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Land Policy in Russia: New Challenges

by

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2.2 Land Policy in Russia: New Challenges

Natalya Shagaida and Zvi Lerman¹

Abstract

The article examines the outcomes of 20 years of land reform in Russia's agriculture. The landownership structure is assessed, the risks voiced at the beginning of the reform are reevaluated, and new risks related to the development of landownership are highlighted. Russia's land policy has gone through several stages since the beginning of reform: from clearly formulated policies and procedures in the early 1990s to a set of administrative activities entrusted to disjointed land authorities at the present time. Despite institutional difficulties, the land market in Russia is developing, land has become transferable, it is actively redistributed between peasant farms and corporate farms, flows to new users. Due to the absence of an organ that controls and manages the country's land endowment, the land policy is unable to respond to new challenges that arise in the course of ongoing land reform.

Twenty years since the beginning of land reform in Russia we are still far from the originally declared goal – mobility of land resources and their redistribution in response to market signals in agriculture. It seems appropriate to review the process and draw some intermediate conclusions. The policy of removing agricultural land from the traditional users (collective and state farms – *kolkhozes* and *sovkhozes*) implemented in the early 1990s was expected to be conducive to conflict-free restructuring of agricultural assets. In practice, however, the responsiveness of Russia's agriculture to change was significantly reduced by a combination of factors: galloping inflation, political uncertainty, breakdown of established supply and marketing channels in agriculture, and low attractiveness of agribusiness to investors. Beyond all that, the rate of change was severely slowed down by the pervasive resistance of local authorities to the withdrawal of individuals with their share of collective property and establishment of new farms during the early years of reform (when the asset base in rural areas was still intact). Therefore, all through the 1990s agricultural land largely continued to be managed by successors of collective and state farms.

The 1998 crisis created new options for agricultural producers and awakened the interest in land among entrepreneurs from other sectors of the economy. The new developments were stimulated by expansion of existing investment channels and substantial reduction of administrative pressure from local authorities. In parallel, however, new constraints emerged: new regulations governing partition and distribution of land plots and creation of land users (both corporate and individual) substantially increased the transaction costs by requiring detailed survey of land plots, preparation of official cadastral documents, and registration of land rights and transactions in land.

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As of today, the new land transaction mechanisms are too costly, too unwieldy, or simply beyond the capacity of individual landowners and conventional agricultural producers.² Mobility of land has increased primarily through the activity of entrepreneurs who invest in agricultural land, although they are not necessarily willing to engage in agriculture or agribusiness. These investors are non-conventional producers: the investor-owned agrohholdings can cover the high transaction costs with income from non-agricultural sectors and they have the professional and legal capacity to tackle the complex registration procedures.

Agricultural land: contraction and redistribution

To understand the Russian land statistics, we have to start with a brief description of the terminology. Agricultural land (*sel'skokhozyaistvennye ugod'ya* in Russian) designates land that is used or can potentially be used for agriculture. It is typically subdivided into arable land (the most fertile component of agricultural land), land in perennials (orchards and vineyards), hay meadows, and pastures (Land Code 2014, art.79). Agricultural land is a component of agriculturally zoned land³ (*zemli sel'skokhozyaistvennogo naznacheniya* in Russian), which is defined (Land Code 2014, art. 77) as land outside settlements earmarked for the needs of agriculture (or more precisely the needs of farms or agricultural producers). “Needs” are not restricted to agricultural production. In addition to agricultural land, this land category includes intra-farm roads, communications, forest belts planted as protection from harmful natural and anthropogenic effects, water bodies (rivers, ponds, swamps, lakes), and land under farm buildings used for storage and primary processing of agricultural products. In effect, this is land allocated to farms for their uses, and not necessarily for primary agricultural production. The structure of land in Russia’s farms in 2013 is shown in **Figure 2.2.1**: agriculturally zoned land represents 74% of total land in farms, which is divided roughly half and half between agricultural land (blue segment) and other (non-agricultural) agriculturally zoned land (orange segment); the remaining 26% of land in farms are other land, neither agricultural nor even agriculturally zoned.

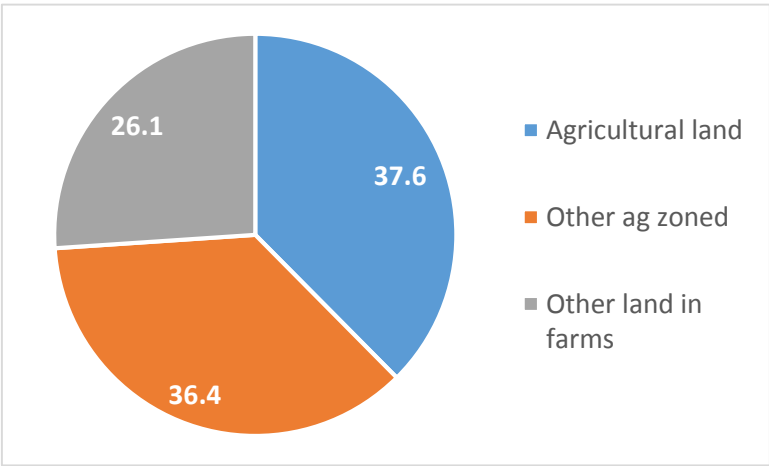


Figure 2.2.1. Structure of land use in farms, 2013 (percent of total land in use 522.2 million ha).

