

**CHINA'S LAND POLICY REFORM:
AN UPDATE**

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EAI Background Brief No. 419

Date of Publication: 11 December 2008

Executive Summary

1. In October 2008, the Chinese Communist Party unveiled a land reform policy to uplift lagging incomes of the 750 million people in the countryside, encouraging them to lease or transfer their land-use rights under a to-be-built land market.
2. Such transfer of rural-land-use right, although being granted to farmers by law years ago, has not become a common practice in China's vast rural areas where all lands are under the vague collective ownership.
3. As a replacement of the more sensitive word "trade," "transfer" of rural-land-use right may take four specific forms: subcontracting land-use rights to other farmers within a specified period of time, leasing the land to others with contracted land-use rights unchanged, swapping of contracted land-use rights among farmers, and transferring the contracted land-use rights to others with no reclaim rights retained.
4. Without changing the nature of rural-land collective ownership, the new policy aims to establish a uniform market for both urban and rural "construction" land through giving equal legal status to state-owned (urban) and collectively owned (rural) "construction" land and restricting rural land acquisition by local governments.
5. Due to the party's cautious and step-by-step approach to land reform, the new policy will have limited impact in the short run; but it is a move at the right target: the obstacles preventing farmers from exchanging their land, or building bigger, more economical, landholding by consolidating the "noodle strips" of family plots since the break-up of the old rural communes.
6. In the long run, the policy to promote land-use right transaction will have significant political and social implications, because introducing a proper market in agricultural land will not only promote productivity, income and

social mobility in the countryside, but also contribute to reducing one of the main sources of social tension in China: land-grabs by local authorities for which peasants are often poorly compensated.

7. About 40% of China's labor force is still in the agricultural sector, so the policy will speed up China's urbanization process when migrant farmers find it easier to transfer their land-use rights and to get stable income from land leasing to subsidize their expenses in cities.
8. In an effort to accelerate urbanization, the policy underscores the reform of the *Hukou* (household registration) system and the "integration of urban and rural economic and social development" to ensure that farmers and migrant workers enjoy the same rights, public services and living conditions as urban residents in the future.
9. As land related revenues account for up to 60% of local government revenues, the new policy that limits local government's rural-land confiscation and encourages villagers to directly trade land-use rights in the market could exacerbate the long-existing tension between central and local governments and worsen the financial difficulties faced by localities.
10. China's changing land policies are a mirror image of the changing ideological orientation of the CCP itself. After the late 1970s, land policies have been largely guided by economic and development considerations rather than the socialist ideology.

CHINA'S LAND POLICY REFORM: AN UPDATE

Sarah Y. TONG & CHEN Gang*

Encouraging Farmers to Trade Land-Use Rights

- 1.1 During a plenary session held in October 2008, the Chinese Communist Party (CCP) underscored the once-ignored legal rights held by the Chinese farmers to lease or transfer their land-use rights, a step that advocates say would bolster lagging incomes in the Chinese countryside.
- 1.2 Under the new policy, which coincided with the 30th anniversary of land reforms by Deng Xiaoping, the government will establish land markets where farmers can “sub-contract, lease, exchange or swap” land-use rights or join cooperatives. State media said that giving farmers this latitude would enable them to become more efficient by increasing the size of farms as well as providing income that can be used to start new businesses.
- 1.3 “Transfer” (流转) is the *de facto* substitution for the more sensitive term “trade” (买卖, buy and sell) in the “land problem”¹ faced by the Chinese authorities, which still deny private land ownership. Legally speaking, “transfer” of land-use rights in the rural area has four forms: subcontracting the land-use rights to other farmers within a period of time (转包), leasing the land to others with contracted land-use rights unchanged (出租), swapping of

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¹ The authorities have been facing a “land problem” or 土地问题 when the lack of clear-cut property rights provisions and effective land use regulations and controls together with ineffectual policy implementation, particularly at local levels, have contributed to a lot of “mis-use of land.” For details of the problem, please refer to John Wong and Liang Ruobing, “Changing Land Policies: Ideology and Realities,” in *China into the Hu-Wen Era: Policy Initiatives and Challenges*, edited by John WONG & LAI Hongyi, (Singapore: World Scientific, 2006), p. 301-303.

contracted land-use rights among farmers (置换) and transferring the contracted land-use rights to others with no reclaim rights retained (转让).²

