

Dr Andrzej Zadura
Agricultural Property Agency
Poland
azadura@anr.gov.pl

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Land Banking/Land Funds as an Instrument for Improved Land Management for
CEEC and CIS

Session 5: The Role of Land Banks/Land Funds in the Privatisation Process
(Polish case)

Introduction

The reasonably good environmental conditions, population size and relatively low level of economic development in Poland were causing, in the past, a rapid growth of arable land mainly at the cost of forested area. According to Agricultural Census as of 2002 the agricultural land in Poland accounted for 16 899 thousand hectares (ha). The arable land (77%) prevails of total agricultural land. In the structure of crops cultivated the grain accounts for 70 %, followed by fodder crops, potatoes, sugar beets and rape.

State Farms

Despite changes in political system in the country after II World War, a salient feature of Polish agriculture was the role of family farms. The public agriculture occupied an area not exceeding one-fourth of the agricultural land. The decisive majority of this sector were state farms. The shortages of food products induced the authorities to subsidise the state farms violating the principles of efficient management. The return of management based on market economy drove many state farms into difficult situation. Operating in old structure, devoid of subsidies and preferential loans lost their financial liquidity. It was a reason that in 1991 the Polish government decided about their privatisation.

Principles

The final purpose of privatisation process was to be a setting up the efficient form of farming with methods of privatisation satisfying expectations of private farmers, state farm crews, former landlords and banks associated with property restructuring.

In the process of privatisation the following factors had to be taken into consideration;

- land demand from the side of private farmers and workers of liquidated state farms,
- creation of new businesses showing a promise of stable economic ability,
- applications for re-privatisation submitted by former owners or their legal inheritors,
- social situation of the region in the terms of employment market.

Agricultural Property Agency (APA) – Legal aspects

At the beginning, the process of privatisation was based on the Law of July 13, 1990 *on Privatisation of State Enterprises*. Due to legal and financial restrictions on trading agricultural properties these activities did not bring expected results. Therefore, following legislative work initiated by government, the parliament adopted on October 19, 1991 *the Act on Management of Agricultural Property of the State Treasury*. The Act entrusted the realisation of privatisation in agriculture to the Agricultural Property Agency of the State Treasury. The Agency was self-financed state person executing for the State Treasury the property rights and other material rights with regard to state assets in agriculture. In 2003 Agricultural Property Agency has been transformed into Agricultural Property Agency with additional task for creation of agricultural system (improvement of family farm structure).

Land Bank - Agricultural Property Stock of the Treasury (APS)

The agricultural real estates and associated assets taken over by APA form an Agricultural Property Stock of the State Treasury. The Agency can sell these assets in full or in part, let it for a determined period of time to be used at cost of individuals or legal persons (lease), bring into companies, transfer for management, or designate an administrator “for the purpose of conducting business”. The real estate comprising APS can also be transferred free of charge to communes for the purpose associated with infrastructure investments, Polish Academy of Sciences, universities, research and development institutes for purpose serving their statutory tasks, and to State Forest for reforestation. In economic justifiable cases agricultural land comprising APS may be temporarily excluded from agricultural production. The sale and lease of state property is conducted in the way of public tenders.

Land distribution

Since the beginning of Agency's operation, i.e. first quarter of 1992 up to the end of 2003 the APA has taken over the assets from 1666 liquidated state farms (with average size of state farm exceeded 2200 ha). These assets included 4 706 thousand ha of land and other assets valued at 8 633 million Polish Zlotys (PLN).¹ The liabilities of state farms valued at 1989 million PLN including 887 million PLN credits and loans. The debts re-payment had the highest priority and, after some years of APA activity, that problem had been solved successfully.

In 1992 – 2003 APA offered for sale and lease nearly 9 million ha of land (some properties were offered more than once). The lease which engages less financial means has become a convenient and accessible method of APS land use. At the end of 2003, APA leased 2 341 thousand ha of land. The object of lease contract is land with planted perennials as well as buildings and other fixed, inseparable components of the property. Moreover, the leaseholder is obliged to buy existing working assets and movable such as: machines, livestock, inventories, production in progress. The annual leasehold rent can be expressed in cash or cash equivalent of wheat value. The rent determined in cash is subject of valorisation on the basis of indexes reflecting the changes in purchasing prices of basic agricultural products. The average leasehold rent for APS land, as a result of hitherto concluded contracts, was stable over years and fluctuated at around 200 kilogram of cash value of wheat per 1 ha.

