

## ZIMBABWE LAND REFORM

UPDATE, MARCH 2, 2000

### Latest Developments

- ***Constitutional Review.***
  - The original Draft Constitution did not follow ZANU/PF proposal under which the Government only pays for improvements to land, and not the land itself. Instead, the principle of compensation for land was upheld, but a balancing of the public and private interest was proposed (a la South Africa's constitution).
  - However, before the Referendum, the draft was amended by adding a clause which obliged the former colonial Government to pay for the land.
  - Although the draft Constitution was rejected in the Referendum, the Government will now amend the current Constitution to include the above clauses. This is supposed to take place before the General Elections, rumored to be scheduled for April 29, 30, and May 1.
  - If the Constitution is amended, the Land Act will need to be revised. This would take maybe 5 weeks, but there is no clear indication whether this would be done before or after the elections.
- ***Farm invasions.***
  - Over 40 farms have been invaded in the last week, mainly by War Veterans. Last year, the War Veterans had staged farm invasions on a smaller scale, but they agreed to withdraw when given the assurance by Government that resettlement would be sped up during the year 1999. The current farm invasions are the result of War Veterans' frustrations about (i) the continued slow pace of resettlement; (ii) the fact that 841 farms out of the original list of 1471 farms slated for compulsory acquisition had been contested by their owners and were withdrawn from the legal process, and (iii) the No vote on the draft Constitution, which would have made the legal process of compulsory acquisition easier for the Government.
  - The current round of farm invasions will be much more difficult to reverse, coming right before the General Elections. The Government has not yet unambiguously stated how it will deal with these farm invasions. The current political dynamics suggest that the Government will try to resolve the problem by amending the Constitution and accelerating compulsory acquisition and resettlement in exchange for the War Veterans moving out of the invaded farms. Government is unlikely to agree to the actual regularization of the current farm invasions, but it will take some time to solve this issue.
- ***Resettlement program:*** new policy framework agreed with donors, but donor support for resettlement not yet in place.

- Between September 1998 and March 2, 2000, 59 farms were acquired (about 90 000 ha) at fair market value at a cost of Z\$200 million. About 1700 families were resettled, but without adequate infrastructure provision.
- New policy framework (Inception Phase Framework Plan) in place and supported by stakeholders and donors. It allows for improvements in Government approaches and testing out of a new approaches (beneficiary-initiated and market-assisted).
- In support of the Inception Phase, Bank Learning and Innovation Loan (US\$5 million) signed, but not yet effective. Needed: Government counterpart funds of US\$350,000 for land acquisition. This may take several weeks more to resolve.
- **Land policy.** A new National Land Policy Framework document has been distributed to Cabinet, but has not yet been discussed. Key elements:
  - Establishment of (i) National Lands Commission—in which all statutory land would be vested (now freehold title) and (ii) Village Assemblies—in which all village lands would be vested (now vested in the President).
  - Introduction of a land tax for commercial farms above a maximum farm size defined by agro-climatic zone. The Land Tax Bill has passed the Cabinet Committee and is with Cabinet now.
- **Deregulation of sub-division rules.** Amendment of sub-division regulations is under preparation.
- **Maximum farm sizes.** On December 24, 1999, Statutory Instrument 419 was passed, defining maximum farm sizes by Natural Region:
  - 450 ha in NRI;
  - 650 ha in NRII;
  - 800 ha in NRIII;
  - 1,500 ha in NRIV;
  - 2,500 ha in NRV; and
  - 3,000 ha in NRVI.
- If you own a farm larger than the maximum farm size, you will pay tax (once the Land Tax Bill is enacted) on the area above the maximum farm size. But you can keep the farm. It is only when you want to sell or transfer the farm that you will first need to sub-divide it, at your own expense, so that the parts conform to the maximum farm size. In other words, the maximum farm sizes are initially just the "zero-rated farm sizes" for tax purposes. The Land Tax Bill is now with Cabinet.
- There is some confusion about the costs of sub-division. The CFU and ZFU statements on "the Government not having the money to do the surveys". They may think that the

Government will now start sub-dividing all the farms and pay for the costs of subdivision. Or they may think that some economic analysis will be made of individual farms for reasons of a tax assessment based on some productivity estimate. The Government has no intention of doing any of this. The tax is based on area only (which is well-documented) and the survey costs of sub-division will be paid by the seller.