- 1.4 Such transfer of land-use right, although being granted to farmers long ago,³ has not become a common practice in China's vast rural areas. According to China's official statistics, only 5% of the rural land-use rights have been transferred.⁴ The recent CCP document, therefore, obviously becomes an encouragement and a clear signal sent by the Party to boost the land-right trade.
- 1.5 Currently farmland is collectively owned, and meted out to farmers in small plots in long term leasing contracts. Farmers have 30-year tenure to their farmland, with real power held by village collectives, Mao-era entities headed by local Communist Party secretaries. There are an estimated 1 billion plots of land held by 200 million farm families⁵ across the country.
- 1.6 One bright spot of this CCP document is the extension of farmers' 30-year farmland tenure. In the 1984 CCP document, the contract tenure of arable land was 15 years, which was prolonged by another 30 years in 1993's CCP document. The document this time stipulated that such contracted farmland-use right "will be unchanged for a long time," (长久不变), implying that the 30-year tenure will be further extended.⁶

² See Article 32 of Law of the People's Republic of China on Land Contract in Rural Areas (中华人民共和国农村土地承包法), which was approved by the National People's Congress on 29 August 2002. http://english.gov.cn/2005-10/09/content_179389.htm

³ Chen Xiwen, chief of the office under the central rural work leading group, said at a press conference on 22 Oct. 2008 that the transfer right of rural land-use was established in the CCP document as early as 1984, see http://www.china.com.cn/zhibo/2008-10/22/content_16651438.htm.

⁴ The figures are quoted from Chen Xiwen's remarks at the press conference on 22 Oct. 2008. http://www.china.com.cn/zhibo/2008-10/22/content_16651438.htm

⁵ Mark Magnier, "China outlines land reform plan," *Los Angeles Times*, 20 October 2008

⁶ In southwest China's Guizhou Province, the arable-land-use tenure is 50 years, longer than those in other provinces. The contracted tenure for using woodland and wasteland is 70 years, according to China's law.

- 1.7 To Chinese law experts, the land policy has hardly anything new to offer because the Law on Land Contract in Rural Areas (中华人民共和国农村土地承包法), which took effect in 2003, has already confirmed the land-transfer right of farmers.
- 1.8 It is on non-arable “construction” land that the latest policy offers something new. It extends a pilot project in Guangdong province that allows such collectively-owned land to be traded without first going through government acquisition.⁷
- 1.9 The policy aims to “gradually establish a uniform market for both urban and rural construction land” through giving equal legal status to state-owned (urban) and collectively-owned (rural) construction land and restricting rural land acquisition by local governments. Up to now, all collectively owned rural construction land has to be acquired by local governments and then converted to state-owned land when it is used in urban development projects. Local governments usually acquire such land at extremely low prices and make huge profit through selling it to developers at much higher prices.
- 1.10 The CCP wants to encourage land-use right transfer because 226 million of the 500 million rural labor force now are NOT engaged in agricultural production any more as they find work in other places.⁸ This has caused inefficiency or under-utilisation of cultivated land.
- 1.11 The government hopes that, with more land-use right transactions, the country’s limited arable land will be used more efficiently to increase domestic agricultural output and safeguard national grain security. Besides, the land-use right transfer could become an important income source for rural people migrating to urban areas.

⁷ “Still not to the tiller,” *The Economist*, 23 October 2008

⁸ Chen Xiwen’s remarks at the press conference on 22 Oct. 2008. http://www.china.com.cn/zhibo/2008-10/22/content_16651438.htm

- 1.12 Land-use right transfer on a large scale is a step to promote a transition of the fragmented and extensive farming mode to modern and intensive agricultural development. Individual farmers are entitled to bypass the village collectives and directly negotiate with land right buyers, which may assist farmers in turning land into capital, thus increasing their incomes for non-farm activities. It is in reality an extension of land commercialization from urban to rural.

