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**DISCUSSION OF THE DRAFT LAW PREPARED FOR THE SECOND
PHASE OF LAND REFORM AND PRIVATIZATION IN GEORGIA
(PREPARED BY THE ASSOCIATION FOR THE PROTECTION OF
LANDOWNERS' RIGHTS (APLR))**

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Independence in the Georgia Republic meant the demise of the state and collective farms, disintegration of the system of centralized management of inputs and outputs, an end to subsidies, closure of agro-industrial enterprises, and a loss of traditional markets.

During the Soviet period, Georgia was a major producer of citrus, wine, tea, grapes, and other fruits and vegetables. Ninety percent of these products were sold outside of Georgia, mainly in other republics of the USSR, but particularly in Russia. In 1990, Georgia had a better standard of living than many republics in the Soviet orbit. At this point it is doing more poorly than most. During the last decade of the twentieth century and unrelieved by the first two years of the 21st, Georgia can be characterized by increasing rural poverty and deepening inequality of incomes and declining general welfare (Salukvadze).

The gross domestic product of Georgia dropped annually by an average of 10.3 percent between 1990 and 1999, while the population decreased by 0.1 percent a year during the same time period. Agriculture contributed 33.2 percent to the GDP in 1999. In 1999, 20 percent of the active population was engaged in agriculture. In 1996 private agriculture provided more than 85 percent of total agricultural output. That figure declined later because of the increasing proportion of production from land that was leased by individuals and corporate entities from the state.

1. The Land Reform to Date: the Background

According to the UN, in the early 1990s Georgia had 781 collective farms with an average of 1,800 hectares of agricultural land and with 255 workers and management staff. This concentrated pattern of land management began its radical change in 1992 with the passage of land privatization or land reform. Didebulidze claims that in 1988 state and collective farms encompassed 87 percent of all agricultural land while auxiliary family plots accounted for 5.5 percent. (In the Soviet system of farming, a typical family in a village was allocated 0.25 hectares for family production.) Regardless, all land was owned by the state.

Unlike many former Soviet republics in which some type of group farming was the norm after land reform, rural people in Georgia wanted to own their farms. . To satisfy this land hunger, the new government tackled land reform in 1992, splitting up the collective farms as one of its first priorities. Early in the reform, ownership by individuals or corporate structures was impossible since all land in the country still belonged to the state. That changed in 1996 when a law was passed declaring this subdivided and assigned land to be private property that could be alienated.

Equity in land distribution and alleviation of growing poverty was the prime goal of this stage of privatization as was providing a measure of security for rural people. It was clear by then that government would not be able to provide true poverty alleviation and social security programs. The second stage of reform would, it was hoped, be constituted by the emergence of a more commercial sector of farming.

a. Shape of the first phase

The first phase of land reform delivered land gratis to citizens, mainly those with rural roots. The two-year civil war right after independence that cost many Georgian lives complicated and made more chaotic the delivery of land. Georgia blamed Russia for the war casualties, for its supply of weapons to the Abkasian rebels, and for the instability that ensued, that was accentuated by separatist movements in Ajara and South Ossetia.. This animosity cost Georgia its major market.

The land reform gave 1.25 hectares to every villager who worked in agriculture. The privatization program also delivered 0.75 hectares to citizens who lived in the rural area but did not farm (schoolteachers, those involved in rural social services, etc.). Those from a village but who now lived and worked in urban areas received 0.25 hectares-- or less if the village did not have enough land in the reserve that the government mandated to be set aside for land reform. In fact, some of these newly created farms exceeded the maximum figures and land reform officials have no way of checking on the size of the various parcels that make up any one farm. While the upper limit may have been over 1.25 hectares, villagers themselves keep a close check to make certain the land division was as equitable as possible.

In all, somewhat more than 25 percent of the farmland of the country--and 54.3 percent of its arable land-- was distributed in a very egalitarian fashion between 1992 and 1998 when this phase of the reform was complete. The ceiling areas listed above included the auxiliary parcels that workers of collectives farmed under the Soviet system and also gave them access to some new village land of varying qualities--usually of about two parcels. These parcels were not apt to be contiguous, and fragmentation resulted. Presently around 3 million parcels (though some estimates run as high as 4 million) have been distributed to 1 million families. About 1.4 million of these parcels have passed through initial registration which was speeded up by the president of the republic in 1999. Most public officials seem determined that the next phase of privatization not lead to more excessive land division.

b. Land market and agricultural production

Though some illegal trade still exists with Russia through the Georgian breakaway areas of Abkasia and South Ossetia, most of the previous export markets with Russia has been lost. As a result, due in good part to the loss of its export market, Georgia's agricultural production has slipped badly in the ten years since independence. Between 1990 and 1995 agricultural GDP declined by an average of 31.4 percent a year. Modest increases were recorded for 1996 and 1997s, but 1998 recorded another 6 percent drop. There was a slight increase in 1999, but in 2000, a serious drought caused 70 percent loss of cereals and wine -grape production. Data are not available for 2001 when the drought continued (Europa World Yearbook, 2001).

Also agricultural purchasing establishments that made preserves, juice, wine, tea, and canned vegetables closed their operations. For example, in and around Georgia's second largest city, Kutaisi, there used to be, in Soviet days, 12 large fruit and vegetable processing plants and 21 smaller ones. All of them shut their doors in the past decade. Since fruit farmers could not sell much of their produce, many of them destroyed their orchards, groves, vineyards, and even tea gardens to produce wheat and corn, low value crops but ones that at least had a domestic market. Loss of markets led to lack of ability to purchase inputs. What is more, input prices have risen.

Another problem hampering agricultural production for the domestic market is the smuggling of imported farm products from neighboring countries, which drives down the price for local competing crops.

Georgian borders are very porous and products flow in especially from Russia and Turkey. According to the study by Koechlin and Mariannick farmers in Kaspi complain that wheat from Ukraine and Russia is dumped in Georgia and is sold cheaper than they can produce it. This reinforces the importance of livestock. These farmers feed cereals that cannot be sold to livestock and more than half of the farmers who sell part of their farm production market only animal products.

