



SUMMARY

A growing and productive Ukrainian agricultural sector is key in advancing sustainable economic, rural and social development that leaves no one behind. The Moratorium on Agricultural Land Sales has deprived millions of landowners of their constitutionally enshrined property rights and has been a major impediment in furthering these goals.

- The decision by Rada on 31 March 2020 to adopt the draft land turnover law 2178-10 marks an important step in realising the agricultural sector’s development potential.
- It must now be quickly accompanied by a wider package of government proposed complementary land reform legislation. So far, only two of five relevant draft laws have been approved.
- The establishment of a functioning land market must first and foremost benefit landowners, smaller farmers and local communities. Further concentration of land in a few hands must be prevented.
- To take full effect, smallholders and smaller farms must be supported with well targeted financing instruments, including state support, access to credit and Partial Credit Guarantees (PCG).
- Land consolidation mechanisms are needed to prevent land fragmentation and aid the development of smallholders into commercially viable farms.
- Land reform must follow a gender-responsive, human-rights based approach with the interests of the most marginalised groups at their centre.
- New and disadvantaged market participants must be supported with strengthened consultation and advisory services and free legal assistance.

OVERVIEW

The Ukrainian agricultural sector employs about 3M people and generated in 2017 an estimated 10 percent of total GDP and 42 percent of the total export value. Almost 13M people live in rural areas but rural development levels remain extremely low. This disproportionately affects rural women and youth and aggravates rural outmigration. The sector displays uneven ownership structures and low productivity. There are around seven million landowners with average plot sizes of 4.2 ha. About ninety percent of these landowners rent out their land, but at significantly lower rates than their international peers. There are an estimated 900 thousand smaller or family farms, but just over seven percent are registered. They therefore mostly operate in the informal economy and are not eligible for state support. Low rental rates have aided the rise of large agro-holdings, often complex structures made of large numbers of related companies supported by equity finance. These enterprises have been able to sign up thousands of individual leases and in some cases to establish possessions of up to 700 thousand hectares. As of the end 2017, the top seventy agro-holdings operated approximately eight million hectares of land. The risks associated with having to rent land have pushed larger agricultural enterprises towards more short-term, capital-intensive business models of low-value annual crops that account for seventy-two percent of the total agricultural output.

The adoption of law 2178-10 provides for a staged opening of the land market from July 1, 2021 onwards. Ukrainian citizens will be allowed to purchase agricultural land of up to one hundred hectares until December 31, 2023. No legal entities with the exception of banks can obtain land during this time. Banks can accept land as collateral but are obliged to alienate such land within a period of two years. The moratorium on state-owned land sales will stay in place during this initial phase. From January 1, 2024 onwards Ukrainian citizens as well as Ukrainian legal entities





will be allowed to purchase agricultural land of up to ten thousand hectares. Foreign citizens and legal entities are barred from ownership until a referendum not earlier than 2024 will decide on their future status. The Government of Ukraine (GoU) has also drafted important complimentary legislation in support of the Land Turnover Law 2178-10. This includes legislation to provide open access to the cadaster data, strengthen land management, streamline land transfer procedures, regulate state land sales including mandatory electronic auctions, restrict discretionary handouts of state land, and enhance access to finance for small farmers.

SUSTAINABLE DEVELOPMENT GOALS

The opening and development of the agricultural land market is essential in meeting a wide range of agreed SDG targets. Landownership and the right to sell land, if combined with support for small farmers, is fundamental in reducing poverty levels, in providing targeted social assistance programs to poor people and increasing the resilience of socially vulnerable groups of the population (SDG1). Intervention especially towards small farmers increases accessibility to balanced nutrition for local consumption and improves production levels in a sustainable manner (SDG 2). A vibrant agricultural sector expands economic opportunities for women and so advances gender equality and empowers all women and girls (SDG 5). It promotes sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, in particular the youth (SDG 8). Better land use, support for small farmers and the promotion of high value-added crops helps to protect, restore and promote sustainable use of terrestrial ecosystems (SDG 15). Planned institutional reform and capacity building efforts improve access to justice and build effective, accountable and inclusive institutions at all levels (SDG 16). The Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) provide another important set of international best practices to improve governance of tenure. Implementation of the VGGT in itself, therefore, contributes to achieving the Sustainable Development Goals.

POLICY CONSIDERATIONS

- The Land Turnover Law is in itself not a guarantor of a successful land reform. Complementary legislation put forward by the GoU must now be quickly enacted.
- State support remains below declared government goals and in the past was captured to a large degree by larger farms, including some of the agro-holdings. It is crucial, especially during the initial phase that excludes large corporate farms from the land market, that small farms are supported with appropriate and well targeted financing instruments to support additional land purchases and aid their development into viable, productive commercial farms. This must include state support, access to credit and Partial Credit Guarantees (PCG) that are issued by a newly created independent agency. The establishment of a national farm registry will improve efficient and accurate targeting.
- Continuing land reform must be an inclusive, broad-based and consultative process. This should involve not only the Ministry of Economic Development, Trade and Agriculture, but also the Ministry of Justice, the Ministry of Development of Communities and Territories of Ukraine, as well as local communities and civil society groups. Technical assistance and capacity-building must be provided to ensure target institutions can develop policies in-house that are legally adopted and implemented.
- A functioning land market requires transparent, accessible, accurate and up-to-date inventories and standardised systems of soil-monitoring to ensure accurate land valuation and sustainable land use.





- A full inventory and registration of state and communal land should be completed to ensure transparency of the state land market. Transparent privatisation of state land will aid government decentralisation plans. Revenues should be directed to restore dilapidated rural infrastructure.
- Once state land is leased out and privatised, priority here must also be given to smaller farmers and those who are starting out.
- The law 2178-10 is establishing pre-emptive rights for existing tenants to purchase land once offered for sale. Designed to prevent further land fragmentation, this provision may make it exceedingly difficult for small operators to purchase additional land as well as for new farmers starting their own business.
- Most unregistered land is used under informal arrangements. Land market reform must regulate these informal arrangements and take into account that a large portion of privately-owned agricultural land is already informally, but de-facto sold.
- A strengthened Parliamentary Ombudsman for Human Rights, the establishment of a Land Ombudsman, a Free Legal Aid System, and a strengthened system of counter-raiding offices are needed to provide landowners with unbiased advice and access to the legal system.

