ukraine. Property rights and due process for adjudication of real estate claims, although keenly focused on land in this project, extends by definition to all forms of real property. Indeed, these initial efforts to secure property rights are the very foundations for protection of any capital asset and claims on personal property.

Although it was beyond UKRels to press for successful legislation that would establish a system for collateral lending, the project's specialists leave in place a substantial body of proposals and models on which to pursue enabling laws. The project specialist will continue to work in the field, and they continue to serve on critical committees or commission dealing with such matters. More importantly, UKRels firmly entrenched in the minds of thousands of government officials, bankers, and enterprise managers the importance of collateral lending, the value of land capitalization, and the urgency for a mortgage market. This was demonstrated by the municipal lending program as well as the fledgling secondary market that required "creative" approaches to financial leverage.

From an employment standpoint, UKRels trained more than 250 professional, 75 or more of them now in ownership roles of their commercialized regional offices, many more engaged in their own entrepreneurial ventures, and many in agency roles. Among the UKRels regional (now independent) offices, there were 125 professionals in owner or professional employment positions. In addition, the offices had contracted 110 independent commission agents and employed an additional 78 persons. Offices also contracted with 40 attorneys, 27 licensed surveyors, and 152 appraisers. Among the appraisers, 34 were directly involved in the new land sales ventures while the remainder were either independent or associated with state land resource offices. Overall, UKRels has been the catalyst for approximately 640 professional employment positions or individuals who own enterprises engaged in real property and land markets. In addition, the offices have employed under commissioned agency agreements or contracts more than 250 other professional licensed persons.

## **2. Monetary Implications**

UKRels has generated more than US \$32 million in revenues for public programs, and based on the project funding level, this represents more than 600 percent return of benefits on assistance expenditures. Estimates in increased asset values by privatized enterprises capitalizing their land assets was shown earlier to approach US \$41 million, indicated an appreciation in land values once privatized, and the potential for leveraging the assets or placing them in economic service through restructuring, leasing, or secondary sales. In effect, the UKRels project has established new concepts in wealth creation utilizing land as a bankable asset — and in time, a bendable

asset. The combined impact of benefits to both public authorities and private enterprises suggest that USAID has returned nearly ten-fold the benefits relative to costs of assistance.

Project financial specialists made a preliminary estimate of “tax effects” of the UKRels operations. Based on the reported fee-based income by regional offices, and the agent payments reported as earned income, a total of approximately US \$380,000 was generated in the year 2000. A total income flow for the three-year project was estimated at US \$620,000. Assuming no other income factors, profits subject to taxes, or professional revenues for state funds or rada activities, the “earned brokerage income” will have generated US\$230,000 in social fund contributions and approximately US \$180,000 in tax revenues. Coupled with direct expenditures to the economy, the total income effects on tax and expenditures have been estimated at US \$960,000.

### **3. Ideological Shifts or Behavioral Changes**

Earlier results emphasized the very recent initiatives by the State Land Resources Committee to contract with the UKRels regional offices for agricultural land transition and titling. On December 8, Derzhkomzem also announced that it will pursue national land sales activities, and that the success of land privatization demonstrated in the regions had prompted state authorities to require a new budget line in national accounts specifically for Land Privatization and Sales Revenue. These events are substantial evidence that the Ukrainian authorities have made an important transition toward fully implemented land reforms, and accommodation to a competitive private land market.

The pervasive acceptance of municipal financing of land sale transactions, and the open encouragement by local officials for enterprise land privatization speaks very loudly to a change in attitudes. When the project began and, indeed, well into its second year, local officials and state representatives were not only opposed to land sales, but harsh critics of all forms of financing. Today, there is accelerated interest in financing and market concepts of land sales.

Local and national authorities systematically blocked or placed obstacles in the path of UKRels projects and regional managers — often seeking bribes or concessions, and even extremely high land prices to obtain kickbacks. The project never bent to these situations, and in being ethical, gained a reputation for fairness, proper pricing mechanisms, and valued support. At the same time, the project was effectively barred from doing business in Ukraine’s largest metropolitan areas where communist thinking and party mechanisms remained strong. As the project concluded, sales in the four largest city centers had finally achieved a critical mass with more than UAH 1.0 million in three centers for the final month of November, and nearly UAH 10.0 million in Kiev. Project managers suggest that these are extraordinary results that evidence a major breakthrough in ideological behavior whereby urban authorities accept ownership rights and concepts of private development.

## SECTION V

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### Lessons Learned and Recommendations

#### A. Lessons Learned

The contractor came to this project with similar experiences in a recent Russian project. Therefore some problems and obstacles to implementation could be anticipated or mitigated. Nevertheless, project managers discovered many situations unique to Ukraine and learned valuable lessons while implementing this task order. The major lessons learned are reviewed below:

1. The Ukrainian economy is far healthier than generally accepted by most observers. UKRels works directly with enterprises who make visionary long-term decisions to purchase land. UKRels comes to know them intimately. These firms are solvent, promising, and well-managed. They are credit-worthy and have high success-potential, yet they remain outside the visibility and interest of most media sources. In UKRels transactions and pipeline alone, there are over 6000 such prospering and growing firms. These enterprises and the thousands like them, who play by the rules, plan, assess risk, and successfully compete in the confusing Ukrainian business environment form the backbone of the current and future economy. They demonstrate the strength and dynamism of the private sector in Ukraine (and add to thousands of similar enterprises that remain wholly in the shadow economy). Most of them, however, wish to remain as anonymous as possible and take pains to fall below the notice of government entities and media. In addition to these existing enterprises, new enterprises form every day, many of whom in due course are likely to want or need land. Entrepreneurial spirit is alive and well in Ukraine, and, to the extent it is unfettered by government interference and can control local extortion, it will provide a solid base for near-term economic growth. The dynamism and potential for wealth-generation existing in the small and medium enterprise sector in Ukraine should not be underestimated.
2. Though we work hard to accomplish it and do make progress, there will be no single law, land code, mortgage law, or the like, nor any combined legislative developments, that will create an efficient legal environment for land reform in the near future. No matter what legislation is proposed, it must pass through that "collision of interests" that still characterizes the legislative process in Ukraine. Emerging from this process will be legislation that generally advances land reform but also will include some backward steps and/or contradictory or confusing provisions. Slow progress has been made in legislation over the life of UKRels, and incremental progress will continue to be made over the near future, but a fully transparent, cohesive, and efficient legal environment is not yet in view. An imperfect legal environment will continue. This is a current fact of life in Ukraine.

3. In former Soviet countries, the only effective counter to ideological opposition is prosperity. Ideological obstacles to UKRels work was intense early on. However, once it became clear that local budgets could be filled from land sales and that social and economic development programs were actually being funded from this revenue, ideological opponents were overwhelmed by their more progressive peers. In public outreach efforts, UKRels specialists avoided ideological discussions or arguments, since they are unwinnable. Instead UKRels relied on local self-interest to bring about change in local attitudes toward land privatization.
4. Ukraine is a huge country, the largest in Europe. Economic developers, therefore, must expect to encounter here the problems associated with large countries. One of these is public outreach. Moving accurate information around the Ukrainian land mass on a timely basis is difficult. The need for public outreach to support reform efforts does not diminish and is continuous. A key strategy must be to repeat the message as often and in as many locations as possible. We strongly suspect that this requirement applies in all former Soviet republics.
5. In Ukraine today change and uncertainty are facts of life. A necessary approach in any serious development effort must be toward management flexibility and program innovation. While strategic planning is important in development work, detailed short-term planning often can be of marginal utility. Great emphasis should be placed on day to day flexibility, expectation of change, and maintaining momentum despite obstacles.
6. The best practical training resource for UKRels regional offices has been other UKRels regional offices. This is one reason we emphasize the importance of maintaining an intact UKRels network.
7. Readiness to accept land reform / privatization does not vary between regions. Interest in land privatization is strong in all regions and, now, in most cities. There seems to be no greater interest in land reform, for example, in the west of Ukraine as opposed to the east. Regardless of geographical location, entrepreneurs given the opportunity to privatize their land will do so.
8. Contrary to pre-UKRels expectations, only superficially are there ideological differences between regions. Regions in the east of Ukraine are no less interested in progress through land privatization than those in the west. The rate comparison of land sales between regions and parts of the country show imperceptible differences. The rate of acceptance of land reform in these locations is virtually identical. With one or two exceptions the regions in Ukraine are equally committed to and active in land reform.
9. Without the availability of commercial financing, sustaining a vibrant secondary market in urban land is not possible. If land financing had been available during UKRels implementation, sales production would have increased significantly, possibly by ten-fold.

10. Regardless of problem source, solutions usually reside at the local level. Due effort must be made to create an enabling legislative environment at the national level. However, this is necessarily a slow and uncertain process (See #2 above). Solutions to operational problems, even problems emanating from national legislation, can usually be found at local levels whenever political will for reform exists. Solving problems locally while national solutions are sought allows land reform to continue and even to contribute to the formation of broader, national solutions.
11. Enterprise land owners represent a potentially powerful pressure group. Enterprises, as they grow and expand after land acquisition, create jobs, generate tax revenues, increase production and profits, and typically contribute significantly to local social development. As a consequence they potentially wield enormous local influence. Their influence today is normally economic. But this influence, if harnessed and organized, can become political and legislative as well, creating a force for change and support to land reform. This is happening now in isolated cases in Ukraine. Note that harnessing this potential influence for land reform is one of the main objectives of the UKRels-developed Association for Land Reform Promotion.
12. Ideological resistance was strongest in core urban centers where political power was still firmly entrenched in command economics. Two years were required to break the back of ideological opposition in municipal areas. The accumulated public relations, broad-based outreach, and pervasive involvement in public commission, regulatory task forces, and joint educational programs allowed UKRels to influence government officials more than a frontal strategy of change. These subtle approaches assisted local officials to perceive the economic benefits that were occurring locally as a result of land sales. In the end, the shift in ideological behavior discussed earlier in the report was a major accomplishment of this project. It is important to note that, at project end, there is a significant UKRels pipeline of land sales in process in Kiev city and in Sevastopol. In both these key urban centers ideological resistance was highest at project outset. Sevastopol is still viewed by many as a Soviet city. Nevertheless, UKRels has broken resistance there to land reform through sales and the former pervasive communist ideology is no longer an obstacle. Sevastopol offers perhaps the best example of UKRels overcoming ideological barriers.
13. Although the project made important assessments of monetary valuation and physical survey techniques, and early in the project, studied the legal and regulatory framework in Ukraine, it was difficult to thoroughly understand the motives of enterprise managers in acquiring land. This became apparent during the second quarter of year two when, following a market analysis of "intention to buy," consultants discovered multiple motives that contradicted assumptions. Enterprise managers frequently had non-economic priorities for purchasing land, such as seeking ownership security to protect against capricious government behavior or harmful decisions by authorities. Economic factors were sometimes secondary. A valuable lesson is that it is necessary at the outset of a project to define factors such as buyer motives that will influence success or failure of a task order, and then devise necessary project strategies, that take them into account.

14. Project specialists and regional office directors recruited by UKRels management tended to be young and open-minded. They were able therefore to make rapid adjustments to erroneous market assumptions, such as intent to buy and enterprise motives. It was also fortunate that contractor implementation strategy included emphasis on flexibility and innovation, since there was little margin for error given the sensitive nature of land reform. In the course of implementation the project recruited several experienced managers who had established credentials with governments agencies. These often seemed unable to make the same transition toward innovative market thinking as younger and sometimes less experienced managers. Some of these had to be replaced.
15. The value of a close network of working relationships among regional offices, inclusive of all employees regardless of status, proved extremely valuable. The project budget was occasionally stretched by monthly meetings that assembled project staff and employees. Yet the sharing of ideas and problem solutions that occurred at these meetings was invaluable. Soon after the project network had been established, regional office coordinators at times voluntarily paid for other office staff to attend regional meetings. This further cemented working relationships and created a functioning network that effectively shared ideas and strategies.
16. Transparency of operations and a thoroughly candid procedure for conducting business was absolutely essential. More than once, the transparency of land valuation, sale documentation, and legal assistance shielded the project from threats and corrupt advances by authorities. The project's reputation for establishing market prices on well-articulated professional appraisals became a constant for field operations. Honest practices in providing legal and other advisory services opened doors to state agencies and vital sources under the President's Office, Legislative Commissions, and the Verkhovna Rada. Requests from influential authorities, local and national, for assistance that amounted to graft and encouraged corrupt practices of the UKRels project, were frequent, especially early in the life of the project. These requests always encouraged support for UKRels efforts in exchange for financial support or other material assistance to individual authorities or government entities. From the beginning the project discouraged these approaches immediately and everywhere. This established a project reputation that such purchasing of government support would not be done by UKRels. In several cases the result of this was loss of support or interest by local authorities in UKRels implementation. The consequences of this in several cases was that UKRels lost the opportunity to work in that region, usually by ending interest in a UKRels operative agreement with local authorities. Over the course of the project, once the policy of no payoffs was clearly established, pressure for payment for support diminished. At a certain point, when the value, success, and impact of land became were clear in several regions, authorities, that formally refused support for the project without a prior payoff, requested UKRels assistance with no conditions. In the long run, UKRels gained much in credibility and professionalism by rejecting corrupt approaches for project support.

17. The importance of improving the enabling legislation for land financing cannot be overstated. The lack of a collateral law, a weak bankruptcy law, and gaps in registration systems still impede land privatization and therefore private enterprise growth. In particular, capital assets cannot be leveraged, and enterprises lose the bankable use of those assets with which to underwrite their own growth. Selling land for cash violates a fundamental rule of financial management — use short-term money for short-term uses, and seek long-term money for long-term returns. By using scarce available cash for an appreciating long-term asset, enterprises constrain all other operational decisions.
18. Land sales or other real estate development project would greatly benefit from a finance component. By not having this capability at the outset, UKRels project clientele were often frustrated by good advice that could not be pursued. Such projects could benefit from a finance management component similar that established ad hoc within UKRels. This component would address lack of funding for land purchases and would address this directly to individual land purchasers.

