



Commercial Farmers' Union

PROPOSALS FOR LAND REFORM FOR ZIMBABWE, 1991

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F O R E W O R D



Alan Burl, President CFU

THE magnitude of the part played by agriculture in the national economy, for the benefit of all Zimbabwe's people, is such that the nation, as it embarks upon new land policies, cannot afford to get the answers wrong, if Zimbabwe wishes to be a recognised and meaningful participant in the 21st Century.

This document, produced by the Council of the Commercial Farmers' Union, as the elected representatives of all sectors of commercial agriculture in Zimbabwe, outlines for the benefit of its members, the Government and its business associates, the following issues pertaining to the land question.

1. A general introduction of agriculture's role in the economy, and commercial agriculture's contribution in particular.
2. A review of the objectives and policies produced by the Joint Presidents' Agricultural Committee's Land Paper detailing the recommendations of the National Farmers' Association of Zimbabwe, the Zimbabwe National Farmers' Union and the Commercial Farmers' Union.
3. An example highlighting the potential economic impact using current resettlement models of resettling 6 million hectares of commercial farm land.
4. An outline of the 15 major points of Government's National Land Policy as presented to Parliament in July, 1990.
5. Parts of the Constitution of Zimbabwe Amendment Bill (No. 11) that pertain to the compulsory acquisition of property, particularly land.
6. Details of the Commercial Farmers' Union proposals for progressive land reform.
7. A section dealing specifically with compulsory acquisition of property and the Union's views upon this matter.
8. A conclusion to the paper produced.

We therefore commend this paper to Government for serious consideration in the ensuing negotiations between ourselves and Government to develop, for the benefit of all Zimbabweans, a just and viable land reform programme.

A handwritten signature in cursive script that reads "Alan D P Burl".

ALAN D P BURL

SUMMARY

1. Prior to and since Zimbabwe's Independence the Commercial Farmers' Union has held consistent fundamental views on land reform:
 - (1) It understands and accepts the need for land reform.
 - (2) Such reform should, however, be implemented in a manner that ensures land is used on a sustainably productive basis, particularly as agricultural land in production plays a key role in Zimbabwe's economy.
 - (3) There is much that can be achieved in improving facilities and services resulting in increased productivity in communal areas and also by the acquisition of derelict and under-utilised land before considering the acquisition of productive land for resettlement.
 - (4) It is concerned that, while resettlement may seemingly ease the problem of overcrowding in communal areas, it creates another in the loss of employment, homes and associated facilities for the resultant displaced farm workers and their families.
2. To these ends the CFU and its members have actively responded to and participated in new plans for land settlement and development ranging from research at ART Farm, training at the Cotton Training Centre, Kadoma and Wensleydale Farm, Headlands for stockmen, extension and training of small-scale coffee growers in Honde Valley and management and training for small-scale tobacco production through the Zimbabwe Tobacco Association's Schemes.
3. Since Independence, under the tenure of the Lancaster House Constitution, more than 3 million hectares or 25% of the commercial farming area has been purchased on a willing seller/willing buyer basis by the State. Of this 2,8 million hectares have been resettled by more than 50 000 families leaving more than 500 000 hectares purchased but not yet settled.

It is unfortunate that with few notable exceptions, the majority of resettlement schemes to date have led to a serious loss of productivity, denudation of resources, insufficient income and even food aid being required for settlers.
4. Government has stipulated and the CFU fully supports that in future farmers selected for resettlement must be not only experienced and competent, but receive additional training.

5. It has been stated that the resettlement programme has been held up because land has not been available or too expensive. In fact more land has been offered to Government than it has taken up, and agricultural land prices have fallen behind inflation since 1980. The facts are that Government has lacked both the human and financial resources to achieve its ambitious target of resettling 162 000 families.
6. When the entrenched clauses of the Lancaster House Constitution could be amended after April 1990, a number of changes were expected. It was however not expected that basic property rights, such as the willing seller/willing buyer concept and particularly the right of appeal to the courts on levels of compensation paid, would be repealed.
The CFU is deeply concerned at the impact of these changes on productive commercial farmers who have repeatedly demonstrated their commitment to Zimbabwe and who now inevitably feel somewhat insecure as 6 million hectares, or 53% of the remaining commercial farming area, is to be acquired on a compulsory basis if there are no further willing sellers.
In the light of the resettlement exercise to date, the CFU is concerned at the inevitable decline in national agricultural output at a time when Zimbabwe has embarked on economic restructuring and trade liberalisation necessitating maximum production, employment and foreign currency earnings.
7. However, the CFU has now been asked to put forward its proposals on how the Land Acquisition Act should be amended in the best interests of the country as a whole. This paper contains these proposals under sections 6 and 7 including the establishment of National and Provincial Land Settlement Boards and the procedure to be followed where compulsory acquisition of land is necessary.
8. Fundamental to the success of the proposals and the resettlement programme will be the CFU's and individual farmers' continued willingness to assist in any way possible.

11th January, 1991

1. ROLE OF AGRICULTURE IN THE ECONOMY

Zimbabwe has a proud record of achievements in many spheres and no less in the agricultural industry. This has come about through this country's systematic development over the years of the infrastructure and support services for a successful agricultural industry. Private sector involvement in the manufacture and disbursement of agricultural inputs, the development of road and rail networks, the policy of controlled marketing through the agricultural parastatals, alongside the free marketing - both internally and for export - of other commodities, the provision of both State and private veterinary, research and extension facilities, have all contributed to a soundly based agricultural industry which is the motor that drives the economy of this country.

