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Poland Amends Land Law

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Report Highlights:

On December 3, 2011, Poland amended the Land Law originally passed to guide privatization of former state farms to allow for more rapid selling, rather than leasing, of state owned property. Farms of over 300 hectares of land leased from the State will be allowed to purchase up to 70 percent of that property on expiry of their contract. No lease will be renewed. The Ministry of Agriculture sought the Law's amendment to allow for accelerated disposition of land for budgetary reasons. The reaction instead has been of elevated concern among producers and investors. Large farmers who are operating under long-term lease agreements with the state would be forced to liquidate a substantial portion of their holding. The non-Polish agriculture community sees negative implications for foreign investment in Polish agriculture given the limitations posed by the amendments.

General Information:

The Government of Poland (GOP), in effort to address pressures posed by the national budget deficit, had proposed the Parliament amend the Land Law to allow the Agricultural Land Agency (ALA), an agency of the Ministry of Agriculture charged with administering such land, to focus on selling rather than leasing to farmers. On September 16, 2011, the Polish Parliament amended Poland's Land Law which regulates the privatization of former State farms. Although changes in the Land Law had been widely criticized by the Federation of Employers' Associations-Leaseholders and Agricultural Land Owners, and had generated opposition by some parliamentarians as well as some members of the ruling coalition, Poland's President signed the new law on December 3, 2011.

In 1991, the ALA was established to privatize agricultural land of the former State farms, a land area totaling 4,723,100 hectares. As of December 11, 2011, the ALA had sold 2,077,000 hectares (43 percent), and had signed long-term lease contracts for 1,582,518 hectares. ALA had retained direct control of the remaining land.

Changes to the Land Law are expected to adversely affect most large-scale farm operations of over 300 hectares of leased land which are structured on long-term agreements with the ALA. Under the amended law, within six months each large lease holder is to be notified of their right to purchase up to 70 percent of the property currently leased on expiry of the contract. ALA will offer preferential terms to facilitate the purchase. The remaining 30 percent of the property would revert back to ALA for disposition. The leaser will be granted three months to either accept or reject the ALA offer. If the offer is accepted, the lease holder would identify the farm acreage to be returned to ALA. The Lease holder would be barred from any further purchase of State-owned land. If the offer is rejected, ALA will not renew the lease on contract expiry. Land held by or returned to the ALA is to be sold to local farmers via a closed auction process. Preferential terms would be offered to facilitate such sale. All purchased land could be paid via an installment plan that could be spread over several years. The first installment payment would equal 10 percent of the purchase price. This new legislation does not apply to lease holdings of less than 300 hectares.

The Federation of Employers' Associations-Leaseholders and Agricultural Land Owners does view the amended Land Law to be in violation of the constitution and civil code and does plan to appeal to the EU Court in Strasbourg.

Poland, in its' accession into the European Union, negotiated a staged opening of its agricultural real estate to foreign investors. Beginning May 1, 2016, agricultural land will become available for direct foreign purchase. Prior to then, a non-Polish party may purchase such land as a minority partner of a company. Or that party may apply for a special permit issued by the Ministry of Internal Affairs and Administration. After May 1, 2016, citizens of the European Union, Iceland, Lichtenstein, and Switzerland would be eligible to purchase agriculture land without any limitation. Non-European Union citizens (including U.S. citizens), however, would still have to apply for a special permit issued through the Ministry of Internal Affairs and Administration in order to purchase any agricultural land.

Budgetary pressures, the stated reason for amending the Land Law, have both European and non-European companies now operating in Poland concerned over the safeness of their long term investments in Polish agricultural production. Mechanically, some companies believe that they can restructure to divide operations into units less than 300 hectares to minimize productivity loss to the organization. Other companies indicate that they may forego purchase of their leased land and scale back operations. In general, companies are

concerned that the action reveals a deeper intent of the GOP to continue an agricultural policy driven by societal/political objectives to achieve greater agricultural land ownership by Polish farmers, rather than pursue the broader EU policy objective to enhance production and operational efficiencies to better position Europe's agricultural sector to become more competitive on the global market.