## **B. Recommendations**

1. Given the current impressive and totally unanticipated high level of performance of the UKRels network, and the great momentum now present within that network, USAID should immediately fund an additional year of UKRels operation, using whatever mechanism and contractor most suitable. The cost to AID now to accomplish this could be cut to a fraction of the current annual budget cost, but the benefit to Ukraine would be substantial and visible, and would fill a critical and continuing local income need. Further, this support could be essentially a high visibility Ukrainian-managed effort, with expatriate participation limited to basic oversight. This is a primary recommendation because: a) there is no other outside source of income to local budgets, b) the current production by UKRels regional offices is dramatically increasing monthly and the contribution to local economic and social development funding has now reached serious levels (at just under \$200,000 per working day), c) the combination of a) and b) indicate that the value to Ukraine of full UKRels production has far surpassed any reasonable original expectation so as to create a high priority for the activity, d) the project is making impacts in several key areas, not just in sales and income to local budgets, e.g., land financing, public outreach, institution-building, strategic planning, e) continuing support can be limited primarily to incentive payments as the primary driver of the system, f) such continuing support will ensure the regional offices do not pursue other, more lucrative commercial activities; vigorous land sales should continue until a critical mass is achieved (reasonably to be expected in a final year of support), g) this would be following USAID's own recommended schedule, calling for "graduation" of land privatization projects in four years (UKRels having run three years), and h) the ratio of leveraging private funds with USAID project funds would be staggering. Leveraging during the suggested additional year of support would be even higher than at the current rate, because the cost of the additional year would be about half the current annual cost.

2. Over the next year USAID should monitor and modestly support the Association for Land Reform Promotion. This entity now is legally established and is structured to continue providing the support to UKRels regional offices that initially was provided by the project central office. It also is intended to lobby for better enabling legislation, and to serve as an important advocate for agricultural as well as non-agricultural land reform. The success of the UKRels regional offices was in large part made possible by the technical, advisory, and training services provided to them by the central office. Some modest support from USAID in its initial year of activity will increase the Association's ability to continue providing these key support services to the growing real estate sector.
3. In designing its technical assistance portfolio, USAID should keep agricultural separate from non-agricultural land privatization technical assistance, though they both may well be contained in the same task order. In Ukraine these two reform areas are legally, culturally, and politically very different. To treat them as parts of the same technical whole would create confusing implementation goals and could impede progress in one or both areas.
4. USAID should give high priority to support of land privatization in any form. Land privatization should be viewed as an end in itself. Moving land from government to private hands accomplishes a number of economic development objectives simultaneously. Achieving a critical mass of privatized land, thereby creating a true land real estate sector, will unleash the enormous wealth contained in Ukraine's land. This wealth, as it does in all market economies, will spread quickly to many different specialists, investors, and participants in the general economy, and in total spawn a dynamic real estate "industry".
5. One of the key components of UKRels success was its financial incentive program. This program allowed UKRels regional offices to expand their staff and contacts by recruiting agents to open new areas to land sales. These cash incentives created in a remarkable upsurge in land sales, benefiting both the agents and their employing UKRels offices. These payments created the "win-win" environment that typifies the relationship between brokers and brokerages in the West, and stimulates the high output that characterizes the work of specialists in western real estate settings. Similar incentives might be employed to drive other types of development projects. USAID should design into as many of its development projects as possible incentive schemes that provide rewards for and encourage high achievement.
6. Development models generated in one country have limited direct relevance to work carried out in other countries. Accordingly, the experiences of small but often-cited countries such as Georgia and Moldova have limited application in Ukraine. Due in part to the sheer comparative size of Ukraine, models emerging from these small, nearby areas afford only marginal guidance. Even similar land privatization experience gained by the contractor in Russia, which provides a much more similar environment to that of Ukraine, could not fully predict the problems and conditions UKRels faced in its

Ukrainian project, let alone suggest correct approaches and strategies. The vast array of factors constituting the environment and conditions in one country always differs substantially from those in any other country, even a neighboring one. In designing succeeding land reform projects for Ukraine, USAID should rely only minimally on experience gained or lessons learned in neighboring countries.

7. In the past USAID has speculated about the utility of privatizing non-agricultural land through sales versus giving that same land away free. In this interesting speculation, it is assumed that land given away at no or at symbolic cost will result in immediate mass privatization. Conversely, land privatized through sale would be much slower and far less efficient. However, in Ukraine (as in other countries, such as Lithuania, where comparative data is available) these assumptions are by no means certain. For eight years in Ukraine "personal land" (private gardens, and land under dachas, villas, and garages) has been granted free to assigned owners. This land privatization has vigorously been encouraged, the process is uncomplicated, no special government service is needed to accomplish it, and no one has ever opposed it. Yet, after eight years only 48 percent of these parcels have been privatized. By contrast, enterprise land privatization through sale is expensive for the owner, there is no financing available, the process is complicated, several government entities are involved in the procedures, and there has been serious resistance to this program from the beginning. Nevertheless, in three years UKRels has privatized nearly 5000 land parcels. This means that in a comparable eight year period UKRels will privatize all of the currently eligible land parcels whose owners wish to purchase their land. In fact, at the current rate of UKRels regional office production, this will be accomplished in seven years of activity. These data suggest that in Ukraine, a dedicated program may be necessary to accomplish urban land reform, and that giving away land may not be the most critical element in the process. In designing future land reform strategies for Ukraine, USAID should take these observations into account.

### **C. Conclusion**

By any standard, UKRels was an outstanding success over the three year life of project. At project end it was producing land reform results that impacted not only on government policy but also was generating serious revenues for depleted local budgets. The project in fact far exceeded any reasonable expectations, especially in terms of assistance to local economic and social development efforts. The contribution being made to the Ukrainian economy at project end gives continuation of the effort a much higher priority than otherwise could have been anticipated. The unanticipated but important benefits accruing from the project prompted our recommendation that USAID continue some support of the project for an additional year. This would be done through a contractor acceptable to USAID and with just a fraction of the annual UKRels budget needed.

In an attempt to draw sound conclusions concerning the impact of the UKRels effort, the project sought objective information via a nation-wide survey of enterprises that had purchased land parcels through the project. The survey specifically aimed at identifying benefits realized by

9. Other than land financing, the greatest obstacle to land purchase decisions by enterprises is lack of complete and clear legislation. Problems associated with appraisal of land are infrequent and marginal. (This is a gratifying indication that the UKRels land appraisal approach and system are effective.) The perception of 72 percent land buyers is that the appraised prices of land is "fair" or "not high". (This confirms a fundamental assumption of UKRels: that open, transparent, and market-based land appraisal would create buyer confidence and would stimulate land privatization.)
10. The survey gives us information for the first time about perceptions of mortgage or other land loan rates in Ukraine. The average loan rate Ukrainian land buyers would find satisfactory is 12.8 percent. Sixteen per cent of the enterprises surveyed would be willing to pay rates from 15 percent to 50 percent if funds were available.
11. While the rate continues to decrease, UKRels-inspired seller-financing still is used in 49 percent of all urban land sales. (This is a clear indication that without UKRels involvement, there would still be no urban land market in Ukraine today. It also demonstrates again the critical need that exists for land finance sources.)
12. Survey respondents made clear that the UKRels-generated appraisal procedure is the least complicated step in the land privatization process. It also made clear that preparation of land allocation documents required by government entities was the most complicated and discouraging aspect of the process. (This simply confirms the obvious regarding government inefficiency, but also confirms the efficacy of UKRels' market-based appraisal methodology.)
13. Survey results indicated that in privatizing land the overwhelming intent of the enterprises is to improve the performance and competitiveness of the business, not to accomplish political ends or respond to political pressure or other local goals. (This is a significant finding. It contradicts strong earlier indications that the major inducement for enterprises to acquire land is to remove government control over their operations. Business confidence and attitudes have matured over the life of UKRels implementation. Decisions to purchase land now are primarily business oriented. This suggests that UKRels clients are now more thoughtful managers, less preoccupied with political concerns, whose decisions are based on economic considerations and market vision.)

In addition to the objective project conclusions based on the survey results presented above, it is interesting to assess UKRels progress over time by observing some changes in the land market environment which are due directly to UKRels activities. In the summary given below, the original situation which existed early in the project is cited as "THEN," and the change in that situation brought about by UKRels is cited as "NOW".

\*THEN: We struggled for 12 months to realize our first major goal — 100 total sales. This was so significant we had a party to celebrate.

NOW: In November one office alone produced 249 sales. The network now produces 100 sales in 4.5 days.

\*THEN: It took us 15 months to produce a total of 300 sales.

NOW: We exceed 300 sales every month.

\*THEN: We needed 14 months to generate a total of 10 million UAH for local budgets.

NOW: We now generate 10 million UAH in less than ten days. In November alone we generated nearly 30 million UAH for local budgets.

\*THEN: In the first year few regional authorities would agree to establish a UKRels regional program. Substantial political fear existed.

NOW: All regional authorities want a UKRels program. We have 29 offices around Ukraine, at least one in every administrative division.

\*THEN: Much of the serious opposition to UKRels was based on ideology.

NOW: Ideology has been completely overwhelmed by the perceived economic benefits of UKRels.

\*THEN: There was no understanding or appreciation of the potential impact of non-agricultural land sales on the Ukrainian economy.

NOW: Every key official in the country knows the number of land parcels eligible for privatization in each administrative division and the estimated total value of that land.

\*THEN: Official procedure for valuing land gave prohibitive prices, virtually assuring that land parcels sales would never happen in Ukraine.

NOW: UKRels-generated expert valuation resulting in realistic market prices for land parcels is required by Cabinet of Ministers.

\*THEN: No method of financing land sales existed, meaning 90% of all enterprises were unable to acquire their land.

NOW: The seller-financing concept has been accepted by all regional radas and was used in over 2000 land sales.

\*THEN: UKRels was opposed by several official sources and attacked in the media and on the floor of the Verhovna Rada.

NOW: The president of Ukraine has officially commended UKRels and prime minister Yushchenko has requested that UKRels be continued.

\*THEN: Politicians feared to be associated with land reform.

NOW: Mayoral candidates campaign on the promise of increasing economic development through land sales.

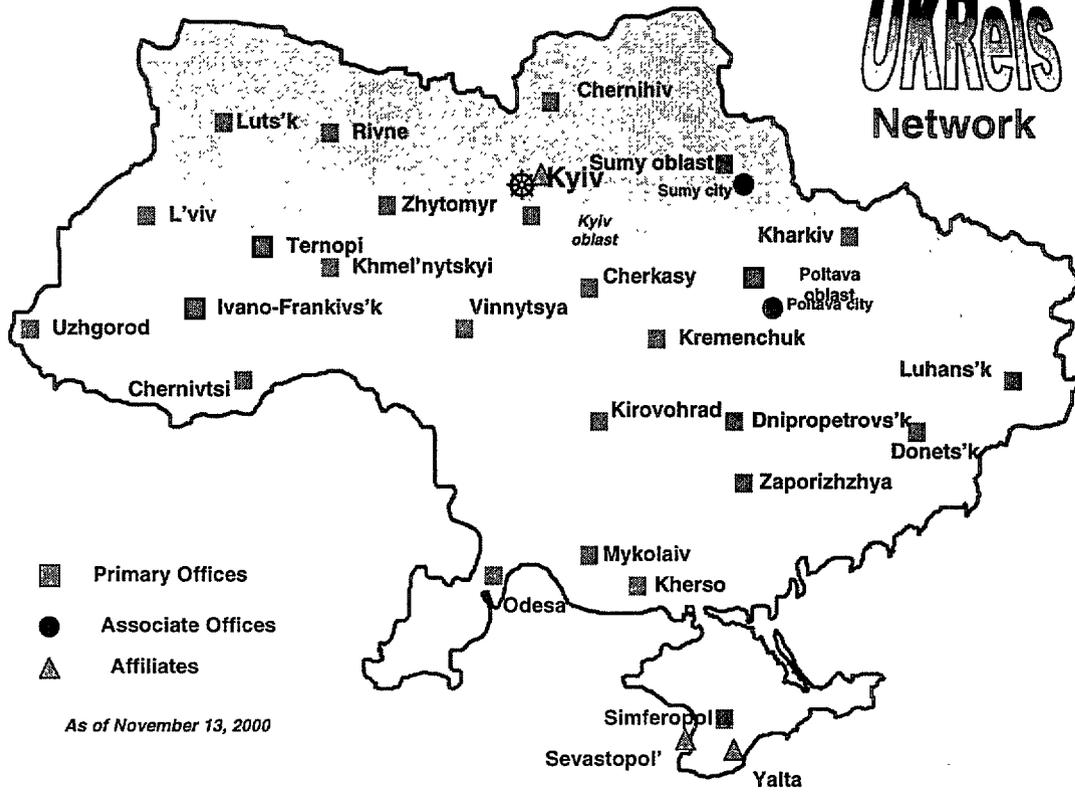
These glances at changes wrought by UKReIs are interesting ways to assess UKReIs progress. And while these glances are brief, they are accurate, and indicate how far the project has come toward developing a true urban land market in Ukraine.

