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KYRGYZ REPUBLIC

USAID LAND REFORM AND MARKET DEVELOPMENT PROJECT

LAND MARKET DEVELOPMENT IN KYRGYZSTAN

ANALYSIS AND RECOMMENDATIONS



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Land Reform and Market Development in Kyrgyzstan

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GLOSSARY

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| AO | Aiyl Okmotu, an administrative territorial division within the Government of Kyrgyzstan (rural level) |
| USAID | United States Agency for International Development |
| LRMD Project | USAID Land Reform and Market Development Project |
| LRF | Land Redistribution Fund – land parcels formed from agricultural lands (except pastures) and owned by the state |
| Enlargement (Consolidation) of land | A set of measures employing land market operations which aim to concentrate the land in the hands of the most efficient users |
| CEE countries | Central and Eastern European countries |
| Transformation of land | Process of transforming land from one “targeted use” category to another category or from one subtype of land within a given “targeted use” category to another. |
| AO heads | Survey target group that included representatives of Aiyl Okmotu Administrations, mostly top local officials. |
| Corporate farmers | Survey target group that included managers and directors of agri businesses (large commercial farms and cooperatives, food processing and seed producing enterprises, etc.) that lease in land of others |
| Lessors | Survey target group that included owners of agricultural lands who rent out at least part of their land. |
| Individual farmers | Survey target group that included sole and family farmers who work all of their own land and often lease in agricultural land from others. |
| Aiyl Bank (Rural Bank) | Aiyl Bank was established in December 2006 on the basis of Kyrgyz Agriculture Finance Corporation. The bank issues credits only to agricultural sector. Authorized capital – 300 mln. soms, 100% of shares belong to the government. |
| ha | 1 Hectare = 10 000 sq. meters |
| Gosregister (State Register) | State Agency under the Government of the Kyrgyz Republic for registration of real estate rights |
| Survey Consulting Firm | CA Expert, the firm hired by the LRMD project to conduct the initial data gathering and field work on the Land Market study |

Currency

1 USD = 37.31 Kyrgyz Som (annual average 2007)
or 40.16 Kyrgyz Som (annual average 2006)

Throughout this study, calculations are made in US Dollars (\$) unless otherwise noted.

INTRODUCTION

The USAID Land Reform and Market Development Project (LRMD project) conducted the study on Rural Land Market Development with the objective of identifying the major issues that affect the rural land market in the Republic of Kyrgyzstan. It was also intended that the study help identify proposals for future actions to address each issue and establish a more vibrant market for land in rural areas. While the LRMD project has addressed land market issues in both the urban and rural sectors, the study more narrowly focused on the market for agricultural land (not including pastures) since these lands were the primary subject of privatization of the land of collective farms and has been supported by USAID activities since 1999. Also included in the study was the Agricultural Land Redistribution Fund (LRF) which is agricultural land of the former collectives left in State ownership and now controlled by the AOs for their own benefit. The LRMD project has been actively involved in developing new State policy for use of the LRF and wanted to examine the impact of the LRF on agricultural land market activities.

In 2007, the LRMD project identified a set of issues that seemed to restrict activity across the whole land market in Kyrgyzstan. The entire list of issues is found in Annex 1a, while Annex 1b compares the project assumptions with the study results in confirming or denying those assumptions. For the purposes of this study, the LRMD project focused on those issues related most closely to the agricultural land market. The study focused on gaining information on stakeholders' attitudes toward these issues and how these issues affect everyday decisions and actions of those in the rural sector. The following list sets out the rural land market related issues identified by the project and the project's original assumptions for how best to deal with each issue raised.

- **Legal rights to own land** – Legal restrictions that prevent legal entities (corporate farms), urban residents, and municipalities (AOs) from owning agricultural land have a negative impact on the rural land market and investment in agriculture. Loosening of such restrictions would increase demand for and investment in agricultural land, which would result in an improvement in the agricultural economy and a rise in the value of such land.
- **Registration of land transactions** – A substantial number of land lease transactions occur outside the formal system causing inaccuracies in data on land and risks to parties engaging in informal transactions. AOs do not have sufficient information on land and transactions. Thus, the AOs need to have a greater role in registration of certain types of transactions.
- **Mortgage credit** – Legal obstacles prevent commercial banks from taking agricultural land as collateral for loans, limiting the capital available for investment in agricultural land. Valuation of land also makes it difficult for farmers to obtain credit needed for their farming operations. Amendments to the legal framework removing ownership and valuation restrictions are needed to encourage commercial banks to enter this market.
- **Land tax** – Land tax rates are based on the normative price and thus inequitable; too low in some areas, encouraging inefficient use of land, and too high in other areas,

unfairly burdening land owners. Land usage is negatively affected by the tax which does not reflect the true value of the land. A new system of land taxation reflecting market valuation principles should be implemented.

- **Land fragmentation and enlargement of land parcels** – Agricultural land parcels are small and inefficient to cultivate, limiting the production capacity and efficiency of agriculture. Farmers (and investors) willing to purchase land are not interested in small parcels. Fragmented land parcels should be enlarged and consolidated through a national program that promotes enlargement of parcels by long term lease and arranging the simultaneous sale/purchase of multiple parcels.
- **Use of LRF land** – AO heads do not have a full accounting of the LRF land in their AO. Some AO heads lease LRF land on favorable terms to associates and influential citizens, limiting competition for such lands and depriving the AO of needed revenue from lease of LRF land. Much LRF land needs substantial investment. Thus, LRF land needs to be inventoried and its management must become more transparent. LRF land in need of investment should be evaluated and where possible offered at investment tenders. In cases where too large an investment is required, transformation or privatization of the land should occur.
- **Transformation of land** – The process of transforming land from one “targeted use” category to another is time consuming and cumbersome, limiting the local community’s ability to use a land parcel appropriately. A law on transformation that improves and simplifies existing procedures and adoption of proper land planning (zoning) would encourage more appropriate use of land.
- **Degraded and abandoned land** – The amount of such land is increasing, due to the need for substantial investment or labor migration. Difficult economic conditions and the need to pay land taxes drive the increase in both types of land and agriculture is unprofitable for many land owners. Thus, improved procedures for transformation of land should decrease the amount of degraded agricultural land, converting such land to a more appropriate use category. The adoption of eminent domain provisions in the Land Code should allow the State to reclaim abandoned land and put it to better use.
- **Land with unclear status or “missing land”** – There is evidence that agricultural land in many communities is not properly accounted for. This fact promotes mismanagement of land to the detriment of the community. It is also possible that taxes are not being collected on this land. Thus, comprehensive inventory and registration of all land in the AO should occur; some of this land should be transferred into ownership of the AO to ensure proper and transparent management.

EXECUTIVE SUMMARY

Since the privatization of state and collective farm land in the Republic of Kyrgyzstan began in 1998 major changes in the agricultural economy have occurred. Applying a principle of equitable land distribution during privatization of agricultural land, the Kyrgyz legislation gave title to land to over 80 percent of the rural population. As of January 1, 2008 more than 1 million ha of agricultural land were distributed to more than 2.7 million rural inhabitants. Thus, privatization greatly influenced the structure of agricultural production, triggering the emergence of more than 313,000 individual family farms (as of 2006). At the same time, land privatization contributed to fragmentation of land ownership, as the average land share across the country is about 0.37 ha.

Presently, agriculture remains a leading sector of the Kyrgyz economy, although the rapid growth of the service sector decreased agriculture's share of GDP from nearly 38 percent in 1999 to 29 percent in 2007. Regardless of the difficulties related to economic transition over the last 10 years, there has been steady growth in crop and livestock production, an increase in output from individual farms and individual land parcels, and a significant decline in output from state and collective farms.

Nevertheless, problematic issues are regularly reported in development of the agricultural land market. Demand for land is limited by legal restrictions on who may own agricultural land. Supply of land is also limited by the lack of alternative economic opportunities in rural areas. Access to credit is minimal, as commercial lenders often refuse to accept agricultural land as collateral, making it more difficult for farmers to undertake significant investments in agricultural land.

These and other reported problems led the USAID's Land Reform and Market Development (LRMD) project in Kyrgyzstan to conduct the study on Land Market Development in Kyrgyzstan: Analysis and Recommendations. The study aimed to identify the main issues restricting development of the land market and effective use of land and to recommend appropriate government actions which will promote more active use of agricultural land, increase transactions for agricultural land, and support the establishment of a vibrant market for agricultural land.

The study focused on four stakeholder groups, which represent owners, active users, and authorities that manage agricultural land and have the most relevant knowledge about the constraints to land market activity and active use of agricultural land. These groups are:

- Heads of aiyl okmotus;
- Corporate farmers;
- Individual farmers; and
- Lessors.

A total of 280 stakeholders (70 from each of the four stakeholder groups) from the 7 oblasts of Kyrgyzstan were asked to answer a survey questionnaire posing questions about the types of agricultural land in their community; transactions for land; use of and investment in land; transformation of agricultural land from one "targeted use" category

to another; and the taxation of land. To get more detail on the problematic issues and greater insight into actions likely to promote a vibrant land market, an additional 140 stakeholders from the four groups were questioned on the same issues through a series of in-depth interviews. The main conclusions of the study are as follows:

- Corporate farmers and AO heads believe that legal restrictions on ownership of land should be loosened to allow them to own agricultural land. Both groups express interest in purchasing land if allowed by law, but the reality of such statements needs to be studied further given the lack of capital resources. Nearly all corporate farmers state that they would purchase land in the next two years if allowed by law.
- There is great anxiety in most rural communities concerning the entry of outsiders (urban residents, legal entities, and foreign entities) into the community, either as owners or lessees of land. Stakeholders fear that all good land will be taken from them by outsiders, and therefore tend to support legal restrictions on ownership of land when the provisions restrict entry by outsiders. However, when a restriction limits a local entity's right to own land, most rural citizens support the loosening of such restrictions.
- Demand for land is very high, but the supply of good land seems to be limited. Two-thirds of individual farmers intend to or would like to purchase land and 2/3 of lessors are willing to sell land under the right conditions. Price expectations seem to be the major area in which sellers and buyers of agricultural land cannot agree, limiting the number of land transactions that are completed.
- Leasing offers the principle means to satisfy high demand for agricultural land; half of corporate and individual farmers lease in land of others. However, written agreements are concluded in slightly less than 2/3 of all lease cases. Many farmers lease in more than one parcel, entering into both written and oral leases. A very low percentage of written lease agreements (17 percent) are registered at Gosregister. Most written leases are registered at the AO. The most common reason why a landowner does not register a written lease with Gosregister is because s/he sees no benefit in registration.
- Over 75 percent of all corporate and individual farmers need more land and over 75 percent of these farmers claim to have access to additional land. However, less than 1/3 of these farmers are at least 75 percent certain that they will lease in additional land in the next 12 months.
- Individual farmers tend to lease out land for terms of either 1 year or 3 to 10 years. This suggests that individual farmers are leasing small parcels for one year from neighbors or LRF parcels from the AO for up to 10 years. Corporate farmers have a more diversified portfolio of lease agreements. They most frequently lease out land from 3 to 10 years, most likely LRF land from the AO, but also lease in land for terms shorter than 3 years, often as little as one year.

- AOs seem to exert a great deal of control over land transactions within their jurisdiction. Almost 75 percent of AO heads require that parties ask permission to conduct a land transaction and 87 percent require that parties report all land transactions to the AO. Over half of rural citizens believe that they must ask AO permission to conduct a transaction and 2/3 believe that they must report the transaction to the AO. AOs seem to use this information mainly for collection of land tax.
- Land tax makes up a substantial portion of AO budgets (nearly 50 percent). Nearly all stakeholders believe that the amount of the land tax is “fair.” Among the four stakeholder groups, individual farmers most frequently consider the amount of the land tax to be too high.
- Land tax does not seem to influence a land owners’ decision to sell land. Decisions to sell are influenced more by the offered price, the ability of an owner to cultivate the land, and the need for substantial investment in one’s land. The amount of land tax does seem to influence an owner’s decision to use the land independently; increases in the tax seem likely to increase use of one’s land independent of others.
- There seems to be unused land in most AOs. Slightly less than 2/3 of AO heads claim that there is unused land in their AO. Nearly half of other stakeholders are aware of unused land in their community. Most common reasons for unused land are that the land needs substantial investment of various types, the land is degraded and deteriorated, and that the owner has left the rural community to pursue economic opportunities elsewhere.
- All stakeholders recognize that substantial investment in land is needed in various forms. However, access to capital, either from savings, family and friends, or commercial lenders is difficult to obtain. While about 75 percent of corporate and individual farmers claim to be profitable and have been so for several years, they do not seem to have sufficient retained earnings, or are unwilling for other reasons, to undertake substantial investments in their land. Farmers that expect to make investments in their land are most likely to use their own retained earnings.
- In-depth interviews reveal that stakeholders misunderstand the idea of land enlargement (consolidation). Very few stakeholders understand consolidation as a market oriented means to concentrate land in the hands of the most efficient users. Most stakeholders believe consolidation means coerced cooperative farming or re-collectivization, and thus exhibit great anxiety and in some cases fear of the idea. Contributing to stakeholder anxiety over consolidation, most stakeholders prefer to exclude outsiders from their communities, whether as land purchasers or lessees.
- Most stakeholders voiced the need for agricultural “leaders” in their community. “Leaders” are considered successful farmers with the knowledge, skill, and willingness to organize agricultural production on a large scale, by cultivating larger tracts of land as part of a commercial farm. Stakeholders also seem willing to engage

in consolidation efforts (by leasing out land) if such leaders are identified within the community.

- There is much degraded and unused LRF land. Most stakeholders with knowledge of such land believe that it should be transformed into pasture land or another “targeted use” category of land to enable better use of that land. LRMD project data shows that about 20 percent of LRF land is categorized as the “orange zone,” which is the worst land, and should be transformed to pastures or another “target use” according to stakeholder opinions.
- Most stakeholders are ambiguous when asked what government body should approve the transformation of land, and tend to favor the status quo – answering “the central government.” Stakeholders with an interest in changing the “targeted use” of their land tend to think that the AO should approve land transformation requests. Ordinary stakeholders seem worried that allowing AO heads to approve the transformation of land will lead to influential citizens and legal entities using personal contacts to get good LRF land changed to another category, leaving less LRF land for ordinary citizens to use.
- Investment in LRF land is very difficult to obtain. Very few AO heads report that lessees have invested their personal resources in rented LRF land. Capital starved lessees clearly prefer to invest in their own land rather than LRF land. LRMD project efforts to attract investment to LRF land through investment tenders have provided promising, but mixed results. Farmers are most willing to invest in LRF land if the lease term is 10 or more years.
- The study failed to uncover much direct evidence of land with unclear status or “missing land”, yet responses by a number of stakeholders coupled with information reported by the LRMD project point to the fact that such land exists. There is also direct evidence of “missing land” from a case study in Novopavlovka AO in Chuy oblast, making further investigation into the issue a priority.
- The study recorded few significant differences in opinions of men and women. This is most likely due to the fact that over 80 percent of the stakeholders participating in the study were men, making gender comparisons difficult. Areas in which significant differences are noticeable from the study are:
 - Among individual farmers, men have a greater tendency to conduct sale and purchase transactions and more men have concrete plans to purchase additional land.
 - Among individual farmers, women have invested more in their own land than men and are more likely to invest in their own land in the future.
 - Among lessors, men tend to receive more rent for their land than women. On average men received 800 Som more per year for their land than women.
 - Among lessors, men are more willing to invest in their leased out land than women.

The findings identified from the results of the survey questionnaire and in-depth interviews lead to the following recommendations. Recommendations are listed in two groups:

I. Recommendations to encourage transactions for privately owned agricultural land and the active use of privately owned agricultural land.

Legal Issues

1. Lift the legal restrictions on who may own and lease agricultural land. Legal entities, urban residents should be allowed to own agricultural land. Foreigners and foreign legal entities should be allowed to lease in land.
2. Grant land ownership rights to municipalities (AOs)
3. Conduct an information campaign in rural areas on the possible benefits from attracting potential investors in land to minimize local fear of outsiders

Land Transactions

1. Use the AO and other local entities to make information available on sale and lease of agricultural land in the community
2. Grant limited registration rights to the AO, for instance as authorized Gosregister agents, and simplify the registration procedures on medium and long term lease agreements
3. Gosregister should cooperate with AOs to gather information on local land transactions

Enlargement (Consolidation) of Land

1. Develop a national legal framework and a program on market-driven land enlargement (consolidation)
2. Conduct a public information and outreach campaign on land enlargement through market mechanisms
3. Institute financial incentives for farmer entrepreneurs (leaders) willing to make efforts to enlarge (consolidate) land

Degraded and Abandoned Private Land

1. Offer financial incentives to private owners that undertake long-term investments in agricultural land
2. Improve mechanisms for State taking of land and other principles in the law that will allow abandoned land to be reclaimed and placed into productive use

Land Tax

1. Increase the land tax to stimulate rural land market and efficient land use
2. Base the land tax on the market value of land, not a fixed rate per hectare or a normative value

II. Recommendations regarding the effective use and management of LRF Land

Land Transformation

1. As part of the AO LRF strategic planning process, identify LRF land that should be transformed to another category of land
2. Institute a systematic 3 year land transformation program under which Government considers applications from all AOs to reclassify the worst LRF land

Degraded Land

1. Continue pilot efforts to use investment tenders by AOs under the LRMD project methodology
2. Offer financial incentives to those willing to invest in LRF land
3. Establish programs designed to attract foreigners and foreign legal entities to lease and invest in degraded LRF land

Land with unclear status

1. Conduct a comprehensive inventory of agricultural land under AO control as part of the LRF strategic planning process. Establish legal norms for classifying all agricultural land that is now unaccounted for and standards for its management

It is stressed that these recommendations are made as a package, and not individually. While recognizing that all recommendations may not be accepted, a critical mass of these recommendations should be adopted and implemented for noticeable and significant improvement in land market activity and use of agricultural land to occur over the near term. Failure to adopt and implement a critical mass of these recommendations will likely result in continued degradation of land due to a lack of investment, increased abandonment of privately held land, stagnant volumes related to transactions for agricultural land, and ineffective management of agricultural land under state control.

METHODOLOGY OF THE STUDY

Study Goal:

The main goal of this study was to analyze the development of the rural (agricultural) land market as a result of the Government of Kyrgyzstan's decision to privatize land in 1998. The study focuses on the legal and economic aspects of land market development and, as necessary the social and environmental aspects of land market development. After analyzing the current land market and the factors affecting its future development, the report offers a series of recommendations by key issue for improving the situation. These recommendations are also classified as short-, medium- and long-term actions and are presented in Annex 2a and Annex 2b offering policy-makers and international donors a framework for incorporating these actions as part of their wider economic development strategies.

Study objectives:

The objectives of the study were to gain information from the key stakeholder groups and available statistical data on the following:

- the current state of the land market in Kyrgyzstan;
- confirm or deny existence of LRMD project identified issues;
- show the main development trends of agricultural production;
- illustrate the progress made and the economic impact of the land privatization;
- reveal major problems and/or obstacles in development of the land market and agricultural economy;
- develop recommendations for addressing the problems and obstacles revealed.

Study target groups:

Target groups of the study:

- Heads of AOs;
- Corporate farmers (heads of large farms, cooperatives, agribusinesses, seed farms, etc.);
- Lessors (passive land owners);
- Individual farmers (family farmers or sole farmers).

Geography:

The study was intended to obtain a view of the rural land market development across the entire country. Thus, surveys and in-depth interviews were conducted in all seven oblasts of Kyrgyzstan.

Data Collection:

Given the broad spectrum of data sought and opinions desired it was necessary to apply a three-level model of data collection:

Collection of secondary information – analysis of existing statistical data and the legislative framework.

Qualitative method (discussions with stakeholders) – using in-depth interviews of representatives from the key stakeholder groups the study sought to obtain greater information on the land market and other related factors, opinions from stakeholders, and information that would help formulate recommendations.

Quantitative method – the study administered a survey questionnaire designed to collect information from representatives of the target groups on all key issues.

Collection of secondary information

Statistical data was collected from the National Statistics Committee of the Kyrgyz Republic, Gosregister, other state bodies and private resources including the LRMD Project’s own research and work on land reform activities.

Qualitative method

As a qualitative method in-depth interviews were conducted with representatives of the four stakeholder groups. In depth interviews were intended to confirm findings of the survey questionnaire and to offer stakeholder representatives a greater opportunity to offer insight into the issues affecting the development of the rural land market, their attitudes toward market activities, and ideas for how obstacles to a vibrant land market might be overcome. As shown in Table 1, a total of 140 in-depth interviews were conducted within the study.