- ***Commercial Farmer Support Scheme.*** On-going program—attempts to promote the indigenization of the commercial farm sector by providing selected beneficiaries with long-term leases on commercial farms acquired by Government. Problems:
  - Senior Government officials have benefited from this scheme and adjustment of rents to open market values has not been consistently implemented (some rents have not been revised for 15 years).
  - Government's priorities unclear: donors are asked to finance land acquisition for poor farmers, while Government is distributing already acquired land to "rich" farmers.

## Background

### The Donors' Conference

At the Donors' Conference on Land Reform (Sep. 9-11, 1998) agreement among all parties (Government, donors, commercial farmers, private sector) was reached on the intrinsic merits of land reform in Zimbabwe; and the policy principles to govern the process--poverty reduction orientation, transparency, respect for the law, beneficiary participation, and consultation with farmers' organizations and donors. These policy principles were reflected in a Communiqué.

The Conference also agreed that the land reform program would start with an Inception Phase, during which the Government, under the compulsory acquisition process, would start with the 118 farms on offer or about 200,000 ha. The total area target for the Inception Phase was set at 1 million ha. The Government would also try out alternative/complementary approaches (market-based, beneficiary-initiated approaches, relaxing sub-division policies, imposing a land tax, etc.).

But on November 12, 1998, the Minister for Lands and Agriculture signed acquisition orders for over 800 farms, representing about 2 million ha. The donor community felt that this action was not in line with the agreements reached at the Conference.

Adding to the uncertainty were senior Government leaders' speeches, emphasizing an approach which sounded somewhat like the legal process of compulsory acquisition through designation. It was often summarized in the press as the "take farm, pay later and not for the soil but only for farm improvements" strategy. These speeches contradicted statements by the key Ministers involved in land reform. These contradictions would become a key factor in the delay in balance of payments support from the IMF.

However, the "take farm, pay later" strategy was not the strategy the Government followed in practice. The practice followed the legal process of "fair market-value" compulsory acquisition.

### The November 1997 Listing of 1471 farms

- On November 28, 1997, the Government published in the Government Gazette a preliminary notice of intention to compulsorily acquire 1471 farms from their current owners and served notice on the affected owners. The notice was valid for 12 months.
- The 1471 farms represent about half of the total commercial farm area. The total number of white commercial farmers is around 4,000.
- The identification of these farms was done on a province-by-province basis, coordinated by the ruling party--ZANU-PF.
- The criteria for farm identification were stated by government to be:
  - the farm owner owns more than one farm;

- the farm owner is an absentee;
- the farm is derelict or under-utilized; or
- the farm borders on a communal area

### **De-gazetted (or “de-listed”) farms**

- The Government first found 35 mistakes in the list. This includes errors like double counting (a farm appearing twice on the list, leased State farms, etc.). These should be deducted from the 1471 original farms, bringing the total to 1436.
- On Sep. 11, 1998, the Government withdrew the preliminary notice for, or “de-listed”, 510 farms. This was because a review of the farms had revealed that these farms did not in fact meet the criteria for farm identification which the government had set.
- With the remaining farms, the Government then had the following options:
  - withdraw the preliminary notice, or do nothing and let the entire gazetted list expire;
  - apply to the Administrative Court for orders authorizing the acquisitions; or
  - issue acquisition orders and then apply to the Administrative Court for orders confirming the acquisitions.
- The Government decided to proceed with the issuing of acquisition orders for the contested farms. All these acquisition orders were processed during November 1998 in order to meet the 12 months time limit referred to above.