² By conventional producers we mean individual and corporate farms created in the process of restructuring of former *kolkhozes* and *sovkhazes* without capital inflow from investors in other sectors. Capital inflows from other sectors typically create agrohholdings, non-conventional farming structures also called “new agricultural operators”.

³ This is an ad hoc term that we use in the absence of an accepted equivalent in English. The concept of zoning in the sense of specifying the allowed uses for a particular region has not been implemented so far in Russia. An alternative translation could be “agriculturally targeted land”. The unofficial English translation of the Land Code uses the term “agricultural-purpose land” (Land Code English 2001, Chapter XIV).

Contraction of agricultural areas is often highlighted as one of the negative outcomes of reform. Between 1991 and 2013 agriculturally zoned land decreased by 37% (**Table 2.2.1**). However, much of agriculturally zoned land is not agricultural land and is not used for primary agricultural production. The contraction of agricultural land as the main resource in agriculture is not so dramatic. Agricultural land as a component of agriculturally zoned land remained constant at about 196 million ha between 1991 and 2011 (**Table 2.2.1**); agricultural land in use by farms (including agricultural land from other land categories) decreased by less than 13% between 1991 and 2013 (**Table 2.2.1**).

Table 2.2.1. Changes in agriculturally zoned and agricultural land 1991-2011, million hectares

A	Land in agriculture	1991	2006	2013	2013/1991, %
1	Agriculturally zoned land	621	401.6	386.1	62.2
2	Land in use by corporate agricultural producers	637.5	458.7	422.0	66.2
3	Land in use by individual agricultural producers	6.1	79.3	100.2	1642.6
4	Land in use by all agricultural producers	643.6	538	522.2	81.1
5	Of which: agricultural land in use by agricultural producers	219	191.6	191.1	87.3
B	Agricultural land	1991	2006	2013	2013/1991, %
1	Total agricultural land in all land categories**	222.4	220.7	220.2	99.0
2	Agricultural land in agriculturally zoned land	196.1	194.4	196.2	100.1
3	Agricultural land in use by corporate agricultural producers	212.9	137.9	119.8	56.3
4	Agricultural land in use by individual agricultural producers	6.1	53.7	71.3	1168.9
5	Agricultural land in use by all agricultural producers	219	191.6	191.1	87.3

**"Land in agriculture" is all land used in or intended for the agriculture sector. It is broader than agriculturally zoned land: not all agriculturally zoned land is used by producers and producers are not restricted to using only agriculturally zoned land (see, e.g., lines 4 and 1).

**The seven land categories are agriculturally zoned land, land in settlements, land for industry and other special uses, protected territories, forest lands, water fund lands, state land reserve. There is some agricultural land in each of the seven categories, which explains why total agricultural land (220.2 million ha in 2013) is greater than agricultural land in agriculturally zoned land (196.2 million ha).

Source: Rosreestr (2013).

The main outcome of agricultural reform was the dramatic change in farm structure. In 1990, corporate farms (*kolkhozes* and *sovkhozes* at that time) dominated agriculture: they controlled 97% of agricultural land in use by producers. By 2013, the situation had changed radically: the share of corporate farms in agricultural land used by producers had dropped to 63%, while the share of the individual sector (household plots and peasant farms that began to be created in 1992) had increased from 3% in 1991 to 37% in 2013. Thus, as of now, individual producers (household plots and peasant farms combined) control more than one-third of agricultural land and the corporate farms, although still the largest land user, no longer dominate agriculture in quite the same way as in 1991.

The distribution of agricultural land among different categories of agricultural producers is shown in **Table 2.2.2**. The largest category of producers today are private corporate farms, i.e., farms created

through restructuring of former *kolkhozes* and *sovkhozes*. They control 57% of all agricultural land. The second largest category are the household plots (24% of all agricultural land) – physical bodies who engage in agricultural production without being registered as a legal entity.⁴ Peasant farmers increased their holdings from zero in 1990 to 12% in , while state and municipal farms control less than 5% of agricultural land (down from 55% in 1990).

Table 2.2.2. Distribution of agricultural land among agricultural producers 1990-2011

Agricultural producers	1990		2013	
	Area, mln ha	% of total	Area, mln ha	% of total
Peasant farms	0	0	22.5	11.8
Household plots	3.8	1.8	48.7	25.5
Private corporate farms	84.9	39.7	109.2	57.1
State and municipal corporate farms	117.3	54.9	6.6	3.5
Other users	7.8	3.6	4	2.1
Total	213.8	100	191.1	100

Source: Rosreestr (2013)

Agricultural land “managed” or “controlled” by farms does not necessarily mean land “used” by farms. Statistical organs do not monitor actual land use by agricultural producers. The share of land actually used by producers can be determined only from agricultural censuses, the last of which was conducted in 2006 (the next agricultural census is planned for 2016). Based on the 2006 agricultural census, the share of actually used agricultural land did not exceed 50% in 10 out of 87 Russia’s administrative divisions (**Table 2.2.3**).

