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LAND BANKING AND LAND FUND SCHEMES IN DENMARK

Short review of past practices and procedures

The typical village in Denmark before 1800 was characterized by common operation of the common village property. Usually the village property was divided into three types of fields (rye, barley and pasture).

With the Governmental resolution on Land Consolidation from 1781 the principle of common property was abolished as the Danish government realized the need for an independent peasantry: The farmers had become interested in farming own land and new methods of cultivation emerged mainly from England and Holland. The land was being spread out and thus the picture that we know today of the individual farms being situated on own land was created.

With the Danish constitution of 1849 the Danish privatization act was given in § 98, by which the conversion of entailed estates into fee simple/freehold was given. Church land was to be sold along with state owned land in parcels creating farms/small holdings of suitable sizes to feed a family by its own labor.

The laws carrying out this constitutional privatization were given in October 1919 (The October laws), but already in 1899 the law on small holdings were given to enable young farmers to buy suitable farmland, when available. The aim was to secure that young people stayed in the farming industry instead of the common alternative, where the only possibility was to find work as unskilled workers in the cities, suffering with poverty in periods and poor housing conditions.

All of these laws were based on parceling out new individual farms and different ways of financing with government credits etc. The administration of these laws was laid down by what today is known as The Directorate for Food, Fisheries and Agri Business, Land consolidation Division. The division was thus established in 1919.

I'm sure that you on your way from Copenhagen have seen some of these small holdings with the white houses and originally red tile roofs. The buildings were to meet certain standards, to ensure that the state's mortgages in the new buildings would represent a true value. Also the standards were somewhat set out to meet certain aesthetic criteria.

In 1921 the division was given the right to buy land on normal market terms for land banking to enable an increase of smallholdings.

With the world crisis in the 30's, the state/land consolidation was thus able to make considerable purchases of land from forced sales in the farming industry.

In the late 20's the office had a huge task in cultivating new land in the area you are visiting now. Considerable land reclamation took place, new roads were laid out and drinking water and electricity was established. Up to 1945 about 1.800 new small holds/farms were established through the Land consolidation Act for Southern Jutland of 1924 using some 25.000 ha of state owned land. It was due to this work, a branch of the division was established in 1927.

In 1941 the Land consolidation Act was amended into covering all of Denmark. This was in connection with the policy of job creation projects dealing with land reclamation. However the law immediately became an important instrument for the general improvement of the farming structure and is today the main administration area for the branch in Tønder.

Definition and objective today

In Denmark we usually define land consolidation merely as a procedure for a simultaneous handling of a number of land transactions.

The objective of land consolidation in the period 1950 - 1985 is improvement of structure, due to the development towards larger and thus fewer holdings. In the recent years the objective has been the water protection program in a combination with the improvement of structure, where also the trend towards avoiding the hazards of smelly productions and agricultural traffic in the villages/the adjacent society has been targeted.

The Danish Land consolidation Act of today pretty much is the same as in 1941. It defines and empowers the agents that carry out land consolidation and sets out the main principles.

It is together with the Land Acquisition Act - which enables the land consolidation to buy land on the free market irrespective of the rules of purchase for farmers in the Law on Agriculture – Land Banking becomes possible.

The combination of the two laws makes the Danish land consolidation instrument a versatile tool, when talking public projects.

Principles and procedure

The Danish Land consolidation Act defines and empowers the actors that carry out land consolidation and it sets out the main principles. The following few principles characterize the classical Danish land consolidation:

- Participation is voluntary.
- A land consolidation planner (land surveyor or agronomist) negotiates with farmers and authorities.
- The farmers do not buy and sell from each other; sales and purchases go through the land consolidation.
- A particular land consolidation agreement contains all transactions for each landowner. This means that there is only one document for each owner irrespective of how many transactions he is involved in.
- All changes in the land consolidation scheme are made legally effective in one legal judgement by a land commission.
- Owners accept approximate indications of areas, which permits that cadastral surveys are only carried out when the changes are formally effective.

Danish land consolidation – three main types.

Land consolidation transfers ownership of landed property but it follows different principles than ordinary private agreements. There are three common variants of land consolidation in Denmark.

Private chartered surveyors carry out cadastral surveying in all three types of land consolidations.

1: Improvement of location & structure.

The village land consolidation projects. This type of land consolidation is demand driven and participation is voluntary.

As of August 2003 land consolidations concerning the general improvement of location and structure have become privatized and the participants pay all costs themselves.

However, under the Rural Development Program under the EU the participants can obtain subsidize of 100 % (hereof 50% from the EU) of the costs for planning, surveying and registration fees, when certain criteria concerning environment or nature preservation is met.

The planning is now to be carried out by e.g. agricultural advisors, private chartered surveyors or even lawyers (may our respective gods have mercy on us all!) in co-operation with the land owners committee.

The planner in these privatized cases has the following responsibilities:

- Adherence to existing legislation.
- Consideration of complaints from landowners.
- Payments between buyers and sellers.
- Implementation of cadastral survey by private chartered surveyors.
- Updating of cadastre and land registry.
- Valuation of the new holdings.
- Adjustments of land taxation.

