# *LEGAL AND INSTITUTIONAL FRAMEWORK FOR LAND PROTECTION IN ALBANIA*

***by***

***DEAN T. MASSEY***

***April 1995***

Dean T. Massey
Legal Consultant
Terra Institute, Ltd.
1406 Hwy 18-151
Mt. Horeb, Wisconsin 53572
USA

Terra Institute, Ltd., has provided technical assistance in Albania since 1994. Under both the Land Legislation and Policy Project (LLPP) and the Land Markets in Albania Project (LMAP), the Institute has archived almost 50 reports, papers, draft legislation, and commentaries on land legislation, land registration, land tenure, and other land market-related activities in Albania.

The report presented in this document "Legal and Institutional Framework for Land Protection in Albania," by Dean T. Massey, was submitted to Terra Institute, Ltd., for the Land Legislation and Policy Project (LLPP), in August 1995.

All views, interpretations, recommendations, and conclusions expressed in this paper are those of the author and not necessarily those of the supporting or cooperating institutions.

# TABLE OF CONTENTS

# PREFACE

### Commentary on "Legal and Institutional Framework for Land Protection in Albania"

The attached paper describes the major threats to the land resources of the country. These forms of land degradation seriously jeopardize the capacity of the country to attract investment and endanger the health of all Albanians. The paper describes in outline form what could be done from a legal perspective to deal with these dangers. The paper also describes how a broad program for land protection could be created and implemented.

A major threat to the land resources is that posed by the chaotic urbanization of prime agricultural land. This topic is being dealt with in a separate paper, although it forms a part of the proposed Land Protection Action Plan.

It may be the time for the Government to consider the problem of land degradation and develop the program necessary to resolve it.

*5 April 1995*

# LEGAL AND INSTITUTIONAL FRAMEWORK FOR LAND PROTECTION IN ALBANIA*

**by**

**Dean T. Massey**†

## 1. SCOPE OF WORK

The objective of this paper is to describe the growing problems of land degradation through erosion, salinization, contamination and landslides. The paper also provides a preliminary evaluation of the existing land protection legal and administrative framework, including:

a) a review of existing Albanian laws and administrative decisions and regulations;

b) a discussion of the different legal framework that has been developed in the United States and European countries to encourage the sustainable use of agricultural land;

c) a suggestion for the formation of a legislation drafting working group to prepare new legislation taking into account the special environmental and land tenure conditions in Albania; and

d) a preliminary outline for an Action Plan for the Protection of Land in Albania.

## 2. TYPES OF LAND AND WATER DEGRADATION CONTROL IN ALBANIA

The types and causes of land and water degradation in Albania are no different than those in other countries; some types may cause more land and water degradation in Albania on a per-unit-of-land basis than in other countries, while some types may cause less soil and water degradation. One type of degradation may cause degradation to another element in the environment. For example, excessive soil erosion will have an effect on surface water quality, irrigation water quality and drainage of reclaimed land. The overuse of agrochemicals, such as fertilizers and pesticides, could cause long lasting pollutants to both surface and ground waters. The location and siting of municipal solid waste disposal facilities will in all probability decrease the amount of available agricultural land, but from an environmental point of view such facilities may have to be located on productive agricultural land because that is the same type of land needed to prevent leachate from polluting groundwater. The same type of situation may exist for rural housing on agricultural land where particular types of soil are needed for individual sewage or septic systems. Even though each type of land and water degradation can be looked at individually for solutions, those individual solutions must become a part of the entire environmental or ecological system.

Individual types and causes of land and water degradation in Albania include:

---

* Drafted by Dean Massey, Terra Institute and Land Tenure Center, University of Wisconsin-Madison, in collaboration with Albert Dubali and James Bockheim and with assistance from the Project Management Unit for the Immovable Property Registration System, the Ministry of Agriculture and Food, and the Ministry of Construction and Tourism, 24 February 1995.

† Legal Consultant, Terra Institute, Ltd., Mt. Horeb, Wisconsin 53572, USA. Report was submitted to the Terra Institute in April 1995.

a) excessive soil erosion;

b) deforestation;

c) inadequate drainage of former reclaimed land;

d) landslides;

e) salinization of soils;

f) contamination of surface and ground water;

g) contamination of soils; and

h) municipal solid waste disposal;

Legislation can be adopted and Ministerial decisions promulgated in Albania for the protection of land and water. In some instances existing laws and decisions are available in Albania to adequately protect land and water from some types of degradation, while in other instances new laws must be written and adopted and new decisions issued. However, if laws are adopted they must be reasonable from an enforcement point of view and be adequately enforced to attain their goals. Some laws can be so stringent in an attempt to attain their goals of a perfect environmental setting that they are not enforceable. All sovereign governments have the authority and responsibility under general police powers inherent in them to protect the general welfare, health, and safety of their citizens and the protection of the environment clearly protects the general welfare, health, and safety of citizens. After environmental laws are adopted, administrative agencies must be established to perform the responsibilities set forth in the laws and to enforce them. Funds must be appropriated to employ trained personnel to administer and enforce the laws. In some instances financial support may have to be provided to farmers and others to initiate and implement environmental protection practices, such as structures and management practices to prevent soil erosion. It may be less costly in the long-run, or even the short-run, to spend a small amount of money as an investment to prevent soil erosion than to clean or dredge sediment from reservoirs and irrigation and drainage canals or ditches or construct new ones.

Funds must also be appropriated to do research to determine the types of soil and water degradation, rate and amount of degradation, methods of alleviating them and targeting or privatizing areas needing attention. Funds are also needed to provide extension educational services to farmers and others on how to identify land and water degradation problems, effects of it and correction methods. Technical assistance may have to be provided to farmers and others on how to initiate and implement best management practices to correct and prevent further land and water degradation.

Responsibility for controlling and preventing land and water degradation in Albania must be assigned to those owning and using the land and water. Some agricultural land in former cooperative farms and State farms has either been distributed to farmers in ownership or in use, while other portions have not been distributed for various reasons and are still under State ownership. The prevention of land and water degradation on those lands distributed in ownership or in use is the responsibility of the owners or users, while the State is responsible for all land under its ownership, including undistributed former cooperative farm and State farm land, forestland, pastureland and wasteland. The State must make sure in adopting environmental protection laws that it does not place a higher responsibility upon individual farmers in the prevention of land and water degradation than it does on itself for land and water under State ownership.

## 2.1 EXCESSIVE SOIL EROSION

The causes of accelerated soil erosion include (a) the cultivation of highly erodible agricultural land; (b) the inappropriate conversion of forest and pasturelands to agricultural use and plowed for crops; (c) deforestation of fragile forestland; and (d) the overgrazing of forest and pasturelands by cattle, sheep and goats. Soil erosion not only causes loss of the productive capacity of the soil, but the sedimentation of streams, rivers, lakes, reservoirs and irrigation and drainage channels. The soil particles carry plant nutrients and pesticides with them that pollute the surface water and can at times pollute the groundwater.

Land in Albania was divided into the following three categories by the Law on the Land, No. 7501, dated 19 July 1991: (a) agricultural land occupied by field crops, fruit plantations, vineyards and olives, wherever they may be and irrespective of size, in the countryside, cities or other residential centers; (b) land occupied forests, pastures and meadows; (c) nonagricultural land occupied by, among other things, urban centers, governmental uses, rocky areas,

coastal sandy areas and all water areas. In 1989, there were 706,000 hectares (1,743,820 acres) of agricultural land in the country, which included land for both field crops and tree crops. Much of the expansion of field crop production between 1950 and 1989 was on marginal and highly erodible land. Most of the nonagricultural land is owned by the State and includes approximately 500,000 hectares (1,235,000 acres) of wasteland.

Agricultural land in cooperative farms was privatized and distributed to its members and others in ownership or in use under the Law on the Land. Some of the land has not been distributed and some of that privatized was refused by the members because of its low productivity and marginal use. Article 5 of the Law limited its application at the time of passage to land in cooperative farms. However, Council of Ministers Decision No. 452, For Restructuring State Agricultural Farms, dated October 17, 1992, made the provisions of the Law on the Land applicable to the privatization and distribution of land in State farms by providing former workers with ownership and use rights. Workers were given ownership rights in State farm land if the land was formerly a part of a cooperative farm. With regard to agricultural land, some farmers have ownership rights in it, while others only have use rights. In addition, there is also land in former cooperative farms and State farms waiting for distribution and land people refused to take because of its poor quality.

Even though the Law on the Land was primarily concerned with privatization of agricultural land, it is one of the laws in Albania having provisions relating to prevention of land degradation and soil erosion controls. These provisions pertain equally to owners and users of agricultural land. Article 11 of the Law on the Land provides that juridical and physical persons who have or will receive agricultural land in ownership or in use are obligated to use it only for agricultural purposes, preserve and increase its productive capacity and to systemize and build structures for its protection. Soil erosion controls could be required of both owners and users under this Article as erosion decreases land's productive capacity. In addition, owners and users could be required to construct structures to control soil erosion for the protection of land. Article 11 is not very complete with regard to soil erosion control; however, it is at least a start and should be used and enforced until a more complete law is adopted.

