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CONCEPTUAL DEVELOPMENT OF LAND TENURE IN UKRAINE AT THE PRESENT STAGE

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We consider the presence of a problem situation and given its characteristics, prognosis of development in the field of land use and protection of land. The basic conceptual rules of land management in Ukraine.

Problem statement. With the deepening of the global food, energy and financial crises, the role of agricultural land use as the most important sector in the economy increases. In our state, according to the state land cadastre, as of 2011 from 60.3 million hectares of 42.8 million hectares (70.9%) – agricultural land (including 32.5 million hectares of arable land), which are sponsored by State Agency for Land Resources of Ukraine, including the Ministry of Agriculture and Food of Ukraine – 35 million hectares of agricultural land and 30 million hectares of arable land. In the use of enterprises, organizations and individuals engaged in agricultural production is 37.3 million hectares of the total area of agricultural land (66%).

In addition, as part of other categories of land has 5.1 million hectares of farmland and 1.6 million hectares of arable land. Additional area of cultivable land which is not used, but are in the country, according to the state land cadastre, fallow, is 310 hectares.

For bioclimatic potential in the light of normal existence Ukraine has a capacity of territorial space suitable for life, providing food products of own production to 150–160 million and could increase the production of alternative energy sources through processing of agricultural produce not less than 30%.

In the early 90-ies of the last century, land conversion, made in agriculture, helped to lay the foundations for a new land down. A privatization of land and their privatization, redistribution of land in favor of citizens established objective conditions for sales of agricultural land, formed a layer of peasants and farmers, introduced paid land. However the level of use of land resource potential of agriculture of Ukraine at this time compared to 1990 – the beginning of land reform, estimated V.M. Druhak [1], down more than 30% and only in 2008 has almost reached the level of 1990 (99%).

Global and domestic experience in regulation of agricultural land use shows that

the reasons for this situation is an underestimation and a sharp weakening of the role of land use in the implementation of land policy, the loss of state authorities of planning and organization of rational land use and their health, especially in the countryside, away from the sphere of state land and ignoring the authorities and business land as a complex system of measures for the organization of rational use and protection of land.

Article purpose – to identify problem situations in the development of land areas and their solutions.

Main material. Problems arising in the land tenure, led to:

loss of reliable information on the qualitative and quantitative status of agricultural lands, which are the basis of the mechanism of regulation of land sales, installation fees for land, state land cadastre, land management and control over the use of land;

failure to land owners and land users restrictions and encumbrances of rights in land use of rural areas, causing their degradation, flooding, waterlogging, pollution, destruction of the economic activity, the occurrence of fire situations and flood problems, disorders stability and compactness of land management objects, especially agricultural land; appearance unacceptable drawbacks land (parcelation land, far land, over lines, water dropping, wedging, mosaic arrangement agreement), causing considerable damage across the economy and is already in the near future will require complex land operations of spatial planning land use and land consolidation of land parcels (shares), which is associated with high economic costs; omitting or delays in registration of land documents for businesses and individuals, which hinders investment into the country, the use of a mortgage of agricultural land and other economic mechanisms to regulate land use;

loss of boundaries of land, which does not provide the accuracy and un-perspective their position on the ground and causes numerous land disputes and litigation, and this complicates the organization under civilized land market and makes it impossible to provide the state guarantees the rights of land ownership;

reducing the tax base and the inability of many productions of land cadastral registration due to deviation number of landowners and land users of these works, inaccurate determination of areas and land boundaries;

unauthorized occupation of illegal use of agricultural land, especially the former collective ownership;

substantial understatement and gaps for the regional budget lease payments already used land and redemption prices of land, which are state-owned.

Analyzing land transformation in Ukraine Working Group on Land Management Economic Commission for Europe in late 2003 indicated inefficient «... land organization in terms of general concepts, departmental functions and methods of ...» and offered to provide «... a government support for the land [2], which coincides with the position of Ukrainian scientists and specialists and require restoration and improvement in our state proper land management systems.

The emergence of this problematic situation in the area of land caused imperfection and failure law of Ukraine on the regulation of relations in the implementation of land use, the actual elimination in 2003 of a single research institution – Institute of Land with its regional affiliates – and replace its system of corporate market private entities that

spontaneously formed in relation to land services, poor modern appliances and equipment of individual entrepreneurs who can not technically correct, legally and economically justified correctly solve complex land issues, the lack of professionals, and it often causes complaints about their work on the part of citizens and legal persons. This is usually violated professional ethics, manifested consumer approach to land management activities, there are numerous instances of non-compliance with land laws, corruption that adversely affects the quality of land operations and state regulation of land use.

With the adoption in 2003 of the Law of Ukraine «On Land Management» and some are not always professional regulations for its development, use and protection of land in our country is not improved. Many provisions of state regulation of land use and legislative powers is not performed, and it has, especially in the field of environmental damage and agricultural land use.