### **Compulsory Acquisition’s two routes: designation and “fair-market value”**

- The legal interpretation of what the Compulsory Acquisition process means in practice was, and still is, open to debate. Applying the well-known legal principle of “eminent domain”, the Government can take two legal routes:
  - the designation route.
    - In terms of the Land Acquisition Act (“the Act”), land will vest in an acquiring authority immediately after the issuing of an acquisition order. The title deed can be transferred later. “Fair compensation” (which, strictly speaking, is a different concept than “fair-market value”) will be paid to the owner, within a period of 5 years, of which at least one-half of the compensation must be paid at the time the land is acquired (or within a reasonable time thereafter) and at least one-half of the remainder of the compensation shall be paid within 2 years after acquisition--Section 19(5) of the Act.
    - A Compensation Committee will assess the level of compensation, bound by the principles prescribed in the Schedule to the Act. If a claimant for

compensation considers that the Committee has not observed these, he may refer the assessment to the Administrative Court for a review of the Committee's decision. The Court can review the level of compensation on its merits and procedural irregularities.

- The “fair market value” route. The Act provides that fair compensation shall be paid within a reasonable time. Any person who wishes to claim compensation submits a claim to the acquiring authority stating the amount of compensation claimed by him. If the parties cannot agree on the amount of compensation, either party may refer the matter to the Administrative Court. In practice and in the past, the Government has chosen to interpret “fair compensation” as “fair-market” value and “within a reasonable time” as “before transfer of the title deed”.
- The Government decided not to follow the designation route. It followed the “fair market value” route. (This was verbally communicated to the World Bank by the Attorney General in December, 1998.)

### **Un-contested farms**

- By November 27, 1998, the Government had received 85 official “no objections” from farmers. These are called the “un-contested” farms.
- At the time of the Donors’ conference on land reform in September, 1998, there were said to be 118 farms “not contested”, but this figure included other farms that had not been on the original list. For instance, farms that the Government had acquired earlier.
- The Government then issued acquisition notices for the “un-contested” farms and proceeded to reach agreement with the owners on the level of compensation. Farmers were entitled to compensation for the loss of the land and any other expenses or loss. Such compensation must be paid “within a reasonable time”. Based on the legal route followed, this compensation would reflect a fair market value.
- In case of dispute (i.e. if the farmer and the Government cannot agree on the amount of compensation or the farmer’s right to compensation), the farmer (or the Government) may refer the question to the Administrative Court. The Court will ensure that fair compensation is paid with a reasonable time. The farmer (or the Government) can appeal to the Supreme Court.
- Example of an interesting case: A case of an uncontested farm was scheduled to go to the Administrative Court in the week of February 15. A ranch belonging to Debshan Ltd. had been listed. The property is held in trust for the Oppenheimer family. The farm fit the Government’s criteria for listing: absentee landlord, no improvements made since the early 1980s, and bordering a communal area. The Oppenheimers had offered to sell for Z\$2.35 m, but when they did not obtain a reaction from the Government to this offer, they took the Government to Court. The Government made its own valuation of the farm, which turned out to be Z\$4 m. When the Court instructed the Government to pay Z\$2.35 m, the Government accepted. The Government then paid the Z\$2.35 m plus interest accrued since November 28, 1999.

## Contested farms

- 841 farms had been contested--the current owners objected on legal grounds, such as contesting the purpose of acquisition or asking the Government to demonstrate that it actually had the capacity to carry out its intention to acquire and resettle the farm.

<u>Status of farms</u>	<u>Number</u>
Gazetted (Nov. 28, 1997)	1471
Mistakes	<u>35</u>
Total	1436
De-gazetted (Sep. 11, 1998)	510
Un-contested (as of Nov. 27, 1998)	85
<u>Contested</u>	<u>841</u>
Total	1436

## Acquisition orders

- By November 28, 1998, the Government had issued acquisition orders signed by the Minister of Lands and Agriculture for all 926 farms remaining on its list, 841 objecting and 85 not.
- The Minister then requested the Attorney General submit applications for confirmation of the acquisition orders to the Administrative Court. By January 4, 1999--the deadline for filing the applications--321 cases had been filed. The remaining cases (520 farms) were to be filed later, as the AG would apply to the Court for “condonation” for late filing. By January 12, 1999, the AG had filed 698 applications.
- On February 8, the Administrative Court ruled that it had no constitutional right to extend the deadline of the 520 farms filed too late. As regards the 321 farms which had been filed in time, subsequent procedures (preparing suitability reports, informing creditors, etc.) and set-down time limits which must be complied with had not been fulfilled. As a result, the Attorney-General had to abandon the process.
- The next step in the processing of the 321 farms would have been for the Administrative Court to confirm or not confirm the acquisition order for each farm, after having taken notice of the written objections where these were made. The test to be applied is not the criteria for listing set by the Government (which have no basis in law), but whether the land is “reasonably necessary” for “settlement for agricultural or other purposes”.

