Sub Saharan Africa’s Unfolding Tragedy in Mega Land Deals for Agro-investments with lessons from Tanzania

Bede Lyimo
Dar es Salaam, Tanzania

FAO, Rome, August 2011
ABBREVIATIONS

EXECUTIVE SUMMARY

CHAPTER ONE: INTRODUCTION
1.1 Agricultural Transformation and Land Acquisition
1.2 Analytical and Presentation Framework
1.3 Changing Patterns of Global Investment in Agriculture
1.4 Trends in Agricultural Investments in SSA
1.5 Land Redistribution or Latifundia Choice for SSA
1.6 Crying Wolf on Loss of Bio-diversity
1.7 Unintended Policy Consequences
1.8 Relevance of the Tanzanian Experience

CHAPTER TWO: LAND ACQUISITION IN SSA AND TANZANIA SINCE 2000
2.1 Incidence of Controversial Land Acquisition Deals in SSA
2.1.1 Status of Acquisition of Land Rights
2.1.2 Status of Access to Water Rights
2.1.3 On Farm Sizes and the Largest Farm in the World
2.2 Acquisition of Land User Rights in Tanzania
2.3 Perspectives to an Elusive Problem in Tanzania
2.3.1 The Colonial Heritage and Essence of Liberation Wars
2.3.2 Heritage of Second Post-independence Generation to Posterity
2.4 Policy Capture and the Path to Latifundia
2.4.1 Latifundia Path to Growth and Development
2.4.2 Land Redistribution and Industrialization Growth Model

CHAPTER THREE: TANZANIA’S LAND ADMINISTRATION FRAMEWORK
3.1 Land Act No. 4 of 1999 and Land User Rights
3.2 Derivative User Rights for Foreign Investors
3.3 Secondary Legislation and Institutional Framework
3.4 Strategic Plan for the Implementation of Land Laws (SPILL)
3.5 Availability and Status of Distribution of Arable Land
3.6 The Enabling Environment for Agricultural Investments
3.7 Experimentation with Best Practice Instruments in Tanzania  
3.7.1 Interventions for Agricultural Transformation  
3.7.2 Omerta the Conspiracy of Inaction and Silence  

CHAPTER FOUR: GOOD PRACTICES IN AGRICULTURAL INVESTMENT  
4.1 Seven Principles of Responsible Investments in Agriculture  
4.1.1 Respect for Land and Resource Rights  
4.1.2 Food Security  
4.1.3 Transparency, Good Governance and Enabling Environment  
4.1.4 Consultation and Participation  
4.1.5 Responsible Agro-Enterprise Investments  
4.1.6 Social Sustainability  
4.1.7 Environment Sustainability  
4.2 Agricultural Business Models and Investment Funds  
4.2.1 Contract Farming and Out-grower Schemes  
4.2.2 Leases and Management Contracts  
4.2.3 Tenant Farming and Sharecropping  
4.2.4 Joint Ventures  
4.2.5 Farmer-owned Businesses  
4.2.6 Upstream and Downstream Business Links  
4.3 Role of Investment Funds and Other Parties  
4.3.1 Funds Intervention Strategies  
4.3.2 Investment Funds, Financial Organizations and BDS Providers  
4.3.3 Investment funds Targeting SSA  
4.3.4 New Sources of Funding in Emerging Economies  
4.3.5 Government Institutions and Farmer’s Business Organizations  
4.4 Benefits for Whom?  

CHAPTER FIVE: FINDINGS AND RECOMMENDATIONS ON THE CONSEQUENCES OF FIRST GENERATION LAND DEALS IN SSA  
5.1 Overview of Findings  
5.1.1 General Findings  
5.1.2 Overall Recommendations  
5.2 Food Security and Sustainable Human Development  
5.2.1 Findings on Food Security  
5.2.2 Recommendations on Food Security  
5.3 Land Administration and Information Services  
5.3.1 Findings on Land Administration in SSA  
5.3.2 Recommendations on Land Administration in SSA
5.3.3 Findings and Recommendations on Land Administration in Tanzania

5.4 **Equitable Access to Water Rights in the Face of Climate Change**
5.4.1 Findings on Climate Change and Access to Water Rights and Right of Passage
5.4.2 Recommendations on Access to Water Rights and Right of Passage

5.5 **Business Environment for Agricultural Transformation**
5.5.1 Findings on Business Environment
5.5.2 Recommendations on Business and Investment Environment

5.6 **Investment Climate: Transportation and Other Infrastructural Services Sectors**
5.6.1 Findings on Infrastructure Development and Power Supply
5.6.2 Recommendations on Infrastructure Development and Power Supply

5.7 **Paradigm Shift in Choice of Developmental Intervention Instruments**
5.7.1 Findings and Recommendations on Choice of Policy Instruments

5.8 **Best Practice Business Models and Financing Instruments**
5.8.1 Findings on Business Models and Financial Instruments
5.8.2 Recommendations on Business Models and Financial Instruments

5.9 **Strategic Vision of African Agriculture in Global Economic Relations**
5.9.1 Findings on Strategic Visioning on the Role of Agriculture in SSA
5.9.2 Recommendations on Strategic Visioning on the Role of Agriculture in SSAs

5.10 **From Strategic Visioning to Good Planning and Effective Implementation**
5.10.1 Findings on Effective Implementation
5.10.2 Recommendations on Effective Planning

5.11 **Good Governance and Investment in Institutions and Civil Systems**

**CHAPTER SIX: CONCLUSION**

6.1 Conclusion

6.2 Way Forward

6.3 Epilogue on Truth and Reconciliation

REFERENCES AND BIBLIOGRAPHY

August, 2011
ABBREVIATIONS

AAAF  ACTIS Africa Agribusiness Fund
ASIF  Africa Seed Investment Fund
ASDS  *Agricultural Sector Development Strategy*
ASDP  Agricultural Sector Development Program
BDS  Business Development Services
CCROs  Customary Certificates of Rights of Occupancy
CDC  Commonwealth Development Corporation
CDTF  Cotton Development Trust Fund
CROs  Certificates of Rights of Occupancy
CVLs  Certificates of Village Land
CMSA  Capital Markets and Securities Authority
DRC  Democratic Republic of Congo
EAC  East African Community
EU  European Union
FBGs  Farmer-Business Groups
FDI  Foreign Direct Investment
FAO  Food and Agriculture Organization
GDP  Gross Domestic Product
GPS  Geographical Positioning System
GVC  Global Value Chains
GIS  Geographic Information Systems
GOs  Governmental Organizations
GVC  Global Value Chains
ICT  Information and Communication Technology
IFAD  International Fund for Agricultural Development
IFC  International Finance Corporation
JV  Joint Venture.
KRC  Korea Rural Company
LGAs  Local Government Authorities
LDCs  Least Developed Countries
MAFSC  Ministry of Agriculture Food Security and Cooperatives
MLHHSD  Ministry of Lands Housing and Human Settlements Development
MTS  Multilateral Trading System
MOFEA  Ministry of Finance and Economic Affairs
NGOs  Non Governmental Organizations
OBC  Orteko Business Corporation
PMO-RALG  Prime Minister’s Office, Regional Administration and Local Government
PPP  Public Private Partnership
REDD  Reduced Emissions from Deforestation and Forest Degradation
RSA  Republic of South Africa
RUBADA  Rufiji Basin Development Authority
SADC  Southern African Development Community
SAGCOT  Southern Agricultural Growth Corridor of Tanzania
SAGF  Rabo Sustainable Agriculture Guarantee Fund
SEKAB  Swedish Elhanol Chemistry AB
SSA  Sub Sahara Africa
SOE  State Owned Enterprise
SPILL  Strategic Plan for Implementation of Land laws
SME  Small and Medium sized Enterprises
TANESCO  Tanzania National Electricity Supply Company
TAZARA  Tanzania Zambia Railway Authority
TATEPA  Tanzania Tea Packers Ltd
TECHNOSERVE  Technology in the Service of Mankind
TIC  Tanzania Investment Centre
TNC  Transnational corporations
UHT  Ultra High Temperature
UNCTAD  United Nations Conference on Trade and Development.
USD  United States Dollars
USAID  United States Agency for International Development
WEF  World Economic Forum
WCGA  Western Cotton Growing Area
WMA  Wildlife Management Areas
EXECUTIVE SUMMARY
“Changing agricultural commodity prices are shifting the distribution of risks and returns along the agricultural value chain, by increasing the downstream risks to processors and distributors ......and boosting returns from production. This increases the attractiveness of agricultural production as an investment option, including the acquisition of land..... of shares in companies holding land ......., or otherwise involved in upstream agricultural activities. (Vermuelen S. and Cotula L.)

“Prices for grains and other farm products began rising last fall after poor harvests in Canada, Russia and Ukraine tightened food supplies. More recently, hot, dry weather in South America has cut production in Argentina, a major soybean exporter. This month’s flooding in Australia wiped out much of that country’s wheat crop. As supplies tighten, prices surge .... FAO said its food price index jumped 32 per cent in the second half of 2010, soaring past the previous record set in 2008.” (The Citizen)

Over the past five years, a substantial number of deals for acquisition of large tracts of land have been concluded between transnational firms from industrialized countries and firms operating in unison with governments in emerging economies on one hand, and governments of lower income developing countries and the Least Developed Countries (LDCs) in Africa and Asia, on the other hand. All of the deals involve large areas of land, exceeding 20,000 hectares. Some are extremely large, ranging between 100,000 and 1.0 million hectares, to the extent that they cannot be developed commercially in the medium term, and reflect the long-haul strategic visioning. Today, many African governments that perceive their countries as possessing abundant unutilized arable land, have received a large number of requests for land


allocation, and have approved a good number of them, while others are still under processing.

1.1 AGRICULTURAL TRANSFORMATION AND LAND ACQUISITION

Agricultural activity in all Sub-Saharan Africa (SSA) remains largely subsistence, combined with limited cash-crop production. The slow pace of structural economic transformation in SSA means that more than 70% of the population still depends on the rural economy for their livelihood, following an overall process of de-industrialization during the 1990s. Meanwhile, the services sectors, which have become the drivers of growth in industrialized and emerging economies, are bogged down in high levels of inefficiency and poor performance, in spite of their critical role in supporting competitiveness in agricultural transformation and industrialization.