Table 1. Distribution of Interviews

| Oblast | AO Heads | Corporate Farmers | Lessors | Independent Farmers | Total |
|---------------|-----------------|--------------------------|----------------|----------------------------|--------------|
| Batken | 5 | 5 | 5 | 5 | 20 |
| Jalal-Abat | 5 | 5 | 5 | 5 | 20 |
| Ysyk-kol | 5 | 5 | 5 | 5 | 20 |
| Naryn | 5 | 5 | 5 | 5 | 20 |
| Osh | 5 | 5 | 5 | 5 | 20 |
| Talas | 5 | 5 | 5 | 5 | 20 |
| Chuy | 5 | 5 | 5 | 5 | 20 |
| Total | 35 | 35 | 35 | 35 | 140 |

Quantitative method

A survey questionnaire was developed for each of the four target stakeholder groups and administered around Kyrgyzstan as shown below. The sample size was 280 respondents broken down as follows.

Table 2. Distribution of Questionnaires

| Oblast | AO Heads | Corporate Farmers | Lessors | Independent Farmers | Total |
|---------------|-----------------|--------------------------|----------------|----------------------------|--------------|
| Batken | 10 | 10 | 10 | 10 | 40 |
| Jalal-Abat | 10 | 10 | 10 | 10 | 40 |
| Ysyk-kol | 10 | 10 | 10 | 10 | 40 |
| Naryn | 10 | 10 | 10 | 10 | 40 |
| Osh | 10 | 10 | 10 | 10 | 40 |
| Talas | 10 | 10 | 10 | 10 | 40 |
| Chuy | 10 | 10 | 10 | 10 | 40 |
| Total | 70 | 70 | 70 | 70 | 280 |

Research toolkit

The LRMD project prepared the following tools for conduct of the study.

- Guide for conducting in-depth interviews;
- Questionnaire for representatives of target groups. Questionnaires were presented to respondents in both Russian and Kyrgyz, depending on the preference of the respondent.

Prior to conducting any fieldwork, the Survey Consulting Firm tested these tools in a pilot survey and offered suggested revisions to remedy problems identified during the pilot testing.

Selection of respondents:

The selection of stakeholders to participate in either the survey or the in-depth interview was conducted in a two-stage selection process. In the first stage 14 AOs were randomly selected for the survey in each oblast based on a preferred vehicular route through the oblast. Four of the AOs selected were intended to be reserve AOs in case a replacement was needed due to inaccessibility of a location or inability to find an adequate number of respondents.

The second stage entailed selection of actual respondents. In each of the 10 AOs included in the sample, respondents were either selected randomly or with the assistance of the AO head. Each respondent had to possess characteristics of the corresponding target group (e.g., an individual farmer had to be one who works his/her own land and often leased in agricultural land of others), and reside in the selected AO for at least three years. In-depth interviews were administered in every second AO with individuals that possessed the characteristics of the required stakeholders. The list of AOs in which the Survey and in-depth interviews were administered is shown in Annex 3.

BRIEF OVERVIEW OF KYRGYZ ECONOMY AND AGRICULTURE¹

Country Background

The Republic of Kyrgyzstan covers a total area of 199,980 sq km and 75 percent of its territory is dominated by Tian Shan mountains. The climate is continental with extreme temperatures and rainfall is irregular. The water resources are abundant due to availability of large rivers, however water is sold to neighboring countries based on long-standing agreements originally from Soviet times, making water scarce in many parts of the country. Around 10.8 million ha (54 percent of the land area) is used for agriculture. More than 85 percent of the agricultural land (9.2 million ha) is used as pastures and only 1.6 million ha is used as farmland (see Charts 1 and 2).

Administratively, the territory of Kyrgyzstan is divided in 7 oblasts: Batken, Jalal-Abat, Ysyk-kol, Naryn, Osh, Talas, and Chuy. The nation's capital, the city of Bishkek, is a separate administrative unit of republican status. All the oblasts are divided into 40 administrative raions and 25 cities. Raions, in their turn, are divided into 472 aйл okmotus, which are rural administrative territories.

As of January 1, 2008 the total population of the Kyrgyz Republic was estimated at 5.25 million people with 65 percent living in rural areas. The highest population density is concentrated in the Northern Chuy oblast (around Bishkek) and the Osh oblast – 77.7 and 44.5 people per sq km respectively. Around 300,000 people are estimated to have emigrated as labor migrants, mainly to the Russian Federation.

Economy

Since independence, Kyrgyzstan has lived through a difficult period of economic reforms and adjustments. In 1992 all control over prices was lifted and in May 1993 Kyrgyzstan introduced its national currency, the Kyrgyz Som. Similar to other CIS states, the transition to a market economy led to shortages of goods and economic crisis. After 1990, production rapidly declined reaching its lowest level in 1995. In 1996 economic decline slowed and production stabilized. At the end of 2000, GDP registered annual growth of 5.1 percent, while inflation was at 18.7 percent and the state budget deficit (in relation to GDP) declined to 2 percent. Intensive privatization in 1992 to 1993 led to the private sector share of GDP in 1998 being 87 percent in industry, 97 percent in trade, 57 percent in construction, and 55 percent in transportation.

Chart 1. Agricultural Land Compared to the Total Surface

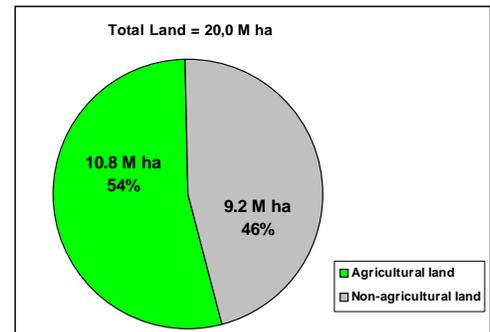
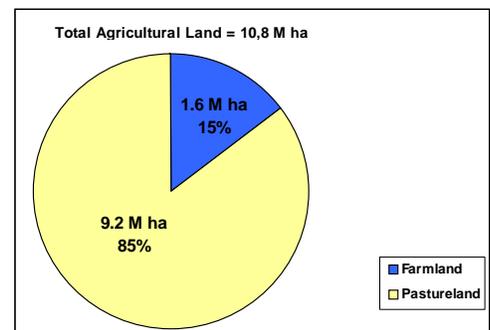


Chart 2. Farmland vs. Pastureland



Source: GosRegister

¹ Various publications of the Kyrgyz National Statistical Committee issued within 2001 to 2007 were used as source of information for this chapter.

As control over inflation and the currency exchange rate increased, economic growth averaged 7 percent driven by the growth of domestic demand for goods and services. The main factors that influenced economic growth in those years were:

- sustainable economic growth of 7 to 12 percent in China, Kazakhstan, and Russia, Kyrgyzstan’s main trading partners; and
- yearly increases in private sector consumption (by 11 percent per year); private sector consumption as share of total consumption increased from 78 percent in 2003 to 85 percent in 2005.²

In 2007 the GDP growth rate reached 8.2 percent. Substantial economic growth was recorded in the industrial sector due to the development of the manufacturing, transportation, communication, trade, and construction sectors (see Table 3).

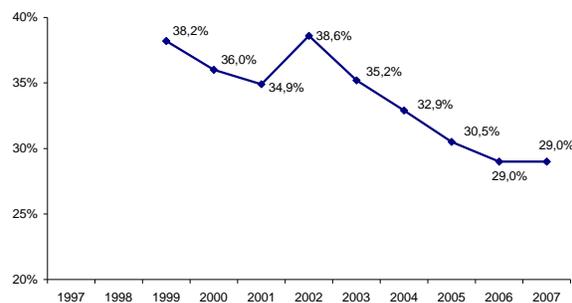
Table 3. Main Macroeconomic Indicators, 2007

| | |
|---|-------|
| GDP, million USD | 3,900 |
| Investments into fixed capital, million USD | 675 |
| Exports, million USD | 1,134 |
| Imports, million USD | 2,409 |
| CPI, December to December | 120.1 |
| Average monthly wage, USD | 110 |
| Foreign debt, million USD | 2,326 |

Source: National Statistics Committee of the Kyrgyz Republic

After 2000, the structure of GDP underwent serious changes. The share of industrial production declined from 17.3 percent in 2003 to 16.1 percent in 2005 and agriculture’s share fell from 33.6 percent in 2003 to 29 percent in 2007. Over this period the service sector expanded and since 2002 has exceeded the share of the agricultural sector, accounting for 40.2 percent in 2005. GDP also shows an increasing trend in services (41.2 percent in 2006 vs. 35.6 percent in 2002) with a reduction in the share of trade (46.6 percent in 2006 vs. 55.7 percent in 2002).

Chart 3. Share of Agriculture in GDP in Dynamics



Source: National Statistics Committee of the Kyrgyz Republic

² One of the main causes of private consumption’s growth is the increase of remittances from labor migrants in Russia and Kazakhstan. According to the National Bank of the Kyrgyz Republic, migrant remittances have increased almost 4.5 fold during the indicated period.

Revitalization of the economy was spurred by increased investment into fixed capital led by an expanding construction sector. Thus, the volume of investment into fixed capital in 2006 reached \$608 million, almost 2.5 times higher than in 2002. Over this period foreign direct investment increased nearly 500 percent.

Regional economic development shows significant differences. In 2007, 66.5 percent of GDP was generated by Bishkek and the Northern oblasts, where Bishkek's contribution accounted for 28.7 percent of total GDP.

Agriculture

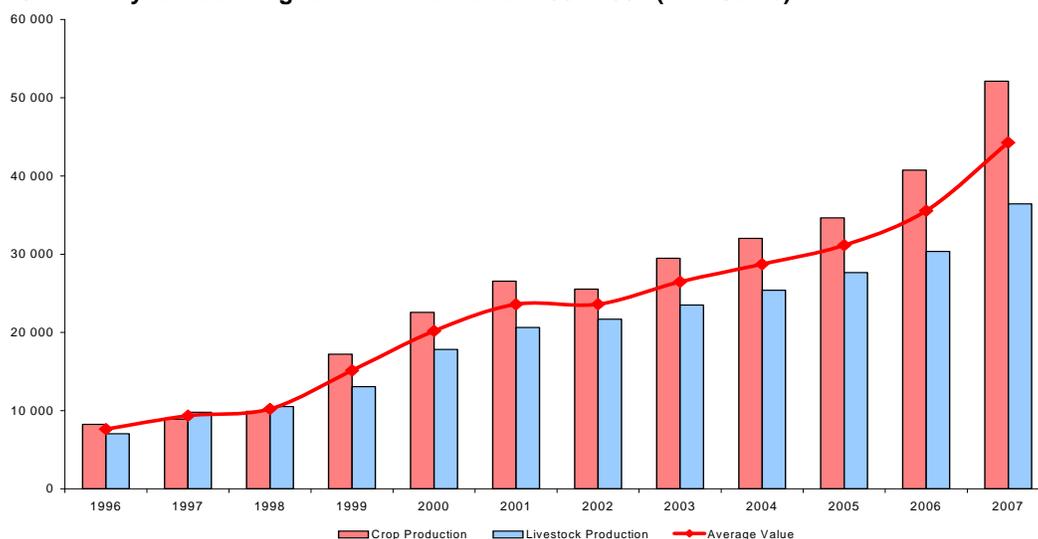
Although the rapid growth of the service sector has reduced agriculture's share of GDP (see Chart 3), it continues to be a leading sector of the Kyrgyz economy in terms of contribution to GDP, employment, and impact on public infrastructure development. The land and agricultural reform triggered increases in crop and livestock production, as over 80 percent of the rural population became owners of land. Reforms also increased the number of individual farmers, land owners, and rural entrepreneurs, but contributed to fragmentation of land ownership; the average land share is 0.37 ha.

Table 4. Changes in the Number of Agricultural Enterprises (1997-2006)

| Types of Farms | 1997 | 2000 | 2003 | 2006 |
|---|---------------|---------------|----------------|----------------|
| State farms | 35 | 61 | 68 | 106 |
| Collective farms (JSC, Coops etc.) | 676 | 573 | 971 | 1,448 |
| Individual land plots, collective organizations and enterprises | - | 429 | 527 | 538 |
| Individual (peasant) farms | 38,724 | 71,163 | 255,882 | 313,061 |
| Total | 39,435 | 72,226 | 257,448 | 315,153 |

Source: National Statistics Committee of the Kyrgyz Republic

Chart 4. Dynamics of Agricultural Production 1997-2007 (in M Soms)



Source: National Statistics Committee of the Kyrgyz Republic

Despite problems linked to the lack of investment and low productivity; land privatization generated a significant increase in the number of agricultural enterprises (see Table 4). Most of the new agricultural enterprises are individual family farms. This

increase is linked to the fact that rural areas, where industry and services are undeveloped, are heavily reliant on agriculture for food and income. Table 4 also shows an increase in the number of state and collective type farms, illustrating how some old Soviet-type collective and state farms reorganized merely by changing to a different legal form.

Statistics show that privatization and agricultural restructuring has boosted production and gross output (see Chart 4). In 2007, state and collective farms accounted for 2.7 percent of agricultural output, individual farms and partnership farms – 59.4 percent, and individually owned land plots – 36.6 percent, showing that production is concentrated in private farms.

Land reform also led to changes in the productivity of various economic entities. For example, the volume of crop and livestock production has significantly declined for state and collective farms and increased for individual farms and individual land plots (see Charts 5 and 6).

Various forms of investment support the Kyrgyz agricultural sector. In 2007, commercial banks issued \$71.8 million of agricultural loans – a 21 percent increase over the previous year. However interest rates remain high at over 40 percent. Aiyl Bank issued a significant share (71.6 percent) of agricultural credits at interest rates much lower than commercial banks (14.4 percent). Foreign direct investment in agriculture in 2006 was \$3.56 million indicating modest interest of foreign investors in the sector. The low level of investment into fixed capital shows that few farmers are upgrading their agricultural machinery; in the period from 2001 to 2007 annual investment into fixed capital averaged \$10 million.

Chart 5. Dynamics of Crop Production by Types of Farms (thousand tons)

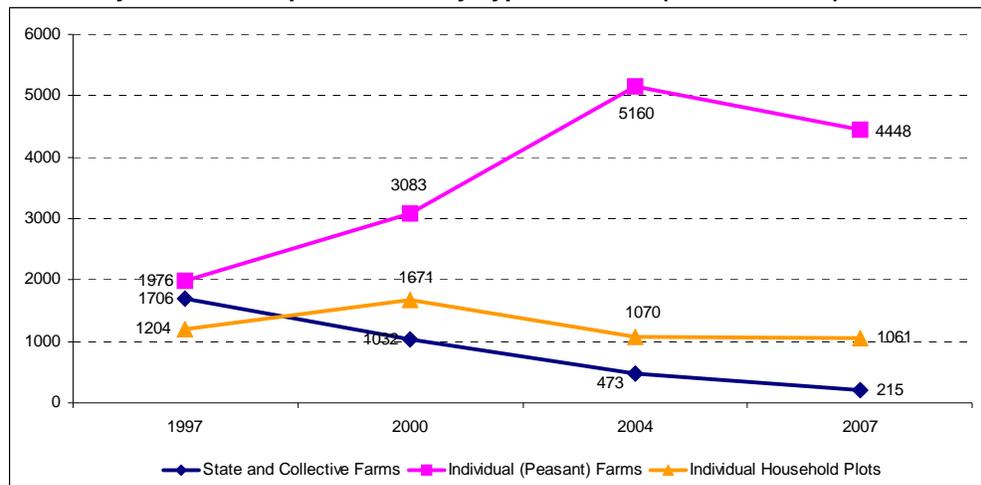
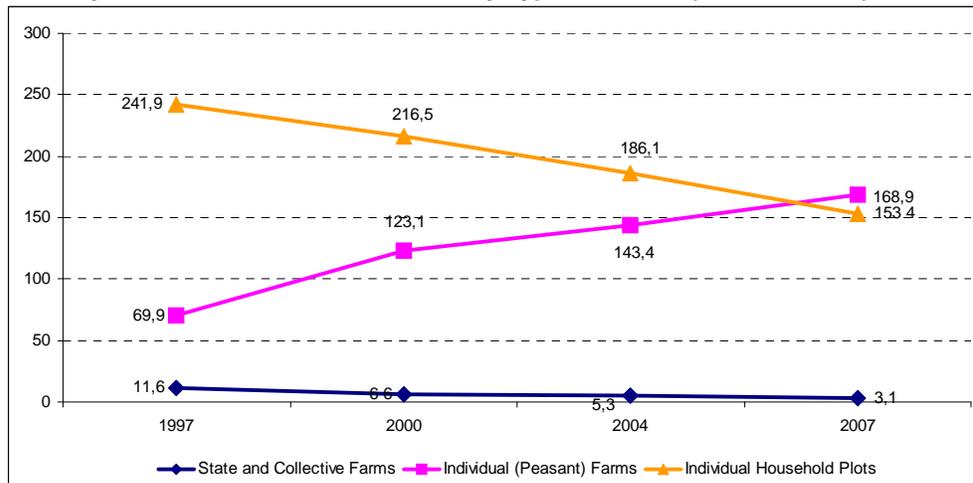


Chart 6. Dynamics of Livestock Production by Types of Farms (thousand tons)



Source: National Statistics Committee of the Kyrgyz Republic

Agriculture in Kyrgyzstan exhibits well-developed grain production, vegetable and potato growing, cultivation of technical crops, such as cotton, tobacco, and sugar beet, and livestock production. Structural changes in agricultural production resulted in increased crop production from 38.6 percent in 1999 to 59.1 percent in 2006. Production is largely oriented to satisfy domestic demand.

Agricultural specialization of various oblasts is driven by natural and climatic conditions. Thus, livestock farming predominates in Batken, Naryn, and Talas oblasts, while crop farming is dominant in Osh and Chuy. However, all oblasts have developed a wide range of agricultural sub-sectors to ensure food security at the regional level.

BRIEF REVIEW OF THE LEGISLATION THAT ENABLED LAND AND AGRARIAN REFORM IN THE KYRGYZ REPUBLIC

Land and agrarian reform in the Kyrgyz Republic started in 1991 with the adoption of the Law on Land Reform, the Law on Farms, and the Land Code. To implement land reform the Government also formed a Committee on Land Reform and Land Management. In the following years, the President signed several Decrees designed to improve economic conditions for agricultural producers and assist with their transition to a market economy. One decree in particular, the Presidential Decree of December 10, 1992 on Measures to Further Implementation of Land and Agrarian Reform, began the voluntary reorganization of the collective agricultural enterprises. According to this decree implementation of the land and agrarian reform was to occur through the denationalization and privatization of collective and state farms into private farms and cooperatives. The decree tried to ensure social justice in the process of farm privatization by providing that retired and disabled workers, social sphere workers (those working in health care, education and cultural sectors) residing on the territory of the privatized farms, and the farm service personnel also be awarded land and property shares.

The 1994 Presidential Decree on Measures for Intensification of Land and Agrarian Reform strengthened the efforts to implement land and agrarian reform. The decree provided that the citizens residing and working on collective and state farms were entitled to receive agricultural land shares. The decree also provided that citizens and legal entities could own, sell, exchange, pledge, and lease their land shares. The Government subsequently approved the Regulation on the Procedure for the Determination of Land Shares of Citizens and Issuance of Legal Certificates Entitling Land Share Ownership and the Regulation on Reorganization of Agricultural Enterprises. The Regulations set out which citizens were entitled to obtain a land share, the procedure for issuing a Land Share Certificate, and the procedure for reorganizing agricultural enterprises.

As a result of these decrees, within a short period of time 190 collective farms and 262 state farms were privatized. As part of this reorganization, 75 percent of all agricultural land of the privatized farms (except pasture land) was distributed to rural citizens in the form of land shares. The remaining 25 percent of agricultural land was retained in state ownership according to Decree No. 240 dated May 27, 1996 on Transfer of National Land Fund to the Agricultural Land Redistribution Fund under the Ministry of Agriculture and Water of the Kyrgyz Republic which established the Land Redistribution Fund.

