

*N. Syrodoyev*



SOVIET  
LAND  
LEGISLATION

PROGRESS

BOOKS  
ABOUT  
THE  
USSR

State Ownership of Land—  
the Basis of Soviet Land  
System  
Right of Land Tenure in  
the USSR  
Land Tenure by Soviet  
Citizens  
Utilisation and Protection  
of Land Resources in the  
USSR

BOOKS ABOUT THE USSR

*N. Syrodoyev*

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LAND  
LEGISLATION



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НОВОЕ СОВЕТСКОЕ  
ЗЕМЕЛЬНОЕ ЗАКОНОДАТЕЛЬСТВО

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## PREFACE

The Decree on Land, adopted on Lenin's initiative by the Second All-Russia Congress of Soviets on October 26 (November 8), 1917,<sup>1</sup> laid the foundation for Soviet land legislation.

Prior to the Great October Socialist Revolution land relations in Russia were marked by vestiges of serfdom. Russia's peasants were land-poor and suffered from the landowners' oppression. The elimination of the old land relations was an acute social problem. So the October Revolution settled the peasant problem along with the principal question of a proletarian revolution—the question of power.

It should be noted that land is the principal means of production in agriculture and a spatial operational basis for the location and development of all branches of the economy. Moreover, land plays an important political role in social development. Marx said that "the property in the soil is the original source of all wealth and has become a great problem upon the solution of which depends the future of the working class".<sup>2</sup>

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<sup>1</sup> *Collection of Statutes of the RSFSR, 1917*, No. 1, Item 8.

<sup>2</sup> K. Marx and F. Engels, *Selected Works*, Vol. 2, Moscow, 1969, p. 228.

It is common knowledge that prior to 1861 Russia was dominated by serfdom which was abolished under the pressure of the broad masses of people. The tsarist government carried out the land reform in the interest of the landowners who cut off a considerable portion of land from the plots which the peasants used before the 1861 reform.

It should also be borne in mind that a special land legal regime was established for the peasants' tenure, with legislation regulating in minute detail the life of peasants as the lowest social estate burdened with taxes. Various class restrictions further exacerbated the peasants' hard material condition with the result that peasants essentially remained semi-serfs. Suffice it to say that till 1903 peasants were officially subjected to corporal punishment for the slightest offence before the tsarist authorities and the overdue payment of taxes. That is why one of the main theses in the Bolshevik Party's agrarian programme was the demand to nationalise all lands in the state, a proposition formulated by Lenin in his famous April Theses and subsequently included in the resolution of the Seventh (April) All-Russia Conference of the RSDLP(B) on the agrarian question.

The resolution stressed that landed estates inevitably doomed the overwhelming mass of Russia's population to poverty, bondage and ignorance, and the whole of Russia to backwardness in all walks of life.

Characterising the peasants' tenure in Russia, the resolution noted that it was entangled all over in semi-serf ties and relationships and the division of peasants into separate categories inherited from the time of serfdom. "The need...to radically restructure all relations of landownership and farming to suit new conditions of Russian and world economy," the resolution continued, "is the material basis of the peasants' aspirations for the nationalisation of *all* land in the state."<sup>1</sup>

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<sup>1</sup> CPSU in the Resolutions and Decisions of Congresses, Conferences and CC Plenums, Moscow, 1953, p. 340 (in Russian).

The legislative basis for the solution of the land question was the Decree on Land adopted by the Second All-Russia Congress of Soviets—the first land law under Soviet power.

John Reed, an eye-witness of the Great October Socialist Revolution, wrote that “at two o’clock the Land Decree was put to vote, with only one against and the peasant delegates wild with joy.”<sup>1</sup>

This decree reflected and legally established the peasants’ basic demands summarised in the Model Mandate. The latter was based on 242 mandates which were brought by deputies to the First All-Russia Congress of Soviets of Peasants’ Deputies in the summer of 1917. The second section of this mandate, the Peasants’ Mandate on Land, was appended to the Decree on Land and became its integral part.

The Peasants’ Mandate on Land concentrated, among other things, on the nationalisation of land, mineral resources, forests, and waters in the country.

“The right of private ownership of land,” says Article 1 of the Mandate, “shall be abolished forever; land can neither be sold, bought, leased and mortgaged, nor alienated by any other means. All land shall be alienated without compensation, shall become public property and shall be used by all the working people living on it.” Thus, all land which prior to the Revolution cost some 45,000 million gold rubles became the property of the whole people.

According to the Decree on Land, all land and its minerals, forests and waters were withdrawn from big landowners, and live- and dead-stock and estate buildings were confiscated. The land of rank-and-file peasants and cosacks remained in their possession for their own use.

As a result of the implementation of this decree millions of Russia’s peasants who had been oppressed for centuries received for free use, over and above the land which they had used before the Revolution, more than 150 million hectares of land which had formerly belonged to landlords,

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<sup>1</sup> John Reed, *Ten Days That Shook the World*, Moscow, 1967, p. 151.

capitalists, monasteries, the church and the tsar's family. Moreover, the peasants were freed from annual payment of rent and from expenditures on land purchases amounting to 700 million gold rubles a year. The Soviet government abolished 1,300 million rubles of peasants' debts to the Peasant Land Bank which was disbanded.<sup>1</sup>

By virtue of the Decree on Land the right to use land was given to all citizens of the USSR regardless of sex or nationality, who wished to cultivate it with their own labour, with the help of their families or in associations. So the land ceased to be an instrument of exploitation and the peasants' age-old dream had come true. The Decree on Land also guaranteed the citizens' right to use the land by setting up the state land fund to be divided among peasants, except certain confiscated estates which served as the basis for setting up state model farms. The peasants were granted the right to choose a particular form of tenure, i.e., household, *khutor*, community, *artel*, etc. At the same time, the very first laws of Soviet power encouraged land tenure by association.

The transfer of land to state ownership, implemented in accordance with Lenin's Decree on Land, created the necessary conditions for the emergence of socialist principles in farming and promoted the development of industry and transport, because the state had no need to purchase land plots from private owners and could freely plan the location of the country's productive forces.

Having declared the land the property of the whole people, the Soviet state scored great successes in socialist construction and, in a relatively short period, solved a number of economic tasks of colossal significance and scope. Thousands of new factories and plants were built and powerful industrial complexes were set up in the European part of the USSR, Siberia and the Far East. Old cities were reconstructed and new towns and railway lines were

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<sup>1</sup> *History of the Communist Party of the Soviet Union*, Vol. 3, Book 1, Moscow, 1967, p. 338 (in Russian).

built. The Soviet state set up many large, highly mechanised agricultural enterprises, i.e., collective and state farms. The advantages of socialist economy based on nationalised land were graphically demonstrated during the Great Patriotic War and the rehabilitation of the war-ravaged economy.

At the same time the nationalisation of land did not solve all questions of its rational utilisation but only created the necessary prerequisites for this. That is why the Communist Party of the Soviet Union and the Soviet Government paid great attention to a correct, rational use of land wealth of the socialist state.

Despite extremely hard conditions of the foreign armed intervention and the Civil War, the years 1918-1920 saw the promulgation of several enactments which further developed the main provisions of the Decree on Land. The most important was the decree of the All-Russia Central Executive Committee "On the Socialisation of Land" published on February 19, 1918,<sup>1</sup> and the statute "On Socialist Land Management and Transition to Socialist Farming" approved by the CEC on February 14, 1919.<sup>2</sup> They guaranteed the peasants' right to land and, in conformity with their demands, equalised their land allotments. The redistribution of land was limited in order to ensure stable tenure. Like the Decree on Land the enactments granted the freedom of choosing the forms of land tenure and gave all-out support to collective tenures.

Much attention was paid to the codification of land legislation even in the first years of Soviet power. The Ninth All-Russia Congress of Soviets held in December 1921 obliged the People's Commissariat for Agriculture to revise the land legislation and make a coherent code of land laws which could be easily understood by all peasants. The code was subsequently submitted for the CEC's approval.<sup>3</sup> Accordingly, a draft of the RSFSR Land Code was prepared to

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<sup>1</sup> *Collection of Statutes of the RSFSR, 1918, No. 25, Item 346.*

<sup>2</sup> *Collection of Statutes of the RSFSR, 1919, No. 4, Item 43.*

<sup>3</sup> *Collection of Statutes of the RSFSR, 1922, No. 4, Item 41.*

be approved by the CEC on October 30, 1922.<sup>1</sup> The Code regulated land relations in that period and created the necessary preconditions for strengthening and developing farms and their eventual transition to communal, collective forms of tenure. The codification of land legislation in the RSFSR was taken into account when land codes in other Soviet republics were being drawn up: the Ukrainian SSR (land code adopted on November 29, 1922), the Georgian SSR (land code adopted on May 15, 1924) and the Byelorussian SSR (land code adopted on February 24, 1925).

Union land legislation enactments began to be adopted following the formation in 1922 of a union state—the Union of Soviet Socialist Republics. The most important of them were the General Principles of Land Use and Land Management approved by the CEC of the USSR on December 15, 1928.<sup>2</sup> At that time individual forms of land tenure prevailed and legislation, though encouraging collective forms of land tenure, largely regulated relations stemming from the existence of individual forms of farming, allowing for hired labour on peasant farms, land leases, etc. The enactment was soon outdated because mass collectivisation of agriculture began in 1931.

Radical changes taking place in the country's social and economic life necessitated the promulgation of various land legal enactments which were often contradictory. So in the thirties work was started on the codification of land legislation which was, however, interrupted by the Great Patriotic War. In the period immediately following the war all efforts were concentrated on most pressing tasks. The period of rapid rehabilitation was marked by swift, continual changes which were not conducive to the codification of legislation, in so far as the latter requires some stability of social relations regulated by a respective branch of law.

The new stage of codification which began in the late fifties continues to the present day. In 1958 the Supreme

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<sup>1</sup> *Collection of Statutes of the RSFSR, 1922*, No. 68, Item 901.

<sup>2</sup> *Collection of Laws of the USSR, 1928*, No. 69, Item 642.

Soviet of the USSR approved the Fundamentals of Criminal Legislation of the USSR and the Union Republics, and in 1962 the Fundamentals of Civil Legislation of the USSR and the Union Republics and other normative enactments were drawn up and adopted.

Considerable attention has been paid to the legislation which regulates land relations. In particular, resolutions of the CC CPSU and USSR Council of Ministers of June 16, 1966 and March 20, 1967 mapped out sweeping measures on the land improvement, prevention of water and wind soil erosion, etc.

However, the improvement of legal norms regulating separate types of land relations did not remove the problem of completely renovating land legislation by means of its codification. Accordingly, the USSR Council of Ministers began preparations on the draft Fundamentals of Land Legislation of the USSR and the Union Republics which it submitted to the Supreme Soviet of the USSR. The work on the draft was continued in the commissions on agriculture, legislative proposals, industry, transport and communication, and commissions on the construction and building materials industry of the Soviet of Union and the Soviet of Nationalities of the Supreme Soviet of the USSR, with the active participation of research workers and specialists at state institutions.

In the Soviet Union, a preliminary discussion of draft laws is an expression of direct democracy and one way in which the people are encouraged to take part in the solution of state questions. Therefore, the Presidium of the Supreme Soviet of the USSR decided to publish the draft Fundamentals, prepared by the above-mentioned standing commissions of the Chambers of the USSR Supreme Soviet, for public discussion. The draft law evoked enthusiastic response from workers, collective farmers, state farm workers and employees at state enterprises and institutions. Some three thousand notes and suggestions on the draft law were received by the Secretariat of the Presidium of the USSR Supreme Soviet alone, and some 800 letters were sent

to the *Izvestia* and *Selskaya Zhizn* (Rural Life) editorial boards which published articles and notes on the draft law.

If we compare the published draft and the final text of the law it becomes quite plain that substantial changes and amendments were made in the law on the basis of suggestions received. These concerned virtually every aspect of the law and improved it considerably.

The draft was supplemented by three new articles: on household plots of state farms and other state agricultural enterprises, organisations and institutions (Art. 26), on health resort land (Art. 39), and on land of preserves (Art. 40). New and important provisions were added to several articles. For instance, suggestions and notes published in the press and sent to the Secretariat of the Presidium of the USSR Supreme Soviet pointed out the need to protect valuable lands from unjustified withdrawals for non-agricultural needs. These notes were reflected in the final version of Article 16 of the Fundamentals which extended the list of specially valuable lands whose withdrawal from land users is allowed in exceptional cases and only by resolution of the Council of Ministers of a Union republic.

Articles 10 and 11 were substantially revised. Their additional provisions are largely aimed at ensuring the rational utilisation of land resources in general and agricultural land in particular, and at a more detailed specification of the land users' rights and duties. The final version of the law gave a more precise definition of the aim of the state land cadastre and further extended the rights of local Soviets of Working People's Deputies in settling land questions. Several other suggestions and notes are also incorporated.

To sum up, the Fundamentals of Land Legislation of the USSR and the Union Republics adopted by the Supreme Soviet of the USSR were worked out with the direct and active participation of working people who were extremely interested and concerned about the rational use of land in the USSR.

Soviet land legislation comprises many normative enactments of varying legal force and importance which are issued by the appropriate state bodies. Laws, i.e., acts by supreme representative bodies of state power (the Supreme Soviet of the USSR, the Supreme Soviets of the Union and autonomous republics) have a higher legal force than any other normative enactments. Land legislation also incorporates subordinate normative enactments, including decrees of the Presidium of the Supreme Soviet of the USSR, Presidiums of the Supreme Soviets of the Union and autonomous republics, and resolutions and orders of the Council of Ministers of the USSR, Councils of Ministers of the Union and autonomous republics, orders and instructions of Ministries and departments, and decisions and instructions of local bodies of state power and administration.

True, only a few of these enactments specially regulate land relations. But some enactments which regulate social relations in other spheres (agriculture, industry, etc.) include provisions bearing on the regulation of land relations.

The Constitution of the USSR and the Constitutions of the Union and autonomous republics rank the highest among the laws regulating the land. Apart from establishing the general principles of Soviet law, they include provisions specially regulating land relations. For instance, according

to Article 6 of the Constitution of the USSR, the land, its mineral wealth, waters and forests shall be state property. Article 7 of the Constitution of the USSR and the corresponding articles of the Constitutions of the Union and autonomous republics vest collective-farm households with the right to use a plot of land attached to the house. Article 8 of the Constitution of the USSR establishes that land shall be made over to the collective farms for their free use for an unlimited time, that is, in perpetuity.

The Fundamentals of Land Legislation, approved by the Supreme Soviet of the USSR on December 13, 1968, and effective as of July 1, 1969, are the most complete and important act codifying land legislation in the USSR. Article 2 of the Fundamentals of Land Legislation states that "land relations in the USSR shall be regulated by the present Fundamentals and other land legislation enactments of the USSR issued in conformity with them, and also by the land codes and other land legislation of the Union republics", thereby determining the forms of codification of Soviet land legislation. The Fundamentals have essentially codified the main, decisive features of the principal land law norms and institutions, and established the basic principles of land legislation and most important nation-wide provisions regulating land relations in the USSR.

The all-Union land law systematises Soviet land legislation and establishes several new and basic provisions which reflect the experience of the practical implementation of legislation in force and the progress of legal science, and urge a rational and careful use of the country's land resources. The law also reflects the demands of the 1961 CPSU Programme, the resolutions of the 23rd Party Congress (1966) and the subsequent CC CPSU Plenums. Declaring that it is the common task of the Soviet people to use land rationally and on a scientific basis, to protect it and gain the maximum increase in soil fertility, the Fundamentals of Land Legislation formulate the tasks of land legislation. According to Article 1 of the Fundamentals, the purposes of Soviet land legislation shall be to regulate land

relations so as to ensure the rational use of land, increase its efficiency, protect the rights of socialist organisations and citizens and strengthen the law governing land relations.

The land law clearly defines the subject of legal regulation, i.e., land relations. According to Article 2 of the Fundamentals, special legislation of the USSR and the Union republics shall regulate relevant relations in the use of minerals, forests and waters. In pursuance of this provision, in 1970 the Supreme Soviet of the USSR adopted the Fundamentals of Legislation of the USSR and the Union Republics on Water Resources, and work is at present under way on the Union draft enactments to regulate relations involved in the use of minerals and forests.

Another important feature of the Fundamentals of Land Legislation is that they have initiated the overall renewal of Soviet land legislation. The law of the USSR of December 13, 1968, "On the Approval of the Fundamentals of Land Legislation of the USSR and the Union Republics" instructed the Supreme Soviets of the Union republics to bring the republican legislation in line with the Fundamentals. As a result, codes regulating land relations in more detail were worked out and adopted in the Union republics (the Latvian SSR on May 5, 1970; the RSFSR—July 1, 1970; the Ukrainian SSR—July 8, 1970; the Azerbaijanian SSR—July 7, 1970; etc.). The Fundamentals are the basis for the further improvement of land legislation of the Union republics designed to ensure the most efficient and rational utilisation of the country's land resources.

Soviet land legislation comprises normative enactments of the USSR and of the Union republics, and so it is of some importance to delineate the competence of the USSR and the Union republics in regulating land relations. This question has acquired added significance in view of the codification of republican land legislation. There are two articles in the Fundamentals which define the competence of the USSR and the Union republics in regulating land relations. According to Article 5, the competence of the USSR shall cover:

1) disposal of the State Land Fund within the limits required for exercising the powers of the USSR in accordance with the USSR Constitution;

2) determination of the main principles of land tenure and land management;

3) determination of long-term plans for the rational use of the country's land resources, meeting the needs of agricultural production and other sectors of the economy;

4) determination of planned country-wide measures for improving soil fertility, and also determination of the main principles for protecting soils from erosion, salination, and other processes adversely affecting the soil;

5) establishment of state control over the use of land;

6) establishment for the USSR of a common state land inventory, state registration of land tenures and the procedure for keeping the land cadastre;

7) determination of the procedure for compiling the annual land balance of the USSR.

Article 6 of the Fundamentals stipulates that the competence of a Union republic in regulating land relations shall cover disposal, within the limits of the republic, of the State Land Fund and determination of long-term plans for its use, establishment of the procedure for land tenure and the organisation of land management, determination of plans for land reclamation, combatting erosion and improving soil fertility, and also regulation of land relations in other matters unless they come within the jurisdiction of the USSR.

Whereas Articles 5 and 6 of the Fundamentals sum up the competence of the USSR and the Union republics in regulating land relations, other articles elaborate on this point in more detail.

In several instances the Fundamentals indicate that relevant questions are resolved by the Union legislation. For example, the USSR legislation extends the range of subjects of land tenure enumerated in Article 7 of the Fundamentals and formalises state control over the use of land (Arts. 5 and 20).

The Fundamentals also state that some questions per-

taining to the regulation of land relations are decided by the USSR Council of Ministers. The latter establishes the compensation of losses inflicted on land users by withdrawal or by temporary occupation of land plots (Art. 18), compensation of losses caused to agricultural production by the withdrawal of land for non-agricultural needs (Art. 19), and the procedure for keeping the state land cadastre, the forms of cadastral documentation and the periods of specifying and renewing cadastral data (Art. 46). Some questions are referred to the competence of the Council of Ministers of the USSR or the Councils of Ministers of the Union republics, for example, the procedure for the use of land of industry, transport, health resorts, preserves and other non-agricultural land and for the establishment of zones with special conditions for land use (health protection areas, etc.), which is determined by the regulations for these lands approved by the Council of Ministers of the USSR and the Councils of Ministers of the Union republics (Art. 38). And finally, some articles point out that certain land relations are regulated by collective-farm rules. Article 24, for example, stipulates that land granted to collective farms shall be used by them for their economic purposes on the basis of the collective-farm rules in accordance with the Fundamentals of Land Legislation and other laws of the USSR and the Union republics. On the strength of Article 25, each collective-farm household shall have the right to a house-and-garden plot allotted in the manner and within the rates envisaged in the collective-farm rules.

These questions are not regulated by the land codes of the Union republics. The experience of preparing republican codes on the basis of the All-Union Fundamentals shows that these provisions and those of the Union legislation have been included in the codes without any changes. Republican codes regulate in detail questions within the direct competence of the Union republics, and also questions within the competence of the Union and republican legislation, unless the questions had been solved in the Union legislation by the time the codes were published.

In several cases the Fundamentals oblige republican legislation to regulate certain questions. Thus, according to Article 22 of the Fundamentals, enterprises, organisations and institutions may be allotted plots for collective fruit and vegetable gardening in a manner and on conditions laid down by the legislation of the Union republics.

Thus, practically all questions concerning collective fruit and vegetable gardening by workers and other employees are subject to regulation by republican legislation. Article 22 only specifies that land plots for these purposes shall be granted to enterprises, institutions and organisations and not directly to the collectives of workers and other employees.

Republican legislation defines, among other things, from which land plots may be allotted for the above-mentioned needs, the principles governing the land plot sizes, and the terms for which plots are granted for vegetable gardening. Republican legislation also determines the collectives' rights and duties, e.g., the duties to develop plots promptly, lay out gardens properly, and carry out comprehensive agricultural measures in cultivating the plots. Republican legislation specifies the collectives' right to use part of their plots for non-agricultural purposes (building of premises for household needs, construction of summer cottages, etc.), bearing in mind that garden plots can also be used for rest and leisure. Republican legislation also lays down the grounds for terminating the tenure rights and settles other questions such as the procedure for approving the regulations of particular associations.

When referring a particular question to the competence of a Union republic, the Fundamentals of Land Legislation do not, as a rule, specify the republican agency and the normative enactment which shall decide on that question. Only in a few cases do the Fundamentals indicate that certain questions shall be determined by regulations approved by the Council of Ministers of the USSR and the Councils of Ministers of the Union republics (Art. 38), thereby determining both the organs which must regulate the pertinent

relations and the form of the normative enactment which shall serve as the basis for the solution of relevant questions.

In passing certain matters to the jurisdiction of the Union republics the Fundamentals take account of the specificities of land relations subject to regulation. The Union republics are primarily given those questions whose solution entails the consideration of local conditions and other factors which the Union law is hard put to envisage.

For instance, when the draft Fundamentals of Land Legislation were being discussed it was proposed that the norms governing the allotment of household plots to workers and other employees should be unified throughout the country. The proposal was not accepted mainly due to the fact that the norms of household tenure must be determined not only by the general principles established by all-Union legislation, but must be fixed with due regard for the availability of land to particular farms, the existence of free land, the development of common production on farms and the ensuing possibility of meeting the citizens' needs in farm produce. Other circumstances may also be of some importance, e.g., the need to attract workers and other employees for permanent residence in poorly developed regions. These factors may make it necessary to establish different norms even within one republic. According to the RSFSR legislation now in force, higher household tenure rates are established in Sakhalin, Kamchatka, Magadan and some other regions, while these rates are decreased in the areas of irrigated farming.

The Fundamentals of Land Legislation consist of a preamble and eleven sections comprising fifty articles. Section I contains general provisions which apply equally to all kinds and forms of land tenure. In particular, this section defines the purpose of land legislation and the scope of its operation (Arts. 1 and 2); establishes, in conformity with the Constitution of the USSR, the principle of exclusive state land ownership rights (Art. 3) and declares the land within the boundaries of the USSR a single State Land Fund which falls into several categories (Art. 4). The section also

delimits the competence of the USSR and the Union republics in governing land relations, and formulates the main rules governing land tenure, the land users' rights and duties (Arts. 7-19), and the implementation of state control over the use of land (Art. 20).

The six subsequent sections correspond to the classification of land in the State Land Fund which is given in Article 4. For the first time in Soviet legislation the Fundamentals single out the category of land covered with water, which includes inland waters (rivers, lakes, reservoirs, etc.), glaciers, hydro-engineering installations and also land strips along water reservoirs, and protective zones. It was necessary to specify this land owing to an increasing scale on which water-covered and adjacent land is now utilised. It is common knowledge that water-covered land is widely used in mining, sea-plant extraction, etc.

The new law specifies the categories of land known to earlier legislation, replacing, for instance, urban land by the category of land of populated localities (towns, townships and rural populated localities). The Fundamentals do not use the old term "land of special designation", although this category is retained and is now called the land of industry, transport, health resorts, preserves and other non-agricultural land. Characteristically, each land category of the State Land Fund is dealt with in a special section which defines the most important provisions governing the legal regime of respective lands. The section on agricultural land is central to the Fundamentals, while separate sections are dedicated to land management, state land cadastre, settlement of land disputes and defining liability for the violation of land legislation. Section I focusses on general questions of governing land relations which pertain to all categories of land, which made it possible to avoid duplication in the sections on the regime of individual categories of land. Special sections formulate relevant provisions with due regard for the specific legal regime of a particular category of land. For instance, Article 7 enumerates land users and Article 11 defines their rights and duties. The section deal-

ing with the legal regime of agricultural land determines the subjects of agricultural tenure rights (Art. 22) and defines the land users' duties in the utilisation of agricultural land.

However, not all rules formulated in Section I, i.e., in the General Provisions of the Fundamentals, are further developed in the sections defining the legal regime of individual land categories. A number of questions which refer to the rational utilisation of all land in the State Land Fund are solved in the General Provisions of the Fundamentals which establish uniform rules on these questions throughout the USSR territory. Thus, Art. 10 stipulates that land which is legally recognised as suitable for agricultural needs shall primarily be granted to agricultural enterprises, organisations and institutions. The priority of agricultural land use is thus established. This rule is formulated as a general principle of the distribution and utilisation of land and not in the section dealing with relations involved in agricultural land use proper. The General Provisions establish the exclusive state land ownership right, and define the basic principles of land use, including gratuitous land tenure. These principles are not only the heart of the Fundamentals but are also basic principles of Soviet land law as a whole.