For a long time now, SSA countries have actively sought for agricultural investments inflows to underwrite economic structural transformation, without success\(^3\). It is in this context that the current surge in demand for access to land for agricultural investment has captured the imagination of African Governments that are seeking to replicate investment “success stories” in the extractive industries, in agriculture and manufacturing.\(^4\) Hence, demand for land acquisition by foreign investors, accompanied by rosy promises of job creation and “statistical successes” in large output of food production and alternative bio-fuel energy generation, is seen as a unique opportunity for achieving the longed-for green revolution. These investment opportunities are taken for granted as providing receiving governments with the ultimate solution for kick-starting a green revolution that will ultimately sound the death knell of endemic poverty. Virtually all SSA countries, acting on the premise of having abundant idle land, have enthusiastically approved many of the first generation of requests for land allocation for agricultural investments, without rigorous and adequate analysis.\(^5\)

In many cases, there has been little or no prior conditions placed on incoming investments or negotiations on investment proposals to ensure compliance with good corporate governance practices. In some cases there have been discussions on the need to adopt investment models that balance the interests

---

\(^3\) Agricultural investments here refer to the broad definition of agricultural activities as inclusive of the farming, livestock, forestry and fisheries subsectors.


\(^5\) First generation of land acquisition deals are those undertaken up to the end of year 2000, in many instances based on a combination of political decisions and the influence of rent-seeking behavior on the part of Government functionaries.
of investors with those of local communities and promote active and participatory linkages for small holders. However, this ought to be the rule rather than the exception, so as to ensure that local communities are linked into the changing pattern of global value chains and are in a position to influence those chains and share in future benefits. These linkages are critical to avoid the marginalization of local communities, whose land is acquired, often with negligible compensation, to accommodate the needs, genuine or speculative, of large agricultural investors.

Analysis of the sparse data available shows that host government responses to agriculture investment inflows due to increasing demand for bio-fuels and rising food security concerns have, in many instances, been ad hoc. There has been little, if any, awareness of imminent and potential socio-political problems consequent to ad hoc allocation of large sizes of land resources to agricultural investors, with little or no local community involvement. Although governments are aware of some of the instruments that are available for participatory engagement between incoming investors and local communities these have not necessarily been included in many of the initial land acquisition deals. Yet there is emerging strong evidence that land deals that have excluded local communities have often ended in conflict that raises the level of political and reputational risks which undermine the objectives of such investment decisions. Non-binding promises of employment opportunities on envisaged investments has often not materialized or have, at best, remained seasonal, to the extent that anticipated benefits for local communities are not being realized.

Many investors have ended up developing only a small proportion of major land acquisitions confirming the underlying speculative elements. The fact that land-policies in most SSA countries, vest land ownership in the state, ostensibly in trust for the people, has created a situation where local communities are not adequately involved in land allocation deals by host governments. Limited access to information on land holding and usage to inform SSA government decision-making, and conclusion of deals based on one-sided contracts that ignore the long-term interests of local communities and host governments, is the source of a new form of socio-economic alienation imposing new problems and challenges that will undermine the welfare of SSA countries in the near future.

For instance, analysis of 12 contracts signed by seven SSA countries over the past five years shows how things can go terribly wrong when governments
commit to deals that are not backed by informed decision-making.\textsuperscript{6} Of the seven host countries involved, only one i.e. Liberia, had established firm guidelines for land allocation based on rigorous adoption of best practice tools that are available for ensuring the balancing of the interests of smallholders cum local communities and host government on one hand, and incoming investors on the other hand. Liberia has also ensured rigorous adherence to standards they have adopted in all land allocation deals. The situation with the other six countries, which is reminiscent of the situation in the rest of SSA, is worrying as evident in the following quotation, and reiterated in the story of the Carpetbaggers in a subsequent chapter:

\begin{quote}
\textit{“... The picture from the 12 contracts is not good. The leases are long, up to 100 years, and the rents are low – a dollar per hectare per year in one case. In another contract, the land is allocated explicitly for free. In some cases investors get priority access to water, the very stuff of life. .......Why has political leadership across Africa, and it is true for Asia too, been so seduced by the magic of foreign direct investment (FDI) that they cannot read the warning ahead?  Such myopic thinking is certainly taking the world towards difficult times...”}\end{quote}

The rising incidence of speculative acquisition of large tracts of land, has further undermined the interests of local communities and smallholders as investors end up developing only a fraction of acquired land in the medium term while some communities have emerged out of the deal with scarcity of land to meet current generation requirements.

Clearly, the envisaged benefits of major international agricultural investments will materialize, only if host countries urgently put in place a suitable policy and regulatory framework to provide formal and structured guidelines for such investments. Such a framework should guide the processing and approval of requests for land allocation and guarantee continued ownership of land by communities and their involvement and sharing in the benefits from commercialized production activities. Liberia is a good model of the minimum that SSA countries can and should be doing in welcoming the opportunity of agricultural investments to contribute to poverty reduction efforts. The alternative is entrenchment of new forms of poverty that is already being experienced in countries with inequitable access to land as the primary production asset for rural economies in SSA.

\textsuperscript{6} Cotula, Lorenzo (2011), Land deals in Africa: What is in the contracts? International Institute for Environment and Development (IIED), London

\textsuperscript{7} Sharma, Devinder, (2011); “Africa will be engulfed with political fire over land grabs” in African Agriculture, February 07, 2011.
There is need for Governments to take a closer look at the range of land-holding options, agricultural business models, financing instruments, model contracts and code of ethics, and approaches for inclusive participation of local communities in commercial agricultural investments by private sector or public institutions. Understanding how these instruments work and creating the policy environment and regulatory framework for a combination of voluntary compliance by investors as well as active host government support for local communities is the key to ensuring that these opportunities do not lead to future socio-political upheaval. If handled well, these developments should also provide the key to unlocking the barriers against the liberalization of agricultural trade, which threatens the very existence of the Multilateral Trading System (MTS).

Opportunities knock but once. However, misinformed acceptance of such opportunities has, in the past, been the recipe for disaster down the lane of history. Analysts in countries that inherited land conflict as part of the colonial heritage openly blame the Berlin Conference of 1884 while silently blaming local African Chiefs who gave away the land they held in trust for their people in return for a horde of worthless glass beads. A few African chiefs read the signs on the horizon and fought gallantly for the rights of their people. Many succumbed to the seduction. Today we are living through a similar situation, with similar ingredients, but different actors and different causes. The third generation of post-independence SSA is already beginning to bear the brunt of the first generation of land acquisition and allocation for agricultural investments, those which have taken place over the last ten years. Will SSA learn its lessons from the emerging evidence, even as it is being compiled, and change the course of future history to a better strategic direction that includes its people in the benefits of changing global economic relations in agricultural production?

1.2 ANALYTICAL AND PRESENTATION FRAMEWORK
This paper looks at the issues involved in rising international demand for land holding in developing countries and their implications. The first Chapter provides a general overview of current developments in agricultural investment and the background to associated problems in terms of future access to land for local communities and their repositioning in changing commodity value chains. The chapter concludes with the rationale for using developments in Tanzania to provide a case study and framework for identification of appropriate policy responses and instruments.

Chapter 2 defines the emerging problem through a review of land acquisition deals that have taken place in SSA and in Tanzania over the past five to ten
years and their consequences. The review includes examples of unfolding well structured deals that seek to avoid speculative land acquisition and emphasizes on participatory engagement of local communities and to ensure win-win outcomes for investors and smallholder farmers. It concludes by highlighting the need for systematic policy responses for sustainable handling of an increasingly sensitive issue.

Chapter 3 presents a review of the policy and regulatory framework for land administration in Tanzania and its adequacy in dealing with the potential problem of land grabbing. Tanzania’s land policies and regulatory framework provides adequate safeguard for the interests of local communities and smallholders. But is implementation up to expectations? This chapter builds the background on Tanzania’s mixed performance in the handling of agricultural investments, a combination of emerging good practice cases carefully being nurtured by the Government with the support of multilateral agencies and a substantial number of hand-picked investors on one hand and ominous signs of creeping opportunism driven by the “new carpetbaggers” on the other hand.

Chapter 4 undertakes a review of the international literature on good practices for agricultural investments. The chapter starts with a review of the literature on “principles of responsible investments in agriculture” resulting from research undertaken by the UN System and the World Bank. Subsequently the chapter presents a review of available agricultural business models and financing instruments that provide a range of options for good practices in handling large land allocation requests by national and international investors. The options range between scenarios that involve partial changes in land ownership patterns to scenarios that focus on creating linkages between large investors and smallholder farms in which the investors enhance smallholder’s access to good agricultural practices, technology, inputs and markets. The chapter concludes with a review of available investment funds that support participatory and inclusive investment in agriculture.

Chapter 5 develops the lessons emerging from trends in the quest for land for agricultural investments in Tanzania in the backdrop of implementation weaknesses highlighted in Chapter 3. The chapter presents a synthesis of the danger of policy capture in SSA countries by an alliance of local opportunists and international speculators, driven blind by the prospects of huge profits within a decade or two, resulting from controlling access to land rather than the riskier engagement in actual productive agricultural activities. It highlights the importance of building upon the emerging good practices through adoption of the instruments presented in chapter 4 and the need for government informed
and evidence-based decision-making in responding to land requests for agricultural investment from international investors and their domestic agents.

It is in this manner than chapter 5 builds up the climax of the research with a synthesis of the analytical results from the literature review on the unfolding evidence in Tanzania and SSA and comes up with a series of findings and corresponding policy recommendations. The essence of these findings and recommendations is that Africa is standing at the cross-roads of opportunities once again and the outcome will be determined on how its governments and people respond to the situation. While SSA countries need to seize the opportunities of the time to realize the noble goal of leading their people out of endemic poverty, this must not be done without rigorous analysis and due diligence of incoming investment opportunities. Allocation of land for agricultural investments by international investors and local elites should be based on basic human rights considerations to which governments of SSA countries are a party. This entails balancing the interests of local smallholders and their communities, whose land rights are at stake, with those of agricultural investors.

1.3 CHANGING PATTERNS OF GLOBAL INVESTMENT IN AGRICULTURE
Trends in world agricultural trade during the 20th century reveal a steady pattern of prevalence of subsidized agricultural production in the industrialized countries and in the emerging economies, ostensibly, in response to concerns for food security. A similar pattern is emerging in the high and low income developing economies in response to the need to enhance rural livelihoods, reduce poverty and allaying food security concerns. Liberalization of trade in industrial goods and the services and their phenomenal impact on expansion of global trade and higher rates of growth, has created tremendous pressures for fundamental liberalization of agricultural trade in the multilateral trading system (MTS), to no avail. Will unfolding interest in agricultural investments be steered in a direction that will reverse the current threat of a breakdown in agricultural trade negotiations?

