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THE GUIDANCE OF LAND USE IN SUBURBAN AREAS: THREE OPTIONS FOR DISCUSSION

The original purpose of this paper was to develop policy options for the preservation of highly productive agricultural land around expanding urban areas, building on discussions at seminars earlier this year in Tirana and on the suggestions of Harvey Jacobs. As the theme developed, however, we found ourselves dealing with the broader question of how to guide the use of peri-urban land in a more general sense. Therefore, we present in this paper three approaches for land use guidance, with the principle focus on the original problem of preservation of highly productive agricultural land, but extending beyond that issue to the more general question of how to guide the conversion of land around the perimeters of cities from agricultural use to other uses.

The first option presented describes the major features of an agricultural land preservation law as well as how such a law might be drafted and implemented. This option is focussed and relatively simple in concept. The second option presents a scheme similar to the first but requiring certain cities to prepare suburban land use plans. These plans involve evaluating present and future needs of the periurban zone, and identifying resources to be preserved. Cities experiencing rapid conversion of land out of agriculture would be the priority cities required to prepare the plans. The final option amends an article in the current planning law to include agricultural land as a resource to be considered when preparing plans presently mandated. This last option would likely be less effective as it offers few new procedures in response to the new situation.

PART I. DISCUSSION OF THE NEED FOR AGRICULTURAL LAND PROTECTION

A. About High-Quality Agricultural Land

1. Albania has a limited amount of high-quality agricultural land.

Only approximately 20% of the land base is arable and about 3% is considered of the highest quality. The vast majority of this land lies at the edge of the cities in the area known as the southern coastal plain and associated hills region.¹

2. Some of this highly productive land is threatened by permanent conversion out of agricultural use through illegal development.

The illegal development has several causes: 1). the inability of municipalities to make land available for housing and other urban uses, 2). migration from the rural

¹ Illustrated on the map "Major Land Resource Areas of Albania" prepared by the Land Resources Institute and World Soil Resources of USDA in their report *Soil Resource Assessment and Monitoring in Albania: A Strategy Initiative and A Short Term Plan of Action*.

regions of the country to the cities, by settlers seeking economic opportunity, and 2). movement from the city and villages by those looking to obtain more land for housing outside of the urban boundary.

3. High quality agricultural land in Albania should be preserved for use in agriculture when such preservation does not conflict with other high priority policy goals for the following reasons:

Preservation of high quality agricultural land would allow Albania the option of pursuing a degree of independent food security during a period of fragile economic transition. Without a sufficient agricultural land base for food production, Albania may be too vulnerable to agricultural imports and the uncertainty of international production and prices.

Over time increases in productivity per hectare can substitute for decreases in the amount of high quality agricultural land, but until these increase begin to occur and are institutionalized, preservation of high quality agricultural land represents a low-risk strategy for independent food production.

This goal of preservation of high quality agricultural land is difficult to achieve because the lack of effective land use planning and development control.

4. Chaotic conversion of high quality agricultural land to urban uses creates fiscal, social and environmental problems for the future.

- Illegal development requires future public expenditure for physical (water, sewer, road and electricity) and social (schools, etc.) infrastructure.

- Provision of infrastructure in response to unplanned for conversion is always more expensive, than planned conversions, an especially difficult problem during times of fiscal stress (problems) and uncertain public revenue flows.

- Illegal development of agricultural land is likely to, produce significant environmental degradation (soil erosion, contamination of groundwater and surface water, loss of wildlife habitat), threats to unique/protected ecological areas with future tourism, and thus reduced future economic development potential.

5. Chaotic urbanization of agricultural land is detrimental to the development of a functional market economy.

Chaotic urbanization causes inefficient uses of public resources through, for example, infrastructure investment to service the development after building have been constructed, or the foregoing of more efficient used for the land. Inefficient uses of public resources sends signals to investors in the private market to be wary of investment, and can slow the process of economic development.

