

Brief information to the presentation on the FAO International Workshop “Land Bank/Land Funds as an Instrument for Improvement of Land Management in Central and Eastern Europe and CIS”. 17-20 March, Tonder, Denmark

Land (Hypothec) Bank and Land Market in Ukraine: Problems and Prospects of Formation

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Formation of agricultural land market in Ukraine commenced with the new Land Code of Ukraine enacted on 1 January 2002. Transition statements of this Law envisage the possibility of transactions with agricultural lands from 1 January 2005 although till 2010 there is a limitation when one person cannot purchase more than 100 Ha of agricultural lands. The Law allowed three years to the authorities for formation of legal and institutional environment for transparent operations on land market. First of all creation of the system of registration of land plots and estate objects located on them, introduction of mechanisms of land mortgage (hypothec), development of transparent rules of transactions (buy and sell) with land plots, State Land Hypothec Bank etc. Relevant Laws were drafted and submitted to the Verkhovna Rada of Ukraine in 1999.

Over two years have passed since the enactment of the Land Code. Ukraine has achieved some progress in solving the above mentioned problems. Although the land titling process has not been completed yet. The problems, which have not been solved either are: absence of normative and legal mechanisms for use of rented land share as a collateral, titling of land shares to their owners while separating from a bigger integral land share, absence of institutional basis of land registration, hypothec etc.

Till now the Parliament has not adopted the Law “On State Land Hypothec Bank”, establishment and operations of which are envisaged by the Land Code of Ukraine. This Bank could fulfill the following:

- control on keeping to the legislation in the process of withdrawal of land plot by a bank-creditor in case of non-return of credit by land owner-tenant;
- refunding of commercial banks, which provide credits to owners of household and individual farms, agricultural enterprises using land as a collateral;
- issue of hypothec obligations.

In the opinion of Ukrainian and foreign experts agricultural land in Ukraine (30 mln Ha) is valued for 60-70 billiards Euro. This is a huge “credit portfolio” for future Land Hypothec Bank. Even with 70% hypothec provision a long-term, let us say 10-years, credit resource could come to 42-49 billiards Euro or 25-30 billiard Hryvnias (UAH) annually, while the need of the whole agricultural sector of Ukraine according to economists is 10-12 billiards UAH. Certainly it would radically speed up technical and technological modernization of agricultural production, increase its profitability and significantly influence on the live standards of people in rural area and its social infrastructure.

Ukrainian Government and Parliament could be involved to the formation of “starting capital” of Land Hypothec Bank envisaging relevant funds in the State Budget of Ukraine and possibly investors (up to 49 % of shares). But without financial/credit resources of international banking institutions the creation of Land Bank in Ukraine is hardly possible. Discussions with the World Bank and International Currency Fund on this issue started a long time ago but with no success. It would be desirable to involve European Bank on Reconstruction and Development to the negotiation on this issue.

Though even these and many other problems were solved it would take time for training and preparation of realtors, explanation of normative and legal act statements to land owners, mechanisms of their implementation, involvement of agricultural advisors and agricultural advisory services to this process. That is less than a year left till abolishment of the moratorium on land buy-and-sell it is hardly possible to solve all these issues.

Some Peoples’ Deputies of Ukraine perhaps have come to this view, they prepared a draft Law on the extension of moratorium on land buy-and-sell. Though it does not solve the problem of long-term hypothec crediting of agricultural producers, on the contrary drives into a tight corner, to get out of which will be more difficult. As the absence of land market, its hypothec does not allow to reset agricultural production technically and technologically. This problem is under concern of the Government and the Verkhovna Rada of Ukraine. As a proof of it is four alternative draft laws “On Land Market” being discussed by Peoples’ Deputies of Ukraine. It is very important that all of them go through the expertise on the correspondence to European legislation in German Bodenverwertungs- und –verwaltungs (BVVG, BRD).

What to do in this situation? There is only one answer: to continue land reform defining a particular time period for the next state and social priorities:

- completion of land titling process;
- formation of legal basis for land market functioning;
- institutional development of land market infrastructure;
- information and advisory provision of land market subjects.

Experience of countries with transition economy in Central and Eastern Europe on this issue, highly important in terms of economy and highly complicated in political and social terms, is not only useful but also instructive for Ukrainian scientific, business and political elite that forms the opinion of Ukraine’s integration to WTO and European Union.