Developments over the past five years have stimulated a major reversal in the perceptions of firms and governments on the future of agricultural value chains. These developments are being influenced by three fundamental factors:

- the phenomenon of climate change and its consequences on agricultural productivity and emerging limitations to accessible water resources and the challenge of mitigation and adaptation across the world;
• the challenges of access to sustainable energy sources in the face of global economic crises and rising prices of finite fossil energy resources. Petroleum prices rising above the threshold level of USD150.00 per barrel triggered research confirming that at a price level in the region of USD70.00, bio-fuels become a competitive alternative to petroleum based energy; and

• an exploding world population that is expected to rise sharply from the current level of 6.8 billion people to more than 9.0 billion by 2050 and changes in the demographic transition to a higher dependency ratio. The grain export bans imposed by major exporters during the 2008 crises and an unfolding repeat in 2010/2011 has reinforced these factors contributing to the increasing demand for access to arable land resources outside national jurisdictions by countries with large populations and limited arable land. Meanwhile, a large proportion of the world’s people live in developing countries where the current population of 5.6 billion is expected to reach 7.8 billion by 2050. Increasing purchasing power in emerging economies is also expected to increase demand for high protein goods as the middle class rises from 430 million in 2000 to 1.15 billion people in 2030, the majority of whom will come from China and India.⁸ Projections for Tanzania show that, by 2050, the population will double from the current level of 44 million people given the current growth rate of 2.9%.

Strategic thinking at the national and firm levels, in response to these developments, has culminated in keen interest in large land acquisition for gradual development as well as salient speculative purposes. Demandeurs include bio fuel transnational companies from the industrialized economies and the governments of emerging economies in Asia and the Middle East that are worried about future food security. Host countries are largely low income developing countries in SSA and Asia.

There is a general perception that SSA and some of the low income Asian countries have abundant supply of arable land that is not being utilized and that development of this land is the answer to clean energy and adequate food supply for agricultural investor’s home governments as well as host countries and their people. The reality is that practical benefits tend to be one-sided, unless there are deliberate efforts to put in place and implement a framework.

---

of policies and guidelines to balance the interests of sending countries with those of host countries in land allocation contracts. The next section looks at emerging trends in the pattern of acquisition of land rights in the SSA region, resulting from the phenomenal interest in agricultural investments over the ten years period ending in year 2010, considered here as the first generation of land acquisition deals.

1.4 TRENDS IN AGRICULTURAL INVESTMENTS IN SSA

From one perspective, SSA countries have responded to rising concerns of food security due to climate change and rekindled interest in bio-fuels by focusing on the inherent opportunities of attracting FDI into agriculture. One major source of agricultural investments is Middle East and South Asian governments, driven by food security concerns. The second major source comprises of transnational firm’s responses to need for alternative sustainable energy sources and shifting power relations in global commodity value chains as firms integrate along the entire chain. A third source is speculative actions by both foreign and domestic small and medium sized farmers as well as elites, in an environment where reliable information on landholding is not available to inform rational government decision-making. Strong evidence of speculative tendencies lies in the size of proposed farms in the course of application for allocation of land rights in the developing countries today.

Available evidence shows that there are limitations to the size of farms that is viable, economies of scale notwithstanding. For instance the largest farm in the world is reported to be a wheat farm in Saudi Arabia with a total area of 100 square miles (equivalent to 259 sq km or 259,000 ha) and reputed to be two times bigger than the largest American farm. In contrast also, the US has a total of 2.2 million farms of which only 86,700 farms are run by multiple operators while the rest are run by one operator. Compare this with those who are targeting anything from as little as 500,000 hectares (twice the largest farm in the world) to 3.0 million hectares acquired in the Congo, DRC. The Saudi farm is also reputed to use an average of 2,300 gallons of water to produce one gallon of milk, three times the US’ average rate.9 It is noteworthy that the largest farm is actually a dairy farm and not one engaged in crop production. Undoubtedly, most of the dream agricultural production farm proposals made to SSA countries are investments, of which only a small proportion is likely take off during the initial two to three decades. In this regard, the potential investors are going for contracts including clauses that impose very small fees applicable only on land that has been developed. What then are the benefits of

FDI that is focused on speculative land holding acquisition with minimal investment?

The benefits of FDI to host countries in terms of transfer of technology and increasing productivity and generation of employment and incomes are well known and proven through empirical evidence. The World Investment Report, 2009, confirms that:

“…. Overall, transnational corporations (TNC) involvement in developing countries has promoted the commercialization and modernization of agriculture. “…. In many cases, they have led to significant transfers of skills, know-how and methods of production, facilitated access to credit and various inputs, and given access to markets to a very large number of small farmers previously involved mostly in subsistence farming …”\(^\text{10}\)

However, the same report states categorically that quantified evaluation of the impact of TNC involvement in agriculture in its various forms is impeded by limitations in availability of data from national authorities and international sources on the subject. The report concludes that actual impact varies enormously across countries depending on the type of agricultural produce, type of TNC involvement, the institutional environment and the level of development of the host country.

UNCTAD’s findings are reiterated by discussions in the UN General Assembly Human Rights Council\(^\text{11}\) and joint work undertaken by FAO, IFAD and UNCTAD on one hand, and the World Bank Group on the other hand, with a view to inform the ongoing global dialogue on agricultural investments.\(^\text{12}\) These findings confirm that for low income countries to realize the potential benefits of TNC investments in agriculture, it is necessary that their Governments put in place complementary policies and guidelines to inform and guide negotiations for agricultural investment agreements. Such guidelines would seek to ensure mutual benefits for investing firms and host countries governments and local communities, through a range of vehicles that guarantee linkage of domestic stakeholders into TNC driven value chains that are increasingly being characterized by vertical integration. There is emerging a paradigm shift on the part of international firms that have in the past controlled the processing


\(^\text{11}\) Large-scale Land Acquisition and Leases: A set of Minimum Principles and Measures to Address the Human Rights Challenge (2009), UN General Assembly Human Rights Council, 13\(^{\text{th}}\) Session, Agenda item 3, New York.

\(^\text{12}\) FAO, IFAD, UNCTAD and World Bank Group, (2010); Principles for responsible agricultural investments that respects rights, livelihoods and resources.
and distribution segments moving towards internationalization of the production segments to complete the vertical integration cycle and gain control of whole global commodity value chains.

From a different perspective, benefits do not flow automatically and have to be negotiated into contracts and the implementation of those contracts be managed effectively. This is where the problem in SSA land deals lies. There is need for SSA countries to build quickly the capacity required to negotiate land deals in a manner that takes into consideration the interests of local communities and host governments and balances them with those of incoming investors. Tanzania’s performance on first generation contracts is not essentially different from that of other SSAs. Amongst the ten or so countries that have constituted the major destination of agricultural investments over the past five years, only one is considered to have committed to balanced contracts that address the fundamental concerns of future ownership of land and more balanced sharing of the benefits by local communities. Countries for which information is available include: Congo DRC, Ethiopia, Ghana, Kenya, Liberia, Mali, Madagascar, Mozambique, Sudan and Tanzania.13

1.5 CHOICES FOR SSA – LAND REDISTRIBUTION OR LATIFUNDIA?

SSA having missed the development opportunities of the decades of the 1980 and the 1990s is, once again at the cross roads. During the 1980s SSA did not have the experience of the Asian Tigers to draw upon. This time that experience is available, is well documented and has been replicated again and again more recently through the economic history of transforming economies such as that of Mauritius, Botswana and Vietnam. SSA countries also have the opportunities of drawing upon the economic history of Latin American economies, their chosen growth path and the pains of having endemic poverty in a powerful emerging economy that has already made it as demonstrated by the experiences of Brazil before the Lula regime.

In this regard, SSA countries can draw upon the painful growth path of Latifundia economies driven by large agricultural investors and displaced multitudes even before the economy can absorb the latter in a nascent industrial sector, largely non-existent at present, and services sectors whose growth prospects are constrained in shambles by insipid and obtrusive regulatory transaction costs and the high incidence of rent seeking in government service delivery. It must be borne in mind that focus on large commercial farming in a world driven by combined mechanical/chemical farming oriented towards harnessing of bio-technology through GMO

agriculture will essentially confine the real benefits of growth to the multinational investor and their domestic partners. The evidence emerging from the first generation of contracts confirms that the broad masses will be alienated from their land as well as their production systems as these give way to the diffusion of bio-technology in situations where the small-holder remains an uninformed wayside party.

The nature and essence of commercial farms of the future in SSA is apparent in their predecessors in chemical farming of cotton and corn in Australia, the US, RSA and elsewhere. The yields are phenomenal but how can the local population of smallholders who have ceded their land to the investor, forever, and have ceded their labour to mechanized chemical farming for good? The Latifundia of Latin America were characterized by penury wages. The coming Latifundia of SSA will be characterized by “no trespassing signs” for the delineated people as they are locked out of access and reach to land and water resources necessary for an exploding population. It is a dangerous zero-sum game where the delineation from land is complete with other limited employment alternatives. It can and will become a calamitous scenario unless the right measures are taken upfront.

The alternative growth path is the land redistribution practices undertaken by all the Asian success stories prior to embarking on the industrialization path. Unfortunately, SSA scholars seem to have missed out on the role of the green revolution that preceded the industrialization experience in Asia, the land redistribution that preceded the green revolution and its role in producing the cheap but healthy and well-educated labor force that has contributed to attracting investments through special economic zones, as one of the tools that has driven the competitiveness of Asian industry. SSA scholars have missed the path of agriculture-led industrialization by Asian tigers and the role that transformed smallholders that now constitutes a strong domestic and regional market have played in the process. It is the one facet of the Asian miracle that has not been splashed out in the news, is confined to footnotes in most of the literature, and one experience where the insight of visiting technocrats has failed to grasp, study and adopt back home.