B. About Illegal Migration

1. The movement of people around the country is inevitable; it can not be stopped.

The movement of people is part of the transition to a market economy and democratic society and reflects their response to rational market signals.

2. Illegal development at the edge of the cities is likely to continue into the foreseeable future.

Individuals are able to make decisions about movement and construction faster than public authorities can respond.

There appears to be widespread public misunderstandings about what rights come with private property ownership (people think they can do anything they want with land they own), and what the status is of public/state owned land (especially the former state farms are considered by many to be "free" land).

There is little legitimate authority among public forces to prevent illegal development.

3. Areas for private development need to be formally designated, as part of the overall planning for the change and growth of the urban areas.

A minimum level of municipal services needs to be provided for these areas, so that they do not add to financial drain on public resources in the future.

C. About Planning and Preservation

1. Agricultural land preservation at the edge of cities and planning for urban expansion must be understood and undertaken as activities requiring the cooperation of the public as well as different public sector agencies and different levels of government.

Agricultural activities (to be preserved) and urban expansion are focused on the same land base. Different uses of this land base can be in conflict. Therefore, the general public, agriculturalists and urbanists must work together to achieve an efficient pattern and economy of land use.

2. There must be established a formal, cooperative process for agricultural land preservation between the Ministry of Construction and the Ministry of Agriculture perhaps implemented through the Councils of Territorial Adjustment, or other group structure created expressly for the purpose; or this must be made a priority such that a structure is provided for local organs to work on the problem of planning for the preservation of high quality agricultural land.
3. However, the actual planning for the preservation of high quality agricultural land, and the implementation of this plan should be done by the District Councils for Territorial Adjustment, or by their appointing a commission to prepare and oversee the plans.

Professional personnel in districts and cities and communes have the strongest understanding and knowledge of local land use conditions, and are in the best situation to make recommendations regarding agricultural land preservation.

PART II. OPTIONS FOR AGRICULTURAL LAND PROTECTION

The following section outlines three possible options for agricultural land preservation. The first option is a stand alone agricultural preservation law which requires the preparation of agricultural preservation plans by areas which are experiencing conversion of land out of agriculture. These plans are administered through the National Council of Territorial Adjustment, prepared by the District Councils of Territorial Adjustment with significant contribution from affected communes.

The second option like the first, requires that plans be written for areas experiencing the most land use changes. This plan however, would be a suburban or regional plan in concept, considering the mixture of demands placed on land at the edge of urban areas and well into the district. Since the critical land use changes are occurring at the urban fringe, it is these areas which require specialized planning with particular attention paid to the quality of agricultural land, tourist development zones, and other natural resources, while accommodating the market economy. Communes in these areas will be strong players in the plan-making process.

The final option, amends an article in the existing planning law to include the protection of agricultural land so that it becomes a priority for the preparation of General Regulatory and Master Plans and other plans presently on the agenda. This option also includes identifying the areas undergoing the fastest land use changes as targets for plans to be either revised or prepared. As the current planning process, especially at the local level is low on funding, a financing mechanism will have to be created to assure that the plans can be completed.

The variations of these options are innumerable, but there are some elements which are necessary regardless of which option or variation is put in place. Some areas in Albania are not experiencing rapid land use changes, while other are. Areas under development pressure should be identified (or criteria by which to identify them should be developed), and these areas should be the targets of the first plans prepared.

Regardless of the methods developed, it is essential that representatives from both urban agencies and agricultural agencies participate. Urbanization of agricultural land cuts across traditional functional boundaries and therefore solutions to the problems must be seen through the collaboration of the two forces.

A funding mechanism must be enabled so that the plans can be developed. Local level participation is essential for effective agricultural land planning, and at present the funding does not exist for this new task, whatever form it takes. Information must flow between governmental institutions such that studies done in one sector can be used in other sectors at affordable prices. Without such easy access to information plans may omit essential data for which access has been impaired.