In the absence of public administration (regulation) carrying out land that under Article 60 of the Law of Ukraine «On Land Management» to be implemented by the above-mentioned reasons already consolidated budget of Ukraine receives less about 40% of land payments, about 30% of land granted and seized in violation of the Land legislation and land use requirements.

On January 1, 2012 in the prescribed manner the right of private ownership of land in our country there was an area of more than 31 million hectares, accounting for 51.8% of the total land area of the country. Agricultural land ownership registered in the area 30.5 million hectares (73.3%), as delineated by ownership only 2.6% of the total area of land categories.

Total state property as of 2012 there were 29.1 million hectares, or 48.2% of the total land area.

Due to the fact that the normative monetary evaluation of agricultural land used outdated land management information from the qualitative assessment agreement (1976–1989 years), its materials can also be considered reliable only conditionally.

In the absence of the necessary land management system of agricultural and environmental land use are not properly implemented the provisions of the Land Code of Ukraine and environmental legislation to protect the rights of citizens and legal entities on land and protection of land and other natural resources.

If by 1990 each farm was the only land user on its territory, excluding third party users of land that were within farms, in 2012, in one farm is an average of 228 owners of land particles (shares), and in some farms – up to 1 thousand more, which is very difficult economic, environmental and legal land relations.

Of the 6.9 million people who have acquired rights to land particles, those rights drawn 5.7 million people. About 1.2 million people are not disposed land particles on the area 4.1 million hectares, almost 91 thousand land parcels not claimed the area 332 hectares, or left without an owner. Land reform on agricultural lands still not complete, and for its implementation must do now is much larger amounts of land management activities than in the 90's. Agricultural land remaining in the reserve and in the collective property rights are not held identification and inventory, within the territories councils do not demarcated lands of state and communal property, land surveying work is carried out to transfer

the ownership or use (rent) farms or citizens of non-agricultural lands, which are located between the areas of productive land within the land use and land occupied by them at the proper ownership of houses and buildings and others.

This led to the fact that:

use much of the agricultural land and transfer them to other categories often performed illegally, and farmers and citizens still do not know the exact boundaries of their land;

is further destruction of agricultural infrastructure (roads, woods, reclaimed land) and usually decreases efficiency of agricultural and forestry purposes;

not established organizational and territorial conditions for the development of a civilized market turnover of agricultural lands and their mortgage.

In this situation, agriculture receives less investment due to lack of mortgage suffers losses due to reduction in total revenue from registration agreements with land owners of land particles (shares) and state-owned land that are in stock, reduction of state fees charged for legally significant actions under agreements with land ownership and so on.

Direct economic losses and loss of economic benefits due to lack of land use on agricultural lands state should result inefficient use of land and their degradation, destruction of agricultural infrastructure, establishing organizational and territorial land and legal barriers that prevent normal investment policies, mortgages and land market areas of agricultural land and the rights to them.

According to our estimates, the total amount of revenue due to the implementation of legal activity under agreements with

land ownership and customs duties during complex land operations can be increased by at least 3–5 times that will pay all expenses of the state for land management.

Forecast of the problem situation in land use and their health. Lack of forecasting and strategic planning of sustainable land use and their health in rural areas determines unsystematic implemented measures in this field, inefficient use of budgetary funds and investment businesses in the organization of land tenure and land use. The spread of urban development regulations, land use and property development outside settlements, without which it is impossible to organize their rational use and protection, does not give positive results and demonstrates the need for zoning according to their categories and types of land use based on land documents according to ecological and economic classification suitability of land resources.

In connection to the employees of legislative and executive authorities, together with scientists should soon join forces to create an integrated system in Ukraine Land Management (now divided its functions and continue disconnected by the ministries and agencies of the regional state power), the revival of public land and improve its regulatory, technological and staffing.

Now the relationship with the land was governed by 103 major regulations. Their analysis shows that in the absence of more than 45 government and industry regulations and standards in land, about 60 in the area of land and 80 in the State Cadastre emerged unregulated market land operations, virtually no state funding for land management activities legislation in the field of land surveying is not fully committed, was responsible law enforcement and land

surveying practice and undergoes multiple changes and additions.

For example, after the adoption in 2001 of the Land Code of Ukraine to date adopted 52 laws under which he introduced amendments and used in 90 of 212 articles, while the Land Code of Ukraine, as amended in 1992 modification only three times.

Economically developed nations try to avoid such negative consequences of land reforms because of frequent changes in land legislation increasing state influence on the land system, especially in rural areas, land management practices.

Only on the basis of land use, zoning respect according to their categories and types of land use should be amended in the purpose of the land occur turnover of agricultural land, be measures to improve the efficiency of land resources and their protection.

Without land management activities under threat is performing various targeted programs and national projects related to rural and residential services, the development of disadvantaged areas and protection of land, improve soil fertility.