The adoption of the Fundamentals gave rise to the question of their correlation with land laws adopted earlier. The decree of the Presidium of the Supreme Soviet of the USSR of June 4, 1969, "On the Procedure for Implementing the Fundamentals of Land Legislation of the USSR and the Union Republics" determined that the existing enactments of land legislation of the USSR and the Union republics shall be in force inasmuch as they do not run counter to the Fundamentals. Thus, the Fundamentals are a legal enactment which possesses a higher legal force compared to other enactments of the USSR and the Union republics. If certain provisions of land legislation which have not been formally annulled are at variance with the Fundamentals, they thereby become virtually invalidated.

A decree of the Presidium of the Supreme Soviet of the USSR declared many legislative enactments of the USSR to

be null and void in order to avoid clashes of opinions on whether a particular normative enactment should remain valid after the promulgation of the Fundamentals, and to adjust the legislation adopted earlier. Republican normative enactments which were at variance with the Fundamentals and the Land Code of individual Union republic were also declared null and void in pertinent acts adopted in the Union republics.

The importance of the Fundamentals of Land Legislation as an act possessing a higher legal force compared to all other acts of land legislation is not confined to the fact that the existing land legislation must be brought in conformity with the Fundamentals. It also follows from the Fundamentals that new land law enactments must be elaborated both on the basis and in strict conformity with the Fundamentals. If for some reason a certain question has to be solved differently from the way established in the Fundamentals, then the Fundamentals must be amended or supplemented. The same procedure is established for ensuring conformity between the land codes of the Union republics and other enactments of republican land legislation. Other land law enactments both in the USSR and in the Union republics may exist separately in so far as the Fundamentals and the land codes make this legally possible. Several articles in the Fundamentals and republican codes offer this opportunity by referring to other enactments due to be adopted in pursuance of provisions contained in the Fundamentals or republican land codes. As a result, Soviet land legislation remains strictly systematic and the necessary unity is secured for governing land relations so that all land in the USSR may be used efficiently.

STATE OWNERSHIP  
OF LAND—THE BASIS  
OF SOVIET LAND SYSTEM

*The Concept of the Right of State Land Ownership.* Land relations in the USSR are based on state ownership of land which arose from nationalisation. Land, mineral resources, waters and forests were nationalised by the Decree on Land adopted by the Second All-Russia Congress of Soviets on the day after the victory of the Great October Socialist Revolution. Nationalisation meant that the right to own land, mineral resources, forests and waters passed into the hands of the Soviet state. The right of private ownership of these objects was abolished forever and the Soviet state became the sole owner of all land, minerals, forests and waters. This provision was further confirmed in the decree "On the Socialisation of Land", and then in the Constitution of the RSFSR adopted by the Fifth All-Russia Congress of Soviets on July 10, 1918, and in subsequent normative enactments, including the USSR Constitution of 1924, the present Constitution adopted in 1936 and in the Fundamentals of Land Legislation of the USSR and the Union republics. Article 3 of the Fundamentals stipulates that under the Constitution of the USSR, the land in the Union of Soviet Socialist Republics is state property, that is, it belongs to the whole people.

The establishment of the state ownership of land was not accompanied by the actual withdrawal of land plots from all landowners. According to the Decree on Land, land was to be confiscated only from landlords, members of the tsar's family and other exploiters. Nationalisation affected

working landowners only in that they ceased to be owners of land plots and became land users. Thus only legal grounds for the working landowners' possession of land plots underwent change.

Landed estates owned by landlords and other big landowners were subject to confiscation. In the initial years of Soviet power confiscation was regarded as a component of proletarian nationalisation; it was not a specific punitive act but extended to all bourgeoisie and landlords who concentrated certain types of property which had to be transferred to state ownership without compensation. The term "confiscation" above all stressed the withdrawal of property without compensation. In his report to the Third Party Congress Lenin urged the adoption of most revolutionary measures, even to the point of expropriating landed estates, and noted at the same time that "the narrower concept 'confiscation' should be used instead of expropriation, since we are emphatically opposed to compensation in any shape or form".<sup>1</sup>

Marx and Engels held that nationalisation (expropriation) could be accompanied by the remuneration of owners by buying out the means of production by the state. However, Engels wrote that "... when we are in possession of power we shall not even think of forcibly expropriating the small peasants (regardless of whether with or without compensation), as we shall have to do in the case of the big landowners".<sup>2</sup>

Thus, nationalisation of the basic means of production after the October Revolution was supplemented by confiscation, which served as a method of withdrawing certain types of property from circulation and their transfer to state ownership. The confiscation of land only affected big landowners, while nationalisation meant the transfer of all land, mineral resources, forests and waters into exclusive ownership by the state. Only the state, for example, could acquire

<sup>1</sup> V. I. Lenin, *Collected Works*, Vol. 8, p. 402.

<sup>2</sup> K. Marx and F. Engels, *Selected Works*, Vol. 3, Moscow, 1970, p. 470.

the right of ownership of a plot. The possession of land, minerals, waters and forests was only possible on the basis of their use. The right of land use became a special title of possessing natural resources which had passed into state ownership.

The nationalisation of natural resources gave rise to new social relations which were regulated by special normative acts. Moreover, the specific features of land, minerals, forests and waters as special objects of the right of state ownership, and the consequent specific nature of social relations arising from nationalisation, left its mark on legislation designed to regulate relations involved in the use of natural resources. The decrees "On Land" and "On the Socialisation of Land" largely regulated land relations. They were followed by the decree "On Forests" (May 27, 1918) and the decree "On the Mineral Resources of Land" adopted by the Council of People's Commissars on April 30, 1920, which regulated the use and disposal of forests and minerals, respectively.

State ownership of land and other natural resources was instrumental in ensuring the victory of socialism in the USSR. It created the optimal possibilities for the development of industry, transport and other branches of the economy and was a major precondition for the emergence of socialist farming and collectivisation of agriculture.

State ownership of land in the USSR is marked by the following features.

First of all, it is socialist by its socio-economic nature. This provision is established in Articles 5 and 6 of the Constitution of the USSR. The socialist nature of state land ownership is expressed above all in the fact that land in the USSR cannot be used for the exploitation of man by man. The preamble of the Fundamentals of Land Legislation points out that the land, which under private ownership served as an instrument for the exploitation of man by man, is now used in the USSR for developing the country's productive forces in the interests of the entire people. Soviet agriculture is dominated by socialist forms of organisation

of agricultural production—collective and state farms which rule out any exploitation of man by man and promote the development and consolidation of the spirit of collectivism and co-operation.

The state's right to own the land, its minerals, and forests and waters is exclusive, which means that land in the USSR can belong only to the state. No single person or organisation can be the owner of a land plot. Article 3 of the Fundamentals of Land Legislation stipulates that "land in the USSR shall be exclusively owned by the state and shall be allotted only for gainful use".

It follows from the exclusive right of state land ownership that there can be no ownerless land within the boundaries of the USSR. Of course, this country has some land which has not yet been put to economic use, but nobody can use it without the permission of competent state agencies. This land constitutes state reserve and its utilisation is decided upon by the pertinent state organs.

The exclusive state land ownership right also gives rise to the principle of non-alienability of land. Land is completely withdrawn from civil circulation. It cannot be an object of purchases and sales, gifts, bequest, and other civil transactions in so far as these transactions are at variance with the principle of land nationalisation. In accordance with Article 3 of the Fundamentals of Land Legislation actions which, explicitly or implicitly, violate the right of state land ownership are prohibited. Thus, under the state land ownership right it is impossible to obtain land on the basis of any civil transaction. A land plot can only be received by a decision of a competent state organ.

Land is a unique object of the law of property, because it is, along with minerals, forests and waters, a natural resource and not a product of human labour. Therefore, land has no value. Since in the USSR the land ownership right belongs exclusively to the state there is no need to establish the cost of land in terms of money. The record of land granted to enterprises, institutions and organisations is kept in natural terms.

*The Object of the State Land Ownership Law.* In so far as the state is the only owner of land all land within the Soviet territory constitutes the State Land Fund. Any land plot has only one owner: the Soviet socialist state.

The concept of the State Land Fund as an object of the law of state land property is intimately connected with the nationalisation of land which is given a juridical expression in the state land ownership right established in the Decree on Land. The material expression of nationalisation is the State Land Fund comprising all land in the Soviet state.

The unity of the State Land Fund is stipulated in the Decree on Land and several other normative acts, including Article 4 of the Fundamentals of Land Legislation of the USSR and the Union Republics. The unity of the land fund presupposes the common rules established by the state and referring to the utilisation of this fund. For instance, Article 11 of the Fundamentals of Land Legislation formulates the general rights and duties of land users no matter what land they use. Similarly, Article 13 establishes common rules for land protection. The provisions of the Fundamentals dealing with the state land cadastre, land management, land disputes and responsibilities for the violation of land use rules, play an important role in the system of legislative enactments ensuring the rational use of land.

It should be specially stressed that the new land law envisages Union and republican measures to improve land, combat erosion and increase soil fertility. The elaboration and implementation of these measures will undoubtedly place land improvement in the Soviet Union on a stable, planned state-legal basis, enhance the efficiency of capital investments in this important field of state endeavour, and ensure the rational use of improved land.

In establishing the general rules for the use of all land in the state, the Fundamentals of Land Legislation also proceed from the fact that the lands in the State Land Fund are not homogeneous, serve different economic purposes and are used in different ways. So Article 4 of the Fundamen-

tals of Land Legislation establishes that the land of the State Land Fund, in conformity with the basic purpose of land, shall consist of:

- 1) agricultural land granted for use to collective farms, state farms and other users for agricultural purposes;
- 2) land of populated localities (towns, townships and rural populated localities);
- 3) land of industry, transport, health resorts, preserves and other non-agricultural land;
- 4) state forests;
- 5) state waters;
- 6) state reserve land.

A legal regime is established for each land category. The State Land Fund's land is distributed by categories according to its main designation, the legal regime of one category differing from that of another. Apart from the principal designation of a particular category, there may be other, non-basic, subsidiary purposes. For instance, the land within the city limits belongs to the category of urban land, but it can also be partially used for the needs of agriculture or forestry. Differences in the legal regime of separate plots within the land of one category are also explained by the variety of subjects of land use law. Thus, agricultural land includes lands used by state farms and other state agricultural enterprises, land of collective farms, and land used by individual peasants. Naturally, the regime of land plots within one category differs depending on the subject of land use law.

*The Subject of the State Land Ownership Law.* According to Article 6 of the Constitution of the USSR and Article 3 of the Fundamentals of Land Legislation, land, its mineral wealth, waters and forests belong to the whole people. This means that the entire Soviet people is the subject of the ownership of the natural wealth which is appropriated, not in small doses by individual citizens, but by, and in the interest of, the whole socialist society, the entire people. The interests of society and the Soviet people are

represented by the socialist state which, as Engels put it, "really constitutes itself the representative of the whole of society".<sup>1</sup> The distinguishing features of the Soviet state as the subject of law are seen above all in the fact that it is both the bearer of state power and the bearer of the state ownership right. What is more, the Soviet state is built on federative principles. The Union republics incorporated in the USSR have their state independence and consequently possess the right of territorial supremacy. Hence, (1) the state does not exercise its legal powers as would an ordinary proprietor, and (2) land relations are regulated both by the USSR as a whole and by the Union republics.

It is common knowledge that any property is in the hands of some person or collective. In so far as land and other natural wealth belong to the whole people these objects are the property of the entire Soviet people. Soviet legislation does not therefore distribute the land ownership right between the USSR and the Union republics.

The right of state ownership is much wider than that of any other owner. The Soviet state, the sole owner of land, is not bound by any restrictions when it establishes the legal regime on this land. The state can change the land legal regime as a whole or for separate categories of land in the most expedient directions conforming to the Soviet people's interests.

The fact that the Soviet state is the exclusive owner of land is vital for ensuring its rational and comprehensive utilisation.

Being the sole land owner, the state possesses boundless possibilities for promoting the intensive use of particular land plots, locating the country's productive forces and establishing effective control over the rational use of land.

The state settles all these questions both as the owner and as a political sovereign. Hence the unique forms in which it exercises its exclusive right of land ownership. For instance, it issues normative and individual acts bearing on the utilisation of land. The land regime is established in the

<sup>1</sup> F. Engels, *Anti-Dühring*, Moscow, 1969, p. 333.

normative acts while specific actions in disposing land are expressed in numerous individual deeds. Needless to say, it is not only the all-Union organs which decide on questions concerning the exercise of the state's land ownership right.

Relations involved in the utilisation of land are regulated with an eye to ensuring the interests of Soviet society as a whole and providing for local needs of each Union republic. This refers to the proper delimitation of competence between the USSR and the Union republics in disposing of land and regulating land relations, which does not mean, of course, that the ownership rights are fragmented. The object is to ensure the most expedient use of natural resources both on a nation-wide scale and within each Union republic.

*The Content of the State Land Ownership Right* constitutes the owner's legal powers. Article 19 of the Fundamentals of Civil Legislation of the USSR and the Union Republics lays down that the owner shall have the powers of possession, use and disposal of property within the limits established by law. As already mentioned, the state's right to own land, minerals, forests and waters is unlimited. Yet no matter how broad the rights of the state-owner may be they are necessarily realised in certain definite legal forms and are changed or expanded also in conformity with the corresponding legal norms. There are legal norms which establish the legal regime of natural objects and define the legal forms and limits of their use and disposal. The state's unrestricted right to own land, minerals, forests and waters is expressed in the fact that it can extend these rights as far as it deems necessary.

We should also note that the owner's rights and power are exercised in the state by the appropriate organs whose activity and legal powers are regulated by the Constitution of the USSR and other normative acts. Even the powers of the highest organ of state power, the Supreme Soviet of the USSR, are defined by the Constitution of the USSR which also determines the procedure for amending the Constitu-

tion. In order to analyse the content of the state's land ownership right in the USSR we need to inquire into the legal norms which establish the powers of the state as the owner of land.

The initial legal power characterising the right of ownership is the right of possession which can be defined as the right of an actual (physical or economic) control of property. Naturally, the actual possession of a particular property, land in this case, makes it possible to exercise other rights, i.e., those of its use and disposal. Obviously, one cannot use the property if one has no economic or actual control over it. In regarding the right of land ownership as the state's legal power as owner we must stress that this right is exercised in a unique way. Since the subject of land ownership right is the Soviet people represented by the state the latter must be the actual possessor. The state exercises its ownership powers through its organs to which it passes land for utilisation and which give a concrete expression and content to the right to possess state property. For instance, if a land plot is allocated to a state agricultural enterprise state possession is merely assuming a specific form. The state enterprise which uses a certain part of the land of the State Land Fund represents the state as a whole.

Whenever land plots are granted to co-operative organisations and citizens both the latter, being land users, possess corresponding land plots until the state, which is the owner of all land, withdraws these plots for some other social or state needs. Similarly, the use of land is also implemented by the state in a unique way. By use we mean extracting the natural useful properties from land, in particular, incomes and other advantages. The use of land is carried out through various state enterprises and organisations whose property and produce belong to the state as the only owner of land. Land is exploited by state organs in the state interest. The state's legal power to use the land is embodied and manifested only in the activity of the appropriate state enterprises and organisations. The state does not use all the land because the state reserve land is excluded from

economic utilisation. Yet the state, being the owner, can begin to use any land area by virtue of its land use right.

A major legal power of the state as owner is its disposal of land. The common concept "disposal", by which we mean the possibility to determine the legal destiny of a thing, takes on a particular meaning when it is applied to land. First of all, land as an object of the exclusive state land ownership law is completely withdrawn from civil circulation and so cannot be an object of sales or purchases, mortgage, exchange or other civil transactions. True, separate land plots can be granted as concession to foreign states, but this is not the case at present.

All actions of the state concerning disposing of land are carried out without changing the subject of the land ownership right. The specific features of land as an object of ownership are also expressed in exercising its actual disposal. Land as a part of natural environment is an object that cannot be consumed.

Needless to say, unlike individual things, land cannot be actually destroyed. This makes it objectively possible for the state to establish specific forms of land disposal. The latter is carried out by the Soviet state which defines the designation of all lands, all parts of the State Land Fund. Given the planned, balanced economic development, the state tackles such tasks as the priority and intensity of developing particular land areas, etc.

In disposing of land the state grants land plots to enterprises, organisations and citizens. It also establishes terms for using the land plots, which promote the rational and comprehensive utilisation of land.

The re-allotment of land is among the most essential functions involved in the state's disposal of land. This is expressed in instances of land being withdrawn for state or social needs. Whenever the need for a land plot arises the state re-allots the land so as to ensure that land is withdrawn from users, under statutory conditions, for more important purposes than those for which it was granted before.

1. GENERAL

*Concept of the Right of Tenure.* According to Article 3 of the Fundamentals of Land Legislation, land in the USSR shall be exclusively owned by the state and shall be allotted only for gainful use. Therefore, all rights to the land granted to users are derived from the right of state ownership. Socialist organisations and citizens, however, are given broad rights to use land plots allotted to them, enabling them to act independently as autonomous subjects of law. The right of land use, as well as the right of state ownership of land, is a most important institution of Soviet land law.

The right of tenure is a special title of possessing land in the USSR, a special, independent right to land which differs radically from those arising from the lease of land plots. The main features of land tenure are its purposive character, stability and the fact that it is free of charge.

According to Soviet legislation, land must always be allotted for a definite purpose. Therefore, prior to allotting a land plot it is necessary to establish its purpose which must accord with the principle of the rational utilisation of land. According to Art. 10 of the Fundamentals of Land Legislation, resolutions or decisions on the allotment of land plots shall indicate the purpose for which they are allotted and the main conditions of tenure. The designation of a land plot granted by the state largely determines the scope of the

land users' rights and duties. Moreover, the pertinent resolutions or decisions usually indicate the main purpose of allotting the land plot. The land users can, in conformity with legislation now in force, also use their land plots for different, secondary purposes.

The purposive character of tenure enables the state to ensure the use of land in conformity with the economic plans. This is possible because the right of tenure can arise, as a rule, on the basis of the deed of allotment issued by the appropriate state agency. In some cases plots may also be granted by individual land users. Legislation defines the range of users who have the right to allot plots for subtenure, i.e., to other land users.

The right of tenure in the USSR is stable, which is indispensable for the rational use of land. For a land user to make capital investments in the land whose effects can only be long-term, he must be sure that he will use the land plot for a very long, if not unlimited, time. The stability of tenure is guaranteed above all by the fact that land in the USSR is granted more often than not for an unlimited (permanent) use. Article 9 of the Fundamentals of Land Legislation stipulates that the land occupied by collective farms shall be theirs for an unlimited time, that is, in perpetuity. A land plot can also be granted for temporary use. According to Article 9 of the Fundamentals of Land Legislation, temporary land tenure may be for a short term, up to three years, or a long term, from three to ten years. In case of a production need these terms can be prolonged to a period which does not exceed the short-term or long-term temporary use, respectively.

Republican legislation can establish a longer period of long-term use for certain types of land tenure, but not more than 25 years. Whenever land is granted for temporary use this is expressly stated in a resolution or decision on granting a plot.

Land tenure is also stable by virtue of the fact that the user can only be deprived of the right to a land plot in cases and on the grounds expressly provided for by law.

Land in the USSR is granted for free use. Prior to the Fundamentals of Land Legislation this principle was directly expressed only in relation to the collective-farm land, though it actually applied to other land tenures, too. In formalising this rule Article 8 of the Fundamentals states that collective farms, state farms and other government, co-operative and non-government enterprises, organisations and institutions and citizens of the USSR shall be allotted land for use free of charge. They only pay small taxes because they obtain income as a result of their production activities on the land.

*Subjects of the Right of Land Tenure.* There are two distinct forms of land tenure in the USSR: social and individual. Land tenure is based on the social form which most fully expresses the essence of the exclusive state ownership of land. State ownership is a kind of social ownership because land belongs to Soviet society as a whole. The social form of land tenure is represented by socialist organisations, and the individual form by individual citizens. According to Article 7 of the Fundamentals of Land Legislation, the land in the USSR shall be allotted for use to: collective farms, state farms, and other agricultural government, co-operative and non-government enterprises, organisations and institutions; industrial, transport and other non-agricultural government, co-operative and non-government enterprises, organisations and institutions; and citizens of the USSR.

Land may also be allotted to other organisations and persons in cases stipulated by the USSR legislation.

Thus all socialist organisations and citizens have the right to receive a land plot in the statutory manner and so become land users. For this purpose the appropriate organisation must have the rights of a juridical person, i.e., it must be formed organisationally, have an independent balance sheet, act in economic relations on its own behalf and bear independent property responsibility. Such organisations act on

the basis of their regulations or rules. Their subdivisions (shops, sections, etc.) cannot be subjects of land tenure.

Moreover, it should be borne in mind that not all socialist organisations which have the right of a juridical person are necessarily land users. They sometimes rent premises and simply do not need land plots. This is not the case, of course, with agricultural enterprises. For them land is the principal means of production, the basic productive force, and so they cannot carry out their activities without a land plot. An organisation becomes a land user as soon as it gets a land plot.

Citizens can also apply for permission to receive a land plot and so become land users. A plot is granted to a citizen for definite purposes established in law, e.g., for household farming, individual dwelling construction or vegetable gardening. The citizen's place of residence and labour activity are of some importance for acquiring a land plot. For instance, all workers and other employees of state farms can have a household plot while service land allotments can only be granted to separate categories of workers and employees in certain economic branches. A citizen can receive a land plot for individual construction only in a populated locality where such construction is permitted.

*Origin and Termination of Land Tenure Rights.* Land tenure rights arise and terminate on the basis of a decision on granting a land plot for use adopted by a pertinent organ within its jurisdiction. Acts of state agencies on granting land plots are a form in which the state's functions as disposer of land are carried out. These acts are a means whereby land plots are distributed and redistributed.

Decisions or resolutions passed by state agencies on granting land plots are implemented by land management agencies which define the boundaries of a land plot allotted in natural conditions (in the field). The land user is issued a document certifying his right to use a land plot.

Alongside decisions on granting land plots, which are

taken by state agencies in pursuance of their functions of disposing of land, legislation in force provides for the right of enterprises, institutions and organisations to allot land plots for subtenure. These enterprises and organisations are themselves primary users because they receive land directly from the state, while those who are granted land by primary users are called secondary land users. Article 12 of the Fundamentals of Land Legislation stipulates that collective farms, state farms and other enterprises, organisations and institutions may, in cases stipulated by law, allot their land for subtenure.

The procedure and terms of subtenure are determined by Articles 25, 27, 28, 41, 42 and 43 of the Fundamentals. These are the following cases: a) allotment of land of non-agricultural designation for temporary use to collective farms, state farms and other agricultural enterprises for agricultural production; b) granting by collective farms, state farms and other agricultural enterprises of household land plots to collective-farm households and workers and other employees; c) granting by enterprises and organisations of separate economic branches of service land allotments to their workers and employees; d) attachment of land plots allotted to enterprises for collective fruit or vegetable gardening, to the corresponding associations of workers and other employees. It should be noted that subtenure can occur only when it is expressly stipulated in law. The land user may not allot his plot for subtenure if he is not authorised by law to do so.

The right of land tenure can only be terminated on the grounds laid down in the law. In particular, Articles 14 and 15 of the Fundamentals of Land Legislation stipulate the grounds for terminating the right of land tenure by enterprises, organisations, institutions and citizens. Article 14 specifies that the right of enterprises, organisations and institutions to use the land allotted them shall be terminated either in full or in part in the following cases: the land plot no longer being in need; expiry of the term for which the plot was allotted; demise of an enterprise, organisation or institu-

tion; the need to withdraw the plot for other state or social needs; non-development of a given plot for two years in succession. The right of land tenure may also be terminated if the plot is used for something other than its allotted purpose.

No detailed legal regulation is required for terminating the land tenure right due to the land plot no longer being needed, expiry of the term for which the plot was allotted, or the demise of an enterprise, organisation or institution, because these are the simplest grounds.

There are few instances when the land tenure rights of socialist organisations are terminated owing to the non-development of a given plot for two years in succession or if the plot is used for something other than its allotted purpose for such a termination usually incurs the liquidation of socialist organisations concerned. This is not always profitable either for the state or for corresponding collectives of workers and other employees. Therefore, in these cases a disciplinary or administrative responsibility is applied to managers of enterprises or organisations owing to whose ill-management or abuse the land plot in question has not been developed or is used for the wrong purpose.

The need to withdraw the land for some state or social purpose is the commonest reason for terminating the land tenure right. This question will be specially dealt with in the next section of this chapter.

*The Rights and Duties of Land Users* are mostly dependent on the specific aim for which the state grants a plot. This aim is formulated in decisions on allotting a land plot to a land user. This is not to say, of course, that the most general rights and duties are established for all land users, regardless of the specific designation of land plots. A number of rights and duties are formulated in respect to land users who are allotted certain categories of land from the State Land Fund. For instance, Article 23 of the Fundamentals of Land Legislation defines the duties of land users in utilising agricultural land and specifies their rights

and duties in relation to concrete types and purposes of land tenure. Moreover, alongside the basic designation the land user can also use his plot for different by-purposes which are not prohibited by law.

A distinguishing feature of the land users' rights and duties is that they may stem from a ban rather than be expressly formulated in law. For instance, Article 11 of the Fundamentals of Land Legislation prohibits the use of land for obtaining unearned income. Another feature of the user's rights and duties is that he is sometimes obliged to realise the right granted him. For instance, legislation expressly states that the land user both can and must use the land plot for the purposes for which it was allotted and may not leave his plot unused.

The most general rights of land users are formulated in Article 11 of the Fundamentals of Land Legislation, which stipulates among other things that depending on the specific purpose of each land plot granted for use, land users have the right, in conformity with the statutory procedure, to: erect dwelling houses, production, cultural, service and other buildings and structures; sow agricultural crops and plant forests, and fruit, decorative and other trees and shrubs; use meadows, pastures and other farm land.

