CREATION OF AGRICULTURAL LAND MARKET IN UKRAINE

V. Dankevych
Zhytomyr National Agroecological University,
7, Staryi Bulvar, Zhytomyr 10008 Ukraine
dankevych-v@rambler.ru

Abstract: The article describes the main arguments of the land market based rent and sale. Completed SWOT analysis options for the land market. Argued the benefits of market-based land lease. The author presents his own interpretation of the ‘farm land market’ concept and determines the function and conditions of the effective market development in Ukraine. It has been established that the land market secures the implementation of the principle of the rational and efficient land use, contributes to receiving a maximum payoff from each unit of the area, forms the attitude to land as a specific value and promotes the conservation of lands and their fertility improvement. The paper considers some priority measures which are implemented through the land market. The author proves that the farm land purchase and sale market grew civilized, and it is necessary to introduce a controlled turnover of lands. This not only provides for the lifting of the moratorium on farm land sale but also the enactment of the legal base and development of the adequate infrastructure. The pattern of land value inclusion in the marketing environment with the purpose of attracting investment resources to the agrarian sector of the economy has been suggested.

Keywords: agricultural land, land market, Ukraine, land rent, land sale.

Introduction
Ukraine has 42.8 million ha of agricultural land comprising 71% of the country’s total area, of which 32.5 Mha is arable. Ukraine is richly endowed with chernozem, one of the most fertile soils worldwide. Ukraine accounts for about 25% of the global chernozem area. Exceptional arable land and a good climate give Ukrainian agricultural producers strong competitive advantages. Given the size of its population and its feedstock needs, Ukraine is one of the few countries worldwide that can fully meet its domestic agricultural needs and export substantially. Since 1991, when independence was declared in Ukraine, i.e. more than during 15 years now, discussions have been underway in the country whether it makes sense to introduce a fully-fledged agricultural land market, in particular, the possibility of land trading.

The moratorium on purchase and sale of agricultural land was introduced by current Land Code of Ukraine till January 1, 2005 and then extended till 2016. Today the issue of introducing a fully-fledged agricultural land market is being debated again (Yerankin, 2008). Quite a lot has been said and written in this regard already. Although the Ukrainian authorities are still working on the final version of the land market bill. Lawmakers are currently discussing many limitations concerning land ownership, lease rights, preemptive rights and size of land plots to own. Below we provide a brief analysis of how land reform was carried out in peer countries and compare Ukrainian lawmakers’ initiatives.

Methods
The research employs the following methods of scientific cognition: abstract-and-logical method, especially methods of analogy and correlation, inductive and deductive ones and the method of scientific abstraction for theoretical generalization, specification of the conceptual apparatus and formulation of conclusions; economic-and-statistical methods. The research process employed the following methods: of scientific abstraction – to formulate theoretical generalization and conclusions; of analysis and synthesis – to study the nature and ties of cause and effect, to establish the trends of development of phenomena and processes in the agrarian sector; the monographic one – to study the experience of farm land use and observance of contractual obligations in the developed countries.
Results

Land reform in Ukraine, as in many other former Soviet republics, progressed very slowly after the country declared independence in 1991. It was only in 1999 that Soviet-era farms were restructured based on private ownership. All of them were mandated to conclude lease contracts based on land deeds (certificates) distributed among employees of former state and collective farms. Each deed was to be allocated an individual land plot and delimited. As of Jan. 1, 2008, 6.9 million people received land certificates, of which 6.2 million were allocated land plots. The size of plots in a given region depends on land availability and the region’s population, ranging from 1.1 ha in the mountainous Ivano-Frankivsk region to 8.7 ha in Luhansk, with the national average totaling about 4 ha. Some 35.5 Mha, or 85% of total agricultural land, is privately owned in Ukraine today (Fedorov, 2009).