Social and Political Implications

- 2.1 As some farmers have already transferred their land use rights when they could not afford the time and labor to farm their contracted land, it is unrealistic to expect the party document to bring fundamental changes to China's rural development. The policy's impact is limited in general.
- 2.2 When the document was being drafted, some argued that the new policy might create a few landlords and many landless farmers with no means to make a living. Such worry seems unnecessary with forestall measures already in place.
- 2.3 To allay such fears, the policy stipulates that the nature of collective ownership should never be changed in the transferring or leasing of use rights. More importantly, the Party has made it clear that the contracted land-use right or farmers' housing plots (宅基地) should not be collateralized.⁹ It is not correct, therefore, for Scott Rozelle, a senior fellow at Stanford University, to make such a comment on the farmland-use right transfer: "it gives a household a very valuable asset that it can collateralize or sell."¹⁰
- 2.4 In the long run, nonetheless, encouraging land-right transaction will have some significant political and social impact. Introducing a proper market in agricultural land will not only promote productivity, income and social mobility in the countryside, but also reduce one of the main sources of social

⁹ Chen Xiwen's remarks at the press conference on 22 Oct. 2008. http://www.china.com.cn/zhibo/2008-10/22/content_16651438.htm

¹⁰ Mark Magnier, "China outlines land reform plan," *Los Angeles Times*, 20 October 2008

tension in China: land-grabs by local authorities for which peasants are often poorly compensated.¹¹

- 2.5 With a clear-cut goal of reforming the rural land acquisition system and establishing a uniform market for both urban and rural construction land, the new policy package is expected to help farmers benefit more from China's urbanization and industrialization process. In an effort to double the per-capita disposable income of rural residents by 2020 from the 2008 level,¹² the Party tries to eradicate under-compensation of farmers in the process of land acquisition.¹³
- 2.6 Under the new policy, the local government's land acquisition activities will be further restricted and farmers' income may increase when their land-use rights are directly traded in the market. Unlike urban state-owned construction land, the rural non-arable construction land now still has to be converted to state-owned land before being sold to developers. The new policy does away with such a conversion, enabling rural residents to gain more from land transaction.
- 2.7 The policy may also speed up the urbanization process, which demands not only land but also labor. Although hundreds of millions of farmers have left their rural homes and migrated to urban areas over the past 30 years, about 40% of China's labor force is still in the agricultural sector. Meanwhile, many rural migrant workers find it difficult to permanently settle down in major cities due to the high rentals and housing prices as well as the *Hukou* (household registration) system that divides the population into rural and non-rural groups.

¹¹ "Still not to the tiller," *The Economist*, 23 October 2008

¹² This goal was also part of the Decision on Major Issues Concerning the Advancement of Rural Reform and Development (中共中央关于推进农村改革发展若干重大问题的决定).

¹³ Local governments usually only negotiated with rural collectives and paid only moderate compensations to land owners. Farmers are disenfranchised from the land conversion process due to the land collective ownership in the countryside.

- 2.8 With urbanization and industrialization in the process, more rural people are expected to shift to second and tertiary industry in urban areas. When they find it easier to transfer their land-use rights and get stable income from land-leasing to subsidize their expenses in cities, many of them are more likely to become permanent urban residents.
- 2.9 In an effort to accelerate such urbanization process¹⁴ and convert more rural people into urban residents, the CCP document underscores the reform of the *Hukou* system and the “integration of urban and rural economic and social development” (城乡经济社会发展一体化) to ensure farmers and migrant workers enjoy the same rights, public services and living conditions as urban residents. China’s central government has already approved the establishment of new experimental zones in 2007 for such urban-rural integration reform in Sichuan and Chongqing.¹⁵ The pilot reform there targeted issues, such as household registration, land management, social security and governance, to reduce gaps in income, other welfare, education and medical care related to the *Hukou* system between urban and rural people.
- 2.10 Local governments would also be affected by the new policies. It is estimated that land related revenue accounted for up to 60% of local government revenue. The new policy could exacerbate the long-existing tension between central and local governments and worsen the financial difficulties faced by local governments. Local governments have already been struggling to fulfill their financial responsibilities of investing in local infrastructures and funding welfare during the rapid urbanization process.

¹⁴ China’s urban residency increased from 18% in 1978 to 44% in 2006.

