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# **REPORT ON THE SURVEY OF RURAL LANDOWNERS' INVOLVEMENT IN THE REGULATION OF LAND LEASE RELATIONS AT THE LOCAL LEVEL**

**December 2012**

**This report was produced for review by the United States Agency for International Development. It was prepared by Olena Borodina, Senior Agricultural Economist to Chemonics International Inc. The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.**

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**State Organization  
“Institute for Economics and  
Forecasting, National Academy of  
Sciences of Ukraine”  
Department of Economics and  
Agrarian Transformations Policies**

**United States Agency for International  
Development**

**Agroinvest in Ukraine Project**

**Report on the Survey of Rural Landowners’ Involvement in  
the Regulation of Land Lease Relations at the Local Level**

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## Introduction

The current Ukrainian system of agrarian production is the result of the agriculture sector's adjustment to actual conditions of quasi-market economy operations in the process of non-systemic reforms. A quasi market is a market form with a latent distribution essence which is characteristic of a command-and-administrative system. Privately owned companies develop strategies which are not oriented toward the market. In fact, they fight with each other for various state resources and use connections within the government to control the competition. In recent years, the control over land resources has been playing a particularly important role in this system of quasi-market relations.

The policy of reviving large scale agriculture production based on former kolkhoz (*collective farm*) and sovkhoz (*soviet farm*) models (however, without the social and natural conservation responsibilities) led to development of distorted land lease relationships in the sphere of land use. In Ukraine, land lease relationships are being built in such a way that interests of lessees prevail against those of lessors. For land relation purposes, a formal land owner is subordinate to a lessee acting as the actual land owner. In the process of splitting formerly collectively-owned land into units, the lessees merely usurp land owner's rights. The actual land owner - the lessee, confronts the formal owner - the peasant, through a recently created system of formal and informal institutions.

This survey, which was conducted in various regions of Ukraine, is devoted to existing opportunities for creating basic conditions for developing the institutional environment which would be favorable for engaging land unit owners in the processes of formulating and implementing agriculture land use policies.

The favorable institutional environment should include the legislative and regulatory frameworks for setting up associations of small land owners / lessors; a network of authorities and organizations that secure their operations and implement legislative initiatives, government policies in this area and stimulate consolidation of efforts to solve land problems of the local level. These activities should also aim at development of a positive attitude of the rural population toward government initiatives in establishing local groups of interaction in exercising land ownership rights.

At the initial phase of the activities covered by this report, the Consultant studied the actual situation with agriculture land use; the degree to which rural residents from various regions of Ukraine are engaged in local land lease market operations; their participation and willingness to participate in the regulation of agriculture land lease relations; landowners' awareness of land lease agreements and terms and conditions of leases; and landowners' attitude toward the ability to protect their rights and sale of land plots once the moratorium on the sale/purchase of agriculture land is lifted.

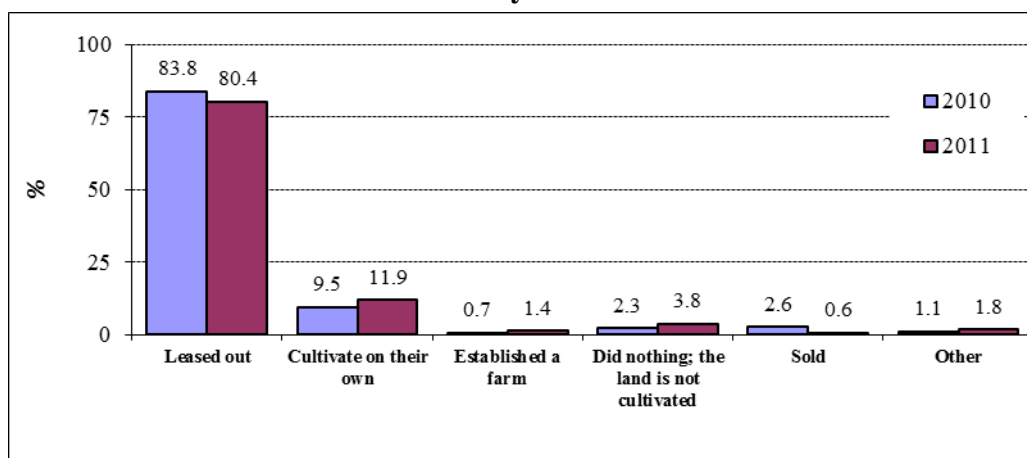
Based on the summarized survey data, the Consultant prepared specific recommendations on further actions.

## Section I: Overview of the Current Situation with the Ownership and Use of Agriculture Land

Land reform in Ukraine was declared as on to be undertaken in the first place to the best interest of the rural population and intended to create real private owners in the agriculture sector. Major expectations from the land reform included development of agriculture production in rural populated areas, increase in incomes of the rural population, and improvement in rural employment. The main problem is that individuals who received land plots (units) designated for "commercial farming purposes" do not cultivate this land on their own. The ownership of land envisages that the owner is able to dispose his/her land including and work on his/her land on his/her own. In reality, however, a few land units are used by individual owners for the purposes of commercial farming and satisfying their own needs. Most land units are leased out to corporations, agriculture enterprises, and commercial farms.

Results of a representative survey of individual owners of land plots (units)<sup>1</sup> residing in rural areas, conducted in 2010 and early 2011, show that the number of available options for disposal of land units is still limited. As little as ten percent of respondents appended land units to their homesteads and cultivate this land on their own. Most often, Ukrainian rural households develop by evolving into commercial farms but this process is extremely slow. On the whole, independent farmers are better off. Chart 1 shows that seldom are farms established on the basis of land plots (one percent of respondents). 2.6 percent and 0.6 percent of respondents sold or transferred their land units as a gift in 2010 and 2011 respectively. The average age of individual land owners in Ukraine is 54 years, and 56.6 percent of them are women.

**Chart 1.1: Use of Privately-Owned Land Plots**

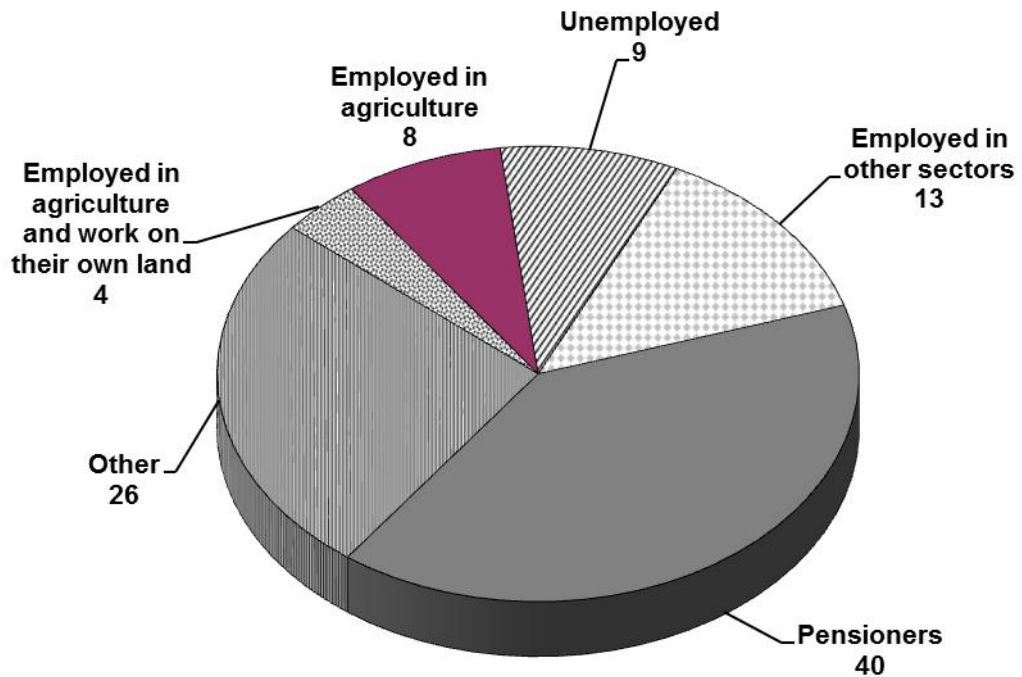


Source: Data of the survey titled "Evaluation of the Land Reform in Ukraine based on the Year of 2010 Results" was conducted as part of the World Bank-funded Rural Development Titling and Cadaster Development Project.