Responsibilities for the Land consolidation Division:

- Checking title of rights
- Writing the verdict of the Land Commission

As the system is still new, it is hard to say anything about the time perspective, but we sincerely expect to be able to cut down the administration which earlier could take up to two years in these cases.

It is of course an important advantage if land is available from land reserves – e.g. a whole farm being sold into the land consolidation. In the privatized land consolidations a land reserve has to be created by the participants of the land consolidations themselves, e.g. by one of the participants selling a substantial amount of land to the land consolidation (e.g. farmers going on retirement).

2: Land consolidation in public projects.

Public projects, for example afforestation, water protection programs and improvements of the structure of holdings concerned. Participation is voluntary. If a project falls under the scope of the Nature Preservation Act up to 10% can be forced to join.

Such projects would commonly concern afforestation, nature reserves or other environmental projects and urban development. Often one will see a combination hereof.

In these types of project compensation land from a land reserve is of outmost importance if the participants are to maintain their production capacity. The Land consolidation offering compensation land to the participants may also be the only way for the individual participant to increase his holding. If sufficient land is available, there is no reason why a participant can't negotiate for more land, than he is participating with in the project.

Planning is carried out by the Land consolidation Division in co-operation with a land owners committee. The Land consolidation Division acts as the planner and the responsibilities thus are the same, as those of the private planner in private land consolidations.

In a few cases the planning is being outsourced to a private chartered surveyor whom then co-operates with the land owners committee.

Participation is naturally free of costs for the participants. All costs in the project land consolidation are paid to the Land consolidation Division by the agency that implements the project and has requested the land consolidation - for example the Ministry of Environment.

The time perspective for the landowner is approx. 12 months. The paperwork however takes a bit longer (up to 3 years), but this does not affect the landowner in any way.

3: Land consolidation in connection with infrastructure works.

In cases of public works of construction notably main roads participation is compulsory as far as those areas, which are directly expropriated by the project, are concerned. Relocation of other areas is voluntary.

Acquisition of rights of way for these projects follows an expropriation procedure. In effort to reduce the damages from de-figuration of the farms concerned, the principles from land consolidation are applied by re-distributing land to more convenient locations and access.

The land consolidation negotiations with the landowners reveal to which extend they - on a voluntary basis - are willing to join a land consolidation beyond the immediate areas of the high way.

Land reserves for compensation is important – if available.

Property transactions in the land consolidation are not made effective on the basis of the procedure in the Land consolidation Act, but as a part of the judgement of the special state expropriation commission

The time consumption for each activity in a land consolidation (public projects).

<u>Activity</u>	<u>Sum in months</u>	<u>Actor(s)</u>
<u>First public meeting, 1 day</u>	<u>0</u>	Land Commission and Division of Land Consolidation.
<u>Planning, 6-9 months</u>	<u>9</u>	Division of Land Consolidation or private chartered surveyor.
<u>Control, 2-3 months</u>	<u>12</u>	Division of Land Consolidation
<u>Preliminary ruling and registration, 1 day</u> and <u>Payment and transfer of ownership of the areas concerned. 1 day</u>	<u>12</u>	The Land Commission Division of Land Consolidation.

Date of implementation: At a predefined date shortly hereafter or on the 1st day on the following month: Owners now have full rights to dispose over their new areas even though ownership has not yet been finally registered in the land registry.

The preliminary ruling of the Land Commission is only registered as a burden on the properties concerned. As a result hereof The Division of Land Consolidation certifies that the new situation is effective in case owners need mortgaging.

<u>Activity</u>	<u>Sum in months</u>	<u>Actor(s)</u>
Cadastral surveing, 6 months	18	Private firms
Registration (in cadastre and land registry), valuation, adjustment of land taxation, 18 months	36	Cadastre, land registration, Division of Land Consolidation.
Final ruling, 1 day	36	Land Commission and Division of Land Consolidation

Organisation

The county Land Commission

In the Danish land consolidation we operate with two types of Land Commissions:

The County Land Commission

This commission is charged with the responsibility of enforcing the legislation that governs the use of agricultural land in Denmark. The Land Commission may grant permissions or "waivers" in cases where solutions in a land consolidation plan violate particular rules, such as ceilings of

holding sizes and maximum distances between buildings and land parcels. The planner negotiates such compliance with land use legislation during the planning stage. The planner is also responsible for the adherence of all other legislation. All communication with authorities goes through the planner.

The extended Land Commission

A judge from a regional court joins the county Land Commission and forms the so-called "extended commission". This Commission enforces the rules under the Land consolidation Act. It is the ruling from this commission, which gives legal effect to the land consolidation plan.

The Land consolidation Division

Land Bank

The Land Consolidation Division is the implementing actor of the Land Acquisition Act, which enables the division to actively purchase land for specific purposes. Thus the division can, contrary to all other state agencies in Denmark, purchase land on the free market without approval from any financial committees. This of course is very important when operating on the free market, as sales often require very quick decisions.

Whenever land is available for land banking in the vicinity of a project area, the planner, whom has gained local knowledge in the project area, decides whether the land is of interest for land banking.