While some of these new farmers expected agricultural inputs to be delivered automatically as in Soviet days, this, of course, did not happen. They found credit for purchasing seeds, fertilizers and pesticides to be severely rationed and what available credit there was did not go to agriculture with the exception of some substantial farms that rented quite fertile land from the state. Most of these farms were in east Georgia and near Tbilisi. Furthermore, machinery and out- buildings inherited from Soviet days was meant for huge farms and are not appropriate for use on smaller ones. Besides, most of this capital deteriorated badly in the last ten years and spare parts are usually unavailable. Irrigation systems, which might have rescued Georgia from the drought of the past several years, largely lie in ruins. The scene in rural Georgia is bleak indeed.

A priority for Georgia is to invigorate its nascent land market that, it is hoped, will be a foundation for bringing about renewed agricultural growth. Since agriculture supplies about one third of the country's GNP, economic growth of the country at large cannot occur without increased agricultural production. Encouraging the land market means that transactions will be possible (sales, mortgages, leases, inheritances, gifts, etc.) for privately owned and properly registered parcels. In turn, thriving land markets would make it possible to use land as collateral, pumping much needed capital into the farm sector.

To date, however, banks feel that the subsistence operations on the fragmented plots preclude their owners from using them as collateral. Of course, if agriculture came to be more productive, land consolidation of fragmented parcels would become a more viable possibility and the larger units might be able to use consolidated and registered land to secure a loan. So far, activity in land markets has been lethargic, in rural areas especially so. But the registration fees for sale of land were recently cut from 24 Georgian Lari (about \$12) to seven Lari a hectare, hoping this fee cut might increase land market activity. While slow, land market transactions have been increasing. There were 2,165 transactions recorded in the year ending October 1999 and 6,498 in the year ending with October 2001. Only about 170 private owners in rural areas had mortgaged their farms.

c. Land rental

After the initial rural land privatization, the state rented out the best of its remaining land ---31.1 percent of its agricultural land (though some estimates go as high as 36 percent). Presently rented properties account for about 32 percent of the arable land in the country. Much of the remaining

approximately 40 percent of state land was of poorer quality, too remote, had few possibilities for irrigation, was too mountainous, etc. But there was a modicum of arable land and perennial cropland in non-rented state land.

There are currently about 38,000 renters, and half of the rented land was leased in fairly large blocks to about 6,000 individuals or corporate organizations. The 6,000 renters hold about 16 percent of the farmland in the country in blocks as large as from 100 to 500 hectares. The smaller rental properties may be very small but some are as large as 100 hectares. Rental properties may be leased for as short a time as 1 year. But larger and more commercial properties usually have leases running from 20 to 49 years. The goal of the next phase of privatization is to transfer as much land as is possible to the hands of individuals or corporate entities of one sort or another.

d. Purpose of this paper

A law is being prepared to make it possible for much of the remaining state farmland to pass into the private sector. The purpose of this paper is to comment on the draft law that has been presented for consideration by the Association for the Protection of Landowner's Rights (APLR). I will: 1) Analyze some of the provisions of the draft law (See Annex A for some detailed comments on the draft Law). (The reader should understand that while I have worked in various republics of the former Soviet Union, my major geographic focus in land economics and economic development is elsewhere. I also believe that small farm units can be very productive and so I have a bias toward equity). 2) A few general comments on the Georgia land reforms to date. 3) Some research ideas that would clarify some important issues facing Georgian agriculture.

2. Commentary on the Substance of the Draft Law

a. Renters to owners

There is a concern that the larger renters will be much more able to buy land "cash on the barrel head" than smaller ones and that the best land may be placed into the hands of the richest and most powerful elite renters. Half of this leased land--the best property, most knowledgeable people claim-- has gone to people of privilege like government officials and former officers of the state and collective farms. A few desired to work the land for its production possibilities, but a substantial portion of this land seems to have been rented to those who anticipated privatization in the near future and who counted on buying it cheap and selling it at a considerable profit. On some of the larger rented properties it is usual that the leaseholders work a portion of the land and have subtenants on the remainder, even though sub-tenancy is illegal in Georgia.

The Koechlin and Marianick survey study of 5 rayons showed that leaseholders of more than 500 hectares were found in two of the rayons. This limit, they conclude, represents the limit above which the leased land is never totally farmed. " In this case the most frequent situation is the voluntarily splitting of the leased land into two parts:

a). The first one is cropped depending on the availability of the means of production;

b). The second one is "kept in reserve." The leaseholder has generally two main possibilities of (sic) management for this part of the land. He can leave it as fallow land or mowing [hayfields] land, which permits him to pay the lease payments by selling the hay. The other option is to sublease to the small farmers. This system of subleasing, used by one-quarter of the interviewed leaseholders does not always generate a profit but constitutes a speculation on the land."

The speculators have made a wise choice for themselves, but not one that serves the citizens of Georgia very well.

One difficulty of passing a law that would make the lease-to owner situation fairer is that of 234 (presently) parliamentarians, 34 are leaseholders, and it is difficult for these individuals to separate their personal interests in leased land with the greater interests of the country. Some government officials say that decisions on who would be able to rent land was based on an open and fair procedure prescribed by the government in which a local and representative committee was able to review applications in a transparent manner. The fact that rental state land would be available was widely published in the country's newspapers (which, unfortunately, few of the poor read). There were to be two competitions. One was a so-called "commercial" competition. According to government officials, 90 percent of the would-be renters participated in this competition, allowing those who wished to lease to submit the rental rate they'd pay in a sealed bid. The highest bid won and secured the rental agreement with the state. The other was a non-commercial competition in which the local committee would have allowed land to be rented at for the taxes assessed for that piece of land. In this case the farm business plan was to be submitted and would be the basis for choosing a renter.

Those not part of government often reckon that this procedure was corrupted because: 1) The selection committee at the local level was in most cases actually made up of the elite of the rayon, some of whom wanted to rent the land themselves. Arnolli and Strubenhoff claim that in the four villages they studied, "The local land committee were in charge of granting leases...There are no farmers or farmers' associations on this committee." 2) There were no criteria for the farm business-plan so a great deal of subjectivity came into the picture at this point. 3) The bids were supposed to be sealed but some of the interested bidders somehow obtained access to the bids of others. 4) There is a persistent rumor that high government officials were rewarding other influential government workers, officials, and parliamentarians with leases.