Other provisions in the Law on the Land relate indirectly to soil erosion control. Any juridical or physical person who does not use the land he or she received in ownership or use for agricultural or livestock raising purposes within one year is deprived of his or her rights in the land under Article 15. Such land would revert back to the State for redistribution to new owners or users. By requiring the land to be used for agricultural purposes within one year should insure that the land is not being left idle or neglected for long periods of time. Consequently, best management practices are being performed on the land to protect the environment as is required under Article 11 to preserve and increase its productive capacity.

Owners and users of agricultural land are obligated to protect irrigation projects, their installation and equipment under Article 12. In addition, owners or users do not have the right to prohibit other owners and users from using this equipment. Article 17 provides that industrial and mineral refuse and water with chemical content harmful to agriculture must be channeled and gathered in special places in order to protect the land and plants, prevent water pollution and not endanger the life of people, animals and birds. The location of such places and the area where a project is to be built needs approval before beginning construction or functioning of the project.

Enforcement provisions for environmental protection of the land are found in Articles 21 and 22 of the Law on the Land. The agencies of the local government of the respective jurisdiction can prohibit occupation or ill usage of land within their jurisdiction in contradiction to the Law or other respective acts prohibited by it. Article 23 provides that owners who do not take protective measures may be penalized by the head of the Land Survey Office in the district by a fine for 2,000 to 5,000 Lek for an administrative offense. An appeal can be made to the head of the district people's council, whose decision is final. Persons who damage or misuse land may be prosecuted under the Penal Law.

Albania should adopt a comprehensive Soil and Water Conservation Law to control soil erosion and protect surface water from pollution. Some of the decisions that must be made regarding such a Law include the following.

1) Land and activities applicable to the Law

Should the Law apply only to privately owned or privately used agricultural land? Should the Law also apply to State-owned forestland and pastureland and undistributed State-owned agricultural land? Should the Law apply to land in cities and villages? Should the Law apply only to soil erosion control on agricultural, forestland, and pastureland or should it also include land disturbances for industrial and housing construction?

2) Administrative structure for national support

What National agency should administer the Law and what are its functions, powers, duties, and responsibilities? What is the National administrative agency's relationship to local governmental units? Should a national-level soil and water conservation board, commission, or committee be created and attached to the administrative agency? If so, what are its functions, powers, duties, and responsibilities and relationship to local governmental units? Generally the functions of such a board, commission, or committee are to provide informational, planning, and financial assistance to local governmental units. Additional powers may be given to them if the National Government establishes soil loss limits or land disturbing restrictions. How many members should comprise the board, commission, or committee and who appoints them and for how long?

3) Establishment of national standards

Does the National administrative agency want to establish National standards or goals in the Law and, if so, what are they? How are they to be enforced and by whom?

4) Administrative structure at the local governmental level

What local governmental units are going to administer the Law or plan and what are their functions, powers, duties and responsibilities? Should as advisory committee be established at the local level and, if so, what is its functions, powers, duties and responsibilities?

5) Regulatory powers of local governmental units

Must local governmental units adopt regulations or may they voluntarily adopt them? If regulations are mandatory, must they be approved by the National administrative agency? Do mandatory regulations only enforce the National standards or goals?

6) Administrative procedures at the local level

What administrative procedures are to be used by the local governmental unit to administer the Law and regulations and how? Are permits required?

7) Enforcement of regulations and appeals

What are the enforcement mechanisms? Are there penalties? What are the appeal procedures?

8) Soil erosion control and water pollution program or plan

Who prepares the soil erosion control and water pollution program or plan at the National and local levels? What is included in the program or plan? Who approves the local plan or program?

9) National funding for soil erosion control

Is the National Government going to provide cost-sharing funds to landholders or land occupiers to initiate and implement soil and water conservation practices? If so, how much or what percentage of the cost will be shared and for what practices? Practices that could be cost-shared include the establishment or improvement of permanent vegetative cover, terracing, water diversions, grazing protection, windbreaks, reservoirs, stream protection, sod waterways and tree planting. If cost-sharing is to be provided, are the areas in need going to be prioritized and funding limited only to critical areas?

Some of the Article headings that should be included in a Soil and Water Conservation Law enacted by the People's Assembly are:

I. TITLE OF THE LAW

II. PURPOSE OF THE LAW OR DECLARATION OF POLICY

(A few general statements on why the country is adopting the Law.)

III. DEFINITION OF TERMS USED IN THE LAW

(Make sure that a definition of land occupiers is given, that is, who are they?)

IV. NATIONAL SOIL EROSION CONTROL GOALS

(Give tolerable erosion levels if that is what you want and time schedule for meeting those goals.)

V. LAND OVER WHICH LAW APPLIES

(Does the Law apply only to privately owned or privately used land? Does Law apply only to agricultural land or does it include State-owned land, such as forestland and pastureland?)

VI. DUTIES OF MINISTRY OF AGRICULTURE AND FOOD OR OTHER NATIONAL ADMINISTRATIVE AGENCY

(List all powers, duties and responsibilities)

VII. CREATION OF SOIL AND WATER CONSERVATION BOARD OR COMMISSION

(If one is to be created, list its membership, who appoints, terms of office and its powers and duties.)

VIII. NATIONAL REGULATIONS

(List the regulations or standards relating to soil erosion control.)

IX. NATIONAL SOIL AND WATER CONSERVATION PLAN

(Creation, purpose, preparation, identification of priority areas, review, implementation and noncompliance.)

X. LOCAL GOVERNMENTAL UNITS

(Who are they and what are their powers, duties and responsibilities?)

XI. CREATION OF LOCAL COMMITTEES

(If they are to be created, list their membership, who appoints, term of office and their powers and duties.)

XII. LOCAL REGULATIONS ON SOIL AND WATER RESOURCE MANAGEMENT PRACTICES

(Adoption, mandatory or voluntary, approval and enforcement.)

XIII. ENTERING LAND FOR INSPECTION

(Give authority to do so.)

XIV. COMPLAINTS FOR NONCOMPLIANCE

(Who may make complaints and how are they handled?)

XV. LAND DISTURBING ACTIVITIES

(Are land disturbing activities for constructing industrial buildings and housing developments to be included in the Law and local regulations, and if so, what are they?)

XVI. PUBLIC COST-SHARING FUNDING

(Availability, restrictions, loans, application for funds, practices eligible for funding and priority areas.)

XVII. COOPERATION WITH OTHER AGENCIES

XVIII. AGREEMENTS WITH LOCAL GOVERNMENTS

XIX. PENALTIES

XX. APPEAL PROCEDURES

XXI. SEPARABILITY CLAUSE

The country should be divided into regions or zones and land capability maps should be prepared for each region or zone. Such maps can indicate the suitable uses of the land for various types of production. Ministry of Agriculture and Food personnel must be trained on soil erosion, how to detect it and methods of control. After an Agricultural Extension Service has been established, personnel from that Service must be trained in soil erosion problems and solutions so that they can provide information and educational programs to farmers and others on soil erosion, methods of controlling it, damages caused by it to the land and environment and its relationship to water pollution. Education is

needed before a law can be enforced and education will create a public awareness of soil erosion and other forms of land degradation. Technicians must be trained in management practices and physical structures to prevent and control soil erosion so they can provide technical assistance to farmers and others.

## 2.2 DEFORESTATION

Forest resources are composed, according to Article 2 of the Law on Forestry and Forest Police Service, Law No. 7623, dated 13 October 1992, of dedicated forestland and land with forest flora. Article 3 defines forests as dense woodland with a surface larger than 1,000 square meters and with a density not less than 30 percent, which produces wood material and has an influence on the surrounding environment, and land with forest flora as forest woodland areas with a density ranging from 5 percent to 30 percent which are not registered in the cadastre as other land resources. Forest resources are comprised of State, public and private forests. Public forests are those under State ownership and in the common use of one village, several villages or communes. There are no private forests in Albania; all forest resources are State-owned.

The total forest area in Albania, which is all on State-owned land, is 1,044,680 hectares (2,611,700 acres). During the past 40 years, forest areas have decreased by 280,000 hectares (700,000 acres); however, they have increased by about 35,00 hectares (75,000 acres) in the 1980s due to afforestation of marginal land, usually pastureland, and the slowing down of converting forests to agricultural land.

Deforestation, which is a major contributor to soil erosion and has an effect on water quality, has been caused by converting forestland to agricultural use and the overcutting of present forestland. About 150,000 hectares (370,500 acres) of the present forestland has a low density of trees because of overcutting. Only about one-third of the present forest and is fully stocked and those areas are mostly in the hilly areas near cities. Another problem causing erosion is the high slopes in forest. There has been no investment in afforestation since 1990. Overgrazing of cattle and livestock in forestland has also caused soil erosion.