## **ANNEX A**

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- **UKReIs Network of Regional Offices (Map)**
- **Commercial Entities Created Through UKReIs**
- **Commercialization Income and Performance**

# UKRELS Network



## Commercial Profile of UKRels Offices and Private Income Generation

(October 31, 2000, Transition Report)

Oblast	Name of commercialized entity	Number of experts	Income earned by commercial entity (UAH) <sup>1</sup>	% from total cost of expenses <sup>2</sup>
Cherkasy	"Geoprivat" Ltd. Co.	4	6,600	66.7%
Chernigiv	Expert-consulting company "Desna-expert" Ltd. Co.	5	2,190	22.1%
Chernivtsi	Investment-consultative center "Expert-pravo" small business enterprise	5	6,500	65.6%
Dnipropetrovsk	"Dniproland" Ltd. Co.	7	3,500	35.3%
Donetsk	"Land of Donbas" Ltd. Co.	6	4,500	45.5%
Ivano-Frankivsk	Expert-consultative center "Inform-initiative" Ltd. Co.	3	3,500	35.3%
Kharkiv	"MIG" private enterprise	2	5,000	50.5%
Kherson	"Felia" Ltd. Co.	5	8,340	84.2%
Khmel'nytsky	Expert-consultative center "Vlasna sprava" Ltd. Co.	6	5,200	52.5%
Kirovograd	"Triol service" Ltd. Co.	6	16,450	166.1%
Kyiv	"Takaros" private enterprise	3	7,000	70.7%
Lugansk	"Agrotsentnauka" private enterprise	4	2,000	20.2%
Lviv	Expert group "Bohdan" Ltd.Co.	8	9,800	98.9%
Mykolaiv	"Pivdenpryvatzem" Ltd. Co.	3	8,700	87.9%
Odesa	"Alidada" small private enterprise	4	7,000	70.7%
Poltava	"Exson" private enterprise	2	2,500	25.25%
Rivne	"Niva-expert" Co.	4	2,400	24.2%
Sumy	expert-consultative center "Alliance-2000"	7	5,350	54.04%
Terнопil	"Romis" Ltd. Co.	5	8,000	80.8%
Vinnitsya	"Nayada" scientific-production topographic-geodetic company	7	4,700	47.5%
Volyn	"Oldi" Ltd. Co.	5	8,500	85.8%
Zakarpattia	"Carpathian Land"	3	1,200	12.1%
Zaporizhia	"Cossak Land" private enterprise	3	7,600	76.8%
Zhytomyr	"Land of Polissya" private enterprise	3		
Kremenchuk city	"Eco" commandite	3	3,500	35.4%
Kyiv city	(not commercialized)	1	-	-
Sebastopol city	(not commercialized)	1	-	-
Autonomous Republic of Crimea	"Crimea-Geo" Ltd. Co.	3	6,500	65.7%

<sup>1</sup> Per the results of October'2000 operation

<sup>2</sup> It is supposed that average monthly expenses constitute UAH 9,900

**Profile of UKRels Regional Offices, Employment, Fee-based Income, and Performance to Budgeted Benchmarks**

(as of December 1, 2000 )

Regional Office	Number of Experts	Additional Employees	Income, UAH Nov. 2000	Est. Income Dec. 2000	Percent of budget income Nov—Dec*
Crimea	3	-	6,500	7,500	65% -- 76%
Vinnitsa	7	5	7,200	7,500	72 -- 76
Lutsk	5	4	23,700		239 --
Dnipropetrovsk	7	4	9,300		94 --
Donetsk	6	4	8,000		81--
Zhitomir	3	-	2,100	5,000	21 -- 51
Uzhgorod	5	-	2,400	5,000	24 -- 51
Zaporizhzhya	3	-	4,600	7,500	47 -- 76
Ivano-Frankivsk	3	2	4,800	7,500	49 -- 76
Kirovograd	6	5	12,520		126 --
Kiyiv	3	3	6,000	7,500	61 -- 76
Lugansk	4	2	4,500	6,000	46 -- 61
Lviv	8	7	12,090		122 --
Mykolayiv	3	1	9,100		92 --
Odesa	4	1	6,500	7,500	65 -- 76
Poltava	2	3	5,000	7,500	51 -- 76
Rivne	4	2	3,480	6,000	58 -- 100
Sumy	7	8	6,480	7,500	65 -- 76
Ternopil	7	4	8,300		84 --
Kharkiv	2	2	6,500	7,500	66 -- 76
Kherson	5	3	14,700		148 --
Khmelnysky	6	4	7,500		76 --
Cherkasy	4	2	14,000		141 --
Chernivtsy	5	2	7,500		76 --
Chernigiv	5	5	2,700	5,000	27 -- 51
Kremenchuk	6	5	12,300		124 --
Kiev City	1	0			
Sebastopol City	1	0			
Average, per office	5	3	7,991		n/a
Total	125	78	207,770		n/a

\* Budget benchmarks UAH 9,900 standardized; Rivne budgeted at UAH 6,000; two city associates budgeted at funding levels of maximum UAH 1,050.

## **ANNEX B**

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- **Number of Privatizations by Month**
- **UKReIs Total Regional Sales and Income**
- **Status of Land Parcel Privatization Depending on Size and Value**
- **Land Sales by Month Cart and Value of Sales by Month Chart**

## Number Of Privatizations By Months

1998-2000 Years

#	Month	Number of Land Privatizations Based on Radas' Approvals	Prospective Income, UAH
<b>1998 Year</b>			
1	January	2	18 635
2	February	4	4 770
3	March	8	28 573
4	April	4	413 872
5	May	1	2 430
6	June	11	211 391
7	July	33	3 015 566
8	August	23	1 260 606
9	September	38	707 858
10	October	23	162 535
11	November	46	843 330
12	December	71	988 505
<b>Total 1998 Year</b>		<b>264</b>	<b>7 658 070</b>
<b>1999 Year</b>			
13	January	35	374 387
14	February	67	344 294
15	March	83	1 314 498
16	April	91	1 237 522
17	May	107	2 493 849
18	June	125	2 354 910
19	July	105	2 842 041
20	August	108	1 408 541
21	September	200	3 760 340
22	October	139	4 975 957
23	November	64	2 820 293
24	December	150	12 998 733
<b>Total 1999 Year</b>		<b>1274</b>	<b>36 925 364</b>

#	Month	Number of land privatizations based on Radas' approvals	Prospective income, UAH
		<b>2000 Year</b>	
25	January	87	2 739 753
26	February	127	2 148 854
27	March	119	6 057 200
28	April	138	5 444 490
29	May	200	5 762 118
30	June	244	8 769 303
31	July	241	15 223 432
32	August	255	10 273 481
33	September	307	8 222 953
34	October	307	10 855 780
35	November	645	30 780 010
36	December	430	22 399 613
	<b>Total 2000 Year</b>	3100	128 676 987
	<b>Total:</b>	<b>4638</b>	<b>173 260 423</b>

### UKRels Total Regional Sales and Income as of January 1, 2001

#	Region	No. of Land Sales	Income from Land Sales, Hryvna (UHA)
1	Cherkasy	75	1,828,921
2	Chernigiv	85	2,648,347
3	Chernivtsy	137	2,136,719
4	Crimea	134	1,620,545
5	Dnepropetrovsk	124	7,948,744
6	Donetsk	177	19,799,055
7	Iv.-Frankivsk	158	2,740,314
8	Kharkiv	189	7,358,077
9	Kherson	105	3,218,113
10	Khmelnitsky	139	3,499,335
11	Kiev	68	4,527,676
12	Kiev City	15	11,695,678
13	Kirovograd	94	1,119,092
14	Kremenchuk	79	4,651,836
15	Lugansk	234	1,549,502
16	Lviv	762	24,821,607
17	Mykolayiv	304	7,231,691
18	Odesa	96	20,897,890
19	Poltava	229	7,906,230
20	Rivne	155	2,831,787
21	Sevastopol	7	118,150
22	Sumy	188	3,890,689
23	Ternopil	124	2,320,069
24	Volyn	329	6,301,242
25	Vynnytsya	140	3,022,023
26	Zakarpattia	182	2,018,654
27	Zaporizhya	270	10,527,137
28	Zhytomyr	39	5,031,300
	<b>Totals</b>	4,638	173,260,423

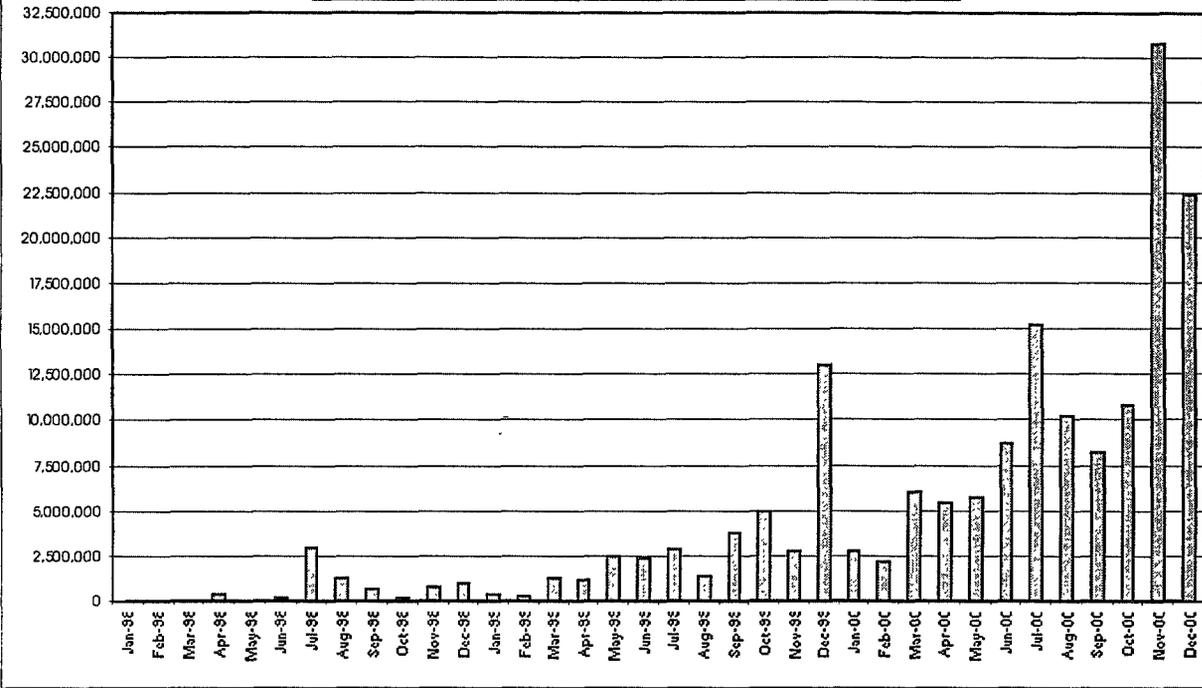
## Status Of Land Parcel Privatization Depending On Size And Value

(as of 01/01/1997-12/31/2000)

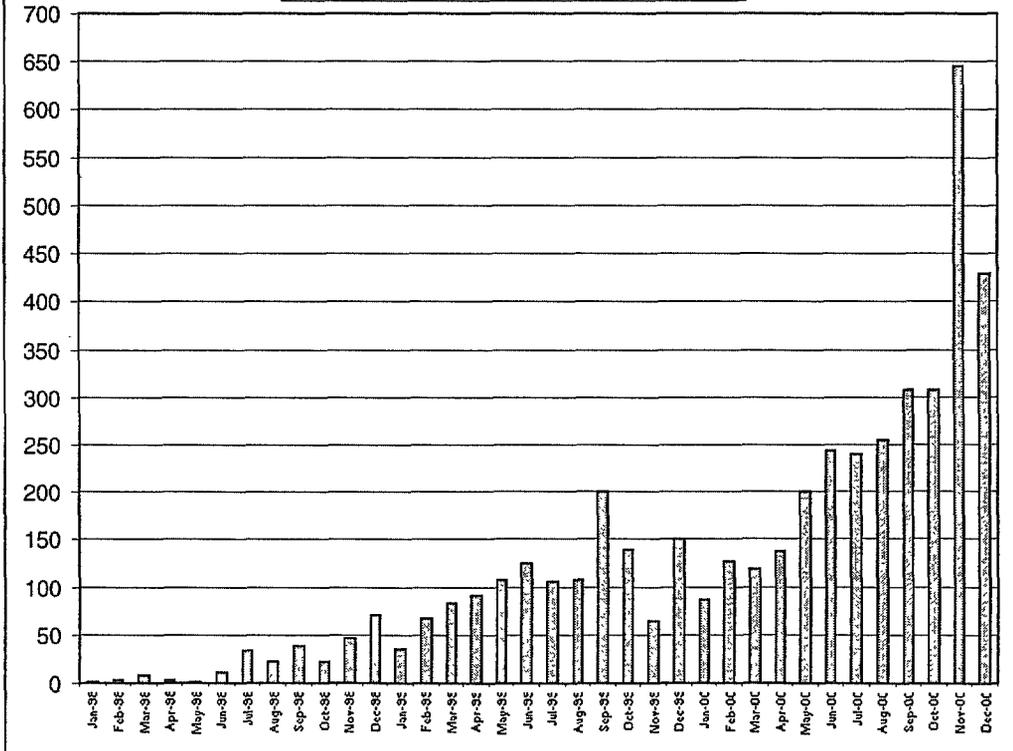
#	Region	Large and Medium Land Parcels Privatized Based on Radas Approvals		Small Land Parcels Privatized Based on Radas Approvals		Total Number of Land Parcels Approvals	
		Number	Value, UAN	Number	Value, UAN	Number	Value, UAN
1	Vynnytsya	16	1 501 041	106	920 982	140	3022023
2	Volyn	21	1 780 712	258	3 020 530	329	6301242
3	Dnepropetrovsk	13	6 870 234	73	708 895	124	7948744
4	Donetsk	33	17 734 179	132	1 664 876	177	19799055
5	Zhytomyr	11	2 325 873	24	105 427	39	5031300
6	Zakarpattya	6	689 657	160	1 098 997	182	2018654
7	Zaporizhya	28	8 178 896	233	1 548 241	270	10527137
8	Iv.-Frankivsk	13	660 480	134	1 079 834	158	2740314
9	Kiev City	3	8 707 084	5	888 594	15	11695678
10	Kiev	14	3 119 453	39	408 224	68	4527676
11	Kirovograd	7	434 248	75	524 844	94	1119092
12	Lugansk	3	188 416	216	1 111 086	234	1549502
13	Lviv	102	16 830 764	584	7 500 846	762	25831609
14	Mykolayiv	22	4 102 804	251	2 628 887	304	7231691
15	Odesa	24	16 675 429	63	922 461	96	20897890
16	Poltava	35	5 438 794	179	2 137 436	229	7906230
17	Crimea	7	467 830	121	1 092 716	134	1620545
18	Rivne	13	849 010	135	882 777	155	2831787
19	Sevastopol			7	118 150	7	118150
20	Sumy	16	2 535 204	157	1 205 485	188	3890689
21	Ternopil	16	1 041 329	98	878 740	124	2320069
22	Kharkiv	25	4 430 992	157	1 927 085	189	7358077
23	Kherson	5	2 044 719	89	573 394	105	3218113
24	Khmelnitsky	8	1 560 003	118	969 332	139	3499335
25	Cherkasy	6	649 993	66	848 928	75	1828921
26	Chernivtsy	12	965 775	118	970 944	137	2136719
27	Chernigiv	8	647 772	69	390 575	85	2648347
28	Kremenchuk	19	3 212 469	55	1 089 367	79	4651836
	<b>Total:</b>	<b>486</b>	<b>113 643 159</b>	<b>3 722</b>	<b>37 217 649</b>	<b>4,638</b>	<b>173,260,423</b>

Medium or large land parcel is a land parcel of 1 hectare and more. If land parcel area is less than 1 ha but more than 0.2 ha and its price exceeds 100 thous. UAH, it will be considered as medium. Also if land parcel area is less than 1 ha but more than 0.5 ha and it is located beneath the main building of privatized or being privatized open or closed joint stock company, it will be considered as medium.

