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Russia

Economic and Legal Mechanism of Crediting the Producers of Agricultural Products in Russia

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Экономический и правовой механизм кредитования сельскохозяйственных товаропроизводителей в России

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The problematic issues of providing the agriculture with real financial resources by many fold supplements the themes, proclaimed at the present Conference, in personnel, family and ecology aspects of successful developing one of the most important spheres of human activity – the agrarian production. But the modern world is based on the fact that any action, any project, any program, even far from economy, require the appropriate financing.

A man is undoubtedly obliged to develop in moral and personal plan, but the results of such development must find their effect in his requirement, primarily social and productive ones. Only then he will build his life for a long perspective, give birth to children and construct housing, take care of transferring not only his accumulated capital, knowledge and experience to someone of his offspring, not only keeping for them the reasonable environment, but laying in their consciousness the necessity of considerate attitude to nearest men, relatives, neighbors, fellow-citizens and all people of the World. In my opinion, that forms a special mission of agrarian order of life and of all those, who have direct and indirect relation to their future prosperity.

Why we are attaching so great importance to that in Russia? Because the experience of very uneasy development of the country during the recent quarter of a century, attempts and the real transition from prevailing system of dictating and compelling to forming the modern society, free in moral and economic plan, have demonstrated that without building the legal state will be impossible to achieve the efficient development of all spheres of social life and economy, including the agriculture.

I don't think that the strong objection of colleagues in the auditorium will be caused by stating the fact that modern Russia, her society and economy draw a special interest not so much by huge raw stuff and energy resources, but by not evaluated and little realized yet agrarian potential.

I give an example, not very pleasant for today's situation – there are 40 million hectares abandoned land, which had been previously used, but for a long time removed from economic turnover. That is a kind of land reserve for Europe and worldwide, which corresponds in its abilities to leading agrarian countries of the world.

While introducing that land into agricultural production, based on application of advanced technologies, which substantially differ from extensive methods of economy conduct, as well as several times increasing the cropping power, there will appear new opportunities for build-up of production scopes and processing of produces, strengthening the competition at the markets of qualitative and ecologically friendly food products. That gives another chance in the direction of solving the food problem and feeding that billion people, who are nowadays undernourished and hunger in the whole world. The progress in the field of biofuel cannot be discarded, because it permits to some extent smoothing the acuteness of energetic problems. By very modest calculations already at present in Russia is possible to grow about 300 million tons grain¹.

It's clear that supposed build-up of agricultural production scopes requires adequate financing. In achieving the goal of providing the agrarian sector of economy in the country with sufficient money resources, significant place is taken by crediting system.

Objectively the agricultural productional ways requires borrowed money due to specific nature of its reproduction process, necessity of permanent expenditures and season output of produces, which means well-grounded gap in cash flows and its compensation on expenses of borrowed money.

It is recognized worldwide that the agricultural production presents the sphere of special, primarily natural-climatic risks and being rather low-profitable requires serious budgetary support on the side of the state. That helps to keep its significance and worthy place in the economy, solve significant social tasks for creating normal conditions of life for people, living in rural areas.

The agriculture in Russia is not solely the sphere of economy, which provides food products and raw stuffs for processing and other branches of industry. In Russia nowadays, it is the socioeconomic medium for living of tens millions people. After break-up of the state economy, the existing structure of agricultural production is characterized by prevailing or very significant place of small-size sector – citizens with personal subsidiaries, peasants' (farmers') entities and agricultural production and servicing cooperatives.

Modern economic and financial challenges and Russia's entry into the WTO demand adopting urgent political, legal and economic measures, which at successful implementation will determine the future of agrarian economy in the country, its competitiveness and ability to fulfill its mission.

It's important to denote that the efficient policy in the field of all-round support for developing the agroindustrial complex has started implementing in the country. The agriculture is recognized by the state as a priority sphere of economy. Such attitude is confirmed by two large sociopolitical and economical events – implementing the National project “The development of the AIC” in 2006 – 2007 and realizing the goals of the State program for development of

¹ www.eho.msc.ru

agriculture and regulation of markets in agricultural produces, raw stuff and food in 2008 – 2012, which is prolonged for next 4 years.²

During those years, there has been ensured as signing significant budgetary means and credits for development of domestic agriculture, associated branches of economy and entire social and engineering infrastructure of the Russian countryside. The comparison with parameters of budgetary and other support for agrarian sector of economy in Euro union countries and other countries demonstrates that those means are rather modest both in scopes and applied tools, but never the less those are serious in Russian scales budgetary assignments to development of agriculture.