Agricultural land is underutilized even in regions with favorable natural-climatic conditions, such as Kaluga and Ivanovo oblasts (50% and 49% of land use respectively) and Chechnya (36%).⁵ In some cases, even neighboring regions with similar agro-climatic conditions fall in different land-use groups: agricultural land use in Altai Territory is 86%, whereas in Altai Republic it is as high as 93%; in Tambov and Voronezh provinces the land use rate is 76% and 86% respectively; in Tula and Orel provinces 57% and 81% respectively; and in Kabardino-Balkariya and Northern Osetiya 95% and 76% respectively.

Theory suggests that production shifts to regions that yield greater returns, i.e., regions where conditions are more favorable for agriculture (for empirical evidence see Uzun (2012)). This, however, hardly explains the widely differing share of land in actual use (or, equivalently, abandoned land) between regions with similar natural-climatic conditions in Russia. This issue clearly requires further research.

Despite the varying and uncertain reasons for abandonment of agricultural land, the government policy in Russia has chosen one corrective measure for all: expropriation of unused land. This measure ignores the widely differing natural, socio-economic, and demographic conditions in different regions, not to say differences in demand for agricultural land across Russia.

⁴ We use the term “household plots” to designate an aggregate of 11 groups of individual land users according to the Rosreestr classification, all of which are physical bodies. This aggregate does not include the so-called individual entrepreneurs (about 3% of agricultural land in the individual sector), which are physical bodies but are nevertheless combined with peasant farms for statistical purposes.

⁵ The political unrest limits the use of agricultural land in Chechnya. In Kaluga Oblast, some agricultural land in the southern districts is partly unusable due to radioactive contamination as a result of the Chernobyl nuclear accident (Kaluga 1987).

Table 2.2.3. Grouping of Russia's administrative divisions by share of agricultural land in actual use

Percent of land used	Number of divisions	Administrative divisions
More than 90.1	9	Republics: Kabardino-Balkariya, Bashkortostan, Altai, Tatarstan, Udmurtiya; Rostov Oblast; Stavropol and Karnosar Territories; Chukotka Autonomous Oblast
80.1-90	11	Republics: Kalmykiya; Oblasts: Nenets Autonomous Oblast, Belgorod, Lipetsk, Voronezh, Kemerovo, Novosibirsk, Amur, Omsk, Orel; Altai Territory
70.1-80	19	Sakha (Yakutiya), Mordoviya, Mariy El, Chuvashiya, Kareliya, Adygeya, North Osetiya-Alaniya, Tyva; Oblasts: Biribidjan, Tyumen, Kursk, Orenburg, Samara, Volgograd, Tambov, Chelyabinsk, Saratov, Moscow; Perm Territory
60.1-70	18	Republics: Dagestan, Ingushetiya, Karachaevo-Cherkesskaya; Yamalo-Nenets Autonomous Oblast; Oblasts: Astrakhan, Penza, Tomsk, Sverdlovks, Ryazan', Nizhnii Novgorod, Kurgan, Vladimir, Vologda, Leningrad, Yaroslavl'; Krasnoyarsk Territory
50.1-60	14	Republics: Komi, Khakasiya; Khanty-Mansiisk Autonomous Territory–Yugra; Oblasts: Kostroma, Kaliningrad, Sakhalin, Tula, Irkuts, Kirov, Ul'yansovsk, Bryansk, Pskov, Kamchatka; Primorskii Territory
40-50	8	Republic: Buryatiya; Oblasts: Kaluga, Ivanovo, Tver, Arkhangelsk, Novgorod, Murmansk, Smolensk
Less than 40	2	Chechnya Republic; Magadan Oblast

Source: 2006 Agricultural Census

Main landowners in Russia

One of the goals of land reform was privatization of agricultural land and its transfer to individual users. As part of the interim outcomes of reforms, let us consider the structure of agricultural landownership, focusing on the share of agricultural land that remains in state ownership. Unfortunately, statistical organs do not track the changes in ownership structure of agricultural land, while the Unified Rights and Transactions Register (EGRP) does not identify the type of land (agricultural or other) undergoing registration or participating in a transaction. The structure can be accurately computed only if we have detailed documentation of the privatization processes from the early 1990s and all the subsequent changes in rural land. Some calculations carried out by the authors are presented in **Table 2.2.4**.

Table 2.2.4. Ownership structure of agricultural land in use of various groups of agricultural producers as of 1 January 2013, %

Agricultural producers	Owned by				Total
	User	Collective of individuals	State, municipality	Other	
1. Partnerships, companies, cooperatives	10.7	68.6	19.5	1.2	100
2. State corporate farms	0.3	7.9	91.2	0.6	100
3. Other corporate farms	11.3	16.9	70.7	1.2	100
4. Total corporate farms	10.2	62.2	26.4	1.2	100
5. Peasant farms	21.3	29.4	41.9	7.4	100
6. Household plots	39.0	0.9	59.9	0.2	100

Source: Rosreestr (2013).