Distribution of agricultural land resulted in more than 2.7 million rural citizens (or some 542,000 rural families) receiving land shares. Altogether, land share holders received approximately 1.0 million hectares of agricultural land.³ As defined by Presidential Decree, rural citizens working in social sectors also received land shares. Initially, a land share holder was entitled to use the land for 49 years; this right was later extended to 99 years. As land reform efforts progressed the Government began to realize the need to

³ Data from the Gosregister official web-site

introduce private land ownership. In 1998 the Government conducted a national referendum which asked whether the public supported three types of ownership of land — state, communal and private. Based on an overwhelmingly favorable response from the electorate, the Constitution was amended to introduce the right of private ownership of land

With the introduction of private land ownership, the Government addressed concerns about the lack of knowledge and awareness of rural citizens regarding their land rights, the conduct of transactions, and procedures for registering land rights. To protect individuals' ownership rights and allow time for citizens to learn about private land rights, the Government approved a five-year moratorium on the purchase and sale of agricultural land, which was originally intended to last into 2003. Even with the moratorium, a black market for agricultural land flourished among those leaving the Kyrgyz Republic or changing their place of residence and those remaining in the village.

In 1999, amendments to the Land Code and the Law on Implementation of the Land Code of the Kyrgyz Republic were adopted, recognizing the right of private ownership to land for those citizens who received a land share before enactment of the Land Code amendments in 1999. It was at the end of 1999 that USAID began its support for Land Reform in Kyrgyzstan by providing assistance to improve the land rights literacy of rural citizens through training seminars, information meetings, written publications, and various mass media information campaigns. USAID also supported legal and regulatory reform to improve land tenure security and land administration services of the State.

In December 2000 Parliament passed the Law on Management of Agricultural Land, which provided that:

- agricultural land could only be owned by the State and citizens permanently residing in a rural location for no less than two years;
- land shares and agricultural land parcels could be leased out exclusively for the purpose of agricultural production by the owner on terms negotiated by the lessor and lessee;
- land shares and agricultural land parcels may be exchanged only for land shares and parcels located within the boundaries of a given *aiyl okmotu*;
- the buyer of agricultural land may be a rural citizen of the age 18 or older having a citizenship of the Kyrgyz Republic; and
- sale of agricultural land is permitted as of September 1, 2001.

The passage of the Law on Management of Agricultural Land initiated measured activity in the rural land market. Later amendments to this key law allowed agricultural cooperatives to own agricultural land and permitted the donation (gift) of agricultural land.

With the introduction of private land market activities, market mechanisms were also introduced into the management of State owned agricultural land, specifically LRF land. A Parliament Decree No 702-11 of April 15, 2002 approved a Model Regulation on the Conditions and the Procedure for Leasing Out Land of the LFR. This model regulation

required LRF land to be allocated only through auctions (including commercial and investment tenders) or by direct allocation. However, the model regulation contained confusing and difficult to implement provisions which resulted in many problems in management of LRF land. Thus, on June 29, 2007 the Parliament adopted a new Model Regulation on the Conditions and the Procedure of Leasing Out LRF Land developed with assistance from USAID. According to the new model regulation all AOs were required to develop a Strategic Plan for the LRF's use, which included the surveying and mapping of LRF land and classifying all LRF land according to three categories:

- good land, which is in high demand (green zone);
- land in need of moderate investment, but generally still in demand (yellow zone); and
- land needing substantial investment and for which there has been little or no demand recently (orange zone).

Using the new model regulation, USAID assisted 130 AOs to prepare strategic plans for the LRF and 33 AO to conduct successful LRF land auctions. The new regulation included clear market driven mechanisms to encourage transparency and competition and raise LRF lease revenues for AOs. The new model regulation also permits allocation of LRF land on concessionary terms through direct negotiations to lessees when the land is degraded and in low demand.

STATUS OF DEVELOPMENT OF THE RURAL LAND MARKET IN KYRGYZSTAN

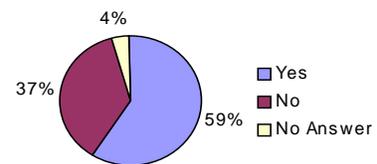
Development of the rural land market has been slow, largely due to legal restrictions limiting the number of potential purchasers and the lack of capital in the rural sector. This section addresses some of the issues contributing to the slow development of the rural land market, and particularly to the market for agricultural land.

1. Private Land

a. Legal Issues

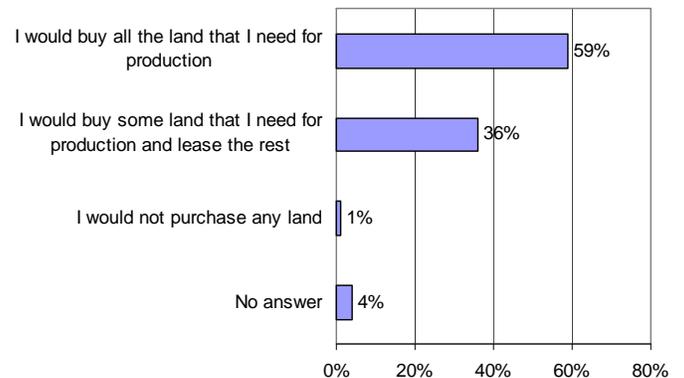
Activity in the market for agricultural land is restricted by certain provisions of the law which limit the number of purchasers of agricultural land. The Law on Management of Agricultural Land (Art. 17) states that only “rural residents, 18 years of age or older who are citizens of Kyrgyzstan and residing in the rural locality for no less than two years...” can be purchasers of agricultural land. Clearly this clause restricts activity in the market as only rural citizens are allowed to purchase agricultural land. Further aggravating the impact of this legal provision is that the article had in the past been interpreted to restrict purchase of agricultural land to only those that reside in the village in which the subject land is located. Under the existing law legal entities, urban residents, foreign citizens, and municipal authorities are not allowed to own land. Such restrictions limit the demand for agricultural land and depress its value.

Chart 7. Corporate farms think that they should have the right to purchase land...



The law permits the lease of agricultural land and leasing is common between private owners and farmers and between the AO and farmers. However, the law does not permit lease of agricultural land to foreigners even though it is reported that land, especially in the South, is frequently leased to Tajik, Uzbek and Chinese citizens. Leases of agricultural land between private Kyrgyz citizens are not subject to minimum or maximum terms, and in general can be leased according to the agreement of two parties.

Chart 8. Corporate farmers that would purchase land if allowed by law:



A majority of the AO heads and corporate farmers surveyed favor loosening these restrictions. Of corporate farmers, 59 percent agree that legal entities (like their own) should be allowed to own agricultural land. Interestingly, even though 37 percent of corporate farmers do not think that legal entities should be allowed to own land, 95

percent of this group stated that they would purchase “all” or “some” land needed for their businesses within two years after a change in the law that allows legal entities to own land was enacted.

Seventy-eight percent of AO heads believe that the AO should be allowed to own agricultural land, while 68 percent of AO heads would engage in land purchases if the law were changed to allow the AO to own land. Interestingly, AO heads cite the source of funds for purchase of land as revenues earned from lease of LRF land by a margin of 2 to 1. The second most cited source of funds for purchase of land was revenues from land tax. While the intentions are clear, the reality in the AO may be different. Given tight local budgets and competing needs for funds, the ability of AO heads to realize these goals would be based more on their skill in managing their budgets and justifying to local keneshes (councils) and rural citizens that purchase of land would be a good investment for the AO that would generate additional net revenue for the local budget.

Stakeholders questioned during in-depth interviews generally agreed with the survey findings on legal restrictions on land ownership. Most AO heads expressed concerns that the lifting of legal restrictions on agricultural land ownership would result in foreigners and corporate farms (i.e., legal entities) buying up all of the land, even though they thought that AOs should be allowed to own land. The general feeling from in-depth interviews with AO heads, individual farmers, and lessors was that those outside the local community should be restricted by law from owning land in the AO. But, when asked if a local corporate farmer should be allowed to own land in the AO most of these stakeholders believed that would be acceptable.

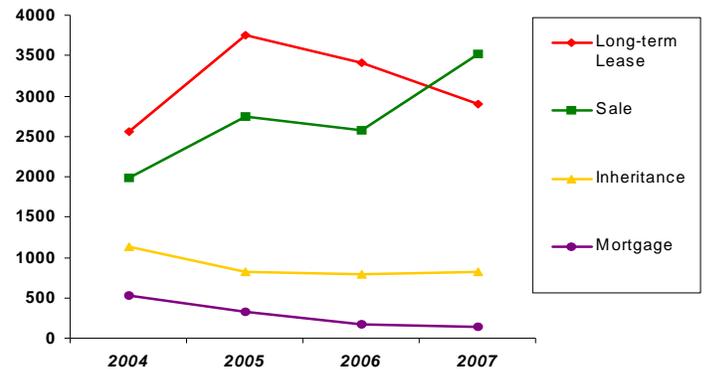
Regardless of these feelings, the survey provides important insights into how loosening of restrictions in the law might affect the rural land market. Objectively, more potential buyers would enter the market for agricultural land, including corporate farms that are generally well capitalized, which would increase market activity and drive up the price of land. Given that 30 percent of lessors stated that they would sell their land if they were offered a “good price” the entry of more buyers seemingly would increase the number of sale/purchase transactions for agricultural land. On the other hand, the entry of AOs into the land market is unlikely to have the same effect on sales, as most AOs struggle with funds and have more pressing demands on their budgets.

b. Land Transactions

Survey results suggest that demand for land is very high. Over 88 percent of respondents state that demand for land in their AO is high. Data from Gosregister shows that in 2007 a total of just over 7,000 agricultural land transactions (sale, lease, mortgage, and inheritance) were registered. The overall trend in registered agricultural land transactions since 2005 is flat, while in percentage terms annual sales have nearly doubled since 2004.

These figures lead to several conclusions. First, the decrease in registered lease transactions may be attributable to the fact that most leases between private individuals are for a short term and concluded as oral agreements. Second, increasing sales may be attributed to land owners who are not capable of cultivating their land deciding after several years of leasing to sell. It may also indicate that market prices are slowly beginning to increase, motivating more land owners to sell. Finally, the drop in the number of mortgages by 80 percent from 2004 seems to confirm the common perception of farmers that commercial banks will not take agricultural land as collateral for a loan.

Chart 9. Dynamics of the Rural Land Market

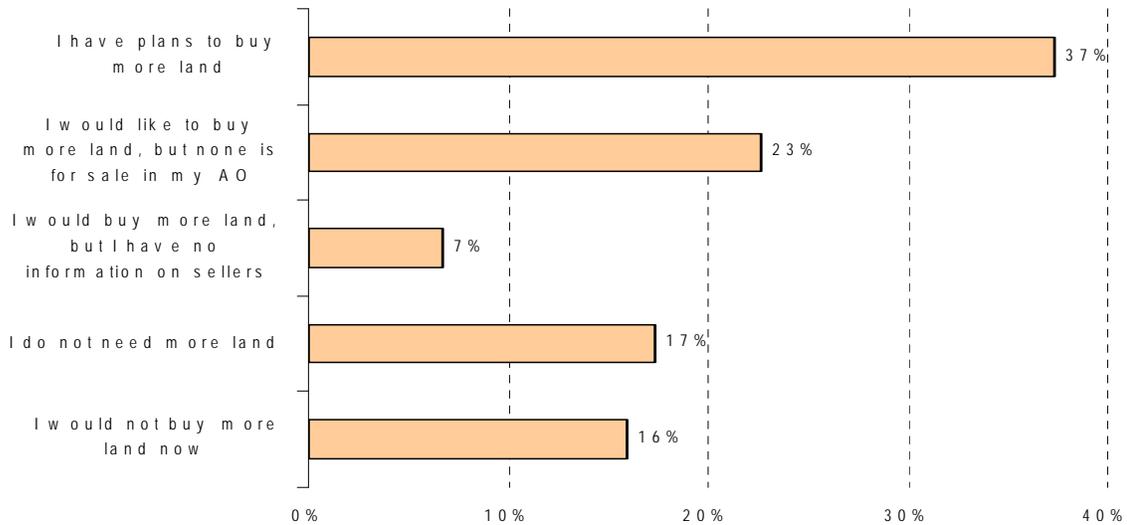


Source: Gosregister

- **Purchase and sale of land**

The survey results suggest that demand for land is very high. Of 140 corporate and individual farmers surveyed, over 64 percent of them plan to or would like to purchase additional land if it were available in their AO. Among corporate farmers, 95 percent

Chart 10. Individual farmers attitudes toward buying more land



replied that they would buy land if allowed by law. Of the 70 lessors surveyed, those considered most likely to sell land in the near future, 68 percent were willing to sell under the right circumstances. These results imply that there should be a reasonable supply to meet the high demand for the purchase of land. Yet, in absolute terms figures for land sale transactions are relatively low. The price that a seller should obtain for one's land and that a buyer should pay seems to represent a major difference in the expectations of sellers and buyers, resulting in fewer transactions for land.

In-depth interviews offer some additional insight into this apparent contradiction. While most land owners can articulate conditions under which they would be willing to sell their land, most also believe that land is precious and feel the obligation to pass it by inheritance to their children. Stakeholders from one AO in Jalal-Abat Oblast explained that because of these feelings all land sales in the AO have stopped in the past two years. Another conclusion is that land owners are willing to sell only a land parcel of poor quality, for which there seems to be few buyers, while the land parcels of good quality are held for lease and eventually for transfer to their children.

- **Lease of land**

Lease of agricultural land provides the principal means to satisfy the high demand for land. Of corporate and individual farmers, 51 percent are leasing in land from others, including the lease of LRF land from AOs. Typically, these farmers

rent land from more than

one source to obtain the land needed for production, however, written contracts for lease of land are concluded in only 64 percent of all leases. Of those with a lease agreement, corporate farmers (88 percent) are more likely to conclude a written lease agreement than individual farmers

(59 percent). When those who failed to register a lease contract were asked why, the most common response among individual farmers and lessors was “I see no benefit in registration” (20 percent of all responses). Interestingly, only 49 percent of lessors have written lease agreements. This fact was

Chart 11. Under what circumstances would Lessors sell their land?

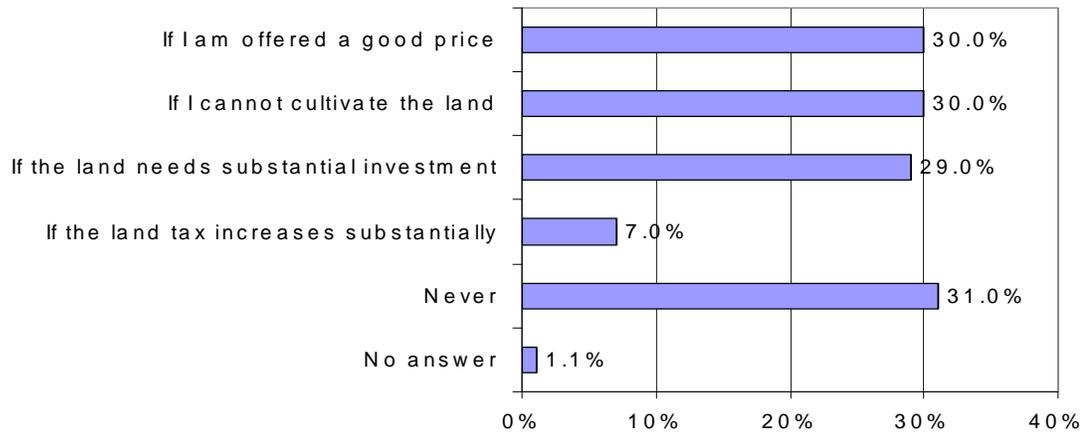


Chart 12. Farmers who lease in private land:

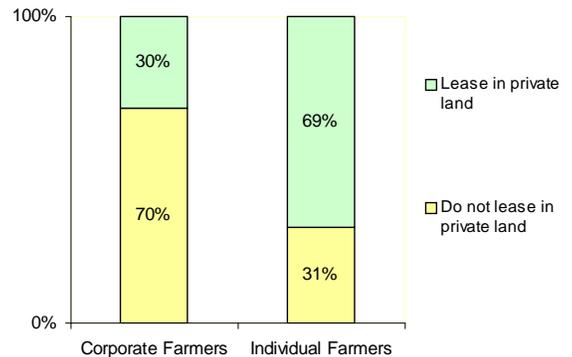


Chart 13. Who has written lease agreements

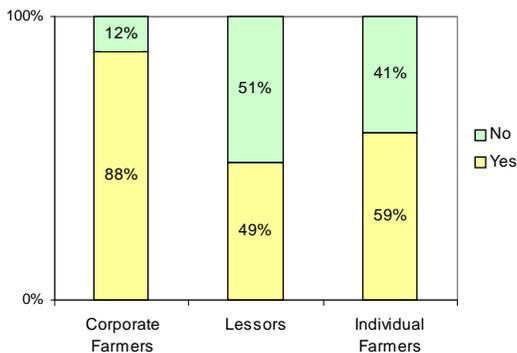
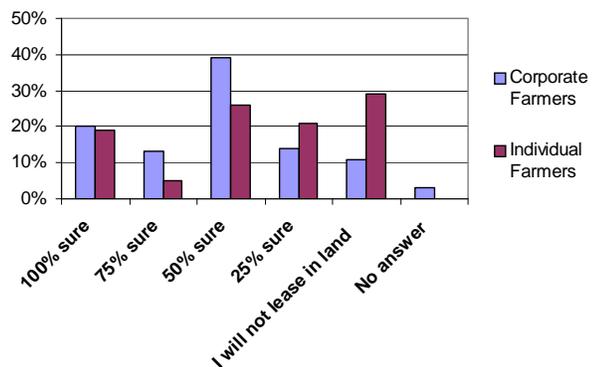


Chart 14. How certain corporate and individual farmers are to lease in land in next 12 months



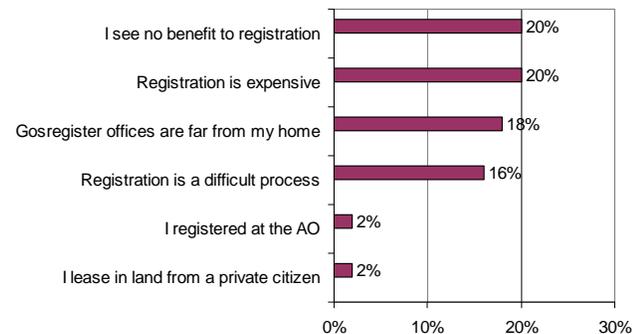
confirmed during in-depth interviews by the statements from most lessors that they rent land to farmers who they know and trust within their AO. The typical arrangement is best characterized by the statement of one interviewee in Talas oblast:

“It is easy to lease out land because demand is quite high...We conclude the contract verbally, we get the lease payment in cash, the lease period is one year...”

Regarding written lease agreements, the survey found that 78 percent of these agreements are registered with the AO, while only 17 percent are registered with Gosregister. The likely reason for this phenomenon is that many written lease agreements are for LRF land, which are typically registered within the AO, while leases between a lessor and an individual farmer are usually made orally for a short term between parties that know one another. Thus, either registration with Gosregister is believed to be unnecessary or the parties do not wish to bear the costs associated with dealing with Gosregister.

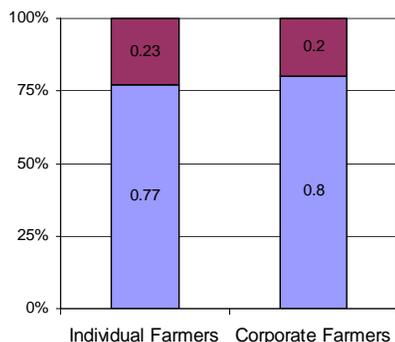
The survey found that farmers are in need of additional land. Seventy-nine percent of corporate and individual farmers claim a need for additional land for production. Of the farmers needing land, 78 percent claim that they have access to additional land. Individual farmers state that the most common reason for not having access to additional land is the lack of capital (43 percent). Another 35 percent claim that there is no excess land in their AO. However, of farmers who need additional land for production only 29 percent state that they are at least 75 percent certain to lease in land during the next 12 months. This is a surprising result considering that over ¾ of farmers need additional land and may attest to the fact that there is either insufficient land of appropriate quality available to lease out or that leasing arrangements are problematic in some way.

Chart 15. Why written lease agreements are not registered with Gosregister

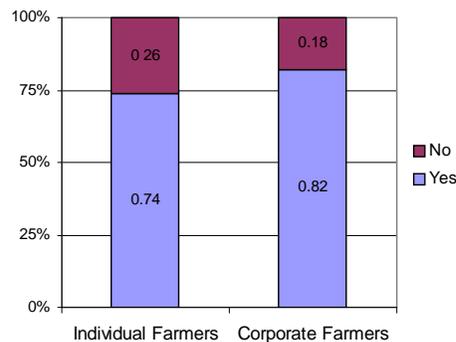


Regarding lease terms there is a clear difference between corporate and individual

Chart 16. Farmers that need land...