Methods of implementation and enforcement for an agricultural preservation law are outlined in detail in Section D. Regardless of the option chosen, these should be thoroughly reviewed because

they may be applicable or essential to the laws implementation. Laws and plans do not govern alone, supporting rules, regulations, policies and education programs contribute to their effectiveness.

OPTION I: AGRICULTURAL LAND PRESERVATION LAW-PLANS

Since the protection of high quality agricultural land involves urban land policy (because once it is out of agriculture it is generally urbanized) as well as agricultural land policy, creating legislation specifically addressing its protection will require special collaboration at the national and local levels between urbanists and agriculturalists.

A. National Council for Territorial Adjustment

1. A mechanism for collaboration between planning officials at different levels including agricultural and natural resources specialists at the local level, has been developed through the creation of the National Council for Territorial Adjustment (NCTA) with strong representation by the Ministry of Agriculture; the Council could manage the writing and implementation of an Agricultural Land Preservation Law.

At the national level there must be a strong connection between the Ministry of Agriculture and Food and the Ministry of Construction and Tourism for the development of this law.

2. The NCTA should prepare the legislation before approval of the Council of Ministers, and should also be in charge of the on-going administration of the program. Or they could create a special commission which functions exclusively to manage the preparation and implementation of an Agricultural Land Preservation Law.
3. The NCTA, or an appointed commission, should have available to it technical experts from the National Land Research Institute, National Urban Planning Institute, the PMU/IPRS, representatives of district, city and commune governments, and others as necessary to help it in the development of standards and the review of activities by local governments and District Councils of Territorial Adjustment (DCTA).
4. The NCTA should also create a grant system which will provide money to District Councils for Territorial Adjustment for the development of plans, after the National Council of Territorial Adjustment is satisfied that local officials understand what is expected of them in terms of process and product. It should also designate the financing source and the grant manager. This mechanism is essential because the budgets of the District Councils of Territorial Adjustment are insufficiently financed to accomplish new tasks. The planning offices at the district, and other local levels require appropriate office equipment, improved office spaces, and in some places may require additional personnel to prepare such plans.

B. Law Development

1. The National Council of Territorial Adjustment should be the body to develop, review and approve a draft law for planning and preservation of high-quality agricultural land.

2. The draft law should specify substantive and procedural standards for protecting agricultural land by requiring certain districts to write Agricultural Land Preservation Plans.
3. The law should outline what should be included in the plans, the procedures for preparing the plans, the method for extensive public participation, approval and implementation.
4. Standards

The law should specify and define the set of standards and procedures to be used by the District Councils of Territorial Adjustment or who should be on the commission it appoints to develop the plan. These standards will outline: what the Agricultural Preservation Plans are supposed to achieve (substantive standards), and how they are to achieve this (procedural standards).

a. Substantive standards will include: identification of high-quality agricultural land in the district/city (based on soil capability and other agronomic qualities), likelihood of economic use of these lands (based on their location and ownership): estimation of amount and rate of demand on land (by natural growth and illegal (unplanned/informal) development, based on standards for future provision of infrastructure.

b. Procedural standards will include: proper notification of citizens of the planning process; the timeframe within which plans must be completed; a plan review process.

The standards should be general so that the specifics of actual planning can occur locally, yet be specific enough to allow the District Councils to use them in the preparation of local plans.

5. The NCTA should decide which districts require such plans and on what basis.

Not all districts and cities have the same need for agricultural land preservation. The NCTA should establish a schedule for the undertaking and completion of plans that reflects the urgency for such plans, with this being a function of the threat to agricultural land. A study should be undertaken on the topology of cities to characterize the degree of the agricultural land conversion problem. This study would substantiate any decisions made about which cities/districts would be required to produce these plans.

C. STRUCTURE OF THE LAW

An agricultural land preservation law could have the following structure:

These are general ideas for discussion only

Article 1, Preamble

Whereas, Albania has a limited amount of high-quality agricultural land. Much of it is threatened by permanent conversion out of agriculture through unplanned informal development,

and whereas, unplanned, chaotic development of high quality land creates fiscal, social and

environmental problems, decreases independent food security, and is detrimental to the development of a functional market economy.