State and public forest resources are administered, developed and protected by the Ministry of Agriculture and Food's Directorate of Forestry and Pastures though the Directorates of Forest Service at the district level. Articles 2 and 7 of Law No. 7623 provide for approval procedures for transferring agricultural land to forest resources and for transferring land out of forest resources. Deforestation or change of purpose are permitted only after the removal from the resource inventory is approved by the appropriate authorities and after repayment of the value of the resources. Income received is to be used for afforestation of another area of the same size.

Provisions are available in the Law for Forestry and Police Service to prevent further degradation by deforestation, soil erosion and overgrazing by requiring afforestation, implementation of erosion control measures and grazing restrictions. Several articles in the Law prohibit certain activities harmful to forest resources. The following activities are forbidden under Article 9: (a) occupation and use of forests or lands with forest flora which are part of the forest resources without approval of competent authorities; (b) occupation and use of areas greater than those for which approval has been granted; (c) put any object whatsoever in other places which are not approved; (d) failure to restitute lands of forest resources given in temporary use; and (e) destruction and degradation of forests by massive means. It is forbidden under Article 19 to cut or uproot trees and shrubs in highly sloping areas, on a belt of 100 meters in the upper limit of vegetation for woods, brushwood and rare species and trees and shrubs on the sides of National roads for a width of 20 meters on either side where the slope is more than 30 percent. Article 21 forbids any activity likely to cause a decrease in forest resource productivity and obstruct renovation or weaken the protective and social functions of forest resources, except under special cases permitted by Council of Ministers' decisions. All of the articles in Chapter IV, "The Protection of Forest Resources," of the Law are devoted specifically to the protection of the forest resources, including grazing and pasturing.

Production and inventory plans are to be prepared for State and public forest resources under Article 15 of the Law. Project study authorities are to prepare production plans for each district with the objective of maintaining a suitable forest structure and to protect and recreate the productivity of the forest ecosystem. These studies for production and inventories are to be approved by the Directorate of Forestry and Pastures. Articles in Chapter III, "The Exploitation of Forests and New Forest Production," relate to the management of forest resources, including cutting and harvesting of trees by contractors and the gathering of wood by local persons for fuelwood and other purposes.

The Directorate of Forestry and Pastures and local authorities through the Directorates of Forest Service at the district level are obligated under Article 17 of the Law to undertake afforestation in desert areas, zones of severe erosion, on sandbanks and in marginal areas with a low level of fertility, on grit lands with a low level of fertility in forest resources and in other problem areas in order to augment forest resources and productivity. This is to be done by planting species with rapid growth, high economic value and suitable for the prevailing conditions. In addition, Article 18 provides that afforestation of desert areas and the protection of forests in higher elevation in the upper belts, and the interruption of tree-cutting and grazing of cattle are to be undertaken in order to restrict erosion in riverbeds and ravines and following snow accumulation.

The pasturing of cattle in forest resources is regulated under Article 38 and Article 35 permits the State to charge for pasturing. It is forbidden under Article 41 to pasture or move cattle within newly afforested areas, in exploited or rehabilitated forests, in protective forests, in National forest parks, around scientific centers or National monuments, in natural protected nurseries, in hunting areas or near seed nurseries. There have been studies done to determine grazing capacities in forestlands; however, farmers do not adhere to the grazing restrictions issued by the Directorate of Forestry and Pastures.

Adequate legal provisions are available in the Law for Forestry and Forest Police Service to protect against deforestation, soil erosion and overgrazing and to require afforestation, implementation of soil erosion control measures and practices and restrictions on grazing according to capacity. State-owned forestlands should also be subject to the provisions of a new Soil and Water Conservation Law.

## 2.3 INADEQUATE DRAINAGE OF FORMER RECLAIMED LAND

During the late 1940s the State initiated a series of irrigation and drainage projects in the lowland regions that were intensified during the 1960s and 1970s. Arable land was increased from 391,000 hectares (977,500 acres) in 1950 to 457,000 hectares (1,142,500 acres) in 1960, to 599,000 hectares (1,497,000 acres) in 1970 and to 702,000 hectares (1,765,000 acres) in 1989. Arable land available in 1989 was almost twice as much as it was in 1950. Most of this new arable land has been obtained by extending irrigation systems and draining wetlands and swamps in the coastal plain region. Land was reclaimed by establishing a complex network of drainage channels, dikes, and pumps to direct excess water to the sea. In most instances the same channels are used for both the irrigation and drainage systems.

The coastal plain region contains the country's prime arable land and has been largely reclaimed from swamps and marshes and developed for arable agriculture over the past 40 years. Most of the State farms, which were the country's most productive farms, are located in this region. These State farms were formed largely on reclaimed or drained swamplands and occupy 24 percent of the arable land today. Drainage took place on 76,133 hectares (190,333 acres) of land in 1991 with 25,017 hectares (62,543 acres) on State farms and 52,113 hectares (127,790 acres) on former cooperative farms.

Drainage channels have not been maintained since 1990-91 and pumps and irrigation canals and equipment malfunction. Reclaimed lands remain flooded for longer periods of time and the groundwater table is rising due to the lack of drainage. Much of the problem is probably due to sediment from soil erosion entering drainage canals and channels and the lack of knowledge on who maintains the drainage canals and channels. World Bank and other donor agencies are providing funds for a pilot rehabilitation Irrigation and Drainage Project being carried out in three districts, Kava, Lushnje and Fier, with private contractors doing the work. At the present time, designs and drawings are being made of the canals and channels in preparation to clean them. The work is being overseen by the District Directorates Water, also known as Water Enterprises, which are under the Water Division of the Directorate of Natural Resources within the Ministry of Agriculture and Food (MOAF). These District Directorates of Water are independent of MOAF's Agriculture Section in each district.

Many of the problems concerning irrigation and drainage can be solved with the application of the Law on the Administration, Maintenance and Operation of Drainage Works, Law No. 7846, dated 21 July 1994, and the Ministry of Agriculture and Food Regulation No. 12, On Water Users' Associations, dated 8 August 1994, issued under Law No. 7846, which contains several articles pertaining to the protection of irrigation and drainage systems and assigning environmental protection responsibilities. Article 9 of Law No. 7846 provides that the rehabilitation of damaged parts of all irrigation systems is to be done by the District Directorates of Water using subsidies from the National Government.

Articles 7, 9, 15, and 19 of Law No. 7846 provide that the District Directorates of Water, Water Users' Associations, and juridical and physical persons are to operate and maintain at their own expense the irrigation and drainage systems and flood protection works they administer. The District Directorates of Water are responsible under Article 9 for administering, operating and maintaining the major (primary and secondary) irrigation and drainage systems, including all canals, pumping stations for irrigation and drainage and structures, at their own expense, while Water Users' Associations are responsible under the same Article for administering, operating and maintaining the majority of the interior (tertiary) irrigation and drainage systems, including canals, drains, gates and appurtenant structures, at their own expense. Another article, Article 11, indicates that small, independent irrigation and drainage systems, including small reservoirs, streams and pumping stations that are within the territory of only one Water Users' Association are to be administered by those associations at their own expense. Articles 9 and 16 indicate that the cost of operation and maintenance of irrigation and drainage systems administered by the District Directorates of Water are to be covered by the income received through water charges paid by the water users during the irrigation season and, if necessary, by special funding from the National Government.

Water charges made for irrigation water in 1994 were 2 Lek per cubic meter in the flat areas and 1.4 Lek per cubic meter in the hilly and mountainous areas. No charges were made for draining the land. During 1995 the National Government will charge the Water Users' Associations 1.9 Lek per cubic meter and the associations can charge the users 2.0 Lek per cubic meter. The National Government wants the District Directorates of Water to contract with Water Users' Associations for them to pay for the water and the associations charge the farmers in accordance with Articles 26 and 27 of Law No. 7846. Article 26 provides that water users are obligated to pay 30 percent of the annual cost of providing water.

Water Users' Associations and other juridical and physical persons are obligated under Article 17 of Law No. 7846 to maintain the interior irrigation and drainage systems in good order and to avoid misuse of irrigation water, overcropping of canal banks, soil erosion and pollution of water resources in their territories. Offenses and violations are specified in Article 29 and penalties for those offenses are listed in Articles 30 and 31.

Water Users' Associations are established as voluntary associations under the authority of Articles 13 and 14 of Law No. 7846 on the basis of village boundaries, irrigation units, or small irrigation systems; associations may also be established by communes, municipalities and District Directorates of Water. Those established by communes and District Directorates are compulsory associations. Ministry of Agriculture and Food Regulation No. 12, On Water Users' Associations, further enumerates the establishment procedures, regulatory powers and responsibilities and duties of associations. One hundred-twenty Water Users' Associations now exist in Albania.