Main types of legal and technical regulation of the implementation of rural land. Given the special importance for the Ministry of Agriculture and Food of Ukraine and Ministry of Environment and Natural Resources of Ukraine tackling land management tool and as a mechanism for land management in agriculture and natural resources, as well as performing the functions of development and implementation of national land policy and regulation in the area of land (in the part relating to agricultural land), primarily to make the Law of Ukraine «On Land Management» such amendments.

1. The rule that land management, which is of national and regional importance, is the initiative and at the expense of the state, and that has local significance, is the initiative and at the expense of local communities and businesses – holder of land.

2. Additionally introduce separate chapters and articles on:

land procedural regulation of land management activities, including the provisions on the management of land management and the finer functions of ministries and departments, which are in charge of land management;

determine the leading role of the Ministry of Agrarian Policy of Ukraine in and food regulatory framework providing and organization of land use on agricultural lands;

features and procedure of land use on agricultural lands;

land and procedural legal participants land arising from its implementation, their responsibilities and relationships;

types of land (territorial, internal (now through its absence there are many problems concerning the organization of ecological and economic assessment of crop rotation that already reported in the press);

Technical regulation of relations in the sphere of land under development, adoption and enforcement of mandatory requirements for land surveying products, processes of land management, works tai services, conformity assessment activities of Land Management standards and technical regulations, the land was on lands that are publicly owned; establishing certain percentage deductions from pay for land for land surveying work of national importance, as well as economic incentives for the implementation of land management activities of economic entities and the

growing interest in the preservation and restoration of soil fertility, protecting the land from adverse impacts; delimitation of urban planning and land management activities development of regional land use planning and land management schemes in relation to road and infrastructure improvement of all administrative and territorial level, establishing rules of land use and land use regulations of the use of agricultural and environmental purposes on the basis of the draft zoning areas rural councils outside settlements;

increased requirements to validate land documentation of legal, economic, environmental, social and technical views, cruelty requirements, mandatory performance Holder land measures provided for in the approved land documents, enhancing control over the land, the introduction to the work of the study of land at the level of local communities, establishing servitudes, restrictions in land use, and limitations in the turnover of land;

establishment of self-regulatory organizations in the field of land management, performing complex operations on land management, including the condition of the land, their inventory, planning and organizing their rational use and protection of farm land and development projects working on land protection, conservation and improving soil fertility;

land and procedural legal expertise in public land documents.

In connection with the expansion of sales of land, the need to determine accurate information about the tax base and the value of land increasing importance of setting limits on the required accuracy and fixing on the ground, which allows the right holder to sell land and defend their rights. According to this, the law should restore the land

requirement for securing a procedural legal boundaries of land boundary markers with the definition of their coordinates. This description of the boundaries of permissible only if their combination of outside natural borders, water, linear objects, which are clearly focused on the ground, and in areas with limited accessibility.

The law should be required, which provides in areas of intensive land use of their high market value and with a developed market land boundary setting boundary markers only instrumental method of determining the coordinates. It should also identify cases where the designation limits possible without setting boundary markers, but the definition of the coordinates of the turning points limits instrumental, graphical or other methods.

In order to implement the Law of Ukraine «On Land Management» required in the current Land Code of Ukraine a number of additions and changes to:

law on the leading role of the state in managing land resources in agriculture, including the leading role of Agrarian Policy and Food of Ukraine concerning the management of state agricultural land ownership and land use regulation generally;

determining the main directions and priorities of the state policy in the sphere of land relations and land use in the area of rural development, increase the value of land and land management in the organization of rational use and protection of land;

ensure the transition to a predominantly economic management of agricultural land and nature protection and ecological land use, improve the economic efficiency of agricultural land through the application of modern methods and technologies, and implementation in practice of regulating land

relations statutory methods of economic incentives for the use of land;

order to improve the rights of land owners of land particles (shares), consolidation of their land concentration in effectively managing subjects of intensive land use, the concretization of certain provisions of the market turnover of agricultural land and the rights to them (due it is advisable to consider the finalization and adoption of the Law of Ukraine «On the consolidation of agricultural land», «The rural communities to regulate sales of agricultural land», «On land zoning according to their category»);

establishing procedures governing the disposal of land occupied by the immovable property in agricultural enterprises, including in the field roads, communications, houses and public buildings, trees and shrubs and forest, local reclamation systems and other public property use, including land, are located along with the real estate they are actually negligent;

maintenance of ecological balance in agricultural land use, which implementation mechanism of protection of land and soil fertility regulation at national and regional level (establishing the principles of valuation of soil fertility and accounting performance evaluation of their condition, the definition of standards of maximum permissible concentrations of harmful substances, including biological, clarify procedures for financing activities the preservation and protection of soil from various sources);

provisions relating to the settlement of land mortgages, contracts of mortgage features of agricultural land and farm land in general;

improve local conditions landholdings and land use and operation of businesses by optimizing the size and eliminate

unsustainable land, over lines, far land, difficult boundaries and other defects of their location, improving organizational and legal forms of land use, regulating their legal status.