The list of agricultural producers in **Table 2.2.4** reflects the restructuring of the farm sector since 1991. Former collective and state farms (*kolkhozy* and *sovkhozy*) were restructured into a range of corporate entities (partnerships, companies, cooperatives), some newly constituted and some acting as successors of former agricultural enterprises. Most corporate farms today are private entities, but some remain state owned. The agricultural land of private corporate farms was divided into land shares and these were assigned to most rural residents, who became land-share owners. Individuals could withdraw from the collective with their land share, creating an independent peasant farm, or they could choose to keep their land in collective, joint ownership. The last group of agricultural producers are household plots, which are basically small individual producers continuing the tradition of Soviet semi-subsistence agriculture in the post-reform market environment.

In 2012, collectives of individuals (i.e., recipients of land shares in former collective farms who continue to hold them in joint ownership) were still the main source of agricultural land used by corporate farms (**Table 2.2.4, line 4**) and especially private corporate farms created through restructuring of former *kolkhozes* and *sovkhozes* (**Table 2.2.4, line 1**). The vision of partitioning collective property into land plots in individual ownership through consolidation of land shares in various transactions has not materialized, although the required mechanisms were laid down at the very beginning of reform.

The partitioning was constrained first by administrative restrictions and later by high transaction costs (the cost of reconfirming previously endowed land rights, transactions with land shares, surveying costs, meeting requirements for cadastral registration of individual plots created from partition of joint property, etc.).⁶ This has led to abandonment of land plots (if no outsiders showed any interest in acquiring these plots), on the one hand, and to large-scale sale of land shares or even expropriation of land rights, on the other.

In addition to drawing on collectively owned land shares, corporate farms are a large landowner in their own right. In 2012, corporate farms owned more than 10% of the land in their use (**Table 2.2.4, line 4**), up from 8% in 2010. The share of agricultural land in direct ownership of corporate farms markedly increases from year to year, especially in certain regions. Land in ownership of corporate farms increased from 3.6 million ha in 2001 to 11.4 million ha in 2013, trebling in share from 2% to 6% of all agricultural land (see **Table 2.2.5**).

The state and municipalities are currently the owners of only 26% of agricultural land managed by corporate farms (**Table 2.2.4, line 4**) if the state and municipal unitary⁷ enterprises are excluded, the share drops to 18%. We do not know below what limit the state might run into risks associated with loss of control in land markets when increases in land prices and lease rates make land unaffordable to agricultural producers. This problem may become particularly acute if there are no limits on concentration of land by a single owner and producers may be faced with monopolistic land prices in their regions. In the absence of monopoly on land plots, the risk of high prices is reduced.

However it may be, the privatization of land to individuals reinforced by the need to reorganize land use in successors of restructured agricultural enterprises and in newly created farms have created the necessary conditions for mobility of land. Despite the high transaction costs, land is slowly but

⁶ For a detailed estimate of transaction costs and their causes see Shagaida (2010).

⁷ A unitary enterprise in Russian Civil Code is a legal body that does not have ownership rights to the assets that it controls.

steadily being redistributed between different groups of users: between peasant farms and corporate farms, between corporate farms and household plots, and between corporate successors of traditional land users and their neighbors (**Table 2.2.5**).

Table 2.2.5. Redistribution of agricultural land between main groups of agricultural producers 2001-2013*

Types of landownership	2001		2006		2013	
	Mln ha	%	Mln ha	%	Mln ha	%
1. Privately owned agricultural land	128.7	65	128.1	67	132.9	70
1.1. Land in joint ownership	113.7	58	111.3	58	96	50
Successors of collective and state farms (“share ownership”)	107.8	55	93.4	49	69.7	37
Other corporate farms	1.7	1	4.2	2	5.6	3
Peasant farms	2.8	1	5.4	3	7	4
Other individuals					0.5	0
Land-share owners	1.4	1	8.3	4	13.2	7
1.2. Other forms of private landownership:	15.0	8	16.9	9	36.9	19
Peasant farms	6.3	3	6.3	3	7.6	4
Corporate farms	3.6	2	3.0	2	11.4	6
Household plots	5.1	3	7.6	4	15.9	8
Unclassified users					2	1
2. State-owned land in use of agricultural producers	68.3	34	63.5	33	58.2	31
Total in use of agricultural producers	197.0	100	191.6	100	191.1	100

* No data for 1990.

The data in **Table 2.2.5** demonstrate the following outcomes of land reform.