In their survey of 830 farms in 5 rayons, Koechlin and Marianick conclude that "The award of leaseholds and the procedures depend of (sic) very few persons (Mayor of the Sakrebulo, local administration of the SDLM) who settle the access to the land, the duration of the contract and the classification of land quality. This situation can lead to a lack of transparency" (p. 21)

One concern with giving renters first option to purchase, then, is with their illegitimacy as renters: it is a worry about fairness. If the renter selection process was flawed and if there was a bias toward the an elite group, is it now legitimate to allow them first option to buy the land? This is especially a matter for concern if the elite renters left their prime land idle or mostly fallow indicating that it was bought purely on speculation and not contribute to the serious production needs of the country. (On the other hand some of them found that they did not have the means to buy the necessary inputs. Furthermore the two-year drought accentuated this condition.) There are two views on this

matter. One holds that it is fundamentally unfair and even unwise to allow this group to buy the land. The other believes that nothing can be done at this point about the way renters were selected. Legitimate or not, this group presently occupies the land. If the large renters bought on speculation and subsequently subdivide and sell to those who will farm the land the land will be put into production. The pragmatic solution is to allow renters to become owners.

There is a caveat concerning the renters-to-owners conversion contemplated by the draft law, however. And that concerns the existing leases that would have to be broken as land is offered for sale. The lease is a legal document and abrogating it would be especially harsh for those who cannot, for lack of funds, purchase the land they have leased. Some hold leases they expected would last for the duration of their working career and they would seem to be especially disadvantaged. Then there is the matter of breaking of a legal document by the government. Usually the state is relied upon to protect the rights of leaseholder and in this instance it is called upon to break leases. More thought should be given to this matter and to the deterrent effect it may have for investment, both Georgian and international.

Recommendation: The draft law's provisions for auctioning of leased agricultural land should implemented with some clarifications as indicated above. Though the breaking of leases should be carefully considered, on balance I recommend that they be broken.

b. Terms of the renter-to-owner sale

It seems as though the 6,000 elite renters will be more able to make an up-front payment than the 32,000 who hold a lease on smaller properties. If they do not have the cash they will probably seek out investors who will buy in their name in exchange for some way of profiting from the deal.

Everything possible should be done to assure that those who have leased farms that are smaller than, say, 30 hectares, will be able to purchase their farms. There are probably at least 25,000 in this category. In talking to a number of these smaller renters, it is clear that they will do almost anything to become an owner. Some quotes in that regard: " I received a table and a set of wine glasses when my grandfather died. I will sell them and a cow to buy my five hectares." "Small renters will let their wife and children starve before they pass up this once- in- a- lifetime opportunity." "All the renters in my village would like to purchase land. Whether they do or not depends on price. Even the 80-hectare farmer will not be able to buy. He grows corn because he cannot sell high value crops and he lost most of this crop this year to drought. (Although this renter was interviewed later and said he would buy 40 hectares.) Here would-be buyers would sell cows or machinery to buy the land. They are very anxious to buy." Whether renters should have to de-capitalize their farms in order to buy the land is questionable at best.

The purpose of the government should not be to raise revenues from land sales, but to place land in private hands as soon as possible in order to get agriculture moving again in the country. Then an upward revision of the land tax should be undertaken and no VAT should be levied on output sales. The land tax encourages production while any tax on output discourages it.

Concerning the worry about the privatization process resulting in excessive fragmentation, it should be clear that large commercial farms do not need to be relied upon for increased production. The history of many other countries shows that smaller units can be very productive because they

use on-farm labor. Based on extensive interviews in five rayons, Koechlin and Marianick conclude that even in the highly fragmented sector instigated by the 1992-98 reforms, half of the 830 small farmers they interviewed sell a small part of their crop or livestock production in local markets. Moreover and this produce represents a significant part of the local market. Their survey data indicate, "The average yield for the cereals...are similar to ones of large leaseholders. The small farmers are at least as productive as the large leaseholders. Moreover the management of the small farms is improved by the diversity of their crops and types of livestock."

Recommendation: Renters in the lowest category up to 30 hectares should pay for their land as in the draft law, annual land tax times 2. Consideration should then be given to increasing the price multiplier to 5 in the 30 to 50 hectare category and to 10 in the 50 to 100 hectare category and to 20 above 100 hectares. The special multipliers given to land planted to perennials and to pastures should be omitted from the draft law. Smaller farmers should not have to de-capitalize their farms in order to buy land. They do not have the contacts to seek out investors as do larger farmers. Furthermore the two-year drought has affected small farmers more than bigger ones.

Those in the up to 50 hectare group should be able to pay in 3 installments, those in the 50 to 100 category in two and cash up front should continue in the "over 100 hectares" group. This installment plan should also extend to those who buy land at auction.

Sales should not be considered a moneymaking venture by the government and proceeds from sales should go to improving infrastructure at the village level. It is far more important to get the property into private hand than for the government to profit from land auctions.

c. Community development and access to land lease and tax revenues

Community development is weak in most of Georgia. One commentator on the matter: "Villages are very dismal places and have become all but dysfunctional after the fall of the USSR. There are few roads, little cultural and sports activity, no electricity, sources of information are scarce, no television, no clubs. The only source of information is to talk to a neighbor and this makes for great insularity. During the USSR the village was a more vital place. For example, five villages might have gotten together to build a sports facility. Now, even clinics and hospitals have closed and if people want medical attention they have to travel to the rayon's central town. The reason: there are no public funds. This is bad enough in valley towns. It is worse in the mountains."

Another villager, the gamgebeli of the village of Maklaki, in Imereti region gave a concrete example:

"There are 1,781 households here. We collect 270,000 Lari for leases, business taxes and land taxes. All of this goes to the central or rayon governments. The 4,500 Lari that comes back is earmarked for teacher's salaries. There is nothing for road repair and social services. There is not even enough money for us to bring organizations like CARE to the village because they demand matching funds or at least co-payments.

We have in our village a source for water that is piped elsewhere. But we can't use a drop. We have not one single faucet in the village. The government advocates self- government these days, but how can you have that when upper levels of government bleed away whatever you collect at the village level.

Four years ago we had genuine elections for local councils (other officials in the hierarchy of government are appointed by the central government. We were told that these elections would be held every three years. Three years were over a year ago when local elections were cancelled indefinitely by the central government."

On the other hand a government official claimed " Even though there are no clear sanctions for arrearages or non tax payments--or non-lease payments-- the local tax man keeps after villagers to pay them. Their land cannot be taken away, but if they wish to transact on their land they do not want their record to be encumbered. And if land is leased they do not wish to be hampered from buying it due to arrearages. These taxes all go back to the rayon as do rental fees."

