



## LEGISLATION REVIEW

# Agriculture, Food and Renewable Energy Sector

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## Agricultural Land

### Moratorium on farmland sales and purchases is prolonged

*The Law of Ukraine # 9586 "On Amendments to the Section X "Transitory Provisions" of the Land Code of Ukraine on the ban of alienation and change of designation of agricultural land" was adopted by the Parliament on the 20<sup>th</sup> December, 2011.*

It essentially prolongs the moratorium on the agricultural land sales and purchases until the 1<sup>st</sup> of January 2013.

### New Draft of the Law on Land Market has been registered

*After the first reading in September 2011 a new Draft Law of Ukraine #9001-d "On Land Market" was handed over to the Parliament on December 7<sup>th</sup>, 2011.*

One of the main tasks of the Draft is to define the legal basis for agricultural land transactions under the market conditions and taking into account the state interest in preserving and protecting the land as a principle national wealth.

As far as agricultural land is concerned, the draft suggests the following.

- 1.** Who is allowed to acquire the farmland:
  - 1.1.** Agricultural land can only be a property or acquired by: i) citizens of Ukraine; ii) the State represented by the State Land Bank, corresponding state bodies, and iii) by territorial communities represented by local authorities.
  - 1.2.** Foreigners are not allowed to acquire agricultural land.
  - 1.3.** If foreigners and others that have not been mentioned above in the point 1.1, acquired the farmland after the Law on Land Market came into force, this land should be alienated in a year timeframe.
  - 1.4.** Foreigners and others that have not been mentioned above in the point 1.1, are not allowed attaching to the land the rights of third persons, including leasing, pledging, mortgaging.

- 1.5.** The right on farmland title is not allowed to be included into the statutory capital of the limited liability companies.
- 1.6.** The starting price of the land plot in communal or state property should not be less than the normative valuation price.
- 2.** Maximum size of the farmland that is allowed to be owned by one person
  - 2.1.** Maximum area of farmland for commercial farming in ownership of one person should not exceed 100 ha
  - 2.2.** Maximum area of farmland for leasing for commercial farming for one person (including affiliated persons) should not exceed 6000 ha in one district and no more than 5% of agricultural land in the region.
- 3.** The pre-emption right for acquiring farmland plot have the owners of adjacent land plots and co-owners of land plots
- 4.** The designation of agricultural land plots can be changed after 10 years from the time of purchase from communal or state ownership
- 5.** The purpose of the State Land Bank is to attract the resources for providing the credits to agricultural producers at no more than 3% plus refinancing rate of the National Bank of Ukraine.

### Tightening control in Land Plot Pledge and Mortgage Agreements

*Law of Ukraine No. 4188-VI "On Amendments to Certain Legislative Acts of Ukraine as to Increase of Control over Conclusion of Land Plot Pledge and Mortgage Agreements" was adopted by the Parliament on December 20, 2011.*

The Law stipulates that a land plot or rights thereto can be pledged only in case this land plot has a cadastre number.

In previous amendments, a cadastre number of a land plot was an obligatory condition for agreements on transfer of ownership rights to a residential house, building or construction located on such a land plot, lease agreements. Although this tightening of control might prevent abuse on the land market, in short term, though, it might cause additional expenses for owners and users of land plots without a cadastre number.

## Renewable Energy

### Energy generating objects using the renewable energy sources

*The Draft Law of Ukraine No. 9326 "On amendments to some legislative acts of Ukraine (on performing work on measuring the energetic potential), as of October 21<sup>st</sup>, 2011, (adopted in the first reading on December 09<sup>th</sup>, 2011).*

The draft aims at simplification of the permissive system for obtaining a land plot for installing energy generating objects using the renewable energy sources.

## Tax and Customs

### The old mechanism for compensations in livestock via VAT is back

*Law of Ukraine No. 4268-VI "On Amendments to the Tax Code of Ukraine regarding Support of Agricultural Producers", as of December 22, 2011.*

The Law essentially brings back the old mechanism (with some changes) for compensations/premiums to agricultural enterprises and households for the milk and meat they sell to processing plants that existed until 2011. The amount of VAT received by food processing enterprises from selling dairy and meat products is transferred exclusively on subsidies/premiums to agricultural producers which sold their unprocessed milk and meat in live weight to processing enterprises.

The current law obliges milk and meat processing enterprises to conduct a separate bookkeeping for operations of supply of the self produced milk and meat products. Based on this bookkeeping, milk and meat enterprises transfer the positive difference between the VAT payables and VAT credit to the special fund of the State Budget of Ukraine and on the special account at the State Treasury in the following proportions: in 2012 - State Budget – 30% and special account – 70%; in 2013 – State Budget – 40% and special account – 60%; in 2014 – State Budget – 50% and special account – 50%. Further the VAT amounts on the special accounts are

supposed to be used exclusively for compensations to agricultural producers.

### Export support mechanisms

*The Draft Law of Ukraine No. 9373 "On State Financial Support of Export Activity" as of November 01<sup>st</sup>, 2011 (adopted in the first reading on December 20<sup>th</sup>, 2011).*

The main purpose of the draft law is to develop and implement the mechanism for the state support of export. The mechanism includes the following measures: i) export credits; ii) insure export credits and contracts; iii) underwrite export credits and contracts.

*The Order of the State Customs Service of Ukraine No. 986 "On Introduction of Electronic Journal", as of November 23d, 2011 (came into force on December 04<sup>th</sup>, 2011).*

The Order has been issued with the purpose of introducing the unified approach of registration of goods and vehicles, transferred across the state border of Ukraine at border entry points (control points) for railway connection.

## Other

### Extending the circle of domestic machine-building producers for agriculture

*The Draft Law No. 8764 "On amendments to the Law of Ukraine "On stimulating the development of the domestic machine-building industry for agri-industrial sector" (regarding the favorable conditions for domestic machine-building enterprises) as of July 06th, 2011 (submitted for the second reading on December 22d, 2011).*

The draft suggests broadening the circle of enterprises that can be named as 'domestic'. In the current version of the Law, machines and equipment for agri-industrial sector are considered as 'domestically produced' if domestically produced inputs make up at least 50% of the total production costs of the final product. The current draft suggests eliminating the 50% limit, but instead corresponding machines and equipments should be produced by any (Ukrainian or foreign) company registered in Ukraine.

In the current version of the Law the budget outlays for i) supporting the machine-building industry for agri-industrial sector, and ii) for purchases of domestic machines and equipment under the financial leasing conditions, were foreseen only up to 2010. The current draft suggests eliminating the timing from the clauses, thus giving to the programs unlimited duration.

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