The nature of buildings and structures and the procedure for their erection depend on the specific aims and on the subject of the tenure right. The buildings and structures erected by the land user in the statutory manner and also crops, plants and investments in the land belong to him, i.e., they are his own property. These types of property are disposed of in a specific way owing to their close connection with the land which is owned exclusively by the state. For instance, the land user is free to sell his structures to be subsequently torn down, but he can only buy the structure on the plot provided the latter has been allotted him. However, in towns the transfer of the ownership right of a building involves the transfer of the right to use the land plot concerned. Similarly, the land user

can sell the harvest grown and reaped on his land plot but he cannot sell the crops in the field since that would mean ceding the right to use the land. If the land user has his plot withdrawn from him he has the right to recover the cost of buildings, structures, crops and plants demolished and the outlays invested in the land but not yet realised.

All land users can use water sources on their plots for drinking and household needs and build simple structures (wells, etc.) for utilising underground water. They can also use the forests growing on their plots.

No special permission is required for the land users to mine common minerals (e.g., sand, clay or gravel) on their plots to satisfy their own needs. The list of such minerals is given in legislation. The only restriction is that these minerals are to be mined by open-cast methods, without using explosives. Land users are also allowed to mine peat as fuel and fertiliser.

In enumerating the land users' rights, Article 11 of the Fundamentals of Land Legislation points out that the latter can also exploit other useful properties of the land. Thus, the list of the land users' rights is not exclusive. Land users may exploit land by various permissible means. The Fundamentals of Land Legislation guarantee the protection of the land users' lawful rights and interests, establishing in Article 11 that any land users' rights which are infringed upon shall be restored.

Legislation obliges land users to fulfil a number of duties. First of all, they must use the land for the purposes for which it was allotted and are forbidden to transfer plots to other persons except in cases where subtenure is allowed.

As Article 11 of the Fundamentals has it, land users are obliged to utilise their land plots rationally. For these purposes, according to Article 13, it shall be the land users' duty to carry out effective measures for improving soil fertility, to apply organisational, economic and farming methods, carry on forest improvement and hydro-engineering measures to prevent wind and water erosion of the soil, to protect the

soil from becoming salinated, bogged, polluted or overgrown with weeds and also to prevent other processes which adversely affect the soil.

It is specially stressed that industrial and building enterprises, organisations and institutions are duty-bound to prevent agricultural and other land from being polluted by production and other waste and by sewage.

Land users are obliged, on their plots, to refrain from actions violating the interests of other users, and several special duties are assigned to certain categories of users for protecting agricultural tenure. According to Article 11 of the Fundamentals of Land Legislation, enterprises, organisations and institutions which work mineral deposits by open-cast or underground methods, engage in geological prospecting, building or other work on agricultural or forest land granted them for temporary use shall be duty-bound, at their own expense, to put these plots in a condition rendering them suitable for agriculture, forestry or fishery. The land shall be put in a suitable condition in the course of the work and where this is impossible not later than one year after the work has been completed.

Moreover, Article 11 stipulates that enterprises, organisations and institutions engaged in industrial or other construction, in working mineral deposits by the open-cast method and in other work involving soil disturbance are bound first to remove and retain the fertile layer of soil in order to utilise it for the recultivation of land and for improving the fertility of inferior land.

In a number of cases provided for by law the land users' rights can be restricted in the interests of the state or society and also in the interests of neighbouring land users. For instance, according to Article 17 of the Fundamentals of Land Legislation, enterprises, organisations and institutions engaged in geological survey, prospecting, geodesic and other surveying may conduct their work on all lands, in the manner laid down by the legislation of the USSR and the Union republics, without the withdrawal of the plots from land users. The place and the periods for starting this

work shall be agreed with land users and where agreement is not reached shall be determined by the Executive Committees of district or city Soviets of Working People's Deputies.

To protect the land users' rights, the law obliges these organisations to put the plots they occupy in a condition rendering them suitable for their designated use. The plots must be put in a suitable condition in the course of the work done and, where this is impossible, not later than within a month after the work has been completed, except the period when the soil freezes over. Naturally, all losses incurred to land users are compensated.

Finally, near some types of non-agricultural land, land tenure rights are subject to special restrictions, which will be dealt with below in the description of the legal situation of the land of industry and transport, health resorts, preserves and other non-agricultural land.

## 2. GRANTING OF LAND PLOTS FOR USE AND THE PROCEDURE FOR WITHDRAWING LAND PLOTS FROM LAND USERS

*General.* The land tenure right comes into existence when a land plot is granted for use. According to Article 10 of the Fundamentals of Land Legislation, a land plot is granted for use as an allotment on the basis of a decision of a competent state agency. The allotment of a plot is formalised in the course of land management work which fixes the plot's exact boundaries in the field.

Plots are allotted both from state reserve land and from land held by separate persons or organisations. In the latter case the allotment of a plot is preceded by its withdrawal from the former land user.

Withdrawal is effected in the administrative manner, i.e., the decision to withdraw the land does not depend on

the land user's consent, as a rule, and is carried out without compensation. This is explained by the fact that land in the USSR has no cost in terms of money and that the land user is not the owner of his plot.

If the land user uses the land allotted him for the purposes for which it was granted and does not violate the land tenure rules he can be deprived of the right to use his plot only in cases provided for by law. One of these is the withdrawal of land for state or social needs stemming from approved economic development plans, plans for capital construction, reconstruction, etc.

Special resolutions are adopted by the USSR Council of Ministers or Councils of Ministers of the Union republics concerning major construction projects. The construction of all projects is included in the capital construction plan (long-term and annual) and is itemised in the title list, i.e., the specific enumeration of construction projects planned. The title list also indicates the place of construction, its balance-sheet cost, terms, etc.

Land plots can be withdrawn not only for industrial construction but also for building irrigation systems, reservoirs, etc., to promote the development of agriculture, and for other state or social needs.

For instance, in conformity with the law of October 27, 1960, "On the Conservation of Nature in the RSFSR",<sup>1</sup> the territory of state preserves shall be withdrawn in perpetuity from economic use for research and cultural and education purposes. A similar procedure governs the withdrawal of land for state needs.

At present land plots are allotted for state or social needs, both with and without their preliminary withdrawal, from land users, by resolutions of the Councils of Ministers of the Union republics, of regional Executive Committees and, to some extent, of district Executive Committees. Territorial Executive Committees and Councils of Ministers of

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<sup>1</sup> *Gazette of the Supreme Soviet of the RSFSR*, № 40, 1960, p. 586.

autonomous republics possess the same rights as the regional Executive Committees in allotting land.

The Council of Ministers of a Union republic can decide to withdraw land plots of any size from the land of any user. The competence of the Councils of Ministers of autonomous republics and Executive Committees of regional (territorial) Soviets of Working People's Deputies varies according to whom the land is being withdrawn from and for what needs.

For instance, according to Article 16 of the Fundamentals of Land Legislation, withdrawal of irrigated and reclaimed land, arable land and plots with perennial fruit plants and vineyards for non-agricultural purposes and also of land occupied by water conservation forests, shelter belts and other first-group forests for purposes not connected with forestry management, shall be made in exceptional cases and then only by resolution of the Council of Ministers of a Union republic.

Apart from these types of land, regional Executive Committees of Soviets of Working People's Deputies can decide to withdraw land plots from the land of collective farms, state farms and also from forest land. According to Article 13 of the Land Code of the RSFSR, regional Executive Committees can decide to withdraw plots from the collective farm land of up to 25 hectares for each designated project, and can withdraw plots of up to 50 hectares from the land of other users, such as state farms, industrial enterprises, and other organisations. In pursuance of the regional Committee decision, plots of up to 25 or up to 50 hectares can be withdrawn from the land of state forests, depending on the percentage of forest in a particular region.

There are cases when legislation establishes rates of allotting land for particular types of construction: rail- and motor-roads, pipelines, electric transmission and communication lines, etc. Normative acts establish the rate of allotment (e.g., the width of strips along linear installation), but the area of the plot allotted is not limited. In such cases the regional Executive Committee can decide to with-

draw land plots for these purposes in conformity with the actual requirements of the organisation concerned.

Regional Executive Committees enjoy the right to allot land plots from state reserve land for state, social and other needs, regardless of the size of plots allotted. Moreover, regional Executive Committees can allow institutions and organisations engaged in geological prospecting, topographical and other surveying to occupy, for up to one year, in conformity with approved plans of surveying work, land plots of state reserve land, state forests, collective-farm and state-farm land, and also plots of enterprises, institutions and organisations of republican or Union subordination, and grant them the right to cut clearings on plots overgrown with forest. Regional Executive Committees can also allot surplus land of collective, state and subsidiary farms for vegetable gardens to be used by workers and other employees for a term of up to one year. Legislation does not limit the size of plots allotted for these purposes and it is defined each time in conformity with requirements of the agencies concerned.

In the RSFSR and most other Union republics district Executive Committees have no right to withdraw land plots from any users for state or social needs. According to Article 13 of the Land Code of the RSFSR, district Executive Committees can allot plots from the state reserve land for state, social and other needs, provided the size of the plot allotted does not exceed 10 hectares.

*Procedure for Withdrawing Agricultural Land.* Soviet land legislation proceeds from the assumption that the interests of agriculture above all should be taken into account in deciding on the distribution and redistribution of land. Article 10 of the Fundamentals of Land Legislation formulates the general principle of land distribution and establishes in particular that non-agricultural land, land unsuitable for agriculture, or agricultural land of inferior quality shall be allotted for the building of indus-

trial enterprises, houses, railways and motor-roads, electric transmission lines, trunk pipelines and for other non-agricultural purposes. It also stipulates that electric transmission lines shall be built chiefly along roads, thoroughfares, and so on.

It is generally accepted that any land can be used for farming purposes and the State Land Fund is regarded therefore as a vast reserve for agricultural production. According to legislation now in force, each instance of the withdrawal of land must be justified in minute detail. Agricultural land actually being used for agricultural purposes can only be withdrawn in exceptional cases.

The Fundamentals of Land Legislation passed the withdrawal of the most valuable land (arable, irrigated, drained and other land) to the jurisdiction of the republican governments and formulated several new and fundamental provisions on the withdrawal of land. Prior to the implementation of the Fundamentals, preparatory work (designing of projects, etc.) was often carried out without the knowledge of those users whose land was slated for construction. The question of the withdrawal of plots was raised when it was no longer possible to refuse to allocate a particular plot because large sums had been spent on designing and other preparatory work. In this connection, Article 16 of the Fundamentals of Land Legislation stipulates that enterprises, organisations and institutions interested in the withdrawal of plots for non-agricultural purposes shall be bound, prior to designing work, to agree in advance with the land users and agencies exercising state control over the land use on the site of a project and the approximate area slated for withdrawal. This provision makes it possible to take into account the land users' interests before the question of withdrawing a land plot is raised.

*Granting Land Plots for Use.* The procedure for submitting and examining applications for the land allotment is regulated by the republican legislation. In the RSFSR the pertinent provisions are laid down in the Regu-

lations approved by the resolution of the RSFSR Council of Ministers of March 22, 1974.<sup>1</sup>

Enterprises, organisations and institutions concerned with the withdrawal of land plots file an application to the Council of Ministers of an autonomous republic, territorial or regional Executive Committee (where the requested plot is located). The application indicates the plot's approximate area and the project's location, and contains references to the decision made by the Government or the competent agency on the construction of the project or the mining of natural resources in the region concerned. In the latter case the resolution of state mining technical supervision agencies and a copy of mining allotment act or an excerpt from it are appended.

The Council of Ministers of the autonomous republic, territorial or regional Executive Committee examines this application within five days and decides to carry out preliminary survey necessary to define the project's location and the choice of the land plot in question.

Material concerning the preliminary approval of the project's location is prepared by the customer with the participation of the corresponding project organisation, the chief (senior) land management engineer of the district Executive Committee's agricultural department, who is simultaneously the state district inspector engaged in the use and protection of land, and the managers of the relevant forestry enterprises. On irrigated, drained and arable land and land under perennial fruit crops and vineyards, the project's location (provided it requires more than five hectares) is chosen with the participation of representatives of the land management design institute.

In selecting the project's location account is taken of the soil type, technical and agricultural surveys, evaluation of the soil and the requirements involved in the rational use of land. For this purpose the possibility is examined and tested for granting a plot from state reserve land and non-

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<sup>1</sup> *Collection of Resolutions of the RSFSR*, No. 10, 1974, Item 47.

agricultural land, land unsuitable for agriculture or low-productive agricultural land, and also areas not overgrown with forest or under shrubs or plantations of low value. Moreover, account is taken of the need to maximally preserve valuable productive land and forests and existing territorial organisation, combat erosion and water-logging of land, prevent shortcomings in the land tenure of farms which have their land withdrawn from them, and to use capital investments spent on improving the land in the most rational and expedient way for the construction of an irrigation (drainage) network, etc. Material on the selection of a plot must be appended by a certificate of a pertinent territorial geological department on the absence of minerals on the plot in question and, if there are some, by the permission of state mining technical supervision agencies to carry out construction on the plot, and, moreover, by a copy of the minutes of a general meeting (meeting of representatives) of the collective farm stating its consent to the withdrawal of the plot and indicating its approximate size.

Land plots are chosen in several variants, with each variant defining the total area and boundaries on a copy of the corresponding land tenure plan, and indicating the types of land in the plot. The plan must also outline the land to be developed or improved instead of the agricultural land withdrawn. The optimal variant is selected from several variants concerning the object's location. This variant provides for a minimal withdrawal of valuable agricultural land and of water-conserving, protecting and other first-group forests. The land tenure plan is signed by the chief (senior) land management engineer, managers of collective farms, state farms, forestries and other enterprises, and representatives of the enterprise, organisation or institution concerned with the withdrawal of the plot.

Chief state inspectors engaged in the use and protection of land in autonomous republics, territories and regions, and Forestry Ministries of autonomous republics and territorial and regional forestry departments (if construction is to be carried out on the state forest land) give their resolutions

concerning material on the approval of the project's location and the approximate size of land to be withdrawn. These materials and resolutions are submitted for consideration to the Council of Ministers of the autonomous republic, or territorial or regional Executive Committee which decide on the matter within 15 days.

When irrigated, drained or arable land or land under perennial fruit plantations and vineyards with a total area of more than five hectares or land under the first-group forests with an area more than 50 hectares is to be withdrawn for the projects to be constructed, then the decision of the Council of Ministers of an autonomous republic, or the territorial or regional Executive Committee on the approval of the project's location and the approximate size of the area slated for withdrawal is forwarded, together with all the pertinent materials, to the Council of Ministers of the Union republic. If a plot of one of the above-mentioned type is required for a project subordinated to Union ministries or departments, these ministries and departments submit materials concerning the preliminary approval of the project's location, regardless of the area of the plot slated for withdrawal, together with the assignment for the project's design, for the examination of the republican Council of Ministers.

A somewhat different procedure governs the preliminary approval of the location of linear structures and the land plots slated for withdrawal for these purposes. Enterprises, organisations and institutions concerned with the allotment of land plots for constructing irrigation and drainage canals, railways and motor-roads, electric transmission and communication lines and other linear installations, submit appropriate applications to the Council of Ministers of an autonomous republic, a territorial or regional Executive Committee, which within five days adopt a decision on conducting work to choose land plots, including preliminary survey.

When design assignments are worked out, the customer, together with the design organisation, comes to an agreement

with the land users and chief state inspectors (and also state district inspectors) engaged in the use and protection of land in autonomous republics, territories, regions, and with the Forestry Ministries and forestry enterprises (if construction is to be carried out on state forest land), on the optimal variants of the direction of the linear installation and location of ancillary objects, and also the acreage necessary for the construction of the installation. The boundaries of different types of land and crop rotation fields, as well as directions of linear installations and land plots slated for the location of ancillary objects are indicated in the land use plan or draft. When these documents and information concerning the land users' agreement on the withdrawal of land plots are available, the Council of Ministers of the autonomous republic, territorial or regional Executive Committee within ten days adopts a decision on the installation's location and the approximate size of the area to be withdrawn.

The design and survey work can be started provided there is a preliminary approval of the project's location and the approximate area to be withdrawn, the decision being adopted by the Council of Ministers of a Union republic, the Council of Ministers of an autonomous republic, territorial or regional Executive Committee, respectively. The decision is valid for three years. The term can be prolonged by the agency which decides on the project's location.

The projects' designs having been approved in the statutory manner and the necessary resources having been allocated, the organisations and institutions concerned request that land plots be granted them for locating these projects. The application on allotting a land plot is submitted to the district or town Executive Committee where the requested land is located. The application gives the official name of the enterprise, institution or organisation concerned and the purpose of the plot and indicates the agency which has approved the construction design, the building organisation which will carry out construction, the size of the land plot and the area of the forest to be felled.

A land management scheme is drawn up to keep a state land inventory and establish control over the use of land, whenever the question is raised of allotting land plots. Land management schemes concerning the allotment of land plots are prepared and formalised by:

chief (senior) land management engineers of the district Executive Committees' agricultural departments, or by pertinent bodies of the land management design institutes under the Ministry of Agriculture of a Union republic, when plots are allotted from agricultural land, land of industry, transport, health resorts, preserves and other non-agricultural land, state forests, state waters and state reserve land;

chief city architects or district architects when plots are allotted from the land of cities, towns, townships, health resorts or summer cottage settlements, and by workers of village Soviets, with the participation of a district architect, when plots are allotted from the land of rural populated localities not included in the land of collective farms, state farms and other state agricultural enterprises;

chief (senior) land management engineers at the district Executive Committees' agricultural departments or the land management design institute when an application is made on granting a land plot simultaneously from agricultural land, state forests, populated localities and other land.

A land management scheme is drawn up for allotting a plot for the project as a whole, regardless of the number of land users from whose land the plot in question is withdrawn. In particular, the scheme must contain the following documents and materials: application by the enterprise, organisation or institution concerned for a land plot; material on the preliminary agreement as to the project's location; appropriate documents (usually a certificate of the superior organisation) on the financing of the construction; a copy of the general plan for locating all the construction units on the plot requested, indicating their order of priorities by years; and the plan of the collective farm, state farm or other land users from whose land the plot is to be withdrawn, indicating the boundaries of the types of land.

When there is a need to allot more land for existing projects, the land management scheme includes a detailed survey of the lands granted earlier and a check on their utilisation according to their exact designation, and the work on the recultivation of the land already in use. Additional land is allotted for mining minerals by the open-cast method and the extraction of peat usually after the previously allotted plots have been put into a condition suitable for their economic exploitation and returned to their former users.

The documents and materials constituting the land management scheme are a prerequisite for the rational withdrawal and granting of each land plot.

District or town Executive Committees examine the material on granting a land plot within two days and submit the land management scheme, complete with the relevant materials and their own suggestions, to the approval of the Council of Ministers of an autonomous republic, territorial or regional Executive Committee.

Within a fortnight these organs examine the land management schemes and the relevant materials and adopt a decision on granting land plots. When the land of collective farms, state farms and other state agricultural enterprises is withdrawn for non-agricultural purposes the Councils of Ministers of autonomous republics, territorial or regional Executive Committees establish the terms and locations of developing new lands in exchange for the agricultural land withdrawn, or improving the existing farm land if there is no fresh land to be developed, and ensure the elaboration of the requisite design and estimate documentation in the statutory manner.

If the final say on granting a land plot falls within the competence of the Council of Ministers of the Union republic, then the Council of Ministers of the autonomous republic, the territorial or regional Executive Committee sends the land management scheme, complete with its own decision, to the relevant ministries and departments of the Union republic which give their resolution on the matter.

The resolution is given by the Ministry of Agriculture

when withdrawal concerns agricultural land or when agricultural land, state forests and other land categories are simultaneously withdrawn for one project. If the plot is withdrawn from the land of farms subordinated to the Ministry of State Farms the resolution on the relevant materials is given by that ministry together with the Ministry of Agriculture.

When land plots are withdrawn from the state forests land these materials are sent to the Ministry of Forestry and when plots are withdrawn in health resort localities and in places of rest and leisure the resolution is given by the Ministry of Agriculture together with the republican Committee for Construction. The latter organ decides on materials submitted to it when there is a need to withdraw land plots for building sanatoria, health resorts and tourist health-building establishments in the populated localities of resorts and rest zones established by a decision of the republican Council of Ministers.

When land is redistributed among collective farms, state farms and other state agricultural enterprises, the external land management project, having been examined by the district Executive Committee, is forwarded to the Ministry of Agriculture of an autonomous republic, to the agricultural department of a regional or territorial Executive Committee complete with the following documents: applications of the land users concerned; minutes of the general meetings of collective farmers (meetings of authorised representatives) or resolutions of other land users on the possibilities and conditions of the redistribution of land; detailed description of farm land affected by redistribution and transference; plans (drafts) of the tenures of farms affected by the redistribution, indicating the relevant plots; maps of land plots being transferred, indicating type of land and crop-rotation fields; certificates on the farms' main economic indices and the cost of buildings and structures being transferred; resolutions of the district Executive Committees' agricultural departments; and decisions of district Executive Committees on the redistribution of the land.

Within ten days, the Ministry of Agriculture of an autonomous republic, the agricultural department of a territorial or regional Executive Committee together with production associations or state farm trusts, examine materials pertaining to the redistribution of the land and submit them, along with their decision, to the Council of Ministers of the autonomous republic, the territorial or regional Executive Committee which adopts a decision on the matter.

Whenever land plots are granted for permanent use according to a decision of the town or district Executive Committee, enterprises, organisations and institutions concerned with receiving land plots file an application to the town or district Executive Committee concerned (where the land plot is situated) in which they substantiate their need for a plot and specify its size. A land management scheme is drawn up in the statutory manner. The scheme must contain the same documents and materials as in the case of a decision on granting a land plot taken by the Council of Ministers of a Union republic or Councils of Ministers of autonomous republics, territorial or regional Executive Committees.

Citizens submit applications for plots on which to construct individual dwelling houses which become their personal property in law to the town or district Executive Committee which then decides on the matter within a fortnight.

When land plots are requested to be allotted from the land of rural populated localities which is not included in the land tenure of collective farms, state farms and other agricultural enterprises, and from the land of settlements, applications are filed to the Executive Committee of village and township Soviets of Working People's Deputies. The application is appended by a plan of the relevant part of the populated locality and the land plot requested.

Executive Committees of village and township Soviets of Working People's Deputies examine these applications within ten days and adopt appropriate decisions.

*Legal Formalisation of the Allotment of Land.* Legal relations involved in the allotment of a land

plot do not end in the adoption of a decision granting the request. According to Article 10 of the Fundamentals of Land Legislation, it is prohibited to use a given land plot prior to fixing its boundaries in the natural conditions (in the field) by the respective land management agencies and issuing a land title deed.

This provision is quite logical: in deciding to grant a land plot a state agency only has a plan (map) delineating the plot to be allocated; the agency does not allot a plot in natural conditions.

When the map's data are transferred to natural conditions (in the field), discrepancies may arise due to the specific terrain or the need to consider the neighbouring land users' interests. There are instances when land users start to use the plot before its boundaries have been defined in the field. They bring building materials, prepare the site for construction, etc., only to find out that the site put aside for construction is outside the plot allotted them. This entails unnecessary disputes and unproductive expenses concerned with clearing the unlawfully occupied area.

Since the plot's exact boundaries are not defined until the decision has been taken to grant it, the organ granting the plot normally obliges the requesting organisation to delineate the plot in natural conditions through the land management bodies.

The relevant agency's decision to grant a plot is the basis for allotting it. If the plot is allotted from a user's land then the decision to grant the plot is simultaneously the ground for withdrawing it from the former user.

The land plot is individualised, i.e., its boundaries are defined in the field, in the course of land management work. The work having been completed, the new user is issued a deed of allotment to use the land. This deed constitutes permission for the organisation concerned to exercise the right of tenure.

All actions bearing on the land management work and issue of the deed of allotment make up the process of forma-

lising the allocation of a land plot, which is carried out as a rule by regional land management expeditions (teams) subordinate to the republican land management design institute and the regional department of agriculture.

The institute and its agencies in localities carry out external land management work bearing on the allotment of land for state, social and other needs, transfer in natural conditions of land management projects approved in the statutory manner and issue the land users with appropriate documents, working drawings, descriptions of the soil, maps and cartograms.

In conformity with the established procedure for the drawing up and issuing the land title deed to land users (except collective farms), the land management expedition defines in natural conditions the precise size and boundaries of the plot allotted and sets boundary and other marks (stones, burrows, etc.). Then it prepares the land title deed to use the land. It also fills in and keeps standard forms of these deeds, while the district Executive Committee approves the land management project and issues the land title deed. So the land management expedition submits the relevant documents, in particular, the filled-in form of the land title deed for the approval of the district Executive Committee. The land title deeds are issued for tenures located in several administrative regions (the land of rail and motor transport, etc.) within each administrative region. The land title deeds are subject to registration. State land inventory and registration of tenures according to a single all-Union system are carried out by senior land managers who are at present subordinate to the regional departments of agriculture. This is the final stage of legal relations concerning the allotment of a land plot. Having received a land title deed, the organisation concerned acquires the rights and duties of a land user.

Matters are somewhat different in the formalisation of the land allotment for urban construction. All work bearing on the allocation of land plots in cities, handing over architectural and lay-out assignments and the boundaries

of areas slated for construction, is carried out by the Chief Town Architect's Board. In small towns these functions are fulfilled by departments of communal economy under the town Executive Committees.

The departments hand over to builders who have received land plots within city limits, standard land title deeds for permanent use of the plot. The deed is a document certifying the right of the relevant organisation or institution to use a land plot.

### 3. COMPENSATION OF LAND USERS FOR LOSSES INCURRED BY WITHDRAWAL OF LAND FOR STATE OR SOCIAL NEEDS

*Concept of Losses Incurred by Withdrawal of Land.* A number of legal consequences arise from the withdrawal of land to be allotted for state or social needs.