In their survey study of 830 small landholders in 5 rayons, two in Samagrela and three in East Georgia, Koechlin and Mariannick conclude "Like the land taxes, the totality of the lease payment goes to the local budget, including both district [rayon] and Sakrebulo budget. The proportion remaining into (sic) the Sakrebulo budget depends also on the source of income of district budgets." (p. 22).

Recommendation: The success of land reform is closely tied to health of the community. A study should be done that attempts to find out who pays their land taxes and lease payments and what does in fact become of these funds. Does disposition of these funds vary in different parts of Georgia? Whether something on this matter may or should be fitted into the draft law should be discussed. Proceeds from land sales should go to the local level for infrastructure improvement.

d. After the auction

The draft law stipulates that designated non-leased state land and land that is not purchased by the renters be auctioned off with respective sakrebulo participation. If there is still land remaining, there should be another auction to privatize it in which any citizen of Georgia can participate. The problem with this is that villages that have persisted through feudal times, through Soviet times and still persist today represent a very complex array of social relations, related people, cultures, and those who have more or less worked together as neighbors for decades.

If anyone in Georgia were to be able to bid and win the land, there might be an enormous conflict between the established villagers and the newcomers that might be perceived as destroying the village fabric. For example a familiarly told story is of a Turkish farmer who leased a rather large quantity of land by telling the villagers that they would gain in employment by accepting him into the village. He would grow hazelnuts, a perennial crop that promised villagers employment. In fact, there were employment possibilities while the crop was being planted, but during the period of maturity, which was reached after four years (and maximum yield after seven) there was little paid employment and the villagers evicted the interloper. There seems to be some universal

agreement that if an outsider were to avail the villagers of a steady source of jobs, they would probably be accepted. But agricultural jobs are seldom constant within a year or over a period of years.

While perennial crops tend not to provide steady year-to-year employment within one year much of agriculture does not require regular employment either. The agricultural calendar varies with the seasons and is not able to offer much dependable and steady employment throughout the year. The exceptions are when cattle have to be milked regularly and other livestock also need to be attended, there is infrastructure to be regularly repaired or built, and vigilance needs to be accomplished so that output of the farm or means of production are not stolen. Presently larger farms tend to offer a small core of workers steady employment and to bring in temporary workers as needed.

It is true that outsiders may be brought into villages as landowners if they bring with them something the villagers need, like employment or investment. But there are real pitfalls involved if the perception of what the outsider has to offer does not meet the expectations of the village community. Before allowing outsiders to buy village property, villagers should have every opportunity to buy it. This may mean two auctions, six months apart. This would allow villagers who wanted to purchase but didn't have the cash to bid the first time another opportunity to do so.

Suffice it to say that there is also a contrary view that maintains that those who remember working on a state or collective farm have little entrepreneurial spirit and still think of themselves as workers on large estates with little stake in its future. The "auction interlopers" might be new generation youth who wish to farm their land well and productively such that they might be a powerful influence for change in the village.

A village elder expresses a contrary view: current Georgian young people are disillusioned with the new system and the corruption they see every day. They are also poorly educated since they are reading materials only in Georgian while at least previously they read and often were taught using materials that were more international and brought to learning a less insular view. Most good literature can be translated into Russian, but Georgian is less flexible. Scientific knowledge is also quite complete in the Russian language. But today no little Russian is taught and instruction is in Georgian.

Recommendation: The village should offer members the opportunity to purchase land at two or more auctions before opening participation to other non-village members.

Little attention in the draft APLR law is given to nomadic agriculture involving summer and winter pasture and to mountain agriculture in which villagers have used common lands for centuries, both in valleys and on steep slopes. While the draft law exempts forestland from privatization, there is discussion in Georgia of privatizing 10 percent of state forests. The UN Economic Commission for Europe notes: "There is a risk that only valuable forests will be purchased and less valuable forests will remain in State ownership and become a burden on the budget."

Recommendation: Mountain villages with a culture that is built around the management of common land and with strong and lasting traditions based on it should be allowed to continue their way of life if they desire. The more general idea is whether mountain areas should be given to communal organizations which would take better care of them than in the present system in which the tragedy of the commons is rampant and in which everyone who wants to cut trees does so. Forests should remain in state hands at least for the time being.

In countries of the former Soviet Union with which I am familiar experiment stations have remained in the public sector. Whether this should be recommended for Georgia, I simply am not equipped to say.

4. Some other Issues not necessarily Related to the Draft Law

a) Consolidation of fragmented land

Drafters of the APLR law are determined not to have the next phase of agricultural land privatization result in fragmentation. I believe the way the law is drafted accomplishes this goal fairly well.

But the fragmentation that remains as the result of the first stage of the reform (the average beneficiary farm is made up of from 3 to 4 non-contiguous parcels including the auxiliary parcel which the family farmed in Soviet days) has become a major policy concern. The fragmentation process resulted in an egalitarian distribution of land, but one in which mechanization is difficult, whatever economies of scale that exist cannot be realized, and some parts of the property are too far away from the farmers' homes to be tended well such that they invite theft---and, since they are unfenced-- consumption of output by wandering cattle. For one reason or another optimal output is not reached on these extremely small parcels.

In most countries that have problems with excessive fragmentation (like Western Spain at mid-century), consolidation does not really occur until economic development begins to draw people out of the countryside and family size declines. Family size has declined in Georgia and many beneficiaries are over 50. But even with an average of 2 offspring and the prospects of obtaining alternative employment being extremely difficult presently, beneficiaries may divide the property further as they children inherit land.

It is quite obvious that a public awareness campaign should take place extolling the advantages of consolidation. Most beneficiaries do not trust the government enough at this point and seem to regard consolidation with government sponsorship as an effort to deprive them of land they have finally received. In the survey by GFA-Terra Systems and the KfW, Benno Arnolli and Heinz-Wilhelm Strubenhoff report that when asked, 80 to 90 percent of beneficiaries (in their extensive interview sample in four villages) claimed that they were not in favor of any program that sought to physically consolidate their farms.