Therefore, high priority agricultural land in Albania shall be preserved, especially where preservation does not conflict with other high priority policy goals.

Article 2

The National Council of Territorial Adjustment shall designate priority Districts in which conversion of land out of agriculture is a problem, taking into consideration the following criteria: agricultural cultivation is the primary economic activity, existence of high quality agricultural land, where the populations of the cities is increasing at a rate greater than the city's housing can accommodate, a significant amount of home construction outside the yellow line of the city.

Commune agricultural and planning officials from those Communes in which the above criteria apply should also be involved in the Agricultural Preservation Plan writing process.

Article 3

The District Councils of Territorial Adjustment shall either write the plans themselves or create a commission to prepare such plans which will then be reviewed and if adequate, approved by the District Council.

[Comment: Also represented in the plan writing and decision-making should be communes in the district which fit the criteria outlined above.]

[Comment: These plans shall use the best information available, even when such information is incomplete. The goal shall be to prepare plans quickly so as to slow the threat to high-quality agricultural land.]

Article 4

A District Agricultural Land Preservation Plan shall include:

A statement of objectives such as:

Preservation of high-quality agricultural land will be of primary importance while considering:

- demand on land for alternative uses
- the ownership of land
- the feasibility of land for agricultural use

A designation of those lands in agricultural use for which it is acceptable that they be in alternative uses, such as for housing, industries and/or commerce.

[Comment: It is expected that these plans will be of varying quality reflective of the different amounts of high-quality agricultural land in the district, and the different pressures upon this land.]

[These plans shall address the substantive and procedural standards drawn up at the national level council.]

Article 5

A Land Use Map shall be created to go with the text of the plan. It shall illustrate the contents of the plan, including: yellow line, quality/capability of agricultural land, locations of endangered natural resources and areas of potential (planned) urban growth.

Article 6

Public notice of these proposed plans shall be posted prior to formal action by the District Council. Citizens in the districts shall have at least one formal opportunity to comment on the proposed plans prior to formal action by the District Council.

Article 7

Once prepared, these plans shall be reviewed, modified as appropriate, and then adopted following approval as local policy by the locally elected District Councils.

Article 8

Once adopted, these plans shall be submitted to the National Council of Territorial Adjustment for approval.

Article 9

After the NCTA certifies the plans as submitted, the District Councils and DCTA's are notified and the plan then becomes local policy.

If the National Council of Territorial Adjustment suggests changes to the plan prior to approval, the National Council of Territorial Adjustment and the District Council of Territorial Adjustment shall negotiate the final form of a plan.

Article 10

Once a plan is certified, the District and City Councils of Territorial Adjustment shall have the authority and responsibility for making land use decisions in the areas for which plans exist.

The District Councils of Territorial Adjustment shall issue permits for allowable land use changes; and shall have the authority to prevent unauthorized land change.

To support their activities in planning and regulation of land use change, District and Municipal Councils of Territorial Adjustment may impose fees on land transfer, and shall transfer revenues generated from fees assessed on proposed land use changes in the area covered by the plan to the appropriate organ of local government.

D. Discussion of Methods of Implementation and Enforcement

District Councils shall implement their agricultural land preservation plans through a combination of regulation, taxation, policing and facilitation of agricultural production. The following ideas can be incorporated into additional articles of the draft law.

A. Regulation

1. Use of high-quality agricultural land designated on the plan for preservation for an activity other than agriculture shall be prohibited. However, necessary improvements to high-quality agricultural land so as to enhance its productivity shall be encouraged.

All other classes of agricultural land shall receive a designation for land use development which is appropriate to its land capability and the ability of the government to provide efficient public services. The acceptable density, place and type of building shall be specifically described for each class of agricultural land.