We have noted that plots are withdrawn from land users without compensation. But this does not mean that the land user loses all material benefits accruing from the land plot withdrawn.

The land plot may contain lawfully erected buildings and installations and also crops and plantations. Moreover, the user makes investments in his land, which may remain unutilised by the date when his plot is withdrawn.

So the withdrawal of a land plot may be accompanied by the alienation of property owned by the land user. His right to own crops, plantations, buildings and installations gives rise to the right to be compensated for the cost of these objects when his plot is withdrawn from him.

According to Article 18 of the Fundamentals of Land Legislation, losses inflicted on land users by withdrawing plots for state or social needs or by temporary occupation of plots shall be compensated.

Legislation in force includes in the losses the cost of alienated buildings, structures, crops and plantations or the cost of their transfer and installation in a new place; unused outlays involved in the cultivation, fertilisation, irrigation and draining of the plot withdrawn; expenditure on the restoration of the property left after the withdrawal of land, etc.

For the sake of convenience we shall divide the compensation for losses to the land user into two parts: compensation for losses of the buildings and structures demolished from the plot withdrawn, and compensation for other losses.

*Compensation for the Cost of Demolished Buildings and Structures* varies according to whether land plots are withdrawn from socialist organisations or from citizens. When condemned buildings and structures belong to citizens' personal property and are demolished in connection with the withdrawal of land plots for state or social needs in towns, townships and other populated localities, these citizens are reimbursed the cost of buildings and structures demolished (houses, sheds, cellars, wells, etc.) or, if they so wish, they and their families are given flats according to the established norms and without compensation for the cost of buildings and structures demolished.

To estimate the cost of buildings, installations, fruit and berry plants and crops, Executive Committees of city or district Soviets of Working People's Deputies form commissions consisting of a member of the Executive Committee of the city or district Soviet of Working People's Deputies (chairman), representatives of the communal economy and finance departments of the Executive Committee, representatives of the enterprise, organisation or institution to which land plots are allotted, and other organisations chosen on the Soviet's discretion. The commission decides on these questions with the participation of citizens who own condemned

structures. The commission's decision is approved by the appropriate Executive Committee of the city or district Soviet of Working People's Deputies.

The cost of buildings is estimated with due account for their depreciation and according to the norms approved by the Councils of Ministers of Union republics or, on their assignment, by the Councils of Ministers of autonomous republics, territorial or regional Executive Committees. Estimate norms are calculated on the basis of wholesale prices of building materials in the given locality, tariffs for their transportation and wage rates of workers engaged in construction.

If citizens so wish, their dwelling houses and structures condemned due to the withdrawal of land plots for state or social needs may be transferred and restored in a new place (within a given locality and on land plots allotted according to the statutory norms) at the expense of the organisations which are granted the plot. When a land plot is allotted to a house-building co-operative, expenses involved in the transfer and restoration of these houses are paid by Executive Committees of the Soviets of Working People's Deputies. In each particular case the Executive Committee of a district (city, township) Soviet, together with organisations concerned, defines the possibility of transferring houses and structures, taking account of their technical condition. When the house (structure) is being restored, additional repairs may be carried out at the expense of the house-owner and on an agreement with the relevant organisation.

New objects are built with an eye to keeping their construction costs to a minimum and preserving the existing housing fund. It is expedient to transfer structures when it is cheaper than reimbursing their cost. Moreover, according to Article 92 of the Civil Code of the RSFSR, the owner can dispose of a house which is his personal property located on the land plot allotted for state or social needs. Should a dispute arise on the recognition of the invalidity of the contract on the purchase or sale of this house after the plot

has been allotted, the house can only be alienated to that organisation which is granted the plot in question, except cases when the house is sold for demolition.<sup>1</sup>

When his land plot is withdrawn the citizen is free to choose between recovery of the cost of structures and installations or receiving a flat according to the established norms and without being compensated for the cost of the structures and installations demolished.

Legislation stipulates that the dwelling space of the flats granted should not be less than the republican housing norms per person. Article 316 of the Civil Code of the RSFSR establishes a housing norm of nine square metres per person (in the Ukrainian SSR—12 sq. m.). Extra housing norms are established for some categories of people.

Thus, if the house-owner and his family used dwelling space of more than nine square metres per person or less they must be granted a dwelling of not less than nine square metres per person and with due account for the right of some members to extra space (if any are entitled to it). Moreover, legislation establishes that when citizens express their wish to receive flats instead of houses which are their own according to the right in personal property and which are to be demolished due to the land plot's allotment for state or social needs, they must be given flats only in well-appointed houses of the state housing fund. According to the law, the owner of a condemned house must be given a separate flat with all conveniences and not just dwelling space of a similar size.

The owners of condemned houses may also acquire flats through house-building co-operatives. If citizens who have received compensation for their condemned houses wish to join a house-building co-operative the Executive Committee of the Soviet of Working People's Deputies offers them a

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<sup>1</sup> See resolution of the Plenary Session of the Supreme Court of the RSFSR of March 22, 1966, "On Some Problems That Arise in the Practice of the Courts When the Civil Code Norms Regulating Relations of Personal Ownership of a House Are Applied" (*Bulletin of the Supreme Court of the RSFSR*, No. 6, 1966, p. 4).

possibility of a speedy entry into a local co-operative to obtain a dwelling.

Legislation also regulates the disposal of materials obtained from demolished houses. It establishes that citizens who owned structures and installations according to the right in personal property (houses, sheds, etc.), may use the above-mentioned materials at their own discretion, regardless of whether they have been compensated for the cost of structures and installations demolished or given flats in houses of the state housing fund.

It should also be stressed that according to a relevant legal provision dwelling houses belonging to citizens as their own personal property can be demolished on the land plot's withdrawal for state or social needs only with the permission of regional Executive Committees, city Executive Committees in cities of republican subordination, and Councils of Ministers of Union and autonomous republics. It is recommended that these organs should not allow for an unjustified demolition of dwelling houses when new construction is underway.

If the owners of condemned houses and members of their families wish to receive new flats they receive them regardless of the period they have lived in the house concerned.

A special procedure is established for evicting lessees from condemned houses which are the personal property of other citizens, and also from houses of local Soviets of Working People's Deputies and departmental houses. Article 382 of the Civil Code of the RSFSR (and the corresponding articles of other republican civil codes) stipulates that if the house containing a dwelling space granted according to the lease contract is to be demolished due to the land plot's withdrawal for state or social needs, the lease contract is rescinded and the lessee and his family are given another dwelling space regardless of the time he has resided in the house. If he lives in the house owned by another citizen he must reside there not less than a year in order to be entitled to a new dwelling (Art. 331 of the Civil Code of the RSFSR). If he refuses to move voluntarily into the premises granted

him he can be evicted in the judicial manner. New premises are given to the evicted person by the state, co-operative or mass organisation which is allotted the land plot in question. If a condemned house is a citizen's personal property another dwelling is given to the evicted lessees by the Executive Committee of the local Soviet of Working People's Deputies. If the land plot is allotted to a state organisation to which resources are allocated for capital investment in housing construction the dwelling is granted by that organisation.

The eviction procedure is regulated by Article 331 of the Civil Code of the RSFSR which stipulates that the premises granted to the lessee must be within the given populated locality and in a brick-built house, have amenities according to standards of the given populated locality and be not smaller than the evicted person's previous dwelling. If the lessee occupied a separate flat or more than one room he must be given a flat or premises consisting of the same number of rooms. If the lessee had excess dwelling space he is given premises according to the norms of the basic and additional space. Article 331 of the Civil Code of the RSFSR also formulates an important provision to the effect that the premises given to the evicted person must be indicated in the court's decision on the rescission of the lease contract, supplemented with the premises' address.

Special mention should be made of the eviction of lessees from condemned houses belonging to citizens according to the right in personal property. These lessees must be given dwellings according to the same rules as those which apply to lessees evicted from houses of local Soviets of Working People's Deputies and departmental houses. There is one exception to this rule, namely, that lessees and their families residing in houses owned by other person acquire the right to receive a new dwelling when they are evicted from the condemned house provided they have resided in it not less than a year.

This requirement does not apply to all members of the lessee's family without exception. Thus, if a child is born

several months before a decision is made to withdraw the plot and demolish the house, it must also be included in the number of persons (family members) who have the right to receive dwelling. Moreover, when a person moves into a house owing to his marriage to its permanent resident he acquires the right to reside permanently on the dwelling space on which his spouse resides. This is in keeping with the legislation in force, since the spouse who has moved into the house and the newly-born child are undoubtedly members of the family. All members of the lessee's family have the right to the given premises provided the lessee has lived in the condemned house not less than a year. The initial date of this period is the day of the lessee's moving into the house. This day must be confirmed by the date of registration or the contract concluded. The period begins to run when the competent agency adopts a decision on the plot's withdrawal and the demolition of buildings and structures on it.

Land plots complete with building and structures on them may also be withdrawn from a government, co-operative or non-government organisation for another government, non-government or co-operative organisation in different combinations. Losses caused to enterprises and organisations by the withdrawal of their plots for state or social needs are compensated according to the general procedure, though in some cases the buildings and structures on the land plot in question can be transferred without compensation. The transfer of buildings, installations and enterprises is regulated by a different procedure and by other agencies than those allotting land plots.

For instance, enterprises which are not subordinated to one and the same department can be transferred by decrees of the Presidium of the Supreme Soviet of the USSR or resolutions of the Council of Ministers of the USSR or a Union republic. A specific solution to this question depends on the subordination of a given enterprise (of Union, republican or local subordination) on the date when it is transferred, and on what subordination it is transferred to.

The transfer of buildings and structures is governed by a simpler procedure than that for the transfer of enterprises.

In conformity with the principle of the single fund of state socialist property laid down in operative legislation, enterprises, buildings and structures are passed from one government organisation to another free of charge, without compensation. This is established, in particular, by Articles 21 and 22 of the Fundamentals of Civil Legislation of the USSR and the Union Republics.

On the other hand, if co-operative or mass organisations are parties to such a transfer, then socialist ownership changes in form or alters within one form of property, and so the transfer is effected with compensation, as a rule.

Any enterprises—industrial, transport, agricultural, etc.—and finished and unfinished buildings and structures are passed on from one state agency to another without compensation, i. e., by writing off their cost from one balance sheet to another. A similar procedure governs the transfer of budget institutions, in particular, hospitals, schools and other educational establishments, etc.

Functioning enterprises are passed without stopping their work, together with their assets and liabilities. This means that the transfer concerns both the enterprise's right to recover debts due to it, which are on its balance sheet's assets and its duties to pay its debts, which are on its balance sheet's liabilities.

When enterprises, buildings and structures are transferred for compensation the accepting party, together with the transferring party, inventories material values and basic assets taking into account their depreciation as of the established date. In this case enterprises, buildings, structures and other basic values are paid for within a fixed period.

Legislation now in force also provides for the transfer of enterprises, buildings and structures from the plot withdrawn. This occurs, in particular, when water reservoirs are built in connection with constructing electric power

stations. Enterprises, buildings and installations are transferred by and at the expense of the organisation for which a respective land plot is withdrawn. This transfer is not accompanied by the transfer of the objects from one government, non-government or co-operative organisation to another.

*Compensation to Land Users for Crops, Plants, Investments in the Land and Other Expenditure.* The compensation for losses to land users is not confined to payment of the cost of condemned buildings and structures. Legislation stipulates that when structures which are a citizen's lawful personal property are demolished in connection with the withdrawal of land plots in towns, townships and other populated localities, citizens are reimbursed the cost of fruit and berry plantations and crops according to the established prices, apart from being compensated for the cost of condemned structures and being granted flats. According to the legislation now in force, the cost of decorative plants of cultural, health-building or aesthetic value shall not be compensated.

All land users, and not only individual citizens, have the right to be refunded the cost of crops and plantations when their land plots are withdrawn. The cost of fruit and berry plantations and crops is estimated by a special commission appointed by the district Executive Committee of the Soviet of Working People's Deputies on the basis of the rates approved by Executive Committees of regional (territorial) Soviets.

Collective and state farms and other agricultural enterprises are also compensated for the unused outlays involved in the cultivation, irrigation, fertilisation of the plot, and other expenditures.

This is effected by compensating for the outlays involved in developing new land instead of that withdrawn. Legislation in force establishes that expenditure on the development of new land instead of that allotted for construction and other non-agricultural purposes is borne by the organi-

sations, enterprises and institutions which are granted farm land.

The amount of expenses involved in the development of new land instead of the farm land withdrawn is defined by a special commission according to the approved rates.

The bringing of new land into a suitable condition for agricultural use, or the payment of sums spent on this work is one form of compensating land tenures, viz., for investments in the land. Other expenses and outlays can also be compensated.

To remove or reduce the harm and losses incurred by withdrawing land, institutions and enterprises which receive the land can be obliged to carry out duties in addition to or instead of compensation. These duties include constructing and maintaining bridges, dams, drains, crossings, roads, barriers, etc., or allowing former land users to use the withdrawn plots in some way.

The compensation of losses inflicted on land users by withdrawing plots for state or social needs or by temporary occupation of plots does not take into account the losses of farm produce on the withdrawn plots during the period necessary for the development of new land.

Therefore, Article 19 of the Fundamentals of Land Legislation establishes that apart from compensation for losses to land users, enterprises, organisations and institutions which are allotted agricultural land for construction and other non-agricultural purposes shall compensate losses of agricultural production due to the withdrawal of these plots.

The Council of Ministers of the USSR establishes the amount and procedure for determining these losses of agricultural production which are subject to compensation and also the procedure for utilising the relevant resources.

LEGAL REGIME  
OF SEPARATE LAND CATEGORIES  
IN THE STATE LAND FUND

1. LEGAL REGIME OF AGRICULTURAL LAND.  
LAND USE OF COLLECTIVE AND STATE FARMS  
AND OTHER STATE AGRICULTURAL ORGANISATIONS

Both in terms of economic weight and area, agricultural land is of prime importance among other categories of land in the State Land Fund. Article 21 of the Fundamentals of Land Legislation classifies as agricultural land all land allotted or intended for agricultural purposes. The land area of the USSR totalled 2,227.5 million hectares as of November 1, 1973, of which 1,043.5 million hectares were agricultural land. The latter includes arable land (224.3 million hectares), grass land (38.7 million hectares), and pastures (280.7 million hectares), as well as water reservoirs and forest plots attached to agricultural enterprises. Agricultural lands differ in their designation: arable land, pastures, etc., and can be used both for agricultural production and for the location of various production premises, ancillary enterprises and the building of production, cultural and everyday services and dwelling houses. The use of agricultural land for these purposes is ultimately subordinated to the tasks of agricultural production. However, agricultural land is for the most part used for agricultural production. Productive agricultural areas used as the main productive force in agriculture prevail among all agricultural land and determine its use and legal regime. Each type of productive area has its legal peculiarities. Thus, the pertinent laws prohibit the withdrawal of valuable agricultural land for non-agri-

cultural purposes. What is more, Article 21 of the Fundamentals of Land Legislation establishes the principle whereby the area of irrigated, drained and arable land, plantations of valuable perennial fruit and vineyards and also other highly productive land shall not be reduced and their transfer to less productive land shall not be allowed except in cases of special necessity envisaged in the legislation of the Union republics. Agricultural lands can also be distinguished according to the land users. The principal forms of agricultural production in the USSR are collective farms and state farms. Collective farms are co-operative organisations where peasants unite voluntarily for the joint management of large-scale socialist farming on the basis of common means of production and collective labour. At the end of 1973 there were 31,400 collective farms which had 323.4 million hectares of agricultural land of which 197 million hectares of farm land, including 106.2 million hectares of arable land.<sup>4</sup>

Sovkhozes, i. e., state agricultural enterprises, are another major form of agricultural production. In 1973 there were more than 17,300 of them. State farms and other state agricultural enterprises have 716.4 million hectares of land, including 349.6 million hectares of productive land, of which 115.6 million hectares of arable land. Collective and state farms are the main producers of agricultural output. Agricultural land is also allotted for unlimited use (in perpetuity) to: (a) research, educational and other agricultural institutions—for field studies, practical application and propagation of the achievements of science and advanced experience, and also for production purposes; (b) non-agricultural enterprises, organisations and institutions—for subsidiary farming.

Moreover, land plots may be allotted to citizens for personal subsidiary farming without the employment of hired labour, and also to enterprises, organisations and

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<sup>4</sup> *National Economy of the USSR in 1973*. Statistical Yearbook, Moscow, 1974, pp. 374-456 (in Russian).

institutions for collective fruit and vegetable gardening by factory and office workers.

Certain distinctions between the various subjects of agricultural land use do not affect the fundamentals of the legal regime of the land they use. This land is used with a view to developing agricultural production, and this determines a definite basic unity of the legal regime of all agricultural land.

In recent years the Soviet Union has set the task of speeding up agricultural production, and the successful implementation of this task requires a rational use of all agricultural land. In this connection the latest legislation demands that all land users, viz., collective and state farms and other agricultural enterprises, should use agricultural land rationally.

Agricultural land is, as a rule, allotted to land users for unlimited use (in perpetuity), but land plots can also be allotted for temporary use. The agricultural land users are issued state title deeds by the Executive Committees of district (town) Soviets of Working People's Deputies. These deeds indicate the size and exact boundaries of land areas secured to the collective farms. Should the amount of land used by collective and state farms and other state agricultural enterprises and organisations change, they are issued new deeds or the existing ones are amended.

The Fundamentals of Land Legislation retain the earlier established procedure according to which the lands allotted to the collective farm under the state title deed for unlimited use (in perpetuity) shall consist of land in common use and household plots, with the latter being delimited in natural conditions from the former. Every collective farmer's family (collective-farm household) is allotted a household plot from the total house-and-garden area, within the rates stipulated by the collective farm's rules. Whenever necessary, the area of house-and-garden land can be increased at the expense of lands in common use.

The Fundamentals of Land Legislation (Art. 24) stipulates that, where there is a scarcity of house-and-garden

land to be allotted to collective-farm households according to the rates laid down in the rules of a given collective farm, the area of household land may be increased at the expense of the land in common use by a decision of a general meeting of collective-farm members or a meeting of authorised delegates, approved by the Executive Committee of a regional (territorial) Soviet of Working People's Deputies, the Council of Ministers of an autonomous republic and, in republics with no regional division, by the Council of Ministers of a Union republic.

Legislation of the Union republics defines in detail the procedure for examining claims to increase house-and-garden land. A collective farm addresses its claim to increase the house-and-garden land at the expense of the land in common use to the district Executive Committee. The latter completes the land management scheme within ten days, and sends its decision and the relevant material to the Ministry of Agriculture of the autonomous republic, or the territorial (regional) agricultural department as the case may be, complete with the following documents: protocol of a general meeting of the collective-farm members (meeting of delegates) on the need to increase the house-and-garden land fund; certificates on the amount of house-and-garden lands in the collective farm and their use; the list of the collective-farm households which must be allotted house-and-garden plots and data on the size of these plots; plan (draft) of the collective-farm lands and an indications of the land plot slated for inclusion in the house-and-garden fund; the relevant resolution of the chief (senior) land management engineer of the agricultural department of the district Executive Committee.

The Ministry of Agriculture of an autonomous republic or the territorial (regional) agricultural department examines the material received within ten days, prepares its resolution and submits it to the Council of Ministers of the autonomous republic, the territorial or regional Executive Committee.

The Executive Committee of the regional (territorial) Soviet of Working People's Deputies, the Council of Ministers

of the autonomous republic and, in republics without regional division, the Council of Ministers of the Union republic, adopt a final decision to increase the area of house-and-garden land at the expense of the land in common use.

The Fundamentals of Land Legislation also deem it necessary to delimit the house-and-garden land of state farms and other state agricultural enterprises, organisations and institutions, since this land has always been available to state farms and other economies, but its legal regime was not hitherto defined.

In this connection, Article 26 stipulates that household plots to be granted to workers and other employees within the rates set by legislation of the Union republics shall be allotted and delimited in natural conditions, in accordance with the approved land-management scheme, from the land given for agricultural use to a state farm or any other state agricultural enterprise.

The same article defines the procedure for increasing the household land area, which is similar to that established for the increase in house-and-garden plots on collective farms.

The land use by collective and state farms and other agricultural enterprises and organisations is stable. Legislation establishes a rigorous order for withdrawing agricultural land and also limits any other changes in agricultural land use. According to Article 22 of the Fundamentals of Land Legislation, changes in the boundaries and size of the land used by collective farms, state farms and other state agricultural enterprises and organisations and also research, educational, experimental and other agricultural institutions, connected with the enlargement or division of farms and redistribution of land among land users, may be made on the basis of legally-approved scientific land-management projects.

Agricultural land, like other land, is used in accordance with its designation. Land is an enormous source of wealth to Soviet society and the basis of agricultural production. In the Soviet Union, the preservation of this wealth and

its productive utilisation are regarded as an important national cause. Proceeding from this, Soviet legislation establishes land users' rights and duties on agricultural land.

Land users can freely use land to organise various branches of plant-growing and stockbreeding, set up ancillary enterprises, and build various installations for cultural and everyday needs, dwelling houses, etc., catering for the agriculture and rural population. Collective and state farms plan crop and stock distribution on their own and are not assigned fixed plans for the production of particular items. They are only obliged to fulfil state procurement plans which extend several years ahead and take account of the branch specialisation of the farm concerned.

When certain plots are temporarily out of use legislation enables agricultural enterprises to pass them to other farms. According to Article 28 of the Fundamentals of Land Legislation, collective farms, state farms and other agricultural enterprises with part of their land temporarily out of use, may grant this land for temporary use to collective farms, state farms and other farms which need it, by decision of the Executive Committee of a district Soviet of Working People's Deputies. A farm which has received a holding for a specified time shall compensate the land user for the unutilised expenditure corresponding to the time the land has been used.

Collective and state farms and other organisations and citizens using agricultural lands have the right to use water resources on the land areas concerned, exploit the widespread mineral resources for their own needs and use the forests attached thereto.

These land users also have several duties arising from the tasks of raising the soil fertility and its most rational utilisation in the interests of agricultural production.

The planning of land use is an imperative condition of its rational utilisation. Therefore, Article 23 of the Fundamentals of Land Legislation establishes that collective farms, state farms and other enterprises, organisations and institutions which use agricultural land by applying the achieve-

ments of science and advanced experience and taking into account local conditions, shall be bound to envisage in organisational, economic and financial plans specific measures for improving soil fertility and rationally utilising land.

Inner-farm utilisation of land includes, above all, inner-farm land-management schemes which help in the organisation of land areas and establish the order of using land as a productive force. Land management schemes, which must be implemented by land users on agricultural land, also serve to define the specific designation of the land plots granted to the land user, in particular, the location of construction sites for production buildings and installations, services centres and housing projects. They also establish the types of agricultural land, taking into account a farm's specialisation, and the organisation of these lands (arable land, pastures, meadows, etc.). Organisation of agricultural land presupposes a correct distribution of fields, roads, a farm's productive subdivisions, crop rotations, etc. The Fundamentals of Land Legislation oblige agricultural land users to introduce, in conformity with zonal conditions and farm specialisation, the most efficient systems of farming, to combine economically the different branches of farming, introduce and perfect crop rotations and draw unused land into agricultural production.

According to established practice, crop rotation schemes are worked out by specialists, workers, employees and collective-farm members. Legislation stipulates that collective and state farms must keep a special book dealing with the histories of crop rotation fields and an agrotechnical record of crop rotation fields. These books must be kept both for the agricultural enterprise as a whole and for its separate divisions, and it must be filled in by the appropriate officials and controlled by the farm's chief agronomist.

The definition and assignment of land plots for the farm's production divisions (teams, sections, etc.) is vital for the proper organisation of the inner-farm management of land, especially since the farm divisions on collective and state farms have lately acquired certain economic independence

owing to their transfer to the economic accounting system. These production subdivisions directly use the land attached to a particular farm.

In the Soviet Union, great attention is paid to land improvement schemes. Special decisions were taken by the Communist Party and the Soviet Government on this question, and a programme of sweeping measures to boost land improvement was mapped out, backed by huge capital investments. Between 1966 and 1969 alone, 1.2 million hectares of new irrigated land and 3.1 million hectares of drained land were put into operation in the Soviet Union. Moreover, a large production base for the construction of water installations is being built. Thus the state fulfils the programme of measures to improve lands at the expense of the state budget. At the same time it obliges the land users to improve the land and raise soil fertility. The Fundamentals of Land Legislation require land users to develop irrigation, drainage and watering of land, improve meadows and pastures and treat soils with lime and gypsum.

The land users are responsible for the effective utilisation of irrigated and drained lands and the proper upkeep of irrigation and drainage systems.

The major state measures for stepping up agricultural development include the task of preventing water and air erosion of the soils, which is of paramount importance. The Soviet state took a number of urgent steps to accomplish this task and earmarked large sums of money to this end.

The protection of soils from water and air erosion is also an important duty of the land users. According to Article 23 of the Fundamentals of Land Legislation, land users must take measures to prevent soil erosion, water-logging and salination of soil; plant shelter belts, carry on afforestation to fix sands, gullies and steep slopes, and prevent the pollution of soils. Thus the Fundamentals establish the land users' duty to combat soil erosion and define concrete measures to this end.

Agricultural enterprises, institutions and organisations are also made responsible by law for other measures aimed

at soil protection and greater fertility. In particular, they must clear agricultural land of rocks, thickets of low trees and shrubs, combat weeds, pests and plant diseases.