Surprisingly the academia that should have produced the evidence to convince the politicians and technocrats on the demerits of the Latifundian perspective to growth and development and the merits of land redistribution and the green revolution to underwrite shared growth, has become the strongest voice for consolidation of landholdings in favour of large scale commercial farming, as the route to economic transformation driven by FDI in joint venture with local elites.
Developments regarding the future of alienated forces that are unfolding in North Africa paint a very explosive future for SSA where the extent of exclusion is phenomenal. SSA, by embracing the current practices of agricultural investments, is creating an untenable situation that may not even last through the first quarter of the 21\textsuperscript{st} century. SSA governments have to revisit their policies on access to land and entrenchment of property rights as the cornerstone of agricultural transformation and make fresh choices that are compatible with sustainability. What can Tanzania’s experience show the rest of SSA on this front?

1.6 CRYING WOLF ON LOSS OF BIO-DIVERSITY

Sometimes concerns about loss of bio-diversity are taken as exaggerated “crying-wolf” that derails attracting investments into agriculture at a time when they are critically needed. For this reason there is a tendency to belittle and even ignore such concerns quietly. However, there is a lot of hard evidence on the negative impact from loss of biodiversity on the welfare of indigenous societies. Increasing endemism of traditional technologies and genetic resources that constitutes a rich biological inheritance from the past, is apparent from a review of the impact of development initiatives of the current generation, as revealed through studies undertaken at the national level in many developing countries and consolidated in a conference convened by UNCTAD in 2004. Apart from losses in fauna and flora that come from massive clearance of indigenous forests for subsistence farming, as a source of energy and commercial logging and farming interests, the increasing awareness of the effectiveness of traditional medicine is also a source of endemism.

The importance of bio-diversity to humanity in general, in particular rural communities, is highlighted in Zhang\textsuperscript{14} who compiled information from government sources showing that 70\% of the population in India uses traditional medicine and 80\% of the population in African states depends on traditional medicine. Further, the percentages of respective populations in the developed countries that have used complementary and alternative therapies (largely traditional medicine in the form of herbal medicines and acupuncture) are: Germany (90\%); France (49\%); Canada (70\%); Australia (48\%); USA (42\%); and Belgium (31\%). The reasons given for this includes the affordability of treatments and changing needs and beliefs. Further, up to 50\% of all modern medicine is sourced from medicinal plants and herbs. The production

of herbal pharmaceuticals requires large quantities of medicinal plants, leading to over collection of many plants, making them endangered species.\textsuperscript{15}

In spite of this dependence on traditional medicine, its fundamental source is threatened by the very essence of agricultural investments. According to the WWF, many of the areas of the highest biological diversity on the planet are inhabited by indigenous people.\textsuperscript{16} These are the people whose lands are being taken over for agricultural investments or other economic concessions as evident in the case of Loliondo and Samunge. Little wonder that so many flocked into Samunge for the concoctions administered by the retired pastor, apart from the spiritual message of good living, are made from herbal mixes that have been used as traditional medicines by Maasai communities for decades.

Indigenous communities have, over the centuries, developed a rich repertoire of knowledge and resources encompassing a combination of cultural and ecological traditions also referred to as Traditional Knowledge (TK). Threats to TK are increasing over time with the quest for economic growth at all costs. Consequently, whereas there is a total of 250,000 estimated seed plant species in existence today, a total of 747 have become extinct since 1600 AD and the estimates are that approximately another 22,884 are currently threatened and are expected to become extinct over the coming 300 years.\textsuperscript{17}

\section*{1.7 UNINTENDED POLICY CONSEQUENCES}

The immediate question is the extent to which Tanzania’s initiatives in good practices, including the land bank, the bio-fuels guidelines and the SAGCOT scheme, is addressing the salient problem of opportunism in commercialized agricultural investments. Are there any adverse developments that are taking place, in spite of these initiatives and what lessons do they portend for Tanzania itself and for SSA in general?

The significance of developments in Tanzania becomes clearer if one goes back 20 years into the early 1990s when the Government of that time facilitated the acquisition of a large area of land involving the displacement of 10 villages,

\textsuperscript{15} Zhang Xiaorui, Traditional Medicine: Its Importance and Protection, in UNCTAD et al, 2004

\textsuperscript{16} Statement of Principles on Indigenous People and Conservation, WWF, 1996.

\textsuperscript{17} Gonzalo Eviedo, Aimee Gonzales and Luisa Maffi; The Importance of Traditional Ecological Knowledge and Ways to Protect It, in UNCTAD, Protecting and Promoting Traditional Knowledge: Systems, National Experiences and International Dimensions, Edited by Sohia Twargo and Promila Kapoor, Editors, UN New York & Geneva, 2004.
that was allocated to Messrs Otelo Business Corporation, a proxy for a royal Middle East family as a “personal hunting ground”. The OBC contract, which has remained shrouded in secrecy, ceded control of land designated as Game Controlled areas and “Wildlife Management Areas” (WMA), part of which was the domicile of 10 pastoralist villages in Loliondo district, Arusha region to the corporation. To-date, the story of Loliondo refuses to go away and has assumed the face of a stinging satire in the backdrop of faith healing and the power of herbal concoctions (Box 1).

The critical facts of the case revolves around the lives of the pastoralist Maasai and the Sonjo people, a small tribe, whose livelihood is dependent primarily on hunting and collection activities. In the past, the Sonjo supplemented their livelihood through cattle raiding against the Maasai. By the very nature of a way of life based on hunting and fruit collection, the Sonjo do not leave any footprint of ownership on land they occupy. The hidden message behind the whole Loliondo saga is the danger of total dispossession of tribes like the Sonjo as well as the partial dispossession of the more well-known pastoralists which has already taken place in Loliondo, even as the cream of leadership was paying homage to faith-healing.

The threat is a real phenomenon given the increasing interest to open up the land between Arusha and Mara, perhaps not so much because of love for the Sonjo, their kith and kin and their wellbeing through integration into the global economy but more so because of the modern investment opportunities, seen from the perspective of individual interests, that could be served by modern transport cutting through the area. It is noted that even as the ordinary people were getting stuck in motor vehicles queues 20 kilometres long with up to 10,000 people waiting to see the Pastor every day, the VIP were going in by helicopter to the nearest airstrip inside Loliondo. Conservationists arguing for the survival of the Serengeti could very well be arguing against lucrative, but still hidden, investment opportunities in the tourism sector and natural resources base.

At the end of the day countries make major economic decisions based on commercial profitability decision criteria backed by socio-economic cost-benefit analysis that provides the evidence for informed decisions, critical in situations where mistakes once made cannot be corrected and in a world where sustainability of resources is the key driver. If developments in the Serengeti lead to fundamental bio-diversity changes that amount to a disaster for lovers of nature world-wide, someone ought to be able to say that we did make an honest effort to analyse the decision and the figures did show that we were making a good decision. Can someone say with any certainty that such analysis has been done and that the resulting evidence has been shared with
stakeholders, to inform an open participatory decision that will influence the final government position? In a way the world is only witnessing the opening lines of the story of Loliondo.

Unfolding developments indicate that the Government has changed its mind on the route of the Loliondo highway largely due to influence from the international community. It would have been healthier for Tanzania if the decision was consequent to cost-benefit analysis and concern for the sustainability of Tanzania’s tourism industry, the leading economic subsector with the highest contribution to GDP today. Tanzania and the world knows that the driving attractions in the Tanzanian tourism industry is the combination of the “Serengeti Symphony” and the panorama of snow on the Equator. Environmental sustainability has become the key to the continuity of human existence itself, which makes the story of Loliondo and by implication that of the Serengeti, fundamental issues for Tanzania and humanity. If the snows of Kilimanjaro are disappearing and Tanzania cannot do much to stop the process, at least it can do something to preserve the integrity of the Serengeti, for reasons that should be obvious in view of the hanging threat from climate change. The current prominence of Loliondo in the region and across the world may be pure coincidence. It may also be an indirect premonition of where Tanzania is heading. Time and history always tells the full story, and so it will be in this case.
BOX 1: FAITH HEALING: A STINGING SATIRE UPON RURAL POLICIES

Outside the 25% of Tanzanian land area that is gazetted for conservation purposes, lies the Wildlife Management Areas (WMAs), the destination for licensed game hunting tourism. Some of the WMAs fall under the communal ownership of Maasai and pastoral communities who supplement their livelihood with shifting subsistence agriculture as recurring drought enforces change in economic activity. There are also smaller tribes of hunters and collectors whose ways of life belong to medieval times, in the midst of the Maasai, such as the Sonjo. Pastoralist and hunting tribesmen, due to the natural blend of their way of life with their environment, leave no imprint of ownership on land, creating the perception their land is idle and fair for allocation to agro-investors. Tanzania has the third largest cattle herd in Africa with more than 16 million cattle grazing on 30% of the total land area (29 million hectares). Pastoralists land has not been demarcated and registered and is susceptible to competing activities.

During the first half of the 1990s the government of that day allocated land belonging to an aggregate of 10 villages to Messrs Otello Business Corporation (OBC), reputed to belong to one of the Middle East royal families, ostensibly as a private hunting ground. Over the years this reallocation has haunted the nation as local communities returning to the Land are treated as trespassers and their makeshift abodes are demolished and burnt while repeated NGO intervention and advocacy has been to no avail. In 2010, the wondering of a group of Maasai to land under OBC’s domain, prompted a statement that there are no Tanzanian Maasai with an interest over the area and that claimants were imposters from a neighbouring country.

In March 2011, as the Christian faithful were preparing for the period of lent, a time of prayer, fasting and soul-searching penitence and reconciliation, Loliondo was back in the news with a bang. A retired Lutheran cleric, who had spent his lifetime evangelizing the hunting and cattle-raiding Sonjo tribesmen in Samunge village, in the heart of Loliondo, assumed national significance after a concoction of herbal medicine, harvested from Loliondo’s disappearing bio-diversity, that he had been prescribing in combination with the moral message of penitence and reconciliation was rumoured to have cured victims of HIV/AIDS. News spread slowly over the preceding 9 months, through word of mouth, by the powerful, the ordinary and the lowly, who had visited Samunge, with their secret and not so secret ailments. Faith is a powerful instrument. By March 2011 the story was raging across the East African region like a Californian mid-summer forest-fire and more than 10,000 people were converging into Samunge daily, more than 400 km from Arusha and 60 km from the site of the OBC controversial land acquisition. By June 2011 more than four million people had paid homage to Samunge and drank a cup of the concoction.