It's important to stress that positive role has been played by the program for subsidizing interest rates on credits, received by agricultural commodity producers and other representatives of the agroindustrial complex in commercial banks and agricultural crediting consumers' cooperatives. The participants of the program for privileged crediting with using budgetary subsidies had access to bank credits, aimed not solely at financing their operating means, but they were capable substantially renew and modernize their material-technical base on expenses of long-term credits.

On the wave of increased demand from agricultural commodity producers for crediting resources, the commercial banks started actively working with them. Only in 2007, crediting assignments into the AIC have increased 3 times as compared with 2005 and the volume of investment credits – almost 10 times.

No less impressing became the first results of implementing the State program for development of agriculture and regulation of markets in agricultural produces, raw stuff and food. According to annually published reports, for its implementation in 2008–2011 there has been assigned 1.8 trillion rubles (about 45-50 billion euro) of crediting resources, including the short-term ones – 1.2 trillion rubles (30-35 billion euro) and investment ones – 0.6 trillion rubles (15-20 billion euro).³

Nevertheless, nowadays there are many legal, economic and institutional factors that cause essential restraining influence on dynamics of crediting support for development of domestic agriculture.

Evaluating the qualitative and institutional adequacy of crediting mechanism, functioning at present, one should state that the complete credit-financial system

² National report “On the course and results of realizing in 2011 the State program for development of agriculture and regulation of markets in agricultural produces, raw stuff and food in 2008 – 2012”. Ministry of agriculture of the Russian Federation. Moscow 2012.

³ National report “On the course and results of realizing in 2011 the State program for development of agriculture and regulation of markets in agricultural produces, raw stuff and food in 2008 – 2012”. Ministry of agriculture of the Russian Federation. Moscow 2012.

for servicing commodity producers at the sphere of agroindustrial production has not been created yet in Russia.

Backing up that radical conclusion is based on the following points:

- Dominating state institutions in the sphere of crediting the agrarian production, in directions of leasing for agricultural machinery and equipment, as well as agrarian technologies. Herewith, practically deprived of large-scale supply of resources and capital are many regional and municipal banks, which have actively operated and continue working with agricultural commodity producers and other representatives of the agroindustrial complex. Specialized institutions for development of agrarian sphere are absent owing to the same reason;
- Weakening positions in the system of agricultural crediting cooperatives, which re-creation had been actively assisted on the turn of the century by representatives of largest institutions of cooperative crediting in Europe;
- Zero dynamics of institutional and infrastructural development within the system of land mortgage crediting, which has not yet surmounted the stage of experiments;
- Refusal of Russian insurance companies from opportunities of essential build-up of their activity in agrarian sphere;
- Weak development of investment companies, not capable to provide the assignment of money to agrarian economy of the country;
- Discontinuous, incomplete and inefficient legislation base and practice of financial sanitation of agricultural commodity producers;
- Imperfect operating system of budgetary subsidizing the interest rates on credits of agricultural commodity producers, received in commercial banks and agricultural crediting consumers' cooperatives, wherein the subsidies often lose their addressers and stimulating features;
- Low efficacy in operation of formally created guarantee and collateral foundations, which impedes expanding the opportunities of crediting the agricultural commodity producers.

It is obvious that modern organization of agrarian crediting in Russia presents some state-monopoly construction, which cannot ensure the normal development of agricultural crediting, agricultural banks, agriculture and the country as a whole.

Many Russian economists justly see there the signs of appearing elements of distributive economy at the Russian crediting market, which implement, in particular, in dominating state institutions at the distribution of crediting resources of the state, in attempt to limit crediting rates by purely administrative and directive methods, in establishing personal control on the side of first persons of the state. Exactly by that, the civilian-legal basis of interaction

between creditors and borrowers more and more acquires social-political coloring.⁴

In our view, that demonstrates the absence of understanding that modern economy of Russia and her most important component – the agroindustrial complex – have the prospects of further successful development only as market structures, to which should correspond similar market financial and crediting institutions.