The Land Code approved in 2001 introduced a moratorium on agricultural land sales. The ban has since remained in effect, its removal being conditional on the passage of two laws, on the land market and on the state land cadaster. Although the relevant legal framework was drafted back in the early 2000s, successive Ukrainian governments have lacked the political will to initiate change, expressing concern that farmers would sell their land at very low prices, latifundia would emerge while small and medium-sized farms would disappear, depressing rural regions. With the moratorium in force, agricultural producers are not able to use their land as collateral for loans, which severely limits their capacity to attract financing.

Potential land reform also met with strong resistance from local authorities and some agro producers with an interest in the moratorium remaining intact. Local officials, in charge of registering land lease agreements, are interested in executing short-term leases to use the opportunity to extract bribes in the process (Korolenko, 2011). Moreover, they are responsible for distributing the government’s financial support to farmers in their regions, which gives them additional power. The status quo is also beneficial for agro producers pursuing short-term business strategies. Enjoying low lease payments, they can plant highly profitable but soil-exhaustive crops, violating crop rotation rules and not investing in soil improvement, and then leave the exhausted fields and move on to lease new ones.

Today few people doubt the necessity of fostering the agricultural land market. Advocates of the immediate abolishing of the moratorium believe that since its introduction, there has been no expected boom of agricultural production and no reasonable level of food security has been achieved; moreover, Ukraine has lost its chances for foreign food markets. Additionally, life quality of the farmers who were leased land plots in the early 1990s has worsened considerably instead of being improved as a result of the efficient land utilization. It is important to figure out why this happened. The reason may be the lack of land ownership when the farmer does not see any meaning in improving the quality of the land or its long-term productiveness. Investments and bank loans are two key constituents of the development of agriculture. However, profitable financial terms cannot be secured without the right to own land. Private local investors are frightened to invest into something they cannot possess, while foreign investors consider agriculture an area too risky to put their money.

However, the turnaround may be near for land reform in Ukraine as the current government looks determined to pass the required laws this year and allow transactions from 2013 onwards. In January 2011, the State Committee for Land Resources published and invited public discussion of its draft law “On the Land Market”, one of the two pieces of legislation needed to revoke the ban on agricultural land sales, before having it passed by the government and submitted to parliament for approval. This bill is intended as the primary regulatory act for the future land market in Ukraine, its key objectives being to facilitate investment inflows and enable agribusinesses to acquire the land they lease and use it as loan collateral. The other required bill, on the land cadastre, was approved in July 2011 and took effect the following month. It governs the create of an up-to-date electronic database with information on the exact sizes, locations and ownership rights of land plots as well as data on each plot’s soil quality and economic value.

The land market bill, which as we noted above can still be significantly amended or revised before final approval, forbids ownership of agricultural land for any legal entity in Ukraine, implying no changes for public agricultural companies who then will still continue leasing land. The bill says land can be owned only by: citizens of Ukraine, the state land bank and local village authorities. Moreover, the bill limits ownership of agri land to 100 ha per buyer and caps the area under lease to 6,000 ha per individual or other entity, or no more than 5% of total agricultural land in a given region. Should the current version of the bill be enacted, it...
will put substantial limitations on land lease holdings and as such implies additional paperwork for existing agricultural companies (tab. 1).

The current version of the land market bill bans direct land ownership by foreign individuals or companies, though they may own non-agricultural land, e.g. plots under buildings. We think this limitation can be overcome by setting up a duly registered Ukrainian subsidiary which would in turn establish a legal entity to acquire agricultural land. In some EU member states which joined the Union in 2004 foreign individuals and companies are barred from acquiring agricultural land during seven transitional years following accession. In Brazil, foreign ownership of agricultural land is limited to 25% of the area of an administrative region. In Canadian provinces, land ownership depends on both citizenship and residence, and foreign individuals and legal entities are not allowed to own agricultural land.