1. Agricultural land in private ownership increased by 4.2 million ha between 2001 and 2013, i.e., an increase of 350,000 ha each year on average (line 1 in **Table 2.2.5**). Annually, this works out at less than 0.2% of agricultural land used by agricultural producers (bottom line in **Table 2.2.5**). In the same period, the state lost 10 million ha of agricultural land (line 2 in **Table 2.2.5**), but only 40% of this went to increase private holdings while the remainder was abandoned, as the total land in use of agricultural producers shrank by 6 million ha (bottom line in **Table 2.2.5**).
2. The main redistribution occurs not between the state and private landowners, however, but between different groups of private landowners. Successors of collective and state farms lost 38 million ha between 2001 and 2013, while land-share owners gained nearly 12 million ha and other private landowners (line 1.2 in **Table 2.2.5**) gained 22 million ha during this period.
3. Between 2001 and 2013 agricultural land in joint ownership decreased by 17.7 million ha (line 1.1 in **Table 2.2.5**). Some of this land shifted to private ownership of corporate farms, peasant farms, and household plots, which in total increased their holdings by 22 million ha (line 1.2 in **Table 2.2.5**). Of this, 11 million ha of agricultural land shifted to corporate and peasant farms. This can be regarded as a positive development because the land remains in agricultural production. The remaining 11 million ha went to increase the household plots, where agriculture is not a fully commercial activity. This shift to household plots may be a signal that agricultural land is being withdrawn from active farming with the intention of using it for construction.

4. Some of the land assigned in land shares (plots in shared ownership, a subcategory of joint ownership) shifted from the successors of reorganized collective and state farms to neighboring farms (both corporate and peasant farms, which gained 4.9 million ha and 4.2 million ha respectively). Yet most of the land lost by successor farms came under the direct control of land-share owners (who gained nearly 12 million ha) and it is not formally used for commercial production. In total, about one-third of all shared land in successor farms (38 million ha out of 108 million ha in 2001) shifted to other private users.

Shifts of agricultural land among users of different types between 2001 and 2013 are summarized in **Table 2.2.6**.

Table 2.2.6. Shifts of agricultural land across users between 2001 and 2013

	Loss/gain of agricultural land, million ha	
	Main category	Subcategory
State and municipal	-10.1	
Joint ownership	-17.7	
Successor farms		-38.1
Land-share owners		11.8
Other joint-ownership farms		8.6
Other private ownership	21.9	
Household plots		10.8
Other private farms (peasant and corporate)		11.1
Total loss of land use	-5.9	

Source: **Table 2.2.5**.

Agricultural land in use of agricultural producers decreased by about 6 million ha over 12 years (bottom line in **Tables 2.2.5 and 2.2.6**). Our analysis of withdrawal of land shares and their conversion to construction plots (dacha or residential construction), combined with the ongoing activity of the Fund for Support of Development of Residential Construction⁸, highlights processes of irrevocable and chaotic loss of a non-replenishable natural resource – land for the development of agriculture.

Risks imaginary and real

Most of the risks envisaged by the opponents of land reform in Russia have not materialized.

This applies to the **risk of destruction of large farms** due to fragmentation of holdings and mass transfer of agricultural land to peasant farms. To this day two-thirds of agricultural land is still controlled by agricultural enterprises created from former collective and state farms (see **Table 2.2.5**). The main land users are still large corporate farms (see **Table 2.2.2**). This is associated, in particular, with large barriers to redistribution of joint shared property.

The risk of **decline of agricultural production** due to land fragmentation and creation of a multitude of small farms has not materialized either. In regions where a market in agricultural land emerged already in the mid-1990s (primarily a market for land leasing), we observe conservation of

⁸ A state organization created to oversee transfer of agricultural land to construction uses (Law 2008). The law stipulates (art. 15) that the right of permanent use in state-owned agricultural land can be revoked at the discretion of the state, without any of the causes specified in the Land Code (art. 45, part 2) for such action. The law makes no mention of compensation of the affected user (for lost investments, lost income) or provision of an alternative plot.

land in the hands of the primary owners and vigorously developing agriculture. Thus, Krasnodar Territory and Rostov Oblast, where to this day more than 90% of land shares are in the hands of the primary owners (2006 Agricultural Census, have remained the largest agricultural producers in Russia since 1990. Overall, analysis of census data shows that agricultural output per hectare and per employed in agriculture steadily increases with the increase of the proportion of land shares retained by the original owners.

Concerns regarding the **exit of pensioners from agriculture** have proved unfounded. It was originally claimed that transfer of land to the ownership of collective farms where 50% of the population were pensioners and rural administrative staff would lead to large-scale land abandonment, as there would be no one to cultivate the pensioners' plots. The age structure of former collective and state farms is approximately the same over all of Russia, and yet the shares of cultivated and abandoned land differ widely. The conclusion is clear: the composition of beneficiaries does not determined the share of cultivated land.

The risk that rural people would **readily sell their land “for a bottle of vodka”** has not materialized. On the whole, agricultural land in Russia has largely remained in the hands of primary owners who originally received their land shares in the process of farm restructuring. The exceptions observed in some regions are easily explained by local circumstances.

Thus, in Moscow Oblast, very few corporate farms leased land shares and made lease payments to individuals between 1991 and 2002. The absence of any benefits from owning land led to a general feeling that land was worthless. On the other hand, in the end of the 1990s, individuals often lost their privately owned land as a result of unclear records in the original reorganization documents of corporate farms from the early years of reform (this trend was supported by land registration organs). For instance, in Moscow Oblast, the registration organs and courts enforced a curious practice: whenever the statutes of corporate farms that registered in 1992-1994 mentioned the option of investing land shares in the farm's equity capital, this option was interpreted after 1998 as an obligation and land shares were transferred from individual to corporate ownership. Attempts to extend this interpretation to other regions have generally been unsuccessful.

