

## IV. CONCLUSION





## 4.1. SUMMARY OF FINDINGS

Primary and secondary data on land acquisitions in Africa is scarce and often of limited reliability. This means that evidence and the conclusions drawn from it need to be treated with caution. Nevertheless, a picture is emerging of land deals Africa. Key features include:

- **Significant levels of activity** – the quantitative inventories have documented an overall total of 2,492,684 ha of approved land allocations since 2004 in the five study countries, excluding allocations below 1000 ha;
- **Rising land-based investment** over the past five years, with an upward trend in both project numbers and allocated land areas in all quantitative study countries and anticipated growth in investment levels in future;
- Large-scale land **claims remaining a small proportion of total suitable land** in any one country, but most remaining suitable land is already **under use or claim**, often by local people, and **pressure is growing on higher-value lands** (e.g., those with irrigation potential or closer to markets);
- Possible increases in the **size of single acquisitions**, though with considerable variation among countries – approved land allocations documented here include a 452,500 ha biofuel project in Madagascar, a 150,000 ha livestock project in Ethiopia, and a 100,000 ha irrigation project in Mali;
- **Dominance of the private sector** in land deals, though often with strong financial and other support from government, and significant levels of government-owned investments;
- **Dominance of foreign investment**, though **domestic investors are also playing a major role** in land acquisitions – a phenomenon that has received far less international attention so far.

Where governments are acquiring equity stakes in land, **sovereign wealth funds** play a smaller than anticipated role. More common arrangements for government ownership of land assets in foreign countries are via **state-owned enterprises** and minority shares in private companies. Direct **government-to-government land deals** are rare but not unknown. **Government development**

**funds** play a major role in providing loans, insurance and other forms of support to state-owned enterprises and private companies operating abroad.

SWFs are subject to various accountability mechanisms: sitting somewhere between government and the private sector, they are subject to scrutiny as public purse, but also, since the banking crisis and subsequent Santiago Principles, to the growing extension of transparency criteria applicable to equivalent private investment – though the extent to which internationally developed principles will translate into internalized governance changes remains to be seen. On the other hand, government development funds and direct government equity in land acquisitions are areas of higher expenditure and much less transparency – and require greater attention. In addition, given the often blurred lines between government and private investment in practice, the differentiation between the two in terms of research agendas and policy responses is somewhat artificial.

**Food security concerns**, particularly in investor countries, are a key driver of government-backed investment. But many government-backed deals are driven by **investment opportunities** rather than food security concerns (e.g. China). Related drivers behind current land deals in Africa are **global demand for non-food agricultural commodities and biofuels**, expectations of rising **rates of return** in agriculture and **land values**, and **policy measures** in home and host countries.

While there is a **perception that land is abundant** in certain countries, these claims need to be **treated with caution**. In so many cases land is already being used or claimed – yet existing land uses and claims go unrecognised because land users are marginalised from formal land rights and access to the law and institutions. And even in countries where some land is available, large-scale land allocations may still result in displacement as demand focuses on higher value lands (e.g. those with greater irrigation potential or proximity to markets).

For people in recipient countries, this context creates **risks** (such as loss of land access for local people, but also undermining of local businesses and environmental damage) **but also opportunities** (e.g. in terms of access to capital, technology, knowhow and markets), particularly in light of the longstanding underinvestment in African agriculture. Ultimately, the extent to which international land deals seize opportunities and mitigate risks **depends on their terms and conditions**: how are risks assessed and mitigated – for

instance through considerations in project location? What business models are favoured in project implementation (from plantations to contract farming, purchase agreements, policy incentives, or joint ventures)? How are costs and benefits shared – for example, in terms of safeguards against arbitrary land takings, or revenue-sharing arrangements? And who decides on these issues and how?