Law No. 7846 and MOAF's Regulation No. 12 adequately provide protection for irrigation and drainage systems and for proper drainage of reclaimed land. Responsibility for administration, operation and maintenance of both irrigation and drainage systems have been assigned to District Directorates of Water, Water Users' Associations, individual persons, or juridical entities.

## 2.4 LANDSLIDES

Landslides are a form of mass movement and are due to the loss of stability of a mass of earth or rock after undermining at the base. After heavy, prolonged rainfall, the soil becomes saturated with water. The lack of trees and other vegetative cover to hold the soils in place on slopes can cause landslides. Landslides are most common in mountainous regions and on the banks of rivers. Most of the problems in Albania occur on slopes in forestland and wasteland owned by the State.

Only the Law for Forestry and Forest Police Service, Law No. 7623, dated 13 October 1992, has any provisions addressing landslide problems. The Directorate of Forestry and Pastures and local authorities through the Directorates of Forest Service are obligated under Article 17 to undertake afforestation in desert areas, zones of severe erosion, marginal areas of low fertility and other problem areas. Article 18 requires the protection of forests in higher elevation areas and the interruption of tree cutting and cattle grazing to restrict soil erosion in riverbeds and ravines. Law No. 7623 applies only to forest resource land and not to State-owned wasteland.

In addition to providing forest and other vegetative cover on critical areas, to stabilize the soil, the owners of land susceptible to landslides will have to provide engineering operations, such as retaining structures, walls, terraces, terrace

outlets, dams, dikes, ponds, ditches and the like, both to retain the soil on the slopes and prevent it from entering waterways. There are several engineering operations that can be used to prevent landslides on riverbanks.

The Soil and Water Conservation Law could have provisions prohibiting land disturbance in certain areas and on land with slopes above a particular percentage unless adequate protection and control measures are taken to prevent erosion and landslides. Amendments could be added to the Law for Protecting the Environment, Law No. 7664, dated 21 January 1993, dealing with activities affecting land susceptible to landslides by requiring environmental impact assessments and licenses. Environmental impact assessments may be required under Article 8 of Law No. 7664 for activities on land susceptible to landslides if the Article is liberally construed because assessments are required for programs and activities affecting the environment.

## 2.5 SALINIZATION OF SOILS

Some 15,000 hectares (37,000 acres) of land in Albania are reported to be seriously salinated; they are primarily located in the coastal region where the soils are heavy and their are extensive low-lying areas, with some areas as little as one meter above sea level. If the soil moisture around plant roots contains too much salt, most crops cannot absorb the water and nutrients they need to germinate and grow.

Irrigation with saline water or poor management of irrigation water can cause salinization if the land is insufficiently drained. Pumping wells along the Adriatic coast produces filtration of salt water into the aquifers and when water from those aquifers is pumped onto the soil salinity problems are produced. Salinity problems can also occur when irrigating with saline surface water.

Salt accumulation is a problem mainly in arid and semiarid regions where precipitation is insufficient to leach salts from the soils. Rainfall flushes much of the soluble salts from the soil in humid areas, while salts have not been leached away in areas of limited rainfall. When land in limited rainfall areas is irrigated leaching becomes intensive. Well-drained soils on higher parts of the landscape gradually become less saline when irrigated with good quality water because irrigation water dissolves salts and transports them into groundwater, which may return to feed into surface water supplies. This process adds to salts to water downstream. When these more saline waters are used for irrigation downstream, salts accumulate in low-lying poorly drained areas. In addition, return flows from irrigating saline land may cause excessive amounts of salts in downstream water. Therefore, efforts to deal with salinization must be carefully planned to ensure that the problem is reduced and not just moved to another area.

## 2.6 CONTAMINATION OF SURFACE AND GROUND WATER

Sediment from erosion, along with fertilizers and pesticides carried with soil particles, contaminate surface and ground water and reduce its quality for irrigation, industrial, livestock, human, fishing, recreational and livestock purposes. Soil erosion not only causes loss of the productive capacity of the soil, but the sedimentation of streams, rivers, lakes, reservoirs and irrigation and drainage channels. Over 64 million tons of sediment are deposited annually in the Adriatic Sea by Albanian rivers.

Nonpoint source water pollution abatement provisions should be as much of a part of the Soil and Water Conservation Law as those relating to soil erosion control. Management practices and structures, such as sod waterways, check dams, dikes and ponds, that retard or prevent runoff from reaching waterways should be required in the Law and regulations issued under it. Technical assistance will have to be provided to farmers on methods of building retentive structures in addition to government financial support. The use, amount and application methods for fertilizer and pesticides should be regulated. An Agricultural Extension Service can be very useful in providing information to farmers on fertilizer and pesticide use.

Provisions in a few Albanian laws have some relationship to preventing contamination of surface and ground water. Article 17 of the Law on the Land, Law No. 7501, dated 19 July 1991, provides that industrial and material refuse and waters with a chemical content harmful to agriculture must be gathered in special places to protect the land and plants and prevent the pollution of water. District Directorates of Water have the right under Article 17 of the Law on the Construction, Administration, Maintenance and Operation of Irrigation and Drainage Works, Law No. 7846, dated 21 July 1994, to order Water Users' Associations and other juridical and physical persons to take steps to avoid misuse of irrigation water, flooding, overtopping of the canal banks, soil erosion and pollution of the water resources in their

territories. Articles 17 and 18 of the Law for Forestry and Forest Police Service, Law No. 7623, dated 13 October 1992, requires the Directorates of the Forest Service to undertake afforestation and restrict grazing to prevent soil erosion and protect riverbeds.

## 2.7 CONTAMINATION OF SOILS

Contamination of soils can be caused by industrial and mining wastes flowing onto the surrounding land and salts resulting from irrigating with saline water and improper drainage. Salinity problems were discussed in Section 2.5, "Salinization of Soils," of this Report. Some provisions of the Law for Protecting the Environment, Law No. 7664, dated 21 January 1993, can be used to prevent soil contamination from industrial and mining wastes. If Albania does not already have one, the People's Assembly should adopt a Law on Mining containing and disposal of mine wastes, preventing land and water pollution, operating permits, environmental impact statements and reclamation of the mine site.

A greater problem is the chemical pollution of soil with pesticides resulting from the spraying of orchard trees. Excessive pesticides drip from the trees onto the vegetation and soil below and enter into the food and milk chain of cattle, sheep and goats grazing on the grass. Tests are not being performed on the meat or milk to determine possible pesticide contamination. The People's Assembly needs to adopt a Law on Pesticide Application and Storage.

## 2.8 MUNICIPAL SOLID WASTE DISPOSAL

Providing the means for the proper disposal of municipal solid waste and refuse is a governmental function and responsibility to protect the health and safety of its citizens. That function and responsibility should lie with the incorporated cities and towns in urban areas and villages and communes in the rural areas. Industrial and hazardous solid waste should be disposed of separately from domestic waste and more caution must be taken with the first type to prevent groundwater contamination. Most solid waste facilities or landfills will have to be located in agricultural or other rural areas. At the present time, Albania does not have any laws specifically relating to the location or siting of solid waste disposal facilities or landfills, the proper management of them, separating out the hazardous or toxic wastes, record keeping, closure of facilities or landfills or enforcement and penalties for violations. All of those should be included in a solid waste management law.

The proper location of solid waste disposal facilities or landfills may conflict with saving productive agricultural land. Soil types that are the most productive for crops may at the same time be those that are the best for preventing leakage from landfills that will pollute the groundwater. Priority should be given to landfill protection over agricultural use of land because groundwater pollution can last for 100 or more years and is very costly to eliminate. People depend upon groundwater for drinking and other domestic uses. Land use planning and zoning laws can be helpful in locating solid waste disposal facilities or landfills; they should be included as an element in the local comprehensive land use master plan. Research should be done regarding the use of recycling to save landfill space or incineration. Regulations would have to be issued providing standards to prevent excessive air pollution from incinerators.

The Law for Protection of the Environment, Law No. 7664, dated 21 January 1993, contains provisions that relate and must be followed in siting solid waste disposal facilities or landfills, particularly for hazardous and toxic substances. Dangerous substances and wastes are defined in Article 2 of the Law and Article 3 provides that environmental protection from pollution by such substances and wastes is the obligation of all State institutions and legal entities and individuals. An environmental impact assessment is required before locating a solid waste disposal facility or landfill under Article 8, which provides that such an assessment is required for programs and activities which affect the environment or which are particularly dangerous to human health, and the contents of impact assessments are set forth in Article 14. Licenses are required for certain activities under Article 18, but not for operating a solid waste disposal facility or landfill; a license is only required for the disposal or processing and destroying toxic substances or wastes. Article 18 should be amended to require a license to operate a solid waste disposal facility or landfill. One of the articles in Chapter IV of the Law, "Inspection and Information for the Environmental Situation," should be amended to specifically require inspections of solid waste disposal facilities or landfills, as are required for other activities affecting the environment. Chapters V, "Duties and Rights of Central and Local Institutions for Environment," and VI, "Responsibilities and Sanctions," could also be amended to include solid waste disposal facilities or landfills. Even though solid waste disposal facilities are not specifically mentioned in the Law for the Protection of the Environment, I

think that the Law can be construed to apply to them because of the effect they have on the natural and human elements and factors of the environment.