Samunge, having remained outside the rural development ambit, has retained a communal way of life that is highly dependent on the environment for its food, shelter, sources of energy and traditional health services. It did not have the

---

facilities to maintain a hundred visitors let alone 10,000 on a daily basis, who were making the last 30 kms lap into the village through a dirt-highway, cut out of footpaths by convoys of four-wheel drive luxury cars belonging to top notch political figures or rented from safari operators by the less affluent. Samunge village and the 400 km trail leading to it, had become a nightmare of environmental degradation and public health concern on epidemic breakout, including cholera, for lack of food, water and sanitary facilities for tens of thousands of hermits converging on the village in a week long pilgrimage.

The list of reported bona fide visitors to Samumge over the 10 months period leading to June 2011 reads like the “who is who” in Tanzania’s political leadership and top civil service echelons verified through self-declarations and news reports. These hermits have become living witnesses to the way of life of the millions in the rural areas who are eking out a difficult life in a harsh environment, and how the seemingly unoccupied land, remains their only asset supporting their very existence. Samunge has been an opportunity for politicians and government technocrats to witness the realities of the existence of poor communities living in remote areas, their way of life, and how closely it is intertwined with their natural environment as the source of their food, clothing, shelter, energy and medical treatment – an entire way of life, that may be difficult but makes survival possible for the less fortunate. The unoccupied land Government functionaries criss-cross as they zoom through rural areas in air-conditioned vehicles is the essence of life for rural communities. The unassuming work of Pastor Ambilikile Mwasapile (76) among the Sonjo hunters has revealed the true face of rural existence, hidden to governments across the SSA, as they succumb to the seduction of allocating huge land resources to agricultural investment, mining and tourism concessions.

Loliondo has imprinted two memorable faces on the map of Tanzania and in the mind of Tanzanians. First, that of the super rich game-hunting in the patch of Loliondo now controlled by OBC and of government technocrats and politicians targeting lucrative land concessions for development of the tourism hospitality industry or mineral rich prospecting rights in “forbidden land” known to be rich in sparkling stones. If indeed, there are such resources, a modern highway dissecting the Serengeti into two may be seen as a wonderful necessity, whose reality will depend on which is the superior resource: a sustainable tourism attraction or a wasting assets that ends in a degraded environment. The second is that of the rich and educated imbibing concoctions extracted from the biodiversity of Samunge, seeking faith-healing without changing their terrible life-styles. It is the face of unbridled human desire wanting a cure so that they can engage in even more wanton accumulation of wealth, without inclination to the philosophy of inner change starting with reconciliation between with self and society. Many who went to Samunge, people withdrawn from ICUs in the best hospitals, in search of an elusive healthier life, have lost their very lives, as they succumbed to the rigours of a week-long pilgrimage in the wild frontiers of Loliondo.

The story of Loliondo is a biting satire upon the leadership of a nation and continent whose people are drifting towards the social and economic alienation. It is a stinging satire upon elites who have captured the policies of their governments and influence...
decisions to serve personal at all costs. Africa’s many Loliondo’s are crying for justice but that cry remains largely unheard?

Sources: Series of reports in the leading investigative papers in Tanzania “Mwananchi” and “The Citizen” dating from 7th to 13th March, 2011 and earlier stories on OBC.

1.8 RELEVANCE OF THE TANZANIAN EXPERIENCE

Tanzania, like most SSAs, is a country that is also a victim to food security concerns even as it considers supporting emerging economies address their own problems in this area, on the belief that the benefits will be mutually shared. Tanzania is still dependent on periodic imports for its major staple food grains i.e. maize (corn) and rice. According to the Household Budget Survey for 2007:

“...Some 34 percent of Tanzanians now fall below the basic needs poverty line and 17 percent below the food poverty line. The absolute number of people living in poverty has increased slightly because of population growth... there are now 12.9 million Tanzanian below the basic needs poverty line compared to 11.4 million in 2000/01. Poverty remains overwhelmingly rural ...” (Household Budget Survey, 2007, Tanzania Mainland)\(^9\)

Sporadic draught conditions notwithstanding, falling productivity, even in good years, is at the centre of both the income and food poverty dilemma in Tanzania. Declining productivity and acreage under cultivation is striking in the commodities sub-sector. For instance, sisal production declined to the lowest level of 11,933 tons in 2004 compared to a maximum of 222,000 achieved in 1966. In 2008 output rose significantly to 33,028 tons. Likewise, cashew nuts output dropped to the low level of 55,011 in 2008 compared to 83,192 in 2004 and an all time high level of 164,680 tons in 1998. Annual output of tea has stagnated within the range of 30,000 to 35,000 tons, adding value to a mere 20% of the total. This is largely due to low yields that are approximately 30% of comparable output in other countries in the region such as Kenya with a total annual output of 300,000 tons, and total value addition on 60% of this magnitude. The situation is more alarming in the food crops sub-sector. For instance, productivity for maize, the main staple in the EAC and SADC regions, ranges between one third and a half of yields recorded by Kenya and Uganda. At the same time there is increasing pressure on land in high density regions, which include Arusha, Kagera, Kilimanjaro, Mwanza and Shinyanga due to high population growth rates, leading to smaller farmsteads and therefore acreage under farming per family.

Tanzania has received its fair share of requests for allocation of land in response to food security concerns and investment in bio-fuels that have risen to rather dramatic proportions over the past five years. To respond systematically to these requests, the Government is establishing a land-bank scheme that will involve the identification and demarcation of land amounting to 2 million hectares for allocation to foreign investors. The land bank does not include acquisitions that have already taken place in response to specific requests from bio-fuel investors from the EU and food security concerns emanating from the Middle East and East Asia.

Tanzania is facing a rising incidence of conflicts over land and water rights between medium commercial farmers and small-holder subsistence farmers and between farmers and traditional pastoralists as well as between pastoralists and tourism sector investors. The migration of pastoralists to new pasture lands in regions that are still characterized by regular long rains also highlight the issue of changing patterns in informal land use that is already a source of conflict and clashes. Conflict over water rights amongst smallholder farmers, between smallholders and commercial farmers and between smallholders and pastoralists has become increasingly common. The extent of the problem is apparent in difficulties within government regarding the allocation of water rights between competing national objectives, in particular irrigation farming vis-a-vis power generation.

Tanzania has been affected adversely by deepening climate change syndrome. Hence ceding land resources and related water rights for several generations to come does not serve the interests of Tanzania and the SSA countries and their people. In principle, commitments to decisions that have unforeseen adverse consequences on future generations, should, of necessity, avoid a high incidence of unintended consequences, by limiting their effectiveness to as short a time-span as possible.

At the national level, the authorities have discerned the sensitivities associated with land ownership and user rights and the need for more careful responses to requests for land for agricultural investment. In January 2011, the Government of Tanzania issued directives on handling of requests for allocation of land for investment in bio-fuel production. These guidelines address the issues of protecting the land rights of local communities while taking advantage of opportunities for new linkages with the global market. They provide a comprehensive package for acceptable agricultural investment in bio-fuel production. Among other things, the package limits large scale land acquisition to a maximum of 20,000 hectares, and includes mandatory provision for out-grower schemes, local processing and reservation of 25% of allocated land for production of food crops in response to the food security threat.
The unfolding experience from the ongoing preparations for implementation of SAGCOT (Southern Agricultural Growth Corridor of Tanzania also provides useful grounds for the leadership to understand the issues involved in current international interest in agricultural investments and the consequences of resultant acquisition of land. The statements coming from the political circles and the responses from the international community reveal a gap in understanding that is being bridged, in favour of adoption of existing best practices, focusing on inclusion of the interests of voiceless rural communities. While the Tanzanian parties assume that the bigger the land involved the better for Tanzania, and hence inclination to provide land the size of Italy for the scheme, the perspective emerging from the official “Investors Guide for SAGCOT” limits the area of land involved to 350,000 ha over a period of 20 years and involving an investment of USD 2.5 billion. Indeed the international literature on farm sizes shows that large farms world-wide hardly exceed 50,000 acres per farm.  

However, the perception of the problem of land allocation for agro-investments in Tanzania has been confined to bio-fuel investment, which has, over the past four years, received the larger proportion of requests for land from foreign investors. The bio-fuel guidelines do not cover agricultural investments for food production, clearly apparent in that the lead oversight role has been placed in the Ministry of Energy and Minerals. The guidelines do not include innovative instruments that would categorically facilitate retention of land ownership under local communities, particularly in areas where the scarcity of land is already a major threat to social stability.

---


CHAPTER TWO
LAND ACQUISITION TRENDS IN SUB-SAHARA AFRICA
AND TANZANIA SINCE 2000


SSA countries are facing a major challenge from growing interest in acquisition of land for investment in agriculture. Responses of incumbent governments can turn this interest into a blessing, as an opportunity for agricultural transformation or the next curse akin to its mineral wealth. In principle, Governments initiate new policies and oversee their implementation through mandatory compliance to a framework of laws and regulations reinforced by institutional systems comprising of a set of changing cultural norms, ethics and well defined procedures and practices leading to systematic processes. Collaborative private sector responses that are the norm in transparent and participatory economic regimes support such policy initiatives reducing the burden of enforced compliance through codes of conduct and ethical standards.

This chapter undertakes an analysis of the unfolding land acquisition situation in SSAs with a view to establishing the magnitude of the problem on hand so as to facilitate identification of appropriate agro-investment policy measures for mitigation against future land conflict and related problems. There is salient evidence of denial of this problem in some countries, based on arguments of abundant unutilized land and the fact that most SSAs have in place good land policies providing security of tenure through common ownership of land vested in the state and customary ownership systems that makes sale of land a taboo. However, delays in putting in place the requisite secondary legislation and regulations for practical enforcement of land policies and primary statutes, undermines the achievement of objectives of these policies. Further, neglect of investment for the development of hard and soft infrastructure necessary to support efficient land administration and delivery of land information services has rendered these good policies practically ineffective.

Lack of concrete and reliable information characterizes land holdings in SSA countries, where nomadic pastoralist activities co-exist side by side with

---

subsistence agriculture and livelihood is based on smallholdings supplemented by activities on communal land reserves. There is a tendency in Tanzania and other SSAs for officials to consider any land that has not been cleared for crop cultivation as unoccupied. The experience emerging from participatory land-use planning in Tanzania reveals a completely different scenario. Finally, there is a substantial number of small and medium scale landholdings by local entrepreneurs and elites that are recorded at the village level but not registered with the Registrar of Titles. The paucity of official data on the status of current requests for allocation of large areas for agricultural investments by TNCs, contributes to the complexity of this problem.