Although the terms and conditions of investment display a huge diversity among countries and even individual projects, the main study findings, based on a small number of international land deals, include the following:

- Land deals must be **assessed in the light of the often complex overall package** they are part of, including commitments on investment, infrastructure development and employment – the “land grab” emphasised by some media is only part of the equation;
- **Land leases**, rather than purchases, are predominant in Africa, and host country **governments tend to play a key role in allocating them**;
- Land fees and other **monetary transfers are not the main host country benefit**, not least due to the difficulty of setting land prices in absence of well-established formal land markets;
- Host country benefits are mainly seen in the form of investor **commitments on investment levels, employment creation and infrastructure development** – though these commitments tend to lack teeth in the overall structure of documented land deals.

**Although on paper** some countries have **progressive laws** and procedures that seek to increase local voice and benefit, **big gaps between theory and practice**, between statute books and reality on the ground result in major costs being internalised by local people – but also in difficulties for investor companies.

Many countries do **not have in place legal or procedural mechanisms to protect local rights and take account of local interests, livelihoods and welfare**. Even in the minority of countries where legal requirements for community consultation are in place, processes to negotiate land access with communities remain unsatisfactory. **Lack of transparency and of checks and balances in contract negotiations** creates a breeding ground for **corruption**

and deals that do not maximise the public interest. **Insecure** use **rights** on state-owned land, inaccessible registration procedures, vaguely defined productive use requirements, legislative gaps, and compensation limited to loss of improvements like crops and trees (thus excluding loss of land) all undermine the position of local people.

Virtually all the **contracts** analysed by this study tend to be **strikingly short and simple** compared to the economic reality of the transaction. Key issues like **strengthening the mechanisms to monitor or enforce compliance** with investor commitments, through monitoring and sanctioning, **maximising government revenues and clarifying their distribution**, promoting **business models** that maximise local benefit, as well as balancing food security concerns in both home and host countries are dealt with by vague provisions if at all.

## 4.2. RECOMMENDATIONS FOR STAKEHOLDERS

This report is only a first step towards better understanding trends, drivers, features and impacts relating to international land deals. Much more work is therefore needed (see Box 4.1). Any recommendations for policy and practice can only be tentative at this stage. In addition, land deals take many different forms and proceed in a wide diversity of contexts. Transactions labeled as “large-scale” may involve 1,000 hectares or 500,000 hectares. This diversity means that recommendations need to be tailored to their contexts.

With these caveats in mind, the next few sections outline sets of general recommendations for the different stakeholders involved in or affected by international land deals:

- Investors;
- Host governments;
- Civil society – organisations of the rural poor and their support groups; and
- International development agencies.

### **Investors – options for maximising security for investment and sustainable development gains**

- Investment funds including SWFs tend to be more familiar with financial deals than agricultural ones. This matters because projects of the size

#### **BOX 4.1. WHAT IS NOT YET KNOWN – AREAS FOR FURTHER DEBATE AND EXPLORATION**

This report has only started to scratch the surface of a very complex set of issues. More research is needed, for instance in the following areas:

- Better data on land availability – generated through solid methodology building on a clear definition of “available” land within a context of multiple claims and land use purposes, and undertaken with the participation of local land users and other stakeholders (e.g. national interest groups, conservation).
- Better understanding of land deals – in terms of their negotiation, parties, content and implementation. What does a “good” contract look like? Are contracts usually adhered to, and if so do differently structured deals lead to different outcomes on the ground? What pressure points can be used to maximise sustainable development outcomes, whether in government-investor deals, in financing arrangements or in community partnerships?
- How to secure local land rights within agricultural investment projects? What difference do local land rights make? Are more secure land rights correlated with more locally advantageous deals – across and within countries?

More generally, there is a need to extend the scope of this research: thematically, tackling issues only cursorily mentioned here (e.g. domestic investment) or not discussed at all (e.g. environmental standards); sectorally, to understand commercial pressures from land use demands other than agriculture (e.g. tourism, mining); and geographically, as land acquisitions are relevant well beyond Africa.

documented in this report raise significant challenges even for experienced agribusiness. **Investors need to make realistic assessments of their capacity to manage farming projects at this scale.** They should act appropriately in the light of these assessments.