**Value of Land Sales in Hryvna (UHA) by Month**



**Number of Land Sales by Month**



## ANNEX C

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- **Secondary Transactions of Non-Agricultural Parcels**

## Secondary Land Parcel Transactions Among UKRel Client

### Enterprises with Privatized Land, by Regions

(Verified November 1, 2000)

Regional Office	Secondary Sales Prior to October 2000	Secondary Sales in October 2000	Estimated Secondary Sales Pending	Total Number of Secondary Transactions Verified
Vinnitsa	5	0	0	5
Volyn	10	0	1	10
Donetsk	21	2	1	23
<b>Dnepropetrovsk</b>	1	0	0	1
Zhytomir	0	1	0	1
Zaporizhya	11	2	1	13
Zakarpate	2	0	0	2
Kirovograd	1	0	0	1
Kremenchuk	16	1	1	17
Crimea	2	0	0	2
Kiev	0	0	0	0
Lviv	7	2	0	9
Lugansk	2	0	0	2
Mykolayiv	6	2	1	8
Odessa	0	0	0	0
Poltava	4	1	0	5
Rivne	3	0	0	3
Sumy	4	1	1	5
Ternopil	4	1	0	5
Ivano-Frankivsk	1	0	0	1
Chernihiv	1	0	0	1
Cherkasy	0	0	0	0
Chernivtsy	5	2	0	7
Kharkiv	3	0	0	3
Kherson	3	2	0	5
Khmelnitsky	1	0	0	1
<b>Total: 26</b>	<b>113</b>	<b>17</b>	<b>6</b>	<b>130</b>

### Types of Secondary Transactions with Land Parcels

Secondary Transactions Verified November 2000				
Purchase Sale	Lease	Added to Statutory Funds	Titled Gift	Purchase/Sale Of Lease Rights
82	34	1	3	10

## ANNEX D

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- **Financing of Land Parcels Summary**

## **Types Of Financial Transactions**

### **Implemented By UKRels Project** **(Literal Translation from Ukrainian)**

One of the most difficult problems encountered by Ukrainian enterprises that buy out land parcels is the absence of free funds. This problem is much deeper than may seem at the first glance, since it covers not only absence of funds. There is a possibility to attract outer investments, however for the land acquisition, a problem to return a loan and an interest still remains. The acquired land parcel will not allow to be quickly utilized to attract funds.

In view of the above and knowing that economic activity of an enterprise (manufacture of products, resale of goods, execution of jobs and providing services) is the main source of income, we make a conclusion on utilizing the assets of an enterprise to get funds for a land parcel buyout. Assets' appropriation and mortgage aimed to attract loan funds can be used as types of such utilization.

Below patterns are shown and mechanisms are described which will allow an enterprise:

- to save funds for land parcel buyout (chapter 1);
- to attract loan and investment funds (chapter 2);
- to use alternative patterns of settlements when land parcels are bought out (chapter 3);
- to attract loan resources using land parcels that are already bought out (chapter 4).

#### **Chapter 1. Patterns that will Allow Enterprises to Make Settlements with Local Radas in Cash with their Further Reimbursement at the Expense of:**

- 1.1. alienation of manufactured products;*
- 1.2. alienation of own goods;*
- 1.3. execution of jobs;*
- 1.4. providing services.*

This pattern reflects a mechanism that will allow an enterprise to buy out a land parcel and to save funds.

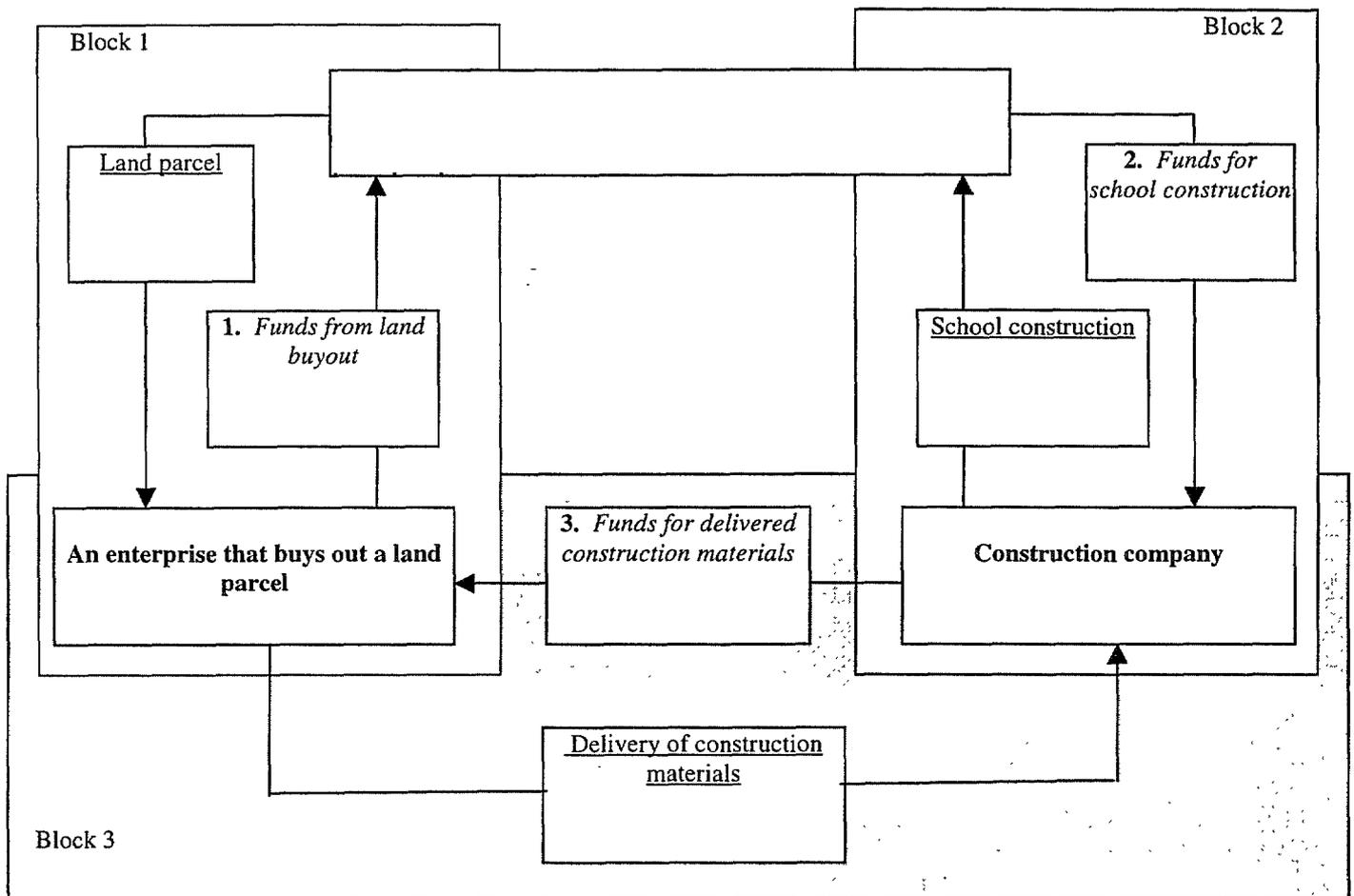
At present this is the most often applicable pattern in Ukraine, since it allows to find funds for enterprises which are in unfavorable economic situation and have difficulties to attract loans and investments upon profitable conditions.

The essence of this pattern is as follows: an enterprise that buys out a land parcel transfers funds to the local rada knowing that the latter will utilize them for school construction, for example. Since an enterprise is the major supplier of construction materials in the region, it hopes that construction materials will be bought from him for cash after the rada approves a decision for a school construction. Thus, by transferring funds to the local budget, an enterprise makes possible for the local rada to resolve issues of social and cultural development in the region, provides jobs and gets opportunity to sell their products for cash. If the funds were obtained as a loan, it can be

returned at the expense of products' sale. As an enterprise gets profit from products' sale, it brings savings during a land parcel buyout.

The above mechanism is illustrated by an example (pattern #1).

**Pattern # 1**



**Steps to implement the pattern:**

1. An enterprise (manufacturer of construction materials) that buys out a land parcel transfers funds to the local budget.
2. Local rada decides to use these funds for school construction. They will hire a contractor (a construction company) and will transfer funds to them.
3. While building a school, a contractor will buy construction materials from an enterprise (manufacturer of construction materials) that bought out a land parcel. Funds for obtained construction materials will be transferred to an enterprise.

**UKRels experts provide the following services:**

- establish an optimal pattern of settlements for an enterprise;
- consult enterprises and local governments to select types of settlements;

- assist enterprises in drafting documents.

### Benefits from this pattern implementation

#### An enterprise:

- sells their products;
- gets savings at the expense of profit making from sales of their product (construction materials).

#### Local rada:

- receives funds from land parcel sales;
- gets possibility to use the received funds for resolving everyday problems.

A contractor (construction company): gets a contract for construction.

### Statistics

Oblast	Enterprise	Number
Donetsk	"Herts Inco" Ltd. Co. "Donetskprodorg" association	2
Zaporizhia	"Color" Ltd. Co. "Ukrlan" Ltd. Co. "Azov" company	3
Kirovograd	"Finval" Ltd. Co. private entrepreneur Myrnenko private entrepreneur Vashchuk "Mriya" Ltd. Co.	4
Lugansk	"TVI Carma" private enterprise private entrepreneur A.Koshevoi	2
Mykolaiv	"Naftotransport" Ltd. Co. private entrepreneur Shvedenko private entrepreneur Gusev private entrepreneur Manzyuk private entrepreneur N.Klimenkova private entrepreneur Vasylebych	6
Odesa	"Tiras" Ltd. Co	1
Poltava	OJSC "Poltavamolprom" OJSC "Lubny milk factory" CJSC "Abaziv plant of concrete products"	3
Sumy	OJSC "Konotop milk factory" CJSC "Sygmus" "Olena" enterprise private entrepreneur S.Bukata	4
Kharkiv	CJSC "Monolit-Incom" CJSC "Monolit-Incom" CJSC "Monolit-Incom"	3
Kherson	"Slavuta" small business enterprise CJSC "Kherson resources"	2
Chernigiv	Private enterprise "Temp" "Alliance" Ltd. Co. small business enterprise "Transnaftaproduct" private enterprise "Temp"	4
Cherkasy	"Invest special complex" scientific-production enterprise "Vector" private small business enterprise	2
<b>Total:</b>		<b>36</b>