By the end of 2003 APA sold 1 373 thousand ha of land, transferred free of charge 254 thousand ha, passed under temporary management, administration and long term lease (perpetual usufruct) 114 thousand ha. There is still about 600 ha of land awaiting for formal passing to purchasers or leaseholders as well as the land utilised without any contracts. As a result of tenders organised in IV quarter of 2003 the average price of APS land was 3 953 PLN per 1 ha.

Preferred target group

APA has also a right to organise the closed door tenders for sale of APS land to natural person intending to establish or expand own family farm, former workers of liquidated state farms, farmers sold property indispensable for public purpose, and members of agricultural co-operative farms in state of liquidation and bankruptcy. Moreover, the bidders on closed door tenders can be the farmers participating in APA agricultural settlement scheme, repatriates and companies established by former workers of state farm.

¹ 1 EUR = 4.8199 PLN. The exchange rate of National Bank of Poland on 04 .03.2004.

Agricultural settlement scheme

The agricultural settlement scheme started in 1996. APA is participating in it by designating and preparing APS properties in order to establish new settlement farms. The scheme is implementing primarily in regions with oversupply of land exceeding the local demand. The candidates who meet the terms set for settlers can get the land loan with subsidised interest rate as well as preferential revolving credits for purchase of agricultural equipment. The subsidy is granted by the governmental Agency for Restructuring and Modernisation of Agriculture. The size of loan is restricted according to the region of the country. At present, the settlement scheme is attended by 83 farmers who bought or leased former state farms with total area of 14 thousand ha.

Private farming - structural issues

In 2002 in Poland there were 1 952 thousand private farms, in which 1 618 thousand farms conducting agricultural production. The average size of private farm was 9.2 ha, in which 8.2 ha agricultural land. Since 1990, in connection with transformation of country economy, the decrease in a number of private farms accelerated with tendency towards “polarisation”. It is reflected in the growing share of smallest area group (1.01-1.99 ha) and the farms in largest group (20 ha and more). The increase in the share of bigger farms can be explained by lack of limitation in agricultural land turnover (up to the middle of 2003). The decrease of jobs in non-agricultural sector of economy was a main factor created small farms through fragmentation of bigger ones.

APA may sell APS property when, as a result of transaction, the total area of agricultural land being in purchaser’s possession is not over 500 ha. As regards the structure of land sold or leased from APS, the most contracts (98%) were concluded for areas up to 100 ha. The former state real estates are mostly used to expand the existing family farms. In 1992-2003 more than 300 thousand privately managed farms increase their size (by 4.5 ha on the average) through purchase or lease the land from APS. The significant improvement of the farm structure is observed in the western and northern part of the country. It was possible due to availability of the land from former state farms, which have been located mainly in these regions.

Within restructuring process, the real estates organised into larger units were also distributed through sale or lease. As a result, in Poland exist more than 5 thousand private farms of the total area over 100 ha using more than two million ha of land (on average approx. 400 ha per contract). According to scientific investigations held by Research Institute

for Agriculture and Food Economy this group of farms represent high level of economic efficiency.

APA - operator on private land market

In July 15, 2003 *the Act on Formation of Agricultural System* came into force. The Act designates the following goals of state land policy:

- improvement of farm structure
- resistance to excessive property concentration,
- assurance of agricultural activity on the farm conducted by persons with proper qualification.

The Act defines the concepts of individual farmer who is natural person being the owner or leaseholder of family farm (with size not over 300 ha), managing farm personally, having agricultural qualifications, residing in the commune in which, at least, a part of his/her property is situated.