- **It is possible that media hype is feeding a land rush.** As more reports come out, key players may wish not to miss out, and seek to acquire areas of land. This means that **careful and detached analysis of the factors involved in land investments in developing countries is more important than ever.**
- **Issues of image and reputational risk should not be underestimated.** Investors can be seen as dealing with or propping up corrupt regimes and human rights violators. They may also be perceived as land grabbers in food-insecure countries.

- International land deals may be perceived as bringing back the “bad old days” of colonialism, particularly in Africa. This is particularly so when rental fees are zero or close to zero. Backlashes are possible, as in the Daewoo case: this was a concern for some investors interviewed for this report. **Long-term land leases – for 50 or even 99 years – are unsustainable unless there is some level of local satisfaction.** In this context, innovative business models that promote local participation in economic activities may make even more commercial sense. These include outgrower schemes, joint equity with local communities and local content requirements. On the last point, well-established practice from other sectors like extractive industries may provide useful insights.
- **At the local level, land rights may be hotly disputed.** In relation to disputes, outside investors may think they have successfully purchased land, only to find that the tenure situation may in fact be very complex, involving customary rights. There may be a serious **risk of getting bogged down in disputes.** This means **careful assessment of local contexts** is critical, as well as **long-term engagement with local interests (not just elites).**
- Local expectations of benefits may be unrealistically high. Unclear terms and conditions and over-optimistic promises foster this, and may result in frustration and anger vis-à-vis the investment. **Clarity is needed about the costs and benefits of the business transaction from the start. This includes realistic estimates and honest communication of what the project will bring.** This includes information on numbers and types of jobs (including information on skill-sets and seasonality) as well as their longevity (for example, what is the expectation of replacement by mechanisation?). It also includes information on the other positive and negative impacts of the project – from water abstraction to infrastructure development.
- **Clear principles for engagement at the local level are required.** Local consultation is likely to be a key success factor during project implementation, whether or not it is legally required. Decisions will need to be taken about the extent of and timeframes for consultations. Some level of compromise may be necessary between investors, governments and local people on what constitutes a credible process. In all cases basic principles



#### **BOX 4.2. BASIC PRINCIPLES FOR ENGAGEMENT AT THE LOCAL LEVEL**

Basic principles that should be followed in engaging communities and local level stakeholders include:

- Consulting when all options are still open;
- Ensuring information is available to the community in understandable forms, including the full prior project proposal, explanation of options, impacts and alternatives, record of any agreement and pledges from either side;
- Making sure that diverse local interests are properly represented, by going beyond local elites and by making specific efforts to include groups who may be left out, such as women, minority ethnic groups and non-resident people like transhumant pastoralists;
- Crystallising any investor-community agreement emerging from the consultation in readily monitorable and legally enforceable terms;
- Providing effective arrangements for local people to voice concerns and seek redress, particularly where access to formal courts is constrained (e.g. grievance mechanisms);
- Committing to clear plans for revisiting the dialogue and reviewing progress in consultation with community.

need to be followed (see Box 4.2). Principles and procedures for **free, prior and informed consent** particularly as developed in the forestry and extractive sectors will increasingly provide guidance relevant to the agricultural sector.

- Recognising that **internationally recognised human rights are at stake**, namely those most directly linked to land access such as the right to property and the right to food (see section 3.5), has implications not only for governments but also for private investors. The conceptual framework recently developed by the UN Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises highlights how the realisation of human rights entails not only obligations for states, including a duty to protect people from third-party violations; but also the **direct responsibility for business entities to respect human rights**, including through carrying out **due diligence** about possible adverse human rights impacts, **in addition to compliance with national laws** (Ruggie, 2008). These overarching considerations must frame private sector engagement with land deals.