The employment structure of the land unit owners demonstrates that as little as 12 percent are employed in agriculture (see Chart 1.2).

<sup>1</sup> The survey titled "Evaluation of the Land Reform in Ukraine based on the Year of 2010 Results" was conducted as part of the World Bank-funded Rural Development Titling and Cadaster Development Project.

**Chart 1.2: Employment Structure of the Land Unit Owner Population**



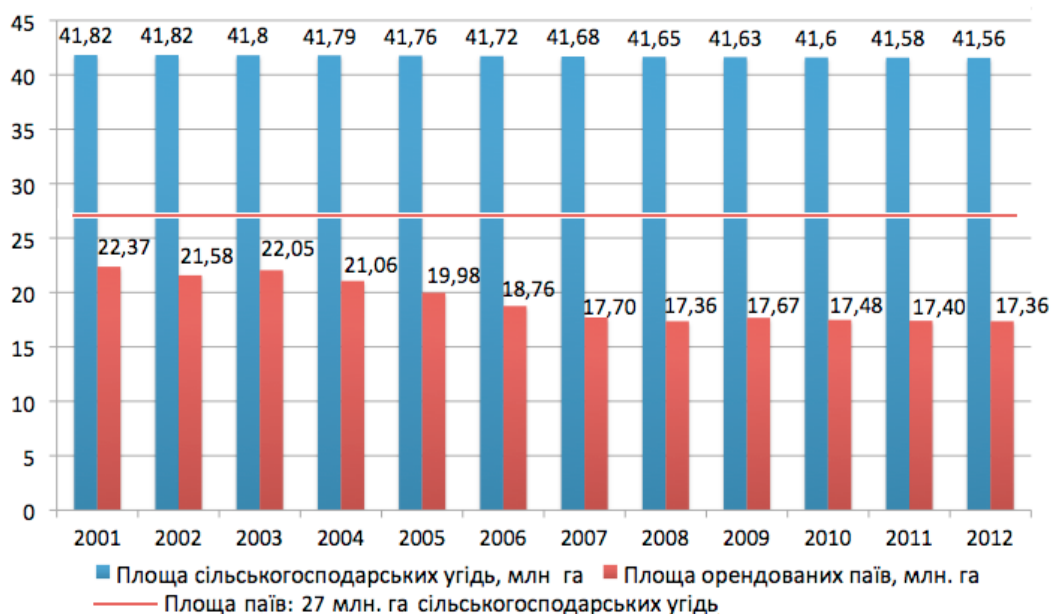
Source: State Land Agency of Ukraine

According to the survey data, individuals of retirement age account for almost 40 percent of current land unit owners. As a consequence, peasants tend to lease their land to agriculture enterprises and thus limit their benefits from owning land by receiving small rents when they could be increasing their incomes significantly through farming the land themselves and selling the agricultural produce.

In 2001, over 22.4 million ha (or almost 83 percent) of agriculture land was leased. In 2011 and 2012, the areas of land leased by land unit owners was reduced to 17.4 million ha or 64 percent of all land that was split into units (see Chart 1.3).

Large agriculture enterprises became major land users. 90 percent of them lease land from private owners. According to the State Land Agency, land unit owners signed 4.5 million leases in 2011, of which, nine percent were for one to three years, 48 percent were for four to five years, 32 percent were for six to 10 years, and 11 percent were signed for 10 or more years. Between 2000 and 2010, the percentage of short-term leases (up to three years) shrank, and the percentage of leases signed for six to 10 years rose.

**Chart 1.3: Areas of Agriculture Land and Leased Land Units in 2001 through 2012**



Source: Official data of the State Land Agency of Ukraine

Lessees' monopoly in rural areas and the informational and social exclusion of peasants condition low rents. The rent is determined as a percentage of the normative value of landlords receive UAH 200 to UAH 280 per ha on average. Agriculture enterprises constituting the lion's share of lessees and generate super-profits by paying the same rent (and sometimes lower) as small farms do. In 2010, for example, the average rent paid by agriculture enterprises and farms was UAH 263 per ha and UAH 268 per ha, respectively. In kind rent prevails (over 70 percent). In kind payments depreciate the rent value as lessors set prices for agriculture products which are provided to lessees toward the payment of rent on their own, and such prices are above market prices. In so doing, the quality of such products are usually low.

Rent as a percentage of peasants' individual incomes has been decreasing. In 2002 and 2003 the rent for a land unit was 2.5 times as large as the average wages in agriculture<sup>2</sup>, it fell to 83 percent by 2009 and 2010.

The moratorium on the sale/purchase of agriculture land was imposed by the Law of Ukraine "On land unit alienation transactions" dated January 18, 2001. The Law prohibited alienation of land units "except for cases of bequest and buyout of land for state and public needs". The moratorium was supposed to continue until such time when "exercising individual and corporate rights to land units is regulated by the Land Code of Ukraine". The moratorium was not lifted when the new Land Code of Ukraine was adopted in 2001 and has been extended on a regulator basis since that time. As of mid-December 2012, it has been extended until January 01, 2016.

As a result of the long duration of the moratorium and delays with regulation of transactions with agriculture land, business operations on agriculture land and transactions with agriculture land have moved to the informal sector. The large capital controls millions of hectares of agriculture land due to numerous grey schemes. The "grey" control over distribution of agriculture land and the informal market of land leases has been developing spontaneously and half-legally by means of consolidation of large arrays of agriculture land by large corporations (holdings).

<sup>2</sup> The International Bank for Reconstruction and Development/The World Bank, *Achieving Ukraine's Agricultural Potential: Stimulating Agricultural Growth and Improving Rural Life*. – 2004. – 277 p.



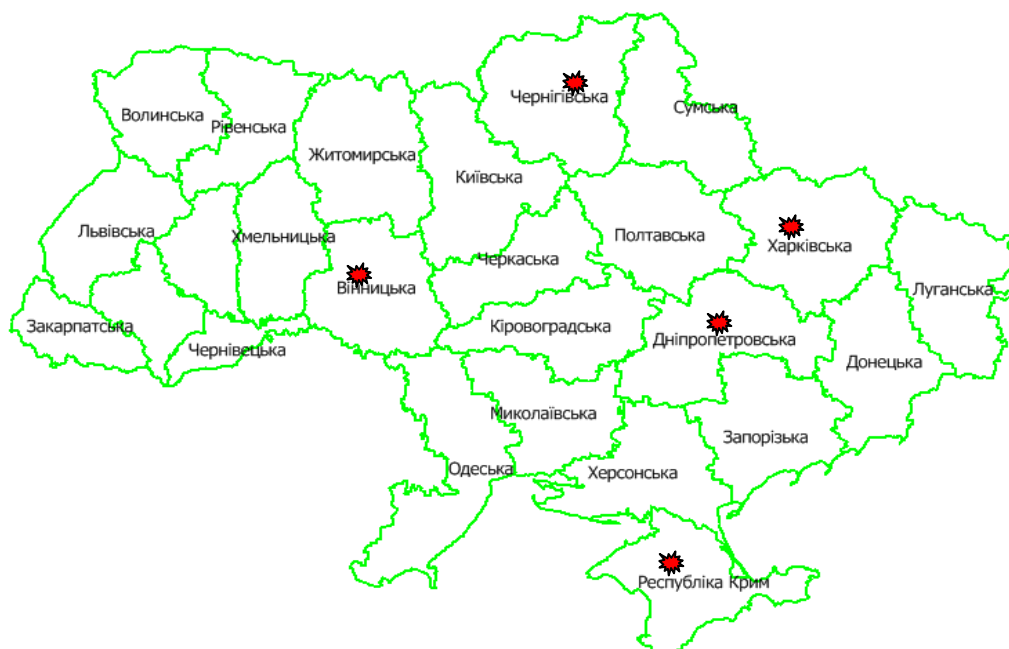
## Section II: Results of the Survey of Rural Land Owners about Their Participation in Regulation of Land Lease Relations at the Local Level