Currently, the agricultural industry produces formally marketed products worth \$2,2 billion, which contribute \$1,4 billion, or 42% of the country's foreign exchange earnings. Of this, some 82,6% and 85,9% (1990 estimate) respectively are provided by the commercial sector. Furthermore, some 59% of industry's raw material requirements are provided by the agricultural sector, and 66% of industry's products and services are consumed by agriculture.

In terms of employment alone, the large-scale commercial sector is the largest single employer of labour (currently 300 000 workers), which results in 1,5 million to 1,8 million people living on farms and dependent upon commercial agriculture for their livelihoods and earning, collectively, more than \$500 million.

Since Independence in 1980, substantial increases in production for the market have been achieved in the communal sector. Today more than 50% of maize deliveries and 60% of cotton deliveries come from this sector. These impressive results are due to Government's investment in improved marketing credit and extension services.

The current land classification by use (1989) in Zimbabwe is given in Table 1.

Zimbabwe has a finite land resource but a population of 9,5 million people growing at 3% annually, which will yield a population of 12,8 million by the turn of the century.

Table 1 Land Classification by Use, 1989

	(000 hectares)	(%)
Communal areas	16 355	41,9
Large-scale commercial	11 270	28,8
Small-scale commercial	1 400	3,6
Resettlement	3 090	7,9
ADA/State farms/co-operatives	884	2,3
National Parks and Wildlife Areas	4 900	12,5
Forest areas	977	2,5
Urban	196	0,5
Total	39 072	100,0

Some 80% presently derive their livelihood, either directly or indirectly, from agriculture. This situation is not sustainable. The pressure on the communal lands from too many people and too many animals and the mismanagement of resources, has led to widespread and sometimes irreversible degradation. The communal nature of land ownership and traditional agricultural methods, together with the traditional role of live-stock, has aggravated the situation.

2. JOINT PRESIDENTS' AGRICULTURAL COMMITTEE REPORT

Government has committed itself to a policy of land redistribution, and the Commercial Farmers' Union accepts the political and moral requirement of Government to meet the aspirations of the majority of its people. In this regard, in October, 1989, the Minister of Lands, Agriculture and Rural

Resettlement approached the leaders of organised agriculture for their views on a stated 15 point objective on the resettlement, distribution and utilisation of agricultural land, in which some 110 000 families would be resettled on 6 million hectares of commercial farm land. Accordingly, the three unions - Commercial Farmers' Union (CFU), Zimbabwe National Farmers' Union (ZNFU) and National Farmers' Association of Zimbabwe (NFAZ) - under the umbrella organisation of the Joint Presidents' Agricultural Committee (JPAC) chaired by the President of ZNFU, Mr G Magadzire, deliberated extensively on the issues outlined and produced a consensus view in a report submitted to Government in February, 1990. This report outlined a number of recommendations on objectives and policies, which are given briefly as follows:

Objectives

1. Agricultural land will be used for agricultural purposes.
2. Agricultural land will be conserved in terms of the national conservation strategy.
3. The production of crops and livestock, in terms of a national policy, must be related to domestic requirements and export market opportunities.
4. Appropriate levels of productivity and utilisation, as determined by the appropriate authority, must be maintained.
5. The infrastructure, credit, input, delivery, transport systems and marketing constraints in the communal, small scale commercial and resettlement areas will be overcome in order to ensure productivity. Further, the infrastructure should be in place before farmers are settled.
6. Employment opportunities must be maximised.
7. The rate of resettlement should be matched to the resources available, to meet the aspirations of the people, but without jeopardising national productivity.
8. Recommendations for the establishment of viable resettlement models appropriate to each agro-ecological region be made.
9. Special emphasis be placed on resettlement of farmers on land with an undeveloped irrigation potential.
10. Recommendations be made on the terms and conditions of future land acquisition.
11. Recommendations be made on the qualifications and resources of persons to be resettled.
12. All proposals and recommendations must take into account resources available and must be capable of successful implementation on the ground.

Policies

In order to achieve these objectives, the following policies were recommended:

1. The NFAZ, ZNFU and CFU, through the forum of the JPAC, will continue to foster the fullest co-operation between farmers and the Government to improve both conservation of resources and productivity in agriculture.
2. All agricultural land must be used for agricultural purposes on a sustainably productive basis.
3. Derelict or under-utilised agricultural land should be forfeited to the State after consideration by the Derelict Land Board provided for in the Land Acquisition Act, 1985.
4. Only those persons who can prove competency as farmers, either by certificate or experience, should qualify for resettlement.
5. Future resettlement must provide absolute security of tenure to the farmer by way of a lease convertible to title to enable him to develop his farm with confidence.
6. In the rehabilitation of communal areas, Government should

- offer title to those farmers who have proved competent in utilising the land on a sustainably productive basis.
7. The national conservation strategy must be vigorously promoted and implemented over all agricultural land in Zimbabwe.
8. The direct costs incurred by Government in the development of a resettlement farm should be amortised over 40 years at no interest and recovered from the settler(s). All costs related to infrastructure for the resettlement scheme should be met by Government.
9. The current ownership pattern in both communal and resettlement areas, where women are often the principal operators with men employed elsewhere and remitting part of both capital and recurrent costs of farming operations, should be facilitated as the most efficient way of financing these operations.
10. The onus of proof over judgement on whether land is under-utilised or derelict should be left to Government to determine.