What these farmers do instead is to come up with informal arrangements that lead to de facto consolidation. They may cooperate with neighbors on hiring machinery, to help with the harvest, etc. In the Koechlin and Marrianik study which found fierce independence of farmers in their

desire to manage their own property, one third of all respondents were found to be willing to join a group of farmers to have access to tractors and to facilitate marketing of their output.

Part of the purpose of establishing a land market and to lower the fees on registration of consolidated properties (as the government did recently) is to promote the development of land markets, that is the sale or farmer to farmer lease of land. Unfortunately, the growth of land markets has proven to be a very slow process. While the year ending with October 1999 registered 1,686 ag and non-ag land sales, the year ending with October 2000 registered 2,478 ag and non-ag land sales, and the year ending with October 2001 registered 3,329 ag and non-ag land sales. Most of these land sales involved non-ag land. Given the magnitude of the agricultural land fragmentation problem, relying on the land market to resolve it seems unrealistic at least in the short term. In addition, by the end of 2000 there were 3,997 inheritances, according to the UN-EU study on land administration in Georgia.

Egiashvili believes that a three pronged consolidation program is needed a) new legislation supporting the legal aspects of consolidation, b) a public awareness campaign, and c) the formulation of mechanisms and institutions that will support consolidation. Presently soils maps are being digitized from maps made in Soviet days. The hope is that this process might facilitate land sales because one of the chief worries of would be buyers is that they do not know the quality of the land they would be receiving and whether that soil is roughly equivalent to that which they are giving up. Egiashvili is concerned that this process may not give farmers up-to-date information because much erosion has occurred since USSR times. Furthermore, the ten years since independence have seen soil fertility diminish. Also the Soviet system was not based on international standards. So this information may not be very useful to would-be buyers and may only give them one more chance to distrust the government.

It is probably necessary to conduct several sakrebulo- level consolidation demonstration projects in different parts of the country so that policy-makers can ascertain what farmers will accept as consolidation programs proceed.

The UN-EU report on Georgia concludes "Although the government is attempting to address the issue of land consolidation through planning new concepts in the Kakheti region there are those who believe that land consolidation will become feasible only when Georgia regains access to markets. There is also is clear lack of understanding of the roles of authorities in the land consolidation process The current economic situation does not allow the allocation of adequate budgetary resources for land consolidation." The essence of this idea is that until agriculture becomes somewhat profitable again, land consolidation efforts will be difficult to realize. And until clear lines of authority by the government on fragmentation and consolidation are established, little will happen. Nevertheless, the UN-EU recommends that even before markets are regained, land consolidation should be commenced as an enforced, legally regulated measure. Furthermore, it believes a land consolidation law should be written and passed, donor support should help support various types of land consolidation, and a special authority should be established supporting land consolidation experiences with branches in all regions of the country. Various ways in which farmers might cooperate in quasi-consolidation should be demonstrated.

b) Consolidation elsewhere

In Armenia fragmentation is also a serious problem, according to the UN-EU. The average holding there is 1.3 hectares divided into 4 or 5 parcels. While consolidation has not proceeded very far, there is an increasing tendency for farmers to join together in farmer's association for the accomplishment of collective work. There is also a recent and healthy history of beneficiaries organizing credit associations in order to become more creditworthy in the eyes of banks. To complicate matters in Armenia, however, all family members born before 1991 are listed in the registry documents as co-owners. This makes for inheritance problems as many times they are members of the Armenian diaspora.. Plans for pilot projects in eight communities that would attempt to assess requirements for land consolidation are underway.

Agricultural land privatization in Albania took place in roughly the same manner as in Armenia and Georgia and left the country with a need for land consolidation. Childress points out that pilot project will take place in 2002 in four communes. A few secondary land transactions are taking place and a limited number of group farming experiments are occurring, but their scale and scope are quite limited. The pilot project, sponsored by the World Bank will attempt to build on these experiences and attempt to arrive at a consolidation strategy. Childress comments: "Traditional methods of consolidation involving lengthy negotiations and state-sponsored compensation payments, complex re-mapping of parcel borders and adjustment of infrastructure are regarded as expensive and inappropriate in the current Albanian context. The approach which is proposed to be piloted in Albania is participatory, demand driven and market led and is believed to be...more acceptable to landholders." Childress lists the principles to be followed: a) Land consolidation must be participatory, democratic, and community driven. b) It must be founded on the principle of assisting the community to define new uses of its resources and then to reorganize parcels accordingly. c) The focus must be on establishing better rural livelihoods. d) The result is community renewal--sustained economic and political development of the community affected.

In Albania progress in the experimental zones will be carefully monitored and evaluated. The approach will focus on market transactions among farmers in the consolidation zone by providing information. On parcel location, size of parcel, soil quality and availability and offering incentives for transactions that increase the contiguous parcel areas. The types of transactions that will be subsidized will be parcel exchange, leasing, purchase and creation of easements. More elaboration of the Albanian consolidation plans may be found in the Childress paper, listed in the bibliography. It is recommended reading for those designing a consolidation program for Georgia

b) Getting Agriculture Moving Again

While privatization and certifying land provides a necessary foundation for a productive agriculture, other factors of production must also be liberated. And only at the sakrebulo level can farmers prioritize their production and marketing needs. One would imagine that most communities would name lack of credit as one of their primary problems. When markets are restored, access to the means of production will be critical. Land that is registered can be used for collateral to buy inputs. But in Georgia access to banks by beneficiaries who have land that is very fragmented are not considered creditworthy. Consolidation would help to remedy this problem and to assuage the bankers. Even if banks could be convinced to loan, however, borrowers would be

dissuaded by the lack of proximate banks and interest rate topping 24 percent. Furthermore, the terms of such loans often require a payback schedule that begins well before the harvest.

So most farmers resort to borrowing small amounts from relatives and neighbors. Many others have petty commercial ventures in the informal sector. Off farm employment enables them to supplement their on- farm income or to obtain funds to purchase inputs.

Illustrating that nascent entrepreneurship exists among the small-farmers are several examples. Unfortunately, because of their small scale, they do not presage recovery for the farm sector. But they may provide some optimism in an otherwise rather bleak picture.

One option is the coupling of community processing facilities and high value crops, small-scale farmers for gaining access to niche markets. For example, the Biological Farming Association "Elkana" is an NGO that services 200 small-scale farmers together with several larger farms owned by a religious organization. The organization hires six consultants who act as extension workers, visiting farms and giving advice on farm planning, credit, where to get good seeds, and tips on how to farm organically.