### Purpose and Spatial Characteristic of the Survey

The survey was intended to further understand (i) the extent to which rural residents in various regions of Ukraine are engaged in in the process of the development of local land lease markets and are willing to participate in regulation of land lease relations in the sphere of using agriculture land; (ii) lessors' awareness of land lease agreements and lease terms and conditions; and (iii) land unit owners' attitudes towards the possible sale of their land once the current moratorium on sale/purchase of agriculture land has been lifted.

The survey was conducted in the Autonomous Republic of Crimea and four oblasts in the Central and South-East parts of Ukraine: Vinnitsa, Dnipropetrovsk, Kharkiv, and Chernihiv oblasts. Overall, 109 respondents residing in the cited areas were surveyed.

**Chart 2.1: Layout of Participating Regions**



**Table 2.1: Number of Processed Questionnaire Forms by Regions**

	Number of Questionnaire Forms
The Crimea: Sovetsk raion	13
Vinnitsa oblast: Nemyriv and Kalynivka raions	32
Dnipropetrovsk oblast: a number of raions	33
Kharkiv raion: Borovsky raion	15
Chernihiv oblast: Bobrovytsa raion	16
Total	109

The respondents were surveyed in their locations of residence (in schools and community centers) except those in Dnipropetrovsk oblast. At the oblast's management request, the survey was conducted in the oblast center at the agrarian university's facilities where representatives from four raions and seven village councils were invited. Most respondents in the four regions were represented by residents of a single village council and owner of leased land units.

Respondents in Dnipropetrovsk oblast included not only owners who are leasing their land but also farmers leasing 200 ha to 500 ha of land units from small owners, village mayors, local government officials, and owners cultivating their land on their own. For this reason, we did not collect information on village councils' capacities in Dnipropetrovsk oblast.

In addition to collecting the answers to survey questions, a lot of important information was obtained in the process of informal conversations among tasks force members, respondents, local government officials, entrepreneurs, and farmers following the official part of the survey.

### **Methodological Tools of the Survey**

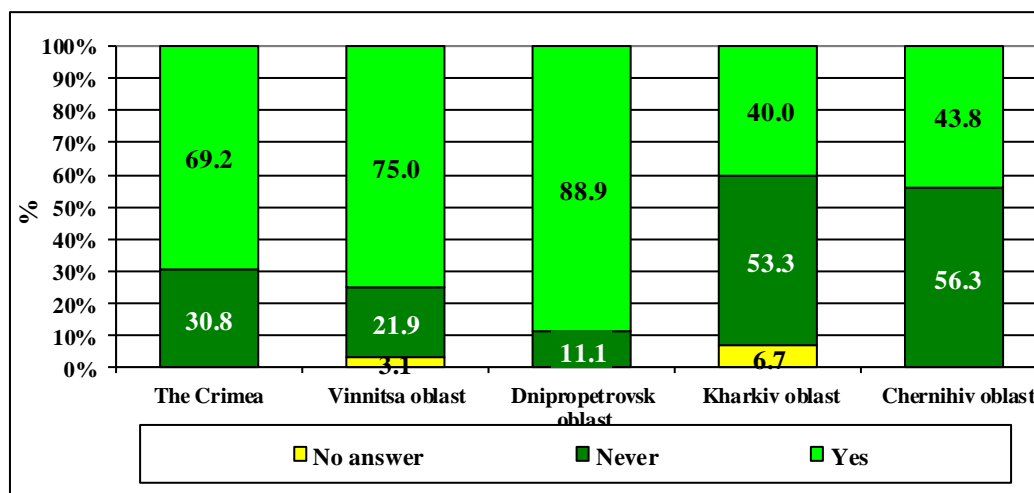
The survey goals were not limited to the collection of primary data on development of land lease relations at the local level. The survey was also intended to interpret revealed facts in an academic manner. This, in turn, called for development of methodological tools as described below:

- The survey was conducted by means of group interviews which were held predominantly at the place of respondents' residence; each group included 13 to 33 survey participants – i.e. land unit owners. All survey participants were land owners regardless of whether they were farmers, public servants, local government officials or social workers;
- The group work was organized in the form of two presentations delivered by moderators which were followed by completing questionnaire forms and finally an open discussion. The questionnaire forms and moderators' presentations are provided as attachments to this report. It should be noted that the questionnaire was supplemented with three additional questions for the focus groups in Vinnytsia and Dnipropetrovsk
- Communications were maintained among respondents themselves, moderators, local businessmen, local government officials, and representatives from regional authorities and industry management. This enabled for the revelations of peoples' motivations and various perceptions and attitudes toward problems under discussion and learn their visions/suggestions of possible solutions;
- The data collected through the survey were processed with Microsoft Access, a database management system with a wide range of capabilities including related queries, sorting functions, links to external tables and databases. Special routines were developed for the purpose grouping data.

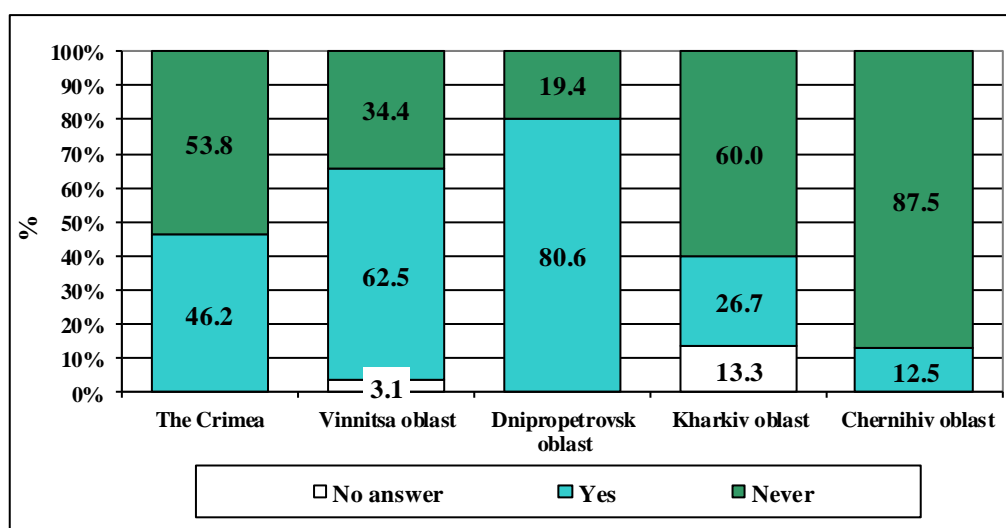
### **Summarized Results of the Field Surveys**

1. The area of land owned by respondents ranges from 1 ha (the Crimea and Chernihiv oblast) to 18 ha (Dnipropetrovsk oblast). The area of privately owned land received in the process of splitting previously collectively-owned land averages 4.2 ha in the Crimea, 2.3 ha in Vinnitsa oblast, 5.6 ha in Dnipropetrovsk oblast, 4.5 ha in Kharkiv oblast, and 4.0 ha in Chernihiv oblast. The actual area of such land depends on the area of land which was subject to splitting, the number of potential land unit owners, and the composition and quality of land which was subject to splitting.
2. Land units are located 0.5 km to 11.5 km from the place of owner residence. This distance varies by oblast. Ten percent of respondents in Dnipropetrovsk oblast mentioned distances over 50 km (specifically, 50 km, 60 km, 106 km, 107 km, and 200 km). For Dnipropetrovsk, as the survey was conducted in the capital, some respondents might not have understood that they were supposed to specify the distance from their place of residence rather than the survey venue.
3. Have you ever seen your land, even from afar? Have you ever stood on your land?