Regrettably, little attention was paid to this document by Government.

3. RECENT DEVELOPMENTS

The policy of further resettlement of commercial farm land was facilitated by the introduction of an amendment to the Constitution of Zimbabwe effectively empowering Government to acquire any land or property for State purposes at a level of compensation determined by Government over a period determined by Government (*Section 4*).

To the Commercial Farmers' Union the economic consequences of this policy are perplexing. On the one hand, Government has committed itself to a structural adjustment programme which depends entirely for its success on maximising productivity, exports and foreign exchange earnings, while encouraging investment, development and employment creation. On the other hand, undermining the confidence of the pivotal segment of the productive sector is anathema to this programme. Government's soon-to-be-published national five-year development programme for agriculture is simply not attainable under this policy.

To date Government has acquired over **3 million hectares** of commercial farm land for resettlement. For many reasons, but with few exceptions, the current exercise has failed. The level of productivity is such that the average marketed output of the resettled farmers is less than \$600 annually, or less than one half of the current minimum wage for an agricultural worker. (Government, to its credit, has largely accepted this and on many occasions given a commitment that this area will be addressed before further land is acquired for resettlement, and that, in the case of further acquisition, the infrastructure for successful resettlement will be put in place before competent farmers are moved on to the properties.)

Further, if Government carries out its stated policy of acquiring a further **6 million hectares** of commercial farm land, more people will be displaced from productive employment than will be settled. There appears to be no thought as to the future of these farm workers, and such a policy will do nothing to alleviate the land pressure, but will, in fact, aggravate it.

Unfortunately, resettlement to date has not achieved planned levels of output, due primarily to lack of infrastructure and inappropriate settler selection criteria. In an attempt to highlight the economic impact of resettling 6 million hectares of commercial farm land based on current resettlement models, the following calculations are made, based on the resettlement of 2,5 million hectares from Region II, 2,5 million hectares from Region III,

and 0,5 million hectares each from Regions IV and V. Clearly a number of assumptions have to be made, and these are based on the original planned targets for resettled farmers in each natural region, based on Model A resettlement schemes. Allocations of arable land to each farmer are based on certain crop areas grown each year, plus an additional allowance for crop rotation. Grazing land is allocated on the basis of the number of livestock units required by each farmer and the appropriate stocking rate in each natural region. These recommendations are those of the Department of Agricultural Technical and Extension Services, but in this analysis, for obvious reasons, sorghum is substituted for maize in Natural Regions IV and V.

According to these criteria, the level of agricultural production would decline. National production, at present \$2,2 billion, would fall by some \$500 million, while exports, at \$1,5 billion, would fall by \$425 million. In addition the capital cost to the State of resettling 110 000 families will be in excess of 1 billion Zimbabwe dollars. The downstream effect of this on industry, its productivity and employment potential, will be serious.

This is illustrated by the current demise of the textile industry which, because of falling seed cotton deliveries to the Cotton Marketing Board (323 000 tonnes in 1987 to 187 000 tonnes in 1990) through unrealistic pricing policies, has been supplied with only 68% of its requirements for lint. In addition, the well established export market has not been met, as export customers are currently being turned away because of the pent-up demand for lint from the local industry.

Furthermore, halving the commercial land holdings would effectively halve the commercial beef herd to 0,9 million head and this, with an offtake of 20%, would yield 180 000 slaughter cattle. The offtake from communal and resettled farmer herds may be 3% to a high of 5%. At the latter figure, the net deficit is of the order of 135 000 slaughter cattle. The current throughput of the Cold Storage Commission is close to 300 000 head (1990), of which 80% are of commercial origin. The throughput under Government's resettlement policy is likely to fall to 200 000 or less.

The new export rated abattoir at Bulawayo, built at a cost of \$92 million, has a capacity for this number of head, and the total Cold Storage Commission capacity of the five slaughter works is in the order of 625 000 head.

The Commission will be operating at 30% or less of capacity, with resulting massive lay-off of staff or increasing State subsidy. The present deficit of this parastatal is \$58 million and the throughput calculated to operate on a breakeven basis is 420 000 head. This is not attainable.

It would appear that Government's current borrowings to refurbish the Commission's infrastructure, at a cost of \$260 million, may have been totally unnecessary. There are many other unanswered questions on the impact of Government's policy. What of the wheat industry, currently grown entirely by the large-scale sector and delivering an all-time record 325 000 tonnes in the present season? What of the soyabean industry - again a crop grown entirely by the large-scale sector - for which