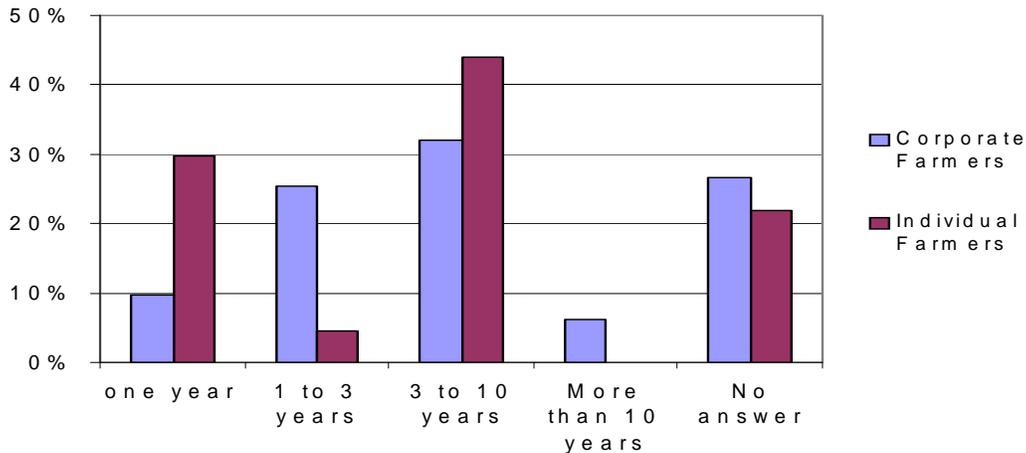
...And have access to land



farmers. Thirty-eight percent of corporate farmers lease in their land for three years or

longer and only 9 percent lease in land for a term of one year. On the other hand, 44 percent of individual farmers lease in their land for between 3 to 10 years, while 30 percent lease in land for one year. A likely explanation for the greater tendency to short term leases by individual farmers is that they are more likely to lease small parcels for one year from neighbors, while corporate farms tend to search for larger parcels that are typically only found through lease of LRF land for more than one year.

Chart 17. Typical Lease Terms



- **Mortgage of Agricultural Land**

The survey uncovered very little about land owners' attitudes toward mortgage of agricultural land. However, during in-depth interviews a number of farmers expressed their frustrations with commercial banks regarding the mortgage of their land. Nearly all farmers expressed their desire to obtain credit at reasonable (i.e. low) rates and many are willing to pledge their land as collateral for such loans. But, farmers commonly complained that commercial banks refuse to take land as collateral and value any other collateral pledged for credit at a fraction of its true market value.

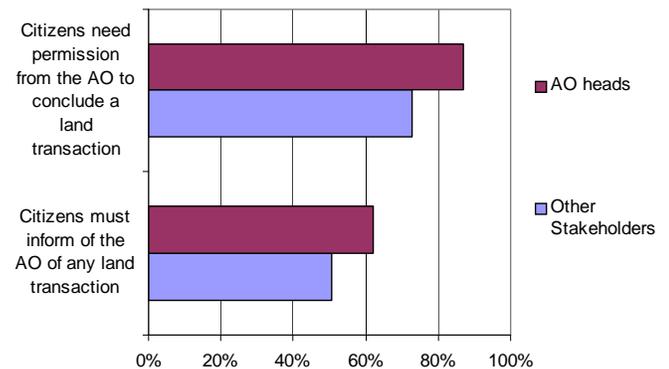
Under existing law commercial banks, as legal entities, cannot own land and have a limited right to take possession in foreclosure. These facts seem to confirm the widely held belief that commercial banks will not actively engage in agricultural mortgage lending until the law is changed to allow legal entities (including commercial banks) to own land without restrictions. Unfortunately, the study did not include commercial lenders as a stakeholder group and thus cannot offer much direct insight into why lenders seem uninterested in taking land as collateral and extending mortgage credit in agriculture. Interestingly, 17 percent of AO heads thought they could get a loan from a commercial bank if they were to purchase agricultural land for the AO.

- **AO control over transactions**

Contrary to the LRMD project assumptions, AOs seem to exert substantial control over land transactions. In nearly three out of four AOs (73 percent), the AO head requires that land owners and corporate farmers ask permission prior to engaging in a sale/purchase or

lease transaction. The other three stakeholder groups surveyed generally are evenly split on their belief that one must ask permission of the AO to engage in land transactions. When asked whether a transaction must be reported to the AO once concluded, 87 percent of AO heads stated that they require the reporting of such transactions and 79 percent of these AO heads officially registers the transaction at the AO. Again, just under 2/3 of those in the other three stakeholder groups believe that they must report all land transactions to the AO.

Chart 18. Opinions on AO control over land transactions...



These results confirm that most AO heads attempt to exert control over the market for agricultural land. It is not clear whether such control significantly restricts market activity, however, the widespread belief that a transaction must be reported to the AO may contribute to citizens’ avoidance of Gosregister. Moreover, AO efforts to control land transactions and information is likely driven by practical motivations – 87 percent of AO heads use information gathered from transactions to collect the land tax.

c. Land Tax

Establishment of the land tax in Kyrgyzstan is a confused issue in the law. The Law on the Basic Rates of the Land Tax, which is passed annually by the Parliament, states that land tax is assessed at a fixed rate (based on soil fertility and quality of land) per hectare of agricultural land. The Land Code (Art 111.2) states that normative valuation of land shall be used to calculate the land tax rate. In practice the land tax is established based on the Government Decree on Determining the Rate of the Land Tax⁴, as this Resolution provides a mechanism for establishing the tax while the Land Code and the Law on the Basic Rates of the Land Tax do not. This lack of uniformity among the various pieces of land tax legislation needs to be resolved, most likely as part of a comprehensive overhaul of the land tax system.

Given the current administrative structure, land tax is collected by the local AO and makes up a large portion of the local budget.⁵ Ambiguity in the current legislation creates some uncertainty in how much of the collected land tax an AO keeps for its budget purposes. According to the Law on Basic Rates of Land Tax (2005), land tax collections are distributed 90 percent to AO budget and 10 percent to the raion budget. This provision has been repeated in this annually adopted law since 2000. However, the Law on Financial and Economic Basis of Local Self Government (2003) states that all land tax

⁴ The Government Decree is actually titled the Government Decree No. 213 on the Order of Establishment of the Unified Agricultural Tax Rates for Using Agricultural Land, April 18, 2000. This Decree unifies the mechanism for calculation of the rates of the unified agricultural tax for use of agricultural land. It sets the rates for the land tax depending on the quality of soil within the boundaries of a raion, ayil okmotu and land parcels of the farming unit.

⁵ AO budgets are formed using a variety of funds and funding sources depending on the location of the AO. AO budgets may be composed of a combination of funds from any or all of a number of sources, including land tax, lease payments for LRF land, and transfers from the central government.

collected remains part of the local budget (i.e., land tax shall not be part of a budget of any other level of government). The Ministry of Finance has clarified this position with the following statement: The funds received in the AO as land tax remain in the AO. No payment of 10 percent to the raion budget shall take place.” Yet, the conflict in laws remains and directives of the Ministry of Finance do not seem to be fully implemented.

Overwhelmingly, respondents from all four stakeholder groups considered the amount of land tax charged per hectare to be “fair.” Individual farmers most frequently thought the land tax to be high – 33 percent consider that the tax is high compared to 63 percent that believe it is fair. Among the respondents in the other three stakeholder groups, over 84 percent thought the land tax to be fair. Given that so many respondents found the tax to be reasonable, one might argue that in fact the land tax is too low. A few stakeholders questioned during in-depth interviews (mainly AO heads) voiced the opinion that the land tax should rise to help AOs become more independent of the central government and most importantly to stimulate land market activity.

Given the amount of the land tax, the study sought to determine the impact of changes in the tax on the market for sale of agricultural land. All landowners (individual farmers and lessors) were asked how much the land tax would need to rise before they would consider selling their land. Again, an overwhelming majority of land owners, 77 percent of lessors and 71 percent of active farmers, stated that the size of the tax would not influence their decision to sell land. This result indicates that for a vast majority of land owners tax, by itself, is not a motivating factor in the sale of the land. This conclusion seems to be confirmed by the response of lessors who were asked under what conditions they would agree to sell land. Here only 31 percent replied that they would never, under no circumstance, sell their land, while the remaining respondents voiced at least one circumstance under which they would agree to sell land.

The amount of the land tax apparently does play a role in decisions regarding how land is used. When lessors were asked how much the land tax would need to rise for them to begin using their land actively (instead of leasing it out), 49 percent responded that a rise of 25 percent would motivate them to use the land themselves. Another 14 percent stated that increases of greater than 26 percent in the land tax would motivate them to use the land independently. This attitude may mean that a land owner would not expect to be able to pass on the increased land tax to a lessee.

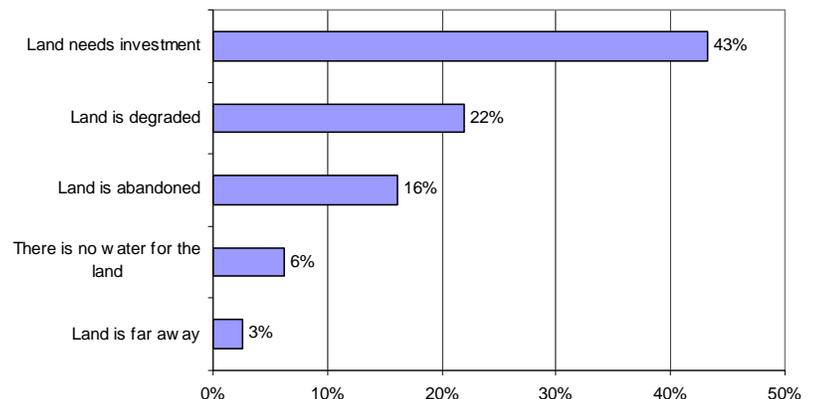
Land owners seem to know the consequences of a failure to pay the land tax. Three quarters of all land owners know that failure to pay land taxes results in accrued interest and penalties. Similarly, 69 percent of the heads of corporate farms (which cannot own land) know that penalties and interest accrue on unpaid land taxes. Surprisingly however, a much smaller percentage of land owners seem to know that land can be taken from an owner for chronic failure to pay the land tax (only 34 percent of lessors and 30 percent of active farmers). Another interesting note is that 6 percent of AO heads, who are charged with collecting the land tax, state that there are no practical consequences for a failure to pay land tax.

d. Unused and degraded private land

Nearly all stakeholders know the type of agricultural land present in their communities, which in just about every AO includes privately held land, pastures, and LRF land. All stakeholders were asked whether they know of unused land in their AO and AO heads were asked to estimate the percentage of unused land. On average, 40 percent of respondents are aware of unused land in their communities. Only 37 percent of AO heads, who are expected to know best the extent to which land is unused in the AO, responded that 100 percent of agricultural land is used in their AO. Forty-seven percent of the AO heads questioned responded that up to 25 percent of the agricultural land in their AO was unused.

Stakeholders questioned during in-depth interviews confirmed that there was unused land in their AO, but the study points to regional differences within Kyrgyzstan. For example, in Naryn oblast it is widely reported that unused land is common in nearly every AO. Yet, a substantial number of stakeholders from other oblasts questioned during in-depth interviews report that there is no unused land in their AO. For instance, in Batken, Osh, and Ysyk-Kol oblasts interviewees report that there is practically no unused land. One AO head in Ysyk-Kol reports that parcels of citizens who are not able to cultivate land are typically leased with AO assistance to agri-businessmen in the community. In oblasts where land is scarce, such as Batken and Osh, even poor quality land is cultivated because of the need to farm for subsistence. Stakeholders from Batken explained that good land is so scarce in that oblast that people will use whatever land they have available to grow crops for food.

Chart 19. Most common reasons for non use of land



The most common reason for non use of land among all stakeholder groups polled was that the land needed substantial investment. Here survey respondents and interviewees alike interpreted the term “investment” to mean any expenditure of money to increase the production capacity of their land. Consequently, in the minds of most stakeholders the most common investment needed in land was the application of fertilizers and chemicals. Strictly speaking this type of outlay is better considered a working capital expense meant to increase the annual yield, rather than a long term investment in the land. In general, the second and third most common answers regarding needed investments in land were improvements to the irrigation and drainage systems and planting of perennial plantings. These types of investments are generally considered a long term capital investment in land.

Nevertheless, the survey respondents make it clear that there are insufficient capital resources available to them, either through their own savings or through commercial sources. Improvements in agricultural market conditions and infrastructure are needed to enable farmers to generate capital resources from their own operations. Even with market improvements, climate and other risks inherent in agriculture can limit the amount of capital available for long term investments. Changes in the legal framework and credit markets are needed to encourage the availability of long term credit for farmers. Thus, to attract considerable investment into the agricultural economy in the short term it may be necessary to allow individuals and legal entities from outside the rural community (i.e., urban residents, legal entities, and foreigners and foreign legal entities) to own and lease in agricultural land.

During in-depth interviews, stakeholders were given the opportunity to comment in greater detail on the ability to invest in land. Many stakeholders recognized the need for investing in land, but stated that long term low interest credit must be available to encourage such investment. Many farmers specifically complained about commercial banks and their practices when extending credits. Commercial banks tend to value any collateral pledged to obtain credits at a substantial discount to its market value and refuse to take land as collateral for credit. Consequently, there are a growing number of individual farmers who are turning to micro-credit organizations, such as FINCA, to meet their modest needs for seasonal credit, while abandoning plans, at least for now, to make long term capital investments.

The second most common reason cited for non-use of land was that it was degraded. Survey results show that respondents believe that the failure to observe agro-technical practices is the main reason for the deterioration in land quality. Stakeholders questioned during in-depth interviews overwhelmingly confirmed these findings. In every oblast, stakeholders explained that the quality of the land was deteriorating due to the lack of water, the lack of fertilizers, and incorrect crop rotation.

Another important problem commonly mentioned among interviewees was the failure to properly clean drainage systems. Farmers explain that drainage systems have deteriorated since Soviet times because there is no one to clean them. The work is labor intensive and requires specialized equipment which is generally unavailable. Labor migration and the distance of one's agricultural land parcel from his/her home were other reasons cited for the non-use of agricultural land. In Osh oblast a number of interviewees commented that many unused parcels result from owners that have left to work in Russia. Others report that their land is located 10 to 15 kilometers from their homes, making it impractical to cultivate the land.

e. Investment in Land

While respondents state that the main reason for non-use of land is the need for investment, the survey explored this issue in greater detail. Stakeholders were asked to name the biggest problems with their land. A total of 74 percent stated the need to improve irrigation systems and drainage canals and 43 percent mentioned the need to plant perennial plantings such as orchards. However, very few farmers or lessors are

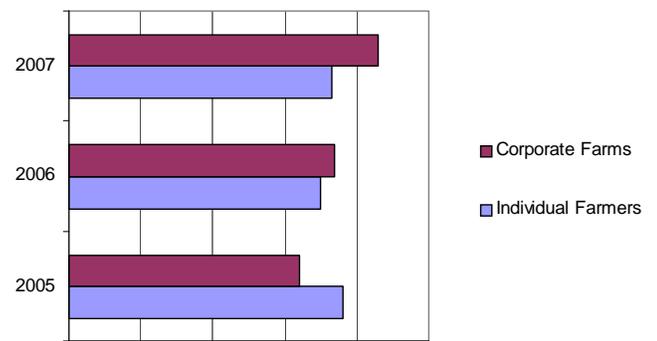
prepared to undertake the needed investments on their land. Only 19 percent of individual farmers are 100 percent certain to undertake the needed investments in their land in the next 12 months, while 32 percent of corporate farmers are certain to undertake needed investments in the next 12 months. Lessors show little interest in personally investing in their land; 62 percent either have no plans to invest in their land or at best are only 25 percent sure to make the needed investments in the next 12 months.

Interestingly, there are some regional differences in one’s willingness to invest in land. In Osh, Batken, and Ysyk-Kol, where land is arguably most highly used and in demand, 30 percent of the respondents claimed that they are 100 percent certain to undertake the needed investments in their land in the next 12 months. In the other four oblasts, only 19 percent of respondents are certain to undertake needed investments on their land in the same time period.

Other factors that impact investment decisions are the proximity of the land to markets, 49 percent of farmers list this as an investment influencing factor, while 47 percent of farmers state that they will invest in a large parcel of land. Thirty-seven percent of farmers would invest in their land if financial incentives were available from the government. To make investments in land, farmers ranked their primary source of capital as personal savings/business earnings by 2 to 1 over credit from a commercial bank. The least common source of capital was loans from friends and relatives.

A reasonable conclusion is that the need for investment in land is widespread. There is both a need for working capital to purchase fertilizer and chemicals on a yearly basis and for other long term capital investments in land to improve its productivity and infrastructure. However, farmer tendencies are to use retained profits and other savings to fund investment decisions, which limits the size of investments in land and how quickly those investments can be realized. As a result, agriculture expands slowly and productivity suffers from the lack of capital. Fortunately, profitability among corporate and individual farmers seems high and to be rising over the past few years. In 2007, 86 percent of corporate farms and 73 percent of individual farmers surveyed reported profits.

Chart 20. Percent of Profitable Corporate and Individual Farmers:



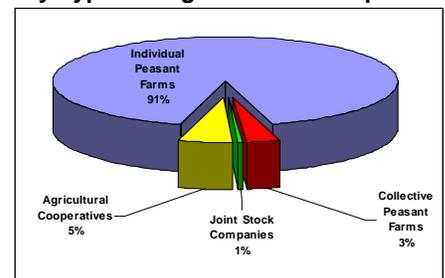
f. Land Fragmentation and Actions on Land Enlargement (Consolidation)

Kyrgyz land legislation based agricultural land privatization on an equity principle, according to which the vast majority of rural residents were entitled to receive land shares. Under this principle, all state and collective farm members and those citizens that served the farm community were entitled to a share of the farm’s agricultural land. Application of this principle resulted in fragmentation of land ownership, distributing over 1.0 million hectares of land to 2.7 million people. Gosregister data shows that 1.3

million titles to agricultural land have been issued as of January 1, 2008.⁶ Typically, private ownership rights were given in common to rural households, which on average consist of 5 members. According to the 2005 USAID Land Tenure and Property Rights Assessment, approximately 80 percent of rural citizens claim to own land or be a part of an individual family farm.

The study found that the average land share is 0.33 ha, which conforms to national statistics that show an average land share in the entire country of 0.37 ha (see Table 5). While these figures provide evidence of land fragmentation in Kyrgyzstan, a distinction between fragmentation of *ownership* and fragmentation of *use* must be made. For example, in Slovakia farmers own an average of 0.45 hectares of land⁷, yet Slovakia is among the countries of Central and Eastern Europe (CEE) with the least fragmented use of agricultural land. More than 90 percent of land is used through lease agreements, normally mid to long term contracts. Other CEE countries, such as the Czech Republic, exhibit the same dynamics, but, like Slovakia, are large agricultural producers despite widespread fragmentation of ownership. Land fragmentation tends to be problematic in countries where use is widely fragmented. In these countries rural households are heavily dependent on subsistence agriculture. This is the situation in Kyrgyzstan, where more than 90 percent of the country's private agricultural land is farmed by individual peasant farms (see Chart 21). In Kyrgyzstan, land shares were allocated to family farms consisting of an average of 5 members. Thus, the size of the family's land share can reach 1.8 ha. However, the land is typically located in several parcels (typically in at least two locations) based on the quality and type of land (irrigated and non-irrigated, arable and land under perennial crops etc.). This fact makes the average size of any one land parcel used by an individual farm less than one hectare.

Chart 21. Structure of Private Agricultural Land Use in Kyrgyzstan by Types of Agricultural Enterprises



Source: GosReaister

There are obvious limits for individual and household farms cultivating small land parcels to engage in commercial agricultural production. In addition to the small land share size, production of rural households is often limited because one's land parcels are often located many kilometers away from the farmer's home, the parcels are of different quality, or the parcels may not have access to water. These factors significantly add to the production costs for individual and household farmers.