**Chart 2.2: Have you ever seen your land, even from afar?**



**Chart 2.3: Have you ever stood on your land?**



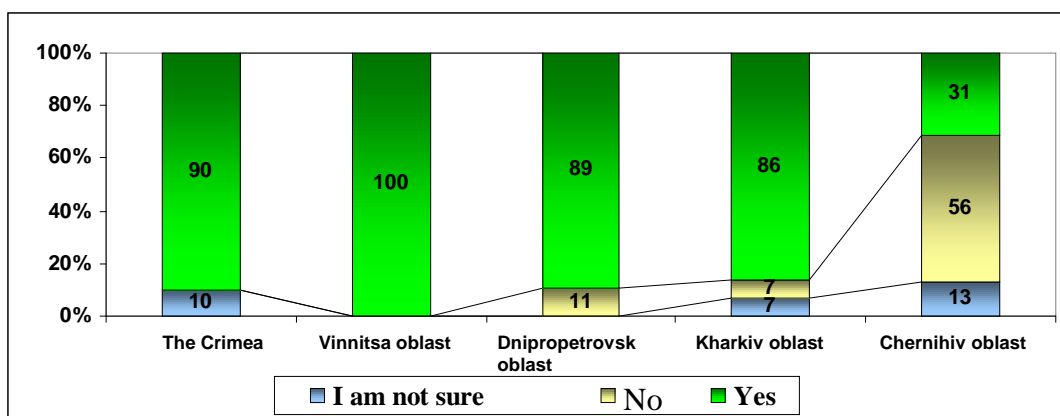
Answers to questions 3.1 and 3.2 enable us to assess to what extent land owners feel themselves real land owners by means of visual and physical contract with their land. If a peasant monitors what is happening on his/her plot on the common field and visit his/her land, this demonstrates that the land owner is really concerned with his/her land and interested that his/her land is used efficiently and effectively. 70 percent to 90 percent of land owners in the Crimea, Vinnitsa and Dnipropetrovsk oblasts saw their land, and 50 percent to 80 percent of them stood on their land. These figures are significantly lower in Chernihiv and Kharkiv oblast: more than half the respondent never saw their land; as little as 26.7 percent of respondents from Kharkiv oblast and 12.5 percent of respondents from Chernihiv oblast ever stood on their land.

4. Answers to the fourth question show that most land unit owners are participants in the local land lease market. Three percent of respondents from the Crimea and 16 percent of respondents from Dnipropetrovsk oblast cultivate their land on their own. An interesting situation is revealed in Dnipropetrovsk oblast where three percent of respondents cultivate some part of their land on their own and lease out the other part. This reveals a rather specific economic behavior of some land owners and non-traditional approaches to utilize their land.

Answers to Questions 5 through 9 provide information on respondents' awareness of the terms

and conditions of their land lease agreements. This information enables us to find out whether or not lessors have copies of land lease agreements, keep track of lease terms or are aware of their lease terms and conditions, time of lease term completion and whether leases will be renewed.

**Chart 2.4: Do you have a land lease agreement?**

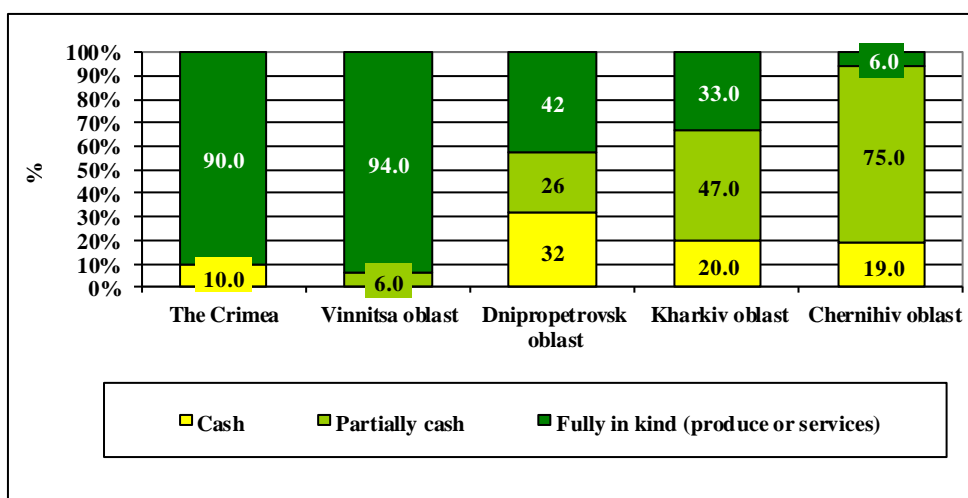


Respondents' answers suggest that most respondents in all regions except for Chernihiv oblast have land lease agreements (see Chart 2.4). In Chernihiv oblast, there has been the same lessee during the entire term of lease. In the past, he was the head of the collective farm which owned the land which was split later. Today, this gentleman is a member of the Ukrainian Parliament.

Current land leases were concluded mainly between 2004 and 2012. Three percent of respondents from Kharkiv oblast mentioned that their leases were signed back in 1996. 15 percent of land owners were not able to specify in what year their leases were signed. Existing leases are medium and long term. In most cases, the term of lease is five, ten or fifteen years. Theoretically, the best lease term would be five to ten years as this is the general term of agriculture crop rotation.

Around two percent of respondents renew their leases every year. Approximately six percent of respondents do not remember the term of their leases. Rent is paid mainly in kind (products and services) (see Chart 2.5).

**Chart 2.5: Form of Rent**



Rent is paid in-kind in 90 percent of leases in the Crimea and in Vinnitsa oblast. Respondents from these regions claim they are quite happy with such situation.

In Chernihiv oblast, where lessors are also very happy with the rent, the latter is payable partially in cash and partially in-kind in 75 percent of the leases. The largest percentage of leases with cash rent is in Dnipropetrovsk oblast – 32 percent.

The yearly rent varies by oblast from UAH 640 per land unit of one ha to UAH 5,018 per land unit of 7.7 ha. According to our calculations, the average normative rent per land unit should be UAH 2,344.

In Chernihiv oblast, the major lessor has been paying UAH 3,400 per land unit irrespective of its area which is five percent of the normative value of land (according to current law, the rent must be no less than three percent of the normative value of land). Such rent was mentioned by owners of 2 ha and 6.67 ha land units. According to our calculations, the average normative rent in Chernihiv oblast should be UAH 1,067.