Albania needs a Solid Waste Management Law and some of the Article headings in that Law should include:

I. TITLE OF LAW

II. PURPOSE OF LAW

III. DEFINITION OF TERMS

IV. REGULATION POWERS TO ESTABLISH MANAGEMENT STANDARDS

V. POWERS AND DUTIES OF NATIONAL AGENCY

VI. POWERS AND DUTIES OF LOCAL GOVERNMENTAL UNITS

VII. LOCATION AND SITING REQUIREMENTS

VIII. OPERATING LICENSES

IX. INSPECTIONS

X. HAZARDOUS AND TOXIC WASTES

XI. INCINERATION

XII. RECYCLING REQUIREMENTS

XIII. RECORDKEEPING

XIV. CLOSURES

XV. ABANDONMENT

XVI. LIABILITY FOR DAMAGES

XVII. FEES

XVIII. ENFORCEMENT

XIX. PENALTIES FOR VIOLATIONS

## 2.9 AIR POLLUTION FROM INDUSTRIAL PLANTS

Air pollution resulting from chemical emissions from thermal power stations, oil refineries, pulp and paper mills, fertilizer plants and metallurgical complexes, including steel mills and smelting operations, can have a harmful effect on forests, surface and irrigation water quality and the soil. Albania needs to adopt an Air Pollution Control Law that establishes chemical emission standards and permissible rates for various pollutants and industries, permits and criteria for issuing them, technology for meeting the standards and permissible rates, inspections, testing methods, enforcement methods and penalties for violations. Air pollution will increase in Albania as more of the industrial plants become operational again.

# 3. PREPARATION OF AN ACTION PLAN FOR THE PROTECTION OF LAND IN ALBANIA

## 3.1 OBJECTIVE OF LAND PROTECTION ACTION PLAN

The objective of this Land Protection Action Plan (LPAP) is to reduce the rate of land degradation in Albania, and even reverse the process.

## 3.2 TYPES OF LAND DEGRADATION

There are several types of land degradation problems that this Land Protection Action Plan will attempt to solve:

1) Excessive soil erosion. This type of land degradation is caused by: (a) the cultivation of highly erodible agricultural land; (b) the conversion of forest and pastureland to agricultural use which was inappropriate; (c) the deforestation of fragile forested lands; and (d) the overgrazing of forest and pasturelands by cattle, sheep and goats. The problem arises when the rate of soil loss far exceeds the tolerable level to maintain the productive capacity of land.

2) Inadequate drainage of former reclaimed land. Failure to maintain drainage channels to reduce the sedimentation in them caused from erosion has caused the former reclaimed land to remain flooded for extended periods of time or to increase in salinity, thus reducing its productive capacity.

3) Uncontrolled and excessive municipal solid waste disposal. The location of municipal solid waste facilities in rural areas will reduce the amount of agricultural land available for crop production and if not properly located taking soil types into consideration will pollute groundwater.

4) Contamination of surface and ground water. Sediment from soil erosion, along with fertilizers and pesticides carried with soil particles, contaminates surface and ground water and reduces its quality for irrigation, industrial, livestock, human, fishing, recreational and livestock purposes.

5) Contamination of the soil. Factory and mining wastes often flow onto the surrounding land and produce contamination of the soil. The pumping of wells along the Adriatic coast can produce the filtration of salt water into the aquifers which then is pumped onto the soil, producing problems of salinity.

Urbanization on high quality agricultural land is also a threat to highly productive agricultural land. The construction of homes outside the "yellow line" of cities, where over one-third of prime agricultural land is located, and village boundaries without permission is increasing, thus reducing the availability of highly productive land and affecting the ability to provide sufficient food for the country. In order to formulate a general strategy for dealing with land degradation, this factor will be included in the Action Plan.

## 3.3 FORMATION OF WORKING GROUP TO DEVELOP LAND PROTECTION ACTION PLAN

A Working Group should be formed under the coordination of the Land Policy Department of the PMU-IPRS to develop a Land Protection Action Plan (LPAP). Other members of the Working Group should include specialists from the following agencies:

a) Instituti i Studimi të Tokave (IST-Land Research Institute);

b) Instituti i Studimeve dhe Projektimevei Veprave Ujore (ISPVU-Institute for Studies and Designs of Water Works); and

c) Forest Research Institute.

Each institutional member of the Working Group should be assigned responsibilities relating to the particular type of land degradation in which it has expertise. For example, the Land Research Institute would be responsible for soil analyses, documentation of high-risk areas and contamination of the soil, while the Institute for Studies and Designs of Water Works would be responsible for documentation of sediment in channels, streams, rivers and lakes and water quality analyses. The Forest Research Institute would be responsible for documenting problems relating to deforestation and overgrazing. Personnel of the various Ministry of Agriculture and Food (MOAF) directorates and enterprises in each district can provide much of the staff to perform the work and the MOAF district laboratories can provide the analyses.

Representatives and advisory personnel will be invited to participate in the activities of the Working Group as needed from the following agencies:

a) Land Division of the MOAF;

b) Fisheries Division, Directorate of Natural Resources, MOAF;

c) Directorate of Forestry and Pastures, MOAF;

d) Directorate of Livestock, MOAF;

e) Legal Office, MOAF;

f) Ministry of Construction and Tourism;

g) Ministry of Health;

h) Ministry of Interior (Local Government);

i) Committee on Environmental Protection and Preservation;

j) Agricultural University of Tirana;

k) University of Tirana;

l) Agricultural University of Korça;

m) environmental non-governmental organizations;

n) municipal, district and commune local governmental organizations;

o) farmer organizations; and

p) international organizations and projects (IFDC, FAO, Extension, SARA, etc.)

Advisory committees of the Working Group should be formed to become involved with specific types of degradation and organizational, legal and institutional issues. Such committees can be composed of a few members of the Working Group in addition to representatives of the agencies collaborating with the Working Group, such as municipalities, prefectures, districts, communes, villages and farmers. In addition, the Advisory Committees to the Working Group, without members of the Working Group on it, would consist primarily of persons with professional expertise. These committees may also consist of local government and farmer representatives. Committees must seek the active participation and input of local government representatives and farmers.

## 3.4 STEPS TO BE TAKEN UNDER ACTION PLAN

### 3.4.1 Detailed Documentation of Problems

The first step in the development of the LPAP is to determine the various types of land degradation and then to document the nature, extent and geographical location of the land degradation problems. For example, it would be of priority to document the rate of sedimentation in irrigation and drainage canals and reservoirs, amount of soil erosion, rate of erosion, salinization hazards, effects of sediment, plant nutrients and pesticides on surface and ground water quality, rate of deforestation, erosion rates from deforested land, potential loss of agricultural land from locating solid waste disposal facilities in rural areas and rate of housing construction in rural areas and the potential loss of prime agricultural land from it.

### 3.4.3 Identification of High-Risk Areas

A second step in the development of the LPAP is to identify the geographic areas of highest risk for the various types of land degradation. For example, it would be important to identify the high-risk erosion areas and areas where the quality of surface water is dramatically reduced from sedimentation, plant nutrients and pesticides. Areas of high risk from flooding due to sedimentation of the drainage canals should be identified. The rate of erosion and sedimentation in these identified high-risk areas should be documented.

### 3.4.3 Educational Programs

The third step in the development of the LPAP should be to develop an educational program to teach farmers and the general public, including those residing in both urban and rural areas, on the types of land degradation, their causes, the extent of the problems, their effects on the welfare, health and safety of all people, and methods for prevention and protection of the environment. The general public should be educated on the prevention of land degradation because public support is necessary for an effective land protection program.

### 3.4.4 Develop Legislation

#### 3.4.4.1 Examine Existing Legislation for Adequacy in Land Protection Program.

Existing laws in Albania relating to land and the environment should be examined to determine their adequacy to protect the land and other elements of the environment from degradation. For example, the Law on the Construction, Administration, Maintenance and Operation of Irrigation and Drainage Works, Law No. 7846, apparently has adequate provisions on the protection and maintenance of both irrigation and drainage systems. Drainage channels are to cleaned and maintained under this Law to prevent land flooding; however, the Law does not provide adequate protection of those channels from sedimentation

Another example is the Law for Forestry and Forest Police Service, Law No. 7623, which apparently provides adequate protection of forestlands from further deforestation, soil erosion and livestock overgrazing. However, the means for involving local communities in the protection of forestlands are not clearly identified.

Provisions are present in the Law on the Land, Law No. 7501, on the protection of land from soil erosion and housing developments in rural areas; however, these provisions are insufficient for adequate protection.