## Notes to the pattern

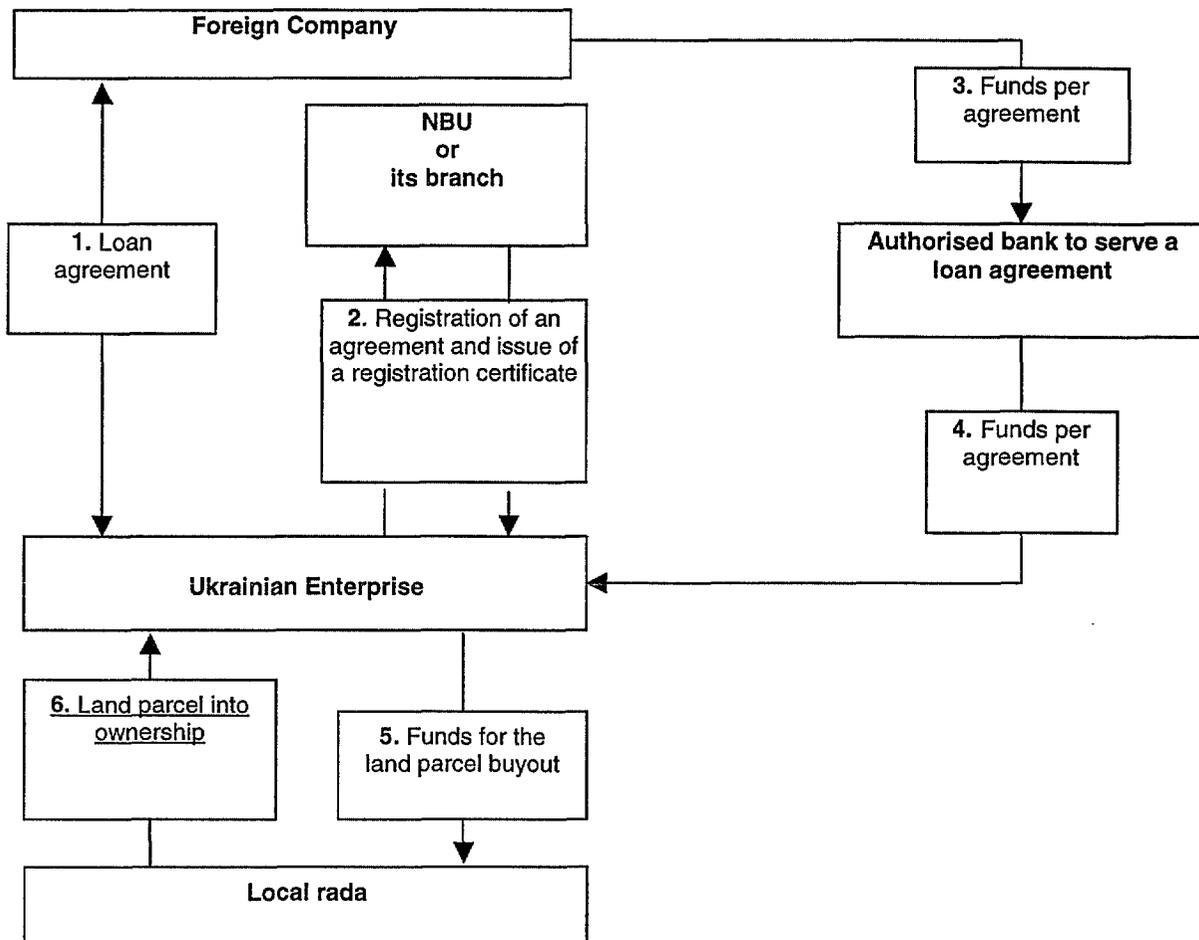
The above pattern is neither barter\* nor offset. It contains three absolutely independent blocks; each block makes settlements in cash: for the acquired land parcel (block 1), for construction jobs (block 2), for sale of products (block 3).

The pattern cannot be considered an offset pattern or covering mutual debts (which do not provide transfer funds) since funds are transferred during land parcel acquisition, commodity sales and other operations.

## Chapter 2. Patterns that Will Allow Enterprises to Make Settlements with Local Radas Using Foreign Funds

### 2.1. Assistance to obtain a loan (with a low interest rate) from foreign companies

This pattern makes possible for an enterprise to get loans with a low interest rate.



\* "A barter (commodity exchange) is an economic operation that provides settlements for commodities (jobs, services) in any form other than monetary, including any types of offsets and cover of mutual debts, in the result of which no funds are accrued to the seller's accounts to compensate the value of such goods (jobs, services)". (an extract from the Law of Ukraine "On taxation of enterprise income" #283/97-BP dd.05/22/97 it/1/19)

**Steps to implement the pattern:**

1. A loan or another agreement is concluded that envisages a loan (in foreign currency) to be received by Ukrainian enterprise.
2. An agreement is registered at NBU or its branch; a registration certificate is issued on the location of an authorized bank
3. An authorized bank receives loans from foreign companies.
4. Depending on conditions of a loan agreement an authorized bank provides monetary funds to an enterprise.
5. Investor's funds are transferred to the local rada.
6. An enterprise gets a land parcel into ownership.

**UKReIs experts provide the following services:**

- search of a foreign company;
- assist to draft a loan agreement;
- assist to register an agreement and to obtain a NBU registration certificate.

**Benefits from this pattern implementation:**

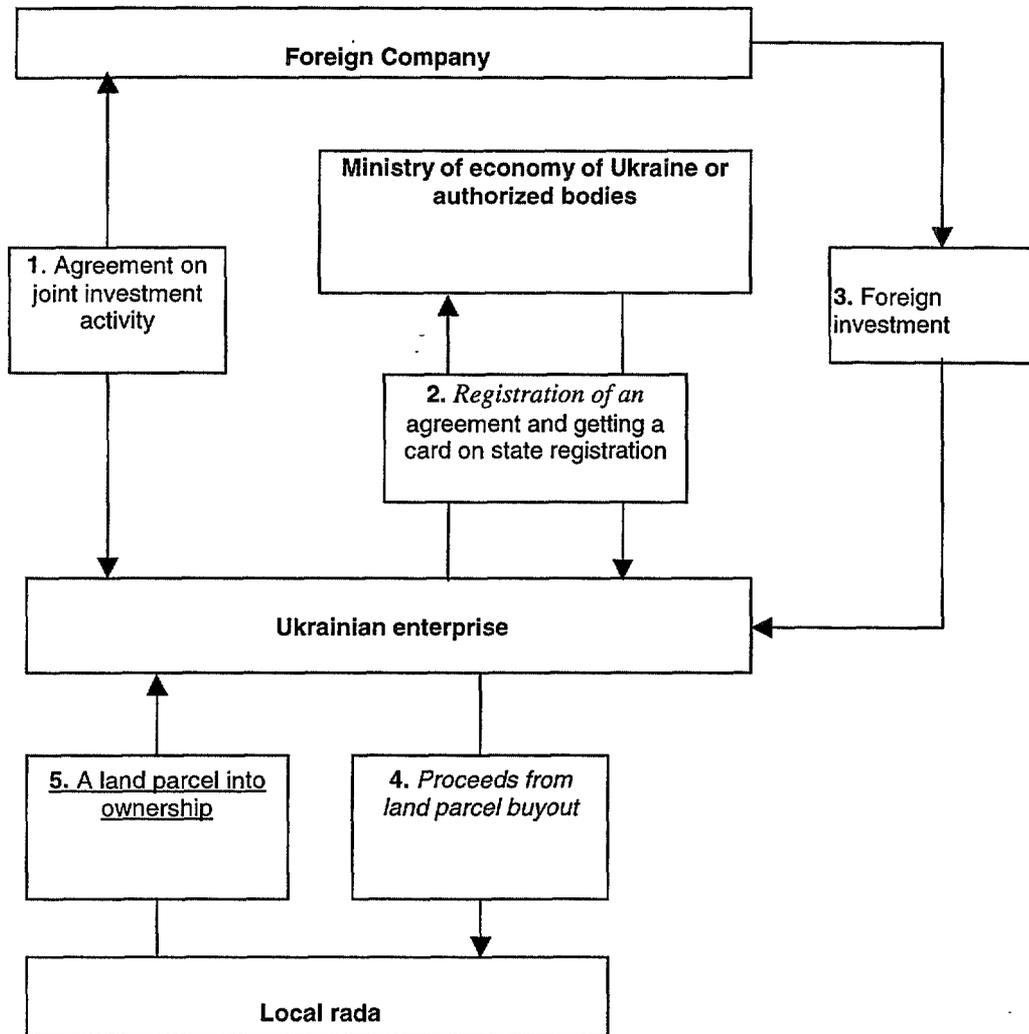
An enterprise gets funds to buy out a land parcel and an interest rate is low.

**Statistics**

Oblast	Enterprise	Foreign Lender	Number
Lviv	"Argolit" Ltd. Co.	TriM International, Slovenia	1
	"Rosan" Ltd. Co., Ukrainian-Canadian JV	"Rosan-Corporation" Co.	1
<b>Total:</b>		2	2

## 2.2. Assistance to get investments from foreign companies according to an agreement on joint investment activity (a foreign investment)

This pattern makes possible for an enterprise to get long-term investment funds to buy out a land parcel.



### Steps to implement the pattern:

1. An agreement on joint investment activity is concluded. This makes possible for Ukrainian enterprise to get an investment.
2. An agreement is registered at the Ministry of economy of Ukraine or at the authorized body. A card on the state registration is received.
3. An investment is obtained from a foreign company.
4. Investor's funds are transferred to the local rada.
5. An enterprise gets a land parcel into ownership.

### UKReIs experts provide the following services:

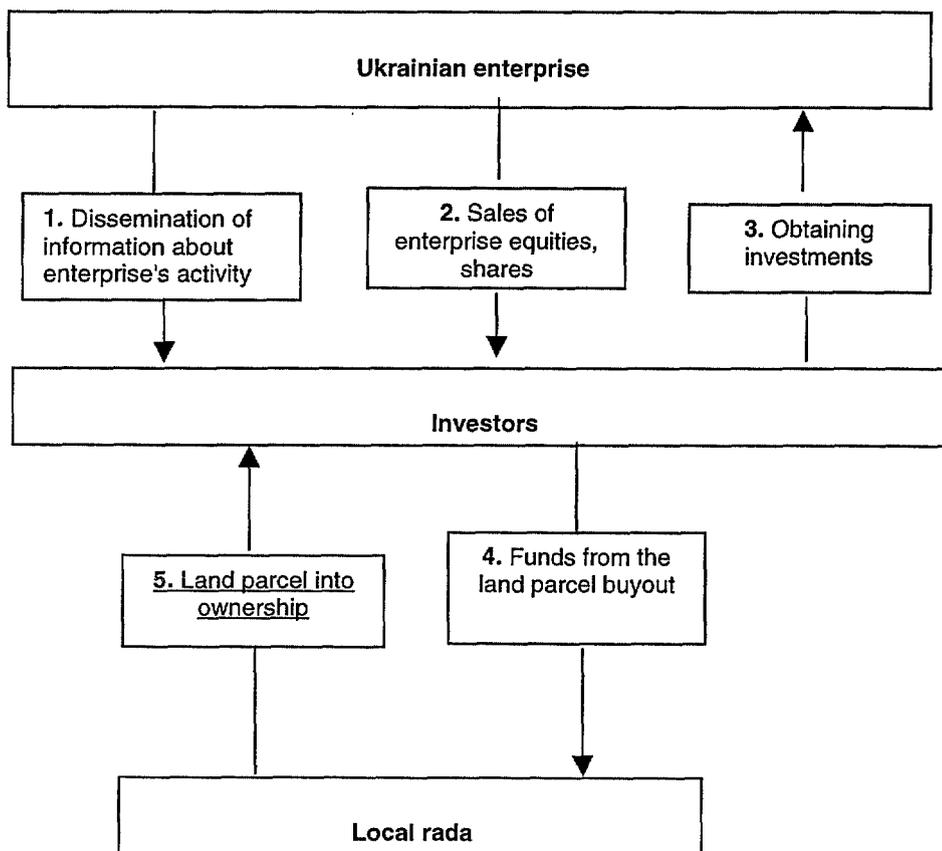
- search of a foreign company;
- assist to draft an agreement on joint investment activity;
- assist to register an agreement and to obtain a state registration card from the Ministry of economy or from the authorized body.

### Benefits from this pattern implementation:

An enterprise gets loans at a low interest rate to buy out a land parcel.

### 2.3. Assistance to attract investments for the land buyout at the expense of creation of enterprises with an investment capital, sales of shares or equities of enterprises (investments)

This pattern makes possible for an enterprise to obtain funds for a land parcel buyout by means of including a partnership company into the founders (stockholders) membership.



### Steps to implement the pattern:

1. Ukrainian enterprise disseminates information on their financial status and a memo expressing the wish to attract funds.
2. An enterprise sells equities or their share for cash to an investor.

3. Receiving investments.
4. Investor's funds are transferred to the local rada.
5. An enterprise obtains a land parcel into ownership.

**UKRels experts provide the following services: assist to disseminate information about an enterprise, its financial status and about equity rates at the stock market of Ukraine;**

- assist to disseminate equities or shares of Ukrainian enterprises among foreign investors;
- consult investors re expediency to join the founders of Ukrainian enterprises; drafting applicable documentation.

**Benefits from this pattern implementation:**

An enterprise gets investments for a land parcel buyout.

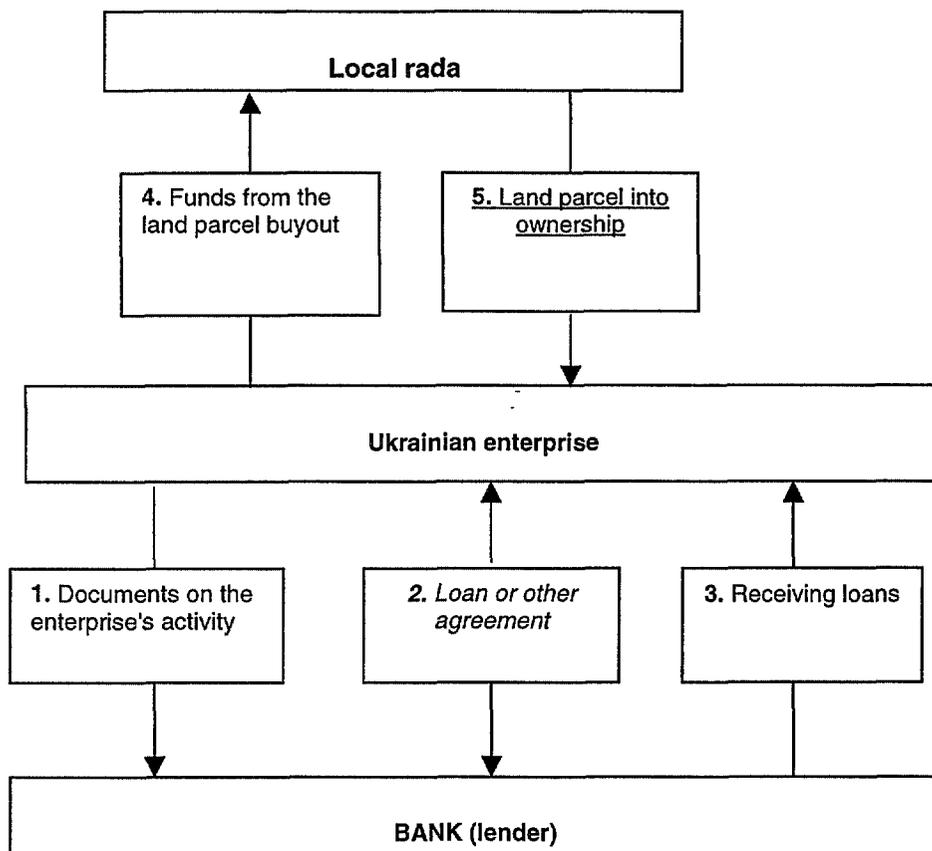
An investor gets part of revenue (dividends) from operation of Ukrainian enterprise.