It also provides guarantees for banks small production loans for its clientele. The default rate used to be 30 percent on these loans, but with improved advice and better planning this has dropped to 5 percent. They are developing niche markets for organically grown tea, fruit juices, honey and wine that they hope to market in Georgia and abroad. Developing these markets is a major challenge but they also face problems in that products need to be sent out of the country for packaging. There are no packaging facilities in Georgia. Also there is no organic certification in Georgia, but there is a bill before congress that would spell out what constitutes organic products.

The Horticulture and Fruit Processing Renovation Society in Kutaisi plans to build a fruit processing plant with an investment consortium made up of money from Germany, Italy, and Austria. Presumably, the World Bank will help in the first phase, providing insurance against potential risk. The group will provide transportation to bring fruit to the plant from all over Georgia and if the first phase is successful, they will built a plant in each region. The organization has been attempting to get farmers to resume planting fruit, but it has not been successful. The organization speculates that as soon as farmers see a plant coming to fruition they will plant.

Imepi, Ltd. is manufacturing a sauce which Georgians eat with meat made with grapes, tangerines, cherries, walnuts and is buying the raw materials from small farmers who have not destroyed these permanent crops. Last year (their first) the owners went to villages and searched for the best fruit and offered to buy it. The farmer, they found, quickly sent a signal to other growers in the area that a new market for their produce has opened up. They rather quickly accumulated enough product for their initial manufacturing needs. This year the enterprise offered a cash advance to those farmers who would agree to sell their produce to it (as one of the owners puts it "a little cash up front and some to the side.") They found that when a market was assured, farmers were quick to accommodate it. The industry has plans for the future that involves expanding into fruit preserves and, perhaps juices. While the current operation involves workers making the product by hand, they also plan mechanization in the future.

Hazelnuts are the most recent specialization of farmers--especially in West Georgia where they are of exportable quality, and yields are high if farmers can wait from 4 to 7 years until maturity and the period when highest yield is attained. They are a high value crop and can be economically grown on relatively small acreages. There is a market for them both in Europe and in Georgia, especially around the holidays at the end and the beginning of the year when their price is relatively high. They have the additional advantage of not being perishable, they do not require processing, and they are easily transportable. They have the disadvantage of being a crop that is not fashionable at this time and they are competing with Turkey that is also able to grow excellent hazelnuts. The annals of agricultural history are filled with crops that everyone plants--until the market is over-saturated and price falls drastically.

The matters dealt with above are the result of a very short time residence in Georgia and are dealt with according to interviews, field study, and reference to existing literature (which often contains contradictory points of view). So there are many unanswered questions and, consequently, many "leaps of faith" in this document. Following is a list of questions and research projects that could sharpen and maybe even modify the conclusions I reached.

5. Suggested Research

I recommend that the APLR work with Parliament, the MOAF and the SDLM to define a program of practically oriented research to better guide policies relating to agricultural land use.

Some themes that emerged from my brief visit to Georgia are the following:

1. Agricultural Markets

1.1 What can be done to regain the agricultural markets of the FSU countries and those of elsewhere in Europe? What are the necessary standards? Packaging requirements? Here something can be learned from the hazelnut industry that does substantial exporting. A study of this industry would be in order.

1.2 Explore the linkages between small-scale producers and newly established food processing firms and the markets to determine how viable the relationship is between producers and the market and how generalizable these linkages may be.

1.3 How extensive is "dumping" of agricultural products of other countries in Georgia. Many farmers claim that this is a major cause for price reductions on agricultural output.

2. Small versus Large Farms

2.1 How economically viable are the small and fragmented farms given to beneficiaries in the first phase of the reform?

Frankly, I feel these farms have been treated too negatively and have far more potential than has been estimated. But that will take research to find out. Case studies in various parts of the

country should be conducted at the farm level aimed at determining production per hectare, family consumption, inputs used, debt status of family, where did the credit they used come from, problems brought about by fragmentation. I also feel that more farmers have quasi-consolidation plans than they've been given credit for. If these were understood less emphasis would need to be placed on physical consolidation which is not easy at this stage of Georgia's growth. Are attempts being made to consolidate holdings by formal or informal means? How are beneficiaries meeting their needs for machinery? What are the problems brought about by fragmentation? This study should build on the gaps left by the Cadastre and Land Register Project (KfW) (which I have not seen) and the Koechlin and Mariannick (1999) study. I do feel that a several-sakrebulo consolidation projects should be set up and studied.

2.2 Explore with small-scale owners what priorities they see for development of their farms: once their properties are registered, what is the next bottleneck? And the next?

3. Land Markets

3.1 How extensive is the practice of using the agricultural land market for: selling land, mortgaging land, using land for collateral, etc. Some work on this subject is already available but it needs to be kept up-to-date. Much emphasis has been placed upon on the necessity of registration before agriculture can progress. How true is that assumption?

3.2 What would it take for bankers in the country to lend to newly privatized and fragmented farmers? This would involve interviewing a number of bankers.

4. What do we need to Know about the Lease-to-owner proposal?

4.1 How many large renters(over 100 hectares) are there and how did they obtain the land they rent?

4.2 What is the production history of the large renters? Do they use their land productively? Do they use all of the land they rent for productive purposes? How do they obtain their inputs? Where do they sell their output? Do they have privileged access to markets and inputs, including credit?

4.3 How extensive is the practice of illegal sub-tenancy? What would become of the sub-tenants after renters are allowed to purchase they properties?

4.4 How able and willing are large and small lessees to buy the leased properties? Under what terms?

5. Local Government Revenues.

What becomes or should become of the funds collected for rent and taxes? Do they really go back to the local level of government? Opinions --and also practices--vary widely on this point. In general the central level of government claims that these funds do go back to the central

government and do not flow back. Most people at local levels claim they never see such funds, except for funds to pay for teachers.

Persons Interviewed

Arsenashvili, David-Director, Legal Section, APLR.

Alpaidze, Mamuka-Owner, Farconi Ltd. (Hazelnut producer).

Arnolli, Benno-Team Leader, Cadaster and Land Register Project, GFA-Terra Systems and KfW.

Baratashvili, Merab- Chairman of the APLR Board, Head of the Imereti Regional Office.

Bateson, Will- Private Consultant.