Table II Net effects of Resettlement of Commercial Land

	Value of LSCF Production 1990	Value of LSCF Exports 1990	LSCF production after land resettled	LSCF Exports after land resettled	Add back value of resettled farmers output	Production Net Loss/ Gain	Exports Net Loss/ Gain
(\$ millions)							
Tobacco	870,0	1 134,0	559,9	729,8	-	-310,1	-404,2
Maize	100,1	56,7	63,5	36,0	111,0	74,5	7,1
Cotton	98,4	60,6	61,2	37,7	47,9	10,7	10,6
Soyabeans	50,7	0,1	32,6	0,1	-	-18,1	-
Groundnuts	6,9	3,2	4,5	2,1	35,7	33,3	13,2
Sunflowers	1,0	-	0,5	-	-	0,5	-
Sorghum	0,5	0,7	0,3	0,4	3,2	3,0	-
Horticulture	125,0	50,0	65,1	26,0	-	-59,9	-24,0
Wheat	119,6	-	75,6	-	-	-44,0	-
Barley	14,5	-	10,9	-	-	-3,6	-
Coffee	47,3	50,3	37,3	39,6	-	-10,0	-10,7
Tea	59,0	24,0	59,0	24,0	-	-	-
Sugar cane	234,5	89,5	234,5	89,5	-	-	-
Edible beans	-	-	-	-	0,8	0,8	-
Beef	291,8	20,0	134,9	9,2	63,1	-93,8	-10,8
Hides	34,1	12,8	15,8	5,9	13,8	-4,5	-2,7
Dairy	117,1	7,4	67,9	4,3	-	-49,2	-3,1
Poultry	50,0	1,7	45,0	1,5	-	-5,0	-0,2
Pigs	48,0	0,2	25,7	0,1	-	-22,3	-0,1
	2 268,5	1 511,2	1 494,1	1 006,4	275,5	-498,9	-424,9

(Resettled farmers - 70% cotton, 40% groundnuts, 25% maize and 30% hides assumed exported).

Manicaland - row crop growing areas assumed in Region II.

Beef cattle - effect of resumption of exports to EEC not considered.

Poultry - two major producers assumed not affected by resettlement.

Sugar cane and tea production - assumed not affected by resettlement.

LSCF = Large-scale
commercial farming

there is an enormous potential in the production of oil for local consumption and export, and the export of oil expressed meal for the pig and poultry industries in southern Africa? Most importantly, what of the tobacco industry, currently earning 63% of the country's total export earnings from agriculture? Will resettled farmers in the tobacco growing area be able to sustain the current level of production of 150 million kg?

Furthermore, hybrid and certified seed for maize, soya, cotton, wheat, sorghum and potatoes is produced exclusively by large-scale farmers.

Nevertheless, Government has again invited the Commercial Farmers' Union to participate in the land reform exercise, and it is because of Zimbabwe's farmers' commitment to this country and their faith in the future of it, that this paper has been produced. It is a sincere attempt to assist Government meet its commitments to the people with the minimum disruption to the economy as a whole. In seeking to achieve this, certain fundamental principles have been established:

- **Existing productive farmers must be able to - and indeed be encouraged to - remain farming without prejudice or fear of losing their livelihood or homes.**
- **Zimbabwe's sound economic base must not be eroded or jeopardised for short-term expediency.**
- **Government's proposed economic restructuring and trade liberalisation, its regional food security responsibilities, its export promotion and proposed employment creation are totally and unequivocally supported by the Commercial Farmers' Union.**

4. SUMMARY OF GOVERNMENT LAND POLICY

The main thrusts of the national land policy in the form of a fifteen point memorandum, were presented to Parliament by the Minister of Lands, Agriculture and Rural Resettlement at the end of July, 1990. These are summarised as follows:

(1) Amendment of Land Acquisition Act

Government plans to amend the relevant sections of the Land Acquisition Act so that it is able to acquire land where and when required for resettlement purposes. Government will extend the time within which it responds to offers and negotiates prices i.e., extending the 30 day period to 90, as well as the negotiating period from 14 to 30 days.

Further, all land transfers, including donations, will have to be approved by the Minister once the amendments are made.

(2) Land Designation

Government will designate land suitable for the resettlement programme.

(3) Control of Land Prices

Government plans to control the price of agricultural land in Zimbabwe. Prices will be fixed on the basis of variation in agro-ecological regions of the country.

The issue of capital gains tax is presently under examination by the Minister of Finance, Economic Planning and Development.

(4) Imposition of Land Tax

Government plans to impose a land tax based on the calculated

production potential per hectare per natural region. In this regard, both a unit tax and a land tax will be levied. This tax will only be levied on the commercial farming sector.

(5) More Intensive Land Inspections

The Ministry of Lands, Agriculture and Rural Resettlement will strengthen its land inspection unit so that all farms can be systematically inspected. Any land found under-utilised over a period of time will be acquired by the State.

(6) Consolidation of State Farming Sector

The State farming sector under ADA will also continue to expand and consolidate its role as an agricultural producer alongside other large-scale commercial farmers.

(7) Limiting the Number of Farms Owned

Government will legislate against the ownership of more than one farm unit by one individual or company. However, exceptional cases will be treated on their merits.

(8) Land Ownership by Zimbabwean Absentee Landlords

Absentee landlords will not be allowed to own agricultural land in Zimbabwe.

(9) Limiting Farm Size

Government will stipulate minimum and maximum farm sizes according to different agro-ecological regions and recommended cropping patterns.

(10) Land Sub-division

Government will, as a rule, allow sub-division to continue, as long as it results in viable farm units.

(11) Foreign Ownership of Land

Government will not allow foreigners to own agricultural land in Zimbabwe.

(12) Land Tenure System

Government will appoint a commission of land experts to look into the current tenure systems and recommend the most realistic tenure system for the country.

(13) Settler Selection

Government will change the current settler selection system and put more emphasis on master farmers and other experienced farmers. In future, all farmers should become commercial farmers.

(14) Structure of the Agricultural Sector

The agricultural sector will be comprised of the large-scale and small-scale commercial sectors, as well as the communal, resettlement and State farming sectors.

(15) Promotion of Emergent Black Farmers

Government will design extension and financial programmes to assist the emergent black farmers.