**Statistics**

Oblast	Enterprise	Number
Vinnitsya	"Podillya-Obst" JV OJSC "Bar canned product factory"	2
Dnipropetrovsk	"Global cosmed" private enterprise	1
Zakarpalya	"Viko-sport"	1
Lviv	JSC "Svitoch" confectionery	1
Ternopil	"Kris-Beg" JV	1
Kherson	"Star-X" Ltd. Co.	1
<b>Total:</b>		<b>7</b>

## 2.4. Assistance to enterprises to obtain loans from domestic banks and other lenders

This pattern makes possible for an enterprise to get domestic loans for a land parcel buyout.



### Steps to implement the pattern

1. Ukrainian enterprise submits information to a lender on its financial status and a draft agreement to attract funds.
2. Per mutual agreement a lender concludes a contract with Ukrainian enterprise.
3. Ukrainian enterprise obtains a loan.
4. Investor's funds are transferred to the local rada.
5. An enterprise obtains a land parcel into ownership.

### UKRels experts provide the following services:

- assist to prepare information on financial state of an enterprise;
- assist to draft an agreement and to obtain funds.

### Benefits from this pattern implementation:

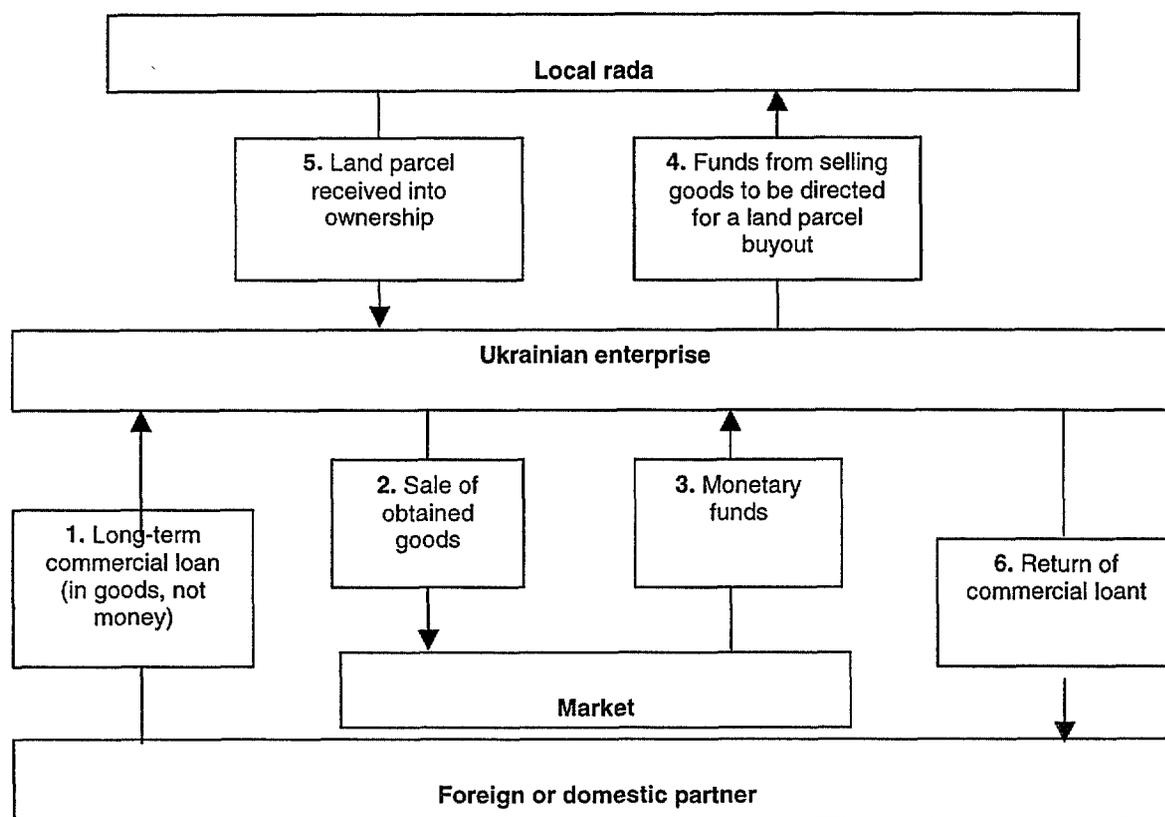
An enterprise gets the required investments.  
A bank earns interest for utilizing loan funds.

## Statistics

Oblast	Enterprise	Bank	Number
Lviv	CJSC "T.S.B." "3 I" Ltd. Co. "Galka" JV "Kakhavynska paper factory"	West-Ukrainian commercial bank "Electron bank" "Aval" West-Ukrainian commercial bank	4
Rivne	Real estate agency "Fort"		1
<b>Total</b>			<b>5</b>

### 2.5. Assistance to obtain commercial loans. After the goods are sold the funds will be used for a land parcel buyout

This pattern makes possible for an enterprise to obtain goods into ownership with a deferred payment. In future funds from the goods' sale will be used to buy out a land parcel.



#### Steps to implement the pattern:

1. Ukrainian enterprise concludes an agreement on a long-term commercial loan (of goods) with a foreign or domestic partner.
- 2-3. Ukrainian enterprise sells part of obtained goods at Ukrainian market.

- 4-5. Ukrainian enterprise uses funds received from goods' sale to buy out a land parcel and gets it into ownership.
6. Ukrainian enterprise transfers sales' proceeds to a foreign or domestic investor within the terms stipulated by a commercial loan agreement.

**UKReIs experts provide the following services:**

- assist to prepare information on financial status of an enterprise;
- assist to draft a loan agreement and to obtain funds.

**Benefits from this pattern implementation:**

An enterprise gets monetary funds necessary to buy out a land parcel.  
 A partner earns funds from selling goods.

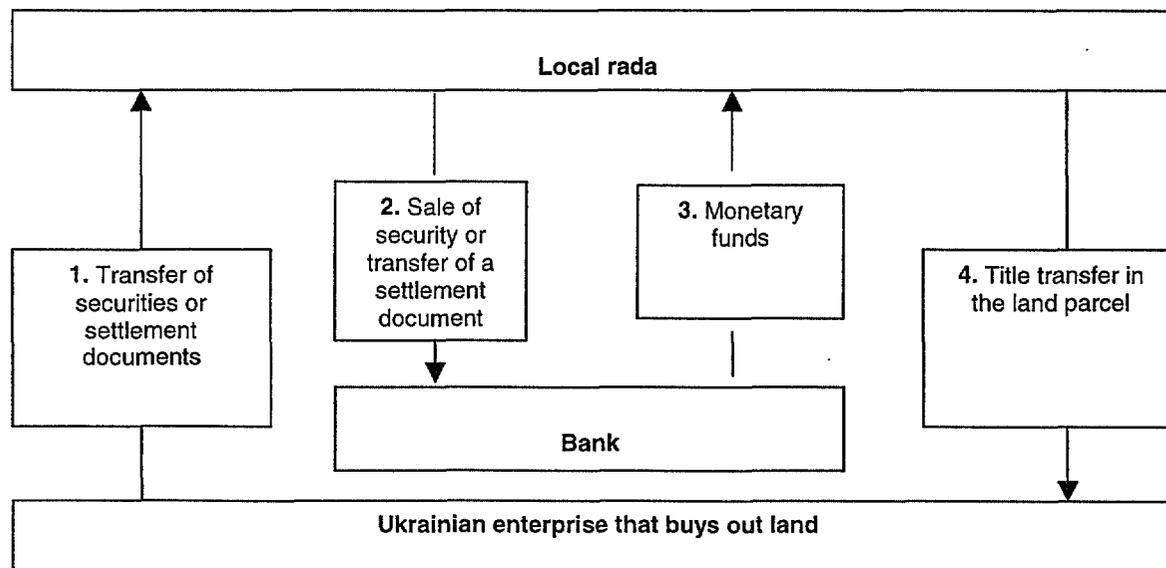
**Statistics**

Oblast	Enterprise	Number
Khmel'nytsky	JV "Arsenyuk & Stefanyk" Ltd. Co.	1
Lviv	"Halychyna" trading house of CJSC "Halychyna economic association"	1
<b>Total:</b>		<b>2</b>

**Chapter 3. Patterns that Will Allow Enterprises to Buy Out Land Parcels from Local Radas at the Expense of the Third Party Funds**

**3.1. An enterprise makes settlements with the local rada for the land parcel buyout using securities or settlement documents. After the date of mature the above securities/ documents can be transferred to the bank for 100% of its value**

This pattern makes possible for an enterprise to make settlements with the local rada using a guaranteed liability.



### Steps to implement the pattern:

1. Ukrainian enterprise concludes an agreement with the local rada to buy out a land. The agreement stipulates payment for the parcel's buyout partially in cash and using securities or settlement documents.
- 2-3. Local rada submits securities or settlement documents for payment in terms by the agreement and obtains 100% of funds.
4. After obtaining 100% of funds for the land parcel sale, local rada transfers title in the parcel to Ukrainian enterprise.

### UKRels experts provide the following services:

- assist an enterprise to carry out promissory note settlements;
- assist to draft documents re funds obtaining by local rada.

### Benefits from this pattern implementation:

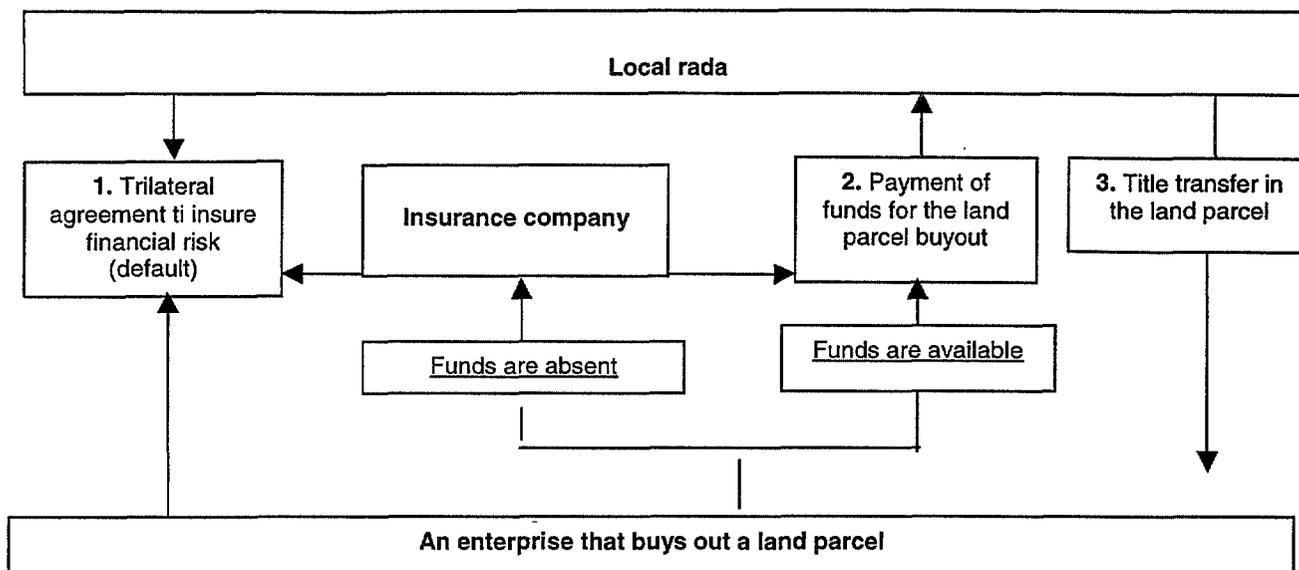
An enterprise buys out a land parcel using their own securities.  
Local rada sells the land parcel for 100% cash in terms stipulated by the agreement.

### Statistics

Oblast	Enterprise	Number
Khmel'nytsky	Private entrepreneur I.II'chuk	1
Kherson	"Yuzhenergomash" Ltd. Co.	1
Ivano-Frankivsk	"Olympus" small business enterprise	1
Lviv	"Partners" Ltd. Co. "Artor-agro" Ltd. Co. "Ecosvit" Ltd. Co.	3
Donetsk	JSC "ARS"	1
<b>Total:</b>		<b>7</b>

### 3.2. A pattern that guarantees to the local rada payments using a seller financing mechanism

The pattern makes possible for a local rada to conclude a buy-sell agreement for the land parcel with deferred payments, not being afraid that an enterprise won't pay.



### Steps to implement the pattern:

1. A local rada session approves a decision on the land parcel sale.
2. An enterprise, a local rada and an insurance company conclude a trilateral agreement to insure financial risk (default).
3. An enterprise pays for the land parcel buyout in terms stipulated in the buy-sell agreement. If an enterprise has no funds at the day of payment, an insurance company executes the next payment. An enterprise has to reimburse this sum to an insurance company plus 3% insurance from the sum paid.
4. After obtaining 100% of funds for the land parcel sale, local rada transfers title in the parcel to Ukrainian enterprise.