¹⁵ Chen Min, “Experimental zones aimed at ending urban-rural gap,” *China Daily*, 9 July 2007

China's Land Policy from a Historical Perspective¹⁶

- 3.1 Land policy has been an essential part of China's overall economic policy since the establishment of the People's Republic of China in 1949. While land policies before 1978 were influenced deeply by the socialist ideology, policy initiatives since late 1970s have been largely guided by economic and development considerations. Indeed, "China's changing land policies are a mirror image of the changing ideological orientation of the CCP itself"¹⁷.
- 3.2 When the CCP came to power in 1949, the leadership, subscribing to a Marxian vision of economic development, viewed the underdevelopment of Chinese agriculture as a result of its "feudalistic" institutional framework. Thus, the contradiction between "production relations" and "production forces", using Marxian terms, had to be resolved before agricultural development could take place.
- 3.3 Under such an ideology, the CCP government carried out land reform, its first institutional reorganization, which was completed by 1952. The main result of the reform was that the landlords as a class were expropriated, while less than half of the land was redistributed. Soon afterwards, however, the newly created small land owners were encouraged to organize themselves into mutual aid teams (MATs) by pooling their labor and other productive resources.
- 3.4 Ideology continued to play an important role throughout the 1950s as the CCP persuaded the peasants to form the agricultural producers' co-operatives (APCs) by merging a few MATs. Combining "central management with private ownership", APCs were an effort to alleviate the structural shortcomings of small scale farming while retaining peasant incentives connected with private ownership of resources. However, this was interrupted

¹⁶ This section draws heavy reference from "Changing Land Policies: Ideology and Realities: Policy Initiatives and Challenges" by John Wong and Liang Ruobing, in Wong and Lai (eds) *China into Hu-Wen Era*, 2006.

¹⁷ *Ibid.*

by the strong push for more advanced APCs, which were followed by the Great Leap Forward (GLF) where collectives were merged or reorganized into people's communes, considered a higher form of socialistic organization. Under the communes, land and other productive assets were collectivized and returns were only in the form of work points for labor rendered, which led to very low incentives. As the GLF collapsed and the agricultural sector plunged, the communes were decentralized and streamlined, resulting in a three-level organization: the commune, the production brigades and the production teams.

- 3.5 In the early 1960s, while the commune as an organization structure remained, there were attempts to introduce incentives to the system, including schemes similar to the "household responsibility system" adopted in the late 1970s. Unfortunately, such attempts were again assaulted by Mao who launched the Cultural Revolution in 1966, which ended only with Mao's death in 1976.
- 3.6 Since China embarked on economic reform and an open-door policy in 1978, ideology has played a much less dominant role in policy making, as development has become a more prominent concern. Once again, agriculture reform was among the early policy initiatives to address the two key problems of the then three-level commune system. Firstly, while production was organized at the team level, the decision of what to produce continued to be made at the production brigade level and all the production assets were owned collectively at the commune level. Secondly, and more seriously, there was a lack of incentives as peasants were paid work points and their final income reflects neither their personal initiative nor productivity.
- 3.7 To tackle these systemic problems, the "household responsibility system" (HRS) was introduced. Under HRS, land and draught animals were divided and contracted to individual peasant household in return for a fixed share of the output. This gave peasants autonomy in the production decision-making and strong incentives to increase productivity.
- 3.8 Though the commune system was finally abandoned in 1982, rural land remained as collectively owned while peasants were given extended terms of

land-use rights, from 15 years initially to 30 years or longer in recent years. It is evident that the leadership avoided the issue of land ownership and took a practical approach to address the problem of low productivity and low incentive in agricultural production.

- 3.9 The impact of China's rural reform in the 1980s was immediate and significant. Agricultural production increased rapidly, along with a hike in agricultural product prices, leading to a sharp increase in rural income for peasants. Moreover, as agricultural productivity increased, more surplus labor was released for non-farm activities. This in turn led to the escalation of township and village enterprises (TVEs) in the late 1980s and early 1990s.
- 3.10 Since the mid-1990s, rural reforms, including those of rural land policy, have played a minor role in China's overall economic transformation as focus shifted toward reforming the urban industrial sector. In recent years, however, such over-emphasis on urban and industrial development has led to rising tension between rural and urban interests. More importantly, under current land regulation, such conflicts often resulted in outcomes that are against the interests of the peasants. It is evident, as the Chinese leaders have also recognized, that new policy initiatives are needed in rural China, including land policy reform. The question remains as to how effective this most recent attempt is in addressing China's rural problems.

What to Expect?