The study used the in-depth interviews to gather more information on the issue of land enlargement (consolidation). Virtually all stakeholders interviewed realize the importance of land consolidation and mentioned some of its potential benefits, such as more efficient use of land and water resources, less costly servicing of agricultural infrastructure, greater labor efficiency, and reduced expenses on fuel, machinery and other inputs. Yet, most stakeholders seems to have a limited understanding of how land consolidation might

⁶ Source: http://www.gosreg.kg/gosreg_ru/index.php?option=com_content&task=view&id=84&Itemid=171

⁷ Slovakia Case Study / Land Consolidation in Slovakia FAO workshop paper by Richard Lazar, Soil Science and Conservation Research Institute, Bratislava, March 2005

occur. While recognizing the negative effects of land fragmentation, many interviewees, especially individual farmers, express fear of being coerced into a consolidation scheme. These interviewees are among the majority who view land consolidation as coerced cooperative production or some sort of re-collectivization. Only a minority of interviewees understand land consolidation (enlargement) and view market operations as an efficient manner of concentrating land in the hands of the most efficient users.

Table 5. Distribution of Land Shares (as of September 1, 2007)

| No | Oblast | No of Families | No of Citizens | Total Land Allocated (ha) | Average Size of Land Share (ha) |
|----|--------------|----------------|----------------|---------------------------|---------------------------------|
| 1 | Batken | 57429 | 265417 | 62202 | 0,23 |
| 2 | Jalalabat | 104246 | 599482 | 134800 | 0,22 |
| 3 | Ysyk-kol | 65719 | 317712 | 146438 | 0,46 |
| 5 | Naryn | 36414 | 169724 | 94607 | 0,56 |
| 4 | Osh | 151846 | 807025 | 166254 | 0,21 |
| 6 | Talas | 36069 | 179891 | 82504 | 0,46 |
| 7 | Chuy | 90529 | 387597 | 331097 | 0,85 |
| | TOTAL | 542252 | 2726848 | 1017902 | 0,37 |

Source: National Statistics Committee of the Kyrgyz Republic

In some areas stakeholders reported that market-driven land consolidation is already occurring, mainly through leasing. However, the legal requirements for registration of lease agreements seem to deter the use of leases in consolidation. The interviewees were almost unanimous in stating that various landowner groups and/or localities would show different interest in consolidation schemes, depending on how strongly they are affected by the land fragmentation problem. For instance, owners of very small parcels of poor quality would generally be more interested in land enlargement solutions compared to those who own good lands and are already farming parcels of decent size. In addition to small farmers with poor quality land, pensioners, lessors, corporate farmers, and AO heads were named as categories that would be more interested in land consolidation than other groups. This leads to a conclusion that a unified and compulsory approach to land consolidation is not likely to be applicable and that an effective land enlargement process would have to be based on voluntary participation.

Interviewees also widely reported that previous attempts at collective-style land consolidation through creation of production cooperatives in Batken and Naryn oblasts. These cooperatives were formed by a change in the collective farm's legal status without a real change in production practices. Virtually all of these cooperatives fell apart after several years of activity. Based on this experience, most interviewees raised doubts about the viability of such cooperatives.

Stakeholders also recognized the negatives associated with re-collectivization. The fears can be grouped into three major areas:

1. concerns over land property rights infringements;
2. unequal contribution and participation of individuals involved in land consolidation (such as varying quality of land, unequal labor participation, etc.); and
3. lack of appropriate legal framework for land enlargement at the national level

Stakeholders from several oblasts discussed the need for leadership as a key to land consolidation. These stakeholders believe that market-driven consolidation requires a primary moving force, typically a successful individual or corporate farmer, a processing enterprise, or a potential investor with the knowledge and skill to organize efficient agricultural production on large land parcels.

An average of 12 percent of all survey respondents listed fragmentation of land as a major problem confronting agriculture. Interestingly, 15 percent of AO heads and lessors – the two categories of respondents not directly involved in agricultural production – mentioned fragmentation as a problem, while only 9 percent of individual and corporate farmers mentioned fragmentation. It may be that individual and corporate farmers are overwhelmed by problems related to operating their farms and have limited capacities to consider the issue of land fragmentation.

Several conclusions may be drawn out of these findings:

1. Enlargement (consolidation) of land plots is recognized by all of the stakeholder groups as a vital necessity for increasing efficiency of agricultural production;
2. A “re-collectivization” or “coerced cooperation” approach to land consolidation would probably encounter strong resistance, especially from individual farmers;
3. Voluntary participation and protection of individual property rights should be the basic principles of land consolidation process;
4. There is a limited understanding of land consolidation by the rural public requiring a strong information and outreach campaign to improve understanding of land enlargement issues, including explaining international experience and results in implementing land consolidation programs; and
5. Currently, the private sector lacks internal capacity and financial resources to engage in an effective land consolidation process and it needs external assistance (from the government and from the donor community) in developing and implementing a national consolidation using market mechanisms.

Additional information on international experience in land consolidation and possible interventions in Kyrgyzstan is presented in Annex 4.

2. LRF Land

LRF land is a special type of agricultural land that remained in State ownership after privatization of state and collective farm land. LRF land generally is managed by the AO within which this land fall. Under the law, LRF land can be leased out for between 5 and 50 years, but irrigated LRF land can be lease out only from 5 to 7 years. The local AO in whose jurisdiction the LRF land lies is authorized to set the specific terms of each lease agreement within the limits stated above. It is generally required to lease out LRF land under competitive auctions, or in the case of LRF land in need of substantial investment, to lease out such land through investment tenders or direct negotiations with an investor. In practice, especially in the South, LRF land is often leased out for one year, in violation of existing law, due to the scarcity of agricultural land and the high demand for agricultural land from the local population.

a. Transformation of land

Article 10 of the Land Code of Kyrgyzstan establishes seven “targeted use” categories of land. These are as follows:

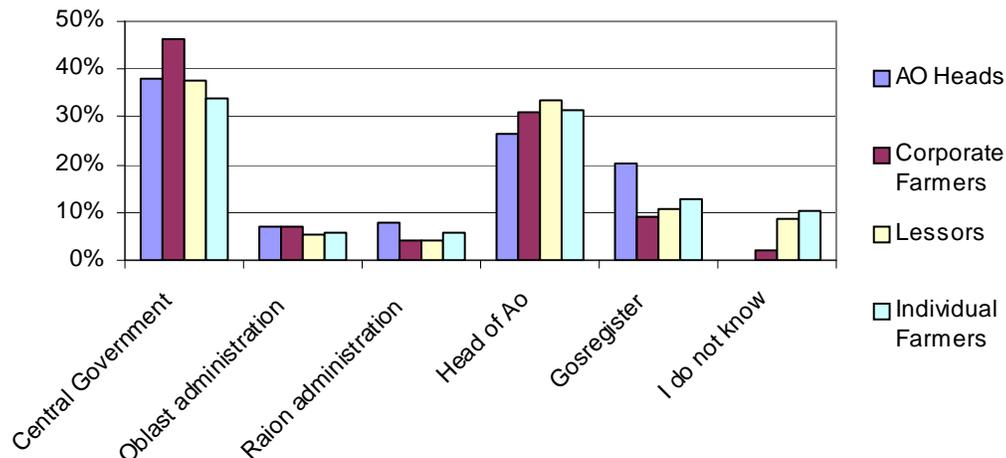
- agricultural land
- land of settlements (cities/towns, rural and urbanized settlements)
- land of industry, transportation, communications, defense, and other designation
- land of specially protected natural areas
- forestry fund land
- water fund land
- reserve land.

A “targeted use” category may also contain several subtypes of land. For example, agricultural land subtypes include: irrigated land, pastures, non-irrigated land hay lands, etc.

The law provides a detailed process for the transformation of land from one “targeted use” category to another or for transformation of one subtype of land within a given category to another subtype. Regulation No. 18 of January 22, 2008 sets out the details of the land transformation procedure. In general, transformation of land among the categories established by Article 10 of the Land Code or transformation of a subtype of land from a higher value to a lower value within the given category is approved by the central government through a cabinet level Commission on Allocation of Land. Transformation of land within one “targeted use” category from a lower valued subtype to a higher valued subtype is approved by the Raion Administration in which the subject land is located.

The issue of transformation of land generally came up in the context of LRF land. Most private citizens questioned during in-depth interviews have limited experience with transformation of private land from one category to another. Citizens tend to know little about the process of transformation and needed further explanation of the question when asked their opinions. On the contrary, most AO heads that participated in the study and in-depth interviews have some experience with the land transformation process.

Chart 22. Who should approve applications for the transformation of land



There is a general belief among all stakeholders surveyed with knowledge of transformation (mainly AO heads with experience dealing with transformation of land issues) that the process is problematic. The most commonly cited problem with land transformation is that it takes too long to complete. Some AO heads complained that they are waiting 6 years or longer to have an instance of land transformation approved by the central government. Stakeholders also mentioned that the process requires many experts to assess and give their opinion on an application to transform land to another category. From the in-depth interviews it became clear that transformation of land from a lesser valued category to a higher valued category (e.g., from non-irrigated land to irrigated land) is generally easier to complete than transformation of land from a higher valued to a lower valued category (e.g., transformation of irrigated land into non-irrigated land) or transformation between two categories.

Expecting such answers, the survey and in-depth interviews tried to determine whether stakeholders thought a change in the process was necessary. The survey asked all stakeholders which body of government should approve the transformation of land from one category to another. The most common answer among all four stakeholder groups favored the status quo – that central government should continue to approve applications for the transformation of land. The second most common answer was that the head of the AO should approve transformation of land and the third most common answer was Gosregister.

The in-depth interviews provided more insight into these answers and show some clear distinctions between stakeholder groups. Many corporate farmers support approval of land transformation by the AO because they have specific business reasons for requesting transformation of land. In some cases they may want to build infrastructure needed by their enterprise on agricultural land located near to the land they cultivate. Seeking approval for transformation of land from the AO head rather than the central government would dramatically simplify and improve the chances to get the transformation request approved. AO heads also tend to favor having the authority to approve transformation of land in their AO.

However, land owners tend to prefer central government approval for transformation over AO approval. Land owners claim that AO heads and corporate farmers are likely to collude to transform and control land to the detriment of ordinary citizens. They worry that LRF and other land might be used for non-agricultural purposes, increasing the scarcity of good agricultural land in the community. In any case, these answers make it clear that the issue is problematic. But, since most stakeholders are unsure how best to deal with the matter, they seem to fall back onto the status quo.

b. Lack of use and degraded land

In nearly all AOs, a part of the available LRF land is unused. Generally speaking, the irrigated LRF land is in high demand and used regularly, while LRF land of poor quality and located far from the village are less used. Here, data from the project's work with 130 AOs to develop strategic plans for use and investment in LRF land is helpful. As part of this work the project supported surveying, mapping, and classification of all LRF land. All LRF land was categorized by three types:

- green zone – land in high demand and of relatively good quality
- yellow zone – land of generally good quality, but in need of minor investment
- orange zone – land of poor quality in need of substantial investment for which there is little or no demand.

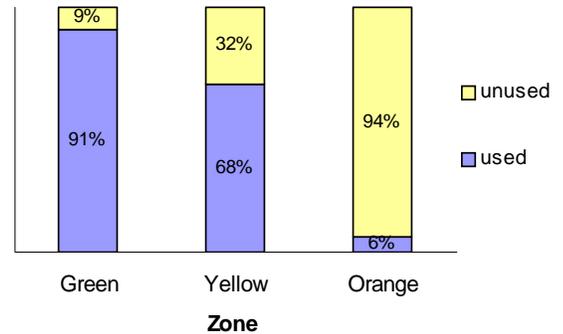
Project data shows that on average 66 percent of LRF land is used regularly and in high demand. Breakdowns show that 80 percent of the LRF land classified as part of the green and yellow zones is in use. However, only 6 percent of the land in the orange zone, which makes up about 20 percent of the LRF land in the 130 AOs, is used. The orange zoned LRF land is of poor quality, characterized as land that lacks access to water, is distant from the village, and has rough, rocky, or otherwise degraded soil.

Stakeholders questioned during in-depth interviews generally support the project data. Most agree that there is unused LRF land in their AO, generally along the lines of the project findings. Irrigated LRF land is nearly 100 percent used in all AOs. Other LRF land, that of poor quality or distant from the village, is frequently not leased out. Many AO heads explained that such land is so bad that it should be transformed into another ‘targeted use’ category of land, most often pastures. The lack of excess capital among private farmers and the public ownership of LRF land makes it difficult to obtain investment in and to lease out degraded LRF land.

c. Investment in LRF land

An overwhelming majority of all respondents to the survey (88 percent) state that there is LRF land in their AO in need of investment. In-depth interviews confirm this result as most of those questioned were aware of LRF land in their AO that needed investment. Unfortunately, attracting investment for such LRF land is not easy. The surveyed AO heads' estimates for investment in the worst LRF land in their AO ranged between 9.4 and 3.0 million Som (approximately \$270,000 to \$85,000). Only 20 percent of the surveyed AO heads were able to attract a lessee willing to invest in LRF land, but 93

Chart 23. Use of LRF land by zones (based on work in 130 AOs):

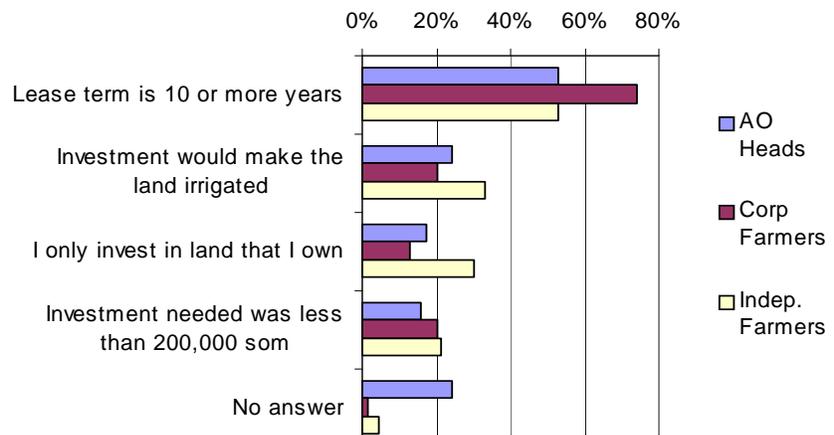


Source: USAID LMRD Project

percent of those that succeeded in doing so stated that the quality of the LRF land improved as a result.

Difficulty in attracting investment in LRF land is confirmed by the project work in the 130 AOs. The project planned three investment tenders in an effort to help the AOs attract substantial investment for its LRF land. In these AOs, yellow zoned land was offered under investment conditions for a long term lease.

Chart 24. Terms under which farmers would invest in LRF land:



In two of the AOs, the tenders were successful in securing lessees for several of the available parcels, however little investment in the land was proposed and the AO ultimately selected winning bidders based on the size of the proposed annual lease payment. In the third AO, a 192 hectare parcel required investment in a water pumping station and irrigation system. Unfortunately, the investment required and the size of the project was too large for local farmers and the AO received no bids at the tender. Reportedly, some local farmers expressed interested in joining together to submit an investment proposal for consideration by the AO, but in the end were not able to organize the capital to present a bid. In all three cases, the AO clearly favored investment from local farmers and discouraged outsiders from coming in to bid for the land.

Understandably, the interest of farmers to invest in LRF land is low. In line with expectations, all stakeholders questioned during in-depth interviews report that a farmer's investment in one's own land is much higher than one's investment in land leased from another or from the AO. This is especially true of individual farmers who tend to enter into one year leases most frequently. Nevertheless, both independent and corporate farmers expressed the willingness to invest in leased land if the lease was for a long term. In-depth interviewees uniformly stated that if the lease term is 8 to 10 years they are willing to invest, but will not invest in land leased for one or two years. When asked what conditions are needed for a farmer to invest in LRF land, 60 percent of surveyed farmers and AO heads stated that a lease of ten years or longer was required. Individual farmers were least willing to invest in LRF land; 30 percent stated that they would only invest in land that they own. In an environment where credit is difficult and expensive to obtain and personal capital resources are limited, it is clear why farmers prefer to invest in their own land and not in LRF land.

d. Land with unclear status or “missing land”

Stakeholder reports to the LRMD project over the last year have raised questions about the legal status of a significant percentage of the total agricultural land in Kyrgyzstan. Under existing law, 75 percent of agricultural land of state and collective farms (approximately 1.6 million hectares) was supposed to be privatized and titled to individuals. The remaining 25 percent of this land was left in State ownership as part of the National Land Fund (later renamed the Agricultural Land Redistribution Fund – LRF). As shown in Chart 25, the total amount of private agricultural land should be 1.2 million ha and the LRF should be 0.4 million ha. Data in the 2008 Land Report issued by Kyrgyzgiprozem, the body responsible for inventory of all land, show a substantially different state of affairs (see Chart 26). These data show that private agricultural land totals about 1.06 million ha and that the LRF totals only 0.29 million ha, resulting in a shortage of land by 0.14 and 0.11 million ha respectively, which in total is approximately 16 percent of all agricultural land.

The Land Report lists approximately 150,000 hectares (9 percent of all agricultural land) as cultivated by state owned enterprises. These include seed and breeding farms (39,000 ha); scientific and educational institutions (1,800 ha); and other land users (110,000 ha). State enterprises are also cultivating some 23,500 ha of LRF land. A little over 100,000 ha, which is neither part of LRF nor cultivated by state enterprises, is listed as “land under AO jurisdiction” and consists of pastures, land under roads, public buildings, bodies of water, etc.

The study tried to address the issue of land with unclear status (also referred to as “missing land”) in both the questionnaires and the in-depth interviews. Understanding the sensitivity of this issue, the study tried to determine whether stakeholders are aware of the “missing land” phenomenon. AO heads, who are most informed on the legal status of land in the AO, failed to offer much information. When asked about “missing land” AO heads regularly referred to lands classified in the above report as “under AO jurisdiction.” Most respondents and interviewees seemed to be unaware or unwilling to speak about this issue, but those who offered answers mentioned in very general terms that they believe unaccounted land exists in their AO.

Both the findings of the Study and the results of the LRMD project (see text box below) offer evidence that the “missing land” problem is real and that some AOs control agricultural land with unclear legal status. Thus, questions related to transparency arise. It is not clear how these parcels are managed, who cultivates the land, whether the users are paying the land tax, and whether lease payments are made and to whom. The status of

Chart 25. Privatized Land vs. State Land According to the Law

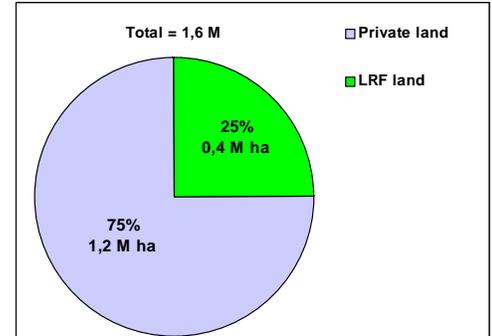
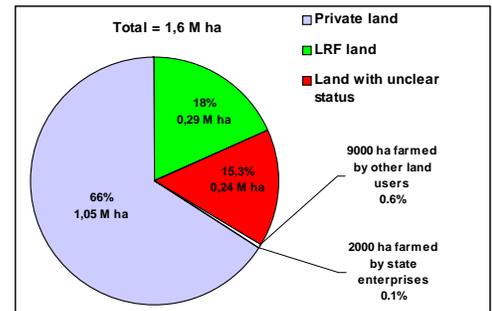


Chart 26. Privatized Land vs. State Land Actual Situation



Source: GosRegister

land cultivated by the state-owned enterprises (except for LRF land in their use) should also be clarified, legalized, and regulated.

Case Study on Unaccounted Land
In Novopavlovka Aiyl Okmotu, Chuy oblast

At the request of citizens in Novopavlovka AO, Sokuluk raion, Chuy oblast, the Government of Kyrgyzstan established a special commission to investigate local land use practices. In the course of its work the commission discovered about 900 ha of unaccounted land, which was used illegally for many years by an Association of farms “Krasnaya Zarya”. This fact was discovered after a conflict between the members of “Krasnaya Zarya” and the AO head. The members of association wanted the undistributed land of the farm to be redistributed to them as land shares. The AO head did not agree and wanted these lands to be identified to decide their future use. The commission also discovered that citizens who were not entitled to a land share were included on the list of potential land share recipients. The commission also reported that some citizens were listed twice to obtain a double share. Because of the attention raised by this dispute the Government tasked the commission to suggest solutions in similar cases.

Poorly regulated land registration and mapping of agricultural land at the AO level contributes to the problem. This fact is confirmed by the experience of the LRMD project in over 130 AOs while developing LRF strategic plans.