2. All improvements, changes etc. to agricultural land outlined in the regulation shall require a permit from the District Council of Territorial Adjustment. Procedures to be defined through sublegal act. These permits shall be given or denied based on the lists of permitted land uses for each land class.

3. As part of the planning process, an after certification of the plan, local officials (district and municipal planners and agricultural and natural resources specialists) shall engage in a public education program about the contents of the plan and the importance of high-quality agricultural land and natural resources.

All owners of agricultural land shall be informed of their rights and responsibilities with regard to their land.

B. Policing

1. Implementation of land use planning requires effective enforcement. This is true globally, though it is perhaps more true right now in Albania where the rights and responsibilities of private property ownership are relatively new.

2. The District Council of Territorial Adjustment could give to the Construction Police the responsibility to encourage and facilitate appropriate enforcement of agricultural land preservation planning.

The Construction Police would police land for development activities. The District Council of Territorial Adjustment could give them the authority to report and issue fines to land owners engaging in illegal activities.

The Construction Police could have the authority to take action against any land owner or users engaging in land use activity which is in clear violation of the plan.

This authority could include, when absolutely necessary, the right to destroy illegal buildings. However, this right shall only be exercised after land users and owners have received proper and appropriate notification, and the opportunity to correct their illegal actions.

The Construction Police could be provided with additional personnel for the purpose of carrying out these responsibilities. These personnel could be paid from local government budget, part of which would be financed through fines issued by the Police on the activities of illegal users of land.

3. It may be necessary to allow people to appeal the decisions of the District Council of Territorial Adjustment and Municipal Council of Territorial Adjustment to the District Council.

C. Facilitation

Owners of high-quality agricultural land designated for preservation should be encouraged to use this land for agricultural production.

Encouragement of productive use of this land could take the form of facilitating access to specialists in agricultural production, investment and marketing.

Owners, in compliance with Agricultural Land Protection Plans, could be given priority in access to technical support services for the productive use of their land, from specialists associated with the national research institutes of land, water, etc.

Such owners could also be given access to necessary and appropriate credit for agricultural investment and marketing. As necessary, this credit could be provided at a subsidized interest rate.

D. Taxation

1. In order to finance local planning and implementation, and to encourage the responsible exercise of these responsibilities, local governments could have the right to access fees for a). the sale of land, b). the registration of land, and c). a general property tax in the district.

These fees should be reasonable; that is, they should not discourage these activities, nor encourage land owners to seek to avoid them.

These fees should be collected and segregated from other areas of local finance and shall be used to support the activities of planning, regulation, enforcement of agricultural land preservation, and facilitation of agricultural production.

2. As part of a program to provide assistance and encouragement to owners of high-quality agricultural land, the taxes these owners pay, may be less than the taxes assessed for land not designated as preserved. If owners of such land change the use from agricultural to non-agricultural, they would be assessed the amount of the previously reduced tax obligation.

OPTION II: PREPARATION OF SUBURBAN LAND USE PLANS

This option incorporates preservation of agricultural land into the preparation and implementation of suburban (regional-style, or comprehensive) land use plans. This option is more complex but it makes agricultural land preservation part of a comprehensive suburban planning system without imposing a new law structure specifically for agricultural land. A suburban plan would include the consideration and preservation of all natural resources, greenspace etc. while considering the type of growth the city will experience.

A. Concept

The framework for preparing suburban land use plans lies in comprehensively balancing the needs of the city (within the yellow line) with the needs and natural resources (of which high quality agricultural land is one) of the surrounding land creating a plan which attempts to balance the two sets of priorities in the short term and strongly consider the future growth of the area geographically, economically, in population etc. A comprehensive land use plan could be used a model for these suburban plans.