- 4.1 In general, the latest land policy reform is aimed at achieving multiple objectives by highlighting and modifying certain existing rules and regulations. The question remains as to how much changes will follow the new policy initiative, with respect to the different objectives that the Chinese leadership is trying to achieve.
- 4.2 The first and foremost goal is to develop an effective market for land-use rights for rural China without changing the existing system of collective land ownership. People are expected to see increasing activities of rural land

“transfer” in regions where experiments of such are already under way. It is also possible that rural land “transfer” enables cash crops to be introduced more easily to regions with low grain yield.

- 4.3 In theory, the new policy enables land-use right holders to bypass local authorities in conducting land transfer deals. The setback of this arrangement is that it might slow down the process of transaction as the developer will have to negotiate with many land-use right holders. Nonetheless, it is necessary to develop a functioning market for land-use rights. Through voluntary market transaction, it is hoped that the interests of the original land-use right holders, the farmers, are protected. By allowing individual farmers to negotiate individually with land-use right buyers, the policy may assist farmers to turn land-use right into capital, thereby increasing their income potential in non-farm activities.
- 4.4 The policy has made a clear distinction between agriculture land and “construction land”, in order to safeguard the minimal amount of farm land. Consequently, two separate markets of rural land-use rights are emerging. Inevitably, as the amount of “construction land” is limited, there is a growing pressure to re-classify some agriculture land into “construction land”, especially in the more developed coastal regions. The rules and process of such re-classification are not spelt out in the current document.
- 4.5 In this respect, it is easy to see that there is divergence of interests between the central and local governments, as the protection of a certain amount of arable land at the national level is mostly in the interest of the central government, while local governments are much keener to promote local economic growth.
- 4.6 People can reasonably expect, in detailing the rules, the central government to retain and further strengthen its control over the re-classification of rural land from farming to “construction”. It is perhaps also likely that different guidelines for such re-classification would be applied in regions with different degrees of industrialization and different demand for land conversion.

- 4.7 At present, it is estimated that nearly half of China's rural labor force (226 million out of the 500 million) are already engaged in non-farm activities in locations away from their home villages. The trend will continue and perhaps is accelerated with the development of an active land market.
- 4.8 To accommodate and to ensure smooth migration and transition of such scales, many complementary policy changes are required, including reforming the urban *Hukou* system. It is only when migrant workers are fully integrated into the urban society can China claim to have completed its transition from a poor rural society to a modern society.
- 4.9 For the central government to achieve the objective of safeguarding cultivated land, it needs to recentralize and strengthen the management of rural land, in particular the power of reclassifying rural land from agriculture to non-farm activities. More importantly, it is essential to improve the efficiency of cultivated land, the only long term solution to the rising demand for land. In the longer term, China may have to relax its self-sufficiency policy on grain and depend more on grain imports.
- 4.10 While trying to re-energize rural development, it is important to note that the Party has been extremely cautious when it comes to rural policies. The draft of the document had been revised 41 times over the past six months before it was publicized, according to China's official media. Hu Jintao himself presided over five meetings of the Standing Committee of the CCP Central Committee Political Bureau and three meetings of the CCP Central Committee Political Bureau to discuss the policy document.
- 4.11 The policy may also speed up the urbanization process as rural labor is becoming more mobile. Although many farmers have already left their rural homes for urban jobs, about 40% of China's labor force is still in the agricultural sector. Rural to urban migration is expected to accelerate with the latest policy.

- 4.12 While land-use transfer becomes easier, farmers can also continue to obtain stable income from land-leasing to subsidize their urban adventure and many would be more eager to become permanent urban residents. Meanwhile, urban reforms would also become important to accommodate this process as rural migrant workers continue to face discrimination under the current *Hukou* Sysem (household registration) that divides the population into rural and non-rural groups; rural migrant workers also find it difficult to permanently settle down in large cities due to high living costs.
- 4.13 Without changing the collective landownership in the rural area, the party's approach to land reform is cautious and gradual. But, recalling epochal reforms of 30 years ago, it is worth remembering that they were often formulated retrospectively and tended to come in baby steps rather than great leaps.¹⁸ When enacting rural land policies, the top concern of the leaders is still food security and the preservation of a "bottom line" of 1.8 billion mu (120 million hectares). With this principle maintained, the government is willing to make some breakthrough by capitalizing on its vast rural land.

¹⁸ "Still not to the tiller," *The Economist*, 23 October 2008