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The following information on the basic legal framework for privatisation in agriculture has been received from the Ministry of Industry Transport and Trade of the Republic of Albania.

Basic Legal Framework for Privatisation in Agriculture

A framework for land privatisation in Albania was established by *Law No. 7501 of 19 July 1991 "Land Law"*, and *Law No. 7512 of 10 August 1992 "On the Sanctioning and Protection of Private Property, Free Initiative and Independent Private Activities, and Privatisation"* which declares agriculture opened to private activity.

On the basis of Law No. 7501, agricultural land can be granted "as property of or for the use of" Albanian legal or natural persons, free of charge (Article 3). "Families which have been members of an agricultural cooperative have the right to secede and operate on their own, becoming owners of the agricultural land provided to them..." (Article 5). For the purposes of assigning land in ownership or usufruct to physical or juridical persons, prior land ownership, its size and boundaries pre-collectivisation is not recognised (Article 8). Agricultural land may only be used for agricultural purposes (Article 11). Failure to exploit land for agricultural purposes for more than one year may lead to withdrawal of the right of use (Article 15). Agricultural land can be inherited according to inheritance dispositions to be provided (Article 25). Land cannot be bought or sold (Article 2) while "foreign juridical or physical persons can rent land to build on" (Article 4).

Decision No. 266 of 08 August 1991 "On the Distribution of the Agricultural Cooperatives Assets" provided for the distribution of the property and liquidation of the Agriculture Production cooperatives (APC's) and set out the procedures for the division of assets and of any remaining capital belonging to these latter. On these basis, "the distribution of the money equivalents and products are not made until every debt is paid" (paragraph 6a) and, moreover, "if the cooperative is not capable of paying back its debts, these debts should be charged to its members in proportion to the land they have received (paragraph 6c).

More detailed direction on distribution of farmland and orchards are provided in *Decision No. 255 of 08 August 1991 "On the Criteria for the Distribution of the Agricultural Land"*. On the basis of this decision, ex-cooperative land is to be distributed proportionally to each family on a per capita basis and according to the total area of land available in the cooperative. In cooperatives composed of several villages, the land is first to be broken up among the village on the per capita size basis. Rural residents who are permanently working the non-agriculture sector are only eligible to in use land equivalent to half the size allocated to cooperative members. Agricultural land within village residential boundaries is also assigned in-use. The Decision defines the criteria for the distribution

of the irrigated and not irrigated land according to defined conversion coefficients. Orchards and vineyards are to be distributed according criteria which regulate the distribution of the arable land.

A series of other decisions and directives which supplemented the Land Law include:

- Decision No. 229 of 23 July 1991 on livestock distribution;
- Decision No. 230 of 23 July 1991 on the "Creation of Land Commissions";
- Decision No. 256 of 2 August 1991 on Regulations for the Registration, Changes and Transfers in State Lands and Cadastral Changes;
- Decision No. 377 of 11 October 1991 on the dismantling of the Machinery and Tractor Stations and the creation of firms for agricultural machinery; and
- Decision No. 378 and 379 of 11 October 1991 on, respectively, regulation and reorganising animal husbandry and veterinary services etc.

Upon "**Decision No. 452 of 17 October 1992 'Restructuring the Agricultural Enterprise (State Farms)'**", the government went on with privatising ex-State Farms' (SFs) land. In SFs created by merging several cooperatives together, land was to be distributed on the basis of Law No. 7501 and Decision No. 255 regulating the privatisation of cooperatives' land. In SFs which land was benefited through state investments in reclamation, drainage or expropriation of large estates, former workers got usufruct rights but the State retained ownership on land.¹

In April 1993, two laws relating to the compensation of former landowners were passed. **Law No. 7698 of 1 April 1993** and **Law No. 7699 of 21 April 1993**. The first provided for the restitution of non-agricultural land to former owners. For properties that had already been privatised, in particular retail outlets and housing, the law established for landowners to receive rent paid for by the owners of the former.

Law No. 7699 of 21 April 1993 "On the Financial Compensation of Former Owners of Agricultural Land" recognises former property rights on agricultural land for financial compensation purposes only. All ex-owners are to be compensated for properties based on the pre-1945 cadastre (Article 1). Former owners and their heirs, who have already received land on the basis of Law 7501, are only eligible to the difference between land in their possession pre-1945 and area assigned to in the last distribution (Article 6). The upper limit of financial compensation should in no case exceed the equivalent amount paid for 43.5 hectares of land (Article 8/3).

Former owners are entitled to "full" compensation for only up to 15 hectares of land (Article 8/1); for parcels of between 1100 to 15 hectares, compensation is to be paid on a decreasing-scale basis (Article 8/2a, b); for any claimed area of over 1100 hectares, no additional compensation will be paid (Article 8/2c).

Compensation is to be paid by vouchers fully guaranteed by the State, freely transferable and bondable for cash or at face value in future sales of State-owned enterprises. Vouchers are to be redeemed through sales of State property within the 31 December 1999. After this deadline, for a 5 year period, the State could compensate the remaining in Lei (Article 10). A State Council for Compensation and District Offices to deal with the practical side of distributing the compensation was to be set up (Article 13).

¹In most of the cases, beneficiaries were given out a formal "in-use" certificate which gave them the right to use the land for an indefinite period without charge. Elsewhere they were granted possession of the land without such a certificate (Stanfield & Jazo, 1995).

Law No. 7836 "On the Price of the Agricultural land for Compensation Purposes" defined the price of the land to be used for compensation and also procedures, rules and deadlines for former owners to claim their properties for compensation.