## Uncertainty

- The acquisition process caused a significant amount of uncertainty. In terms of the Act, the effect of an acquisition order is that ownership of the land concerned will immediately vest in the acquiring authority and the farmer may be ordered to cease to use, occupy or to hold the land.
- The Government, following the “fair market value” route, even before an acquisition order is confirmed, may exercise certain rights in respect of the land or request the farmer

to cease to occupy, hold or use the land. Similarly, title may also be transferred soon after the land has been acquired. But in practice the Government has not followed this approach and to date, no title of any contested farm has been transferred.

- The period between confirmation of the acquisition order and the final Court (or appeal) decision is, however, a period of uncertainty. It will obviously influence farmers' investment behavior and banks' lending decisions.
- The law provides for land acquired to be returned to the farmer, if the Administrative Court does not confirm the acquisition. While the Act expressly provides for the return of the land, it is silent on the question of compensation for loss and expenses incurred by the farmer. But it would appear that the Act envisages a claim for compensation by the farmer where the Government does not acquire the land concerned or the Administrative Court does not grant an order confirming the acquisition.
- The Government's initial intention was to start with 6 "test cases", each case representing a particular legal category of contestation. It was hoped that this would create jurisprudence which would speed up the process. Note, however, that each farm would have had its day in court, which would have taken a long time and expose serious capacity problems in the court system.
- On the scale originally envisaged, the acquisition process would take quite some time. A long process will increase acquisition costs, reduce incentives to invest in these farms (which represent about one quarter of total commercial farm area), and yield only a relatively small number of farms for resettlement in the immediate future.
- The impact of the uncertainty created by the listing on this year's production levels has not turned out not to be significant, because most farmers had already planted and felt reasonably confident that the legal process would be adhered to, in spite of the rhetoric. The Minister of Lands and Agriculture also repeatedly assured the affected farm owners that the Government would only take over the properties after current crops have been harvested, and the CFU encouraged farmers to continue with their current production programs. The medium-term impact on production, through reduced investment caused by the uncertainty created, is likely to be more significant.

### **The donor reaction to the Acquisition Orders**

- When the news about the acquisition orders broke, donors were caught by surprise. This included donors which had very good relationships with the key technical people in the various ministries.
- Donors felt that the issuing of the orders went against the agreements reached at the Land Reform Conference and certainly against the spirit of the Conference.
- Most donors had interpreted the agreements to mean that the Compulsory Acquisition route would be substantially slowed down.
- And donors had expected to be consulted on major decisions before they were implemented.



- Many observers also felt that the issuing of acquisition orders would fuel the flames of illegal farm invasions by War Veterans and communities removed from their land during the colonial regime.

### **The Government's response to donor concerns**

- On November 23, Minister Msika (Minister without Portfolio in the President's Office, and coordinating the Government's Land Reform program), Minister Nkomo of Local Government, and Deputy Minister Muchena of Lands and Agriculture briefed the donors.
- The Ministers explained that:
  - the Acquisition Orders were merely the next legal step in the acquisition process--there is nothing unlawful about it;
  - the farms were not new farms, but the contested farms from last year's list (contrary to certain press reports);
  - the Government, given its limited means, could not, even if it wanted to, acquire farms on such a large scale (for this it depended on donor assistance); and
  - the Government had now used force to evict squatters from recently invaded farms, underlining its commitment to the legal process. (This was a piece of good news that was unfortunately lost in the shuffle.)
- In January 1999, the IMF asked the Government to re-confirm in a public statement, jointly with the NECF, that it was (i) following the "fair-market value route" to compulsory land acquisition; (ii) committed to the agreement reached with the donors in September; and (iii) planning to complete the Inception Phase Plan by end-February.
- On February 5, 1999, Minister Msika, flanked by Minister Kangai, gave a Press Conference and issued a Press Release to provide further clarifications. The co-chairman of the NECF—Dr. Robbie Mupawose--was also present. Minister Msika stressed that:
  - compensation for compulsory acquired farms is following established valuation procedures and existing law (when asked by journalists whether this implied that the Government would pay full compensation--for land and improvements--Ministers Msika and Kangai kept repeating this statement, without directly responding to the question);
  - farm invasions would not be tolerated;
  - the Government remained committed to the agreement reached with donors at the September, 1998, conference--this commitment had been recently "ratified" by Cabinet;
  - a Technical Support Unit would be established, supported by UNDP, Sweden, Netherlands, the US and Norway, to assist in the preparation of the implementation of the land reform program;