Butskhrikidze, Ramaz- Head of the Expert Group of the Revision Commission of the Kutaisi Sakrebulo. Chicovani, Mikheil-GeoHort- (Horticulture and Fruit Processing Renovation Association of Georgia).

Chicovani, Mikheil-GeoHort- (Horticulture and Fruit Processing Renovation Association of Georgia).

Didebulidze, Sandro-Senior Analyst, Development Alternatives, Inc. Project on Restructuring and Policy Advice for the Ministry of Agriculture and Food.

Dundua, Tamaz-Manager, Biological Farming Association “Elkana.”

Egiashvili, David-Economist and Head of Office,Office of International Affairs, State Department of Land Management.

Gegechkori, Zurab-Chairman, State Department of Land Management.

Gobejishvili, Paata- Renter, Village of Maklaki.

Kandelaki, Tata-Economist, World Bank.

Kavelashvili, Nodari-Member of the Sakrebulo, Patriketi Village, Imereti Region.

Kebuladze, Teimuraz- Former Director, Georgia Environmental Protection Department.

Khutsaidze, Konstantin- Head of Department, Agricultural Production Service, Ministry of Agriculture and Food.

Kikalishvili, Shota- Deputy Head of Department, Agricultural Production Service, Ministry of Agriculture and Food.

Kiladze, Youra-Deputy chairman, Geguti Region, Rayon of Tskaltubo, Imereti Region.

Lejava, Vakhtang- National Consultant, UNDP Land Management Project.

Loladze, Andro-Head- Office of the President of the Republic in Imereti Region.

Lomidze, Mikheil, Imepi Ltd. (Fruit purchasing firm).

Maglakelidze, Murad- Gamgebeli, Village of Maklaki and Chairman of the Association of Village Gamgebelis if Imereti Region.

Mshvildadze, Jumber-Head of State Department of Land Management, Imereti Region.

Nemsadze, Nana- President, Biological Farming Association “Elkana.”

Okropiridze, Zviad-Lawyer, Parliament of Georgia.

Smith, David B.-Resident Advisor, USAID Land Market Development Project in Georgia, Terra Institute

Srubenhoff, Dr. Heinz-Wilhelm, Regional Director, Europe Department GFA-Terra Systems.

Tarkhan-Mouravi- Public Policy Institute, Georgia Republic.

Tsintsadze, Teimuraz -Agro-Industrial Complex of the Office of the President in Imereti Province.

Ulumberashvili, Lado-Senior Lawyer, Office of Lands Market Development, Parliament of Georgia

Van Atta, Don A. Chief of Party- Restructuring Assistance and Policy Advice for the Ministry of Agriculture and Food of Georgia.

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ANNEX A: Comments on Provisions of the Land Reform APLR Draft Legislation

This bill gives any renter of agricultural land holding a valid lease agreement from the state (Chapter 1, Article 2, 2.4) in the country the first option to purchase it (Chapter 1, Article 3, 3.2), while leaving recreational and forested properties in the public sector (Chapter 1 Article 2, 2.3). To complete the sale the land must be paid for in full with one payment made at the time of purchase (Chapter 1, Article 3, 3.2).

Sale price is to equal two times the annual land taxes paid on the property for the first 30 hectares and 10 times the annual land taxes for property sizes above 30 hectares. (Chapter II, Article 4, 4.2). The one time payment for pastureland is annual land taxes times 2 (Chapter II, Article 4, 4.3). The payment for land with perennial plants is annual land tax times 5. (Chapter II, Article 4, 4.4) [Question: Why are there no sizes attached to these multipliers?]

If there are buildings on the property they are valued separately and the total land value plus the value of buildings, as for land alone, must be paid entirely in the initial payment (Chapter II Article 4, 4.6). (NB.: The English version of the law is not clear on whether buyers of larger properties can purchase their first 30 hectares at taxes times 2 or whether properties over 30 hectares need to pay taxes times 10 for all of the property they wish to buy. The highest land assessment is about 57 Laris (aboutUS\$23) per hectare for prime property; most land is taxed at a much lower level).

Value of the buildings is set by the rayon level representative of the State Department of Land Management together with the renter. (Chapter II, Article 4, 4.7). If there are more than one renter all are be entitled to purchase the property in common. If one renter in this situation refuses to purchase, the others may buy the property (Chapter II Article 4,.4.5).

All land of a renter may be purchased or just a portion of it (Chapter II, Article 4, 4.2). The right of ownership to the land after sale is proven by its initial registration subject to no fees (Chapter I, Article 3, 3.5). After receiving a bona fide application the registrar is obliged to accept it and issue first registration documents within ten days. (4.11 also specifies that in lieu of a certificate the new owner may receive "an extract from the public registry." This needs to be clarified.) (Chapter II, Article 4, 4.9). The renter who elects to buy the property must do so within 6 months of the passage of the law (Chapter II, Article 5, 5.1). Failure to do so will cancel his lease as well as his option to purchase (Chapter II, Article 5, 5.2).

Land that is not purchased by its renter and any other eligible state land will be sold at auction (Chapter 1, Article 3, 3.3). The organization and conduct of the auction is carried out by a privatization commission elected by the village (Chapter III, Article 6, 6.1) (N.B. The English version of Article 6, 6.1 is ambiguous on this point.)

It also says that privatization commissions in towns are elected by town sakrebulo and " In rural areas privatization commission[s are] elected from the local population, with use of the election system of the village (daba, community) sakrebulo." These commissions need to be chosen within six months of the adoption of this law. (Chapter III, Article 6, 6.1). Article 6,6.1 also extends the authority of privatization commission to the territories under the jurisdiction of

indicated sakrebulo. The privatization commission consists of seven members. Five are elected from the sakrebulo and two from persons residing in the territory of the sakrebulo. Each member has one voting right. The commission members (Chapter III, Article 6, 6.2) elect the chair of the commission.

The duties of the commission are to determine the non-leased land blocks remaining in state ownership (Chapter III Article 6, 6.3). (NB. The second part of Article 6, 6.3 is incomprehensible because the rest of the draft law does not say what the commission or anyone else will do with the information it calls upon the commission to gather: "The commission determines the area of every land parcel of arable land or perennial plant land which does not exceed 5 hectares (except those cases where due to geographic location it is impossible to increase the area of the land parcel to 5 hectares) and a parcel of pasture land [of] 50 hectares.")