## **Recipient governments – placing sustainable development at the centre of investment decision-making**

- Governments need to clarify what kinds of investment they want to attract. Different investment types and business models are likely to generate different economic, social and environmental impacts, both positive and negative. Given the long-term nature and large scale of much recent land acquisition, **strategic thinking** rather than ad hoc decision-making is needed in order to make incoming agricultural investment one of the pillars for long-term rural development. Well negotiated and selected foreign investment, if properly combined with domestic resources including small-holder farming, could create positive synergies to support long-term rural development.
- **Attention to increased agricultural productivity needs to be balanced with assessment of how gains are achieved** (for example, through mechanised or labour-intensive production) **and how benefits are shared**. This has implications for the **content of land deals**, for instance through mainstreaming minimum requirements for job creation, infrastructure, community benefits, national fiscal benefits and environmental protection. It also has implications for the way government agencies and officials work – for example, by **rewarding agencies and officials based on the quality not just quantity of investment** they attract.
- **State-of-the-art assessments of the social and environmental impacts of proposed investments are needed**. For example, on the environment side, key issues include: whether investments are likely to be associated with a short-term mining of soils and water (through cultivation of crops with high water or nutrient demands); the likelihood of pest or disease problems, particularly associated with monocultural production; possible impacts on biodiversity; and capacity to contribute to longer-term sustainable soil and water management.
- **Governments should ask hard questions about the capacity of investors to manage large-scale agricultural investments effectively**. As discussed, very large-scale projects raise great challenges even for experienced agribusiness. Governments may need to invest in their own capacity to assess investment proposals and investor capacity to deliver.

- **Land contracts must be structured so as to maximise the investment's contribution to sustainable development.** This includes devising incentive systems to promote inclusive business models, and giving legal teeth to commitments on investment levels, job creation, infrastructure development, public revenues, environmental protection, safeguards in land takings, and other aspects. **Skillful negotiation is key, and governments may need to invest in their own capacity to negotiate.**
- **Mechanisms should be developed to discourage purely speculative land acquisitions.** High-level government commitment and capacity across administrative structures are essential to enforce strict compliance with investment plan requirements. Where appropriate, mechanisms to monitor compliance with investment plans beyond the early stages of the project should be developed. Taxation on land allocated but not developed, differentiated rents depending on whether or not the land is being developed, sliding-scale arrangements whereby the allocated land area is reduced proportionally over time in case of under-development are some of the mechanisms that may be experimented with.
- **Investment decision-making must be transparent. Investors need to be given clear information on procedures, criteria for decision-making, and conditionalities.** Greater transparency in government decisions may provide a moral basis for requiring greater disclosure from investors. As long-term, large-scale land deals are likely to affect public and third-party interests (e.g. via local land takings or water abstraction), **decision-making must be open to public scrutiny**; this may increase the legitimacy and ensure the long-term sustainability of land deals. Insights may be gained from experience with promoting transparency in other sectors – for instance, the Extractive Industry Transparency Initiative, which primarily concerns revenue management with regard to mining and petroleum contracts.
- Perhaps most importantly, efforts must be stepped up in many countries to **secure local land rights**. Attempts to attract large-scale investment should not divert attention from the need to improve tenure security for local people. This may help them avoid being arbitrarily dispossessed of their land, and obtain better deals from incoming investors – for instance, through providing land as in-kind contribution to a joint venture in which both investor and community have a stake. **Collective land registration** may

be a valuable policy option in this regard. Where mappings and inventories of “available” lands for possible allocation to investors are undertaken, care must be taken to respect existing land uses and claims. The principle of **free, prior and informed consent** and **robust compensation regimes** should provide a cornerstone of government policy, and must be integrated in national legislation. Provision of **legal aid** and support is key to helping local people make the most of these arrangements in practice.