### UKRels experts provide the following services:

- assist to an enterprise to conclude a trilateral insurance agreement.

### Benefits from this pattern implementation:

An enterprise buys out a land parcel accepting penalties and conditions stipulated by the agreement.

Local rada sells a land parcel and has 100% guarantee that the cash will be received in terms stipulated by the agreement.

### Statistics

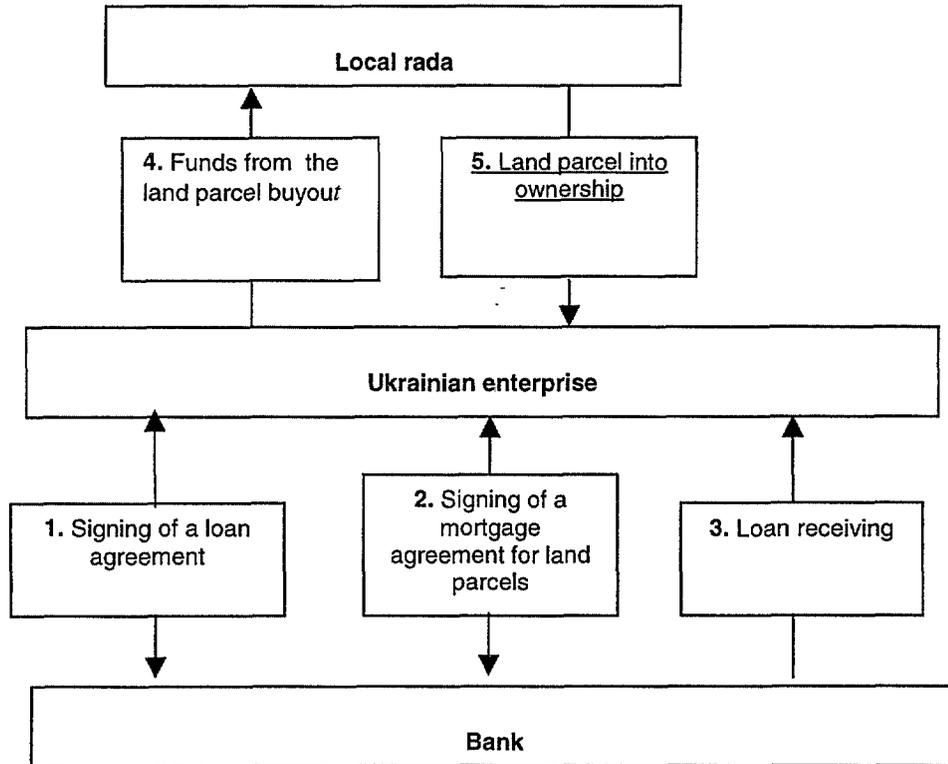
Oblast	Enterprise	Number
Poltava	"Diligence" private enterprise	1
<b>Total:</b>		<b>1</b>

NB: 60% of transactions in Kremenchuk have used this mechanism, because local rada conditions are strict.

## Chapter 4. Patterns that Will Allow to Attract Loan Resources at the Secondary Real Estate Market

### 4.1. A mortgage pattern for privatized land parcels to obtain loans

This pattern makes possible for an enterprise to use a land parcel as partial collateral to get loans.



#### Steps to implement the pattern:

1. A loan agreement is signed between Ukrainian enterprise and a bank to attract funds.
2. A mortgage agreement is signed for a privatized land parcel by Ukrainian enterprise and a bank.
3. Ukrainian enterprise gets a banking loan.
4. Banking funds are transferred to the local rada.
5. An enterprise gets a land parcel into ownership.

#### UKRels experts provide the following services:

- assist to draft loan and mortgage agreements and to obtain monetary funds.

#### Benefits from this pattern implementation:

An enterprise gets the required funds using a privatized land parcel in its turnover.  
Bank earns banking interest for using loan resources.

## Statistics

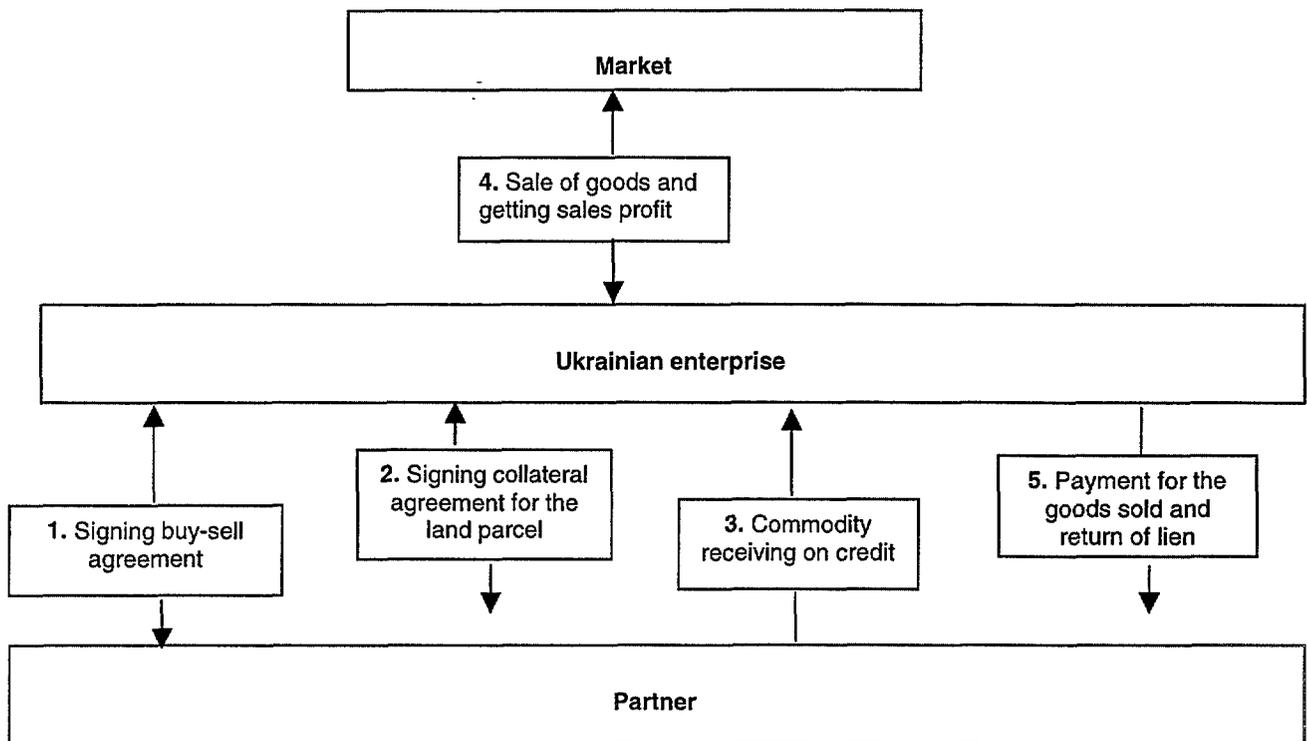
Oblast	Enterprise	Number
Volyn'	Private entrepreneur A. Bortnikov*	1
Mykolaiv	Private entrepreneur Shvorak**	1
<b>Total:</b>		<b>2</b>

\* land parcel plus a retail shopa on parcel;

\*\* land parcel plus automobile

### 4.2. Short-term mortgage of privatized land parcels to get a commodity loan.

This pattern makes possible for an enterprise to use a land parcel as collateral to get commodity loans.



#### Steps to implement the pattern:

1. A buy-sell agreement (that stipulates payment installment payment) is signed between enterprise and a partner.
2. A collateral agreement for a privatized land parcel is signed between Ukrainian enterprise and a partner.
3. Ukrainian enterprise gets goods on credit.
4. Goods received on credit are sold profitably at the market.
5. Ukrainian enterprise makes settlements with a partner for goods received and reclaims rights in the land parcel.

### UKRels experts provide the following services:

- assist to draft a buy-sell agreement with installment payments as well as a collateral agreement.

### Benefits from this pattern implementation:

An enterprise gets commodity resources using a privatized land parcel in its turnover.  
A seller sells goods on easy terms (installment) and has a guarantee of their payment (a signed collateral agreement for a land parcel).

### Statistics

Oblast	Enterprise	Number
Kirovograd	Private entrepreneur Usenko Private entrepreneur Gladchenko	2
Mykolaiv	Private entrepreneur N.Derega Private entrepreneur Yu.Lagochev Private entrepreneur T.Gerasymchuk	3
Cherkasy	"Cross-nafta" Ltd. Co.	1
Kharkiv	Private entrepreneur R.Tsuguryan Private entrepreneur S.Kotenko	2
Kherson	"Scanita-Service" Ltd. Co.	1
Zaporizhia	Private enterprise "West-KS"	1
<b>Total:</b>		<b>10</b>

## **ANNEX E**

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- **Critical Legal and Regulatory Components**
- **Decrees of the President**



## **Critical Legal and Regulatory Components for Land Privatization in Ukraine**

(March 2000)

### **Background**

As early as 1990 the Verkhovna Rada of Ukraine adopted a resolution stating that "land must be transferred into private and collective ownership in citizens', enterprises, establishments and organizations ... (and) the rights to own or use land must be guaranteed"<sup>3</sup>.

The 1996 Constitution provided that, to develop and strengthen a democratic, social, law-based state, the right of private property would be inviolate, including the right of private ownership for land and real estate.

### **Constitution of Ukraine**

Article 13 in pertinent part provides that the State shall ensure protection of rights of all subjects of the right of ownership and economic activity and all subjects of the right of ownership shall be equal before the law.

Article 14 provides that the right of ownership of land shall be guaranteed. This right shall be acquired and exercised by individuals, legal entities and the State exclusively in compliance with law.

Article 142 states that movable and immovable property, incomes of local budgets, other money, land, natural resources owned by territorial communities of villages, settlements, cities, city districts as well as objects of their joint ownership managed by district and regional councils shall be the material and financial basis of local self-government.

### **Land Code**

The Land Code of Ukraine is primarily agrarian in focus and has not been significantly amended since 1992.

Article 17 provides that the transfer of land parcels into collective and private ownership is carried out by Radas of People's Deputies on the territory of which transferred land parcels are located.

Article 4 of the Land Code provides that certain categories of land cannot be privatized, such as land for public use, land used in designated industries (coal mining, power, space systems, transportation, defense), forests more than 5 hectares, water resources, environmental protection, recreational, historical and cultural, and agricultural institutes.

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<sup>3</sup> Resolution of the Supreme Rada of the Ukrainian Soviet Socialist Republic "On Land Reform" (amended by Law N 3180-12) December 18, 1990 N 563-XII.

The Land Code does not specifically allow for the sale or conveyance of private ownership in land to enterprises for entrepreneurial activities. In this respect, it does not correspond to the constitutional principle that land may be owned by legal entities.

A Decree "On the State Program of the Development of Ukrainian Legislation until 2002", No. 976-XIV was adopted by the Supreme Rada on July 15, 1999, which requires that a new edition of the Land Code be submitted by the Cabinet of Ministers and the President's Commission on Agrarian Policy and Land Relations in the year 2000.

A Decree "On the Execution of Land Legislation for Reforming the Agrarian Sector of the Economy" adopted by the Supreme Rada on the 11<sup>th</sup> of January requires that a new draft version of the Land Code be submitted to the Supreme Rada by April 30, 2000.

### **Presidential Decrees**

"On Privatization Of Gas Stations That Sell Gas Exclusively To The Population" dated the 29<sup>th</sup> of December 1993.

"On the Privatization And Lease Of Non-Agricultural Land Parcels For Entrepreneurial Activities" dated the 12<sup>th</sup> of July 1995.

Ukraine "On Specifics of Privatization of Uncompleted Constructions" dated 28<sup>th</sup> of May, 1999.

"On Non-Agricultural Land Parcel Sales" dated 19<sup>th</sup> of January 1999.

"About the Measures to Develop and Regulate Urban and other Non-Agricultural Land Markets" dated the 4<sup>th</sup> of February 2000.

### **Mortgage Law**

In accordance with Par.4 Section 15 "Transitory Provisions" of the Constitution of Ukraine on the 16<sup>th</sup> of June 1999 the President of Ukraine issued Decree No 641/99 "Hypothecation". A corresponding draft law was simultaneously submitted to the Supreme Rada of Ukraine, as required by the same provisions of the Constitution.

The Supreme Rada of Ukraine on the 7<sup>th</sup> of July 1999 by its Decree No 840-XIV specifically rejected the draft Law on Hypothecation submitted by the President.

Also on the 7<sup>th</sup> of July 1999 the Supreme Rada of Ukraine issued Decree No 839-XIV, which instructs the Committee of the Supreme Rada of Ukraine On Finances and Banking Activities to improve the draft Law of Ukraine "On Hypothecation" (that was submitted by the Cabinet of Ministers of Ukraine) taking into account proposals of those who/which have the right to take legislative initiative and submit it for consideration of the Supreme Rada of Ukraine for the repeated first hearing.

On July 15, 1999 the Supreme Rada adopted a Decree "On the State Program of the Development of Ukrainian Legislation until 2002", No. 976-XIV, which requires that a (draft) "Law on Hypothecation of Land" submitted by the Cabinet of Ministers and the Committee on

Issues of Economic Policy and Management, of the National Economy, Ownership and Investment be prepared for the year 2000.

On September 15, 1999 the Fourteenth Convocation of the Supreme Rada issued a Decree "On the Schedule of the Fourth Session of the Supreme Rada of the Fourteenth Convocation of the Rada" stating that the draft law "On Hypothecation" submitted by the Cabinet of Ministers is on the agenda and will be considered for the second first reading<sup>4</sup>.

The final text of a draft "Law on Hypothecation" is being prepared by the Chief Consultant for the Committee of Financing and Bank Activities of the Supreme Rada, Mr. Vladimir M. Yasinski.