The sphere of agrarian crediting, which needs money, significant in scope and terms of using, is not capable nowadays to consolidate cash flows, produced in agrarian economy of the country.

The mobilization of resources requires mobilizing the institutions, their uniting into a system, however not on expenses of support for state monopolists, but creation of opportunities for attracting small and medium crediting institutions, presented at the market of agrarian credits, by priority including them into international programs for supporting small and medium entrepreneurship in Russia, proclaimed with participation of Russian institution of development, the International financial corporation, Kreditfuer Wiederaufbau.⁵

Urgently maturing in Russia is the target of elaborating the strategy for creating the legal, economical and institutional field for developing the national system of agrarian crediting, what would legislatively permit determining its status, determining the conditions for participation therein of all crediting institutions and support for their development, including commercial banks and crediting cooperatives, respectively adapting with account for specifics of title clientele a number of acts in civilian, banking, financial and tax legislation and finally creating the Agrarian development bank of the Russian Federation, functioning in conformity with special federal law.

I'd like to stop a little at problematic issues of legal and institutional construction of agrarian crediting system, adequately to targets of developing the economy of the country.

The availability therein of significant in production scales small agricultural commodity producers and the objective necessity of ensuring their survival and prospects for the future in the situation of Russia's entry to the WTO and aggravating competition at food markets demand, along with large-scale measures of budgetary and economic support, creating legal and economic conditions for consolidating their production potential on the basis of cooperation, including its representation in the financial sector. The attempts to deal with that target at present are made not very successfully and not at large scale only by agricultural crediting consumers' cooperatives. Because, in particular, according to operating Russian Law about banks and banking

⁴ Vernikov A.V. Share of state participation in banking system of Russia // Money and credit. 2009. № 11. p. 4.

⁵ Newspaper 'Kommersant' №118/II (4903), 02.07.2012, <http://www.veb.ru/strategy/bsup/>

activity, the crediting institution may operate exclusively in the form of economic societies, although in the world rather long and successfully operating are crediting organizations in the form of crediting cooperatives and crediting associations.

Herewith it should be born in mind that cooperative banks organize their activity on cooperative principles and by that are more reliable, that joint-stock banks, less prone to risks and unrestrained pursuit of profit and rising course of their shares.

That is why urgently needed are the changes in the Russian banking legislation, supplementing the legal status of crediting organizations with cooperative form and forming to them special surveying and regulating approaches. Cooperative banks, in case of recognizing their legal status, at the first stages of their establishment and development will have to receive the large-scale resource support from the side of the state and systematically significant banks and development institutions, controlled by the state.

That will really put into practice the slogan of creating equal conditions for operation of crediting organizations, which differ in scales and parameters of their activity and capitalization, as well as legal status, but as a whole rather efficiently operate at crediting markets.

The conditions for re-creating the system of cooperative crediting have matured at present in modern Russia, especially as it in significant extent corresponds to requirements of developing the small and medium entrepreneurship, to the necessity of its consolidation as a result of Russia's entry to the WTO, but primarily with the aim of including the mass of residents into processes of developing the economy and growing their social self-awareness.

All that requires the stage by stage approach to resolving the tasks, facing the future system of agrarian cooperative crediting.

At the first stage, it is suggested to perform a set of measures on improving the intracorporate and legislative mechanism of activity in existing agricultural crediting consumers' cooperatives of all levels for attaching to them the investing attractiveness and essential rising the ratings of crediting capacity.

Simultaneously it is necessary to use the opportunities of joining the capital of certain regional commercial banks by representatives of agricultural crediting cooperation in all levels for internal transforming joint-stock principles into cooperative ones, reflected in their statutes, in the framework of operating banking legislation, as well as for practical testing the efficiency of their operation under changed status. With aims at studying and practical using the experience of organizing similar foreign systems of cooperative crediting, there is the need of experience exchange with leading European cooperative banks and crediting cooperatives.

At the second stage, with account for the experience of operation in commercial banks, having commercial nature according to their statute, it is suggested to

develop a number of proposals, which introduce essential changes into domestic cooperative, banking and tax legislation. Their adopting with support by farmer and cooperative activists, deputy corps and regional authorities permits to create the legal basis for establishing the final element of agrarian cooperative crediting system – the Agricultural bank of cooperative crediting.