### **Organisations of the rural poor and their support groups – options for maximising net benefits from land investments, and limiting exclusionary impacts**

- Scope for civil society to influence processes will vary depending on the nature of the land deal. Government-to-government and private-to-private transactions offer different opportunities. While scope for influencing private deals is highly limited, there should be more room for inputting into processes involving government. Evidence for this to date is limited, however, and **advocacy to promote greater government and investor accountability** in land deals is needed. Accountability includes **transparency** (publicly accessible information in appropriate forms at the right time), **answerability** (ability to respond to feedback and to justify why any decision or course of action is followed in favour of any other) and **liability** (clear and operational mechanisms for grievances to be raised and, where necessary, sanctions to be applied).
- **Advocacy and awareness-raising are also needed at each stage of the land investment process.** Rights to free, prior and informed consent should be advocated for. So should provisions to maximise local benefit, such as business models that harness the comparative advantages of smallholder farming (e.g. through outgrower schemes or purchase agreements), job creation commitments, community benefits such as schools and clinics, protection of environmental and cultural resources, provisions on produce shares for local and export markets, and other aspects – as well as effective arrangements to enforce all these.
- **Legal support** to people affected by investment projects can help them get a better deal from incoming investment – through better compensation regimes and investor-community partnerships, for example. This may

include legal literacy training, paralegal programmes, legal clinics, legal advice and representation in negotiations with government and investors, training on negotiating skills, through to public interest litigation.

- In the past, polarised debates about individual titling and “collateralisation” in Africa have witnessed skeptical positions from many civil society groups. But the new land acquisition trend may require revisiting the longstanding debate about land titling in Africa. **Collective registration of community lands can be an effective tool for protecting local land rights vis-à-vis incoming investors.** Local (“customary”) land rights systems can work well at the local level, but they are irrelevant to investors. As some have argued, “where the primary source of tenure insecurity is outsider encroachment, the best legal response is to recognise and enforce local group rights, and (where it does not cause undue conflict) to demarcate and record certain lands in the name of that group” (Fitzpatrick, 2005). Experience from countries that have implemented community land registration programmes, in Africa and elsewhere, may provide useful lessons.

### **International development agencies – catalysing positive change**

- **Engage with investor and recipient governments, private sector and civil society to ensure that land deals maximise the investment’s contribution to sustainable development.** This may include supporting policy reform in recipient countries towards greater transparency of decision-making and greater consideration of social and environmental issues. The ongoing, FAO-led process to develop **Voluntary Guidelines for Responsible Governance of Land and Other Natural Resources**, and the **Framework and Guidelines for Land Policies in Africa** being developed under the leadership of the African Union, the UN Economic Commission for Africa and the African Development Bank are useful steps in that direction.
- **Help address the lack of clear and easily accessible information on land acquisitions and agricultural investments.** Effective systems to monitor land deals (inventories, maps, databases) can improve transparency and public scrutiny, as well as access to information for governments and prospecting investors. International agencies can play a role in making this happen.

- **Provide expert advice, capacity building and other support for governments, private sector and civil society**, for instance with regard to the negotiation of contracts, to tackling food security issues, to promoting innovative ways to provide legal support to local people, and to developing business plans that build on know-how of the wide range of business models for agricultural production beyond plantations.

## **Final remarks**

The land investment story currently unfolding, and analysed in this report, reflects deep global economic and social transformations. These ongoing processes have profound implications for the future of world agriculture. Decisions taken today will have major repercussions for the livelihoods and food security of many, for decades to come. This means that choices made now must be based on strategic thinking rather than piecemeal and opportunistic negotiations.

What should African agriculture look like in 30 years' time? What place should large investment and smallholders play within that, and why? These basic questions should frame decision-making. Public deliberation is essential to ensure that this question is properly addressed and factored into choices between different options. It is hoped that this report can contribute to meeting this challenge.

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# Land grab or development opportunity?

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Large-scale acquisitions of farmland in Africa, Latin America, Central Asia and Southeast Asia have made headlines in a flurry of media reports across the world. Yet international land deals and their impacts still remain little understood. This report is a step towards filling this gap. The outcome of a collaboration between IIED, FAO and IFAD, the report discusses key trends and drivers in land acquisitions, the contractual arrangements underpinning them and the way these are negotiated, and the early impacts on land access for rural people in recipient countries – with a focus on sub-Saharan Africa.

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