B. National Council for Territorial Adjustment

1. The National Council for Territorial Adjustment (NCTA), as was described above, has the institutional structure and jurisdiction to prepare and implement of a suburban land use planning law.
2. The NCTA should prepare the legislation for approval by the Council of Ministers, and should also be in charge of the on-going administration of the program. Or they could create a special commission which functions exclusively to manage the preparation and implementation of a suburban land use planning law.
3. The NCTA, or appointed commission, should have available to it (at reasonable cost), technical experts from the National Land Research Institute, National Urban Planning Institute, the PMU/IPRS, representatives of district, city and communa governments, and others as necessary to help it in the development of standards and the review of activities by local governments and District Councils of Territorial Adjustment (DCTA).
4. The NCTA should also create a grant system which will provide money to District Councils for Territorial Adjustment for the development of plans, after the National Council of Territorial Adjustment is satisfied that local officials understand what is expected of them in terms of process and product. It should also designate the financing source and the grant manager. This mechanism is essential because the budgets of the District Councils of Territorial Adjustment are insufficient to even accomplish existing mandates. The planning offices at the district, and other local levels require appropriate office equipment, improved office spaces, and in some places may require additional personnel to prepare such plans.

C. Law Development

1. The National Council of Territorial Adjustment should be the body to develop, review and approve a draft law for preparing suburban plans.

2. The draft law should specify substantive and procedural standards for preparing the plans by requiring certain districts to be prioritized to prepare plans.
3. The law should outline what should be included in the plans, the procedures for preparing the plans, training of planning staff members, the method for extensive public participation, approval and implementation.
4. **Standards**
The law should specify and define the set of standards and procedures to be used by the District Councils of Territorial Adjustment or who should be on the commission it appoints to develop the plan. These standards will outline: what the Suburban Land Use Plans are supposed to achieve (substantive standards), and how they are to achieve this (procedural standards).
5. The NCTA should decide the priority districts for preparing such plans and on what basis. Not all districts and/or cities are seeing rapid and uncontrolled land use changes, compromising the integrity of either high quality agricultural land or endangered natural resources. The NCTA should develop a schedule for preparing suburban plans based on the number of land use changes taking place, the ability of cities to assimilate the population growth etc. Further study on these issues could provide the basis substantiating decisions which prioritize cities for plan preparation.

D. Draft Structure for Law

A suburban land planning law could have the following structure: *These are general ideas for discussion only.*

Article 1, Preamble

Whereas, Albania has a limited amount of high-quality agricultural land, and natural resources. Much of it is threatened by permanent conversion out of agriculture or away from its natural state, through unplanned informal development, and much of this conversion is occurring in the suburban zones surrounding the main cities,

and whereas, unplanned, chaotic development of high quality land creates fiscal, social and environmental problems, decreases independent food security, and is detrimental to the development of a functional market economy.

Therefore, planning for the uses of land on the edge of cities with a particular focus on preserving high quality agricultural land, natural water and land resources in Albania shall be observed, especially where preservation does not conflict with other high priority policy goals.

Article 2

The National Council of Territorial Adjustment shall designate priority Districts in which conversion of land on the urban periphery is occurring, taking into consideration the following criteria: agricultural cultivation being the primary economic activity, existence of high quality agricultural land, where water resources or other significant natural land resources exist, where the populations of the cities is increasing at a rate greater than the city's housing can accommodate, and significant amount of housing construction outside the yellow line of the city.

Commune agricultural, environmental (natural resources) and planning officials from those Communes in which the above criteria apply should also be involved in the Suburban Plan writing process.

Article 3

The District Councils of Territorial Adjustment shall either write the plans themselves or create a commission to prepare the plans which will then be reviewed and if adequate, approved by the District Council.

[Comment: Also represented in the plan writing and decision-making should be communes in the district which fit the criteria outlined above.]

[Comment: These plans shall use the best information available, even when such information is incomplete. The goal shall be to prepare plans quickly so as to slow the threat of unplanned periurban land use changes affecting high-quality agricultural land and

other natural resources.]