Finally, there is a widely held misconception in Tanzania that small holder production is grossly inefficient due to low per acre yields and that large scale mechanized farming is the solution. However, experience from other jurisdictions, including other SSAs, reveals a different picture. Cotton yields based on rain-fed smallholder peasant farmers in the four West African leading producers is double that of East African producers. The Kenyan success story in the tea and horticultural subsectors is underwritten by small holder production as is the coffee success story in Ethiopia where yields per acre are reported to be up to three times the Tanzanian productivity levels. Indeed there is proof that smallholder production whose survival in the cash crop industry is underwritten by subsistence farming for food products remains the primary tangible solution for poverty reducing shared growth subject to addressing the issues of raising quality and productivity levels.

The ultimate consequences of neglect of the current developments in agricultural investment, is evident in the tragic events in Madagascar following the non-transparent allocation of 1,300,000 hectares to a Korean investor. The resultant popular recourse to civil disobedience led to the downfall of the then incumbent Government with adverse impact on the successor Government whose legitimacy has been tainted for the reason of not being democratically elected. The end result has been the cancellation of a deal that was backed by the Government of Korea and had received the blessing of the then incumbent Government in Madagascar. The next section examines the land acquisition situation in SSA over the past 10 years as part of a preamble for a

23 The literature on land grubbing undertaken by a multitude of NGOs gives widely differing figures which undermines the credibility of many reports as a reliable input into government decision making. Undoubtedly there is need for more balanced research and reporting that includes success cases that are available so as to highlight the difference between current practice and available comparative good practices to create a range of policy options.

24 Refers to initiatives by South Korean firm, the Daewoo Group’ attempt to secure 1.3 million hectares land in Madagascar, almost half of the country’s arable land, which ended in collapse as well as political upheaval and may have contributed to the collapse of the then incumbent government. See also Appendix A
review of agricultural investment models available for Governments that are already facing potential land dispossession for smallholder farmers.

2.1 INCIDENCE OF CONTROVERSIAL LAND ACQUISITION DEALS IN SSA

There is ample evidence of a sharp increase in the acquisition of land for various investment purposes in SSA. Dramatic evidence has been quoted in the opening lines of this chapter.

2.1.1 Status of Acquisition of Land Rights in SSA

Data compiled by the World Bank shows that a total of 9 million hectares have been acquired in four African countries alone (Ethiopia, Liberia, Mozambique and Sudan). Between January 2004 and March 2009 Sudan was leading the pack with a total allocation of 3,965,000 hectares followed by Mozambique with 2,670,000 hectares, Liberia with 1,602,000 hectares and Ethiopia with a total of 1,190,000 hectares. The available information confirms that investors are not going for marginal land but focus on the best land in terms of irrigation potential, soil fertility, proximity to markets or availability of infrastructure. In many instances, the deals have allocated large areas of prime agricultural land with commitments to guarantee adequate water rights for irrigation for periods of up to 98 years. These deals do not include mining exploration or development concessions and investments into tourism. For instance, in addition to the 1,602,000 hectares acquired for plantations in Liberia, mining and development concessions have been granted for a total of 1,195,894 hectares since 2004. Overall, the World Bank estimates that by 2009, 45 million hectares of land had been allocated to foreign investors globally and that 70% of this was in Africa.

Nor is the problem confined to spectacularly large land deals. Whereas available information focuses on single land deals involving areas exceeding 20,000 hectares as well as very large deals exceeding 100,000 hectares, there have been much smaller formal and informal deals in the region of 1,000. Some of these may not even be recorded in land registries, although they are an integral part of an emerging dispossession problem, as they remain shrouded in secrecy at the local levels, until it is too late to reverse them. The magnitude of the problem is difficult to gauge because most small holdings are made by local elites largely for speculative purposes.


26 Theting H, & Brekke B. (2010); Land Investments or Land Grab? A critical view from Tanzania and Mozambique.
Appendix A presents a selection of cases of major land acquisitions in SSA over the past five years. These developments have not been limited to the four countries mentioned above alone. Similar developments are intermittently featuring in press reports on land deals in other SSAs. Major land acquisition deals have also been reported in, among other countries, the Democratic Republic of Congo (DRC), Mozambique and Kenya, over the last five years.

To understand the magnitudes of the size of land involved, 2.0 million hectares is equivalent in area to 20,000 sq km. This is slightly larger than Swaziland with an area of 17,363 sq. km, and considerably smaller than Rwanda with a land area of 24,948 sq km.27

In any discussion on land acquisition it is pertinent to bear four issues whose treatment can be the source of concern or benefit to host countries. First, that the acquisition package is structured in a manner that allows local communities and households to retain ownership over the greater part of their land that is re-allocated to FDI and that this reallocation is preferably for reasonably shorter periods of time to provide for flexibility for dynamic responses to future developments. Second, the resulting agricultural production activities are modeled on patterns that include a central role for local households and communities such that they are beneficially integrated into the respective product global value chain. Third, the process leads to transformation of subsistence farming into commercialized operations contributing to poverty reduction through higher productivity, and access to markets. Finally, there is adequate provision for analysis and consideration of the social and environmental impact of land grants and related rights, and particularly water rights, to the incoming FDI. Have these issues been taken into consideration in past deals?

Among SSA countries analysed in Cotula (2011), only Liberia seems to have undertaken land allocations based on best practices in responding to the four concerns above. It is noteworthy that some of these transactions are taking place in countries that are already facing severe crises on access to arable land where the need for land redistribution policies is no longer an option but a pressing prerogative. This is evident in the fact that all land grants to foreign investors have involved the relocation of local communities and individuals with weak property rights because their land was not registered and they did not hold formal title. Yet in most SSA countries only a small proportion of land holding is formalized. For instance, in the case of Cameroon, only 3% of the land has been registered and is held under private ownership. This implies that all untitled property is primarily owned by the state property and that the rights of occupiers are largely limited to development made on the land. Hence, land

27 Google Search, Internet, Geography of Tanzania, Rwanda, Belgium and Swaziland.
grants are being made for very long periods at very low prices, sometimes for as little as between USD 1.00 and USD 20.00 and no annual lease rentals.

The worst case scenario of land acquisition is one where an incoming investor acquires statutory ownership of large sizes of land under a 98 years lease and undertakes development on a relatively small segment of the land, leaving the rest to future reallocation to other investors. Whether this practice is speculative or investment genius is up to the reader to decide. Eventually, the speculator subleases the extra land-holding to other genuine investors and to small farmers in the local community who have lost their traditional rights through lopsided deals under the initial acquisition. Other adverse scenarios involve situations where local communities are immediately faced with acute land shortages for subsistence purposes because they have given away more land than they could afford due to the false perception of abundance of undeveloped land.

In many instances the legal framework provides safeguards to avoid this development but often the non-transparency in land allocation processes and rent-seeking tendencies undermines the achievement of the intended policy goals. Even more critical is the linkage of “adequate water rights” for irrigation farming, on huge areas of land, in countries that are already facing water crises due to climate change.

2.1.2 Status of Access to Water Rights
It is pertinent to bear in mind that SSA countries are also facing unresolved climate change challenges that may require the relocation of local communities or changes in agricultural practices that will depend on access to prime land currently being ceded to investors who are unlikely to develop all allocated land even in the long-term. Evidence compiled in Tanzania based on analysis of weather data for a period of 50 years provides irrefutable evidence of adverse impact of climate change culminating in shorter rainy seasons, early onset or delayed onset of rains and rising temperatures. The incidence of draught has become more common and volumes of water in permanent rivers have become noticeably lower. Land that was quite productive two decades ago has become marginally productive necessitating switching to draught resistance crops or irrigation farming in spite of dwindling water resources.

The immediate impact of climate change is that even as less land remains suitable for rain-fed agriculture, there is a reduced volume of surface water that is available for irrigation and arable land in close proximity to guaranteed sources of irrigation water that is the preferred locations for foreign investors.

The long-term impact is decline in the proportion of arable land and increasing demand for water rights. This will, undoubtedly, increase the demand for underground water resources and the need for major capital investments to maximize the harvesting of rainwater resources and re-direct surface water flows to expand irrigation farming. The climate change phenomenon has triggered a new process of global structural change and transformation while mitigation efforts offer new opportunities for investors in developing countries to position themselves in resultant emerging markets.\textsuperscript{29}

According to Cotula, “…..a land lease in semi-arid countries would be worthless if it did no ensure access to sufficient water for agricultural use” (Cotula, Lorenzo, 2011, ibid). Climate change with its accompanying uncertainties on rainfall patterns and rising temperatures has made draught a common phenomenon even in territories where floods are a common recurrence. Cotula’s findings on water rights show that most countries have given investors the right to use the quantity of water necessary for the agreed project without restrictions. This is confirmed in the cases of Mali’s initial contracts and generally in the cases of Sudan and Senegal. Mali’s latter contracts are more refined and include provisions for water specified in terms of millions of cubic meters. While some water contracts specify fee rates others make no reference to specific water fees. Consequently, non specification of water fees in contracts amounts to a subsidy to investors in situations where local farmers pay water fees.\textsuperscript{30}

The emerging experience is that governments are guaranteeing access to water for large investors with little or no fees and exempt from any restrictions, in an environment where FDI contracts tend to include clauses for exemption from changes in the policy and regulatory framework. This undermines the flexibility of governments to manage water resources efficiently, through prioritization of large investors, even at times of distress. Undoubtedly large scale land allocations need to be accompanied by independent “Environmental and Social Impact Assessments” that will generate realistic information on the impact of hard commitments on water and other rights related to long-term leases even for medium scale areas in the region of 20,000 hectares that has been declared as the limit size by the Tanzanian government.

Clearly, Africa’s rush for agro-investors is a new race to the bottom whose consequences will be far reaching. One of these consequences will be the impact of guaranteeing water rights for every investor who has already been


\textsuperscript{30} Cotula, L.; 2011, ibid
granted very large land areas for periods of up to 98 years. The question of future access to water resources is undoubtedly even more critical than that of access to land for the reason that viable agriculture for rural livelihood will depend on continued retention of valuable water sources as a communal heritage. But then these resources are already being committed to investors who have legally enforceable rights with precedence over those of local communities. The climate change challenge provides evidence of the need for SSA governments to move and act with extreme prudence on the issue of water rights. Access to water in a world of emerging acute shortage, is further reason for ensuring that future land allocation contracts for agricultural investors should not, preferably exceed the duration of a generation, approximately equivalent to twenty five years.