The planner negotiates with the seller and/or his representatives. The legal department in the Land Consolidation Division often assists in these negotiations as in-house lawyers – especially if the purchase includes buildings.

The legal department settles all matters in purchases made by the division, such as completing deeds, making deposits etc.

When selling excess land or buildings, the legal department manages public tenders or all necessary contacts to real estate brokers.

Secretarial functions

The Land consolidation Division in Tondern also functions as a secretariat for the commission.

The job of the officer from the land consolidation includes setting up meetings of the ruling session and ensuring that all formalities are adhered to. The ruling session of the extended commission typically takes place at a minor hotel in a nearby town or village of the area concerned. When the extended commission is satisfied with the content and the legality of the plan, it is approved and made effective by the signature from the judge.

Subsequently in project based land consolidation projects the land consolidation performs all the operations that implement the land consolidation plan. These include transfer of payments at a defined date, updating of the registers concerned, adjustment of land taxation payments, the ordering of cadastral surveying by a private surveyor and, finally, registration of the new ownership situation in the registration in the Title/Deed book and land registry.

The private planner/chartered surveyor in private land consolidation's performs all of the above mentioned tasks.

The land consolidation revises applications for subsidize from the private planner, to determine whether the intended land consolidation project meets the minimum criteria for improvement of structure and improvement/protection of the environment. The case as such is only revised to a minimum as to ensure the registration in the Title/Deed book and land registry

In all cases the office writes the text of the verdict prior to the ruling session.

Main Land Banking Activities in recent years.

The Water Environemetal Protection Program

The major task for the land consolidation division during the last six years has been the implementation of wet area projects, lakes and streams under the Danish “Water Environemetal protection Program II (WMPPII)”. The program implements the EU Nitrate Directive. It was started up in 1998 and follows the WMPI, which started in 1987. The aim was to reduce the outlet of Nitrate into the Danish waters by some 5.600 Ton/N a year through the creation of some 16.000 ha of wet areas on a total budget of 66 mill. Euro.

The agenda is to carry out this nature restoration through voluntary participation, as mentioned before. The “carrot” being several ways of compensations for reduced outcome for the farmer participating in the projects and the possibility for buying compensation land at marked prices.

At the midterm evaluations the target was reduced to 3.600 Ton/n a year with the aid of some 8.000 – 12.500 ha of wet areas due to the fact that that the land consolidation projects had not given the results having been set out from the beginning.

Now, this was not due to insufficiency from the land consolidation planners, to say the least! The explanation was to be found in the fact, that the level of compensation for land, that the farmer participated with in the project was not sufficient to even up to the price difference of compensation land, offered to the farmers. This due to the fact that prices on farmland has been climbing steadily since the 90’s.

To create a wet area, the farmers will participate with low land with a sometimes very poor outcome. For this type of land the farmer could get a compensation of a maximum of about 3.000 Euro per ha representing the decrease of value, when the wet area project was fully implemented.

The amount for compensation was not sufficient however. The fixation of the value of the land before and the value after the implementation of the project was and still is based on market values. Often the decrease in value exceeded the maximum amount of compensation. Also, with marked prices at 10.000 – 16.000 Euro per ha for high land with next to perfect conditions, which often can be offered as compensation land, the investments would often be considerable for the participating farmer and participation would not be attractive.

When having realized this politically, the aim was reduced, freeing more economic means for compensation. This almost immediately gave a boost to the wet area land consolidation projects and thus by the end of 2003 status was that 20 WMPPII land consolidations has been carried out creating 1.652 ha of project areas involving 440 participants and a total of 3.267 ha of land.

The Land Bank at the moment owns as much as 6.884 ha, including some whole farms with houses and production buildings. Of this an amount of 2.176ha is bought to create compensation land for

specific projects under the WMPII. Remaining land will after the realization of the projects be sold off in public tenders.

In the meantime the farmland is being rented out on a one year basis on normal marked terms, in order to meet the “laying” costs for the state and maintain the areas in a good farming condition.

Expectations/ the future for Land banking and land consolidation

The project period for VMPII has been prolonged to carry out another 11 projects concerning 1.911 ha of project areas and another 12 projects has been granted the means to carry out the preliminary investigations. All in all the Land Consolidation Division expects 25 projects creating some 4.000 ha of wet areas remaining to be carried out by 2006.

The Danish Government is still negotiating in the Parliament on the Water protection Program III. By 2015 Denmark has to implement different EU environmental criteria, such as “The directive on protection of habitat and bird life (The Natura 2000 directive)”, the Water Framework Directive and the work for biological diversity. It is forecasted by the Ministry of Environment that out of an estimated figure of 359.000 ha dedicated Natura 2000 areas, some 40.000 ha are potential wet areas, which meet several of the criteria in the different directives.

A conservative estimate will be that some 60.000 - 80.000 ha of farmland will have to be transformed into nature through voluntary participation by the landowners concerned.

Having mentioned the budget for WMPII, one can see that we are talking about a substantial amount of money and thus the need for political will.

The land consolidation instrument and the experience gathered from the WMPII will no doubt be an important tool, if one is to meet such figures. One can only hope that the political will and decisions for the future work will go further than until the elapse of the next election period!