Article 4

A Suburban Land Use Plan shall include:

A statement of objectives balancing the land uses and needs between urban (housing, urban services, infrastructure etc.) and the needs outside of the yellow line (natural resources, tourist zones, high quality agricultural land, major infrastructure etc.). Preservation of natural resources and high quality agricultural land will be of primary importance while also considering:

- demand for alternative uses of the land,
- the ownership of the land,
- the feasibility of using the land for agriculture, greenspace, recreation or preserving it in its natural state,

[Comment: It is expected that these plans will be of varying quality reflective of the different resources and types of land adjacent to the various cities.]

[These plans shall address the substantive and procedural standards drawn up at the national level council.]

Article 5

A Land Use Map shall be created to go with the text of the plan. It shall illustrate the contents of the plan, including: yellow line, quality/capability of agricultural land, locations of endangered natural resources and areas of potential (planned) urban growth.

Article 6

Public notice of these proposed plans shall be posted prior to formal action by the District Council. Citizens in the districts shall have at least one formal opportunity to comment on the proposed plans prior to formal action by the District Council.

[Where possible more active public participation should be integral to the planning process.]

Article 7

Once prepared, these plans shall be reviewed, modified as appropriate, and then adopted following approval as local policy by the locally elected District Councils.

Article 8

Once adopted, these plans shall be submitted to the National Council of Territorial Adjustment for approval.

Article 9

After the NCTA approves the plans as submitted, the District Councils and DCTA's are notified and the plan then becomes local policy.

If the National Council of Territorial Adjustment suggests changes to the plan prior to approval, the National Council of Territorial Adjustment and the District Council of Territorial Adjustment shall negotiate the final form of a plan.

Article 10

Once a plan is certified, the District and City Councils of Territorial Adjustment shall have the authority and responsibility for making land use decisions in the areas for which plans exist.

The District Councils of Territorial Adjustment shall issue permits for allowable land use changes; and shall have the authority to prevent unauthorized land change.

To support their activities in planning and regulation of land use change, District and Municipal Councils of Territorial Adjustment may impose fees on land transfer, and shall transfer revenues generated from fees assessed on proposed land use changes in the area covered by the plan to the appropriate organ of local government.

OPTION III: Amend Existing Planning Law or Develop Regulations (Sub-Legal Acts) to Include Agriculture into the existing Priorities

A. Concept

This option is simpler yet risks being less effective than the above law option. The Law #7693 "On Urban Planning," of 29.02.92, omits agricultural land as a resource to be considered when preparing master plans or partial plans. This option provides structure for amending Article 42 of the Law (or supporting legislation), both to make agricultural land a priority for planning as are some other resources, but also to strengthen existing institutional linkages for considering such land. As in the other 2 options, priority areas must be identified so that the applicable plans can be prepared or revised for these areas, and implemented.

1. Law

Article 42 in the Planning Law reads:

"In the General Adjustment Plans and Partial Urban Planning Studies, in cooperation with the Committee of Environmental Preservation and Protection and General Department of Forestry prepare the classification of forestry areas, forests, parks, green-belts and green territories that should be preserved, protected and created. This classification forbids any kind of change, damage, occupation of site, and change of destination (target use), which compromise the protection, preservation and creation of such zones."

As it stands, agricultural land is not considered as are forests and green areas, yet the intent of the article places a keen importance on preserving natural resources which are destroyed or negatively impacted by development. Like the forests and green areas listed, agricultural land is destroyed or negatively impacted by construction and development. The wording should be changed to add Ministry of Agriculture's cooperation for the classification of special (high quality) agricultural land. Specifying, identifying and prohibiting development on high quality agricultural land is essential for at minimum requiring plans to integrate the concept that high quality agricultural land is an endangered resource worth protecting as is forest land and green areas.

2. Standards

The amendment to the law would require setting standards classifying the types of agricultural land for preservation. The above section outlining standard development applies equally here. As with the classification of forestry areas, certain agricultural areas could be considered off limits to development of any sort. Criteria such as soil capability, feasibility of land for agriculture, the economic activities in the area, other adjacent natural resources etc. could be used to develop standards enabling the classification of certain very good land as 'undevelopable.'