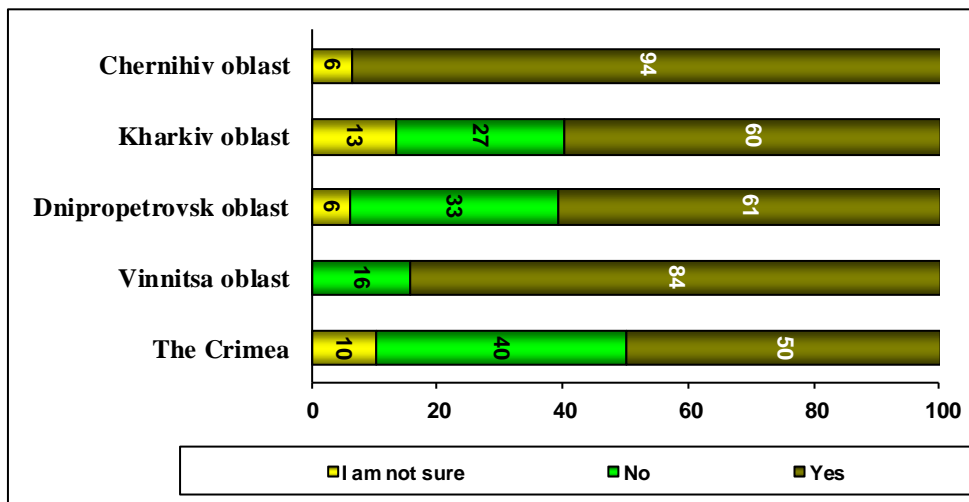
Land unit owners in Vinnitsa receive UAH 1,500 to UAH 1,800 per leased land unit whereas the normative rent is UAH 994. In Dnipropetrovsk oblast, the average rent is UAH 3,000, the maximum rent is UAH 5,200 per land unit of 8.8 ha, and the normative rent is UAH 1,916. In Kharkiv oblast, the average and normative rents are UAH 2,500 and UAH 2,200, respectively.

Answers to questions about lease terms and conditions are distributed in the following way.

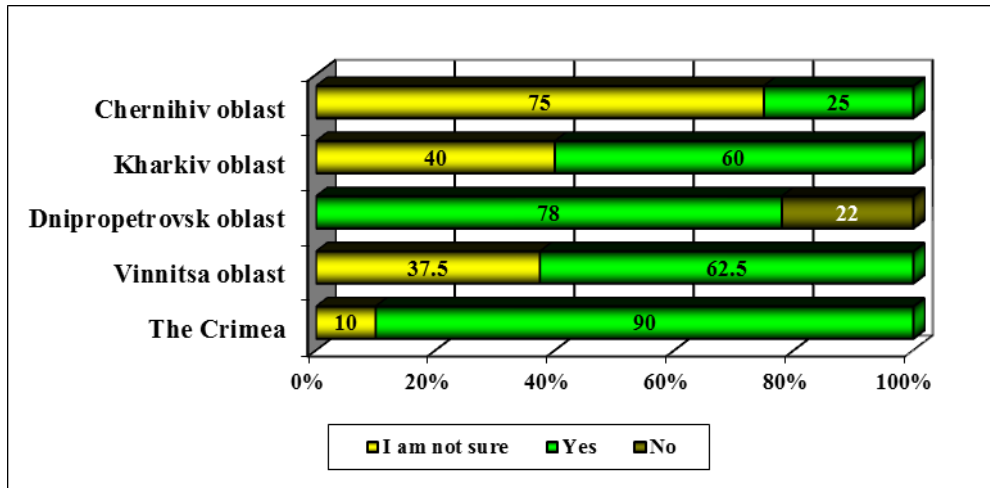
The rent is adjusted every year under leases signed in Vinnitsa and Chernihiv oblasts. Approximately half the land unit owners in the Crimea, Kharkiv and Dnipropetrovsk oblast seem not to be concerned with annual rent adjustment as they were not able to provide a clear answer to this question (see Chart 2.6).

Leases concluded in the Crimea and Dnipropetrovsk oblast specify lessee's right to renew the lease once the current lease term has ended (see Chart 2.7).

**Chart 2.6: Is there a provision on yearly adjustment of rent in your land lease agreement?**



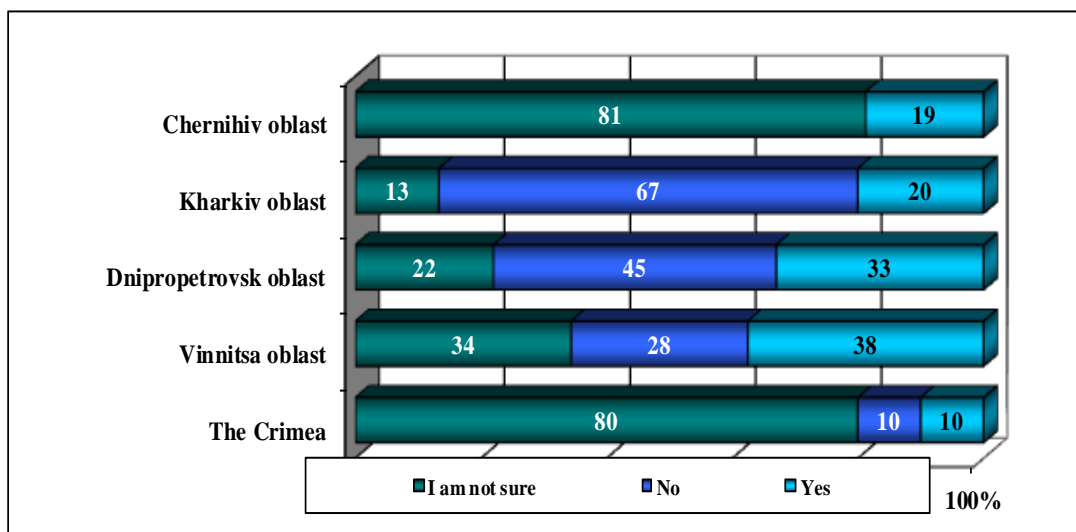
**Chart 2.7: Is the lessee entitled to renew the land lease agreement?**



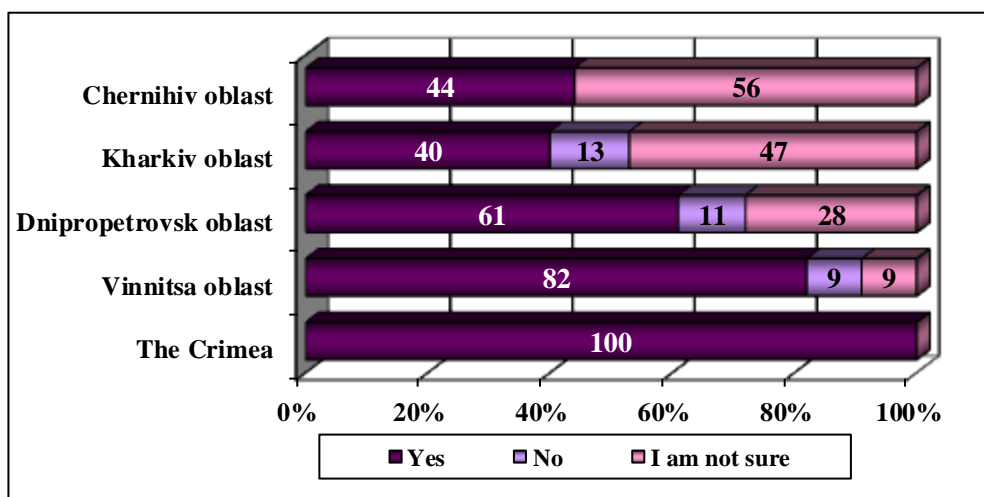
Given the fact that land owners in Chernihiv oblast and the Crimea are not aware whether or not the lessee has a preemptive right to buy the leased land, they do not pay much attention to the issue of selling their land and, obviously, are not planning to sell their land in the nearest future. Most land unit owners in Kharkiv and Dnipropetrovsk oblast do not have such provision in their leases which may suggest that they are not willing to sell their land and opt for lease relations. One third of respondents in Vinnitsa oblast agree with lessee's preemptive right to buy their land, one third are against the preemptive right of the lessee, and the other third are not aware of such right (see Chart 2.8).