In these circumstances, land-share owners in large numbers would gladly sell their land shares whenever a willing buyer appeared. The registration system was not adapted to rapid processing of a large number of simultaneous transactions, and the majority of transactions were completed through “power of attorney” granted by hundreds of co-owners to a single physical body. Surely the transparency of such transactions left much to be desired.

The selling prices were initially very low. For instance, in Mozhaisk Raion, Moscow Oblast, a 4 hectare land share was sold for 3,000 rubles in 2002 (about US\$100 at the time). By 2005, increasing demand had pushed up the prices in the same raion by a factor of 20, and then 30. As of 2013, only 39% of agricultural land in Mozhaisk Raion is still owned by land-share holders, and this land is used by large corporate farms. For comparison, in Krasnodar Territory – the largest agricultural-producing region in Russia – fully 67% of agricultural land is owned by land-share holders. On the whole, land-share owners are still the main source of private agricultural land in Russia (Rosreestr 2013).

The risk that **foreigners would take over Russia's agricultural land** remains a topical issue. However, even if foreigners do buy land in Russia, they will not take it out of the country, they will

use it for agricultural production, operating within Russian legislation, introducing new technologies, creating jobs for rural people. The constraints on foreign landownership imposed in Russian legislation⁹ are easily overcome and foreigners can acquire agricultural land in ownership. We often read in the news that a foreign company has so much land and would like to buy even more, and there is no mention of proceedings initiated by the State Attorney to investigate suspicion of illegal ownership.

Many non-Russian experts highlight the well-founded risk of **reduced investment activity** in agriculture. Privatization of land in favor of rural poor inevitably makes agriculture less attractive to investors. This difficulty was partially resolved only in the middle of the previous decade due to normalization of economic conditions in Russia, development of state programs for the support of agriculture, and the transfer of assets in corporate farms to outside investors.

Of all the risks frequently voiced at the beginning of reform, **land concentration** remains the only real danger. This danger exists in many countries, and rich experience has been accumulated in the world on how to combat land concentration. Yet Russia has again followed a unique path.

The decision on maximum concentration of land in the hands of a single owner (physical or legal body) is not centralized: it is left to the administrative divisions of the Russian Federation (Law 1998). If a region decides to impose such a restriction, then allowed concentration should be “not less than 10% of the total area of agricultural land in an administrative district”. In other words, maximum allowed concentration may be 10%, 20%, or even 50% of total agricultural land in the district, but by law it may not be limited to 5%, 7%, or 9%.

On the other hand, the law does not consider the possibility of land concentration in several corporate farms owned by one person or a group of persons. Thus, today a single person may register 10 limited-liability companies and each of these companies may hold up to 10% of agricultural land in the district. In this way, that person will be the sole owner of 100% of agricultural land in the district, without contravening the letter of the law. Nor is there any restriction of land concentration in a single family, as long as each family member stays within the obligatory 10% limit.

In today’s Russia, only peasant farmers are restricted in their ability to buy land and redistribute it among relatives. **Table 2.2.5** shows that agricultural land in the ownership of peasant farms increased by 800,000 ha in 10 years (on average 3 ha per peasant farm).

There are ways to counteract land concentration, but nobody seems interested. Although Ukraine still has a moratorium on selling and buying of agricultural land, draft legislation proposed over the years in preparation for the lifting of the moratorium always included a clear upper limit on land that may be owned by a single individual (100 hectares in recent drafts); no landownership by legal persons is envisaged (Kalyuzhnyi 2012; Lerman 2014). Other measures are also possible, but their implementation, as always, requires political will, which seems to be lacking in Russia.

Today we face a number of additional risks that were not apparent in the early 1990s and only surfaced in the process of reform.

⁹ Foreign physical and legal bodies may not own agriculturally zoned land.

- Danger of land shifting to entities not engaged in agriculture or agribusiness, who may accumulate large tracts of land for resale or leasing (this is a convergence of risks associated with land concentration and absence of effective restrictions on land holders);
- Danger of uncontrolled loss of fertile agricultural land, open spaces, and agrolandscapes due to unregulated rezoning of land for construction (which is much more profitable than agriculture);
- Danger of creating or preserving inappropriate land market institutions (more on this below).

State policy guidelines

The multiple risks and dangers discussed above could be eliminated by the adoption of a long-term state policy regarding agricultural land. The policy should be embedded in a program that articulates the long-term state objectives, sets out tasks and mechanisms to achieve these objectives, assesses risks and dangers, and provides options for experience-based adjustment of tasks and mechanisms. The absence of such long-term policy prevents normal development of agriculture, because at any instant we may unexpectedly face a new phenomenon that requires fire-fighting measures: such measures may involve breaking existing laws and coming up with strictly ad hoc rulings that violate the interests of agricultural producers.