Trends in climate change and shortage of water makes future access to water resources critical for viability of land that is currently viable for rainfed agriculture. Guarantees for adequate water resources for investors acquiring a million hectares in one region will severely constrain access to water for local communities whose interests are not being taken into consideration in contracts that are not taking into consideration the implications of commitments lasting 100 years. Will Africa survive the current benign scramble for its land and water resources?

2.1.3 ON FARM SIZES AND THE LARGEST FARM IN THE WORLD

The concept of large farms is an elusive one, as the designation of a farm as being large depends on the underlying concept and criteria, including: ownership of land; type of agricultural activities undertaken; whether management is under a single operator or a number of independent operational units; and ultimately management of such activities. History repeats itself time after time, hence there are useful lessons that SSA can draw from the history and nature of large farms, wherever they may, their ownership, development and management patterns, their history, current status and future prospects. For this purpose, an internet based review of large farms has come up with interesting findings, based on farms located in the United States, Khazakhstan/Russia, Latin America, the Middle East and Africa.

The largest historical farm in the USA is King Ranch, located in Southern Texas. It was established initially over an area of 6,300 hectares purchased by one Richard King, in 1853 for USD 300.00. In 1854 King joined hands with another entrepreneur, in the name of Lewis, who brought in additional land, marking the first of a series of expansion. Overtime the two partners and their inheritors (King died in 1855) continued an aggressive policy of purchasing
additional land, with total land area growing to 1.2 million acres (4900 km²) at the height of this accumulation phenomenon. A large proportion of this land was acquired in the immediate aftermath of the civil war. King Ranch focused on grazing from the beginning and has retained this core activity although crop production, such as soya farming, is also common today. The initial owners managed this large enterprise, by creating a management system that placed partial ownership of livestock on supervisors who were able to earn incomes higher than their salaries through incentive schemes.

The important message from King Ranch is that this is not a single farm from the operational perspective, but a series of related farms and ranches. During the 20th Century, King Ranch made most of its earnings from concessions for oil prospecting and drilling. Today, King Ranch is a collection of businesses around the agricultural value chain scattered over a large geographical area and is not a single farm as such. Its fame today is rooted in its myth and rich folklore.

Although some may consider King Ranch as the largest farm in the world today, the underlying criteria brings in new challengers. One such challenger is the Gezira Scheme in the Sudan, initiated by the British colonial administration in 1925 and subsequently developed during the post-independence era into Sudan’s breadbasket. Today the Gezira scheme covers a total land area of 4 million Sudanese feddan (equivalent to 1.68 million hectares), more than half of Sudan’s irrigated land. Its contribution to the Sudanese economy includes production of: 65% of cotton; 70% of wheat; 15% of groundnut; and 12% of sorghum. In addition there is a herd of 2 million cattle and goats grazing within the scheme. Land under the Gezira scheme is held by the Government and leased to farmers under 40 year leases with individual small-holdings ranging between 6 ha and a maximum of 17 ha (16 to 40 feddan with 1 ha = 2.381 feddan).

The Government retains management of the scheme and its infrastructure, including 4,300 km of canals, as an entity. Sudanese Government sources quoted in Wikipedia state that:

“…. Taking into account the unique situation of the scheme regarding its ownership; (government, administration and farmers) and coping with the declared privatization policy in addition to the need for institutional reformation, the Gezira Scheme Act was issued in 2005. The act asserts that the infrastructures of the scheme are considered to be part of the national resources; that the integrity of the scheme land and its agricultural aims are to be emphasized, and that the scheme administrative unity - which includes agricultural, irrigation, research and
agricultural and industrial elements- should constitute the essential factors and basic components. Moreover, it ensures the necessity of the comprehensive sponsorship of the state. The Act states the right of farmers' participation in decision making with regard to agricultural activities, options of crops, financing, marketing, commerce and investment. The farmers own the land through a lease contract with the government renewed every 40 years to settle duplication of ownership of the scheme and to unify the ownership system."^{62}

A third concept of large farms is based solely on the ownership of the land regardless of whether the land is under active economic activity or not and what that activity is, if there is one. In this instance, only six farms, located within the United States exceed a total land area of 1.0 million acres (equivalent to 386,100 hectares). The largest landowner in the US in 2011 is Ted Turner, of CNN fame, as the only person owning land exceeding 2.0 million acres (equivalent to 850,000 ha). At spot number 2 is Red Emmerson with 665,000 ha while number 6 is the Singleton Family with total ownership of 425,000 ha. Ted Turner earned the number 1 spot after acquiring the Nonami Plantation, the largest property in the state of Georgia, USA, in 2011.\(^{33}\) It is telling that, Turner, in keeping with his reputation has bought his land within the United States and has not taken advantage of the gullibility of third world political systems to fulfill his noble dreams.

An interesting variant of land ownership combined with relatively large production operations is available in Ivolga Farm with total control of 1,500,000 ha of which 800,000 ha is in Khazakstan and 700,000 ha is in Russia. This farm is now in the news as being under acute financial distress and need for restructuring of a USD300 million loan syndicated by the Royal Bank of Scotland in 2007, and involving ING, Rabobank, Natixis and KBC. Ivolga has largely focused on wheat farming and is said to have developed financial distress during the 2008/2009 in-spite of higher commodity prices due to the impact of the world financial crisis and subsequent draught and fires that ravaged across its territories during the summer of 2010. Clearly, there are limitations to economies of scale, beyond which efficient management becomes inefficient and operations unwieldy. At any rate, investors approached for joint venture partnership with Ivolga, based on considered value of between pounds Sterling 500 and 1,000 million have declined,


\(^{33}\) 2010 Land Report 100; The Land Report; Saturday 13 August, 2011.
ostensibly due to a perceived high level of political and weather related risks. Big is not always beautiful. Another large farm holding is the El Tejar holding in Argentina covering a total of 1,100,000 hectares.

Perhaps, this perspective to land holding brings out more clearly the extent, nature and meaning of land leases exceeding 1.0 million ha that SSA countries have granted to incoming “investors” since 2004 as seen earlier. In this regard, the largest land owner today would be the firm that negotiated the successful 99 years lease over three (3) million hectares in Congo DRC and the numerous deals exceeding one million hectares in several SSA countries.

A fourth concept is that of the largest farm in terms of production activities under a single operator. In this context, the largest farm in the world today is located in Saudi Arabia with an area of 100 square miles (equivalent to 25,900 sq km or 2,590,000 hectares). The Saudi farm is basically a dairy farm that has difficulties in becoming competitive in view of the huge amount of water required for production in an environment where water is a valuable scarce resource.

Deininger and Byerlee have identified mega farms being operated as a single entity, on leased land lying in the range of 50,000 to 100,000 ha, in Brazil for the production of ethanol and in Argentina. Even in these two countries most large farms are located in the range of sizes below 50,000 ha and anything above 50,00 ha is the exception outside the norm. In this regard, the outstanding exception is a Brazilian farm with a land area of 300,000 ha under a single operator. 34 Commercial farms of this size operating as single units are the exception rather than the rule and their viability depend on a number of factors, including access to world class transportation infrastructure and proximity to markets as well as the kind of technology that can be harnessed for production operations. Managing such a single farm in Africa, given the status of power supply and transportation infrastructure as well as unique difficulties in logistics emanating from the business environment, would certainly be a nightmare.

The four different perspectives to large landholdings and farms reveal the salient objectives underlying the current interest in farmland in SSA. Undoubtedly, most of the land that is currently being given away to investors, with land sizes exceeding 50,000 hectares (equivalent to 259,000 acres) is in locations that do not and cannot meet many of the criteria for serious and bona fide agricultural investments, in the short and medium term. These cannot

34 Deininger Klaus and Byerlee, Derek, The Rise of Large Farms in Land Abundant Countries: Do They Have a Future, World Bank, 2011
qualify as operational farms under the single entity concept and many may not even be feasible without, for instance, major investments in infrastructural development. In many instances, the contracts place pre-conditions of such investment as precedents for actual development of the land.

What the foregoing review on farm sizes reveals is that many of the African land deals, most certainly those exceeding 50,000 hectares, are simply passing on the mandate for future leasing of African land in the incoming investors. A 99 year lease accompanied with adequate water rights over 1,000,000 hectares today, virtually means surrender of sovereign rights for allocation of many as twenty (20) mega farms operating at the higher margin of viable large farms, including the right for reallocation rights to future indigenous generations to the a single foreign investor today. Africa is, undoubtedly, gravitating towards a large farm structure based on land holding rights rather those who are gaining long-term leases today becoming the leasor land lords of the future, and those whose land is being taken over becoming the future lessee tenants of the not too distant future.

The cost to the poor who are growing poorer in multitudes, cannot be measured today but will only become clear in another twenty to thirty years when a large number of citizens of SSA countries will be compelled to operate farms on land they will have to lease from those who are holding the user rights at that material time. Africa and Tanzania has numerous lessons to learn from its own colonial history. Africa has a great deal more to learn from the lessons coming out of the experience of the ownership and production practices surrounding large farms across the world. Clearly there are abundant benefits from farming schemes such as the Gezira compared to large land holdings such as those under Ivolga and King Ranch. Only investors who can assist SSA countries move in the direction of the Gezira scheme have the future of Africa at heart. However, SSA governments shoulder the responsibility of ensuring that they sign land contracts with genuine investors with a focus in the right direction. Tanzania’s SAGCOT scheme, envisaged to cover a maximum of 450,000 ha at its peak, seeks to become one other model in the strategic direction that Africa must choose and take.

2.2 ACQUISITION OF LAND USER RIGHTS IN TANZANIA

“In an exclusive interview with The Citizen in Dar es Salaam over the weekend, the Minister for Agriculture, Food Security and Cooperatives...
......, said the Government has (initially) set aside about 40,000 hectares of land for the Southern Agricultural Growth Corridor of Tanzania project that should take off before May this year.