APA is entitled to pre-emption right in the case of land sale contracts among natural or legal persons or purchase right in the case of ownership right transfer other than sale. APA has also the re-purchase right its earlier disposed property within 5 years, counting from the day of transaction. Since 16th of July 2003 up to the end of that year 30 thousand drafts of contracts were submitted to APA for confirmation their consistence with mentioned rules. Most of them concerned small plots (up to 1ha) not important for creation of rational farm structure. Therefore, APA used its pre-emption and purchase rights in 16 transactions only, purchasing 50 ha of land valued at one million PLN. The purchase scheme for 2004 is planned at 22 million PLN i.e. about 6 thousand ha. The scale of APA intervention depends on its financial possibilities and contracts submitted.

Land market – APA financial support

In cases justified by socio-economic reasons, especially when a real estate is purchased from APS in order to establish a new farm or expand an existing farm, and also when new jobs are provided the payment can be made into instalment scheme of maximum 15 years. The down payment should amount to at least 20% of purchase price. The unpaid liability can be expressed in cash or in kind (i.e. financial equivalent of wheat). If the amount due is fixed in kind no interest is applied. If amount due is fixed in cash the interest is equal to ½ of current rediscount rate but not less than 8% for non agricultural real estate and ¼ and 4% for

agricultural one respectively.² The price of real estate entered into the register of monuments can be reduced up to 50%. The working assets and movable can be a subject of purchase on instalment payment scheme of maximum 10 years. The down payment should amount to at least 20 % of purchase price. The unpaid liability can be expressed in cash or in kind . If due is fixed in cash the interest is equal to ¼ of rediscount rate but not less than 4%. If the amount due is fixed in kind no interest is applied.

APA may not apply the interest for payment of amount due for the property sold on instalment payment scheme, not used at least one year prior contract conclusion, located on the territory of communes recognised as threatened by high level of structural unemployment. If land was idle for at least one year prior the conclusion of contract, the leaseholder can be exempted from leasehold rent for arable land for a period of up to 3 years. APA may also exempt the leaseholder from leasehold rent for a period of maximum 5 years in cases justified in view of the condition of subject of lease or investment, whereupon new job opportunities would be assured..

Land market – ARMA financial support

Established in 1993 Agency of Modernisation and Restructuring of Agriculture (ARMA) is institution implementing the state policy in the sphere of structural issues in agriculture and rural areas. The ARMA financial assistance to the land turnover has a form of subsidies to the interest rate of preferential credits. ARMA offers the entitled borrowers preferential credit line on land purchase as well as similar credit for farmers up to the age of 40 wanting to establish new farms or organise farms under settlement scheme. The interest rate is variable from 1.2 to 3.74%. The difference between interest paid by borrower and market rate is granted by state budget. In these credit lines, the maximum maturity can be set at 15 years and grace for repayment of capital can be extended to 2 - 3 years. ARMA co-operates with banks providing service for agricultural and food processing sectors. These banks have their branches in almost every rural community.

Constrains and perspectives

The results of almost 12 years of APA operation indicate that its role as land bank has met, in majority, the obligation imposed by the rule to "create conditions conducive to rational utilisation of APS". Due to oversupply of state land concentrated in northern and western regions of the country APA creates the land demand by use of instalment payment

² The rediscount rate of National Bank of Poland on 01.03.2004 – 5.75%.

scheme. To date experience proves that APA strategy improves the structure of farms and creates stronger class landowners and leaseholders of agricultural land. However, it is expected that further transformation of agricultural system in the country will be characterised by collapse of small farms accompanied by the growth of average size of farms. That has always been the case of countries joining the EU.

The Polish land law seems to be similar to the regulations in some EU countries but rules concerning privatisation of state sector of agriculture are specific for Poland. The process of changes in Polish state agriculture is still accompanied by emotional discussion about goals, methods and effects of these changes. As a result there were amendments of the Act of October 19, 1991 on *Management of Agricultural Property of the State Treasury*. It is very probable that essence of future land policy will be shifting from the sphere of legal measures towards economic regulations with their importance for shaping private property in agriculture. At present, APA is not only creator and operator of ownership changes in agriculture but – through legal obligations – financial supporter of structural changes in private farming. It is a common opinion of APA management that due to restricted financial resources this type of APA activity should be replaced by bank loans or possible support from EU funds.

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