Despite the submissions to Government in respect of both the Joint Presidents' Agricultural Committee's recommendations on land distribution and resettlement together with the CFU's concerns over the Land Policy Statement, Government has provided the legislative framework to enable it to implement the

Land Policy by way of the Constitution of Zimbabwe Amendment (No. 11) Bill.

5. CONSTITUTION OF ZIMBABWE AMENDMENT (NO. 11) BILL, 1990

- (1) The main purpose of the bill is as follows:-
 - (a) to alter the name of the country from "Zimbabwe" to "The Republic of Zimbabwe";
 - (b) to render constitutional corporal punishment to juveniles and the present manner of imposing the death sentence;
 - (c) to facilitate the compulsory acquisition of property, particularly land;
 - (d) to strengthen the independence of the judiciary;
 - (e) to enfranchise certain persons who are not citizens but who are permanently resident in Zimbabwe.
- (2) Everybody should be familiar with and take an interest in all the proposed amendments listed in (a) to (e) above. However, the amendments proposed in terms of **Section 6** of the Bill that deal with the amendment of **Section 16** of the Constitution are particularly crucial as this section deals with the protection of property rights as set out in what is referred to as the Declaration of Rights.
- (3) The effects of the amendments in terms of **Section 16** in brief terms, are as follows:
 - (a) Land, including utilised land, buildings and improvements to land, will be capable of being acquired for settlement, land re-organisation, environmental conservation, utilisation of natural resources and the relocation of persons. Previously, only under-utilised land could be acquired compulsorily for resettlement. Now any property can be compulsorily acquired for any purpose that the State requires.
 - (b) The compensation payable for compulsory acquisition will have to be "fair" and be paid "within a reasonable time". Previously it had to be "adequate" and "paid promptly".
 - (c) Parliament will be allowed to specify the principles on which the amount of compensation for acquisition of land is to be assessed, to fix the amount of compensation in accordance with such principles, and to fix the period within which compensation is to be paid.
 - (d) The absolute right granted by **Sections 16(5)** and **(6)** of the Constitution to remit compensation out of the country has been abolished.
 - (e) Zimbabwe courts will be allowed to order the forfeiture of property for breaches of foreign law as well as breaches of Zimbabwean law, and this will allow the proceeds of international crimes to be forfeited.
 - (f) It will be made clear that **Section 16** of the Constitution does not apply to the extinction of debts gratuitously incurred by the Government.
- (4) While many of these proposed amendments were expected, what was totally unexpected was the insertion of a paragraph in the amendment to **Section 16(2)** of the Constitution, stating that "no such law shall be called into question by any court on the ground that the compensation provided by that law is not fair". This means that where the Government acquires property - be it for any of the reasons stated in the amendment, including the national interest - it will act as judge in its own case in determining what is fair compensation.

(5) The purpose of the Constitution of the Republic of Zimbabwe is to set out for its citizens and the world the manner in which its society is ordered through Government by the State. The Constitution includes:

- the provision for citizenship;
- the Declaration of Rights;
- the composition and powers of Parliament;
- the provision for the Executive headed by the President;
- the functions and role of the Civil Service and armed forces;
- the manner in which Government will be financed;
- the creation of an independent judiciary to administer the law.

The Constitution is a reflection of the values of Zimbabwean society.

6. CFU PROPOSALS FOR PROGRESSIVE LAND REFORM

6.1 Land Settlement Board

It is proposed that a body of responsible people, led by an eminent person whose impartiality and integrity is beyond reproach, be formed at national and provincial levels, with full representation of all interested parties, who will determine the course of the resettlement programme, taking due cognisance of Government's political requirements and the nation's stability and progress. Such a board will be known as the Land Settlement Board.

The Land Settlement Board at the national level will comprise:

- A retired judge of the High Court (Chairman)
- The Chairman of the Natural Resources Board
- A nominated representative of the Commercial Farmers' Union
- The Permanent Secretary, Ministry of Lands, Agriculture and Rural Resettlement
- The Permanent Secretary, Ministry of the Environment and Tourism
- The Permanent Secretary, Ministry of Local Government, Rural and Urban Development

Each province will have a Provincial Land Settlement Board comprising:

- The Provincial Governor (chairman)
- The Provincial Resettlement Officer
- The Provincial Agritex Officer
- The CFU Branch Chairman
- The Group ICA Chairman
- A private sector representative (accountant/lawyer)

which will be responsible to the national body, and whose brief will be:

- (a) to target certain areas for resettlement;
- (b) to identify certain properties within those areas for resettlement;
- (c) to evaluate fully the economic and local social impact of the resettlement process.

Such a procedure will enable wise decisions to be made on the strength of local knowledge, will enable the accurate assessment of the impact of the policy on the same grounds, and will ensure

the smooth progression of the implementation of Government's policy with minimum economic and social disruption.

Resettlement will then proceed on a planned and orderly basis commensurate with the availability of Government's resources to sustain the programme. Designation by the demarcation of areas for proposed resettlement will no longer be necessary as the land identification will be carried out by the Land Settlement Board.

6.2 Land Identification

In order to acquire land for resettlement with minimum economic disruption, it is essential to observe certain priorities. These have been worked out as follows, with categories (1) through (6) being the first priority for resettlement to the last:

- (1) Existing unoccupied purchased land.
- (2) Land voluntarily offered for sale to Government.
- (3) Unproductive land, irrespective of ownership.
- (4) State land and ADA properties, including Cold Storage Commission ranches and forest land.
- (5) Land owned by absentee foreigners.
- (6) Land owned by multi-national companies.