#### 3.4.4.2 Prepare Needed Legislation.

A subsequent step to be taken by the Working Group in the development of the LPAP is to develop legislation protecting land from degradation. For example, it is likely that the Working Group will identify the need for developing a Soil and Water Conservation Law that includes provisions for controlling soil erosion on the land and preventing surface and ground water pollution from sedimentation, nutrients and pesticides resulting from soil erosion. Such a Law should involve both the National Government and local governments in soil erosion and water pollution control programs, with responsibilities assigned to both levels. The National Government should establish in the Law tolerable soil loss limit goals and a time schedule for attaining those goals, provide nationwide administration of the soil erosion and water pollution control program, create a soil erosion control and water resource management plan and assign responsibilities to local governments and permit them to adopt regulations. Local governments should be required to create a soil erosion control and water resource management program for their territories in which they indicate how they are to meet the National goals and be permitted to adopt local soil erosion control regulations. The adoption of local regulations may be made mandatory or voluntary with voter approval depending upon the desires of the People's Assembly when adopting the Law. Such a Law and local regulations would also protect against sedimentation in surface water.

Another likely piece of legislation is a regionally oriented Land Use Planning and Zoning Control Law to prevent land degradation from housing developments in rural areas and assist in locating solid waste disposal facilities.

### 3.4.5 Develop Investment Program for Land Protection

Public resources as an investment in the future will be needed to resolve the different types of land degradation by sharing the costs with owners of land or enterprises. It will also be necessary for the owners of the land or enterprises where degradation is most severe to share in the costs of correcting the deficiencies. The Land Protection Action Plan should develop a procedure for identifying the needed investments for land protection and for mobilizing the necessary public and private resources.

### 3.4.6 LIS for Monitoring Evolution of Different Types of Land Degradation

Existing knowledge among specialists and landholders in the districts should be use to identify the types and location of land degradation that are most serious. Such information can be summarized on existing maps. A second effort should be to begin developing a computerized land protection information system based on the work already begun by the MOAF, the IFDC, and the various institutes.

## 3.5 IMPLEMENTATION OF ACTION PLAN

The Land Protection Action Plan should lay out a timetable of activities and financial requirements. The following ideas might be further developed for the soil erosion control and water protection component of the Action Plan.

1) Immediately

Identify areas of the country with the highest rates of soil erosion. Start erosion control measures in districts where the problems are likely to be the greatest. Focus should be on these areas to determine alternative method to deal with erosion problems. Because of the limited resources in Albania high-risk areas should be targeted first.

2) Inter-immediate

A series of seminars should be developed on land degradation problems and solutions to those problems. Radio and television programs could also be used in this effort.

3) Long-term

A Geographic Information System should be prepared to identify high risk soil erosion control areas and to constantly monitor and evaluate the effectiveness of the National and local soil erosion control and water resource management programs. Depending upon the evaluations, changes can be made in the programs and public financial resource investments as needed to further reduce the rate of land degradation.

# ANNEX 1 URBANIZATION ON HIGH-QUALITY AGRICULTURAL LAND

The most often heard cause of agricultural land degradation during discussions while in Albania was the construction of homes on prime land or the conversion of agricultural land around cities to housing developments. Nearly 34 percent of the class I and II (prime) land in the country is located in districts containing the six largest cities. The construction of homes and other buildings on prime agricultural land outside the yellow line of cities and village boundaries without permission is increasing, thus reducing the availability of highly productive land and will affect the future ability to provide sufficient food for the country.

One of the research areas that the Immovable Property Registration System's Project Management Unit (PMU) has assigned to the Soils Research Institute is to identify land uses around cities to determine what has happened to the agricultural land that formerly was in the possession of cooperative farms and State farms. There appears to be three different situations under which housing construction is taking place on agricultural land. One situation is where the former owners of ex-State farm land which has been distributed to former workers for use, are illegally building homes or the former owners are illegally selling that land to persons other than those given the land for use and the new owners are building homes. Some of the land given to former owners for use is not being used by them for various reasons. In another situation, some of the agricultural land near cities, particularly around Tirana, that was not previously owned by individuals has not been distributed to farmers and so it remains State-owned property. Families from different parts of the country are migrating into the areas and illegally building houses on this State land. Under the third situation, farmers who have received agricultural land that is a distance from their present homes are building new homes on that agricultural land for protection reasons.

Housing development and business construction activities will continue to increase in Albania as land is being privatized. Urban and rural land use planning and regulations, such as zoning, must be initiated to minimize loss of valuable agricultural land close to urban areas and to avoid haphazard urban growth and land speculation. Changes in present land use rules and regulations may be necessary to meet the need for more housing, new businesses and accompanying infrastructure, such as roads, streets and water and sewage facilities; to avoid degradation and contamination of land, water and air; and to minimize loss of valuable agricultural land. An assessment must be made to determine existing land use planning activities, authority and rules and regulations to implement plans with regard to urban, agricultural, housing, construction, business, industrial and public uses. There is an Urban Land Use Planning Law, but not one relating to such land.

Planning is necessary for the orderly development and use of land. While land use planning has economic and social effects and economic and social concerns are taken into consideration in such planning, land use planning is concerned primarily with the physical environment. It deals with the location of land uses, activities and structures, such as agriculture, industry, manufacturing, commerce, business, residential, public facilities and buildings, in reference to other uses, activities and structures. Policies relating to planning and regulations seek to balance urban, industrial, agricultural and public use of land and other land resources; to take into account local community needs and interests;

and to improve the quality of life in urban and rural areas. Zoning is the principal regulatory tool employed in planning.

Local planning in some instances can create conflicts between local governments or political subdivisions exercising overlapping jurisdiction as well as between neighboring municipalities that are part of a suburban or metropolitan area. To solve these conflicts laws should be designed to promote regional land use planning that is more conducive to situations encompassing large land areas comprising portions of two or more local governments or political subdivisions. Regional land use planning may be necessary where planning within a metropolitan area is not possible without taking into account the situation of all the communities comprising that metropolitan area. Many cities of any size have suburban or satellite communities. To plan only for the central city, without considering the situation of suburban or satellite communities, makes no sense. Consideration should be given to regional land use planning for the Tirana area because of its size and for the Durres area because the city is Albania's major seaport.

The end result of the land use planning process is the preparation of a "master plan," "comprehensive plan," or "general land use plan" [hereinafter referred to as a master plan], which is a long-range guide for the development or use of the whole area in question by the planning commission or other administrative body. A master plan is developed after studying population trends, existing land use patterns, traffic conditions and problems, location of major business districts and commercial areas, drainage or sewage problems, location of public buildings, single family areas and so forth. Traditional master plans take into account the location and type of activities taking place on the land and the design and type of physical structures and facilities serving those activities. Long-range projections of population and employment trends are also included in master plans. Such information serves as a prediction of physical facility needs, allocation of land to desired activities and preservation of open space for aesthetic and recreational needs. This planning process is designed to enable a governmental entity to plan for the construction of schools, streets, and water and sewage facilities and provide fire and police protection and other public services. Zoning, subdivision and local regulations controlling private use of land are enacted in compliance with the master plan. They are an exercise of the police power residing in a government to regulate the advancement and protection of health, morals, safety, and general welfare of the community.

Several articles in the Law on the Land, Law No. 7501, dated 19 July 1991, relate in some way to land use planning and regulations or controls on certain land, particularly agricultural land, in both urban and rural areas of Albania. The purpose of the Law on the Land is to divide the land in the country into categories and divest certain land from State ownership and privatize it. Land is divided under Article 1 into three categories: (1) agricultural land, irrespective of size and regardless if it is located in the countryside, villages, cities or other inhabited areas; (2) forest, pasture and meadow land; and (3) nonagricultural use land. Article 2 grants State-owned land to physical (individuals) or juridical (legal entities) persons who enjoy the rights of ownership; however, that right does not include its sale and purchase. Article 3 provides that State-owned agricultural land is given in ownership or for usufruct (use) to local (Albanian) physical or juridical persons. However, Article 5 restricts the divestiture and privatization of State-owned agricultural land under the Law to that in cooperative farms by stating such land is given to families that are members of the cooperatives. Agricultural land in cooperative farms can, as previously stated, include land used for agricultural purposes in villages, cities and other inhabited areas. Portions of land in former State farms now come under the Law on the Land by virtue of Council of Ministers Decision No. 452, "For Restructuring State Agricultural Farms," dated 17 October 1992.

Agricultural land received in ownership or for must be kept in agricultural production under Article 11 of the Law on the Land and those local physical and juridical persons receiving it are obligated to preserve and increase its productive capacity and to develop systematic plans for its protection. Article 14 restricts the construction of buildings and other projects on agricultural land to only those for agricultural and livestock purposes and then only in accordance with regulations specified by the Council of Ministers. The Council of Ministers, therefore, has some opportunity for establishing land use controls over the construction of buildings and other projects on agricultural land.