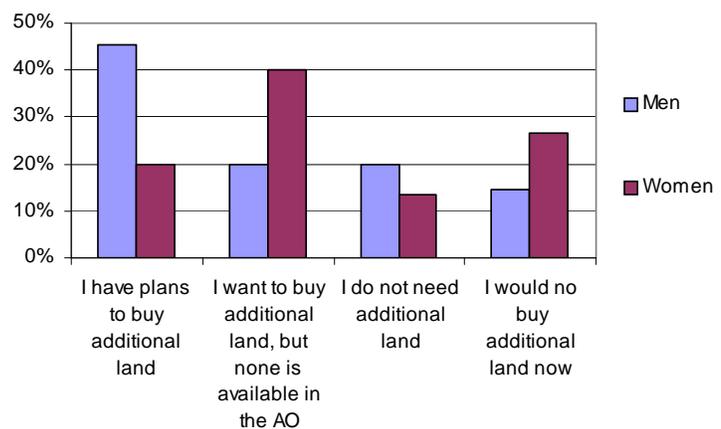
The study results and LRMD project experience, while not

conclusive, offer significant evidence that a problem exists with the legal status of a significant part of the agricultural land which needs to be studied further and regulated by the Government.

3. Gender Differences

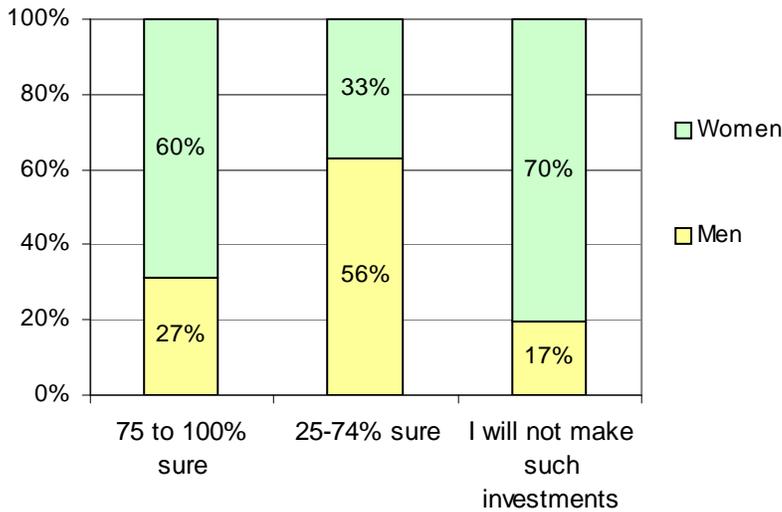
As stated in the section describing the survey respondents, over 80 percent of the respondents are men. As such it was difficult to make many meaningful generalizations between the behavior of men and women in most groups. The fact that 89 percent of AO heads and 93 percent of corporate farmers are men made gender comparisons in these two groups difficult. In general, the survey did not show any major differences in opinions based on gender, however, a comparison

Chart 27. Attitudes of Men and Women to Future Land Purchase



of the answers from men and women independent farmers and lessors, two groups with a significant number of women respondents, showed some interesting differences.

Chart 28. Attitudes towards Investing in their land in the next 12 months



Among individual farmers, 21 percent of the respondents were women.

Significant differences based on gender were noticed in only the following areas of questioning. First, men tend to have a greater tendency to conduct sale and purchase transactions. Over 45 percent of men

claim to have concrete plans to purchase additional land for their farms, while only 20 percent of women have such plans. In nominal terms, far more men completed a purchase of land in the past than women (8 to 1), but the sample size is too small to make a generalized finding on the matter. Second, women seem to be more likely to invest in their land than men. Seventy-three percent of women have invested in their land in the past compared to 53 percent of men who have done so. Also, 60 percent of women, as compared to only 37 percent of men, are at least 75 percent sure to make needed investments in their land in the next 12 months. The percentage of women who claim to be 100 percent sure to make such investments in the next 12 months is over twice as high as the percentage of men willing to invest (33 percent to 15 percent).

Among lessors 34 percent of the respondents were women. The main difference among lessors of different gender seems to be in the amount of rent men get as compared to their women counterparts. Men questioned in the Survey responded that on average they received 800 Som more in annual rent payments than women. While in nominal terms this amount is not substantial, in rural areas it would seem that 800 Som is a meaningful difference in the amount of rent received per year. Generally speaking, on average men and women lessors both earn just less than 50 percent of their annual income from lease of their land. Another difference is that men lessors seem more likely to undertake needed investments in their land. Only 9 percent of women are at least 75 percent sure to undertake investments in their land in the next 12 months, while 29 percent of men are 75 percent sure to undertake such investments.

RECOMMENDATIONS

The recommendations based on this study are made as a package, and not individually. While recognizing that all recommendations may not be accepted, a critical mass of these recommendations should be adopted and implemented for noticeable and significant improvement in land market activity and use of agricultural land to occur over the near term. Failure to adopt and implement a critical mass of these recommendations will likely result in continued degradation of land due to a lack of investment, increased abandonment of privately held land, stagnant volumes related to transactions for agricultural land, and ineffective management of agricultural land under state control. The recommendations are the following:

Legal Issues

- 1. Lift the legal restrictions on who may own and lease agricultural land. Legal entities, urban residents should be allowed to own agricultural land. Foreigners and foreign legal entities should be allowed to lease in land.**

Survey results show that investment in land is probably the largest need in agriculture in Kyrgyzstan. Currently, few land owners have sufficient capital resources to invest adequately in their land, especially for long term capital investments. As a result, lessors and individual farmers dealing with current economic difficulties tend to under use their land according to value decisions based on competing economic and personal interests. When times are difficult, farmers tend to invest just enough to realize their crop and get it to market. This level of investment is insufficient to maintain land quality and productivity over the longer term. Thus, land increasingly is degraded and at times abandoned as better economic opportunities take precedence over cultivating the land.

Lifting legal restrictions on land ownership will allow more potential buyers into the market, leading to higher demand for agricultural land, an increase in its value, and increased investment in the land. With security of land ownership, well capitalized corporate farmers are likely to invest larger sums in their farms. As corporate farmers secure larger holdings of land, they are also likely to invest in subsidiary agricultural enterprises which will help improve the local economy by creating jobs for rural residents. Commercial banks that are allowed to take title to and possession of land acting as collateral in case of default are more likely to engage in agricultural lending, raising the amount of capital available for investment in farms and subsidiary agricultural enterprises. Urban residents may also have excess capital available to invest in agricultural land, improving productivity of land and creating additional employment opportunities. Finally, serious consideration should be given to allowing foreigners to own agricultural land. Foreigners would likely invest not only in the land, but in subsidiary agricultural enterprises, creating job opportunities for rural residents. Fears of excessive foreign ownership of land can be dealt with through legal safeguards that can be included in the law.

Likewise, lifting restrictions on lease of land by foreigners and foreign legal entities is needed to increase the pool of potential lessees. These individuals and legal entities can

contribute to a rise in the value of land, by increasing demand for lease of land and increasing the annual lease price for one hectare. Kyrgyz citizens that are landowners will benefit from the increased demand for their land and AOs may see increased investment in degraded LRF lands as well capitalized foreigners vie to lease in larger tracts of LRF land. Concerns about export of vital agricultural crops (such as grains) produced by foreigners leasing in land can be addressed by export limits established by legislation.

The resulting increase in demand for land will increase prices, which would help motivate those who cannot use their land to sell. As prices increase, more land would become available for sale and lease contributing to possible enlargement (consolidation) of agricultural land parcels. Here the coordinated efforts of the State and donors may help to organized programs using market mechanisms for enlargement (consolidation) of land ownership.

2. Grant land ownership rights to municipalities (AOs)

The AO is often in the best position to assist in consolidating fragmented agricultural land since most AOs actively gather information on which land is abandoned, not used, and available for sale. With the right to own land the AO can also play an important role in any State and donor assisted land enlargement (consolidation) program by purchasing available land when other buyers are not present or unwilling. Purchased land would become the municipal property of the AO and be managed for the benefit of the community, most likely earning revenues through lease of the land. In addition purchasing the land by AOs conserve an efficient instrument for solving the abandoned land problem.

It is recognized that AO budgets are generally under funded and insufficient to permit the purchase of available land. Thus, the Government may consider making available a funding facility to assist AOs purchase land as part of a land enlargement (consolidation) program. Conditions for access to the facility could require that the AO match from its own budget any funds requested from the facility. State funds contributed to the purchase of agricultural land could be made available either as a grant or loan. Permitting AO ownership of land would also encourage greater care in management of land, as AO heads would be accountable to the public on how the purchased land is used and what benefit the land brings to the local budget.

3. Conduct an information campaign on possible benefits from attracting potential investors in land to minimize local fear of outsiders

The in-depth interviews of stakeholders identified a general fear and level of discomfort from local communities toward outsiders. Project experience working with AOs on LRF auctions and investment tenders confirms this finding, as AO heads and citizens prefer that only local farmers bid on available parcels in the AO and try to discourage outsiders from participating in auctions and tenders. Such attitudes may severely limit investment in a rural community and depress new economic activity.

Efforts are needed to educate rural communities on the benefits available from outside investment. A pilot rural investment promotion program should be established to help interested rural communities attract outside investment. Such program would be best organized with donor assistance and provide real examples for how investment can improve rural livelihoods and the local economy without damaging the community. Any program should be conducted with technical assistance from trained investment promotion specialists, who would work with community leaders to attract investment from agri-business investors, help organize the acquisition of land needed for such investments, and advise on negotiating equitable terms for investment projects. Such assistance can help local communities realize the benefits of new investment in agriculture and provide a model under which other rural communities can use land as an asset to benefit the community.

Land Transactions

1. Use the AO and other local entities to make information available on sale and lease of agricultural land

Survey results show that demand for land is very high, yet potential lessees and purchasers of agricultural land suffer from lack of information on available land. To stimulate activity in the land market, thereby promoting greater enlargement (consolidation) of land parcels and increases in land values, information on land available for sale and completed transactions within the community is collected by most AOs and should be made publicly available. The LRMD project's experience with LRF land auctions exemplifies the benefits of the AO publicizing the availability of land. As a result of announcing the availability of LRF land at public auctions, AOs have realized over 300 percent more revenue from lease of LRF land than they had initially budgeted for LRF leases allocated without competitive bidding. The same can occur for private land sale and lease if information on available land is gathered in an organized manner and posted publicly. For example, the demilgechi, who work in many rural communities and are already recognized as an important resource related to land issues, could assist the AO head to gather information on all transactions occurring within the AO and make the information publicly available in a central location in the community. For instance, Demilgechi could also act as intermediaries, assisting sellers and purchasers to negotiate reasonable contracts that result in transfer of the land between the parties.

2. Grant limited registration rights to the AO, for instance as authorized Gosregister agents and simplify the registration procedures on medium and long term lease agreements

The study found that most land lease transactions are not concluded in writing and, even when written, are rarely registered at Gosregister. Most lessees explain that they lease out their land for a short term to a neighbor who they know and trust. Yet, without a written agreement land disputes become difficult to resolve and rights of the parties are difficult to enforce. To encourage parties to conclude written agreements and register leases, a simplified process for concluding and registering written lease agreements should be established.

A model form of agricultural land lease agreement should be developed under a technical assistance project and widely distributed. The model lease should include simple instructions on how to complete the form. To account for different circumstances, several model forms of lease can be drafted with accompanying instructions. The instructions should explain to the parties how to fill in the blanks and that the agreement should be attested by the AO secretary and recorded at the AO. The law should provide the AO secretary with the power to attest a written agreement for lease between two parties. The AO secretary would be responsible to confirm in writing the identity of the parties to a written lease agreement and to ensure that all clauses have been completed. The parties may be required to pay a very modest fee for this service.

After the agreement is concluded, the AO should be empowered by law to record the basic details of the agreement in the AO lease registry book. The registry book should be an official record of the AO, but be available at all times to Gosregister. Once recorded in the AO lease registry book, parties would be under no obligation to record a lease with Gosregister.

3. Gosregister should cooperate with AOs to gather information on local land transactions

The study showed that AOs actively collect information on land transactions in their community, but that this information is often not recorded by Gosregister, and thus not part of official records on land ownership and use. To address this problem effectively, regional offices of Gosregister should establish closer cooperation with AOs in their jurisdiction to collect information gathered by AO heads on all land lease and other transactions. To ensure the functionality of this proposal, Gosregister should be responsible for collecting information at the AO level, by traveling to each AO and copying data from the AO's lease registry book; the burden of data collection should be on Gosregister and not the AO.

Enlargement (Consolidation) of Land

1. Develop a national legal framework and a program on market driven land enlargement (consolidation)

Changes to the legal framework that promote voluntary enlargement (consolidation) of land using market mechanisms, such as long term lease, sale and purchase, and exchange of land are needed in Kyrgyzstan. Changes to laws should include the following:

- simplify procedures for registration of rights when purchasing multiple parcels of land;
- reduce of the costs associated with registering rights to multiple parcels of land;
- introduce formal attestation and registration of land lease agreements at the AO level;
- create easy procedures to complete exchanges of land between two individuals within a community; and
- establish a grant or credit facility available to AOs that wish to purchase land from land owners in their community as part of the enlargement (consolidation) program.

Based on legal amendments promoting consolidation of land, pilot programs sponsored by donors or the Government itself can promote land enlargement (consolidation). Such a program should include the gathering of information on the local and regional level on land available for sale, lease, or exchange and disseminating such information widely to the general public. The program should identify farmer entrepreneurs (leaders) as potential acquirers of larger tracts of land from those willing to sell or lease. Exchange of parcels should be encouraged as necessary to assemble a larger tract of land, when there is an unwilling seller or lessor. Legal assistance should be provided to those willing to engage in transactions related to enlargement (consolidation) so that contracts are prepared quickly and efficiently. Necessary safeguards should be instituted for all parties to the transaction. Finally, the program should also seek to attract commercial lenders to provide credit for purchases of multiple parcels of land.

2. Conduct an information campaign on land enlargement through market instruments

It is important to include public education and information as part of any land enlargement (consolidation) efforts. Most rural land owners are unfamiliar with the various mechanisms available to enlarge their land holdings. Even without a State sponsored program, public education should be used to increase awareness of the benefits of enlargement of land parcels and the mechanisms available to enlarge one's land holdings (such as exchange and long term lease). Information on those interested in enlarging their land holdings or disposing of their land is necessary to encourage action by potential acquirers of land and disposers of land. Dissemination of the land enlargement experience of other countries like Moldova can help alleviate the community's fears that foreigners will buy all the land or its biases against legal entities and urban residents accumulating holdings in their community.

3. Institute financial incentives for farmer entrepreneurs (leaders) willing to take efforts to enlarge (consolidate) land

Given the strategic importance of enlarging the size of agricultural land holdings, it seems logical for the Government to encourage such actions through modest financial incentives. As with other investment incentives for agriculture, they should be limited to those purchasing sufficiently large quantities of land as part of a land enlargement (consolidation) effort. Incentives can be based on the size of the investment in land and be contingent on the purchaser holding the land for a required period of time to avoid land speculation.

Degraded and Abandoned Private Land

1. Offer financial incentives to private owners that undertake long-term investments in agricultural land

The incidence of degraded and abandoned private land around the country is increasing and is confirmed by the study findings. To encourage investment in such land, the

Government should consider offering financial incentives to those that undertake long term capital investments and improvements in their agricultural land. It is generally beneficial to the State's food security interests to encourage investment in the land. For example, installing and improving irrigation systems, taking measures to stop erosion, and reclaiming land of otherwise poor quality are all likely to contribute to greater food security. Thus, a graduated scale of investment incentives, which bases the amount of the financial incentives on the amount invested in the land, could motivate farmers to invest more heavily in long term improvements to the land by having the Government share some of these costs.

2. Improve mechanisms for State taking of land and other principles in the law that will allow abandoned land to be reclaimed and placed into productive use

Existing law allows the State to take land from a private owner if the land is not used for a period of three years. While these provisions exist in the law, there should be appropriate protections built in to safeguard private property rights and to ensure that the State pays just compensation for any taking. In cases of abandoned land, the State and local government (AO) should be empowered to appeal to the court and take ownership of the land after payment of just compensation based on the land's market value. If the land's owner cannot be found, compensation required as part of the taking by the acquiring authority must be placed in a fund for the benefit of the land owner. When an owner appears, the proceeds, including interest, would be paid to the former owner.

Other mechanisms to encourage productive use of abandoned land should be considered. In case land taxes on abandoned land are not paid, the State could implement a system whereby it auctions off the tax liability to a private party. The tax purchaser pays the land taxes for the owner in the expectation of either reimbursement from the owner with a high rate of interest or taking ownership of the land after the passage of a defined period of time and a court ruling that the rights to the land are forfeited by the owner. In addition, if AOs are given the right to own land, they could attempt to purchase land that is abandoned as part of a consolidation process.

Land Tax

1. There should be consideration for increasing the land tax to stimulate rural land market and efficient land use

Answers by stakeholders to direct questions posed in the survey show that land tax is generally considered to be fair. However, other findings from the survey lead one to believe that the land tax may actually be too low, encouraging land owners to hold onto unproductive land or use good land inefficiently because there is little real cost to holding land. A tax increase may encourage passive land owners and those underutilizing their land to consider selling or leasing to a more effective farmer.

Tax Code legislation currently pending in the Jogorku Kenesh would raise the land tax by approximately 33 percent, which might be sufficient to encourage land owners to dispose of unused or inefficiently used land. This legislation proposes a revision of the land tax

every four years. If passed, the effects of any land tax increase on the rural land market should be monitored closely by the Government to ensure that it stimulates market activity and promotes the transfer of private land to one that puts the land to productive use. When the time for revising the tax legislation arises, evidence of the impact of the tax on the rural land market should be taken into account before proposing any changes.

A secondary benefit to an increase in the land tax is the positive effect on local budgets. Given decentralization of local government and the increasing need for AOs to finance their own activities, a higher land tax may provide much needed revenues to the AO. Extra income to the AO might be used to engage in enlargement (consolidation) of small land parcels or undertake other needed activities within the community.

2. Land Tax should be based on the value of land, not on per hectare figures or normative values

The law related to taxation of land is contradictory. One law provides that land tax is based on land quality as measured by soil fertility and other characteristics, while another provides that land tax should be based on normative values. Practical evidence shows that the actual tax paid by land owners is too low. International best practices for taxation of land point to the establishment of land taxes based on the market value of land. Pending tax legislation provides the opportunity for a comprehensive review of the land tax system and the inclusion of value based taxation principles. Mass valuation models can be applied to estimate the market value for land in each of the “targeted use” categories. Valuations models can include consideration of a parcel’s location, available utilities and public services, and other factors. Any model should use simple mechanism to gather general characteristics of the land and improvements to determine a taxation value. Regional coefficients can be applied to equalize the value among all areas of the country, ensuring equity in the tax paid by all land owners. By adopting ad valorem taxation of land, emphasis is placed on using market mechanisms to increase the value of land.

Land Transformation

1. As part of the AO LRF strategic planning process, identify LRF land that should be transformed to another category of land.

The LRMD project has successfully developed a methodology for strategic planning for future use and management of LRF land. One-hundred-and-thirty AOs have completed this process and have developed their strategic plans, which classify land according to its quality and usefulness to the AO and community and identify the worst land in need of substantial investment. The strategic plan includes new maps of the LRF land showing its size and exact location. As part of this process, land identified as the worst quality and most difficult for use in agriculture could be slated for transformation to another “target use” category, most likely pasture land. With the Government funding allocated to complete the LRF strategic planning process in the coming years, it should take no more than 3 years to complete all land surveys and strategic plans and identify the improperly categorized land for transformation.

2. Institute a systematic three-year land transformation program under which Government considers applications from all AOs to reclassify the worst LRF land

As part of the ongoing LRF strategic planning process, the Government should implement a complimentary program to transform and reclassify LRF land that no longer is usable according to its “targeted use” category. Based on completed AO LRF strategic plans and new land survey maps of the LRF, each AO should be encouraged to file applications for an expedited transformation of the worst LRF land. To simplify the process, the Government should establish clear standards for transformation of LRF land to another “targeted use” category. The Government committee on land transformation should be convened, consider applications for transformation, and quickly approve a change in the “targeted use” or subcategory of the land in question. Each year as more AOs complete their LRF strategic plans, another set of applications for transformation of the worst land should be considered by the Government committee on land transformation. Conducted systematically, the process will allow for improperly categorized land to be re-categorized and put to its highest and best use in a short period of time.