Land currently held by Government but not yet settled must clearly be the first priority for resettlement, together with land offered freely to Government for purchase.

With regard to State land, in view of land hunger and limited resources, there can be no justification whatsoever for the State's participation in commercial farming operations, other than through the role of core development of infrastructure for resettlement purposes.

While the Union is unable to discriminate against its members, foreigners and multi-nationals are specifically precluded by Government's land policy from owning agricultural land in Zimbabwe. The CFU, however, has no problem with land held by foreigners or multi-national organisations, provided it is well utilised and productive. Indeed, in the latter case, these organisations are to be commended for their commitment to the development of this nation.

6.3 Settler Selection

Agricultural land must be used for agricultural purposes by people competent to do so. The country does not have the resources to settle people for social reasons or because they are unemployed. These issues must be addressed through the means of overall economic development. Therefore, the selection of settlers for their ability and expertise is central to the success of the scheme. Thus it is recommended that:

- only sound and active Zimbabwean farmers with proven expertise or training are eligible for resettlement;
- no discrimination is made on colour, creed or sex;
- all those currently settled undergo extensive and appropriate training to enhance their productivity;
- all settlers be exposed to continuous training and monitoring by appropriate agencies.

6.4 Infrastructure and Development

Mistakes of the past must be avoided at all costs if the scheme is to succeed. Therefore it is recommended that the infrastructure of

roads, clinics, schools, accommodation, fencing, buildings, etc., be in place before settlers are brought in to occupy properties. The policy of placing families on vacant land, lacking the resources to utilise it, has led to the exploitation of the natural forests as a source of immediate revenue through firewood, followed soon after by appeals from impoverished settler families for food aid.

6.5 Training

Notwithstanding selection of settlers of known ability or training, continuous training in technologies and good farming practice is essential to the success of the programme. In this regard, the CFU is willing to assist with the provision of training facilities and the management of trainee farmers.

In addition, the CFU is willing to assist in the training, monitoring and evaluating of pilot projects involving resettlement of specialised production areas - for example, intensive irrigation, horticulture and livestock projects.

Currently the CFU and its members are involved in: the training of small-scale coffee growers in the Hlonde Valley; the training of small-scale and communal cotton growers through the Cotton Training Centre at Kadoma; participates in the training of stockmen and communal farmers through the Wensleydale Farmer Training Centre at Headlands; the training of participants in small-scale tobacco producers' scheme, sponsored by the Zimbabwe Tobacco Association as well as many individual cases of farmer to farmer assistance.

6.6 Tenure

The lack of accountability for resources is probably the single most important contributory factor to their abuse. No resettlement scheme can succeed as a sustainable production system with appropriate conservation of natural resources, if no accountability for these resources is enshrined in the system.

It is therefore proposed that all settlers have leasehold rights over their properties for a period of three years, in order to demonstrate farming ability when, upon satisfactory performance, such tenants have the option to acquire title.

6.7 Management/Inspection

For the sustainable success of the programme, continuous management input is necessary and monitoring of performance. The number of Agritex/resettlement supervisors must be increased commensurate with the rate of resettlement, so that these services are freely available to settled farmers. The inspection of land for abuse of resources in resettled, communal and commercial areas must be revamped, with appropriate Government support to ensure the sustainable use of the country's resources. The current destruction of forest on resettled farms and, in many cases, the abandonment of the programme by farmers turning to the more lucrative enterprise of illegal gold panning, is testimony to these needs.

6.8 Land Tax

An additional land tax, which is to be applied to the commercial farming area, is strongly opposed in principle, as rural rates are already payable on the basis of land area or improvements to Rural District Councils. If, however, such a land tax is applied, it is the belief of the CFU that it should cover all agricultural land, including communal and resettlement land.

7. COMPULSORY ACQUISITION OF PROPERTY

Definitions

"land" by constitutional definition as amended, now means **"anything permanently attached to or growing on land"**. Therefore, the State now has the right to compulsorily acquire not only land but all permanent improvements and standing crops. In doing so, it is required to make payment within a reasonable time of fair compensation.

"fair" in this context can be taken to mean **"in conformity with rules or standards"** which will be determined by Parliament as set out in **Section 16(2)** of the Constitution of Zimbabwe Amendment (No.11). This section also provides that: **no such law shall be called into question by any court on the grounds that the compensation provided by that law is not fair.**

"acquiring authority" means the President or any person nominated by him.

Compulsory acquisition of property, including land, by the acquiring authority should follow carefully the findings and recommendations of the Land Settlement Board described in section 6. In doing so the following procedures should be adopted:

(1) Preliminary Notice of Compulsory Acquisition

The acquiring authority should give notice in writing to the owner of its intention to acquire his property, and set out the terms and conditions under which the acquisition is to take place.

A period of two years' notice should be given to enable the owner to wind up his affairs in an orderly manner and make arrangements for relocation if this is desired.

Simultaneously, the acquiring authority should give notice in writing to all parties that may have any interest in the property.

If only part of the owner's property is to be acquired and if, in his opinion, this renders the remainder of his property unviable, he may demand that the whole of the property be acquired.

(2) Investigation of Land to be Acquired

Investigation of land for settlement should be carried out by the Provincial Land Settlement Board including an assessment of:

- the suitability of the land for the purpose intended;
- the productivity and extent of the land;
- but before entering the land, serve the owner with fourteen day's notice of its intention to do so and carry out investigations with as little damage and inconvenience as possible.