## 2. LEGAL REGIME OF LANDS OF POPULATED LOCALITIES

The Fundamentals of Land Legislation have made a number of new provisions in the definition of the legal regime of the land of populated localities. This is only natural because the main normative enactments regulating the regime of urban land were issued in the twenties. In particular, the Regulations on Urban Land were approved by a decree of the Central Executive Committee and the Council of People's Commissars dated April 13, 1925.<sup>1</sup> Great changes have occurred since then, new towns were built and old ones reconstructed in response to the rapid industrial growth. In 1914, there were 721 towns and 54 settlements in tsarist Russia, whereas more than 3,000 new towns and townships have appeared in the USSR between 1926 and 1969 alone. At present, the urban population accounts for approximately 60 per cent of the total Soviet population. The land area occupied by towns and townships grows accordingly, now totalling more than nine million hectares. This is, of course, a relatively small part of the state land fund, but the proper regulation of relations in using urban land territory is essential due to the considerable population density in the towns and the consequent need to site a large number of dwelling, administrative, industrial, communal and other buildings and structures on comparatively small areas of land.

The further growth of new and the expansion of existing towns will continue. Hence the need to improve urban cons-

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<sup>1</sup> *Collection of Statutes of the RSFSR, 1925, No. 27, Item 188.*

truction legislation and land legislation, in order to ensure the rational utilisation of urban land. This is especially important because towns usually expand into the generally fertile suburban lands owned by collective and state farms and other agricultural enterprises which supply the urban population with agricultural products.

The new land law, above all, envisages the gradual obliteration of distinctions between town and country. At present, many rural populated localities are nearing towns in their lay-out, accommodation, etc.

Their number will eventually increase. Accordingly, the Fundamentals of Land Legislation replace the "urban lands" category by the category of "lands of populated localities", with the three distinct subcategories—lands of towns, townships and rural populated localities; the legal regimes of lands occupied by towns and townships are essentially equal. The provisions of the Fundamentals of Land Legislation establishing the regime of urban land extend to the land of populated localities classed as townships in accordance with the legislation of the Union republics. Special mention is made of the regime of lands of rural populated localities; it is considered that it would be premature to fully subject them to the regime of urban lands.

According to Article 30 of the Fundamentals, all land within city limits shall be classed as urban land. This definition of urban land differs from the earlier one which excluded from the jurisdiction of the respective urban communal departments land occupied by all types of transport, land occupied by installations directly bearing on defence purposes, and some others.

Urban lands, for all the differences in the specific purposes of individual land areas, are characterised by the fact that their general function is to serve the towns' needs. Considering this definition of urban lands, the Fundamentals of Land Legislation establish in Article 31 that all land within city limits shall be under the jurisdiction of the respective city Soviet of Working People's Deputies.

The general rules for establishing suburban green belts have been defined for the first time in the Union legislation.

According to Article 34 of the Fundamentals, land beyond city limits serving as a reserve for expanding a city's territory, as a prospective site for building relevant installations for the improvement and normal functioning of the city's public utilities, and also land occupied by forests, forest-parks and other protective or health greenery and designed for rest and recreation, shall be included in a suburban or green zone.

The Fundamentals give a new formulation of the composition of urban lands. Instead of dividing land within city limits into three component parts, they single out five parts according to land usage.

According to Article 30 of the Fundamentals of Land Legislation, urban land includes: building land; land for public use; farm and other land; city forest land; land used by railway, water, air and pipe-line transport and by the mining industry and others.

The procedure for establishing and changing city boundaries and land-economic management of urban territory is referred by the Fundamentals to the jurisdiction of the Union republics. Nowadays, a populated locality is recognised as a town by decrees of the Presidium of the Supreme Soviets of Union republics and the city limits are established or changed also by resolutions of the republican Councils of Ministers.

According to RSFSR legislation, the populated localities which are cultural and industrial centres with a population of at least 12,000 of which not less than 85 per cent are workers, employees and members of their families, can be classed as towns of district subordination. Populated localities of at least 50,000 inhabitants and which are of great industrial, cultural and political importance can be classed as cities of regional, territorial and republican (autonomous republican) subordination. Still larger industrial, cultural, and political centres can be classed as cities of republican (Union republican) subordination.

Townships include workers' and *dacha* (summer country house) settlements and resorts. Populated localities are classed as workers' settlements or resorts according to the decision of the regional (territorial) Soviets of Working People's Deputies or Presidiums of the Supreme Soviets of autonomous republics, which is subsequently brought to the notice of the Presidium of the Supreme Soviet of the Union republic. Workers' settlements are usually populated localities at large industrial enterprises (factories, mines, etc.) which number not less than 3,000 inhabitants of which at least 85 per cent are workers, office employees and members of their families. Populated localities with not less than 2,000 inhabitants and which have curative importance are classed as resorts. Moreover, those who annually come to take treatment and rest in these settlements must account for not less than 50 per cent of the permanent residents. Finally, there is a category of *dacha* settlements which are set up near large cities and are mainly designed to provide summer rest for urban dwellers.

Towns are developed and reconstructed on the basis of acts on the lay-out and building on urban land. Urban land lay-out is aimed at ensuring the most favourable conditions for the inhabitants of a given town, on the basis of the rational siting of all types of urban construction projects and industrial enterprises. Any distribution and redistribution of lands strictly conforms with urban lay-out and building projects. Lay-out brings together, as it were, and co-ordinates the various purposes of urban land, thus achieving a single system of building and the organisation of the intricate communal economy, transport, accommodation, etc.

There are long-term and current plans for the use of urban land. The former include schemes of regional lay-out, general city plans (lay-out and building schemes), and projects of detailed lay-out and land management schemes. Regional lay-out schemes do not deal in detail with siting urban construction and using city territory, but solve questions bearing on the whole complex of towns, other populated localities, and industrial projects. They sometimes

cover a fairly large territory and only define the place and the outer boundaries of the towns. Appropriate legislation stipulates that the elaboration of regional lay-out schemes shall be mandatory wherever there is a plan to build groups of industrial enterprises bound by a single system of settlement, common raw material and power basis, and a unified system of transport, roads and engineering structures and networks. Regional lay-out schemes are worked out for up to a 25-year period and are approved by the government of the respective Union republic.

General plans and lay-out and building projects are drawn up for separate towns and townships for up to a 20-year period. These are bound up with regional lay-out schemes. The general plans of Moscow and Leningrad are approved by the Council of Ministers of the USSR while those of other cities and towns are approved in conformity with the legislation of the Union republics. The legislation of the RSFSR establishes, for instance, that the lay-out and building projects in populated localities of up to 50,000 inhabitants are approved by the regional (territorial) Soviets of Working People's Deputies, while those of regional and territorial centres, and other towns with more than 50,000 population are approved by the Council of Ministers of the RSFSR.

The town lay-out and building project establishes the procedure for using all urban land and primarily deals with building schemes. Sometimes it extends beyond the city limits, taking account of the town development prospects, while within the city limits it can introduce restrictions for building, considering the interests of the city's development. The project also includes a system of measures ensuring favourable sanitary conditions, in particular, the planting of greenery, the protection of the city air basin, water resources, etc.

The main propositions and trends in the town lay-out and building project are given concrete expression in the relevant projects dealing with detailed lay-out and building, which determine the order of priorities in building streets and squares, major districts and micro-districts.

These enactments mainly regulate the use of urban territory for various types of construction, while the procedure for using all urban lands, including those not intended for building, is established in the urban land management projects which aim to ensure the rational utilisation of all urban land, primarily that occupied by agricultural enterprises and urban forests, and also the use of waters and common minerals.

These long-term planning acts serve as the basis for current plans for using urban land, including annual plans. The latter define specific plots to be set aside annually for building. The list of these plots is worked out by the town's chief architect or by the communal economy department (in small towns), and is approved by the Executive Committee of the town Soviet of Working People's Deputies.

Land plots are allotted to various enterprises, institutions and organisations.

The new law retains the possibility for working people's associations (house-building and cottage-building co-operatives) and also individual citizens to receive land plots for individual housing construction. The law only establishes a general rule concerning which land these plots are allotted from and does not alter the earlier established procedure for allotting land plots for these purposes.

Socialist organisations and citizens interested in acquiring land plots file an application to the Executive Committee of the town Soviet of Working People's Deputies which either decides to allot a land plot or refuses the request. The respective draft decisions are prepared by the town's chief architect or by the communal economy department of the Executive Committee of the town Soviet.

The size of the land areas allotted (unless regulated by legislation as, for instance, plots for individual housing construction) are defined in conformity with urban planning and building projects and the respective organisation's actual requirements in a land area. These requirements are substantiated in the approved project for building a particular object.

The land plots allotted have to be registered by the state

so that all lands within city limits can be fully accounted for. The urban land and the land users are registered by the Bureau for Technical Inventarisation under the respective town or district Executive Committee. The latter issues the land users with appropriate deeds stating their right to use the land plots indicated.

Experience has often raised questions bearing on the formulation of rights to a land plot vis-à-vis the transfer of the ownership right to a building. The Fundamentals of Land Legislation establish in Article 33 that in the land of towns and townships, transfer of the ownership right to a building shall also include transfer of the right to use the plot or part thereof in the manner laid down by the legislation of the Union republics.

For the first time in legislation, the new law in Article 36 distinguishes the land of rural populated localities and defines the fundamentals of their legal regime, taking account of the actual situation. As a matter of fact, several Union republics are now abolishing the *khutor* (detached farm) system and setting up large well-appointed settlements on the basis of small *khutors*.

Moreover, in a number of regions separate small populated localities eventually cease to exist because their inhabitants move to big villages with hospitals, schools, public services establishments and other institutions which would be uneconomic in small settlements.

The Communist Party and the Soviet Government have outlined a number of measures to develop rural populated localities. The resolution of the CC CPSU and the USSR Council of Ministers of September 12, 1968, "On the Regulation of Rural Construction", states that one of the major tasks in rural construction is the gradual transformation of rural populated localities into well-organised settlements with the following amenities: reasonable housing and cultural conditions meeting the rural population's requirements; appropriate production facilities capable of creating all conditions necessary for the rural population's efficient work and the intensive development of agriculture: the settlements must also

ensure the employment of the population during periods free from agricultural jobs.

The resolution stipulates that such settlements must be built according to regional lay-out projects and the projects for laying out and building these settlements worked out on the basis of the development plans of collective and state farms and their production specialisation. It also deems it expedient to work out, within five years, regional planning projects and projects for laying out and building central estates of state and collective farms with a pronounced production specialisation.

The Fundamentals of Land Legislation elaborate the decree of the Presidium of the Supreme Soviet of the USSR dated April 8, 1968, "On the Main Rights and Duties of Rural and Village Soviets of Working People's Deputies",<sup>1</sup> and establish that within the rural localities the village Soviet decides on allotting plots from land not used by collective and state farms and other agricultural enterprises.

The new law defines the procedure of the land use by collective and state farms within city limits. Land is allotted for unlimited use and is used according to its designation. Since the land is located within city limits, the law establishes the rule whereby dwelling, cultural and production buildings and structures are installed on this land with the consent of the Executive Committees of the town Soviets of Working People's Deputies. A similar rule applies to land in rural localities.

### 3. THE LEGAL REGIME OF LAND USED FOR INDUSTRY, TRANSPORT, HEALTH RESORTS, PRESERVES AND OTHER NON-AGRICULTURAL LAND

The land used for industry, transport, health resorts, preserves and other non-agricultural land hold an important place among the lands of the State Land Fund. It is clear

<sup>1</sup> *Gazette of the USSR Supreme Soviet*, No. 16, 1968, Item 131.

from the very name of this category of land that it is used for widely varying purposes. What is common to all this land is that it is allotted for non-agricultural needs and used for siting buildings, structures, etc., or serves other needs when not used as a means of production. This land is allotted to enterprises, organisations and institutions for implementing their special tasks (industrial production, transport, organisation of health resorts, preserves, etc.).

This land services many economic sectors and is thus controlled by various ministries and departments, and to some extent by social organisations. For instance, the land of health resorts is under the jurisdiction of the trade unions and cannot be allotted to individual citizens. The latter can only obtain land plots for a secondary use in the form of service land allotments. An important distinguishing feature of this land category is also the fact that restrictions are often set for adjacent land users. Protective zones and health protection areas with special land use terms can be established outside non-agricultural land. For instance, the construction of high buildings is limited near airports to ensure the safety of air transport.

While regulating the legal regime of the lands of industry, transport, health resorts, preserves and other non-agricultural land, considering the fact that this land is allotted for special and, as a rule, important economic tasks, the Fundamentals at the same time proceed from the need to ensure the interests of agriculture. According to Article 41 of the Fundamentals of Land Legislation, industrial, transport and other non-agricultural enterprises, organisations and institutions, by a decision of the Executive Committees of district or city Soviets of Working People's Deputies, shall grant land, which they do not use, for temporary agricultural use to collective farms, state farms, other enterprises, organisations and citizens in the manner and conditions set by the subsequent legislation.

It should be noted, however, that according to the Fundamentals, some of the land in this category cannot be used for any purposes other than their main designation. For instance,

Article 40 prohibits any activity that violates the natural complexes of preserves on the territory of preserves and protective zones.

The land area used for non-agricultural special needs increases annually owing to the rapid development of industry, energetics, and various types of transport. Moreover, it is quite clear that it is impossible to build mines, highways, railways, pipe- and communication lines only on the state reserve and forest land. Land plots for these purposes have often to be withdrawn from agricultural use. Hence the use of land for non-agricultural purposes must be organised in such a way as to minimise the harm done to agricultural production. That is why the Fundamentals of Land Legislation stipulate measures directed against excesses in allocating land areas for non-agricultural purposes. Article 38 establishes the rule whereby the size of the land plots allotted for the above-named purposes shall be determined by the legally approved rates or the design and technical documentation, the plots being allotted with due consideration for the sequence of their development. In other words, the plot allotted must be of the minimal necessary size, and if the building of the respective project is planned over several years the plot must be allotted in the sequence of priorities, i.e., in parts.

To protect agricultural production, non-agricultural land users are duty-bound to combat weeds and pests. The rule is also established that when the land is no longer needed it must be returned to the former land users in a suitable condition for agricultural use, provided this land was withdrawn from agricultural circulation.

Section IV of the Fundamentals, which deals with this land, only formulates the most general rules concerning the definition of its legal regime.

According to Article 38 of the Fundamentals, the procedure for land use for industry, transport, health resorts, preserves and other non-agricultural land, and for establishing zones with special conditions for land use (health protection zones, and so on), shall be determined by the regulations on

these lands approved by the Council of Ministers of the USSR and the Councils of Ministers of the Union republics.

The fact is that alongside general features typical of all this land there are peculiarities which determine the legal regime of individual types of non-agricultural land. These peculiarities stem from the specific activities carried on on this land by enterprises and organisations in various industries. In this sense, non-agricultural land can be classified, according to use, into the following types:

- a) land allotted for the needs of industry (factories, mines, etc.);
- b) land allotted for the needs of transport (rail, air, inland water and sea, motor and pipeline);
- c) land allotted for communication and electric transmission lines;
- d) land of health resorts;
- e) land of preserves;
- f) other non-agricultural (special) land.

Let us briefly examine the legal regime of the above types of land.

1. The existing legislation does not establish the size of land plots allotted to industrial enterprises. They are determined in each specific case with due account for the enterprise's specialisation, capacity, etc. In all cases the size of the land plot necessary for a given enterprise is substantiated in a design for building an enterprise or other industrial project, approved in the statutory manner. The land plot is allotted, above all, to ensure productive activity and is used for siting shops, access roads, garages, electric substations, warehouses, etc. The plots are also used, if necessary, for constructing administrative buildings, and also canteens, clubs and other establishments serving the needs of factory and office workers.

As a rule, an industrial enterprise has no right to use its land for other purposes, e.g., for granting house-and-garden plots to its workers and employees, and even for subsidiary farming. The land plots for the latter purposes can be allotted from other places. The organisation of the enterprise's

territory is determined in a pertinent construction or reconstruction project.

The land allotted for industrial needs is fixed for use to specific enterprises and organisations, but it is simultaneously controlled by the appropriate ministries and departments to which these enterprises are subordinated. These ministries and departments decide certain questions concerning the use of land granted to enterprises and organisations of a particular system.

2. The land granted for transport is subdivided into several varieties according to the type of transport. It is managed by the appropriate body: the USSR Ministry of Railways, the USSR Ministry of Civil Aviation, the USSR Ministry of the Merchant Marine, the RSFSR Ministry of River Transport and river transport departments under the Councils of Ministers of the Union republics, the USSR Ministry of the Gas Industry, or ministries of motor transport and highways of the Union republics.

At present there are several regulations which determine the legal regime of separate types of land allotted to transport. The most general rules referring to the land of various types of transport are to be found in the "Regulations on Lands Allotted to Transport" approved by the USSR Central Executive Committee and the USSR Council of People's Commissars dated February 7, 1933,<sup>1</sup> which are still effective provided they do not run counter to the Fundamentals.

The specificities in the legal regime of lands allotted to a particular type of transport are reflected in the Rules, codes and other enactments regulating the activity and legal regime of different types of transport. For instance, separate norms of this kind are included in the Air Code of the USSR, the Rules of Soviet Railways, the Rules of Inland Water Transport, etc. The legal norms in these enactments are in operation at present provided they do not run counter to the Fundamentals of Land Legislation. The land of transport only in-

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<sup>1</sup> *Collection of Laws of the USSR*, No. 12, 1933, Item 66.

cludes those areas granted to service the needs bearing on the exploitation and development of the means of transport. The land of rail, motor and pipeline transport includes above all land strips whose width is determined by legislation. For first category railways it is 28 metres, for second category—24 metres. The width of strips for motor roads also depends on the category of the road. Legislation establishes five categories of motor roads. The Union importance (first category) motor roads have 39-metre strips, the local importance (fifth category) roads—18 metres. The strips' width around trunk pipelines varies according to the pipeline's diameter and the number of pipes laid in parallel.

The width of strips can be increased in exceptional cases, when the techno-economic data of the project (difficult terrain and the ensuing need to build additional installations, etc.) substantiate this. On the other hand, if, for example, railway lines run on lands under highly valuable crops (vineyards, citrus plantations, etc.), the width of strips has to be reduced to a minimum.

These types of transport can also be allotted land plots for building stations, depots and workshops necessary for servicing and ensuring the safe operation of the means of transport.

The land of water and air transport includes land areas used for locating respective on-ground structures, devices, equipment, etc. For instance, air transport is allotted an area for take-off fields, airports and other structures necessary to passenger and freight air transport. The size of land areas allotted for these types of transport are not fixed by legislation; they are specifically determined by the project documentation approved in the statutory order.

Land allotted for transport needs is used strictly according to its designation, i.e., for the techno-economic and other needs bearing on the upkeep, reconstruction, development and improvement of the communication lines. However, in several cases legislation allows land plots to be used for certain other purposes stipulated in the law. For instance, service land plots can be allotted to some categories of factory and office workers from the land of railway, motor and pipeline transport.

The allotment of land plots is not allowed in the case of air transport.

A specific feature of the legal regime of lands allotted to transport is the fact that special terms are established for adjacent land users. For instance, in forests bordering on railways and motor roads industrial felling is prohibited within 500 metres on both sides of the road. Within this zone, only sanitation cutting is allowed.

The construction of buildings, installations, high-voltage electric transmission lines, etc., is limited around airfields. These can be built only on permission from the USSR Ministry of Civil Aviation. If a structure is no higher than 50 metres the permission is necessary when it is within 10 kilometres of the airfield, and if the projected building is 200 metres or more in height the permission is required when it is within 75 kilometres of the airfield. Special conditions of land use can also be established in other cases, for instance, near bridges, crossings, etc. Zones with special conditions of land use are established, unless expressly stated in law, on the initiative of the organisations concerned and by the organs which decide on allotting land for use.

3. The land of the communication and electric power lines includes land areas granted for the construction and exploitation of air and underground communication and electric transmission lines, and also plots allotted for building structures ensuring the normal use of these lines. Communication and electric transmission lines can be controlled by different ministries and departments but the legal regime of land plots allotted for these purposes is one and the same.

Legislation defines the norms of allotting land for establishing communication and electric transmission lines. For instance, the support of overhead communication lines has the land plot under the support and one to three metres around. Underground cable lines have the area under the cable and one metre on both sides of extreme cables. Moreover, according to the construction project, land plots are allotted for building distribution devices, substations and other structures

to ensure the normal use of communication or electric transmission lines.

Land plots are fixed for those enterprises and organisations which control communication and electric transmission lines. Zones with special land use conditions are established in the adjacent sectors where it is forbidden to carry on building or digging work and construct installations, new communications or electric transmission lines without written permission of the organisation which controls the said communication or electric transmission lines. On the other hand, the organisations exploiting the communication or electric transmission lines have the right to use protective zones for construction, repairs and inspection. Current and emergency repairs and also inspection of communication and electric transmission lines are made without the consent of the land users controlling the land plots occupied by protective zones. But losses incurred to the land users must be recompensed in all cases.

4. The Fundamentals of Land Legislation have established norms, common to the whole USSR, determining the basic provisions of the legal regime for health resort land. According to Article 39 of the Fundamentals, land areas which are of curative and health-building value, and are allotted for use to health resort medical institutions in the statutory way, shall be regarded as health resort land. Such land shall be subject to special protection.

Health protection areas are established in the health resorts to provide necessary conditions for the people's treatment, rest and leisure, and to protect natural curative properties. Within these areas it is forbidden to allot land plots to enterprises, organisations and institutions whose activity is incompatible with the protection of the natural curative properties and favourable conditions for the people's rest and leisure. In particular, works are prohibited which pollute soil, water and air and can negatively affect the resort's curative properties. A health protection area usually consists of three zones with differing regimes. The strictest regime is established in the first zone which includes mud and salt lakes, areas with sur-

face access to mineral waters and sea-side beaches of curative value. Here, any work that is not directly connected with the exploitation of the resort proper is forbidden. In the second zone, works detrimental to the resort's curative properties and sanitary conditions are forbidden. So any construction in this zone and also the use of water sources and forests for any purposes except curative ones are only allowed with the consent of the health resort's administrative bodies and local Soviets of Working People's Deputies. In the third zone there are restrictions for making dumps, cattle graveyards, cemeteries, disposing sewage into water reservoirs, etc. The third zone includes areas for feeding and forming the resort's hydromineralogical resources and also areas affecting its climatic and sanitary-hygienic properties. In this connection massive felling of trees, drilling and mining are not allowed here unless agreed upon beforehand with the health resort's administrative bodies and the local Soviets of Working People's Deputies.

5. The land of preserves accounts for a relatively small proportion of the State Land Fund. But preserves are of great importance and the regime for preserve lands is unique, so they are classed as a special type of non-agricultural land. The first national preserves were established in the early years of Soviet power. The Astrakhan and Ilmen preserves were set up, on Lenin's initiative, in the period of famine and economic dislocation. At present the Soviet Union has some 100 state preserves with a total area of 6.7 million hectares, and three preserve-and-game farms totalling some 100,000 hectares, which carry out the functions of state preserves in their position, regime and research work.

The significance of preserves can hardly be overestimated now that man actively interferes in the processes of nature.

The territory of the Soviet Union is populated by more than 350 species of animals and 650 species of birds many of which are regarded by the World Association for the Conservation of Nature and Natural Resources as rare species and are included in the Red Book of specially protected animals.

State preserves have helped conserve a number of interesting species of animals and birds which were once on the verge of extinction. For instance, the Khopyor Preserve (Voronezh Region) managed to conserve desmans, which only habitate in the USSR, and spread them to many regions of the country. Preserves have also helped protect and disseminate aurochs, as well as such valuable species as sables, martens, beavers, and leopards. Preserves play a great role as research institutions, since they study the course of natural processes and the relationships between individual elements of natural complexes.

According to Article 40 of the Fundamentals of Land Legislation, land areas containing natural objects of special scientific or cultural value (typical or rare landscapes, plants and animals, rare geological formations, flora and fauna, and so on) allotted in the statutory way, shall be considered land preserves.

The area of a preserve depends on the preserve's specialisation and aims, in particular on the animal and plant species protected on its territory. Areas are set aside in state preserves where any human interference in natural processes is prohibited. The aim here is to conserve a part of the environment in its natural, virgin form and trace changes occurring in nature. Preserve land is therefore completely withdrawn from economic use and only research work is carried out there. The body administrating the preserve is responsible for ensuring the protection of the preserve and for a required complex of research work.

In virtue of Article 40 of the Fundamentals of Land Legislation, any activity that violates the natural complexes of preserves or threatens the preservation of natural objects of special scientific or cultural value shall be prohibited both on the territory of the preserves and within the bounds of the protective zones set up around preserves. The land areas within the bounds of protective zones are not withdrawn from the land users, though they can be subject to various restrictions, i.e., the prohibition of felling, hunting and fishing.

The exploitation of natural resources is completely forbidden on the territory of preserves. This includes felling, mining, fishing, cattle grazing and the gathering of berries, nuts, fruit and medicinal herbs. It is also absolutely prohibited to kill wild animals, birds and insects because this would violate the course of nature. The restrictions apply both to outside citizens and to workers servicing the preserve in question. Thoroughfare and unauthorised visits are prohibited without the administration's permission.

There are Union and republican (Union republican) preserves. New preserves are set up on the decision of the Government of the USSR or the governments of the Union republics. Union preserves are controlled by a specialised department of the USSR Ministry of Agriculture. Republican preserves are controlled by the bodies administering game farms and preserves set up under the Councils of Ministers of the Union republics.

#### 4. LEGAL REGIME OF STATE FORESTS

According to the Fundamentals of Land Legislation, land already covered with forests or designed for forestry needs shall be considered state forests (Art. 43). The Soviet Union is rich in forests, with the forest area amounting to 746.8 million hectares.

Forests play an exceptionally important role in human society. Timber is widely used as construction material and as a valuable raw material for the chemical and pulp-and-paper industries, and as a fuel. Forests improve climatic conditions, prevent soil erosion and rivers drying up, create conditions for the existence of various animals and birds and for the growth of mushrooms, berries, nuts, medicinal herbs, etc.