### **Measures to Develop and Regulate Urban and other Non-Agricultural Land Markets**

A Decree of the President "About the Measures to Develop and Regulate Urban and other Non-Agricultural Land Markets" dated February 4, 2000 directs the Cabinet of Ministers to improve cooperation with committees and factions of the Supreme Rada of Ukraine regarding acceleration of adoption of the Laws of Ukraine "On Hypothecation", "On State Title Registration", and "On Territorial Planning and Development".

The Cabinet of Ministers is also directed to implement the guidelines attached to the Decree. These guidelines require the establishment of infrastructure to support a non-agricultural land and real estate market.

### **Law on the Registration of Rights in land and other Real Estate**

In accordance with Par.4 Section 15 "Transitory Provisions" of the Constitution of Ukraine on the 16<sup>th</sup> of June 1999 the President of Ukraine issued the Decree No 666/99 "State Title Registration". This Decree was issued with simultaneous submission of a corresponding Law to the Supreme Rada of Ukraine.

The Supreme Rada of Ukraine on the 7<sup>th</sup> of July 1999 by its Decree No 837-XIV rejected the draft Law on State Title Registration submitted by the President of Ukraine.

On the 7<sup>th</sup> of July 1999 the Supreme Rada of Ukraine approved, by appropriate vote, the first reading of an alternative draft Law of Ukraine on State Title Registration (Decree No 838-XIV), which was submitted by People's Deputies of Ukraine Tkalenko and Khmelyovy.

In this Decree the Supreme Rada instructs its Committee on Economic Policy, Economic Management, Ownership and Investment to amend the draft Law of Ukraine on State Title Registration duly considering 1) the draft laws on the same subject submitted by the Cabinet of Ministers, 2) Deputies R.Shmidt and Z. Romovskay, and 3) comments and proposals of the those institutions and organizations who/which have the right introduce legislation.

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<sup>4</sup> This is called the second first reading, because the first first reading of the law "On Hypothecation" was considered with regard to the Presidential Decree on June, mentioned above.

This amendment must be submitted to the Supreme Rada for consideration for a second reading. No time period was mandated by the law.

### **Next Steps of Primary Importance**

A new draft Land Code is being prepared that will be consistent with the Constitution of Ukraine.

A Law on Mortgages must be adopted. This law needs to go beyond simple enabling legislation and definitions, and must address substantive issues such as enforcement of mortgages (which should require notice of default to the debtor and provide a legally specified time to cure the default), priority and explication of the affect of foreclosure on other rights.

A comprehensive Law on the Registration of Rights in Real Estate should be adopted.

**Decrees of the President of Ukraine Regulating Land Issues  
as of the 17<sup>th</sup> of July 1999**

No	Name of the Decree	Date of Issue	Short Content	Validity
1.	Privatization of Gas Stations that Sell Gas Exclusively to the Population	29.12.93 No 612/93	Regulates the issue of privatization of land parcels simultaneously with privatization of gas stations that sell gas exclusively to the population	Valid
2.	Privatization of Uncompleted Constructions	14.10.93 No 456/93	Regulates the issue of simultaneous privatization of uncompleted constructions and land parcels beneath them	Invalidated by the Decree of the President of Ukraine 28.05.99 No 591/99
3.	Privatization and Lease of Non-Agricultural Land Parcels for Entrepreneurial Activities	12.07.95 No 608/95	Regulates the issue of privatization of land parcels for entrepreneurial activities by legal entities of Ukraine which do not have a share of state property in their statutory funds and by Ukrainian citizens-entrepreneurs	Valid
4.	Sale of Non-Agricultural Land Parcels	19.01.99 No 32/99	Regulates the issue of sale of land parcels where objects of real estate are located that have been privatized (alienated) according to the Ukrainian legislation	Valid from 04.03.99
5.	The State Program of Privatization in 1999	24.02.1999 No 209/99	Regulates the issue of simultaneous privatization of uncompleted constructions and land parcels beneath them	Valid from 27.03.99
6.	Specifics of Privatization of Uncompleted Constructions	28.05.1999 No 591/99	Regulates the issue of simultaneous privatization of uncompleted constructions and land parcels beneath them	Valid from 28.06.99 According to the Decree of the Supreme Rada of Ukraine dated 17.06.99 a corresponding draft law submitted by the President was approved as the basis and must be submitted for the second reading
7.	Local Taxes and Charges	25.05.1999 No 565/99	Imposes charges on legal and physical persons for provision of land parcels for construction of production and non-production premises in urban areas	Rejected by the Decree of the Supreme Rada on 17.06.99. Corresponding draft law submitted by people's the deputies was approved in the first reading and shall be submitted for the second reading (Decree of the SR 09.07.99)
8.	Mortgage	14.06.1999 No 641/99	Regulated the issue of mortgaging land parcels	Rejected by the Decree of the SR dated 07.07.99. Corresponding draft law submitted by the Cabinet of Ministers of Ukraine shall be improved and submitted for the repeated first reading

9.	State Title Registration	16.06.1999 No 666/99	Regulates the issues of state title registration	Rejected by the Decree of the SR dated 07.07.99. Corresponding draft law submitted by the People's Deputies was approved as the basis and shall be submitted for the second reading
10.	Real Estate Brokerage	27.06.1999 No 733-99	Regulates the issues of entrepreneurial activities related to transactions with real estate (real estate trade, mediation services, consulting and information services)	Rejected by the Decree of the Supreme Rada dated 14.07.99
11.	Differentiation of Land in State and Municipal Ownership	27.06.1999 No 722/99	Establishes the procedure for differentiation of land in state and municipal ownership	Will become valid in September 1999
12.	Size of the State Duty for Notarization of Lease and Sublease Agreements	27.06.1999 No 738/99	Establishes the state duty for notarization of lease and sublease agreements at the rate of 0.01% of the land monetary valuation	Rejected by the Decree of the SR dated 09.07.99. The draft Law on amendment of some legislative acts regarding administration of the state duty was approved as the basis and shall be submitted for the second reading
13.	Amendment of the Decree of the President of Ukraine No 1353 dated 15.12.98	28.06.1999 No 749/99	Establishes that the size of lease payment for a land share shall not be less than 1% of the value of the land parcel based on monetary valuation of agricultural land	Rejected by the Decree of the Supreme Rada dated 09.07.99
14.	Measures Aimed At Development Of Individual Subsistence Farms Of Citizens	28.06.1999 No 751/99	Increases the size of land parcels provided into ownership or use to citizens for individual subsistence farming up to two hectares. Land parcels for individual subsistence farming may be augmented by the size of a land share obtained by a citizen after his/her withdrawal from a non-state agricultural enterprise	Rejected by the Decree of the Supreme Rada dated 15.07.99
15.	Additional Measures Aimed at Satisfaction of Citizens' Need in Land Parcels	28.06.99 No 765/99	Instructs local state administrations acting within their jurisdiction to provide land parcels in ownership and use to citizens employed in the social sector from the reserved land until the 1 <sup>st</sup> of January 2000, and also to undertake measures aimed at satisfying needs of citizens in land parcels until March, 1 <sup>st</sup> for their personal needs from the reserved land and also at the expense of land redistribution	Will become valid in September 1999

## ANNEX F

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- Outreach Notes and Summary

During these 3 years more than 20.000 citizens of Ukraine visited UKRels public events.

**Formats:**

**A. Professional Training**

1. program on property and business appraising: 42 specialists
2. program on real estate appraising: 36 specialists
3. training for brokers: 52
4. mortgage land appraising: 30
5. law background of real estate appraising: 53
6. 13 special seminars for professionals: 230
7. implementation of UKRels program to curriculum of 5 Ukrainian universities and colleges (840 specialists graduated this course and received certificates)

**B. Oblast Seminars**

There were 59 informational meetings in each oblast of Ukraine for wide public (local authorities, land recourse Committee members, businessmen, journalists, etc.) with approximate number of 5.300 attendees.

**C. Regional Informational Seminars**

This smaller format to inform people on local level (city, town, rayon) was used 160 times in all regions of the country (about 6.400 attendees).

**D. Workshops for Local Authorities and/or Entrepreneurs**

It was provided by regional offices to educate participants of the land privatization process (320 workshops with 7.000 attendees)

**E. Press-Conferences/Press-Clubs**

There were events especially for mass media in regions as well as in the city of Kyiv. During 3 years 670 journalists visited 27 meetings with mass media representatives.

**F. National Conferences**

There were 3 national wide seminars in Kyiv: for investment companies, for specialists of the National Bank, for media professionals from all regions of Ukraine (250 attendees).

**H. Round Tables (public debates)**

There were 4 special event (public debates) for the West, East, South and Central parts of Ukraine in order to discuss the land market problems with mayors and journalists of the country. It was like a UKRels public report as well and involving people in wide national discussion. (Attendees: 350 persons)

**P.S.** - Women participation in all outreach programs: 42 percent

## **ANNEX G**

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- **Income Utilization by Government Recipients**
- **Perceptions of Problems and Opportunities**

Region & Oblast	Wage and Payment Arrears				Social Program Support				
	Doctors Salaries	Teachers Salaries	Pension Arrears	Public Payables	Hospital Facilities	Medical Health Aid	Elderly	Food to Needy	Cultural Projects
<b>West</b>									
Lvivska									
Zakarpatska	Major	Major	Major						
Rivnenska	Major	Major	Minor						
Volynska									
Ivano-Frankivska	Minor	Minor							
Khmelnitska	Minor	Minor	Minor		Minor	Minor	Minor	Minor	Minor
Ternopilska				Minor					
Chernivetska	Major	Major	Major		Minor	Minor			Minor
<b>South</b>									
Odesska	Minor	Major	Minor	Major					
Mykolaevska				Major					
Khersonska	Major	Major	Major						
Crimea Republic			Major						
Sevastopol City *									
<b>East</b>									
Luganska		Minor	Minor						
Donetska									
Kharkivska	Major	Major	Major		Minor				Minor
Dnipropetrovska			Minor				Minor		
Sumska						Minor	Minor	Minor	Minor
Zaporizka	Minor	Minor			Minor				
Poltavska	Major	Major	Minor	Major			Minor	Minor	Minor
<b>Center</b>									
Kiev City *									
Cherkaska									
Kyivska	Minor	Minor	Minor	Minor					
Chernigivska	Major	Major			Minor	Minor	Minor		
Zhytomirska	Major	Major	Major	Major					
Vinnitska	Minor				Minor				

Region and Oblast	Other Allocations and Fund Uses					
	Land Information, IS	Appraisals and Surveys	Monetary Valuations	Planning and Urban Dev.	Sports	SME and Business Development
<b>West</b>						
Lvivska	Minor	Minor				Minor
Zakarpatska						
Rivnenska						
Volynska			Minor	Minor		
Ivano-Frankivska		Minor		Major		
Khmelnitska	Minor	Minor				
Ternopil'ska				Minor		
Chernivetska			Minor	Minor	Minor	
<b>South</b>						
Odessa						
Mykolaevska						
Khersonska						
Crimea Republic						
Sevastopol City *						
<b>East</b>						
Luganska			Major	Major		
Donetska						
Kharkivska						
Dnipropetrovska	Minor			Minor		
Sumska						Major
Zaporizka						
Poltavska						
<b>Center</b>						
Kiev City *						
Cherkaska	Minor	Minor	Major	Minor		
Kyivska						
Chernigivska						
Zhytomir'ska						
Vinnitska						

## Perceptions Of Problems And Opportunities In Privatization And Sale Of Non-Agricultural Land

Several rounds of questions were posed to 28 UKRels regional office managers and associate directors regarding their perceptions of problems they felt most important to resolve in pursuing enterprise non-agricultural land sales. They were also queried as to the opportunities they envisioned. These informal surveys were conducted throughout the project's three-year operations, but the report here summarizes management responses just prior to the project's completion and prior to commercialization. It is meant to provide insights for recommendations about such projects and for future work in enterprise land sales.

### Problems

Rank-order Importance	Description of Problem Facing Enterprises Engaged in Non-agricultural Land Sales Business	Number who say important
1	Lack of financing for purchasing land from local authorities; no mortgage bank loans, and only short-term arrangements with authorities.	28
2	Unable to use land, even if owned, as collateral. Having title does not increase useful capital assets for attracting business loans.	26
3	Policies of State Land Resource Committee and Tax Authorities create problems such as incorrect VAT levies on sales, percentage paid to Derzhkomez on sales, and pressure for licenses and permits.	24
4	Delays in new Land Code and other laws or decrees frustrate enterprise managers, local authorities, and land sales professionals.	19
5	Many enterprise managers are not convinced of benefits of owning land and uncertain whether the cost is justified if land cannot be mortgaged or its title is still not fully protected from state threats or decisions.	14
6	Lack of land registration system leaves many questions about land rights, uses, restrictions, and other legalities.	13
7	Land use (zoning) is not clear. Enterprises are not certain about how to restructure and then use land to profit (lease or resale).	7
8	Taxes and accounting issues for land and sales against enterprises and for operations like renting or leasing.	4

### Opportunities

Importance	<i>Opportunities for Future Land Sales in Ukraine</i>	Number Mentioned
1	Expanded sales into regions and greater sales in urban land, cities, and larger parcels when commercial financing improves.	28
2	Enterprise land restructuring, monetary valuation, and better land resource utilization (conversion to highest-and-best use).	22
3	If mortgage market can be established, effective new sales of land already privatized (secondary land sales).	19
4	Agricultural land and cooperative transition for certificates; putting land in actual ownership and use.	6*
5	In future when restrictions are removed through Land Reforms, the secondary sales of agricultural land and urban parcels.	2*

\* These issues emerged among managers when the project was closing, not in sample responses, and it is believed that most offices would view these as extremely good opportunities in the near future.