Once these recommendations have been received and considered by the National Land Settlement Board and the land found suitable for acquisition, appropriate instructions should be issued to the acquiring authority to proceed with the valuation of the property.

(3) Confirmation Order where Acquisition is Contested

Where any objection to a proposed compulsory acquisition is

made, either by the owner or any party with an interest in the property, the acquiring authority should apply to the Administrative Court for an order confirming or authorising the acquisition, as the case may be.

(4) Valuation of Property and Land to be Acquired

Three potential values for land exist:

- (a) **market value based on current prices paid for similar properties (this is the value determined by willing seller/willing buyer negotiations);**
- (b) **the economic value of the farm based on present farming practices and levels of production;**
- (c) **the economic value based on future incomes which can be anticipated in the light of the present re-adjustment in the industry.**

These are the three traditional forms of valuation. However, none will be appropriate if Government arbitrarily fixes the price of land.

Under these circumstances, where land values are fixed by the Government according to Natural Region, the value of the improvements must be assessed individually at current replacement cost and aggregated with basic land value to give an overall value to the property.

For example, a comprehensive assessment and valuation of improvements would take into consideration *inter alia*:

Electrical installations, orchards and plantations, weirs, reservoirs, contours, storm drains, ridges and furrows, roads, gates and grids, irrigation, main residence, staff housing and amenities, schools and clinics, dams, wells and boreholes, silos, sheds, chicken houses, land stumped, pig sties, dairies, dips, races and pens, spraytraces and pens, tobacco barns, grading sheds, bulking sheds, storerooms, processing plants, fencing, trading stores, butcheries and other businesses, all other improvements.

To this assessment, the owner should add economic arguments based on farm business expectations. Fair compensation must ensure that three principles are satisfied:

- (1) **that the owner is compensated for the real worth of his property;**
- (2) **that if the land has a value in excess of its assessed earning capacity, then that value will be realised to the owner;**
- (3) **that expropriation of parts of properties results in realistic compensatory payments.**

(5) Claims for and Assessment and Payment of Compensation.

The acquiring authority will have to pay within a reasonable time fair compensation to the owner of the land and property and any other person who suffers loss or deprivation of rights by any action taken by the acquiring authority.

Consequently, any person who wishes to claim compensation should submit a claim in writing to the acquiring authority specifying in detail:

- (a) **the nature of his loss or deprivation of rights; and**
- (b) **the amount of compensation claimed by him and the basis on which he has calculated such an amount and**

any actual expense or loss which has been or may be reasonably incurred or suffered directly, including relocation costs, as a result of the action taken by the acquiring authority.

In the case of a dispute over what may be fair compensation, the responsible Minister will make a final determination as reference of a dispute to the traditional Administrative or other court is specifically precluded in **Section 16(2)** of the Constitution of Zimbabwe Amendment (No.11). The principles and criteria on which compensation will be assessed are still to be determined by Parliament.

In this regard the CFU recommends the criteria and principles set out in (4) and (5) (on page 8) be adopted after further discussions with Government.

However, it remains the view of the Commercial Farmers' Union that compensation should still be adjudicated by an Arbitration Court comprised of a judge and two assessors, as this will clearly follow well-tried procedures and ensure all relevant information and facts are considered. Justice will also be seen to be done.

Furthermore, if an Arbitration Court is not established to handle disputes, it is likely that aggrieved owners will seek recourse in the Supreme Court in terms of **Section 16(1)(e)** - a complicated and protracted procedure.

In any event, where the parties agree to the right to compensation but not upon the amount of compensation payable, the acquiring authority should pay the amount offered not later than seven days after the intention to acquire the property has been confirmed.

The acquiring authority should also pay interest at the prevailing prime overdraft rate for the period extending from the date on which the land was acquired to the date the money was paid to the claimant.

Payment of compensation should be in cash.

(6) Taxation

All property that is acquired by means of compulsory purchase should be free of capital gains tax. All taxes, including any land tax, rural council rates and income tax, should be waived during the two years winding up period prior to the take-over of the property.

(7) Discharge of Debts

Where any land acquired was, immediately prior to its acquisition, mortgaged or hypothecated, the acquiring authority shall, after consultation with the owner, pay any mortgage or hypothec, so far as it is possible, from the compensation due.

Under no circumstance should any owner be rendered insolvent or destitute as a result of compulsory acquisition.

(8) Responsibility for Employees

The responsibility for the welfare and future employment of employees, including the payment of gratuities and pension contributions shall pass to the acquiring authority once the acquisition has been confirmed.

All these recommendations will form the basic thrust of the CFU's discussion with Government as to the amendments to be incorporated into the Land Acquisition Act.

8. SIZE OF FARMS AND NUMBER OF HOLDINGS

It is the firm belief of the CFU that there should be no discrimination of landowners in terms of either the number of properties they own and operate or the size of those properties, provided they are fully utilised and productive. One of the most serious issues facing Zimbabwe at present is the question of unemployment, and as long as a producer is utilising his holdings fully, is productive and maximises employment opportunities, he should be no more prejudiced than a chain store owner, bus company owner or transport fleet operator.

CONCLUSIONS

The most important single issue facing Zimbabweans of the future will depend upon how the land question is managed today. To this end a national livestock and crop policy is essential.

Clearly, the **rehabilitation of the communal areas** must take first priority in line with Government policy of communal area rehabilitation.