In an arid climate afforestation is beneficial for agricultural crops. Moreover, forests have great cultural and aesthetic value.

The main task involved in using state forests is to grow timber. Here, land is the chief means of production, the main productive force. The bulk of state forests is therefore land overgrown with forest, i.e., land areas on which forest grows, regardless of land users. Forested areas are predominantly used by forestry enterprises, but they can also be used by collective and state farms, preserves, transport organisations and research establishments.

Land areas not covered with forests but designed for growing forests are also considered forest land. They include perished forest plantations, waste and burned-out land located within forests, etc. There are also areas which are neither forest-covered nor designed for growing forest but which are, nevertheless, included in the state forest land. These are forest roads, cuttings, ditches, and also swamps, sands and other areas unsuitable for planting forest. The use of forest land is closely connected with the interests of forestry, and with the regulation of the use and protection of forests.

Soviet legislation subdivides forests into three groups differing in their natural and economic importance and regime.

The first group includes forests whose main functions are to protect waters and the environment, regulate the climate and improve health. They are forests of green belts around cities, preserves' forests and forests of protective significance (alongside railways and rivers, etc.). In these forests industrial felling is forbidden and only sanitation cutting is allowed. The second group forests include regions with little forest, such as the southeastern and central part of the European territory of the USSR. Industrial felling is allowed but on a limited scale, usually not in excess of the annual increase in forest per each forestry enterprise. The third group forests include regions rich in forest (Siberia and the Far East), where timber is mainly procured. First and second group forests can be secured to individual collective farms.

Legislation regulates in detail the procedure for using forests, which is determined by the designation of the forest in question (shore-protecting, preserve, health-building, etc.).

Timber is procured in the second and third group forests according to the statutory conditions and manner. Proceeding from national needs in timber, the Council of Ministers of the USSR annually approves the volume of timber sold to all-Union ministries and the Councils of Ministers of the Union republics. In the Union republics and regions the tree-felling fund is set by the republican Council of Ministers or the regional Executive Committee, respectively. The pertinent documents stating the right to procure timber are issued by forestry bodies, normally forestry enterprises. The tree-felling ticket (order) is the only document allowing the procurement and transportation of timber. In order to regulate the use and protection of forests and recompense the afforestation outlays, a fixed pay is introduced for the timber sold, on the basis of rates established by the State Price Committee of the USSR Council of Ministers in the case of basic grades, and by the governments of the Union republics in the case of non-basic grades, with due account for the group of forest, the quality of timber and the distance of transportation.<sup>1</sup>

The state forest land is managed by forestry organs. The State Forestry Committee of the USSR Council of Ministers is the Union organ. Similar forestry committees are set up in the Union republics, e.g., in the RSFSR, while forestry departments (inspections) function in the regions and forestry enterprises in the localities.

The forestry bodies deal with forests as such and carry out timber procurement functions only to a small extent, lest forests be damaged, while the functions of industrial procurement of timber are exercised, mainly in the regions rich in forest, by timber procurement enterprises subordinated to

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<sup>1</sup> See resolution of the Council of Ministers of the USSR, dated January 27, 1967, "The Procedure of Selling Standing Timber" (*Collection of Resolutions of the USSR*, No. 4, 1967, Item 15) and resolution of the Council of Ministers of the RSFSR, dated February 20, 1967, "The Procedure of Selling Standing Timber" (*Collection of Resolutions of the RSFSR*, No. 3, 1967, Item 19) (in Russian).

the Ministry of the Timber and Wood-Working Industry of the USSR. These bodies therefore act as land users.

In addition, forest areas can be allotted to enterprises and organisations of other ministries and departments (for instance, the USSR Ministry of Agriculture, the USSR Ministry of Railways, republican organisations dealing with hunting and game rearing, etc.). The latter are thereby land users on the state forest land.

As a rule, land users on forest land are also forest users whose rights and duties in using lands and forests are closely interconnected.

The chief land user on the state forest land is a forestry enterprise, the most widespread type of forest-using economic body. Each forestry enterprise is allotted a definite land area and the forest growing on it. In conformity with its duty, the forestry enterprise carries out measures to improve the condition and increase the productivity of forests. With this aim in view it looks after the forest, carries out afforestation on the glade areas, grows seeds and protects forest from fires, unwarranted felling and pests and diseases. To exercise these duties the forestry enterprise has the right to conduct sanitation cutting, build roads and cut clearings, organise nursery forests, and build anti-fire installations and devices. It can also construct service buildings and allot its workers land plots.

In using any given forest land area the forestry enterprise must keep account of the land allotted to it, maintain the area's borders in proper order, protect boundary landmarks, and prevent unwarranted use of the forest land.

A tree felling fund is set aside for the forestry enterprise in regions rich in forests. In compliance with the fund regulations the forestry enterprise sets aside forest felling areas to procurement organisations, i.e., it gives them land areas grown with forest which is intended for felling. The forestry enterprise sees to it that the timber procurement organisation observe the established procedure of using the forest.

The timber procurement enterprise is the most widespread timber procurement organisation. To ensure the fulfil-

ment of its tasks, the timber procurement enterprise, as a land user, has the right to construct production and dwelling buildings and structures, lay roads, and also use the land for other purposes arising from the tasks of procuring timber and timber materials (it can, for instance, site warehouses on the land plots). The timber industrial enterprises can allot their workers land plots in the statutory manner. After felling trees on the plot allotted, the timber industrial enterprise must bring the plot which has been vacated into proper order and carry out the requisite afforestation.

State and co-operative game and procurement farms are prominent among other users of state forests. State and co-operative game farms are allotted game grounds in the statutory manner, including sections of the forest which can be used for hunting and game rearing. Moreover, a situation is not excluded where one and the same area is owned by another land user who, naturally, does not use it for the purpose of hunting or game rearing. Game grounds are allotted for a long period, usually more than ten years, which enables game farms to effect the extended reproduction of useful wild animals and birds. With this aim in view they can sow fodder plants and install buildings and structures upon agreement with the forestry enterprises and other principal land users, in order to meet their own needs.

State and co-operative procurement farms procure pelts, wild fowl and fish, and also nuts, mushrooms and berries. They also breed fur-bearing animals and engage in bee-keeping, and in addition take measures to reproduce the fauna for hunting and procurement purposes. Each procurement farm is allotted a land area in perpetuity, of up to three million hectares, from the state forest land, on the decision of the Council of Ministers of an autonomous republic or the Executive Committee of the regional (territorial) Soviet of Working People's Deputies. The procurement farms can build roads, production and dwelling premises on this land and also use it in other permitted ways.

Other organisations and citizens are not allowed to procure forest produce on an industrial scale in the areas which are

allotted to the procurement farms. However, citizens are allowed, in the statutory manner, to gather mushrooms, berries and nuts and procure other forest products for personal needs in the areas attached to procurement organisations.

The operative legislation specially regulates the procedure for using the so-called collective-farm forests. The land areas grown with forests are included in the total amount of land granted to the collective farm, according to the state deed, for an unlimited time (in perpetuity). Collective-farm forests serve for protecting fields and waters and for other agricultural purposes, and are also used for satisfying the needs of the collective farm and the collective farmers in timber and other forest products.

Trees are felled in collective-farm forests, i.e., forests granted for the collective-farm use, with the observance of the pertinent operative legislation and on the decision of the collective-farm administration. Timber is provided free of charge to meet the collective-farm social needs and the needs of the collective formers who have suffered natural calamities, and for a 50 per cent state rate to other collective farmers. In the case of all other procurers, standing timber is sold according to the rates for timber sold from state forests. Collective-farm forests are divided by regional Executive Committees according to timber grade.

Collective farms are made responsible for keeping account of the forest land attached to them, and for implementing measures to protect forests from pests, diseases, unwarranted felling and fires. They must also plant forests in the areas where trees have been felled or perished, and must rationally use forest plots for hay-making, cattle-grazing and for collecting nuts, mushrooms, etc.

Forests are owned by the state and are only allotted to collective farms for use, so state forestry organisations are assigned the task of controlling their proper economic management.

The operative legislation regulates the procedure for the so-called by-uses: cattle-grazing, hay-making, the picking of mushrooms, nuts, berries, etc.

These by-uses are free of charge. A charge is only taken for the collecting of wild berries and nuts in special procurement regions. No permission is required for uses such as the collection of mushrooms, berries, medicinal herbs and hops, except in cases where corresponding areas are attached to definite procurement organisations.

Cattle-grazing is permitted in all forests, except forest areas where this can do harm, such as preserves, parks, forest plantations, etc. The sections in which cattle-grazing is forbidden are determined by the forestry bodies. Cattle owners must observe certain rules, for instance, they cannot let their cattle graze without a shepherd and are not permitted to graze goats, except in specially assigned sections.

Pastures and grass land are distributed by the Executive Committees of district Soviets of Working People's Deputies jointly with the forestry bodies, which primarily satisfy the needs of forestry and timber procurement organisations, collective and state farms, invalids of the Great Patriotic War, workers and employees of state farms and collective-farm members. The right to mow hay and graze cattle is formulated in the written permission of by-uses which indicates the area and place of use and enumerates the land user's basic duties.

Soviet legislation regulates the relations involved in the use of state forest land with an eye to ensuring, above all, the interests of forestry, but also takes into account the interests of agriculture.

According to Article 43 of the Fundamentals of Land Legislation, state forestry enterprises, organisations and institutions, by decision of the Executive Committees of district or city Soviets of Working People's Deputies, shall allot, from the state forests in their use, agricultural land, which is not needed for forestry and the timber industry, to collective farms, state farms and other enterprises, organisations and institutions, and citizens for temporary agricultural use, where such use is not at variance with forestry interests.

## 5. LEGAL REGIME OF STATE WATERS

Water resources are used for various purposes, such as for constructing hydroelectric power stations, for industrial fishing and as waterways. Great amounts of water are also used for meeting economic and everyday needs. In pursuance of the decisions of the July (1970) Plenum of the CC CPSU, it is planned to put into operation three million hectares of new irrigated land, build land improvement systems in over-moistured regions on the area of five million hectares, raise water provision and complete, in the main, the reconstruction of the existing irrigation systems which require technical improvements.<sup>1</sup>

Water-covered land and land used for water management structures are being used more and more efficiently. Water-covered land is used for producing sea plants, extracting minerals (e.g., large oil deposits are being exploited on the Caspian Sea bed), and for other purposes. Accordingly, the land occupied by water installations within the boundaries of Soviet territory, and also land adjacent to water installations and used for water exploitation are classed as a special category in the State Land Fund.

According to Article 44 of the Fundamentals of Land Legislation, inland waters (rivers, lakes, reservoirs, canals, landlocked seas, territorial waters), glaciers, hydro-engineering and other water conservation installations and also land strips along the shores of waters or protective zones, shall be considered state waters.

State lands under water account for a considerable part of the territory of the Soviet Union. This is above all land under the territorial waters of the open seas, landlocked seas, rivers, lakes, water reservoirs, etc. Areas which are constantly under water are called water-covered areas, while land areas which are submerged under water for some, usually short, time are not included in the lands under water.

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<sup>1</sup> *Pravda*, July 4, 1970.

Land areas which are adjacent to water reservoirs and which are used to service water installations and to ensure the normal exploitation and protection of water objects are another component of the water lands. They include, for instance, strips along inland waterways, which normally have a 20-metre width beginning from the water or shore edge (the latter on steep shores). Though water lands consist of two components, as it were, they have a definite unity because they serve the rational use and conservation of water as a major natural resource. This explains the specific legal regime established for these areas, which is directly connected with and dependent on the legal regime of waters. According to the operative legislation, all inland waterways are in general use<sup>1</sup>, and, similarly, land strips along inland waterways are, as a rule, land in general use, except land areas with installations, valuable plantations, etc. This means that floating vehicles belonging to various organisations and citizens can freely move along waterways, and the land strips can be used for loading and unloading operations, repairs of floating vehicles, etc.

The connection between the legal regime of lands and the legal regime of waters is also expressed in the fact that land users must observe certain rules stemming from the need to preserve water resources. For instance, in designing, locating and constructing installations and enterprises affecting the condition of water, land users must look after the conservation of waters and their rational use. Operative legislation prohibits the commissioning of enterprises and installations not equipped with devices to prevent water pollution. Legislation establishes special rules to protect water sources used for drinking and for curative, cultural and health-building needs. Health protection zones are set up around these sources, within which a special land use regime must be observed. A health protection zone is divided into three belts. The first comprises the territory of the water supply source, in-

<sup>1</sup> This is expressly stated in Art. 13 of the Rules of Inland Water Transport, approved by the Council of Ministers of the USSR on October 15, 1955.

cluding the water intake and head water installations. Outside persons are prohibited both to reside and visit there, and the construction of all installations not bearing directly on the servicing of the water supply system is not allowed. The second belt includes the territory surrounding the water supply source and its feeders. Within this area, it is forbidden to build and use water reservoirs for agricultural purposes, and destroy forests. The use of land is only allowed provided it does not cause the depletion or qualitative deterioration of the water sources.

The land users in the third belt must observe the rules aimed at ensuring sanitary and hygienic conditions for preventing the spread of infectious diseases through the water supply system. This belt usually includes a large territory extending beyond the state water land. Specific requirements are made to the land users on state waters within the health resorts' health protection zones and in the places of bathing, rest and leisure. These requirements are made by the Executive Committees of the local Soviets of Working People's Deputies.

To ensure a favourable water regime on rivers, lakes and other water objects, several rules are established concerning land users on state lands under water. In particular, land users are duty-bound to observe the established procedure for tilling soils near the shores of water reservoirs, solidify shores by planting trees, etc. Water-conserving forest zones are established for the same purpose.

State waters can be used by enterprises and organisations under various ministries and departments, above all the USSR Ministry of Land Melioration and Water Conservancy, the USSR Ministry of Agriculture, the USSR Ministry of Fisheries, and also water transport, public health and other organisations. All these bodies carry out departmental functions of managing state waters. The Ministry of Land Melioration and Water Conservancy is assigned with a number of inter-departmental functions bearing on the use of water lands. These bodies issue binding resolutions and recommendations on the construction of new projects and the recon-

struction of operating enterprises and installations whose exploitation involves the use and conservation of water. They also keep account of water installations and ensure the state inspection of water use and conservation.

The organs of the USSR Ministry of Public Health see to it that all land users observe the sanitary requirements involved in maintaining water-covered and other land of the State Land Fund, especially within the zones and areas of sanitary protection.

The organs of the USSR Ministry of Fisheries are assigned with ensuring conditions for the conservation and reproduction of fish reserves. Therefore, all works bearing on the construction of water installations, the clearing of the bed of water reservoirs for shipping and other purposes, on extracting water plants, etc., must be agreed upon with these organs.

Similarly, the water transport bodies are assigned control over the activities of users of land under water when these activities affect shipping and the condition of waterways.

At the same time, all land users on state lands have several duties stemming from the specific features of the legal regime of this land category. These duties mainly concern the need to ensure the rational use of water resources for various purposes. For instance, operative legislation has established that water transport and forestry enterprises and organisations must obtain permission from the pertinent fish protection organs to carry out explosions in inland waterways which serve as fish reservoirs.

In conducting dredging works, silt is not to be dumped into spawning and hibernation grounds, and all enterprises and organisations are prohibited from polluting the beds of reservoirs. Those enterprises and organisations, which to a certain extent pollute the bed of water reservoirs owing to their production activity (e.g., wood-rafting organisations), must regularly clear the water reservoir beds of submerged timber, bark and other objects.

The legislation regulates the procedure of using the shore strips of inland waterways in detail. For instance, transport

and rafting organisations have the right, without a special permission, to build various installations for fastening ships, loading and unloading, for the mechanical traction of ships and rafts, and to keep solid fuel and to build temporary wintering premises in the event of a ship's accidental wintering or wreck. Organs regulating the use of shipping and wood-rafting routes also have the right to fell trees in order to ensure the good visibility along the water route and ensure safe shipping and wood-rafting. These organs may freely use the shore strip along inland waterways with a view to carrying out works for protecting and improving shipping and timber-rafting, and can use ground, stone, gravel and shrubbery for constructing buildings and installations to ensure normal rafting and shipping. Permission is required from the respective Executive Committee of the local Soviet of Working People's Deputies for constructing major buildings and installations.

The enterprises and organisations which use the shore strip for keeping timber must thoroughly clear the shores prior to the spring water-flood and after completion of work.

State land under water and state waters themselves can be granted for separate use or can remain in the joint use of various enterprises and organisations. For instance, the land areas used for the construction of ports, harbours and water stations are exclusively allotted for the use of the water transport organisations. In some cases the attachment of land areas and waters to individual organisations for separate use does not exclude the use of these areas by other organisations or persons. For instance, the allotment of fishery sections to fishery organisations does not always mean that they cannot be used for other purposes, such as shipping.

The operative legislation specially defines the rights and duties of economic organisations associated with water, such as the administrations of irrigation and drainage systems, which use state lands under water. Nowadays the regulations concerning the land allotted for water management are ap-

proved by the Councils of Ministers of the Union republics. According to these regulations, the land used by water management includes the areas occupied by canals, water reservoirs and installations servicing them, and also land strips ensuring the normal functioning of these installations.

Legislation does not determine beforehand the size of areas for the construction of water installations. The specific size of these areas is substantiated and defined in the construction or reconstruction projects. The width of land strips along canals is established by legislation. These strips are used by water management enterprises for servicing hydro-technical installations. The Boards of irrigation and drainage systems use the land allotted to them for siting irrigation and drainage canals, water reservoirs, decantation basins, etc. These organs are duty-bound to use their land areas in keeping with the specific aims for which they have been allotted. These aims are determined by legislation and the construction projects of irrigation or drainage systems.

## 6. LEGAL REGIME OF STATE RESERVE LAND

Alongside the land in economic use, the Soviet Union has land whose designation has not yet been defined and which is in reserve, as it were. This land forms an independent category of the land in the State Land Fund, called state reserve land.

According to Article 45 of the Fundamentals of Land Legislation, all land not granted to land users for an unlimited time or for long-term use shall constitute state reserve land. It does not follow from this definition that any land area, wherever it is located, is included in the state reserve land unless actually used. For instance, among the urban land, i. e., land within the city bounds, there are unused land areas which are not included in the state reserve land, because they are earmarked for meeting the city's needs. Similarly,

state forests and waters may include lands which are actually unused but whose economic designation had been determined since they refer to a respective category of the State Land Fund.

Thus we may say that the state reserve land incorporates all land within the territory of the USSR which is not included in any category of the land in the State Land Fund.

State reserve land is a national reserve, while the lands which are actually unused within the bounds of some categories of land do not play such a role. They may serve as a temporary reserve for individual agencies, cities, etc.

State reserve land is distributed unevenly across the vast territory of the USSR. There is comparatively little reserve land in the European part of the Soviet Union, except the Far North, whereas it occupies large tracts in Siberia, the Far East and Kazakhstan. State reserve land serves above all as a source for expanding agricultural land. For instance, many collective and state farms were set up on the virgin and fallow land in Kazakhstan. At present the state reserve land is used to develop irrigated farming, especially in the Central Asian republics, particularly in the lower reaches of the Amu Darya river.

State reserve land is widely used as the basis for resettlement. The resettled citizens set up collective and state farms in thinly populated regions. Soviet legislation encourages the organised development of thinly populated regions, and establishes several privileges for the migrants and gives material aid to them.

State reserve land is instrumental in further industrial development. The Soviet state sets up large industrial complexes in Siberia, the Far East and the Far North, mainly on the state reserve land. Industrial development in sparsely populated regions is also promoted by the discovery of large mineral deposits, thanks to the state's concern for a comprehensive study of Soviet territory (for instance, rich oil, gas, diamond and other deposits have been discovered in Siberia). These resources are exploited comprehensively, and land areas and forests are simultaneously developed. New towns

and workers' settlements appear, as factories, mines and electric power stations are built. In this connection the state reserve land is transferred to other categories of land (that of populated localities, etc.).

The operative legislation encourages the granting of state reserve land for various state and social purposes. It was established in 1954 that areas can be allotted from the land of collective, state and ancillary farms and first-group state forests provided there is no other unused land. This provision was developed in the Fundamentals of Land Legislation. The said rule aims to protect the land users' interests and prevent the withdrawal of land areas from them if state reserve land not yet in economic use can be used for the given purposes. When an area is granted from the state reserve land its economic designation is determined and it is transferred to another land category.

State reserve land can be allotted to meet some temporary needs and for a short-term use (up to three years). In this case it is not excluded from the state reserve land. In particular, areas from the state reserve land can be granted for temporary short-term use for hay-making, for factory and office workers' vegetable gardening, and to meet socialist organisations' temporary requirements in land areas. If a land area is granted for a long-term use (i.e., for more than three years) it is excluded from the state reserve land.

The state reserve land is under the jurisdiction of the USSR Ministry of Agriculture which keeps account of all lands, particularly the state reserve land. Moreover, it should be noted that it is not the reserve land that is differentiated from other land, but the other way round.

The pertinent bodies of the Ministry of Agriculture prepare the necessary materials concerning the filing of an application by organisations or citizens for the allocation of a land area: they also make the decision in each particular case.

The Executive Committees of the local Soviets of Working People's Deputies adopt pertinent decisions on the allotment of land areas from the state reserve land.

1. GENERAL PROVISIONS

The Fundamentals of Land Legislation of the USSR and the Union Republics attach great importance to the individual form of land tenure whereby individual citizens are granted the right to use land. To be sure, individual forms of land tenure are much inferior to social forms in the USSR, both in the amount of the land used and the role they play in the national economy. Yet the citizens' right to use land plots affects the interests of a large number of people and so legislation regulates this type of land tenure in considerable detail. True, for individual peasants,<sup>1</sup> a numerically insignificant category of citizens, land plots are the principal source of income.

Collective farmers and factory and office workers obtain their main income in the form of payment for their work at state or social enterprises, institutions and organisations. For them the use of a land plot is a secondary, ancillary occupation, and the produce they obtain from their plots is a supplementary source of income. Moreover, gardening on a fruit or vegetable plot can be of some aesthetic interest; land plots may also be used for rest and leisure.

Finally, a land plot is the basis of ancillary farming and creates the necessary preconditions for the upkeep of livestock and poultry on a farm.

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<sup>1</sup> Individual peasants now account for less than 0.03 per cent of the country's population.

The citizen's right to land tenure is of a personal, ancillary and purposive nature. The personal character of this right is established in Article 7 of the Constitution of the USSR, Article 22 of the Fundamentals of Land Legislation and in the Model Collective-Farm Rules, adopted at the All-Union Congress of Collective Farmers in 1969 and approved by the resolution of the CC CPSU and the USSR Council of Ministers of November 28, 1969. The right to land tenure, in line with its personal nature, belongs to individual citizens and land plots are farmed without the employment of hired labour, i.e., only by the members of the family concerned. Those who employ other citizens to cultivate their land may be deprived of the right to use it, which does not mean, of course, that assistance may not be rendered to the aged, invalids, etc., to work their plots.

Land plots are granted to citizens to satisfy their personal, consumer requirements. The use of land plots for profit is not allowed.

The size of plots allocated is regulated with an eye to retaining its ancillary character.

The present land legislation distinguishes three types of citizens' land tenure: land use by collective-farm households, land use by factory and office workers, and land use by individual peasant farms. Alongside the general rules, special norms are established to regulate the respective types of citizens' tenure.

A land plot is allotted together with a statement of its particular purpose; moreover, the main purpose may be accompanied by a secondary purpose or purposes indicated in the pertinent decision or resolution. Needless to say, the decision does not stipulate all the plot's secondary purposes. For instance, if a plot is allotted for individual housing construction it can also be used for ancillary farming, for recreation and rest, sports activities and other purposes that are not at variance with the legislation. The only essential condition is that the land plot be used for the main purpose for which it was allotted. For instance, if it has been allotted for building a dwelling house the citizen cannot abandon the construc-

tion and use the plot for other purposes. The use of a land plot for its main purpose is both the right and duty of a citizen, while using it for non-basic, subsidiary purposes is only his right, not duty. The violation of the main purpose of tenure or the period of developing the plot may incur the termination of land tenure.

The legal regime of the land plot is closely bound up with its proposed function. The size of the land plot, land users' rights and duties, etc., are determined according to the plot's main purpose. The regulation of citizens' land tenure is aimed at normalising it, creating roughly equal conditions for various citizens who request land plots for similar purposes, and at ensuring the ancillary nature of individual land tenure. It is also aimed at a proper combination of personal and social interests.

While allotting land plots to citizens the state provides the land tenure with the necessary stability. First of all, land plots are usually granted for unlimited, i.e., permanent use. This enables citizens to make the necessary investments in a land plot which will be compensated in many years to come, to build capital structures if this conforms to the purpose for which the plot was allotted, to grow orchards, etc. Citizens can use land for a fixed term only in special, strictly stipulated cases, for instance, when the land plot is allotted for vegetable gardening.

The stability of the citizens' land tenure is guaranteed by the provision that it can only be terminated under certain conditions expressly stated in law and when the necessary requirements are observed. According to Article 15 of the Fundamentals of Land Legislation of the USSR and the Union Republics, the right of citizens to use the plots allotted to them shall be terminated either in full or in part in cases of:

- 1) voluntary renunciation of the use of a plot;
- 2) expiry of the term for which a plot was allotted;
- 3) transfer of all members of a household or family to another permanent place of residence;
- 4) discontinuance of labour relations, in connection with

which a service plot was granted, if no other provision has been made by the legislation of the USSR and the Union republics;

- 5) death of all members of a household or family;
- 6) the need to withdraw the plot for state or social needs.

The right to use a land plot can also be terminated should the plot be unused for two years in succession or if its use is at variance with the purpose for which it was allotted.