- a Land Reform and Resettlement Fund would be established;
  - a World Bank proposal for a Learning and Innovation Loan (LIL) was approved for negotiation; and
  - the Cabinet Committee on Resettlement and Development (CRD) had invited the Land Task Force of the National Economic Consultative Forum to contribute to the preparation of the Inception Phase Plan, targeted for completion by end of February. Dr. Mupawose was asked by Minister Msika to confirm this, when prompted by a question on this by a journalist.
- On February 9, the Commercial Farmers Union issued a press statement, reacting positively to the government's February 5 statement, stating that the organization and its members would cooperate fully with the government in the preparation and implementation of the inception phase, and also appealing to donors to provide support to the program.
  - On February 21, the President made a speech and gave an interview on the occasion of his 75th birthday, repeating the earlier rhetoric and contradicting Minister Msika's earlier statements. This caused renewed concern among the donors and was a major factor in the IMF's delay of disbursing the second tranche of the Stand-By Program.

### **The Inception Phase Plan**

- In an effort to break the resulting impasse, the Government called in the assistance of the NECF task force on land. The objective was to formulate a policy framework and action plan which integrated the agreements reached at the Donor Conference on land in to the Government's policy framework and reach a consensus among stakeholders on the way forward.
- This work was undertaken rapidly and the resulting action plan for a 24 month Inception Phase was approved by Cabinet in April, 1999.
- The target of the 24 month plan is to acquire and resettle 1 million ha (or about 300 farms).
- The Inception Phase will benefit of 33 800 farm households, 75 000 non-farm households in Rural Service Centers and 10 000 communal area households (co-users of improved rural infrastructure) at a total cost of US\$189 million.
- The total cost can be broken down into the following components: (i) land acquisition (33%); (ii) infrastructure and support services (61%); (iii) land policy (4%); and (iv) program management and contingencies (2%).
- The target for the first 12 months is to acquire 250,000 ha (or about 150 farms), given the 1999 budget allocation of Z\$375 million and an average current land price per ha of Z\$1,500<sup>1</sup>.

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<sup>1</sup> Land prices are currently about US\$40-45 per ha. The Inception Phase plan budget, however, has used an

- Between September 1998 and March 2, 2000, 59 farms were acquired (about 90 000 ha) at fair market value at a cost of Z\$200 million<sup>2</sup>. About 1700 families were resettled.
- To further reduce the cost to Government, the program will, in addition to compulsory acquisition, acquire land from a variety of sources. These sources include sub-divisions of farms, former cooperatives (Model B resettlement schemes) and state farms. Presently, 45 farms have been released for the resettlement programme from these sources.
  - The key elements of the inception phase are:
    - improving the existing government approaches to resettlement through participatory planning and implementation methods;
    - provision of opportunities for testing alternative approaches such as market-driven and beneficiary-initiated land delivery and resettlement models;
    - provision of choice to beneficiaries between private leasehold, freehold and common property rights;
    - implementation of the programme within the on-going National Land Policy formulation exercise;
    - enhancing implementation capacity through increased stakeholder and private sector partnerships in the delivery of various support services;
    - strengthening the institutional capacity for managing the programme by establishing a Technical Support Unit to assist in the coordination of the land reform programme (by November 1999);
    - expanding and deepening stakeholder participation, particularly through the National Economic Consultative Forum (NECF); and
    - establishment of an effective monitoring and evaluation and information system by November 1999.
- A stakeholder workshop, opened by Minister Msika, was held on May 21, where various private sector, NGO and academic organizations discussed the new policy framework and the concrete project proposals for the Inception Phase.
- Several NGO workshops have also been held to explain the new policy environment guiding the Inception Phase and help them prepare for their role in the process.