Grazing systems, to better utilise resources while minimising damage, are central to sustainable utilisation of these areas, yet their success depends upon a high degree of discipline in controlling cattle numbers and management of the system. A tax on non-resident ownership of cattle, the proceeds of which accrue to the resident peasants, will discourage over-utilisation of resources which are communally owned and for which there is no accountability.

This **lack of accountability** is arguably the single most important contributor to mismanagement of these areas. Without some form of accountability, no rehabilitation programme can hope to succeed. Some moves have been made to address this issue by Government in the form of the granting of title to property owners at growth points. This is a step forward but must be extended to the ability of the genuine farmer, who has proved his worth, to also acquire title to his property. Until this is possible, there is nothing to be gained by farmers conserving resources and, indeed, much to be lost in the race to exploit them.

The development of further **irrigation facilities** and the close settlement of farmers in **intensive production systems** holds enormous potential in the communal areas. To date this has hardly been tapped and must offer the means of considerably alleviating pressure while enhancing the productivity and standard of living of large numbers of rural peasants.

The further **training of farmers** and appropriate **development of the infrastructures** of the existing resettlement areas is essential to rescue the programme from complete failure. Furthermore, a **review of the resettlement models** is required to develop production systems appropriate to the agro-ecological region. The current use of the Model A programme, based on dryland cultivation, is totally unsuited to Natural Regions IV and V, which would be better utilised by extensive multi-species (wildlife/cattle) livestock production systems. It is essential that further resettlement of presently State owned land progress on a planned and co-ordinated basis with full development of the appropriate infrastructure before farmers are placed on the land. Training and monitoring must be an on-going feature of all agricultural production, but more especially those of the communal areas and, in particular, the resettlement areas. In this regard the CFU is willing and able to help.

Furthermore, the current emphasis on academic qualifications

for school leavers is not always appropriate. Far greater emphasis should be placed on **technical schools** with less academic bias and more orientation to practical curriculae; including agriculture.

The Commercial Farmers' Union fully appreciates the need for Government to address the issue of correct land utilisation, but land alone cannot substitute for economic development and creation of employment and prosperity. If Zimbabwe is to prosper as a nation, it is in this area that Government's full attention must be directed and, while Government has committed itself through bold decisions to economic restructure, investor confidence, both internal and external, upon which the success of the programme depends, will evaporate unless the issue of land is handled in a most responsible and fair way to all concerned. The present land policy, underlined by the Constitutional Amendment (No.11) will do little to foster such confidence unless the amendments to be made to the Land Acquisition Act are unequivocal in stating clearly how fair compensation will be seen to be paid.

The Amendment Bill, when signed into effect, will fundamentally alter the security from deprivation of property hitherto enjoyed by all people in Zimbabwe. It places the interest of the State before that of the individual, not only insofar as the rights of ownership and enjoyment of property are concerned, but also in the determination of fair compensation in the event of deprivation by the State. The cornerstone of both constitutional and statutory law dealing with property is that compulsory acquisition can only be undertaken by the State in the national interest. The powers of Government to acquire land for settlement or other purposes are now unfettered.

While it may not be the intention of Government to use these powers in an unreasonable or disruptive way now, they remain enshrined in the Constitution and may be used at some future date. Consequently, Government is simply not in a position to give an assurance as to how these powers will be used in the future, especially when the powers of acquisition are so wide and vested in one Minister and outside the scrutiny of the Courts. Rarely has constitutional protection from deprivation of property been rendered of so little value.

While the law has been changed and the scope and application of the law on property has severely constrained the ability of the judiciary to adjudicate compulsory acquisition, the loyalty and commitment of Zimbabwean commercial farmers has not changed.

What is required of Government is an explanation as to why these draconian powers are necessary, when previously commercial farmers have been constantly assured that a willing seller/willing buyer negotiation would be the basis for land purchase.

More than three million hectares of commercial farm land has been purchased for resettlement on this basis in the past ten years, constituting 25% of the commercial farming area in 1990. Since 1986, more than 1 800 properties - half of which were in Natural Region 11, - were offered to Government in terms of the Minister's right to first refusal. How is it, then, that Government can claim that there is a shortage of land for purchase?

While much has been made of exorbitant prices charged, the cost of land purchase comprises one-quarter to one-third of the resettlement exercise, if carried out properly. Why then, should property values be downgraded through controls, with massive economic repercussions, when the land price is the minor component of the cost? If the land prices are to be controlled in designated areas, will they also be controlled in non-designated areas, and what of urban residential land prices and business concerns? Are these to be allowed to fluctuate with market forces, or are they to be controlled too? The policy raises more questions than answers, and the answers it does provide are far from encouraging.

Despite these constraints, the Commercial Farmers' Union is determined to ensure the continuing development and investment in the agricultural sector in Zimbabwe and will enter constructive dialogue with the Government as to how to do this. However, the CFU fears that those who look at Zimbabwe from outside will be less willing to be helpful in terms of contribution to both financing and investment of this development as one of the conditions of their participation is traditionally, that the rule of law prevails in the country and that justice is seen to be done.

Zimbabwe's impeccable record since Independence in this regard has now been severely impaired by the substantial reduction in constitutional protection afforded property owners.

The question to Government is: how will this basic insecurity that is being felt by farmers and investors be overcome?

For its part, the CFU will not be found wanting in working with Government, at both the provincial and national level, to map out a land strategy that will encourage farmers and those who wish Zimbabwe to develop and prosper, to work together. □

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