3. Priority Areas

Since the General Regulatory Plans in many cities are out of date, and partial and master plans are not being prepared on a regular basis, this option is rendered weak. However, as the goal is to protect agricultural land which is threatened, the areas experiencing threatening land conversion should be prioritized for the mandated plans to be prepared or updated with the new consideration of the agricultural land. As with the other options, a grants office could be established for the cities in the priority areas.

4. Collaboration

Since the exiting article 42 discusses 'collaboration' between agencies, this collaboration should be outlined more specifically so that the issues they deal with are considered. The amendments to the article should include some specific substantive and procedural process for this collaboration to take place.

B. Amendments to Law 7693 , Article 42 *These are general ideas for discussion only.*

Amendment 1

Article 42 of the Planning Law should read:

"In the General Adjustment Plans and Partial Urban Planing Studies, in cooperation with the Committee of Environmental Preservation and Protection, General Department of Forestry, **and the Ministry of Agriculture (specify department)** prepare the classification of forestry areas, forests, parks, green-belts and green territories **and high quality agricultural land** that should be preserved, protected and created. This classification forbids any kind of change, damage, occupation of site, and change of destination (target use), which compromise the protection, preservation and creation of such zones."

Amendment 2

Cooperation for preparing master plans and partial plans, between agencies preparing the plans (National Institute of Urban Planning, Ministry of Construction and Tourism, Municipal and District Planners), and the Committee of Environmental Protection, the General Directorate of Forestry and the Ministry of Agriculture outlined in Article 42 (amended version), should take place in the following way: Agencies preparing the plans, the Committee of Environmental Protection, the General Directorate of Forestry and the Ministry of Agriculture (specify exact office) will meet monthly regarding the protected areas within the jurisdictions of plans being prepared. The meetings will provide a forum for discussion of status and progress of the plans being written regarding the preservation of the designated areas.

Amendment 3

To support their activities in planning and regulation of land use change, District and Municipal Councils of Territorial Adjustment may impose fees on land transfer, and shall transfer revenues generated from fees assessed on proposed land use changes in the area covered by the plan to the appropriate organ of local government.

Amendment 4

[Article 42 provides for the classification of land upon which "damage, occupation of site, change of permitted uses, and which compromise the protection, preservation and create of such zones."]

The National Council of Territorial Adjustment shall designate priority Districts in which conversion of land out of agriculture is a problem, taking into consideration the following criteria: agricultural cultivation is the primary economic activity, existence of high quality agricultural land, where the populations of the cities is increasing at a rate greater than the city's housing can accommodate, a significant amount of home construction outside the yellow line of the city.

These areas will be the priority areas for the preparation of General Regulatory Plans.

C. Cautions

The 2 most important weaknesses of this option are 1). that it does not allow for more local level involvement than that which currently exists. In order that agricultural land be allocated for preservation, it makes sense that the communes which contain the land being considered be full participants in the planning process and perhaps even developing plans for their areas encompassing the agricultural land most important for the economics of their areas; and 2) it relies on the planning system in place which is not preparing plans to the level that they are needed.

PART III: REVISIONS TO EXISTING LAWS

To achieve legal consistency, and to implement any of these options, it will be necessary to make revisions to certain laws that currently govern agricultural land, local government, land use

planning, and planning enforcement. Among the laws that may need amendment will be:

7501 (Law on the Land)

7572 (On the Organization and Functioning of Local Government)

This law will have to include the approval and decision functions of the District Councils.

7693 (On City Planning) See paper by Jacobs and Craig)

7752 (On the Construction Police)

This law, or regulations (sublegal acts) will have to outline the exact responsibilities of the Construction Police regarding agricultural land policing. It is also recommended that the process outlined in this law be simplified such that the Construction Police are able to police and prevent construction of buildings before they are completed structured.