Moreover, the right to use a land plot can be terminated if the land user violates provisions of land legislation, i.e., if he commits actions for which he is liable in accordance with Article 50 of the Fundamentals.

According to Article 15, the land codes of the Union republics may also envisage other grounds for terminating the land tenure rights of citizens.

These rights are effective as soon as a citizen is granted a specific plot. The subject, i.e., the bearer of the individual land tenure right is, as a rule, an individual citizen, but the plot is simultaneously granted to his family as well. This means that if there are several adults in a family the plot may be only allotted to one of them. A group of persons may be the subject of this type of land tenure only in two cases, viz., when the plot is granted to a collective-farm household or to an individual peasant farm. In these cases the land plot is allotted to the household as a whole, as a working unit.

Generally speaking, the size of land plot granted for individual use does not depend on the size of the family. It is granted as one piece and only in exceptional cases can it be subdivided into two parts, for instance when, for some reason, it is impossible to allot it as one piece near the house.

Individual land users must observe the general provisions of land legislation. According to the Fundamentals, they must use the plot for the purposes for which it was allotted and manage it rationally and efficiently. The land user himself decides how to organise his land plot, where to lay out his fruit or vegetable garden, etc. Special requirements are made on the building of structures. Their location is stipulated in the project for laying out and building a respective pop-

ulated locality and their architecture is defined by a standard design or an individual design approved in the established manner.

Citizens may use water sources to meet their personal and household needs (drinking, irrigation, etc.) without special permission. For these purposes, they can use available sources and construct new ones, e.g., wells. Citizens can also mine common minerals on their plots, such as sand, gravel and clay, to meet their household needs, provided they employ open-cast methods and do not use explosives.

Individual land users have other rights stipulated by the operative legislation, and incur limitations arising from the need to observe the interests of the state and the neighbouring land users. The buildings and structures erected by citizens in the established manner, and crops and plantations on their house-and-garden plots are their own, rightful property.

Separate types of the citizens' land tenure are discussed below.

## 2. THE RIGHT TO USE LAND PLOTS ALLOTTED TO COLLECTIVE-FARM HOUSEHOLDS

The procedure for granting land plots to collective-farm households for ancillary farming is regulated by Arts. 24 and 25 of the Fundamentals of Land Legislation of the USSR and the Union Republics and by the Model Collective-Farm Rules adopted by the All-Union Congress of Collective Farmers in November 1969.

According to Article 24 of the Fundamentals, lands allotted to a collective farm under the state title deed for unlimited use (in perpetuity) shall consist of land in common use and household plots. Collective-farm households and citizens residing on the territory of a particular collective farm receive plots from the household land fund. Household land delimited in natural conditions from the land in common use creates real preconditions for providing these people with

household plots. According to Article 42 of the Model Collective-Farm Rules, each collective-farm family (collective-farm household) has the right to a house-and-garden plot. It follows from the provisions of the Model Rules that if a collective-farm household comprises several families the plot shall be granted to the collective-farm household as a whole.

The Model Rules only decide on the basic questions pertaining to the land tenure of a collective-farm household. They establish, in particular, that the house-and-garden plot granted to a collective-farm household may not exceed 0.5 hectare and, in the irrigated farming regions, 0.2 hectare, including the land under buildings. Specific sizes of house-and-garden plots are determined in the rules of respective collective farms. The Model Collective-Farm Rules provide that the size of house-and-garden plots stipulated by the previous regulations of an agricultural artel may be preserved. Thanks to this, collective farms now need not revise the existing norms of the farmers' household tenure.

The new Collective-Farm Rules regulate the allotment of household plots with due regard for the development of rural populated localities in the future. The Communist Party and the Soviet Government have outlined measures for developing rural populated localities. Thus the resolution of the CC CPSU and the USSR Council of Ministers of September 12, 1968, "On the Regulation of Rural Construction", sets as a most important task in rural construction the gradual conversion of rural populated localities into well-appointed townships with good household and cultural amenities.

The Fundamentals of Land Legislation of the USSR and the Union Republics single out two categories of rural populated localities, those subject and not subject to further development. Lay-out and building projects are worked out and approved in the established manner for localities in the former category.

The Rules take this into account when they stipulate that a collective farm shall allot its members smaller plots near their houses (flats), provided mass construction is under way in the respective populated locality. The remaining part of

the plot shall be allotted outside the dwelling zone. The land plot's total area must not, of course, be in excess of the household tenure norms established by the Rules of the particular collective farm.

Unlike the 1935 Model Rules of the Agricultural Artel, the new Rules, in keeping with the Fundamentals of Land Legislation, offer a fairly extensive enumeration of instances when the right to a land plot is preserved for collective-farm families (households) which lack able-bodied members for valid reasons. This is the case, for instance, when all the members of the family (collective-farm household) are disabled or elderly, or when the only able-bodied member is called up for active military service, or chosen for an elective office or has entered an educational establishment or temporarily changed his job with the collective farm's consent, or else if there are only minors in the family (household). In these cases the plot is retained either for life (e.g., for collective-farm pensioners) or temporarily (for the period of studies, military service, etc.), i.e., till the pertinent condition is there. The list is not closed. According to Article 42 of the Model Rules, the general collective farmers' meeting has the right to preserve the house-and-garden plot for the family which has severed labour relations with the collective farm for some other reasons.

Household land is granted to the collective-farm family for personal, ancillary farming and so it must be cultivated without the employment of hired labour. The household plot cannot be transferred to other persons, and transactions with it in violation of the fundamentals of land nationalisation are prohibited by law.

The Model Collective-Farm Rules provide for assistance to collective farmers working on a house-and-garden plot. This assistance must be rendered primarily to families which have no able-bodied members.

The collective-farm board is duty-bound to make a regular check on the proper observance of the established size of the household plots, and can withdraw unauthorised land surpluses. Crops grown on the withdrawn part must be transfer-

red to the collective farm without compensation to the collective-farm household unlawfully using it. The size of the collective farmers' ancillary farm depends on the size of the plot granted for use and the amount of livestock personally owned by the collective-farm family (household). Article 43 of the Model Rules defines the number of livestock in personal ownership. The collective-farm family (household) may have one cow with offspring up to one year of age and one head of young cattle up to two years of age, one sow with offspring of up to three months of age or two pigs for fattening, and 10 sheep and goats together. The Rules do not set any limits to the personal ownership of poultry, rabbits or bees. Unlike the 1935 Model Rules of the Agricultural Artel which established higher norms for the personal ownership of livestock in some regions, the new Rules transfer this question to the jurisdiction of the Union republics. The Councils of Ministers of the Union republics can increase the amount of livestock personally owned by the collective-farm family (household), or allow the replacement of some types of livestock by others taking into account the local conditions.

The rules of corresponding farms define the amount and types of livestock which may be owned by the collective-farm family (household) on the basis of the above provisions and within the norms stipulated by the Collective-Farm Model Rules. The maximal norms established by the Collective-Farm Model Rules will be in force in those republics whose Councils of Ministers find it unnecessary to provide for increased norms of livestock in the collective-farm family's personal ownership. On the other hand, individual farms shall base provisions of their rules on the increased norms of various types of livestock established by the republican Councils of Ministers over and above the Model Rules. It is forbidden to keep livestock over and above the amount provided for in the rules of a respective farm.

The Collective-Farm Model Rules elaborate on the provision formulated in the resolution of the CC CPSU and the USSR Council of Ministers of March 6, 1956, "On the Rules of the Agricultural Artel and the Further Development of

the Collective Farmers' Initiative in the Organisation of the Collective-Farm Production and Managing the Artel's Affairs". This provision stipulates that the sizes of the collective-farm households' plots shall be established with due regard for the participation of the able-bodied members of the collective-farm family in the artel's common enterprise. Article 42 of the Model Rules stipulates that the size of the house-and-garden plot of the collective-farm family (household) shall be established by the general collective farmers' meeting with due account for the family's size and its participation in the farm's common enterprise.

The Rules provide for assistance to the collective farmers in livestock purchases. According to Article 43, the collective-farm board shall help the farmers in purchasing livestock and in veterinary services, and assist in providing livestock with fodder and pastures. These rules guarantee the right of every collective-farm family (household) to manage personal ancillary farming on the house-and-garden plot.

### 3. LAND TENURE BY FACTORY AND OFFICE WORKERS

The overwhelming majority of factory and office workers live in towns where they have flats in municipal houses. So they are not particularly interested in land plots, though they can be granted land for vegetable or fruit gardening and for country-cottage building. Factory and office workers who reside in small towns can receive land plots for building individual dwelling houses. Land plots are of most interest to those workers and other employees who reside in rural localities, above all workers at state agricultural enterprises and also teachers, doctors, etc. Finally, certain categories of factory and office workers are granted service land plots.

A corresponding procedure for allotting land plots, and their sizes, are established for each of the following types of factory and office workers' land tenure.

1. According to Article 27 of the Fundamentals of Land Legislation, state farms and other state agricultural enterprises, organisations and institutions shall allot household or vegetable garden plots to their regular workers and other employees and also to teachers, doctors and other specialists working and residing in a rural locality. For these purposes, household plots for workers and other employees are separated and marked out from lands allotted to a state farm or other state agricultural enterprises, organisations and institutions, in accord with the norms established by the republican legislation and the approved land management scheme.

Where there is a shortage of household lands for providing workers and other employees with house-and-garden plots, the area of such lands can be increased on application by the farm's managers and with the permission of the Executive Committee of the regional (territorial) Soviet of the Working People's Deputies, the Council of Ministers of an autonomous republic and, in republics with no regions, of the Council of Ministers of a Union republic.

The size of house-and-garden plots and the manner in which they are allotted to workers and other employees are established by the republican legislation. In the Union republics the sizes can vary according to local conditions. For instance, the legislation of the RSFSR lays down a maximum size of 0.3 hectare for house-and-garden plots granted to regular workers, specialists and other employees of state farms and other agricultural enterprises in rural localities, townships and towns of district subordination. The house-and-garden plots may be as large as 0.5 hectare for workers and other employees residing in the Sakhalin, Kamchatka and several other regions. Moreover, the Councils of Ministers of autonomous republics and regional Executive Committees have the right to increase the plot sizes to 0.4-0.5 hectare, with due account for local conditions. The legislation of the Ukrainian SSR sets a maximum of 0.4 hectare for these categories of workers and other employees, and the legislation of the Uzbek SSR, 0.25 hectare. The household plots are reduced on irrigated land.

In all Union republics, plots of up to 0.25 hectare are allotted to teachers, doctors and agricultural specialists who work and reside in rural localities and also to workers of village Soviets, houses of culture, children's institutions, and other workers who serve in agriculture or cater for the rural population's needs.

Finally, pensioners who reside in rural localities and also workers and other employees whose activity is disconnected from agriculture or catering for the agricultural population's needs, have land plots of up to 0.15 hectare.

Workers and other employees who do not have household land may be allotted plots for individual vegetable gardening of up to 0.15 hectare per family. Land plots for gardening are also allotted to workers and other employees who have plots of less than 0.15 hectare. In this case the total area of the plot allotted for vegetable gardening plus the house-and-garden plot should not exceed 0.15 hectare.

House-and-garden plots are allotted from the land of state farms and other state agricultural enterprises, organisations and institutions on the order of the director or the manager of the farm, plots from the collective-farm land are granted according to the decision of a general meeting of collective farmers or meeting of authorised representatives; plots from other lands are allotted on the decision of Executive Committees of district Soviets of Working People's Deputies.

Orders of farm managers or decisions taken by the collective farm's managing bodies on granting land plots have to be approved by the Executive Committee of the village Soviet of Working People's Deputies whenever land plots are allotted to pensioners and also to workers and other employees who reside in rural localities but do not work in agriculture or serve the rural population.

The Fundamentals of Land Legislation establish uniform rules for the retention of household plots by workers and other employees who quitted the job for valid reasons. According to Article 27, household plots shall be retained in their existing sizes by workers and other employees when they retire on pension owing to old age or disability, and also by

families of workers and other employees called up for active service in the USSR Armed Forces, or who take up studies—for the entire period of their military service or stay in an educational institution.

If a worker or an employee who has an increased size of land plot changes his job, his plot is adjusted to conform with his new occupation. In all cases he retains a plot of up to 0.15 hectare if he continues to reside in a rural locality.

According to Article 27, citizens who own livestock shall be allotted pasture holdings from state reserve land, state forests, urban land and non-agricultural land. In the absence of such land, holdings for grazing livestock may be legally allotted from land of collective farms and other agricultural enterprises, organisations and institutions, with the livestock owners compensating the land users for the expenses of maintaining and improving these holdings.

Citizens of the aforementioned categories shall be given holdings for hay-mowing from state reserve land, the state forests, from the allotted land strips along railways and highways and other non-agricultural land.

These provisions create the necessary conditions for personal ancillary farming by workers and other employees.

2. The Soviet land legislation specially singles out some categories of citizens who are granted service land plots by virtue of their specific activities. They include certain categories of workers in transport, forestry, the timber industry, communications, water conservation, fishing and hunting and some other sectors of the economy. These allotments help provide farm products for these workers' families who sometimes reside far from populated localities and cannot always buy foodstuffs in shops.

The Fundamentals of Land Legislation establish general principles for granting service land allotments to the appropriate categories of workers. Besides enumerating these categories Article 42 of the Fundamentals stipulates that these allotments shall be granted from land attached to enterprises, organisations and institutions of the respective ministries and

departments, and where there is a shortage of such land, from state reserve land and state forests.

The republican legislation enumerates the categories of workers who have the right to use service allotments, defining the latter's sizes, terms of granting and manner of use. Service allotments are not granted to all workers in a particular industry, but only to those included in the list compiled for each branch of the economy. The lists take account of the specific features of the work. For instance, the list of railway workers enjoying the right to have allotments includes trackmen, crossing masters and others.

Both the worker's post and place of residence are taken into account when granting him a land allotment. For instance, the resolution of the USSR Council of Ministers of January 27, 1962, "On the Regulation of Allotting Land for Rail- and Highways, Drainage and Irrigation Systems and Other Linear Structures" provided that service allotments be granted to linear workers who reside, as a rule, far away from populated localities. In recent years the Union republics have passed appropriate acts stipulating that linear workers included in the list be granted service allotments if they reside in rural localities, townships or towns of district subordination.

Article 42 of the Fundamentals does not define the composition of the service allotments. According to the legislation in force, the latter consists of arable land and a hay-mowing plot. Each plot has a specific designation and so hay-mowing plots are granted when the worker owns livestock.

The sizes of service allotments (arable land and pastures) differ for individual republics and separate categories of workers. The sizes of service allotments can also vary for workers residing in certain regions.

Thus, the RSFSR legislation stipulates that individual categories of workers in forestries and the timber industry be granted the following sizes of service land allotments: up to 0.3 hectare of arable land (up to 0.5 hectare in forested regions) and from one to two hectares of hay-mowing. At the same time, workers on main pipelines (oil-, product- and

gas-pipelines) and river transport are granted up to 0.15 hectare of arable land and up to one hectare of hay-mowing land.

The Fundamentals and other normative enactments imply that service allotments shall be only granted to those workers who do not have house-and-garden plots. If the service allotment is larger than the available house-and-garden plot it is granted as arable land so that the total area of the household plot plus the service land allotment should not exceed the service allotment of arable land established for a given category of workers. A service allotment is granted to a worker and his family simultaneously; therefore, only one allotment is granted though several workers in the family may have the right to a service allotment.

If a worker does not want a service allotment, he may be granted land plots for individual vegetable gardening of up to 0.15 hectare per family.

The right to have a service allotment is closely connected with the worker's labour activity. The very concept "service allotment" indicates that it is granted in connection with the worker's labour relations and, consequently, for the period of these relations. The right to a service allotment is terminated when the worker is dismissed from his job. If crops have been sown on the allotment the right to use the plot is terminated after harvesting. Labour relations can be terminated for various reasons (retirement on pension, worker's death during his performance of official duties, etc.). Therefore the republican legislation provides for those cases where the right to a service allotment is retained even after labour relations have terminated. This right is also retained for workers who have retired on pension owing to old age or disablement. Moreover, the right to use service allotments is retained by families of workers who have been called up for active service in the Armed Forces of the USSR and who have been sent to study—for the whole term of service in the army or in an educational institution. Finally, service allotments are retained by the families of workers who have died while on duty.

3. The present legislation stipulates that citizens shall have the right to receive a land plot for building an individual dwelling house. This refers to factory and office workers who reside in towns and workers' settlements. Workers and other employees who reside in rural localities may build individual houses on the house-and-garden plots allotted them.

The Soviet Union carries out large-scale housing construction at the expense of state resources. But citizens' housing requirements have not yet been fully satisfied and individual housing construction is therefore of some importance. Special plots are set aside for this construction which is largely carried out in small towns and townships. Individual construction is limited in capitals of Union republics and regional and territorial administrative centres, in order to ensure a proper architectural design of big towns and cities and to create optimal conditions for the overwhelming majority of the population who reside in municipal houses.

The procedure for allotting plots for individual housing construction was established by the decree of the Presidium of the Supreme Soviet of the USSR of August 26, 1948, "On the Citizens' Right to Purchase and Build Individual Dwelling Houses"<sup>1</sup> and by the resolution of the USSR Council of Ministers which was issued on the same day and defined the manner in which the decree should be implemented. The Fundamentals of Land Legislation did not change the procedure for allotting land plots for individual construction. Article 37 only points out which land should be used to allot plots for these purposes.

Land plots for these purposes are granted by decisions of Executive Committees of district, town or regional Soviets of Working People's Deputies. On the basis of these decisions an appropriate body of the communal economy signs a contract with the builder which defines the terms for allotting the plot.

Legislation establishes the following sizes of land plots allotted for individual housing construction: 300 to 600 sq. m. in towns and 700 to 1,200 sq. m. in rural areas. The plot is

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<sup>1</sup> *Gazette of the USSR Supreme Soviet*, No. 36, 1948.

granted free of charge and for an unlimited time. The builder must erect the house in the time stipulated according to a standard or individual design. The contract defines the type and size of the house, the number of rooms and the time limits for beginning and finishing construction. It also makes the builder duty-bound to improve the plot. It is forbidden to build structures not stipulated in the contract, to fell trees on the plot, etc.

Citizens also have the right to lay vegetable or fruit gardens on their plots. If the house built on the plot is dilapidated or has been destroyed owing to some natural calamity (fire, flood, etc.) then the right to use the plot is retained provided a new structure is erected according to the approved design and during the period agreed upon with the communal bodies.

The builder may be deprived of the right to use the plot if he systematically violates the terms of the contract and the period of building, deviates from the construction project, etc.

The house built by a citizen in accordance with the established rules is his personal property.

The present legislation also provides for the citizens' right to build summer houses. This is laid down, for instance, in Article 37 of the Fundamentals of Land Legislation. Country cottages are at present built by country-cottage co-operatives and, unlike housing construction, by persons who have dwelling space. A country cottage is designed above all for rest, not permanent residence.

Co-operatives for building country cottages can be organised at the request of an enterprise, institution, or organisation, and are formalised by the decision of the Executive Committee of the town Soviet of the Working People's Deputies. A minimum of 10 is required to form such a co-operative. The decision having been received, those wishing to join the co-operative convene a general meeting which adopts the co-operative's rules. The latter are registered by the Executive Committee of the local Soviet of Working People's Deputies which has passed the pertinent decision. Following

the registration, the co-operative members convene a general meeting which elects the board and the auditing commission of the co-operative. The co-operative's financial resources are formed from the shares of its members. Land plots for building country cottages and ancillary structures are allotted in perpetuity and free of charge. The pertinent deed of allotment defines the volume of construction and the time of its start and finish. The cottage co-operative builds cottages according to a standard design and, as an exception, if the co-operative so wishes, according to individual projects approved in the established manner. The houses built by the co-operative are its property and cannot be sold or transferred, either wholly or in part, to any other organisations or individuals, except transfers made on the co-operative's liquidation.

Each co-operative member receives for permanent use an isolated cottage dwelling or a separate cottage with not more than 60 sq. m. of dwelling space, in accordance with the size of his share and his family. A member of the cottage co-operative has the right to leave the co-operative at any time and also, with the consent of the co-operative members' general meeting, to hand over his share and the right to use his dwelling to his parents, spouse or his children provided these persons have used this dwelling together with him. A person who leaves the co-operative is refunded his share on the balance-sheet value and the vacated dwelling is given, by the general meeting's decision, to another person who has joined the co-operative. The share of the deceased member is transferred to his heirs. Members of the deceased's family who lived in his dwelling before his death have a priority right to carry on using this dwelling provided one of them is a member of the co-operative. Heirs who have not used the dwelling during their ancestor's lifetime or who have refused to continue using it are paid the value of the inheritance or part thereof.

Collective fruit and vegetable gardening is another form of citizens' land tenure. In recent years some measures have been taken to stimulate this form of tenure. The collectives

engaged in fruit or vegetable gardening are voluntary associations of workers and other employees of enterprises, institutions and organisations whose main task is to develop collective fruit or vegetable gardening in every possible way to meet their own requirements in fruit, berries or vegetables and to organise their rest and leisure.

Land plots for these purposes are allotted to enterprises, institutions and organisations whose workers and other employees are united in the collective. This form of tenure has features of collective land use, because land plots are not allotted for individual use of the collective's members, though the size of the plot is established on the basis of the relevant norms. The RSFSR legislation provides for allotting land plots in perpetuity for collective orchards of up to 600 sq. m. per family, with this size being increased to 800 sq. m. in Siberia and the Far East, and for collective vegetable gardens of up to 0.15 hectare per family for a maximal period of five years. The plot cultivation, accommodation, fighting pests, etc., shall be carried out collectively, according to a single plan. Land has to be cultivated by the personal labour of the collective's members and of their families, which does not rule out, of course, employment of specialists for some specific jobs. These collectives operate according to their own rules which are worked out on the basis of the Model Rules approved in the established manner. These rules regulate in detail the procedure for electing the co-operative organs of administration, define the co-operative members' rights and duties, etc.

Land areas for collective fruit or vegetable gardening are allotted on the basis of decisions taken by the Councils of Ministers of autonomous republics or Executive Committees of regional (territorial) Soviets of Working People's Deputies. From these areas Executive Committees of town and township Soviets of Working People's Deputies grant plots to enterprises, organisations and institutions. The Executive Committees of local Soviets are responsible for controlling the proper use of land by the collectives, including the plot's lay-out, and the building of structures.

By its economic nature, collective fruit and vegetable gardening is a type of agricultural tenure. So the right to organise these collectives is stipulated in Section II of the Fundamentals of Land Legislation which deals with agricultural land. Due to this, the rights and duties of these collectives are basically similar to those of other agricultural land users, while some peculiarities stem from the specific aims of this particular type of land use. For instance, on plots assigned for collective fruit gardening it is allowed to build light summer cottages but the building of capital structures is forbidden. Fruit gardening collectives may build necessary household structures, water supply and power installations, etc.

Collective gardening is stable. The right to land tenure by respective association can be only terminated when the collective is liquidated on the decision of the majority of its members or, given valid grounds, on the decision of the town (district) Soviet of Working People's Deputies and with the agreement of the town or regional (territorial) trade union council.

#### 4. LAND TENURE BY INDIVIDUAL PEASANT FARMS

Legislation of the initial years of Soviet power regulated in considerable detail the land tenure by individual peasant farms. When mass collectivisation had been completed, the peasants' individual tenure lost its former significance because the number of individual peasant farms had been substantially reduced. At the same time, Soviet land legislation secured the necessary conditions for individual peasant farming in order to ensure the principle of voluntariness in joining collective farms. The 1936 Constitution of the USSR retained the peasants' right to manage their own small personal farms and only restricted the employment of workers to carry out various jobs on the farms. The Government freed individ-

ual farms from their former duties to deliver agricultural produce in kind.

Land is secured to individual farms for unlimited use free of charge. The land area allotted consists of two parts: household land and a field plot. This was provided for in the resolution of the CC CPSU(B) and the Council of People's Commissars of the USSR of May 27, 1939, "On Measures to Protect the Collective Farms' Land in Common Use from Being Squandered". According to Item 8 of the resolution, the size of field plots was not to exceed 0.1 hectare under cotton in irrigated areas and 0.5 hectare in non-irrigated areas, 0.5 hectare in fruit and vegetable gardening and beet growing regions and one hectare in other areas; the household plots including land under structures, was not to exceed 0.1 hectare in irrigated areas and 0.2 hectare in other areas. Today the resolution is no longer in force because many Union republics have adjusted its norms to their specific conditions in keeping with the Fundamentals of Land Legislation.

Article 29 of the Fundamentals of Land Legislation of the USSR and the Union Republics establishes the right of individual peasant farms to use a land plot, and preserves its division into two parts, a field plot and household land. Considering that land tenure of individual peasant farms is of varied significance for different Union republics, the Fundamentals place the regulation of these questions to the republican jurisdiction. The Union republics establish, in particular, the procedure for allotting land plots to individual peasant farms and determine the size of field and household land. Practice shows that Union republics preserve, as a rule, the sizes of land plots to be granted to individual peasants according to the 1939 resolution. For instance, Lithuanian legislation establishes the following sizes of land to be used by individual peasant farms: one hectare of field land and 0.2 hectare of household land.

Household plots are usually allotted in a populated locality, and field land—outside the land of a particular collective or state farm.

Individual peasants have largely the same rights and duties as other land users. So far as differences are concerned, individual peasants may build houses and structures and plant fruit and berries only on household land and may only sow crops on field land. Individual farmers have both the right and the duty to use the land granted to them.

The individual farmer's right to use field land is terminated as soon as he and the adult members of his family join a collective farm or start to work at a state or social institution or enterprise. His household plot is brought in conformity with the size of land plots owned by collective-farm households or factory and office workers, depending on what job he and the members of his family have chosen. Accordingly, the individual peasant farm is replaced either by a collective-farm household or ancillary farming of factory and office workers.