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average price of about US\$60 per ha. During implementation of the programme, the land acquisition cost component will be revised to reflect current land prices.

<sup>2</sup> An additional Z\$50 million will be allocated to a Land Acquisition Fund to support the World Bank's Learning and Innovation Loan (LIL), which was successfully negotiated in May, 1999.

## **New Land Policy**

- Government, stakeholders and donors all agree that the success of the land reform crucially depends on an appropriate land policy.
- As a result, a draft Land Policy was prepared-- policy reforms include introducing an agricultural land tax, streamlining land sub-division regulation, improving land tenure arrangements, and introducing regulation on maximum farm sizes;
- a National Stakeholder Workshop to discuss the draft National Land Policy Framework Paper was held in June, 1999;
- the consensus that emerged on a number of key issues have been submitted to the Constitutional Review Commission, including the establishment of a National Lands Commission (the National Land Board in the draft policy) in which all statutory land will be vested and which will undertake all land management matters and the vesting of all village lands (i.e. communal areas) in Village Assemblies. The current Draft Constitution introduces the Land Commission in general, advisory terms.
- A consultancy to streamline sub-division rules will be put out for tendering soon.
- The Minister of Lands and Agriculture will take a new Land Tax Bill to Cabinet shortly. The Bill will include the establishment of a maximum farm size for each agro-climatic zone (or Natural Region) and the implementation of a land tax on the area above that maximum size. To be effective, the land tax will need the parallel relaxation of sub-division rules.
- The adoption of a new National Land Policy by Cabinet is expected by January, 2000.
- The Cabinet recently rejected proposals by the Attorney-General to amend the Land Act in order to make the legal process of Compulsory Acquisition easier. This decision was directly linked to the Government's current policy of moving to a more market-based approach to land reform, aided by the new land tax and the relaxation of sub-division.

## **Stakeholders' support for the Government's economic program**

- The land issue was a key factor in the dialogue between the donors and the Government and in particular in the stalemate that had emerged with the IMF. Aware of the continuing impasse, in April 1999, a number of private sector associations (EMCOZ, ZFU, and CFU) took the initiative to write letters to the senior management of the IMF and the World Bank, urging them to release balance of payments support. This initiative was helpful in the approval of a Stand-By Arrangement on August 2, 1999 by the IMF Board.
- The NECF also worked hard behind the scenes to create consensus around a strategy in which agreement with the Bretton Woods institutions was a critical success factor to getting the economy out of the crisis.

## Next steps

- Stakeholders and donors have resigned themselves to the continuing contradiction between the existing law and its actual application, and the political rhetoric. In any event, the rhetoric has been greatly toned down since April, 1999.
- Instead, stakeholders and donors have agreed that the only feasible way to reduce the existing uncertainty is to accelerate results on the ground.
- Donors have taken the following steps:
  - The IMF does not consider the land issue to be a roadblock at the moment and is looking to the World Bank to undertake further policy dialogue as part of SACIII.
  - The US, the Netherlands, Sweden and Norway have moved forward on a UNDP-coordinated Technical Support Unit project (by signing the project document on May 19)—the TSU should be operational in November;
  - The Bank successfully negotiated the LIL (May 7)—the LIL should become effective in January. Effectiveness conditions: (i) Government counterpart funds for land acquisition and (ii) appointment of coordinator of Technical Support Unit (TSU).
  - France is providing Technical Assistance to the TSU and is assisting in replanning Model B farms; and
  - the UK and the EU fielded a scoping mission in May and are preparing their respective proposals.
- Donors will make their assistance conditional on the Government's compliance in action to the principles agreed to at the Conference: the need for continuous consultation, transparency and adherence to the law.

## The Commercial Farmer Support Scheme

- On July 19, an article appeared in the Daily News which described in critical terms the Government's Commercial Farm Settlement Scheme (CFSS). The impression was given that the Government was now embarking on a land reform program which would mainly benefit the rich, including prominent Government officials.
- On August 4, 1999, Senior Minister Msika, assisted by the Deputy Minister of Lands and Agriculture, the Deputy Minister of Rural Resources and the Deputy Minister of National Affairs, explained the donors in Harare what the status of the Inception Phase of the LLRPII was and the role of the CFSS within that program.
- The CFSS is an on-going program. It attempts to privatize a number of farms acquired after Independence, and then managed by ARDA (it had a predecessor program under the Rhodesian Government). It has up to now been administered by the Agricultural and Rural Development Authority (ARDA) under the Ministry of Lands and Agriculture, but will now be brought under the supervision of the IMCRD, chaired by Minister Msika.