A vivid illustration of such a situation is the creation of the Fund for Support of Development of Residential Construction (Law 2008). The very name of this fund grants a license to withdrawal of land from normally functioning unitary agricultural producers (recall that a unitary enterprise does not own the assets it operates). In 2006, article 45 of the Land Code was amended to allow termination of the right of permanent land use without any violation of the law by the land user. In 2008, the law “On support of development of residential construction” (article 15) stipulated that federally owned land can be alienated from a lawful user if such land is required by the Fund. In this case, contrary to alienation of land for state or municipal needs and requisition, the user loses his land to the Fund without any compensation: “In cases when federally owned land plots are given in permanent use rights to organizations, these rights are terminated without the consent of these organizations and independently of the reasons foreseen in the Land Code (art. 45, part 2).”

The unconstitutionality of this norm was argued before the Constitutional Court, but the appeal was rejected. The Court decided that the user could protect his or her rights in a different manner, without annulling the allegedly unconstitutional norm.¹⁰ As a result of the Court’s decision, the norm continues to apply.¹¹ It is quite probable that the new norm may be annulled in the future – as unexpectedly as it appeared – but until then much land will have been alienated and many rights will have been violated.

Without long-term policy of land resources, many partial issues – continued privatization of state-owned land, development of construction, large-scale leasing of agricultural land to Chinese firms, and other unexpected events – often clash with the need to maintain agricultural production and ensure access to land for Russian agricultural producers. In extreme cases, the contradictions require application of micro management tools.

¹⁰ Judgment of the Constitutional Court of Russian Federation No. 1911-O, 4 October 2012.

¹¹ Justice M. I. Kleandrov, in a dissenting opinion, argued that experience shows that in such cases the user has no chance to protect his interest and that the norm should be recognized as contradicting international law and declared unconstitutional.

Without long-term policy, it is impossible to decide on a comprehensive list of information items that the land cadaster and the register of immovable-property rights should include. In such a situation, something will always come up as missing. For instance, there are discussions of passing from classification of land by category (see note to **Table 2.2.1** for list of land categories) to zoning, which specifies the allowed uses for each region. Yet the Unified Register of Rights and Transactions contains only a field for land category, and no field for zoning. If in the future the government seeks to prohibit the use of fertile agricultural land for construction, we will suddenly discover that the Unified Register of Rights and Transactions contains only the category of land, and no information about type of land (arable, pasture, etc.) or its quality, while the land cadaster shows only the cadastral price of land.

The government is starting to privatize the last group of federal unitary farms. Unqualified privatization, allowing sale to the highest bidder, will inevitably lead to concentration of land in private hands and increase the danger of land being withdrawn from agricultural production. In either case, the access of agricultural producers to land will become more difficult: either lease rates will become monopolistically high (assuming that the new owner will lease out the land) or producers will face shortage of land in some well-endowed agricultural territories.

By ignoring these dangers, privatization will continue unchecked without preserving at least a portion of land in state ownership (which can be released for leasing if lease price become prohibitive), without restricting the range of buyers of agricultural land, without creating demarcated plots which could be bought by peasant farmers and corporate farms with no need for costly zoning of rural areas, and finally without putting a stop to chaotic construction on agricultural land. All this is happening in reality, because no objective has been set and no paths have been charted for achieving the (unspecified) objective. The emergence of legal norms is often a sporadic process, driven by lobbyists' efforts.

Thus, in 2008, a Government Commission on Development of Residential Construction was created with the aim of deciding on the release of federal property, e.g., experimental and teaching farms, for construction. The Commission adopted its own statute, which decreed that the Commission will determine its own decision making rules. There is no reference to the Land Code or the future law to determine how land changes from one category to another (e.g., from agriculturally designated land to land of settlements). Initially it was assumed that unused agricultural land will be released for construction. But as a rule there is no unused agricultural land in experimental and teaching farms. Someone on the commission came up with the idea that inefficiently used land should be alienated for construction. To avoid delving into the full complexity of efficiency assessment, the commission simply changed its name: as of 18 December 2012 it is called a Government Commission on Development of Residential Construction and Assessment of the Efficiency of Use of Federally Owned Land Plots. It is hard to see how efficiency assessment will be done if the commission members are ministers, deputy ministers, and directors of ministries. The intention to encourage residential construction is inconsistent with an objective assessment of land use in experimental and teaching farms, but nobody appears to be bothered by this inconsistency.

Russia acutely needs a coherent state policy of land resources. The use of land resources to satisfy the needs of the population assumes at least two tasks: production of food and agricultural raw materials for industry and development of rural territories and housing. Agricultural land is

unavoidably an important resource for construction. In the absence of a government policy, these two tasks clash with each other.

Priority measures

In the first stage, it is necessary to carry out a full classification of land plots by quality, identifying the plots of highest and lowest value for agriculture. The withdrawal of the highest-quality plots from agriculture should be outright prohibited; with regard to lowest-quality plot several options are possible. In the U.S.A., farms with the most valuable land are listed by name on the web sites of agricultural departments in various municipalities. A similar option exists in Russia. Agrochemical mapping carried out as part of the fertility monitoring of agricultural land (Program 2005) already provides sufficient data for identifying low-quality plots on parts of the Russian territory.