The commission is required to give the information it gathers on identified non-leased state land to the bcal/city representative of the State Department of Land Management who will determine whether it has correctly identified the land blocks. His ruling must take no more than ten days. (Chapter III, Article 6, 6.4). Then the commission holds a competition among qualified "private legal entities" to decide which of them will conduct the auction (Chapter III, Article 6, 6.5) (NB: No criteria are given for how this "private legal entity" is to be selected by the commission.) When the "private legal entity" that is to conduct the auction is named, it may be asked by the commission to divide land blocks into parcels, compile sketches of the resultant properties, conduct the auction, and complete the paper work needed for registration (Chapter III, Article 6., 6.6). Payment for this entity's work is specified Chapter III, Article 6, 6.6 (Chapter III, Article 6, 6.7 and 6.8).

Each land parcel, including those that renters have refused to purchase, will be sold at a sakrebulo-level auction that must be held within 18 months from the enactment of the law (Chapter III Article 7, 7.1). Information about the auction shall be made public through publication in the newspapers and be posted in village sakrebulo no less than one month of the time the auction is to be conducted. The information on the auction should include the size and type of each parcel and identify a place where more detailed information may be obtained (Chapter III, Article 7, 7.3).

Georgian citizens registered as permanent residents of a territory of a given sakrebulo who pay a deposit of 20 Georgian Lari (about \$10) can participate in the auction and if they don't buy land this amount is refundable. This fee is not refundable if someone other than the new owner does the bidding and obtains the land (Chapter III, Article 7, 7.3). The starting price for the auction is the land taxes on that property multiplied by 2 (Chapter III, Article 7, 7.4). Buildings are to be auctioned with the property. Buildings and other structures shall be evaluated as described earlier, but in this case the appraisal is to be conducted by the local representative of the SDLM who is supposed to submit this information to the privatization commission within ten days of the commission's submission of a request (Chapter III, Article 7, 7.5).. (NB.: What should be done with this information is not specified. Does this evaluation affect the starting price for the auction?)

A registrar for the SDLM (or his representative), members of the privatization commission shall attend the auction. The general public may also attend (Chapter III, Article 7, 7.7). (NB: There are no specified functions for the registrar who attends.). When the auctioneer announces the data on

the parcel subject to alienation, the auction begins immediately. The winning price may be less than the starting price, but no less than the registration fee (Chapter III, Article 7, 7.8, 7.9, 7.11).

Any land parcel not sold at auction must subsequently be offered for sale at another auction in which any Georgian citizen or other private legal entity has a right to participate (Chapter III, Article 7, 7.12). (NB. Clause 7.12 in the English version stipulates that this auction is to be held "on a semi annual basis." Does this mean in six months or does it mean every six months until the land is disposed of?).

Winners of the auction must pay the price of the purchased land within 10 days. If they don't, the sale is nullified and the registration fee returned. The buyer pays in a bank that will maintain a special account for that purpose designated by the state. The buyer signs the sales protocol prepared by those who ran the auction. Within 20 days the "private legal entity" draws up the sales agreement and arranges to have it signed by the chair of the privatization commission. (NB. This clause, 8.4, states, in the English version, that the sales agreement should also be signed "on behalf of the buyer--by private person " This must be clarified.) After the notarization and registration of documents the owner receives the sales agreement from the "private legal entity" as well as his land ownership registration certificate (Chapter III, Article 8).

The animal and plant research stations of Georgia are to be privatized by employees congruent with the direct sales provisions of this law and current legislation of Georgia. The property should be privatized if at least 50% of the staff employed on the property has expressed a wish to buy shares. Employees only can buy the property and none of them can acquire more shares than others. Former staff members are eligible to buy shares provided they have worked on the research station for more than two years before the enactment of the law (Chapter IV, Article 9).

The staff of the research station shall make the decision on privatization at a general meeting. The chairman of the meeting, the secretary, and all participants in the meeting should sign the agreement to privatize. This general meeting should elect the privatization commission. The commission shall consist of seven members. Five members of the commission are to be elected by the staff and the Ministry of Agriculture and Food and the SDLM shall each choose a member. Each member has one vote.

The committee chair must not be the director, deputy director, or the accountant of the research station. The privatization commission shall list and appraise the property to be privatized, (NB.: This is the way the English version is written. How is the commission equipped technically to undertake this task? And how can it appraise property fairly if there is a good chance its members will buy shares. Or does Clause 11.1 prevail that stipulates that agricultural land is to be appraised according to article 4 and the law that provides for the SDLM to appraise buildings and infrastructure. Yet Clause 11.2 repeats the proviso that the privatization commission shall appraise the property), draw up a privatization agreement, and arrange for other technical issues taking into consideration the viewpoints of the remainder of the staff at a general meeting.

As soon as the property is appraised, the commission should sponsor an announcement in the press. The announcement should include information on the appraisal, who is entitled to purchase shares, the place and deadline of applications of those who wish to buy shares. The place and date

of the meeting of the staff to decide upon who among the applicants is eligible to buy into the company is also to be specified. The privatization commission calls this staff meeting no earlier than one month and no later than two months after the announcement. At the general meeting the privatization commission shall announce the number of staff who can participate and the value of the shares. The general meeting then approves or rejects the work of the privatization committee (Chapter IV, Article 10).

If they agree on the plan, the representatives of the Ministry of Agriculture and Food and the SDLM sign the agreement on the part of the state and the other members of the commission sign on the part of the staff. After notarization, the agreement is registered at the SDLM Registration Office. (Chapter IV, Articles 11, 11.1, 11.2 11.3, 11.4) (NB.: In the English version Clause 11.4 contains this incomprehensible sentence: "Agreement shall envisage the responsibility for the profile of privatized property to be maintained for the duration of not less than ten years.") In order to purchase their shares buyers shall pay 50 percent at the time the agreement is signed and the other half of the payment within six months (Chapter IV, Article 11).

Agricultural pastureland used in common by villages may be transferred into the ownership of the village (daba, town) if the village sakrebulo approves. Agricultural parcels, which may be crossed by pipelines and when the building of related infrastructure is planned are not subject to privatization (Chapter IV, Article 12). (NB.: There is a confusing sentence in the English version in clause 12.2: "International agreement envisages the responsibility of unlimited use of these lands by the Georgian government..")

Article 13 requires banks to establish an account to receive land payments within one month of the enactment of the law.