Also, related to this, the decision of the Government to restitute the old seaside and touristic site properties to former landowners, was a follow up on the Government programme for compensating eligible owners. Although it does not specify which segment of ex-landowners is eligible for such compensation, it is obvious that former agricultural landholders are targeted to benefit from such provisions given that urban ex-owners are already restituted back their properties or, else, physically compensated.

On the other hand, although the reform was being implemented rapidly, a number of undesirable effects such as wild privatisation, returns to old boundaries, land refusal, failure of joint-ventures in agriculture, rural migration, administrative slowness, fragmentation, uncertainty over property rights etc., emerged with the implementation of measures backed up with the above-described legal output. In fact, the legislation response to the problems emerged at this stage was very dynamic. It basically focused on eliminating the administrative constraints for speeding up the agriculture restructuring, reducing uncertainty and, quite recently, on providing full property rights and security of tenure and transactions. Important improvements of the original Land Law were introduced with its first amendment, **Law No. 7775 of 07 June 1995 "On Some Amendments to Law No. 7501 of 19 July 1991 on Land"**. This stipulates that "owners of the agricultural land are free to lease out their plots to any local or foreign natural and legal persons" (Article 3/a). It defines the procedures and deadlines for accepting or refusing the title to land distributed on the basis of Law No. 7501 beyond which accepting or refusing the title to land distributed on the basis of Law No. 7501 beyond which land reverses to the State. Article 8 provides stronger grounds for administrative and legal measures to be taken in case of illegal and capturing and devastations. Details of such actions are also provided therewith.

Law No. 7855 of 29 July 1994 "On Some Amendments to the Law No. 7501 of 19 July 1991 on Land" recognised the necessity to speed up the process of land distribution which was substantially slowed down due to administrative apathy. It attempts to redefine in more detail some of the administrative procedures for the completion of the relevant documentation while also providing for administrative measures to be taken against those who do not act accordingly.

To accelerate the process in SFs, on June 12 1993, the Government approved **Decision No. 275 "On the Temporary Financial Support for the Families of State Farm Workers in the Privatisation Process"**.

Meanwhile, potential solutions to the sizable problem of land refusal² have, also, been sought and assessed in order to make the refused land attractive for privatisation. Such problems are addressed and dealt with in the most recent Law approved by Parliament (December 1995) whose focus is in providing a legal basis for future administration of such properties. Accordingly, "refused agricultural land defined as such by Article 1 herewith is, after 31 March 1996, considered State-owned and administered by the Directorate General of Forestry and Pastures under the Ministry of Agriculture and Food..." (Article 2). Moreover, the district Directorates of Forestry Services in collaboration with Land Distribution Commissions have the authority to, once the process of compensating the

²MAF data (July 1994) reveal that some 104 385 hectares of land have been refused by the would-be owners mainly because of being marginal, distance from home, personal disputes in the process of redistribution, lack of enthusiasm in farming etc. (Llazar Korra, 1994). The bulk of the refused land is, however, rejected because of poor quality and lack of access to reliable irrigation water (about 100 000 hectares according to Stanfield, 1995).

ex-owners of agriculture land is complete: (i) sell out such land to natural or legal persons and/or (ii) lease it to local and foreign natural or legal persons according to pre-defined rates and criteria (Article 4). No reference is, however, made to any regulatory provisions for the defining of such criteria. Article 5 specifies that any of the above transactions must take place complying with the *Civil Code* and *Law No. 7843 of 13 July 1994 "On Immovable Property Registration"*.

The first steps to put in place the pre-requisites of a land market started with the implementation of the Land Market Action Plan based on *Decision No. 81 of 26 February 1993 "On the Creation of the Coordinating Group for the System of Land Ownership Registration"* and the *Decision No. 505 of 26 October 1993* regarding the action plan for the system of immovable property registration. This was followed by two other pieces of legislation enacted in 1994, providing for the taxation of land (*Law No. 7805 of March 1994*), and for the creation of an immovable Property Registration System (*Law No. 7843 of 13 July 1994*).

The emergence of a land market for agricultural land based on *Law No. 7983 of 27 July 1994 "On the Buying and Selling of Agricultural Land, Meadows and Pastures"*, although not operational as yet³, is expected to contribute to the removal of the fragmentation constraints and to the establishment of a viable market based agricultural sector in the long run. Much will depend, however, on the speed of the registration process and the ability of farmers to adopt to the new situation. Most recently, new important steps have been taken to encourage real estate transactions by promoting the creation of an efficient and functioning market for such transactions to take place. In particular, the passage of a recent bill permitting the without charge transfer of rights on farm land from "in-use" to "in-ownership" should encourage the consolidation of agricultural land holdings away from present fragmentation. Such act excludes from this general case the: (i) agricultural land within the yellow line, (ii) agricultural land which, based on *Decision No. 452 of 17 October 1992 "For the Restructuring of the State Farms"*, has been assigned in use to the specialist of the ex-SFs (paragraph 2.5 of such decision), (iii) agricultural land in priority areas for tourism development; (iv) illegally captured land or land obtained through transfers for which no legal bases exist; (v) land used by families of individual with accrued financial liabilities to banks and/or other creditors; (vi) land contracted by joint-ventures unless such a contract is terminated.

³Article 3 of Law No. 7983 inhibits transfers of ownership until the registration process is complete, which is important for capturing the tenure security and investment benefits of a functioning registration system (Stanfield, 1995). Moreover, the registration process has not, so far, been institutionalised.