Degraded Land

1. Continue pilot efforts to use investment tenders by AOs under the LRMD project methodology

The investment tender methodology developed by the LRMD project has been used in a few pilot AOs to varying degrees of success. Applying lessons learned from each of these investment tenders, the LRMD project has already improved the methodology. In response to the inability of farmers to afford large investments in LRF land, the project has helped AOs determine a fixed amount of investment needed in degraded LRF land and convinced some AOs to contribute to the cost of long term improvements in the subject land, making it possible for farmers to work jointly with the AO to improve the land and make it productive. Using such innovative schemes, the investment tender methodology could be improved continually to obtain meaningful investment in LRF land. Other improvements to the methodology could include simplifying the tender documents related to the financial/investment proposals used to evaluate bids for lease of LRF land and improving preparation of AO officials in the conduct of LRF investment tenders. Additionally, large tracts of land between 1 and 20 hectares should be tendered out for investment as one parcel, with individual farmers interested in placing bids encouraged to cooperate and combine their resources in an effort to win the tender. Coupled with other efforts (such as investment incentives from the government and land enlargement programs where the AO acquires land) parcels of LRF land needing substantial investment can be consolidated and offered under long term leases to investors willing to obtain large tracts of land for their production needs. Competition among investors will help encourage appropriate investments in LRF land that will improve the land and yield long term benefits to the local community.

2. Offer financial incentives to those willing to invest in LRF land

The incidence of degraded LRF land in all AOs is increasing and is confirmed by the study findings. To encourage greater investment and use of such land, the Government should offering financial incentives to those willing to invest in LRF land according to the investment needs identified in the AO LRF strategic plan. A graduated scale of LRF investment incentives could be instituted, where the size of the incentive is based on the amount invested in the land and the length of time over which such investment will occur. There might also be requirements for how long the LRF land is leased out, to ensure that the investor has sufficient time to undertake the investments and yield the benefits from such investment. This Government cost sharing program to encourage investments in public land should help motivate farmers to invest in long term improvements of LRF land.

3. Establish programs designed to attract foreigners and foreign legal entities to lease and invest in degraded LRF land

Lifting restrictions on lease of land by foreigners and foreign legal entities, if adopted, would allow for the establishment of specific programs aimed at rehabilitating degraded LRF land. The government should attract foreign individuals and legal entities with excess capital and the ability to implement new farming technologies (e.g., drip irrigation techniques, etc.) to enter into long term leases for degraded LRF land based on investment commitments into the land. The LRMD project's methodology could be employed to conduct open and transparent investment tenders in AOs with tracts of degraded LRF land. Concerns that foreign entities may exploit Kyrgyz land to produce grains for export to their home countries can be addressed through limits on export of grains for these entities or other procedural safeguards enacted as amendments to the legal framework that allows foreign entities to lease in land.

While the AO leasing out degraded land might not realize much revenue from the annual lease payments in the short term, it can realize long term investment into unproductive land and retain control over this land for future benefit of the community and local farmers. For example, land in need of irrigation systems could be leased out for 20 years under condition that the foreign entity install and maintain the irrigation system. Upon expiration of the 20 year lease, the improved land could be leased out at higher annual lease rates to local farmers. Other long term benefits of this program could result in increased job opportunities for local citizens in rural AOs as foreign entities seek seasonal labor or vertically integrate operations into processing of agricultural produce.

Land with unclear status

- 1. Conduct a comprehensive inventory of agricultural land as part of the AO strategic planning process. Establish legal norms for classifying all agricultural land and standards for management of land that is now has unclear status.**

The study confirms the existence of agricultural land with unclear legal status in many AOs. While there is limited direct evidence of this phenomenon, a number of indirect factors indicate that the problem is sufficiently large to require attention by the Government. It is estimated that the size of land that is not properly accounted for may be as large as 100,000 hectares. To investigate the problem, the Government should consider conducting an inventory and mapping of all agricultural lands under the control of the AO. Once an inventory is complete, an unbiased determination of the status of such lands and whether they have been properly classified under the existing legal framework can be conducted. Based on responses from stakeholders during in-depth interviews, it is likely that some land will be found that should be part of the LRF and is currently improperly registered.

ANNEXES

Annex 1a. Current issues affecting the development of a land market

| Issue | Effect | Remedy | Status |
|--|---|--|--|
| <p>LRF land. Most LRF land is unmapped and managed in a non-transparent way.</p> | <p>(1) AOs do not know how much LRF land they manage. (2) LRF land being leased under favourable terms to personal connections of AO leaders irrespective of the true market price. (3) AOs are deprived of a significant amount of income from market-valued leases.</p> | <p>(1) LRF land needs to be surveyed and mapped to ascertain size of LRF land in each AO and where it is located. (2) Lessees of LRF need to be identified to make LRF land administration more transparent. (3) Strategic plans for managing LRF land need to be developed by each AO to improve administration by local authorities and increase transparency. (4) Auctions need to be conducted for LRF land leases, so that leases can be given through a transparent mechanism— information on lessors and market prices becomes known to all.</p> | <p>(1) The USAID Land Reform and Market Development Project (LRMDP) has assisted 130 AOs to complete the strategic plans for the LRF land under their management. (2) The project helped to conduct 33 auctions. (3) Government will continue work to undertake inventory through Giprozem (part of Gosregister) and deliver State Acts.</p> |
| <p>Future of LRF land. Government has recently decided on the future of LRF land to retain state ownership and transform the LRF into the State Land Reserve (SLR).</p> | <p>(1) AOs will continue to manage SLR land. (2) Central government will establish local offices to work with AOs.</p> | <p>(1) Adopt law transferring LRF land to State Land Fund with concrete goals for how this land will be used. (2) Adopt a new regulation on how to manage the land under the new State Land Fund, based on project experience, to give guidance to aiyl okmotus for how this land can be leased and managed in an effective and transparent manner.</p> | <p>(1) The LRMDP has been assisting the Government to draft the plan for future LRF land. (2) The LRMDP will assist in drafting the necessary legislative amendments to provide the legal basis for how LRF land will be governed in the future. (3) By early May, government should approve future strategy for LRF land.</p> |

| Issue | Effect | Remedy | Status |
|--|--|--|---|
| <p>Investment tenders. Some of the plots of LRF land are not ready to be farmed, but will require investment before it can be leased. In some cases, the investment required will be significant.</p> | <p>(1) This land is often left unused and continues to degrade. (2) AOs are deprived of potential income from leases of this type of land. (3) Loss of potential agricultural output.</p> | <p>(1) Investment tenders should be organized for this land to attract the necessary investment to improve the land. (2) For land requiring significant investment, which farmers cannot afford, three choices should be considered: (a) Privatize the land and allow it to be sold to legal entities, which could have sufficient money for investment; (b) Amend the law so that foreigners can lease the land; (c) Launch a state program to invest in this land.</p> | <p>The LRMDP organized two pilot investment tenders in March and is currently preparing a report on the positive results.</p> |
| <p>Legal entities. Legal entities cannot own agricultural land.</p> | <p>(1) Companies wishing to invest in agricultural production cannot. (2) Banks do not offer mortgages for agricultural land since they cannot take possession in the event of foreclosure.</p> | <p>Amend Law on Agricultural Land Management to allow legal entities to own agricultural land.</p> | <p>Amendments drafted and to be taken up by Parliamentary Committee on Agriculture.</p> |
| <p>Urban dwellers. Urban dwellers cannot own agricultural land.</p> | <p>(1) Pool of potential buyers of farmland is limited to the generally poorer rural population. (2) Informal market exists of urban dwellers buying land through rural third parties acting as fronts. Buyers' rights cannot be protected and they are often abused.</p> | <p>(1) Amend Law on Agricultural Land Management to allow all Kyrgyzstan citizens to own land.</p> | <p>Amendments drafted and to be taken up by Parliamentary Committee on Agriculture.</p> |

| Issue | Effect | Remedy | Status |
|---|--|--|---|
| <p>Mortgage. Legal obstacles prevent banks from easily providing mortgages for agricultural land.</p> | <p>(1) Banks can already offer mortgages for agricultural land, but avoid doing so given the legal obstacles. (2) Because legal entities cannot own land, in the event of foreclosure, banks must quickly find another two-year local resident to whom it can transfer the land. (3) According to current legislation, land is valued at a normative price rather than its potential market value.</p> | <p>(1) Amend Law on Agricultural Land mortgage to give banks the ability to own land directly so that it can take on the risk of a mortgage. Banks should be able to own land for 1-3 years. In the event of foreclosure, it may take a bank a long time to offload the property to a willing buyer. (2) Amend legislation to use market price to determine land value rather than normative price.</p> | <p>Working Group on Mortgage is currently meeting to develop the appropriate legislation.</p> |
| <p>Fragmentation. Land is fragmented into small plots.</p> | <p>(1) Farming on small plots is inefficient and unprofitable. (2) Investors, should they be allowed to buy land, will be uninterested in buying small plots.</p> | <p>(1) Fragmented land plots can be enlarged through a formal consolidation scheme backed by central and/or local governments. (2) Enlargement of land plots can be promoted through long-term lease arrangements or buying of multiple plots. (3) Demilgechi can be trained as brokers to facilitate such land transactions as a way of making their network self-sustainable.</p> | <p>LRMDP is studying possible mechanisms.</p> |
| <p>Degraded land. Degraded land is land where there was insufficient investment and the quality of the soil is poor.</p> | <p>(1) This land is not productive and no longer used as agricultural land. (2) This land may actually be productive but has been classified as degraded in order for the AO to escape having to pay the tax on it.</p> | <p>(1) Significant investment is required to restore the land to productive use. (2) Land could be transformed into pastureland or another category of land. (3) Land needs to be surveyed to establish transparency of use. (4) Adopt Law on Transformation of Land to allow this reclassification to occur.</p> | <p>The need for drafting a Law on Transformation of Land has only now just been proposed by Parliamentary Committee on Agriculture.</p> |

| Issue | Effect | Remedy | Status |
|---|---|---|---|
| <p>Abandoned land. Rural residents, who have left to work abroad or who can no longer farm, have abandoned tracts of land throughout Kyrgyzstan.</p> | <p>(1) Abandoned land becomes degraded over time due to lack of care. (2) The unused land is unproductive. (3) Owners do not pay land or social insurance taxes, depriving the AOs of sources of income.</p> | <p>Land Code should contain provisions for expropriating such abandoned or unused land (eminent domain) with clear procedures so that courts can ensure due process for all cases of takings.</p> | <p>Draft amendments to the Land Code contain eminent domain provisions, but these need to be reviewed to ensure they remedy the existing problem of abandoned land.</p> |
| <p>Land transformation. Villages are growing and agricultural land is used for this purpose, but there is no legal basis for transforming land for this use.</p> | <p>Without a legal basis, proper procedures and planning, good agricultural land is being wasted as residential land by default.</p> | <p>(1) Adopt Law on the Transformation of Land to make the process of transferring land from one category to another in an easy and transparent manner. (2) AOs need to adopt proper planning for their growth and introduce zoning regulations.</p> | <p>Issue to be discussed by Investment Council.</p> |
| <p>Municipal agricultural land. Municipalities or AOs cannot own agricultural land.</p> | <p>(1) AOs cannot buy up fragmented land plots to consolidate into larger plots. (2) AOs cannot take possession of abandoned land to resell and put back into use. (3) AOs are deprived of a potential source of income that would come from selling large plots of consolidated land.</p> | <p>Adopt law giving AOs to ability to own and convey agricultural land, which will strengthen the AO budgets and give them the power to solve local land problems. Decentralization of government in management of land and give them the ability to receive additional profit from using and selling the land, potentially leading to their self-sustainability.</p> | <p>Relevant amendment needs to be drafted.</p> |
| <p>Missing land. There are tracts of “missing” land existing within AOs. In some AOs, this “missing” land is twice as big as LRF land.</p> | <p>(1) Nothing is known about this “missing” land: its size, its ownership, to whom it is leased, how it is administered. (2) Farmers increasingly realize that AOs are managing this land in a non-transparent manner despite demand for additional farmland. (3) Not clear if any taxes are being paid on this land, depriving AO of potential revenue.</p> | <p>All land within an AO should be inventoried and mapped and not simply registered.</p> | <p>The LRMDP has only recently raised the sensitive issue of “missing” land.</p> |

| Issue | Effect | Remedy | Status |
|--|---|--|---|
| <p>AO borders. The borders and true size of AOs are unknown.</p> | <p>(1) AOs do not know the extent of the territory they must administer. (2) AOs encroach on each other’s territory as they grow and expand, producing border conflicts. (3) AOs lose out on potential tax revenue by not being able to assess accurately the size of the land under their management.</p> | <p>(1) The external boundaries of each AO needs to be mapped and surveyed. (2) The internal boundaries between different categories of land also need to be mapped.</p> | <p>(1) The Government has proposed a Law on Territorial Administrative Reform based on the new Constitution. (2) The State Agency of Local Government has proposed that the LRMDP conduct a pilot in 10 AOs to map and draw borders as a means of preparing a plan to understand how much resources will be needed to cover the whole country.</p> |
| <p>Boundary disputes. Systematic registration of agricultural land does not map the land parcel in the context of the AO.</p> | <p>(1) Although owners know the size of their plot, they do not know the correct borders of the plot in relation to other neighboring plots. (2) There are frequent boundary disputes between owners.</p> | <p>Inventory of all plots needs to be conducted at the level of AO in the field itself.</p> | <p>LRMDP Demilgechi are currently assisting to define the boundaries between plots and to reduce any border conflicts. Demilgechi provide this service free of charge.</p> |
| <p>Registration of transactions. Gosregister is organized according to raion—often far from where a land transaction occurs; lease agreements under three years do not need to be registered.</p> | <p>(1) Land transactions are occurring outside the registration system. (2) Notaries often have more information about some types of land transactions than Gosregister. (3) Data on land transactions is inaccurate. (4) AOs do not have sufficient information about all the land transactions within their territory.</p> | <p>AOs should be involved in the registration process for certain types of land transactions.</p> | <p>Issue has only recently emerged.</p> |

| Issue | Effect | Remedy | Status |
|---|--|--|---|
| <p>Market value. Property is assessed according to the normative value rather than market value.</p> | <p>(1) The normative price is supposed to be used as the starting price for auctions and tenders. (2) Taxation is calculated at normative value, which either undervalues the property or overvalues it. (3) Compensation for eminent domain is calculated according to the normative value, which either undervalues the property or overvalues it.</p> | <p>Amend Land Code to remove use of normative price.</p> | <p>Government is studying amendments to the Land Code to make this change. LRMDP is assisting Government.</p> |
| <p>Land tax. Dispute between Government and Parliament over the value of the land tax in 2005 has left the previous tax rates in effect. Recently proposed changes to Tax Code worsened the situation. Government has proposed AOs to pay for tax on all LRF land whether or not the land is being used.</p> | <p>(1) Land tax is calculated on the basis of the normative value, its category and location. This results in insufficient tax in some areas, but in others, the tax is far too high. (2) Land usage is negatively affected by tax values that do not reflect the true value of the land.</p> | <p>(1) Market value should be used to determine the correct tax assessment. (2) Develop a new system of land taxation in order to improve transparency.</p> | <p>Project sent comments to government about the negative affects of the proposed tax change.</p> |
| <p>Pastureland. There is no accurate size or borders for pastureland. No clear management mechanisms for pasturelands.</p> | <p>(1) AOs do not manage pastureland properly. (2) Pastureland near to villages is intensively overused, resulting in degradation. (3) Distant pastures are also degraded through lack of sufficient use. (4) Some good quality arable land is used a pastureland because of a lack of sufficient pastureland nearby.</p> | <p>Government must reform management of pastureland.</p> | <p>LRMDP has prepared legal analysis parting cooperation with the World Bank.</p> |

| Issue | Effect | Remedy | Status |
|---|---|--|---|
| <p>Land for tourism purposes. Numerous disputes in tourism areas, especially Ysykkol, when agricultural land has been used for tourism purposes without going through the process of transformation.</p> | <p>(1) Investors remain ignorant of their rights and procedures. (2) It is a high risk for investors because the land cannot be registered and their rights as a result cannot be protected. (3) Conflicts occur between different levels of government over the sale and use of this land.</p> | <p>(1) Improve controls over land transactions to protect the rights of investors buying/leasing land in tourism areas and improve the transparency of information about the type of land they are buying/leasing. (2) Prepare investment packets for those wishing to invest in land in tourism areas so that they will know the zoning rules, their rights and understand the procedures.</p> | <p>LRMDP has provided limited consultation for investors and AO on this issue.</p> |
| <p>Information and training campaign. Majority of population remains unaware of important legal changes regarding land issues.</p> | <p>(1) Farmers and other types of investors cannot protect their rights and do not understand important procedures. (2) All levels of government do not correctly apply the laws.</p> | <p>(1) Need for information campaign on a national scale to inform population of legal changes. (2) Due to new Government and Parliament, officials at all levels are unfamiliar with land legislation and land-related issues.</p> | <p>Parliament has asked LRMDP to conduct a nationwide information campaign on all legislative reforms regarding land once they have been achieved. Parliament has asked LRMDP to conduct training seminars for MPs on land issues.</p> |

Annex 1b. Comparison of LRMD Project Assumptions and Study Findings on Rural Land Market Development

| Issue | Project Assumptions | Study Finding | Conclusions and Explanations |
|--|--|---------------|--|
| Legal rights to own land | Legal restrictions prevent legal entities (corporate farms), urban residents, and municipalities (AOs) from owning agricultural land. They have a negative impact on the rural land market and investment in agriculture. Loosening restrictions would increase demand for and investment in agricultural land, leading to improvements in agricultural and a rise in the value of such land. | True | The study confirmed these assumptions. Corporate farmers and AOs are interested in purchase of land and would engage in transactions if the law is amended. Corporate farmers are most willing to undertake investments in land, which should increase if corporate farmers are allowed to own land. |
| Registration of land transactions | Land transactions occur outside the formal system causing inaccuracies in data on land and risks to parties engaging in informal transactions. Notaries have more information about certain transactions than Gosregister. AOs do not have sufficient information on land and transactions and should play a greater role in registration of certain types of transactions. | Partly True | While land transactions, mainly leases, often occur outside of the formal system (Gosregister system) many transactions are registered at the AO level. AOs seem to collect information about land transactions, and seem to have more information on lease transactions than Gosregister. The Study did not investigate information possessed by notaries. |
| Mortgage credit | Legal obstacles prevent banks from taking agricultural land as collateral for loans, limiting the capital available for investment in agriculture. Valuation of land makes it difficult for farmers to obtain credit needed for their farming operations. Amendments to the legal framework removing ownership and valuation restrictions are needed to encourage commercial banks to enter this market. | True | Stakeholders report that most commercial banks are not interested in issuing credits to farmers using land as collateral. Should loans be available, its size is required to be no less than 50 percent of land plot's normative price. Thus, banks seem unwilling to accept land as collateral. |
| Land tax | Land tax rates are based on the normative price and thus inequitable; too low in some areas, encouraging inefficient use of land, and too high in other areas, unfairly burdening land owners. Land usage is negatively affected by the tax which does not reflect the true value of the land. A new system of land taxation reflecting market valuation principles should be implemented. | Partly True | The law bases land tax rates on normative prices and quality of land, depending on the law consulted. Land tax is considered fair by the vast majority of stakeholders, but actually seems to be too low. Land usage is definitely affected by the land tax; lessors are motivated to cultivate their land if land tax rises. Collection and distribution of land tax seems poorly regulated because of legal contradictions.. |

| Issue | Project Assumptions | Study Finding | Conclusions and Explanations |
|--|---|--------------------|--|
| <p>Land fragmentation and enlargement of land parcels</p> | <p>Agricultural land parcels are small and inefficient to cultivate, limiting the production capacity and efficiency of agriculture. Farmers (and investors) willing to purchase land are not interested in small parcels. Fragmented land parcels should be enlarged and consolidated through a State sponsored program that promotes enlargement of parcels by long term lease and arranging the simultaneous sale/purchase of multiple parcels.</p> | <p>Partly True</p> | <p>Ownership of land parcels is fragmented; the average land share is 0.37 ha and often consists of more than one parcel. There is no indication that farmers will not purchase small parcels, but an organized program supporting and encouraging enlargement (consolidation) needs to be implemented. Market mechanisms should be used to promote enlargement (consolidation) of land. The State and donors could support a voluntary market driven program that provides information about those interested in purchase/sale, long term lease and exchange of land and supports the completion of transactions.</p> |
| <p>Use of LRF land</p> | <p>AO heads do not have a full accounting of LRF land. Some AO heads lease LRF land on favorable terms to associates and influential citizens. Limited competition for LRF lands deprives AOs of needed revenue from lease of the LRF. LRF land needs to be inventoried and its management must become more transparent. LRF land needs substantial investment. Lands in need of investment should be identified and offered at investment tenders. In cases where too large an investment is required, transformation or privatization of the land should occur.</p> | <p>True</p> | <p>LRMD project work shows that AO heads have poor information on LRF land. Stakeholders report that much LRF land is unused and other LRF land is often provided to influential farmers using non-transparent means. Stakeholders desire more transparent management of LRF land and better access to the LRF. They also seem to agree that degraded and poor quality LRF land should be transformed to another “target use.”</p> |
| <p>Transformation of land</p> | <p>The process of transforming land from one “targeted use” category to another is time consuming and cumbersome, limiting the local community’s ability to use a land parcel appropriately. A law on transformation that improves and simplifies existing procedures and adoption of proper land planning (zoning) would encourage more appropriate use of land.</p> | <p>True</p> | <p>Few stakeholders, except AO heads, have experience with transformation. Those who do complain that the process is long and often complicated. Stakeholders worry that allowing AO heads to approve transformation requests may encourage non-transparent deals which exclude public access to good LRF lands.</p> |

| Issue | Project Assumptions | Study Finding | Conclusions and Explanations |
|--|--|---------------|--|
| Degraded and abandoned land | The amount of such land is increasing, due to lack of investment and labor migration. Difficult economic conditions, unprofitability of agriculture, and the need to pay land taxes drive this increase. Improved procedures for transformation of land should decrease the amount of degraded agricultural land, converting such land to a more appropriate use category. The adoption of eminent domain provisions in the Land Code should allow the State to reclaim abandoned land and put it to better use. | Partly True | The amount of degraded and unused land seems to be increasing. The situation seems to be driven by difficult economic conditions causing labor migration or low investment in land. It is not conclusive that land taxes contribute to degraded and abandoned land. Increased investment and improved rural economic conditions are most needed to halt degradation and abandonment of land. |
| Missing or unaccounted for land | There is evidence that agricultural land in many communities is not properly accounted for, promoting mismanagement of land to the detriment of the community. It is also possible that taxes are not being collected on this land. Thus, comprehensive inventory and registration of all land in the AO should occur; some of this land should be transferred into ownership of the AO to ensure proper and transparent management. | True | The study found indirect evidence of missing and unaccounted land. Comprehensive inventory of agricultural land in AOs would help identify whether such land exists and how it should be dealt with. |