A special meaning among economic and legal tools for providing the agriculture with monetary and financial resources belongs to land mortgage, which potential is practically not realized in modern Russia. The agricultural land by itself is underestimated in major part of Russia, unattractive for the market and considered by banks as risky and low liquid. That problem includes a whole set of economic, legal, financial, banking, propertied and institutional aspects, which demand the most serious attention on the side of all participants of land and other interconnected relations. Delaying the solution of land issue in Russia is fraught with most serious economic and social consequences, though within the framework of present investigations one is forced to confine to issues of land mortgage and organization of interconnected land mortgage crediting system.

In the process of implementing in Russia the pilot land mortgage programs with state participation, there have appeared the legislative problems, affecting the development of agricultural land mortgage and technologies of bank crediting. The fact that housing mortgage is at present more developed and required in the country has influenced creating the legal field for mortgage crediting, to a small extent considering the specifics of land mortgage relations and agriculture as a whole. In particular, the land plots in agricultural production present one of its basic factors, but not only the property, which is evaluated as collateral of possible credit. While crediting, a special meaning belongs to the legal regime, expressed in specified purpose of usage, available conditions of ownership, usage and disposal and therefore in specific procedure for handling the collection and realization.

The number of those factors, which nowadays impede the development of land mortgage crediting in Russia might be as follows:

1. The imperfection of legal procedures for handling the collection and manner of transferring the right on the land plot in case of its realization from sales; discrepancies in approaches to determining the opportunities for disposal of land plots, exempted by banks as collateral holders as a result of misfulfilment of obligations by collateral givers; the absence in banks of legislation guaranteed opportunities for realizing mortgage subjects by value, estimated in crediting contract.
2. The absence of clearness in legislative determining the opportunities of partial collateral of land plot and the change of its boundary, as well as the norms for establishing mortgage on land plots in common shared property and procedure for handling the collection of them.

3. Weak legal protection of interests for collateral givers and collateral holders in case of enforced alienation of mortgaged land plot or its portion for state and municipal needs.
4. The discrepancies in approaches to procedure for handling the collection of mortgaged land plot with buildings, structures and erections on it, as stated in the Civil code and in the Law on mortgage (collateral of real estate).
5. The imperfection of the procedure of forming land plots and their document and agreement registration.
6. Legal restrictions and misattachments in banking, financial, tax and other legislation, related to issuing and handling mortgage securities, standardizing land mortgage credits, procedures of their issuing and servicing.
7. Weak registration and ignoring the specifics of agricultural land mortgage while drawing crediting agreements by banks, forming the approaches to title insurance of land plots and determining the opportunities for minimization of specific risks, what cannot permit for banks to have a real idea about collateral value of the land plot and its possible change both during taking the decision on agreement and in the process of credit tracking.
8. The absence of reliable legal and economic mechanism of bank crediting for leasing rights on land plots as a collateral subject.⁶

Solving the above formulated problems attaches to land mortgage crediting in Russia quite different contents, permits to make it investment attractable not only for Russian and foreign banks and investors, but creates large opportunities for owners and tenants of land plots in performing serious technological and economical transformation of production, organized there by involving such needed at present long-term financial resources.

The task of involving significant in scopes, relatively cheap in prices and for long-term used crediting resources faces a number of problems, connected both with general financial-economic problem worldwide and specific national factors.

The development of crediting processes is objectively constrained by cautious attitude of major commercial banks to crediting the producers of agricultural goods due to significant risks and connected both with increased and stiffened requirements of prudential organs to technologies of bank crediting and sufficiency of their capital, as well as with objectively formed deficit of relatively cheap and significant in terms crediting resources. Besides, the complicated financial position of major agricultural commodity producers,

⁶ Scientific investigation “Formation of land mortgage crediting system in the sphere of agriculture”, Financial academy under the Government of the Russian Federation, 2007.

rather low profitability of production even with account for state subsidies, their formed debts on credits, essential even in comparison with annual scopes of production and sale of own produces, as well as so called weak or absent collateral security of existing and future commitments obliged to banks – all those factors, constraining the processes of crediting, negatively affect the modern status of many representatives in agrarian economy and the prospects of their development.

