



Benchmarking the Business of Agriculture

A joint program by the Agriculture and Environmental Services (AES) and Global Indicators and Analysis Department (GIA)

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Snapshot - Access to Secure Property Rights on Land

Access to Secure Property Rights on Land: relevance and main constraints

A family farm that seeks to enter the commercial agriculture sector requires a regulatory framework that enables the family to secure its access to and use of specific plots of land?" (Rights and Resources Initiative, 2012-2013). This applies for both long-term access in the case of individual or collective freehold property rights, customary rights or long term leases, or for a pre-determined time period in the case of leases or out-grower schemes. The guarantee of access to and use of land for a pre-determined and known period of time is called tenure security. Tenure security is a needed incentive for commercial farmers to invest in the land to make it more productive, such as adding irrigation systems (FAO 2012; World Bank 2008; Deininger 2003). It is also an important requirement for most banks to lend to farmers as a form of collateral.

In urbanizing economies, family farms that want to expand will want to buy the rights to land from other rural actors who are seeking to exit farming. In the absence of accurate and reliable information on property rights, the needed land transactions in an urbanizing context are blocked and land markets cannot contribute to their goal of allocating land efficiently between those who want to buy and sell land rights (Arruñada 2012, World Bank 2008).

Therefore, secure property rights are needed for investment in land, but also to trade land as an asset. In theory, security of tenure for investment in land and to trade land can be achieved through formal and informal property rights systems. However, informal systems can only be efficient when the parties involved in a land transaction know each other, or trust a third party, who they both know, to vouch for their compliance. In today's economy, where most transaction take part between parties that do not necessarily know each other, formal systems are needed to establish the necessary trust between the parties to transact (Arruñada 2012).

In today's economies, accurate and reliable information on property rights on land are best achieved through institutions such as land registries or registries of deeds, when these institutions offer the right incentives to land owners and parties to land transactions. Therefore, the access to the possibility of formalizing rights on land is a key enabling factor for family farmers wishing to grow into the commercial sector, as well as for those who want to exit agriculture and transfer their rights on land.

Although designing property rights that support efficient land use and recognize the multiplicity of rights, is seen as a necessary condition for increased investment in agriculture and economic growth, it is not clear what mix of property rights is conducive to enable sustained and equitable investment in agriculture and economic growth (World Bank, 2008).

Additionally, not any kind of formalization of rights will achieve the desired goal of security of tenure. The design of the institutions that have a role in determining property rights is critical in this regard (Libecap and Lueck 2011; Arezki, Deininger and Selod, 2011; Iyer 2010; Banarjee and Iyer 2005). In particular, property registries or registries of deeds play a central role in determining the degree of security of tenure that a property rights system can achieve (Arruñada 2012, Nogueroles 2007). Other legal institutions that contribute to ensuring security of tenure are the cadaster or survey, valuation institutions, courts, tax authorities and administrative entities with zoning and/or eminent domain powers.

Proposed focus of the Access to Secure Property Rights on Land indicators

The two critical issues that BBA will be covering seek to shed some light on the constraints and main problems identified above. This means that BBA will seek to provide data on (i) what kinds of property rights regimes are allocating land to farmers in an efficient fashion; and (ii) what institutional designs provide sufficient tenure security to enable a commercialized agriculture sector.

Sub category a. Access to formal property rights on land

Both formal and informal institutions can provide access to land and tenure security, and a significant portion of the rural economy is informal in many economies. Since BBA will be looking at how family farmers can enter the commercialized agriculture sector and connect with economic players beyond their close and known circle, formalization of land tenure rights will be needed at some point (de Soto, 2013, Arruñada 2012, Nogueroles 2007). Therefore, the team’s approach will be to identify if the informal sector can enter the formal sector, when appropriate and needed, while analyzing the specific cases in which formal or informal structures are used.

Doing Business in Agriculture regulatory indicators

- **First time registration of property rights:** a time and motion indicator will be designed to measure the ease of first time registrations of individual and collective rights (including customary rights). This indicator will be complemented with a legal indicator on legal guarantees afforded in the first time registration process.

Deep Dive topic areas and indicators

- Institutions used to access land (formal and informal)
- Share of private, public and community land ownership.
- Average farm size and GINI coefficient.
- Ratio of sales to lease price in agricultural land.
- Revenue that local governments get through property taxes, and how much they can keep.

Sub category b. Security of Tenure

Challenges to a farmer’s property rights can come from another individual who claims to have a better right, or disputes the borders of the property (Libecap and Lueck, 2011); or from the state when it decides to exercise eminent domain powers and expropriate the farm to make way for infrastructure or urban expansion. The institutions that provide security of tenure on these fronts are different. Land registries and registries of deeds can protect registered or recorded property rights against the claims of other individuals. Surveys or cadastres can provide security on plot sizes and borders. Land use, expropriation and taxation legislation can provide certainty on the use of the state’s power to regulate land use. And ultimately, the courts can provide a safeguard against abuses and resolve conflict. The DBA and DD indicators will be providing complementary data on these different institutions, to provide a better understanding of how security of tenure is attained in different economies.

Doing Business in Agriculture regulatory indicators

- **Security of tenure provided by the land**

Deep Dive topic areas and indicators

- Investment in capital stock.

<p>administration system: a legal indicator will look into the principles governing the operations of the land registry or registry of deeds. Issues such as whether the registry follows the sequencing principle (i.e., that only transactions that follow suit to the registered ones can be registered), or whether the registry compensates parties in the event of mistakes in its certified information will be analyzed in this indicator.</p> <ul style="list-style-type: none"> • DBA could also consider measuring the ease of executing a mortgage as a proxy of tenure security (i.e., the fact that mortgages are established means that the land sector provides sufficient legal security; additionally, if the execution is done expeditiously, it should mean that the land records are reliable and no further investigation is needed). 	<ul style="list-style-type: none"> • Willingness to invest in land (perception surveys) • Perceptions of security of tenure vis-à-vis state policies: do farmers think they are going to be expropriated? • Compensation received in the event of expropriation & market value of land before and after the expropriation. • Number of farmers evicted. • Interest rates of secured and unsecured loans.
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