100 percent of respondents in the Crimea and most respondents in Vinnitsa and Dnipropetrovsk oblasts are sure that the responsibility for protecting soil fertility rests with the lessee, and such requirement is set forth in the lease. According to our estimates, Dnipropetrovsk oblast is characterized by the highest degree of soil exhaustion due to farming. Crops leading to the exhaustion of land and intended for export accounted for more than 90 percent in crop rotations in the year of 2011. According to respondents from Dnipropetrovsk and Kharkiv oblasts, there is no soil fertility protection clause in 11 percent and 13 percent of leases, respectively (see Chart 2.9).

**Chart 2.8: Does the lessee have the preemptive right to buy your land?**

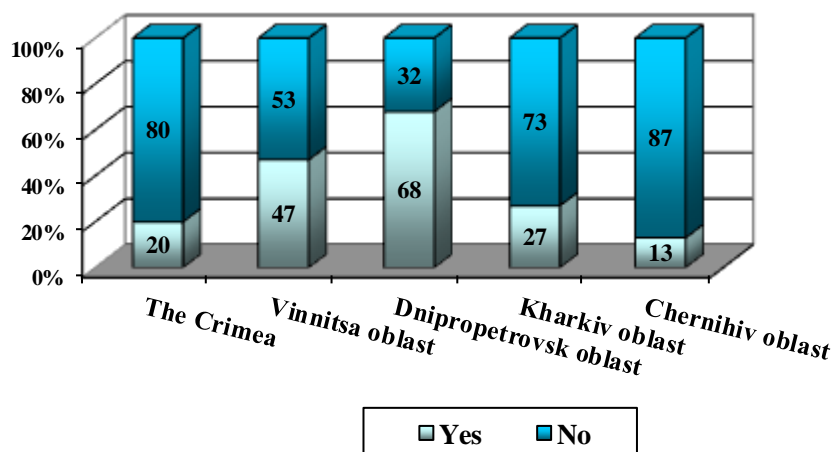


**Рис.2.9: Does the land lease require that the lessee maintains soil fertility?**



Answers to Question # 10 about the normative value of land show whether or not land owners are aware of developments with the normative land value and regulation on rent happening at the government level. The normative value of land was calculated in 1995 by a methodology approved by Government Decree # 313/1995, and that value was fixed in titles to land plots. The normative value of land is adjusted for inflation on a yearly basis. According to Cabinet of Ministers Decree # 1185 dated October 31, 2011, the normative value was almost doubled in 2012 (it was increased 1.756 times). Under the current regulations on setting the minimal rent for agriculture land, the growth of the normative value of land must be accompanied by the growth of rent.

**Chart 2.10: Do you know what the normative value of your land is?**



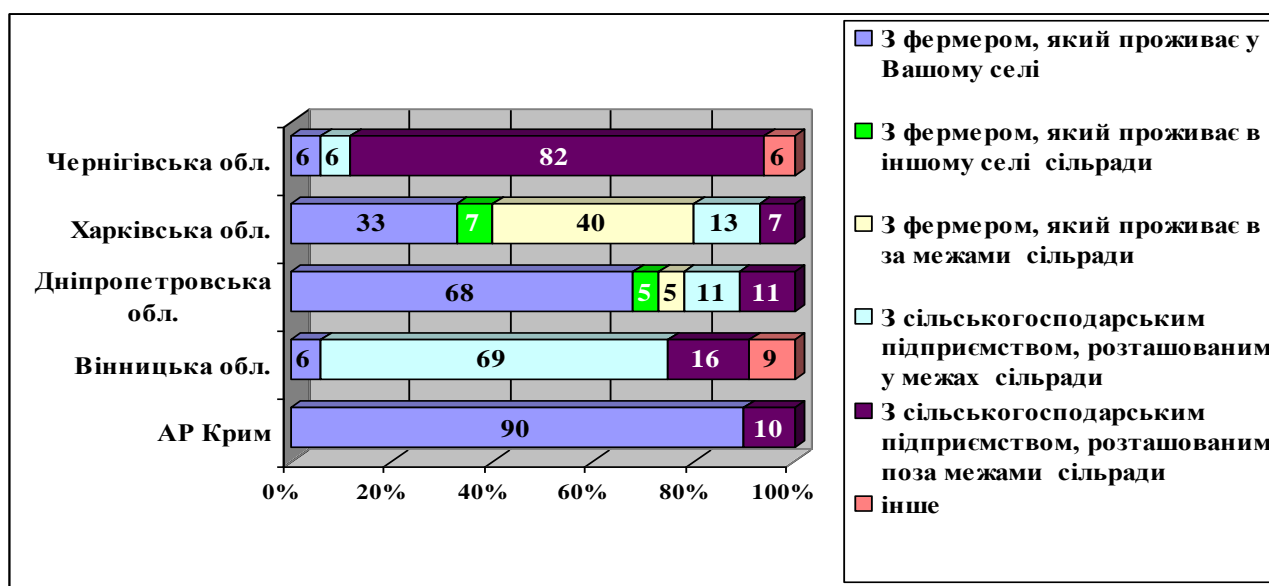
The statutory rent adjustment mechanism envisages that a land owner, by mutual consent with his/her lessee, may revise the rent irrespective of whether the value of land goes up or down. Should the parties fail to reach an agreement the land owner may terminate the lease or resolve the issue judicially.

Question # 11, "What in your opinion will be the market value of one hectare of agriculture land similar to your land in this raion?" caused the most emotional reaction in all regions and it eroded the respondents' trust of the survey administrators. Some respondents deemed this question to be the ultimate goal of the survey. Such respondents thought that the survey was conducted for the sole purpose of finding out the perceived value of land so that all the land

could be bought at a later time. The survey administrator had to provide detailed explanations to ease this concern. However, most respondents did not feel like answering this question. Only 26 percent of all respondents answered it. Respondents from Chernihiv oblast turned out to be most active: around 70 percent of them answered this question and mentioned the overstated value in the range of UAH 100,000 to UAH 150,000 (\$13,000 to \$18,000) per ha. 16 percent of all respondents in Vinnitsa oblast answered this question and, in so doing, mentioned unrealistic values of UAH 500,000 to UAH 800,000 (\$65,000 to \$100,000) per ha. Those few respondents from Kharkiv and Dnipropetrovsk oblast who answered this question (eight percent and six percent, respectively) believe that they will be able to sell their land for UAH 20,000 to UAH 25,000 per ha. The least active in estimating the selling price for their land turned out to be respondents from the Crimea. The latter, however, overvalued their land significantly at UAH 390,000 (around \$50,000) per ha<sup>3</sup>.

In all surveyed regions (except for Chernihiv oblast<sup>4</sup>) most lessees are rural residents residing locally or elsewhere (see Chart 2.11).

**Chart 2.11: With whom did you sign your land lease agreement?**



As a rule, lessees are farmers or enterprises set up in the process of restructuring former collective agriculture enterprises which existed prior to reforms in the agriculture sector. 40percent of lessees in Kharkiv oblast and five percent of lessees in Dnipropetrovsk oblast are corporate structures located beyond the territory of relevant village councils.