- The Daily News article referred to the 2<sup>nd</sup> and latest batch of ARDA farms to be processed under the CFSS. This process started in early 1998. The batch consists of 149 farms.
- The land involved is comprised of 8 estates which were bought by the Government in the 1980s and have been managed by ARDA since then. This was mainly due to their deemed unsuitability for the smallholder resettlement program at that time. For example, the Government would not want to break up an irrigated farm into smaller units. Or, the Government would not want to resettle a group of poor farmers in the middle of a commercial farmers' area.
- The allocation process was administered by ARDA, which:
  1. demarcated the farm into smaller units;
  2. advertised the farm units in the media (Herald and Chronicle on November, 3, 1998 and the Sunday Mail and Sunday News on November 8, 1998);
  3. sent the same information in English, Shona and Ndebele to the Provincial and District Administrators for public information; and
  4. managed the application process--short-listing and recommending successful candidates to the Minister of Lands and Agriculture for approval.
- Applicants should:
  1. be older than 25 years;
  2. have demonstrated competence in agriculture;
  3. have the necessary capital to run a commercial farm; and
  4. be prepared to permanently reside on the farm or be willing to hire a technically competent manager.
- Successful applicants need to pay a deposit and will then be issued a 99-year lease with option to buy--the purchase price will be determined as the current market value of the farm minus rent already paid;
- In theory, the rental is based on an open market rental evaluation, is adjusted every year according to an escalation factor, and is reviewed after the first five years, when the lessee can exercise the option to buy.
- In practice, the Ministry of Local Government (responsible for the rental evaluation) has not been able to implement the policy and some rentals have not been adjusted for 15 years. Given consistent high inflation, these rentals are now a pittance.
- During the first five years, the Ministry of Lands and Agriculture prepares annual reports on the performance of the beneficiaries. They are categorized in three categories: successful, average and unsuccessful .
- The Minister can terminate the leases of the unsuccessful farmers during the first five year

period. The IMCRD is currently considering whether the farms of unsuccessful farmers should be brought into the Inception Phase for the benefit of small farmers, instead of remaining in the CFSS.

- Minister Msika regretted the timing of the finalization of this process, because it gave the appearance that the Government had its priorities wrong. He had wished that the Government could have been further along with the priority objective of resettling poor farmers, but due to the limited resources available under the LRRPII and the long preparation time involved (including the time spent on donor consultations), this had not happened.
- But Minister Msika stressed that not a single farm from the recently acquired farms under the LRRPII had been made available to the CFSS. Although the CFSS is part of the LRRPII, he stressed that the CFSS was not and will not be the Government's priority. The priority is to resettle poor and land-hungry farmers and de-congest the communal areas.
- Donors asked why Government officials were included in the CFSS program. Minister Msika said that from the 149 farms to be allocated, only 2 farms would be allocated to Ministers and 7 to Government officials. The Government did not intend to exclude Government officials a priori from the application process.
- Donors asked whether the approvals were final--the Minister said, yes, they were final.
- Donors asked whether in the future the "very rich" would be excluded from the application process--the Minister stressed that because the program was run a pure cost-recovery basis and no subsidies were involved, the Government did not intend to exclude the "rich", because the objective of the commercial scheme is exactly to address the racial imbalance in the large commercial landholdings, viz. among the "rich". However, he stressed again that the CFSS was not priority and no farms acquired under the land reform program would be given to the CFSS for the time being. The black commercial farmer issue would be addressed at a later date.
- A proposal has been made to the Minister of Lands and Agriculture to operate the CFSS on a purely self-sustaining basis. This would mean that no more budget resources would be used to buy farms for the CFSS. A Land Revolving Fund would be established by January, 2000, in which the rental payments would be deposited and out of which further land purchases would be made.