In the second stage, wealthy land buyers should be made to realize that they cannot withdraw just any land plot from agricultural use: only lowest quality land may be withdrawn. This will immediately reduce the pressure on the highest-quality land plots from the side of those who do not intend to engage in agriculture or agribusiness and will segment the land market into market for agricultural plots and market for plots that may be potentially released for construction. Because of different returns on these different activities, the corresponding plots will have different prices.

Then low-quality agricultural land may be marked on territorial planning maps as land for potential construction. It is advisable to develop a procedure (and reflect it in legislation) for the sale of building rights in such plots through auctions. The sale proceeds can be used to augment local budgets and to develop amenities and recreation zones. The building rights for such plots should be sold with building plans and permits attached. In this way, the authorities will be able to monitor the process of land alienation and ensure that the proceeds from the loss of agricultural resources are channeled directly to the local budget, and not to the pockets of various officials. This will also ensure development of territory with prescribed building density and building quality.

Once developers are separated from valuable agricultural land, it will become more accessible to agricultural producers. To further rein in the appetites of land speculators, we can discuss size limits on agricultural land plots that can be bought or otherwise acquired by a single person, persons affiliated with that person, or a person who is the owner of an organization with agricultural land in its asset portfolio. Before embarking on sale of state-owned land, the government should make sure that the plots have been duly surveyed and demarcated: these tasks should not be transferred by the state to potential buyers. This approach will reduce the access barriers of corporate and peasant farms to agricultural land.

It is advisable to abandon punitive measures and stop threatening all landowners that they will lose their land unless it is cultivated. In developed countries, local authorities intervene only when there is a candidate willing to take over the land, whereas the owner himself neither cultivates his plot nor leases it out in expectation of driving the prices up above market. In such cases, the authorities conclude a lease contract on behalf of the owner at the going market price. A similar mechanism is needed in Russia.

The last question concerns adequacy of institutions. This term in our context covers the level of transaction costs that enable a Russian citizen to register his land rights in the new registers.¹² The process involves completing a transaction with a land plot or a land share, withdrawing from joint property with a demarcated land plot corresponding to a land share, preparing the necessary documents for cadastral registration of the land plot, entering the plot in the cadaster and registering the land rights independently, without resorting to a lawyer, within a reasonable time and with reasonable costs. During the entire existence of the Unified Rights Register, from 1998 to 2012, only a small part of the information on rights to land plots was entered in the register. This clearly suggests that the existing institutions are inadequate, requiring unreasonable investment of time and money.

Finally, another observation that does not engender optimism: at the beginning of land reform there was a single organ responsible for land policy, implementation of land reform, and adequacy of institutions – the State Committee of the Russian Federal Socialist Republic on State Reform (Goskomzem). Since its establishment in November 1990, the committee has undergone repeated reorganizations: legal and normative acts contain no fewer than eight names of successor organizations that replaced one another in the course of these reorganizations.

In the process of reorganization, the land reform function was lost by the roadside, experts familiar with the fine features of land transformations were dismissed, new experts were taken on board without any understanding of what it means to demarcate a specific land plot arising during land privatization in collective and state farms. At the raion level, a single raion land committee was replaced with three organizations – cadastral chamber, land committee, and registration chamber; on the federal level, Goskomzem was replaced with two organizations – Roskomzem (the Federal Land Committee) and the Registration Chamber.

Each organization, through laws and normative acts, ensured its specific interests without aiming at the larger common goal. New rights registers were introduced without ensuring orderly transfer of existing data from old register; the burden of populating the new registers fell on the users. New specialists in these organizations invented new norms without checking their feasibility in Russian practice.

In 2004, during the next reorganization of the organ entrusted with management of land resources the strategic function of managing land resources simply disappeared. Today we again have a single organ – Rosreestr – but it is entrusted with purely technical functions. How can we hope to achieve rational management of land resources without a duly empowered institution?

Conclusion

Russia has made huge progress on the path of land reform since the early 1990s. Nearly 70% of agricultural land has been privatized, land leasing transactions are widespread manifesting rapid development of land markets. Many of the risks of land reform that had been raised since beginning of the process have proved groundless and imaginary. Agriculture continues to prosper and grow in regions that are suitable for farming, while declining and shrinking in unprofitable regions – as in all

¹² The government created a new unified rights and transactions register – the EGRP – in 1998 without transferring the relevant information from previous registers.

market economies. Despite tremendous achievements on the ground, Russia still lacks a coherent land policy with a clear statement of objectives and definition of an adequate set of institutions. New challenges arise every day, and the existing policies are unable to cope with these challenges. Main policy measures should include implementation of binding limits on land concentration, decisive reduction of transaction costs for access to land by farmers, and enforcement of effective legal protection of land use rights. Furthermore, land policy should aim to preserve the most fertile lands for agricultural uses by effectively restricting construction on such land. So far, these measures have not been implemented. Their introduction requires long, tedious work that focuses on socially meaningful objectives, instead of administrative interests. Such an effort is impossible without strong political will.

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