The globalization of world financial markets and accompanying process of deregulation in the world financial and banking system, recognized as most serious reasons of the world financial crisis, demanded unprecedented measures from the side of supervisory organs of major banking systems worldwide in part of stiffening the approaches to formation of bank capitals, creating necessary reserves for possible losses and intensifying the risk management, what cannot prevent affecting the processes of crediting in the real sector of economy, primarily in reducing the opportunities of banks for delivery of credits to that.

Nevertheless, as mentioned above, the agricultural production permanently needs the loan means, and it should be rendered with respective crediting support. Even accounting for the fact that the debt pressure on agricultural commodity producers is always high and possibly in several cases reaching the level, critical from the viewpoint of banking supervisory organs.

The same approach should undoubtedly be held in Russia, despite the fact that the specifics of developing her agricultural sector consists in large volume of restructured banking debts, formed by objective reasons, in particular, as a result of unfavorable climatic conditions during several recent years.

However, the banking society as well as the Bank of Russian identically relate to that problem and in certain cases prefer to solve it in radical manner – not crediting the agricultural commodity producers or substantially reducing the volumes and lines of their crediting support.

As already mentioned above, in recent decade the Russian state has rendered essential financial and crediting support to her agriculture and considers its development as priority one, despite objectively formed budgetary problems.

But even at such situation it is impossible to compel Russian banks, even completely or partially controlled by the state, to their unrestrained crediting the domestic agroindustrial complex and put the matrix risks, objectively estimated by them.

For resolving the formed collision in Russia there is sufficiently suitable legal instrument, which contents should be filled more at present with such features that would permit to come for resolving the abovementioned problem with satisfying all sides concerned.

The matter concerns the law of financial sanitizing the agricultural commodity producers, which operates in Russia since 2002 and in priority allows the agricultural commodity producers, who have admitted by objective reasons the

availability of significant debts to tax and state structures, but developed the procedure of their financial sanitizing, forgetting significant rest in fulfillment of taken commitments, postpone the mend in some cases partially write off the debts and abolish penalty sanctions. And most important is getting the access to sources of financing and crediting new expenditures and new projects, which with time permit restoring and strengthening their financial position and paying all debts.

In order to really involve for implementing the ideas, integral in the law, not only state organizations, but banks, as well as other potentially attractable financial institutions, it is necessary to actualize and supplement the Russian agrarian, banking and tax legislation concerning:

- Expanding the circle of participants in programs for financial sanitizing the agricultural commodity producers on expenses of clear reference to commercial banks as one of basic creditors;
- Introducing the legislative ban to commercial banks for employing single-sided actions in part of realizing collaterals, re-conceding the rights of demands, initiating the bankruptcy;
- Revising the procedure for taxation of commercial banks in case of postponement and installment for collecting interest rates on issued credits;
- Revising the statement of standard documents of the Russian Bank on estimating the quality of restructured credits according to foreseen by law procedures for financial sanitizing of the agricultural commodity producers and creating reserves for possible losses in loans.

In the given situation the legal and other standard novations will be to significant extent adequate to contents of code rules, known as London Approach⁷⁷, which has been developed and realized with participation of largest banks in Great Britain together with the Bank of England. Later on, those rules were additionally modified by INSOL International — the international association of specialists on insolvency and financial sanitizing.

Observing the series of statements in INSOL principles undoubtedly permits to make the process of crediting significant part of Russian agricultural commodity producers more accessible, protected, predictable and achieving the assigned goals – rendering financial support for their development, ensuring the fulfillment of taken commitments, creating the image of investment attractiveness and presenting reliable and mutually profitable partners for creditors, primarily for commercial banks and crediting cooperatives.

Resolving the problems of legal and economic ensuring the crediting support for development of Russian agricultural production requires studying and employing in practice the experience of foreign colleagues.

⁷⁷ <http://www.bba.org.uk>

With their support will be possible to educate new generations of law specialists, agrarians, economists, financiers and bankers, continue active contacts and search for new partners on the way of achieving common goals and forming common views on general human values and herewith giving due to the most important component of the world order – the financial-banking system.