Land lease relationships in the surveyed regions are rather dynamic as suggested by respondents' answers to the question about change of a lessee. One third of respondents mentioned that they changed their lessees. 70percent of lessors in Chernihiv oblast changed their lessees during the term of their leases. 55percent of respondents mentioned lessee's willingness to change the lessor as the main reason for changing the lessee. 30percent of lessors in Vinnitsa oblast specified the same reason. 27percent of surveyed landowners from Kharkiv oblast changed their lessees because the latter did not meet lease requirements with regard to the amount and schedule of rent

<sup>3</sup> According to the 2011 survey of the Ukrainian Business Club Association, 28 percent of agriculture producers believe that the market value of agriculture land is below UAH 5,000 per ha; 49 percent of agriculture producers believe that it should exceed UAH 10,000 per ha; 35 percent value one hectare of agriculture land at over UAH 15,000 (23 percent of which are small farms cultivating up to 50 ha of land).

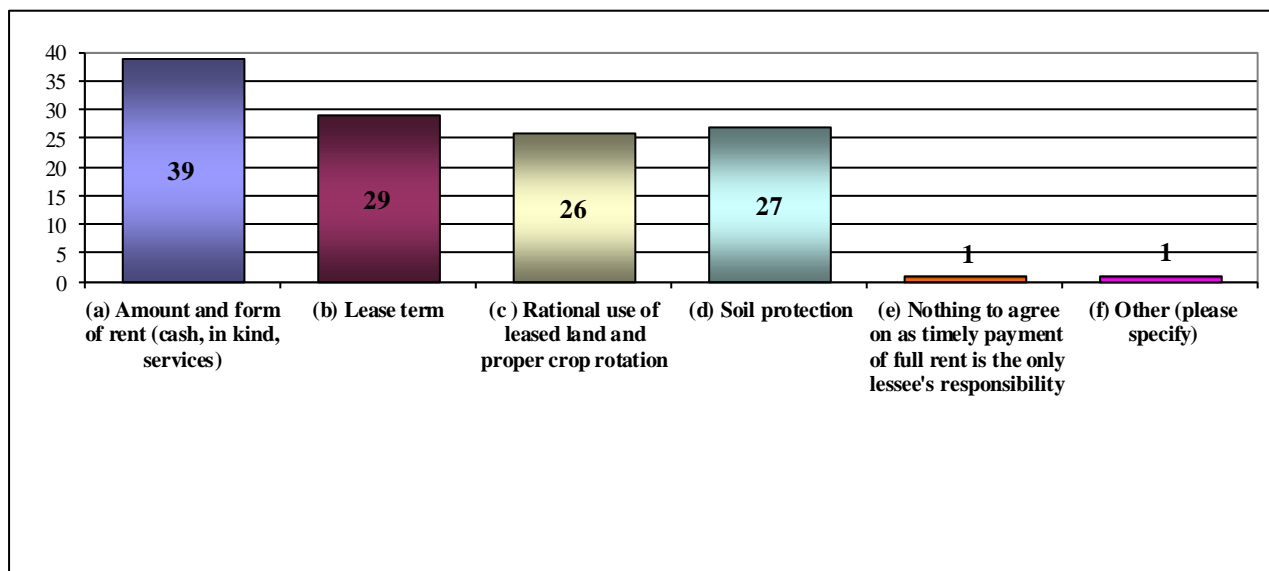
<sup>4</sup> The major lessee in Chernihiv oblast is the former head of a local collective farm who now is a member of the Parliament and resides in Kyiv.



payment. In the Crimea, new lessees offered higher rents.

Answers to the question about what land use aspects the parties should agree on in the process of leasing land lead to the following conclusions (see Chart 2.12):

**Chart 2.12: What land use aspects do land unit owners have to agree on with lessees when leasing out their land? (More than one answer can be given)**



*Conclusion # 1:* Land owners' greatest expectations from leasing their land concern short-term financial results – the receipt of rent. Almost 40percent of the survey participants focus on this aspect of land relations. Another important issue for them is the term of the lease which, in their opinion, should be set during the negotiation process. *Conclusion # 2:* Little are lessors concerned with the rational use of their land by lessees and maintenance of soil fertility in a natural way i.e. by means of crop rotation (26 percent). Approximately the same share of respondents (27 percent) believer that lessors need to ensure that lessees protect their land from degradation. *Conclusion # 3:* Almost all respondents are sure that land lease is a process of negotiation between lessor and lessees whereby the parties discuss their interests and agree how their interests will be reflected in leases and protected at the lease performance stage. *Conclusion # 4:* It was revealed during discussions that respondents are concerned with registration of their leases. They even proposed to delegate this function to the local level.

Eight people responded negatively to the question "Do you believe that land unit owners' interests need to be protected when leasing their land?" All other respondents answered "Yes". The discussion on this issue that followed upon completion of the questionnaire forms suggested that the negative answers were given by lessees. Lessees from Dnipropetrovsk oblast who participated in the survey were very displeased by pre-election promises of politicians who, through the media, claimed that the minimal rent would be UAH 1,000 per ha. Not many lessors require that lessees pay the rent at the level promised by politicians. This example demonstrates the commonly held belief that the rent may not be set at the national level and should be negotiated between lessors and lessees.

Answers to the question "Who should advocate land unit owners' interests?" are distributed in the following way (see Table 2.2):

**Table 2.2: Structure of answers to the question "Who should advocate land unit own interests?" (Dnipropetrovsk and Vinnitsa oblast)**

	Number of	%
--	-----------	---

		answers	
(a)	Lessee	21	40
(b)	Village council chairman	10	19
(c)	State Land Agency	7	13
(d)	Ministry of Agrarian Policy and Food	16	31
(e)	Land owners provided they have relevant powers	19	37
(f)	Other (please specify)		

Most respondents place their hopes on lessees (40 percent) and themselves (37 percent), provided that small land owners are provided with the proper conditions and necessary powers.

As little as 13 percent of respondents trust the government to be a regulator of land relationships in Ukraine (i.e. the State Land Agency and its local offices) despite the fact that formally this authority must protect rights of all participants in the land lease market and particularly those who, for some reason or another, are not able to fully exercise their constitutional rights in the sphere of land ownership and land use.

Besides, people do not trust local governments. Less than half of those placing their hopes on lessees believe that village council chairmen may advocate on behalf of small land owners' interests in exercising their right in the process of using privately owned land plots.

A large percentage of peasants still lay their hopes on the national government as represented by the Ministry of Agrarian Policy and Food. This can be explained by the long lasting paternalistic behavior of ordinary peasants who despite many crushed hopes still expect the government to protect and support them.

### **Section III: Summary of Empirical Observations and Recommendations of Further Actions**

The survey of small land owners – lessors – was conducted in the Central-North and South-East regions of Ukraine where land lease relationships have a more than ten year history. As the venues were agreed on with local government and sectoral authorities, the survey was conducted in those communities where there are few conflicts associated with land lease relationships. In the Eastern region (Kharkiv oblast), however, peasants' reactions to existing problems in the sphere of land ownership and use were more emotionally charged. There is a feeling that problems here are more painful. The most constructive meetings were held in four communities in the Crimea, Vinnitsa and Chernihiv oblasts. Members of these communities asked a lot of questions, shared their opinions freely, mentioned risks associated with self-governance in rural communities, and came up with proposals on solving existing problems.

On the whole, the survey outcomes suggest that respondents are well aware of issues which were proposed for discussion. It is particularly noteworthy that most respondents did see and even stand on their land. Sometimes, respondents' answers evidence that they regularly monitor what is going on their land. Some land owners diversify risks associated with generation of income from their land: they personally cultivate a part of their land and lease out the remainder.

These findings serve a basis for two important conclusions. First, the process of exchanging certificates of land unit ownership for state acts of private ownership of land foster an overcoming of people's disbelief in that it is realistic to acquire the private ownership of land. Second, rural residents are becoming more aware that the land plots they received in the privatization process are important assets which, if properly utilized, may increase their welfare. A land unit as imaginary ownership of land has transformed in a real land plot which can be seen in a common array of land and on which one may even walk. This creates preconditions and real opportunities for influencing rational use of privately owned land by lessees.