Article 4 of the Law on the Land states that foreign physical or juridical persons may lease land to build on and the purposes and terms of the use are defined by special contract. This Article prohibits the ownership of land by foreign investors, but it does permit leasing land to them. More importantly, from a land use planning and regulation or control standpoint, the future use of that leased land must be defined in a special contract, which would be the lease instrument. Such a lease instrument could contain some land use regulation or control provisions.

The location of all new buildings not used for agricultural and livestock purposes is controlled under Article 13 of the Law on the Land, which states, "Dwellings, houses, economic, socio-cultural and any other type of building are built within a border line (the 'yellow line')." This means that all new buildings must be constructed within the established boundaries of cities, towns or villages or other areas established for such purposes. A second paragraph of Article 13 states, "Land for construction is given with or without remuneration (payment) according to the criteria set by the Council of Ministers." The Council of Ministers not only has the opportunity to establish criteria on remuneration or payment, but to establish land use criteria, such as location, type of use permitted, type of buildings or construction permitted, size of the buildings and number of residents if they are dwellings. Article 13 further states, "It is prohibited to build any type of project outside the settlement border (the yellow line) without special decision of the respective competent organ."

Building and construction plans must be approved under Article 18 of the Law on the Land, which states, "With the proposed approval of the draft proposal and area of construction by the respective organ (agency), the land is given as ownership or for use to those who carry out the construction, but not before three months after work has begun. The change in the land registry is made when construction work begins." The government agency could establish standards, such as building regulations or codes, to base approval of the draft proposal upon; however, those standards must be published and be uniform.

Land use planning and controls for environmental purposes are contained in Article 17 of the Law on the Land, which states, "Industrial waste, mining refuse and waters containing chemicals harmful to agriculture must be channeled and gathered in special places in order to protect the land and plants, prevent water pollution and not endanger the life of people, animals and poultry." The location of such places and the area where a project is to be built needs approval. If approval is not given, no construction or functioning of the project can begin.

The Law on the Land contains a couple of articles that provide methods for enforcing the land use planning and controls contained in the Law. Article 16 states, "When juridical or physical persons get land as ownership or in usufruct (use) for construction or other economic activities do not respect terms for completing of the project according to the prior agreement, they are obliged to pay an amount equal to the average annual rent of the land." Article 21 states, "The organs of local State power in the relevant jurisdiction shall prohibit every trespass and misuses of the land within their jurisdiction that is contrary to this Law and other relevant regulations." If a trespass or injury to the land is observed, the members of the people's councils of the relevant jurisdiction, owners or users of the land, officials in the land survey office, jurisdictional urban planning staff or police in charge of public order are obliged to make out a complaint and the offender is asked to return the land to its former state within three days. Continuing, Article 21 provides that if the offender fails to comply, the government may eliminate the trespass and return the land to its former state at the offender's expense.

The People's Assembly of the Republic of Albania should enact legislation enabling the people's councils of districts, communes, municipalities, towns and villages to plan and regulate or control the future use of land within their relevant jurisdictions. Legislation enacted by the People's Assembly would not have land use planning and regulations or controls being performed at the National level, but would enable local governments to perform those functions. Districts could have jurisdiction over rural or nonurban areas outside cities, towns and villages boundaries (outside the "yellow line") and cities, towns and villages could have jurisdiction within those areas. The present provisions in the Law on the Land are too fragmented for adequate land use planning and regulations or controls.

Some of the Article headings that should comprise a law enacted by the People's Assembly authorizing local governments, such as districts, communes, cities, towns or villages, to create planning commissions and perform land use planning, prepare master plans, and adopt those master plans are:

I. Purpose of the Law.

II. Definitions of Terms Used in Law.

III. Designation of Planning Area Subject to Particular Local Government's Authority.

IV. Grant of Power to Local Governments to Create a Planning Commission and Perform Land Use Planning.

V. Creation of Planning Commission.
   A. Number and Qualification of Members.
   B. Appointment of Members.

VI. Relationship of Regional Planning Commission, if any, with Local Planning Commissions.

VII. Relationship of District Planning Commission, if any, with Local Planning Commission.

VIII. Organization, Meetings and Rules of Planning Commission.

IX. Staff of Planning Commission.

X. Finances of Planning Commission.

XI. General Powers and Duties of Planning Commission.

XII. Miscellaneous Powers of Planning Commission.

XIII. Operating Procedures for Transaction of Business of Planning Commission.

XIV. Matters to be referred to Planning Commission.

XV. Preparation of Master Plan.
- A. Geographic Area of Master Plan.
- B. Items to be Included in Master Plan.

XVI. Procedure for Adoption of Master Plan.
- A. Notice.
- B. Public Hearings.
- C. Planning Commission Approval.

XVII. Adoption of Master Plan by Governing Body.

XVIII. Legal Status of Master Plan.

Valid zoning regulations or ordinances must be authorized by an enabling authority, and the validity of the provisions of a regulation may be tested on the basis of conformity to the enabling authority. Article headings that should comprise a law enacted by the People's Assembly enabling local governments, such as districts, communes, cities, villages or towns, to create zoning commissions and boards of adjustment, prepare zoning control regulations and adopt zoning control regulations are:

I. Purpose of Law.

II. Definition of Terms Used in Law.

III. Purpose of Zoning Control Regulations or Ordinances.

IV. Grant of Power to Local Governments to Adopt Zoning Control Regulations.

V. Authority of Local Governments to Adopt Zoning Control Regulations.

VI. Criteria for Creation of Land Use Districts or Zones.
- A. Types of Districts or Zones that May be Created.
- B. Authority for Special Development Districts.

VII. Regulation of Uses within Districts or Zones.

VIII. Regulation of Size and Use of Buildings.

IX. Building Setback Requirements.

X. Compliance of Zoning Control Regulations with Master Plan.

XI. Procedure for Adoption of Zoning Control Regulations.
- A. Public Nature.
- B. Public Hearings.
- C. Zoning Commission Approval

XII. Governing Body Adoption of Zoning Control Regulations.

XIII. Procedure for Amending Zoning Control Regulations.

XIV. Creation of Zoning Commission.
- A. Number and Qualification of Members.
- B. Appointment of Members.

XV. Organization, Meetings and Rules of Zoning Commission.

XVI. Staff of Zoning Commission.

XVII. Finances of Zoning Commission.

XVIII. General Powers and Duties of Zoning Commission.

XIX. Operating Procedures for Transaction of Business of Zoning Commission.

XX. Nonconforming Uses.
- A. Definition.
- B. Types Permitted.
- C. Distinction Between Repair and Expansion.
- D. Discontinuance or Elimination.

XXI. Variances.
- A. Conditions Required for Granting.
- B. Procedures for Granting.

XXII. Special Exceptions and Special Use or Conditional Use Permits.
- A. Definitions.
- B. Conditions Required for Granting.
- C. Procedures for Granting.

XXIII. Authority for Extraterritorial Zoning.

XXIV. Board of Adjustment or Board of Appeals.
- A. Number and Qualification of Members.
- B. Appointment of Members.
- C. Powers and Duties of Board.
- D. Operating Procedures of Board.
- E. Adoption of Rules for Operation of Board.
- F. Meetings and Recordkeeping Requirements of Board.
- G. Types and Procedures for Appeals to Board.
- H. Procedures for Hearing Appeals.
- I. Voting on Appeals.

XXV. Appeal of Board of Adjustment or Board of Appeals Decisions to Courts.

XXVI. Inspections.

XXVII. Enforcement and Remedies.
- A. Types.
- B. Procedures.

XXVIII. Penalties for Violation.
- A. Types.
- B. Procedures.

# ANNEX 2 LIST OF CONTACTS

PROJECT MANAGEMENT UNIT (PMU), IPRS
Ahmet Jazoj, Director
Albert Dubali, Chief, Land Policy Department
Lida Stamo, Chief, Legal Department

MINISTRY OF AGRICULTURE AND FOOD
Hasan Halili, Minister
Llazar Korra, Head, Agriculture Project Office

SOIL RESEARCH INSTITUTE
Fiorentina Luli, Specialist, Geology & Soil Mineralogy
Valentina Suljoti, Specialist, Soil Chemistry

LAND DIVISION, DIRECTORATE OF NATURAL RESOURCES
Idriz Xhamara, Director
Agim Kukeli, Specialist

DIRECTORATE OF FORESTRY AND PASTURES
Thimaq Lako, Specialist
Dalip Habili, Secretary of Science
Qemal Rizvanolli, Chief, Silviculture Department

AGRICULTURE UNIVERSITY OF TIRANA
Nikollaq Bardhi, Professor of Soils
Zef Rakacolli, Professor Soils
Ardian Maci, Chair, Faculty of Agronomy