Annex 2a. Matrix of recommendations to encourage transactions for privately owned agricultural land and the active use of privately owned agricultural land

| Key Issue | Recommendation | Short Term Action | Medium Term Action | Long Term Action |
|--|---|--------------------------|---------------------------|-------------------------|
| Legal Issues | Lift the legal restrictions on who may own and lease agricultural land. Legal entities, urban residents should be allowed to own agricultural land. Foreigners and foreign legal entities should be allowed to lease in land. | X | | |
| | Grant land ownership rights to municipalities (AOs) | X | | |
| | Conduct an information campaign on possible benefits from attracting potential investors in land to minimize local fear of outsiders | X | X | |
| Land Transactions | Use the AO and other local entities to make information available on sale and lease of agricultural land in the community | X | | |
| | Grant limited registration rights to the AO, for instance as authorized Gosregister agents, and simplify the registration procedures on medium and long term lease agreements | | X | |
| | Gosregister should cooperate with AOs to gather information on local land transactions | | X | X |
| Enlargement (Consolidation) of Land | Develop a national legal framework and a program on market driven land enlargement (consolidation) | | X | |
| | Conduct a public information and outreach campaign on land enlargement through market instruments | X | X | |
| | Institute financial incentives for farmer entrepreneurs (leaders) willing to take efforts to enlarge (consolidate) land | | X | X |
| Degraded and Abandoned Private Land | Offer financial incentives to private owners that undertake long-term investments in agricultural land | | X | X |
| | Improve mechanisms for State taking of land and other principles in the law that will allow abandoned land to be reclaimed and placed into productive use | | X | X |
| Land Tax | Increase the land tax to stimulate rural land market and efficient land use | X | | |
| | Base the land tax on the market value of land, not a fixed rate per hectare or a normative value | | X | X |

Annex 2b. Matrix of recommendations regarding the effective use and management of LRF Lands

| Key Issue | Recommendation | Short Term Action | Medium Term Action | Long Term Action |
|---------------------------------|---|--------------------------|---------------------------|-------------------------|
| Land Transformation | As part of the AO LRF strategic planning process, identify LRF lands that should be transformed to another category of land | X | | |
| | Institute a systematic 3 year land transformation program under which Government considers applications from all AOs to reclassify the worst LRF land | X | | |
| Degraded Land | Continue pilot efforts to use investment tenders by AOs under the LRMD Project methodology | X | X | |
| | Offer financial incentives to those willing to invest in LRF land | | X | |
| | Establish programs designed to attract foreigners and foreign legal entities to lease and invest in degraded LRF lands | | X | X |
| Land with Unclear Status | Conduct a comprehensive inventory of agricultural land as part of the AO strategic planning process. Establish legal norms for classifying all agricultural land and standards for management of land that is now unaccounted for | | X | |

Annex 3. List of Aiyl Okmotus Included in the Study

| <i>No</i> | <i>Oblast</i> | <i>Raion</i> | <i>Aiyl Okmotu</i> |
|-----------|-------------------------|-----------------|--------------------|
| 1. | Osh oblast | Nookatskii | Bel'skii |
| 2. | | Nookatskii | Teeleskii |
| 3. | | Aravanskii | Too-Moyun |
| 4. | | Kara-Suiskii | Kyzyl-Kyshtak |
| 5. | | Kara-Suiskii | Zhany-Arykskii |
| 6. | | Alaiskii | Sary-Mogol |
| 7. | | Kara-Suiskii | Ak-Tash |
| 8. | | Kara-Suiskii | Zhooshskii |
| 9. | | Uzgenskii | Kyzyl-Too |
| 10. | | Uzgenskii | Changet |
| 11. | Batken oblast | Kadamjaiskii | Uch-Korgon |
| 12. | | Kadamjaiskii | Markaz |
| 13. | | Batkenskii | Kara-Bulak |
| 14. | | Batkenskii | Kyshtut |
| 15. | | Batkenskii | Suu-Bashy |
| 16. | | Batkenskii | Tortkul |
| 17. | | Kadamjaiskii | Ak-Turpak |
| 18. | | Batkenskii | Samarkandek |
| 19. | | Lyailyakskii | Toguz-Bulak |
| 20. | | Lyailyakskii | Margun |
| 21. | Jalalabat oblast | Toguztorouskii | Kara-Suu |
| 22. | | Suzakskii | Atabekov |
| 23. | | Bazarkorgonskii | Zhany-Akman |
| 24. | | Bazarkorgonskii | Beshik-Zhon |
| 25. | | Alabukinskii | Ak-Tam |
| 26. | | Nookenskii | Shaidan (now Alma) |
| 27. | | Alabukinskii | Ak-Korgon |
| 28. | | Alabukinskii | Oruktu |
| 29. | | Toguztorouskii | Kargalyk |
| 30. | | Toktogul'skii | Abdy Suerkulova |

| <i>No</i> | <i>Oblast</i> | <i>Raion</i> | <i>Aiyl Okmotu</i> |
|-----------|------------------------|-----------------|--------------------|
| 31. | Ysyk-Kol oblast | Aksuiskii | Ak-Bulun |
| 32. | | Tyupskii | Sary-Bulak |
| 33. | | Dzheti-Oguzskii | Lipenka |
| 34. | | Tyupskii | Ysyk-Kel |
| 35. | | Dzheti-Oguzskii | Zheti-Oguz |
| 36. | | Dzheti-Oguzskii | Kyzyl-Suu |
| 37. | | Tonskii | Kun-Bagysh |
| 38. | | Tonskii | Ak-Terek |
| 39. | | Yssyk-kul'skii | Bosteri |
| 40. | | Yssyk-kul'skii | Temir |
| | | | |
| 41. | Naryn oblast | Aktalinskii | Ak-Tal |
| 42. | | Narynskii | Min-Bulak |
| 43. | | At-Bashinskii | Kazybek |
| 44. | | Dzhumgalskii | Zhany-Aryk |
| 45. | | Dzhumgalskii | Tugolsai |
| 46. | | Dzhumgalskii | Chaek |
| 47. | | Dzhumgalskii | Zhany-Aryk |
| 48. | | Kochkorskii | Talaa-Bulak |
| 49. | | Narynskii | Kazan-Kuigan |
| 50. | | Narynskii | Dobolu |
| | | | |
| 51. | Talas oblast | Bakai Atinskii | Boo-Terek |
| 52. | | Bakai Atinskii | Ak-Dobo |
| 53. | | Kara-Buurinskii | Kok-Sai |
| 54. | | Talasskii | Zhergetal |
| 55. | | Manasskii | Kyrgyzstanskii |
| 56. | | Talasskii | Kokoi |
| 57. | | Talasskii | Karasuu |
| 58. | | Talasskii | Aral |
| 59. | | Talasskii | Dolono |
| 60. | | Talasskii | Nurzhanov |

| <i>No</i> | <i>Oblast</i> | <i>Raion</i> | <i>Aiyl Okmotu</i> |
|-----------|--------------------|----------------|--------------------|
| 61. | Chui oblast | Alamudunskii | Leninskii |
| 62. | | Dzhaiylskii | Poltavskii |
| 63. | | Moskovskii | Aleksandrovskii |
| 64. | | Moskovskii | Chapaevskii |
| 65. | | Panfilovskii | Voznesenovskii |
| 66. | | Panfilovskii | Kurpul'dekskii |
| 67. | | Sokulukskii | Novo-Pavlovskii |
| 68. | | Sokulukskii | Kyzyl-Tuiskii |
| 69. | | Chuiskii | Iskrinskii |
| 70. | | Yssyk Atinskii | Ysyk-Atinskii |

Annex 4. International Experience on Land Consolidation

Agricultural history around the world has repeatedly shown that every nation has used different methods to achieve agricultural land consolidation. The objectives of land consolidation programs vary from one country to another, while the mechanisms used for consolidation are developed and applied depending on the historical and cultural trends, traditions, and legal framework of each nation.

In Western Europe agricultural land consolidation has been practiced since the 1780s, when the first land re-parceling program started in Denmark. Modern land consolidation approaches were developed after the World War II. Until the 1970s these programs focused mainly on reducing fragmentation, enlarging farm sizes and improving agricultural structures. When these goals were by and large achieved, the land consolidation programs shifted their focus on environmental protection.

The European tradition of land consolidation is generally characterized by its voluntary and market-based approach. Consolidation project periods vary from a few years (typically 2 to 3) in case of local projects on improving the agricultural structure) to more than a decade while implementing public projects on infrastructure development (roads, irrigation) or community re-shaping. Consolidation of agricultural land was influenced by a number of factors, including scientific advancement and social processes. Over the last 2 to 3 decades consolidation reached a certain level of stability, which allows one to speak about the “optimal” farm size, which is different for each particular country – please refer to Table A1.

Table A1. Share of Agricultural Lands Farmed by Different Farm Size Categories in Selected EU Countries

| Country | No. of agricultural enterprises | Distribution of land plots by farm size (%) | | | | |
|---------------|---------------------------------|---|---------|----------|----------|------------|
| | | 1-5 ha | 6-10 ha | 11-20 ha | 20-50 ha | over 50 ha |
| Great Britain | 17 806 | 0.7 | 1.4 | 3.6 | 13.6 | 80.6 |
| France | 29 619 | 2.4 | 4.8 | 14.0 | 38.2 | 40.6 |
| Germany | 12 527 | 6.7 | 10.7 | 25.5 | 41.4 | 16 |
| Italy | 16 807 | 21.7 | 16.3 | 15.0 | 14.4 | 32.6 |
| Belgium | 1 479 | 5.9 | 12.4 | 28.6 | 36.6 | 16.5 |
| Ireland | 4 790 | 2.5 | 7.3 | 21.3 | 37.2 | 31.7 |
| Luxemburg | 131 | 2.3 | 4.1 | 13.1 | 59.4 | 21.4 |
| Holland | 2 083 | 4.7 | 11.3 | 31.0 | 41.2 | 11.8 |
| Denmark | 2 927 | 1.6 | 6.5 | 18.9 | 44.1 | 28.9 |

Source: Evolution of the Land Relations System in the Republic of Moldova, Study developed by FNFM and IDIS Viitorul, Chisinau, 2008

In Great Britain farms over 50 ha utilize 80.7 percent of the total farmland. The average size of farms from this category in Great Briatain equals 171 ha, in France – 86 ha, in Germany – 80 ha. Large agricultural enterprises farming over 400 ha do not play an important role in EU member states.

Case Study on Land Consolidation Projects in Moldova

The Land Privatization Support Project (LPSP) in Moldova was funded by USAID and implemented from 2003 to 2006. The initial scope of the project was correction of the land title mistakes made during the land mass privatization program in the late 1990's. However, during LPSP implementation, the need to address the land fragmentation problem arose as its impact on land market development became evident. Thus, the project developed a separate component focused on providing assistance with land consolidation transactions.

LPSP land re-parceling activities began in 2004 with a pilot project in one village in the South-Eastern part of Moldova. Over 200 landowners joined the process and around 160 ha were consolidated in one field through 25-year lease agreements between land owners and a wine producing company. As a result of re-parceling, the winery was able to create 100 new jobs in the community. After this first re-parceling project, similar activities were conducted in over 45 rural communities of Moldova. In a clear majority of these projects the land consolidation mechanisms were selling, buying and exchanging of the land parcels. As a result of these transactions, individual landowners were often compensated with land parcels closer or next to other parcels they owned.

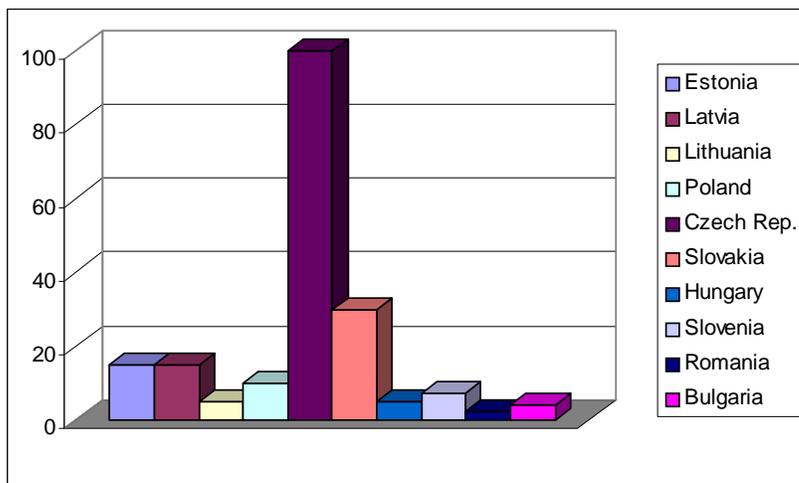
The re-parceling projects under LPSP were normally initiated by a corporate agricultural or processing enterprise (potential investor), which was actively seeking to purchase consecutive land parcels in one field for large scale agricultural production. It was the buyers' responsibility to negotiate agreements with the individual owners. The project served as an intermediary between the landowners and buyers and offered technical support to village mayors' offices in applying a simplified land transactions process developed under LPSP following the appropriate amendments to the Land Code. The project worked in cooperation with some national NGOs, using their network of regional and local representatives to maintain permanent contact with project beneficiaries.

One of the major achievements of the LPSP re-parceling projects was the simplified time and cost saving procedure for registering land transactions, under which the local mayor's office took over some notary functions.

Following the model created under LPSP, in 2007 to 2008 several other land re-parceling projects were funded by the Government of Moldova and international donor organizations.

Taking into consideration certain particularities of the agricultural sector in USA, it can be mentioned that this highly developed country has only 2.5 million farms with an average size of 155 hectares each. Large farms with over 400 hectares comprise only 5.5 percent of the overall number of farms in the USA, however they cover as much as 54.5 percent of the total country's farmland.

Chart A2. Average Farm Size Categories, hectares



Source: *The Future of Rural Areas in the CEE New Member States*, Institute of Agricultural Development in Central and Eastern Europe, Halle Germany,

Excessive land fragmentation is quite typical for the Central and Eastern European countries. Approximately 97 percent of the 9.2 million farms from 10 examined CEE countries are under 20 ha, while 82 percent are smaller than 5 ha. The average size varies from 2 ha in Romania to 100 ha in the Czech

Republic (Chart A2), reflecting a quite diverse structure of farms. As a result of the privatization process, the state was virtually eliminated from this sector. Production cooperatives disappeared almost entirely in all of these countries, except for the Czech Republic, Bulgaria, Slovakia, and, to a lesser extent, Hungary. In the remaining six CEE countries examined the overwhelming majority of the agricultural land is farmed by either corporate enterprises or individual and family farms⁸.

Possible Interventions in Kyrgyzstan

The international experience in land re-parceling and consolidation (especially the experience of some ex-Soviet countries, which have a similar history of recent land reforms) provides the Republic of Kyrgyzstan with a solid background for developing its own legal framework and methodology. Any methodology developed should be based on Kyrgyz legislation and traditions, but it also should take into consideration the realities in which Kyrgyzstan exists presently and not on some questionable comparisons with past decades.

Various mechanisms can be used for land re-parceling and consolidation. Special attention should be given to the already existing and working mechanisms, such as land lease. Simplification of registration procedures and reduction of fees would be a good stimulus for encouraging medium- and long-term leasing. A similar impact would be achieved by simplification of other land transactions (such as buying-selling, exchanging, inheritance, and donation) through empowerment of AO administrations with limited registration rights on these types of transactions.

Historically, it is proven that the best results are achieved by economies with a diversity of organizational forms, which seems to be the case of Kyrgyz agriculture at present. However, as mentioned above, the analysis of farmed land structure shows an obvious predomination of family-type small subsistence farming, especially in the Southern regions of the country. This promotes the idea of applying some new forms of organization, such as business cooperatives. As opposed to the production cooperation, which obliges the members to work collectively, business cooperatives allow members to combine the market principles of private ownership and private entrepreneurship with the necessity of land consolidation. While each farm remains an independent economic unit, business cooperation allows farmers to join efforts and resources to solve jointly those problems that cannot be solved by each farmer separately. These problems include purchasing inputs at better prices, obtaining mechanical services for all the members' land parcels, marketing of agricultural products, and other types of activities. Farmers can be members of several cooperatives simultaneously. Such forms of second-level business organizations are quite developed in many countries of the world and, by and large, prove to be extremely beneficial for farmers. Thus, developing the legal framework for business cooperation and offering initial organizational and informational support to the farmers could boost land consolidation efforts in Kyrgyzstan.

⁸ Viorel Chivriga, Anatol Cîșlaru, Viorel Furdui, *Businessintelligence*, April 16-30 2007, Volume 1, no. 6

Obviously, the main focus of the land re-parceling and consolidation process should be on increasing efficiency of land use and agricultural production. Thus, measures on improving the organizational structure of land should be based on viable and dynamic business development plans rather than on administrative and territorial division. In addition, land consolidation efforts would have a greater chance for success if they are combined with and supported by specialized investment support programs for enterprises that would implement consolidation projects. Those investment programs could be focused on priority areas and/or sub-sectors to boost the further development of Kyrgyz agriculture, and may include planting of new perennial crops, developing of modern breeding farms, purchasing equipment to process agricultural products, introducing modern farming technologies, machinery and equipment, etc.

Another effective mechanism for land plot consolidation would be the opening of a specialized preferential credit line with state subsidized interest rates for persons intending to buy land. This facility may also support public administration units at all levels to purchase parcels of land for consolidation of entire fields in municipal ownership.

The range of mechanisms applied for land consolidation based on market principles may take other forms, including unique forms developed and applied exclusively for Kyrgyzstan. However, both the international experience and the results of the in-depth study interviews suggest that land re-parceling and consolidation process should be based on the following fundamental principles:

1. Land consolidation has to be participatory, democratic, and community driven;
2. The legal framework for land consolidation should be based on market instruments and not on administrative command practices;
3. The focus should be on improving rural livelihood through creating conditions for converting subsistence type farming into medium-size agribusiness;
4. Land consolidation should provide a basis for encouraging investments in both land and agricultural modernization;
5. All the legal forms of agricultural enterprises should be given equal rights and treatment in consolidation programs with an emphasis on encouraging private entrepreneurs (leaders) willing to take qualified business risks.

**USAID LAND REFORM AND
MARKET DEVELOPMENT PROJECT**

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