

Agribusiness Ventures Arrangements (AVAs) in Agrarian Reform Areas in the Philippines: Identifying Alternative Schemes

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INTRODUCTION

Agribusiness venture arrangements (AVA) are business partnerships between private investors and agrarian reform beneficiaries (ARBs) involving the awarded lands planted to high value crops. The Philippines' Department of Agrarian Reform (DAR) recognizes the existence of AVAs, formerly called "alternative venture agreements" as a way of promoting responsible private sector investments in agrarian reform areas, enhancing and sustaining the productivity and profitability of awarded lands, facilitating and hastening the transformation of ARBs into small and medium farmer-entrepreneurs and contributing to sustainable rural development and global competitiveness of the Philippine agricultural sector.

Agribusiness arrangements with ARBs began with the lands owned by the National Development Company in the late 1980s. When the Commercial Farm Deferment (CFD) program under the Comprehensive Agrarian Reform Program (CARP) lapsed in 1998, these same commercial farms were subjected to agrarian reform (DAR-FAO, 2016).

To date, more than 400 agreements between ARB organizations or individual ARBs and private investors have been accounted for. Most of them are in the island of Mindanao, involving around 52,000 hectares, with banana, pineapple and oil palm as the most widely planted crops. Based on the DAR-FAO Study on AVAs in 2016, 20% of total area planted to banana, oil palm, cacao and pineapple in the country are in AVA areas.

AVA POLICIES

DAR Administrative Order (A.O.) 09, Series of 2006 otherwise known as the "Revised Rules and Regulations Governing Agribusiness Venture Arrangements (AVAs) in Agrarian Reform Areas" was issued in December 2006. It was an enhancement of the previous policy guideline – A.O. No. 02, Series of 1999, otherwise known as Rules and Regulations Governing Joint Economic Enterprises in Agrarian Reform Areas.

DAR A.O. 02, Series of 2008 provides the rules for lease arrangements and recommended a lease rental formula based on poverty threshold, maximum land award limit, land amortization value and real property tax per hectare.

AVA SCHEMES

DAR Administrative Order (A.O.) 09, Series of 2006 defined the following AVA schemes: ***Contract Growing or Growership*** is a scheme wherein the ARBs commit to produce certain crops which the investor buys at pre-arranged terms (volume, quality standard, selling price).

Joint Venture Agreement (JVA) is a scheme wherein the ARBs and investors form a joint venture corporation (JVC) to manage farm operations. The ARBs contribute the use of the land held individually or in common and the facilities and improvements, while the private investor furnishes capital and technology for production, processing and marketing of produce, or construction, rehabilitation, upgrading and operation of agricultural capital assets, infrastructure and facilities.

Lease Agreement is a scheme wherein the beneficiaries bind themselves to give the former landowner or any other investor general control over the use and management of the land for a certain amount and for a definite period.

Management Contract is a scheme wherein the ARBs hire the services of a contractor to assist in the management and operation of the farm for production of high value or other crops in exchange for a fixed wage and/or commission.

Marketing Agreement is a scheme wherein the investor explores possible markets/buyers for the ARB's produce and in turn receives commission for actual sales.

Service Contract is a scheme wherein the ARBs engage the services of a contractor for mechanized land preparation, cultivation, harvesting, processing, post-harvest operations and/or other farm activities for a fee.

Build-Operate-Transfer (BOT). In this scheme, the “investor builds, rehabilitates or upgrades and operates capital assets, infrastructure and facilities applied to the production, processing and marketing. Ownership will then be transferred to the ARBs after an agreed period.

EXPERIENCES IN EXISTING SCHEMES

Growership or contract growing arrangements exist mostly in awarded areas planted to banana in Southern Mindanao and for oil palm in the Caraga region. It is considered a more favorable arrangement allowing control and management of awarded lands by the recipients or ARBs. Compliance to quality standards and good agricultural practices by the ARBs is highly necessary under this scheme. However, pole-vaulting or side selling by the ARBs to a third party buyer, offering higher prices, in violation of the exclusive contract or growership arrangements made between the ARBs and the investor firm has been a common problem.

From a regulatory point of view, lease arrangements are the least preferred arrangements by DAR and agrarian reform-oriented non-government organizations (NGOs) due to transfer of control on the awarded land to the investors. However, they are the most prevalent. Around 73% of existing AVAs are lease arrangements covering collective and individually titled awarded lands. Very low lease rentals and long duration of agreements are the main issues confronted by ARBs limiting their income-earning potential from the awarded lands. Compliance to the lease rental formula provided for in DAR AO 2, S. 2008 is very weak.

Joint Venture Agreements (JVA) are managed by Joint Venture Corporations (JVCs) which are represented jointly by the investors and the ARBs. The equity participation of ARBs is determined by both parties or as appraised by accredited independent appraiser. Like in lease arrangements, the control and management of the land is vested on the investors during the duration of the JVA. Employed ARBs receive wages for their labor in accordance with existing labor laws, in addition to annual dividends. The low amount of dividends, long duration of the agreements and organizational dynamics in collectively titled lands are outstanding issues.

In a management contract, the land remains under the control and possession of the ARBs. The contractor-manager assumes the tasks of production, hiring of employees,

marketing and sales, for an agreed guaranteed income for the ARBs, while any excess amount is considered as contractor's profit.

In a marketing contract, the investor usually acts like a broker and the ARBs and the farmers have no control over where to sell the products. As an AVA scheme, it is differentiated from marketing agreements entered into by ARB organizations for fresh produce and value added-products under DAR's marketing assistance program

There is limited report and documentation on the experience on management and service contracts, with only two agreements identified involving pomelo plantations. More so, there is no documented experience yet involving a BOT agreement between ARBs and investors although it is provided for under DAR A.O. No. 9, Series of 2006.

On the other hand, substantial documentation and studies on growership or contract growing and lease type AVAs have been conducted indicating the advantages of the former scheme from the point of view of the government and entrepreneurship-oriented ARBs. However, said scheme is still prone to investor take-over in case of non-compliance to technical standards.

IDENTIFYING FURTHER ALTERNATIVES

There is a need for other favorable alternative arrangements that protect the property rights of ARBs and develop their entrepreneurial capacities.

In a round-table discussion for AVAs conducted in 2011, Dr. Rolando Dy of the University of Asia and the Pacific suggested models from ASEAN countries. These include the Nucleus Estate-Smallholders Scheme for long-term crops such as oil palm, rubber and sugar and Develop-Manage-Transfer (DMT) where the ARBs can have full control after development phase.

CONCLUSION

Given the experiences, relative successes, limitations and constraints in the existing schemes, there is a need to further identify and promote alternative agribusiness arrangements for the ARBs. Service and management contracting arrangements could have been underreported if not underexplored. The successes achieved in the other schemes especially those involving growership or contract growing need to be sustained. Other suggested arrangements need to be explored and promoted by the agriculture and agrarian reform departments supported with appropriate policy guidelines.

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