At the same time, many opinions expressed by the survey participants during discussions boil down to the point that it would be more feasible to cultivate land as part of a field rather than to lease it out. Such options were discussed emotionally in Kharkiv and Dnipropetrovsk oblast; other respondents mentioned them as well. Therefore, people are still willing to use land in a collective manner despite the fact that former collective agriculture enterprises have not been operating in the surveyed areas for more than a decade. Such a willingness should be taken into account when setting up land owner associations. It may be feasible to legislate such association members' rights to choose certain options for using consolidated land (array/field): either lease it out or use it on their own (cultivate, lay down in grass, use as pastures etc.).

It follows from generalized answers to questions concerning the lessors' inclusion in the processes of formalizing lease relationships in land lease agreements that on the whole land owners are well aware of the amount, form, adjustment of rent; dates of conclusion and renewal; and other terms and conditions of leases. The conclusions here are as follows:

- If lease terms and conditions are appropriate to lessors, the lessees are reliable and well known, and relationships between the parties are informal and trustful, land owners do not go into details within the leases and do not require their copies of leases as officially required. The jeopardy posed by such relationships is that they preserve the paternalistic behavior whereby the liability is shifted on someone else, and communities do not try to develop and search for new ways to develop. There are cases when such relationships lead to land owners losing not only their copies of leases but also titles to land which they leased out to lessees. In our opinion, it will be problematic to set up land owner

associations in such communities.

- Most leases are concluded for five and more years and include clauses about lease renewal upon completion of the lease term and the lessee's responsibility to maintain soil fertility. In terms of rational land use, a five to ten year lease term is deemed the best as this is the term of main agriculture crop rotation. However, lessees ignore crop rotation requirements to maximize their profit. Such behavior of lessees may create serious hindrances to the processes of developing a network of land owner associations and organizing their operations at the local level.
- Most survey participants are concerned with adherence to proper practices of agriculture land use despite the rent is more important for them than proper use of land and preservation of soil fertility. Specifically, in Chernihiv oblast where the rent is about six percent of the normative value of land (vs. the statutory three percent), land owners are happy with the rent but they are concerned that nothing but sunflower and corn, which are not typical for the region, are grown on their land. It is noted that this community would prove beneficial for any pilot project purposes as the local land owners are willing to influence the terms and condition for using their land, their attitude is positive, and local lessees hold a constructive position which is based on the ongoing dialog with land owners.
- A small percentage of leases contain a clause setting lessee's preemptive right to buy the land once the moratorium has been lifted. This may be regarded as a preference toward lease relationships as opposed to ownership. The question about the selling price for a land unit turned out to be most "painful". This may be explained by respondents' either unpreparedness to sell their land or unwillingness to sell it for a low price. The prices mentioned by respondents are evidence that they are completely unaware of actual prices. Many of them told that a lot of land owners were not participating in the survey but they knew that many of them were willing to sell their land right away. The issue of selling/buying land makes peasants particularly uneasy when potential foreign buyers are mentioned. They are sure that once the free agriculture land market is operational, all Ukrainian chernozem (black soil) will be owned by a few dozen of the oligarchs as it happened with the Ukrainian industry. During informal discussions, peasants told that some strangers have come to their villages from time to time to collect information on local residents' willingness to sell individual plots or arrays of agriculture land.

Lessees of the surveyed territories are predominantly farmers or agriculture enterprises located in rural areas. However, we have failed to find out everywhere whether enterprises leasing land operate on their own or as structural units of corporations. Peasants in Kharkiv and Dnipropetrovsk oblasts did not have any information in this regard. In Vinnitsa oblast, they told that over 40 independent agriculture enterprises operated in the surveyed area in the past and only four or five such enterprises still exist today while all the others are acquired by agri-holdings. Respondents from Vinnitsa oblast lease out their land to enterprises operating on their own. These enterprises preserved their facilities, social infrastructure, jobs for land owners leasing out land to them and for that reason they are unwilling to change lessors or lose independence; they do not wish any changes at all. However, there is an ongoing external pressure intended to break established socio-economic relationships in the community: every so often somebody visits the village and incites the locals to terminate existing lease relationships in favor of some other party. Potentially, such communities may participate in pilot projects in view of their experience of collective efforts to advocate their interests under pressure from the corporate capital.

The analysis of the aggregated survey data does not reveal any essential differences between the

"local" and "external" lessee situations. Lessees change on the initiative of lessees themselves. This confirms the conclusion on lessors' incapability to regulate lease relationships. Despite leases defined equal rights lessors and lessees, in practice lessors are not able to influence these processes and, let alone, protect own interests in conflict situations. A specific case was discussed emotionally in Kharkiv oblast where a group of land owners (participating in the survey) told about their attempt to protect their statutory rights by early termination of leases with a defaulting lessee. Numerous negotiations with the lessee did not lead to a positive outcome, and 27 land owners tried to sue the lessee three times. Despite the lessors' requirements being legally grounded, the court made three rulings in favor of the lessee. This example was given as the main argument against the establishment of land owner associations as they will not contribute to solving land use problems and advocating peasants' interests. Informal discussions revealed that the main reason of the failure to sue the lessee: Relatives of the lessee, who used assets of the former collective agriculture enterprise and land virtually for free and low paid labor, work in the Prosecutor's Office, police, and tax service. That is why the court rulings can never be in favor of ordinary peasants as they cover each other's back.

It is positive that most surveyed small land owners are seeking to hold a dialog with a lessee. They believe that parties need to agree on a number lease terms and conditions and formalize them properly. However, they do not know how to monitor and enforce compliance. Respondents greatly doubt that someone (namely, the chairman of the association) will do this to the best interest of association members. In our opinion, the issue of trust may become a key problem when organizing collective actions of small land owners. There are also related problems caused by the undeveloped civil society which should be taken into regard in the process of concept development as well.

It was revealed that most respondents react negatively to the very term "land owner associations." This is because they equate land owner associations with existing associations (farmer associations, cooperatives etc.) which, in their opinion, advocate interests of the management, local elite, and large land owners.

Provided below are proposed actions and measures to be considered as next steps.<sup>5</sup>

- (1) To discuss the survey data and the need to empower land owners in a wide circle of participants, including academic community, independent experts and Government officials, so that they share their perception, opinions and proposals;
- (2) To develop and finalize the Concept of developing capacities of small land owners needed to reconcile lessors' and lessees' interest with regard to proper use of land to the best interests of rural communities;
- (3) To conduct a legal review to find out whether or not basic provisions of the Draft Concept may be implemented;
- (4) To initiate pilot projects for the purposes of obtaining empirical results of conceptual provisions and identify a need in supplementary legal services;
- (5) To develop a special plan of action at the national level to ensure public awareness that local resident involvement is essential to improving the performance of the agrarian sector on the whole and solve urgent problems in the sphere of land ownership and use specifically. It is important to communicate the message that despite existing problems faced by the rural society, rural residents can and must be involved in the process;
- (6) To identify key policy makers at the national level who would be able to form a political will to make changes and support the proposed project;

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<sup>5</sup> The proposed actions are listed not necessary in an order of subsequent steps.

- (7) To begin development of institutional mechanisms for involving small land owners in regulation of local land resources management processes. These activities include developing the legislative and regulatory framework for setting up small land owner associations; creating a network of supporting authorities and organizations; refining the definition of functions of public administration bodies implementing the government policy in this sphere; identifying rural community leaders who could be able to initiate establishment of associations and lead these associations;
- (8) To adjust existing AgroInvest public education programs for active promotion of Owners' Association Concept.

The action plan can be refined upon completion of a series of consultations which are currently being held at the national level.

## **Attachments**