In connection with the above shall be provided in the legislation of the work of perfecting (ordering) system of land ownership and land use and land consolidation. It should be legal requirements for the development of complex interconnected and balanced measures for the use and protection of land, improving soil fertility, formation of sustainable landscapes, implementing ecological landscape contour-ameliorative systems of agriculture, the use of an optimal set of measures for land protection of the most frugal and adapted to the landscape waste of resources can only be done through the development of relevant plans and projects, land use and land management.

Should be developed, especially such regulations:

1. Procedure of rural land.
2. Provisions on investment and financial policies of the state in land rural determining prices for land surveying services, economic incentives and the implementation of land surveying activities.
3. Regulations on territorial land use on agricultural lands.
4. Regulations on the Control of the land was rural and implementation of land management activities.
5. Regulation on the establishment of public-private corporate bank data on the status of agricultural land, about land management rural support developers and users of land documents with normative legal acts regulating land and legal relationship with the land was rural.
6. Regulations on creating and keeping a register of valuable productive farmland.

7. The provisions on the organization of public authorities and local governments to work with the mapping of rural areas (restore existing maps) and to concentration boundary core network for the purposes of rural land management and cadastre.

8. Regulations on preparation, structure and coordination of the General Scheme of the use and protection of agricultural land and the sustainable development of rural areas.

9. Administrative regulations to implement the Ministry of Agrarian Policy and Food of Ukraine state functions on the land was rural, monitor and control the use and protection of agricultural lands.

10. Regulations on the implementation of land management services for the implementation of rural land for budget money and for a fee.

11. Procedure of rural land under technogenic pollution.

12. Procedure for establishing land use regulations, land easements and restrictions of rights of use of agricultural land.

13. Regulation on information for land management activities on lands of rural areas.

14. Terms of reliance on State Agency for Land Resources of Ukraine and its territorial bodies monitor compliance with land laws on land system and land management use on agricultural lands.

15. Regulation for state monitoring of land resources, land use and security of land from the agricultural land, including the formation of infrastructure, determining the characteristics and conditions of the land and mortgage lending.

16. Regulations on the development of the General Scheme of land in Ukraine and land management projects of rural areas.

17. The provisions of zoning by their category in Ukraine, areas of regions, territories rural councils outside settlements for the purpose of forecasting prospects development land. Establish land use regulations and rules for land use of agricultural and environmental purposes, including establishing the legal regime types permitted land use, and minimum size limits of land, restrictions, encumbrances and conditions of use.

Conclusions. As a result, the proposed conceptual provisions of land in Ukraine and implementation outlined measures to improve regional land use planning, land use and land necessary to carry out land surveying work, which will provide 2–3 times increase in revenues from the land tax, and will enter into economic turnover of land as capital. In addition, land of government programs related to rural development, agriculture and land use greening, national priority projects in these areas will further attract investment into the country of around 200 billion UAH.

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Розглянуто наявність проблемної ситуації та дано її характеристику, прогноз розвитку в сфері землекористування й охорони земель. Запропоновано основні концептуальні положення розвитку землеустрою в Україні.

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Рассмотрено наличие проблемной ситуации и даны ее характеристика, прогноз развития в сфере землепользования и охраны земель. Предложены основные концептуальные положения развития землеустройства в Украине.

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EVOLUTION OF DEVELOPMENT OF TERRITORIAL PLANNING OF LAND USE IN UKRAINE

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The necessity of restoring Institute of territorial development planning of land use in Ukraine in terms of functioning of the state, municipal and private land ownership is proved.

Problem statement. Territorial organization of society has always played an important role in solving economic, social, urban and environmental problems of any state. It is associated with the implementation of tasks for the development of new and improve in using areas of settlement, natural resources, location of industry, organization of transport links, with storage of cultural heritage, the state defense and others. Spatial organization is founded by nature. The balance of livestock and forage resources, migration of animals, balance of water resources and so on depend on it.

The territorial planning of land use is closely related with land management in Ukraine in Soviet times and now. Management of development of territory in Ukraine has always been paid increased

attention, because of the relocation of large amount of people. Industrial plants and roads, development of new land for agricultural production, construction of water and energy systems depend on the solution of these tasks. Great titanic work of managing development of the country and its transformation was carried out in the years of Soviet power, because of industrialization of agrarian country.

Article purpose – to justify the need of restoring Institute of territorial development planning of land use in Ukraine in terms of functioning of state, municipal and private land ownership.

Main material. The increasing role of land-resource potential in solving economic, environmental and social problems of the country needs further improvement of