FOREIGN AGRICULTURE ORGANIZATION (FAO), UN
Sergio Giorgi, Farm Science Advisor

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID)
Steven Haynes, Agriculture Officer
Kristaq Jorgji, Agricultural Development Project Manager

WORLD BANK, IRRIGATION AND DRAINAGE PROJECT
Ylli Dede, Director PMU
C.P.A. Cosijn, Water Management Expert

VOLUNTEERS IN OVERSEAS COOPERATIVE ASSISTANCE (VOCA)
Maura Schwartz, Country Representative

KORCA UNIVERSITY
Prof. Thoma Plaku, Soil Scientist

EUROPEAN COMMUNITY/PHARE PMU TEAM ON EXTENSION SERVICE, MOAF
Stewart Campbell, PMU Team Leader
Gregor Gjeci, Assistant
Winn Beijer, Extension Advisor, Agr. Ext. Development Program
Valbona Ylli, National Coordinator, Extension Service

INTERNATIONAL FERTILIZER DEVELOPMENT CENTER (IFDC)
Ray Diamond, Chief of Party, Albania

SUPPORT FOR AGRICULTURAL RESTRUCTURING IN ALBANIA (SARA) PROJECT
David E. Kunkel, Senior Agr. Policy & Research
George McDowell

ALBANIAN TELEVISION
Thoma Tole, Agricultural reporter

OTHERS
Benedicta Giorgi, Belgian Soil Scientist

# ANNEX 3 SEMINAR ON LEGAL AND INSTITUTIONAL METHODS TO CONTROL SOIL EROSION

**For: Ministry of Agriculture and Food, Tirana, Albania, 27 January 1995**
**By: Dean T. Massey, Legal Consultant, Terra Institute, Ltd., Mt Horeb, WI 53572, USA**

I. SOIL EROSION

A. Soil losses affect productive capacity of land.

B. Conservation practices designed to conserve soil resources and prevent and control runoff.

1. Structural devices.

2. Cultivation practices.

3. Retirement of highly erodible areas.

II. NONPOINT SOURCE WATER POLLUTION

A. Definition.

B. Sediment from erosion is the main source.

C. Most sediment comes from agricultural activities, primarily cropland.

D. Carried with sediment are pesticides, dissolved solids, fertilizers, organic material and bacteria.

III. GOVERNMENTAL SYSTEM IN THE UNITED STATES

A. Three levels of Government.

1. Federal.

2. State.

3. County or local.

B. Each level has legislative and administrative powers.

C. Each level involved in soil erosion control and nonpoint source water pollution abatement.

D. Most of the responsibility in United States for controlling nonpoint source pollution lies at the local level, with the federal and state governments establishing water quality standards and guidelines and soil loss limits and providing technical and financial assistance.

E. Primary responsibility to control soil erosion and reduce sediment and other nonpoint source pollutants resulting from soil erosion is with the local government.

F. Soil and water conservation programs have been accomplished primarily through farmers' voluntary initiative using federal cost-sharing incentives and using educational activities of the Extension Service.

G. Although a substantial nationwide program for the prevention of soil erosion has existed for over 40 years, very little has been done to adopt land use regulations to control erosion.

H. Regulations can only be adopted by counties under an enabling law of the state.

IV. FEDERAL PROGRAMS

A. Agricultural Extension Service.

1. Structure of Extension Service.
2. Provides education to farmers at local level.

B. Soil Conservation Service.

1. Organized as Federal agency in 1935.
2. Structure of Soil Conservation Service.
3. Provides technical assistance for planning and applying land treatment practices within counties and for individual landowners.

C. Agricultural Stabilization and Conservation Service

1. Organized as Federal Agency in 1935.
2. Structure of Agricultural Stabilization and Conservation Service.
3. Provides various cost-sharing programs.

D. Agricultural Conservation Program.

1. Cost-sharing between 50 percent and 75 percent for installing conservation practices.
2. Annual limit $3,500 for landowner or operator.
3. May participate with annual agreement or long- term agreement that runs from 3 to 10 years.
4. A list of approved practices for cost-sharing.

E. Rural Clean Water Program.

1. Established under Clean Water Act of 1972 to provide financial assistance to landowners and operators for controlling agricultural nonpoint source pollution to improve water quality.
2. Administered by Agricultural Stabilization and Conservation Service.
3. In selected project areas throughout the country with long-term cost-sharing contracts up to 75 percent of the cost management practices.
4. Only in selected areas where US Environmental Protection Agency has approved an areawide waste treatment management plan identifying water quality problems from agricultural nonpoint source pollution.
5. Contracts between 3 years and 10 years in duration; maximum payment to a participant of $50,000.
6. Practices must be approved by the county.
7. Forfeit further payments if not perform.

F. Forestry Incentives Program.

1. Annual or long-term agreements between 3 and 10 years with owners of private forestlands to provide them with cost-sharing assistance for planting trees or improving existing timberlands to encourage afforestation of suitable open lands and the afforestation of cutover lands.
2. Cost-sharing may not exceed 65 percent and the
3. Eligible areas selected by State Forester.

G. Special Areas Conservation Program.

1. Established by Agriculture and Food Act of 1981.

2. Program to conserve soil, water, and other natural resources in "designated special areas" by providing additional technical and financial assistance to agricultural landowners and operators or groups of them.
3. Areas with severe and chronic erosion or water management problems.
4. Landowners and occupiers must have a conservation plan approved by the county before they are eligible to enter into cost-sharing agreement.

H. Food Security Act of 1985 Financial Incentive Programs
1. Conservation Acreage Reserve Program.
a. Take highly erodible or fragile cropland out of production for 10-year period.
b. Farmers rent paid.
2. Conservation Servitude Program.
a. Must be highly erodible, wetlands or marginal cropland.
b. Grant 50-year servitude for conservation recreational and wildlife purpose for canceling outstanding debts owed to Farmers Home Administration for loans.
3. Multiyear Set-Aside Acreage Contracts
a. Part of farm commodity program.
b. Vegetative cover to mountain conservation.

I. Food Security Act of 1995 Compliance Programs.
1. Highly Erodible Land Conservation Program (Sodbuster).
2. Wetland Conservation Program (Swampbuster).

V. EFFECTIVENESS OF FEDERAL PROGRAMS

A. Despite financial incentives, cropland losses from erosion have been increasing since 1970's.

B. Criticized programs for:
1. Enhanced production rather than erosion control.
2. Failure to direct assistance to areas having most critical erosion problems.
3. Distribution of assistance despite concentration of erosion problems.

C. Installing and maintaining soil and water conservation practices is costly despite receiving Federal cost-sharing incentives.

VI. STATE PROGRAMS

A. Some states have cost-sharing programs.

B. Some states have income tax and property tax incentive programs.

C. All states have laws to perform soil conservation activities.

D. Some states have laws granting counties permission if they so desire to adopt soil erosion control regulations.

E. Some states establish soil erosion control standards or criteria and require counties to adopt regulations or enforce the state's standards or criteria.

F. Regulations may be enacted under the general police powers of any sovereign government to promote the general welfare, health and safety of its citizens.

VII. COUNTY OR LOCAL PROGRAMS

A. Soil erosion control measures counties empowered to perform under state law.

1. Conduct investigations and research relating to character of soil erosion and preventive and control measures needed and publish and disseminate the results.
2. Conduct demonstration projects.
3. Carry out prevention and control measures on any government controllable land.
4. Furnish or provide financial aid to landowners or occupiers.
5. Make available equipment, fertilizer and seed to landowners.
6. Construct, improve and maintain structures.
7. Develop comprehensive plans for conservation soil resources.

B. Permissive regulatory power.
   1. Voluntary approach to soil erosion control.
   2. Regulations may be adopted only with the approval of the required number of voters.
   3. Practices covered in regulations.
      a. Carry out necessary engineering operations.
      b. Observance of particular methods of cultivation.
      c. Specification of cropping program and tillage practices.
      d. Requirement to retire highly erodible land
   4. Enforcement powers.
      a. Require the landowner or occupier to perform the work.
      b. If not, county perform the work and charge the landowner or occupier.

C. Mandatory regulatory power.
   1. Controls are in three categories.
      a. Counties are required to adopt regulations and have them approved by state.
      b. State is required to prepare statewide erosion and sediment control programs and guidelines and counties required to adopt standards and regulations based on them.
      c. State adopts land use regulations that are enforced by state agencies and local agencies.

VIII. PREVENTION OF LAND DEGRADATION LAWS IN ALBANIA

A. Law on the Land, No. 7501, 19 dated July 1991.
   1. Article 11 - Owners and users to preserve and increase its productive capacity and build structures for its protection.
   2. Article 12 - Protect irrigation projects and equipment.
   3. Article 15 - Used for agricultural purpose within one year or loss possession.
   4. Article 17 - Refuse and waters with chemical content must be channeled and gathered in special place.
   5. Article 21 - Local governments may prohibit occupation or ill use of land in violation of this Law.

B. Other laws.