Table 1

<table>
<thead>
<tr>
<th>“Heavy” side</th>
<th>“Weak” side:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- An incentive for the development of production; - The redistribution of land to investors; -increase in income; - Solving the complex problems of ownership ground.</td>
<td>- Inefficient and dependent legal system, especially - the courts; - Lack of traditions and habits; - Lack of institutions and infrastructure; - Difficulty of early agricultural activities; - Poor motivation of sellers; - “Shady business” and criminal influences; - Lack of regulatory software.</td>
</tr>
</tbody>
</table>

Opportunities: - Favorable investment climate; -GDP growth; - Promotion of structural change; -Meet the needs of customers. Threats: - The formation of the “owners”; - Threat of large estates and rentiers; - More expensive product-reducing Competitiveness; - Loss of status “property of the people”.

Source: developed by the author

We expect lease to remain the simplest and most effective instrument for agricultural companies, especially those with foreign participation, to develop large-scale operations in the short to medium term. The share of longer-term 10-year contracts increased from about 2% in 2001 to over 11% in 2011. Also, the bulk of lease payments, or about 70%, are made in kind (with agricultural products or services). The share of in-kind payments declined from 77.4% in 2001 to 68.7% in 2011 and we believe will continue to shrink in the long run after the land market is launched (tab. 2).

Table 2

<table>
<thead>
<tr>
<th>“Heavy” side</th>
<th>“Weak” side:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Land and receive long-term short-term users; - No complicated regulatory software; - Availability of traditions and habits; -reduction threshold means for early agricultural activities; - An incentive for the development of production.</td>
<td>- Mediocre motivated sellers and weak - buyers; - The need for a system of accounting and control; - Inefficient and dependent legal system, especially - the courts; - Lack of institutions and infrastructure; - “Shady business” and criminal influences.</td>
</tr>
</tbody>
</table>

Opportunities: - “Conservation status” property of the people”; - The ability to “fix” the situation; - attracting farmers and communities to land - Equal opportunities of future generations; - Favorable investment climate; - Promotion of structural change; - Meet the needs of customers. Threats: - Local monopolization of the lease; - The dominance of short-term contracts; - The problem of quality control of soil; - The problem of instability; - The formation of the “owners”; - threat of large estates and rentiers ; - More expensive products.

Source: developed by the author
The land market bill also provides for creation of the State Land Bank to act as a market player and consolidator of state-owned arable land and provide farmers with loans collateralized by land. In June 2012, Ukrainian parliament approved two bills creating a legal framework for the land bank, providing that it can issue loans to farmers at targeted annual interest rates capped at 3% plus the NBU discount rate and collateralized by private or leased land. The bills deprive local authorities of control over state-owned land, transferring it to the land bank. Over 40% of respondents said they planned to let or continue letting land in the future, around 30% said they would operate their own land plots to produce food for themselves and another 12% said they would do nothing and wait to see how the land market develops. Only 7% of respondents said they would be willing to sell their land when the market opens. Alternatively, 18% of respondents who do not currently have agricultural land plots would be willing to buy land when the market opens.

Discussion

The development of farm land market in Ukraine is taking place together with the creation of the competitive environment in the national economy and building up of the specialized infrastructure. The effective functioning of this market provides for the control on the part of the state which must regulate land redistribution, determine the size of private landholdings and control their intended use. The land market regulation is that with the aid of market mechanisms and government control the land would pass from ineffective producers to more effective ones. In order the farm land purchase and sale market to become civilized, it is necessary to introduce a controlled turnover. This provides for not only the lifting of the moratorium on land sale but also working out of the Laws ‘On Land Market’ and ‘On Land Cadastre’ that carry into effect the common electronic land cadastre without which it is practically impossible to establish the real origin of either land plot and, accordingly, prove the participation in the illicit land market.

An important step will be the inclusion of land assets in the owners’ equity of farm businesses which will give an opportunity to preserve integrated land-and-property complexes in agricultural production and ensure their access to credit resources. It should be noted that under the conditions of the financial and budgetary crises farming has to search for financing sources. All over the world the main source of finance is credit on mortgage land, and for that a landowner must have real rights in land.

References