LEGAL PROBLEMS INVOLVED  
IN THE RATIONAL UTILISATION  
AND PROTECTION  
OF LAND RESOURCES IN THE USSR

*General Remarks.* The rational utilisation and protection of land is ensured by the land system of the USSR, particularly by economic, organisational and legal measures. Economic measures are expressed above all in state allocations for land improvement and preventing water and wind erosion of the soil. Thus, the state economic development plan for 1975 provided for the commissioning of 985,000 hectares of irrigated land and over one million hectares of drained land.

Between 1971 and 1975, 3.7 million hectares of irrigated and 4.4 million hectares of drained land were put into operation. Besides, the state yearly supplies agriculture with increasing quantities of mineral fertilisers, pesticides and various machines and equipment.

State organisational measures are of great importance for the rational utilisation of land. The state works out plans for using and improving land, preventing soil erosion, carrying out land management schemes, etc. Moreover, it organises the management of the State Land fund, defines the structure of its organs and distributies areas of competence among them. The rational utilisation of land also depends on the correct specialisation of farms, their location and scientifically based sizes.

A special role in ensuring rational land utilisation is played by land legislation which formulates the relevant provi-

sion on the matter. The state exercises control over the observance of legislation and the manner of using land. According to Article 20 of the Fundamentals, the purpose of state control over all land use is to ensure that ministries, departments, government, co-operative and other non-government enterprises, organisations and institutions and citizens observe the land legislation and the procedure for land tenure, to ensure the correct keeping of the land cadastre and land management with the object of rationally utilising and protecting land.

State control over all land use is exercised by the Soviets of Working People's Deputies, their executive and administrative bodies and by specially authorised state agencies in the manner laid down by the USSR legislation.

At present the functions of such agencies are fulfilled by the organs of the USSR Ministry of Agriculture. They exercise control over the correct utilisation of land both by land users subordinated to the ministry and by other land users.

Among the legal measures ensuring the correct utilisation of land an important place is assigned to the provisions of land legislation which establish the procedure for keeping land inventory and land cadastre, regulate land management, lay down the procedure for settling land disputes and define responsibility for violating land legislation.

#### 1. LAND INVENTORY. STATE LAND CADASTRE

The establishment of single state land inventory, state registration of land tenures and the procedure for keeping the land cadastre are referred by the Fundamentals of Land Legislation to the competence of the USSR.

A land inventory is a necessary condition for the planned organisation of land use in the interest of the whole economy, agriculture above all. A proper land inventory makes it possible to correctly organise agricultural production, plan

the purchases of farm produce, ensure an effective control over the utilisation of land, etc.

Land inventory includes systematised data on the amount of the land available and its distribution according to land users and type of land. The primary inventory documents comprise above all state title deeds which are issued to land users. Among other things, they contain information on the size and boundaries of the land plot granted for use.

All tenures, regardless of the type of land use, are subject to inclusion into the State Land Book, which is kept in all districts and towns of regional, territorial and republican subordination. It is an important document of state land inventory. It is kept by district and town Executive Committees on the basis of primary land inventory documents and other materials containing data on land use. The state registration of tenures, as well as state title deeds, are important legal acts which formalise and establish the right to use a specific land plot. A pertinent document is issued to the land user after registration. Thus state registration is the basis of land inventory by its quantity and its distribution among land users.

Land inventory data are annually summed up in accounts of the utilisation of land and its distribution by various types and tenures. These accounts are made up in districts, regions (territories) and Union republics and are examined and approved by Executive Committees of district, regional (territorial) Soviets of Working People's Deputies and republican Councils of Ministers, respectively. Then they are summarised and are used to compile the annual land balance of the USSR.

The correct utilisation of land and a steady rise in its fertility require both quantitative and qualitative land inventory. So Article 46 of the Fundamentals of Land Legislation stipulates that a state land cadastre containing the official assessment of the natural, economic and legal conditions of the land shall be kept to ensure the rational use of land resources.

The article also defines the content of the state land cadas-

tre. It includes information on the registration of land tenure, a record of the size and value of the land, evaluation of the soil, and economic assessment of the land. Thus, it is not restricted to the land inventory alone. A quantitative inventory is simple and so can easily be executed. It aims to establish exact data on the land area distributed by tenures and types of land.

A qualitative inventory, on the other hand, requires data analysing soil fertility. Their collection presents some difficulties because it demands varied soil studies. The definition of the quality of lands presupposes a description of land by terrain, soil and plants, for which purpose use is made of land management schemes, surveys of land areas, large-scale soil and geobotanical maps with diagrams and verbal appendices. Moreover, such factors are analysed as provision of soils with nutrient substances, degree of acidity, exposure of the soil to water and wind erosion, etc.

An evaluation of the soils implies their classification according to natural properties and features which are of utmost importance for agricultural crops. Evaluation of soils is expressed in classes.

Economic assessment of the land constitutes a definition of its comparative value as a means of production in agriculture. It is made on the basis of objective indicators of production in specific natural and economic conditions and is expressed in points. The main documents of the land cadastre are: books of land inventory, books of registration of tenures, title deeds and also cadastre land maps. The latter show the general situation of land tenures and contain information on the quality of land. They describe tenures graphically and are the major source of information.

Article 46 stresses that the state land cadastre shall contain authentic information on the land. Ensuring authenticity of cadastral data is of especial importance since the value of the cadastre lies above all in the fact that it contains both necessary and authentic information. So cadastral data must be constantly supplemented and renewed with due account for legal and economic changes.

The land cadastre is mandatory for all land users: collective and state farms and other enterprises, institutions and organisations. According to Article 46 of the Fundamentals, the state land cadastre must cover all land of the State Land Fund. Needless to say, various categories of land are inventoried to differing degrees. Land inventory is of especial importance for agricultural land which must be recorded in minute detail, with land cadastre data being more specified at farm and district level than in regions and upwards.

According to Art. 46 of the Fundamentals of Land Legislation, data of the state land cadastre shall promote the organisation of efficient land use and protection, economic planning and specialisation of agricultural production, land improvement and chemicalisation of agriculture, and other economic measures involving land use.

At present the organisation, management and control over the implementation of the land cadastre are concentrated in the USSR Ministry of Agriculture, while land management agencies directly collect and supplement cadastral data. Injunctions of the USSR Ministry of Agriculture on these questions are mandatory for all other ministries and departments.

According to Article 46, the land cadastre shall be kept at state expense in accordance with a uniform system for the USSR. The procedure for keeping the state land cadastre, the forms of cadastral documentation and the periods of specifying and renewing cadastral data shall be established by the USSR Council of Ministers.

## 2. LAND MANAGEMENT AND LAND MANAGEMENT PROCEDURE IN THE USSR

Land management is of great importance in the organisation of the most comprehensive and effective use of all lands in the State Land Fund, improving agricultural methods and

techniques and protection of land. The use of land requires the regulation of external boundaries of land plots granted to land users and the organisation of territories within these plots. According to Article 47 of the Fundamentals of Land Legislation, land management represents a system of state measures aimed at implementing the decisions of state agencies on land use. There are external and internal land managements which are indispensable for formulating the right to land use, as they make it possible to define the object of tenure, i.e., a specific plot which is granted for use.

New tenures are formed when land plots are allocated to enterprises, organisations, institutions and citizens by decisions of competent agencies. The decisions may be adopted by Executive Committees of local Soviets of Working People's Deputies within their jurisdiction, and by the republican Councils of Ministers. Land management agencies allot land plots in natural conditions marking the boundaries of the land plot granted. They also formalise decisions of the pertinent organs and withdraw plots in natural conditions.

Moreover, external land management improves existing land tenures, including elimination of scattered plots and other inconveniences in land location, and specifies and adjusts boundaries of land tenures on the basis of district land management lay-outs. External land management affects both separate tenures and certain categories of land. For instance, it fixes and changes city, township and rural populated locality limits, thereby delimiting one category of land (that of populated localities) from others. It also specifies the boundaries of tenures within the city limits.

The definition of external boundaries and the elimination of inconveniences in the location of land plots are instrumental in creating conditions for their rational use. The territory of a specific land plot is further organised by means of internal land management, primarily for purposes of agricultural production. The organisation of land territory for the rational use of land in forestries is called forest management. The use of urban land is carried out through the elaboration of projects of urban land management. Land plots

granted for non-agricultural purposes are organised by means of laying out their territory.

Internal land management is of especial importance for the organisation of agricultural land. It is carried out within existing tenures and comprises internal organisation of the land area of collective farms, state farms and other agricultural enterprises, organisations and institutions, including the introduction of economically-based crop rotations and the management of all other agricultural land (meadows, pastures, orchards), and also the elaboration of measures for the control of soil erosion.

Internal land management also divides the land attached to a farm into separate types of land (plowland, pastures, orchards, etc.), taking into account the evaluation of natural properties, location and other characteristics of the plot in question.

Land management is of great legal and economic significance. Its legal import is seen in the fact that it formalises the decision of a competent body on granting a land plot and individualises that plot by fixing the boundaries of tenure which are mandatory for the land user and other organisations and citizens. Internal land management is also mandatory. According to Article 48 of the Fundamentals of Land Legislation, the internal organisation of the land area of a farm determined by way of land management shall be obligatory for collective farms, state farms and other agricultural enterprises. The internal organisation of a territory made by way of land management affects the land users' rights and duties, because that territory is subdivided into plots whose designation is specified. For instance, if pasture is made into plowland, more rigorous rules on the withdrawal of land are applied to that plot, and land users are not allowed to transfer it into less valuable land, etc.

The economic importance of land management is seen in the fact that it ensures the rational utilisation of all lands in the State Land Fund, including land secured for individual land users. It also makes sure that land is protected and soil fertility raised.

Land management is not limited to the above-mentioned activities. According to Article 47 of the Fundamentals of Land Legislation, new land suitable for agriculture and other economic development is discovered by way of land management. By law, land management activities include the carrying out of topographical, geodesic, soil, geobotanical and other surveys and investigations conducted at state expense.

Legislation also establishes certain definite rights and duties of land management agencies, land users and other persons concerned, and defines stages of land management work which form, in their totality, the land management procedure.

The latter includes the following main stages: a) initiating of a land management case; b) drawing up of a land management draft; c) presenting the draft to the parties; d) approval of the draft; e) transference of the draft to natural conditions; f) formalisation and issue of land management documentation to land users. The land management case is initiated both by the land users and the agencies which control the land in the State Land Fund.

In the USSR land management is planned. Plans of land management activities are annually drawn up with due account for applications filed by land users with land management agencies.

The land manager compiles a land management project in natural conditions ascertaining the position of a particular land plot, specifying the neighbouring tenures likely to be affected by the land management scheme, and selecting the documents and materials required. The land management draft is based on this on-the-spot analysis and the materials collected.

Having been agreed upon with the land users concerned, the project is then submitted to the approval of the Executive Committee of the district Soviet of Working People's Deputies. In accordance with Article 48 of the Fundamentals of Land Legislation, land management drafts shall be drawn up with the participation of the land users concerned

and, on approval, shall be transferred to natural conditions (in the field), designating the boundaries of land tenures by boundary marks of a set type. Following this, corresponding entries are made in the State Land Book, and land users are issued documents authorising their right to use the land.

### 3. SETTLEMENT OF LAND DISPUTES

Various disputes may arise during distribution and redistribution of land plots, carrying out land management schemes and implementation of the right to use the plot allotted. Land disputes are only those which arise from existing or future land rights. Specifically, land disputes cannot affect the land ownership rights because the Soviet state is the sole owner of land by virtue of the land nationalisation effected in the USSR. So land disputes only concern the right to use land.

Article 49 of the Fundamentals of Land Legislation establishes that land disputes arising between collective farms, state farms and other state, co-operative and non-government enterprises, organisations and institutions and also citizens, shall be settled by the Councils of Ministers of Union republics, the Councils of Ministers of autonomous republics, the Executive Committees of territorial, regional, area, district, city, village and township Soviets of Working People's Deputies in the manner laid down by the legislation of the Union republics.

When providing for the manner of settling separate types of land disputes, the Fundamentals make two exceptions from this rule. According to part 2 of Article 49 of the Fundamentals, disputes of collective farms, state farms and other government, non-government and co-operative enterprises, organisations and institutions of one Union republic over land tenures on the territory of another Union republic shall be examined by a commission formed on a parity basis from

representatives of the Union republics concerned; should the commission not arrive at an agreed decision, the disputes shall be taken up by the Council of Ministers of the USSR.

Moreover, in accordance with part 3 of the same article, disputes between co-owners of individual buildings within cities and townships, and on land plots in rural populated localities allotted by the Executive Committees of village Soviets of Working People's Deputies over utilisation of a common land plot, shall be examined by courts of law. All other questions pertaining to the examination of land disputes are settled by republican legislation.

According to the present legislation of the Union republics, land disputes between citizens are settled by village and settlement Soviets and those between collective farms and state farms and between collective farms and other enterprises, institutions and organisations and also between these organisations and citizens, by Executive Committees of district Soviets of Working People's Deputies. Executive Committees of regional Soviets of Working People's Deputies examine disputes between land users in different administrative regions and also act as the second instance in these disputes.

Land disputes arising between land users whose plots are within urban limits (except disputes between co-owners of individual buildings on the manner of using a common plot) are examined by Executive Committees of city Soviets of Working People's Deputies.

Republican Councils of Ministers examine disputes between land users of different administrative regions, between enterprises of the Union and republican subordination, and also act as the supreme instance in settling land disputes which have been examined by Executive Committees of local Soviets.

Land disputes are examined on the application made by socialist organisations or citizens whose rights have been infringed, at the sittings of Executive Committees of local Soviets of Working People's Deputies which summon the disputants. The decision adopted on the examined dispute defines

the manner of its execution, and in particular provides for measures to restore the infringed right.

Land relations frequently give rise to property disputes. Some of these (for instance, those on the evaluation of buildings and structures demolished on the withdrawn plot) are settled in the administrative order, while others (for instance, those on the recovery of sums established by the commission evaluating buildings and structures demolished on the withdrawn plot) are settled by the court of law.

Legal disputes also arise due to the eviction of citizens from condemned houses and granting them flats. In particular, the court examines various disputes over the size and quality of dwellings in the condemned houses and the newly granted dwellings.

In examining disputes on the evaluation of condemned buildings the courts check whether a pertinent commission of the district Soviet of Working People's Deputies has observed the evaluation rules laid down by law. If the rules have not been observed the court asks the Executive Committee of the local Soviet to repeal the decision of the Executive Committee of the district Soviet on the approval of the commission's act. Finally, the court of law settles disputes arising from the fact that the owner has not been paid for the value of buildings and structures demolished.

#### 4. PROTECTION OF THE RIGHT OF STATE LAND OWNERSHIP

Land is a special object of state property and it cannot therefore be protected in the way the other objects of state property are. For instance, there is no concept of "land stealing". A land plot cannot be stolen both because land belongs to objects of the so-called real estate and because all land in the USSR is owned by the state. Neither can the

protection of state property by civil law be applied here. The distinguishing features of land as a unique object of state property affect the methods of its protection.

The protection of state ownership of land involves a system of legislative measures which ensure the defence of the rights of the Soviet state as the sole owner of land, and also the statutory manner of using the land. It is to be stressed that the violation of the right of state land ownership is also often the violation of the right of land tenure. The infringement of the latter right can be expressed in the infringement of the land user's subjective right and in the violation of the manner of using the land. For instance, when a land plot in use is taken without authorisation, this affects both the land user's right and the right of state land ownership. The unauthorised seizure of a plot belonging to the state reserve land does not affect the right of any land user in particular, but violates the state land ownership right and the established order of using the land.

As a rule, Soviet people strictly observe the norms of land legislation protecting the state land ownership and establishing the manner of using the land. Though an insignificant number of people violate land legislation this may cause a serious harm to society as a whole. Therefore Soviet legislation establishes responsibility for the violation of rules laid down by legislation. There are two aspects in this responsibility. On the one hand, it is a measure of legal influence on the law breaker and, on the other, it is a preventive measure.

Article 50 of the Fundamentals of Land Legislation gives a detailed enumeration of violations of land legislation which involve criminal, administrative or civil responsibility. Some of them can only be caused by land users (e.g., negligent use of land or its use for obtaining unearned income), while others are of a general nature. The latter instances include unauthorised occupation of land, which is the use of a land plot without formalisation of the right to use it in the established manner; it is also the use by citizens or socialist organisations of land plots whose granting has been

decided upon but whose boundaries have not been established in natural conditions (in the field) by the land management agencies; accordingly, the land user has not received a document authorising his right to use the land. The land user acquires the right to use the plot only from the moment he receives a document. It is quite possible that land plots within state reserve land or unused urban land are occupied without authorisation. The consequences depend, to a certain extent, on whether the plot was occupied by a citizen or an enterprise, institution or organisation, and whether the plot belongs to free land or land granted for use. Moreover, the manner of using the land plot is also of some importance, i.e., whether it is used for erecting buildings and structures or for other purposes.

Citizens who occupy land plots without authorisation are made criminally responsible as is provided for in republican criminal codes. For instance, Article 199 of the Criminal Code of the RSFSR includes unauthorised occupation of a land plot and unauthorised construction among those actions which are criminally punishable. The latter can be carried out on the occupied plots and on plots granted for use, but for other purposes. In the former instance responsibility is established not for the two crimes combined but only for unauthorised construction.

The law stipulates that confiscation of unlawfully built structures is applied to citizens sentenced for unauthorised construction according to part 2 of Article 199 of the RSFSR Criminal Code. At the same time the court has the right to recognise the confiscation of a structure as inexpedient, but it must justify its view. Wherever the citizen has torn down the building the materials obtained therefrom are not subject to confiscation.

Criminal responsibility is not instituted in all instances of unauthorised occupation and construction. Administrative means are also used to prevent unauthorised occupation of land plots. The Executive Committee of a local Soviet of Working People's Deputies can make it incumbent on the unauthorised builder to tear down the unlawfully construct-

ed buildings and put the land plot in order. If this decision is unfulfilled the Executive Committee of the local Soviet can assign the communal economy department with tearing down the unlawfully built structures in a compulsory manner and the builder with paying for damages incurred from the demolition of buildings and putting the land plot in order. The Executive Committee of the local Soviet can also pass requisite material to the Procurator to make the person guilty of unauthorised construction criminally responsible.

If the Executive Committee of the local Soviet is satisfied that the structure built without authorisation does not affect the interests of any land users, and does not hinder the accommodation of the populated locality and the rational use of land, then it can allow the building to remain for some time in the citizen's use. In these cases the land plot is not granted to the unauthorised builder and the right of ownership of the building constructed without authorisation is not formalised. The builder is made duty-bound to pay taxes on the structure and the ground rent at double rate for the whole period of using the unlawfully erected structure. Yet no matter how long the builder uses this structure he cannot acquire the right to own it. Hence the impossibility of disposing of this structure, i.e., selling, presenting, or leasing it, etc. If the land plot is required for some state, social or other needs the builder has no right to receive compensation when the structure, built without authorisation, is demolished. Neither are these citizens subject to the general manner of recovering land user's damages arising from the withdrawal of land plots for state or social needs.

When enterprises, institutions or organisations occupy land plots without authorisation, the Executive Committees of the local Soviets of Working People's Deputies may decide to return the land plot either to the lawful land user or to the free land fund and oblige the enterprise or organisation in question to pay for the losses sustained. The managers of these enterprises or organisations may be made administratively or criminally responsible.

Moreover, according to Article 50 of the Fundamentals of Land Legislation, land plots occupied without authorisation shall be returned to the proper users without compensation for expenses undertaken during their unlawful use.

The persons who have occupied a land plot without authorisation shall pay the lawful users the damages sustained as a result of this occupation. The manner of recovering losses incurred by the unauthorised occupation of collective-farm land is established as a special provision. According to Article 42 of the Model Collective-Farm Rules, when a collective farmer increases his house-and-garden plot without authorisation the occupied part is withdrawn by the collective-farm board and the harvest grown on it is transferred to the collective farm. In this instance and also when collective farm land is occupied by outside persons the harvest from the unlawfully cultivated plot is returned to the collective farm. If the harvest's cost is not paid voluntarily it can be recovered for the collective farm by a court of law.

Violations of land legislation also include transactions with land plots prohibited by law, and other unlawful disposals of land. According to Art. 50 of the Fundamentals of Land Legislation, all transactions (purchase, sale, mortgage, bequest, gift, lease, unauthorised exchange of land plots, etc.) which directly or indirectly violate the right of state land ownership shall be null and void.

The legal consequences of the invalid transaction are established by Article 14 of the Fundamentals of Civil Legislation of the USSR and the Union Republics. According to this article, where the legal transaction is made for a purpose known to be contrary to the interests of the socialist state and society and where there is intent on the part of both parties—in the event of both parties performing the transaction—everything received by them under the transaction shall be collected for the benefit of the state, and in the event of performance of the transaction by one party, all that was received by the other party and that which was due from the other party to the first party in compensation for that which was received shall be collected for the benefit

of the state. The legal consequences of the invalidity of these transactions do not affect the regime of the corresponding land plot. Any land plot which was the object of unlawful agreement belongs exclusively to the state, as its property, and so there is no question of recovering the plot for the benefit of the state. The decision on the land plot is in this case made in accordance with Article 15 of the Fundamentals of Land Legislation which says that the right to use a plot may be terminated, should a citizen commit actions covered by Article 50 of the present Fundamentals. The land plot involved in an unlawful transaction may be withdrawn from the land user without recovering unrealised expenses for its cultivation, fertilisation, drainage, etc. Moreover, the citizen who has performed an unlawful transaction involving a plot can be made criminally responsible in accordance with part 1 of Article 199 of the RSFSR Criminal Code and the criminal codes of other republics.

There are almost no cases where the parties in an unlawful transaction involving a land plot are organisations and enterprises. Where such transactions do take place their legal consequences are the same as those involving individual citizens. Officials of organisations or enterprises may be made criminally responsible for the performance of such transactions according to the republican criminal codes which provide for the officials' responsibility for the abuse of power or office, or for exceeding their authority, etc.

Violations of land legislation by officials can take the form of the unlawful granting of a land plot for use or its withdrawal from the user. The unlawful decisions on the granting or withdrawal of a land plot are to be annulled and the plot shall be returned to the former users. Officials who are guilty of such decisions can be disciplined or made criminally responsible. Particular attention is paid in this country to preventing the unlawful withdrawal of collective-farm land. Special Union and republican enactments have been adopted on this question.

Mention should also be made of violations of the rational use of land.

The decree of the Presidium of the USSR Supreme Soviet of May 14, 1970, "On Administrative Responsibility for the Violation of Land Legislation", stipulates that fines shall be imposed in an administrative manner on persons guilty of the following infringements: spoilage of agricultural and other land, its pollution with production and other waste and sewage, negligent use of land, non-fulfilment of compulsory measures to improve land and protect soil from wind and water erosion and other processes adversely affecting the soil; the use of land plots at variance with the aims for which they were granted; failure to return temporarily occupied land in due time or to fulfil obligations to put the land in a condition suitable for its designated use; unauthorised deviation from internal land management projects approved in the statutory manner; and the destruction of boundary marks of land tenure. Fines of up to 100 rubles are imposed by administrative commissions under Executive Committees of district and town Soviets on the notification of state inspectors dealing with the use and protection of land. Administrative responsibility is instituted unless a corresponding violation involves criminal responsibility.

The criminal codes of several Union republics provide for the punishment of persons who violate obligations to rationally use land. In particular, criminal responsibility is provided for the criminal pollution of soils (Art. 159 of the Criminal Code of the Kazakh SSR and Art. 240 of the Criminal Code of the Armenian SSR), for the negligent use of irrigated land (Art. 188 of the Criminal Code of the Turkmenian SSR), and for the deliberate spoilage or damage of crops and plantations (Art. 168 of the Criminal Code of the RSFSR).

Most Union republics provide for the administrative responsibility of land users who do not combat weeds. Thus, the decree of the Presidium of the RSFSR Supreme Soviet of March 26, 1962, "On Increased Struggle Against Weeds" makes it incumbent on all land users to resolutely combat weeds. If the user fails to abide by this decision the Executive Committee warns him and sets him a time limit to

carry out this provision. The non-fulfilment of this obligation following the warning incurs a fine imposed on guilty officials and citizens. For managers of enterprises, institutions and organisations (collective-farm chairmen, directors of state farms, etc.) the fine is from 20 to 30 rubles, and for citizens having land plots it is from 5 to 10 rubles. The fine can be doubled when the demands remain unfulfilled.

Fines are imposed by administrative commissions under the Executive Committees of district and town Soviets of Working People's Deputies. Legislation also establishes that citizens who persist in non-fulfilment of obligations to fight weeds can be deprived of the right to use their plots on the decision of the Executive Committee of the district or town Soviet of Working People's Deputies.

All these measures promote the proper observance of the statutory order of using the land wealth of the USSR.

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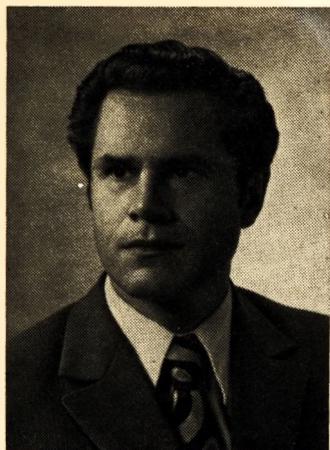
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Docent N. Syrodoyev is the author of nearly 40 works. He took part in the preparation of the Fundamentals of Land Legislation of the USSR and the Union Republics and other land legislation enactments. This book draws on the latest land legislation and the practice of its application to characterise the Soviet land system and study the state land ownership right brought about by the nationalisation of land in the USSR. It also gives a detailed exposition of the procedure and terms of allotting land for use to

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