“We had about three meetings in Davos with different agendas, but the Southern Agricultural Growth Corridor of Tanzania (SAGCOT) had attracted more investors ......‘before we meet next in Cape Town, South Africa, we expect about ten big investors will be on the field.’ He said the government has allocated an area equal to the size of Italy for the project.”35

The quote above indicates that the authorities in Tanzania are upbeat about responses received from more than 50 CEOs of big agricultural companies, initiated during the WEF2010 Africa meeting held in Dar es Salaam in May 2010 and consolidated on the sidelines of the Davos WEF2011 summit. The Tanzania Zambia Railway (TAZARA), which traverses this region and links Dar es Salaam with the Zambian town of Kapiri Mposhi, is the backbone of the scheme facilitating market access to potential opening-up of five regions with prime agricultural land and climate, that constitute Tanzania’s bread basket. SAGCOT is the first program in a wider concept that seeks to build on existing transportation infrastructure, fertile land and water resources, to undertake integrated agricultural investments that include production, processing and marketing to be located along three existing transport corridors. The second one is the Central Corridor around the central railway line linking Dar es Salaam with Kigoma in western Tanzania and Mwanza in the north-west. The third is the Northern Corridor linking the port and municipality of Tanga with Arusha. A fourth corridor, the Mtwara Corridor, is expected to link the port of Mtwara with coal and iron ore deposits in Southern Tanzania, the SADC region as well as linking rich gas deposits and related chemical industries in the region with the global market.

Newspaper reports are often blamed for dramatizing situations, including those related to land acquisition. Validation of reports in the print media with information released to the public through the executive summary of the Investment Blue Print for SAGCOT, reveals two wildly different perspectives. Information extracted from the summary highlights that access to land depends on two sources: access to existing public farms that are still under state owned enterprises that have been slated for privatization to promote contract farming and out-grower schemes located along the corridor and involvement of a transformed smallholder production network. To the contrary

newspaper reports attributed to public sources of information alluded to additional allocations of land the size of the area of Italy.

Supporters of SAGCOT include the World Bank, USAID and Norfund as well as several Tanzanian commercial banks and large agricultural TNCs who are global players like Monsato, Unilever, Syngenta and SAB Miller. The SAGCOT Investment Blueprint describes:

“.... how at least $2.1 billion of private investment will be catalysed over a twenty year period, alongside public sector commitments of $1.3 billion. The result will be a tripling of the area’s agricultural output. Approximately 350,000 hectares will be brought into profitable production, much of it farmed by smallholder farmers.”

The underlying investment concept builds on existing transportation infrastructure to undertake integrated agricultural investments including production, processing and marketing to be located along existing transport corridors. The first scheme ready for takeoff is dubbed the Southern Agricultural Growth Corridor of Tanzania (SAGCOT). The project is requires a minimum of USD50 million to take off. It is estimated to attract a maximum investment of up to USD3.4 billion over the next 20 years. The pilot phase will be undertaken in five regions that constitute Tanzania’s breadbasket: Morogoro, Iringa, Mbeya, Rukwa and Ruvuma.

Talking on the occasion of launching the project in Davos, the national leadership re-assured the world community that implementation will take into consideration measures to safeguard land rights of local communities and that the package will ensure that a large proportion of food produced will go towards ensuring food security in Tanzania with the surplus being exported. Clearly, there is increasing understanding of the concerns that go with large agro-investment land deals and the need to tread carefully in this area. The prudence that surrounds SAGCOT notwithstanding, there is evidence showing that many SSA countries, including Tanzania, are still enamored by flamboyant large scale projects owned and run by multinationals and other large investors devoid of integration with local smallholders and their communities.

The key to success in a country where one third of the population lives below the basic needs poverty line and 17 per cent below the food poverty line is not the statistical data on GDP but also the extent to which the production process has involved the poor and vulnerable. For instance, while gold alone

36 SAGCOT Investment Blue Print Executive Summary, Africa Corridors and Tanzania Agricultural Partnership.

37 US to give $2million for farm project; The Guardian Newspaper, Tanzania, Monday January 31, 2011.
contributes more than 50% to all Tanzanian exports today, analysis of available data shows that at least 54.5% of the taxes collected from mining (including gold), gas and oil companies was being paid by Tanzanian industry employees in the form of various taxes. Contribution from the gold mining industry, did not match with the status of the industry, whose contribution to the domestic economy is limited to approximately 10,000 jobs and royalty payments of 4% as industry continues to enjoy extra-ordinary tax exemptions. It is critical that the agricultural sector does not join the mining sector in contributing to deepening of poverty but instead leads the quest for its eradication.

The available information shows that land acquisition requests for agricultural investments in Tanzania is largely still at the stage of requests whose approval may not have been granted as yet. According to one source, in 2009, a total of 640,000 hectares were allocated to foreign investors for bio-fuel production alone, compared to requests of 4 million hectares. The largest requests emanated from SEKAB which had requested for 400,000 hectare in Bagamoyo and 500,000 ha in Rufiji, for sugar cane production. A British energy company, CAMS Group had also acquired 45,000 ha for sweet sorghum production while another British company Sun Bio-fuels acquired over 8,000 ha in Kisarawe.

However, the increasing acquisition of land by small and medium farmers in Tanzania’s case is apparent in the data on farms that were surveyed and registered during part of the 2004 to 2010 period. Data published through the Minister for Lands, Housing and Human Settlement’s Development budget speech for 2009/2010 shows that a total of 623 farms out of a target of 800 farms were registered during the period July 2008 to June 2009. Further, the Ministry was targeting to register a total of 1,000 farms between July 2009 and June 2010. Sixty two (62%) of the 623 farms registered in 2008/2009, equivalent to 386 were located in six regions i.e. Coast region (174 farms), Tanga region (125 regions) and Morogoro region (87 farms) that happen to be the favourite destinations of large TNC agricultural investors because of prime arable agricultural land, good climate, reliable rainfall patterns and easy access to surface water resources for irrigation purposes where necessary. No data was given regarding the average acreage of farms involved.

Tanzania and other developing countries need to put in place and implement effectively three sets of policies to address a growing problem. First, move quickly to implement existing land policies that seek to entrench security of

38 Florence Mugarula, Most Mining Taxes Come from Workers, The CITIZEN, Tanzania, Tuesday 15 February, 2011.

property rights for the individual and to create an efficient land market that will render land as an effective economic asset. Second, put in place policies to complement the existing agricultural policies through guidelines on instruments to promote and safeguard national interests in land allocation for agricultural investments. Third implement reforms for the improvement of the investment climate, particularly at the Local Government levels, that will contribute to promotion of agro-investments.

Finally, one wonders whether Tanzania will take adequate rapid action to improve upon the Guidelines for investment in bio-fuels to include best practice elements that safeguard local communities land rights and extend these to investment in cash and food crop production as well as other investments that involve land and water user rights. The issue is that guidelines without legal force can and are being ignored. Will Tanzania enact legislation to give these guidelines legal force and extend their impact to agricultural investors targeting food production and other commodities?

The importance of this is apparent in information that has become available as this document was on the point of being sent to publishers. A consortium comprising of a US based company, AgriSol Energy plc, that provides expertise and leadership in development, financing and management of integrated, sustainable agro-industrial projects, in partnership with a Tanzanian management consultancy firm on one side, have signed a MOU with the Mpanda District Council, (Rukwa region) on the other side, resulting in full prior commitment for “… acquisition of all land currently designated as the Katumba and Mishamo refugee settlements ….” With an area exceeding 300,000 hectares.

In return the consortium shall fulfill conditions on Right of Occupancy including fees only for the portion of the land that has been developed (no fee for undeveloped portion) that is indexed to the initial rate and the average of the annual World Consumer Price index as published by the International Monetary Fund in addition to a land rent of TShs 200 per acre (2.2 acres = 1 ha). At the current exchange rate of 1US$ = TShs 1,600/= this consideration remains a pittance for a 99 years leasehold (See Box 2).
Box 2: THE NEW CARPETBAGGERS AND AGRISOL ENERGY TANZANIA LTD

The original carpetbaggers were a product of the post civil war reconstruction period in the USA: ostensibly northerners moving South as abolitionists seeking to continue the struggle for racial equality; religious missionaries and schoolteachers sponsored by northern churches to run schools for freedmen; businessmen purchasing/leasing plantations, hiring freedmen as labor, who became wealthy landowners; and politicians looking for a new power base. Most came from a well-educated middle class background, professionals dreaming to upgrade the Southern economy and society through upgrading plantations to more efficient farms, factories and railroads. They brought along their belongings in bags made of recycled carpets and many of the dealings behind acquisition of farmland and investments in railroads were often driven by opportunism and corruption. ④①

The “Carpetbaggers” descending on SSA today, include do-gooders running successful agricultural out-grower schemes benefiting poor smallholders as well as ruthless speculators seeking long-term rights to mega-land and water rights. They include representatives of consulting firms and junk-bond rolled enterprises, decked in designer suits, wielding PhDs from elite Western colleges or are the emissaries of Oil Sheiks cultivated in the niceties of diplomatic etiquette. They share the realistic understanding that climate change will make arable land, the ordinary black clay soils of today, the rare gold of tomorrow. They target the ruling elite and the highest echelons of power, flashing and flaunting the names of large multinational firms or wealth of sheikhdoms as investors who could come running upon beckoning. They raise water-mouthing promises of mountains of wealth to be made at will on African land through harnessing superior technologies to generate wealth to be shared by haves and have-nots. With high level contacts tied-up, they move to the lower echelons and local authorities, hoodwinking intimidated and awe-struck officials to sign lopsided contracts, by flaunting their high level contacts and inferred “limitless financial resources”.

The allure of rental benefits, limited awareness on the future of land ownership issues and besieged politicians ready to accept any good-sounding story is too much for government officials to resist. The opportunists among them have the foresight of things to come in another 10 to 20 years ahead, as the food crises of 2008 and 2010 become the order of the future. They are shrewd enough to accept that scientific premonition on climate change is not an irresponsible over-reaction to minor events “… to be overcome by the resilience of future technologies” (Newsweek June 20, 2011) but the precursor of the times that lie ahead for a small world growing still smaller with an exploding population ④①. The multi-billionaires of the future are those who vertically

integrate agro-production, from the garden fork to the dinner fork.

Messrs AgriSol Energy Tanzania Ltd was incorporated in Tanzania, Certificate of Registration No. 74106 in 2009, a joint venture between a Tanzanian firm, Serengeti Advisors Ltd (25% shares held by parties who included a powerful former Cabinet Minister) and Agrisol Energy plc of Delaware, USA (75%). It is a special purpose vehicle for acquisition of land formally allocated to 2 former refugee hosting areas in Mpanda district (Rukwa region) with a total area of 300,117 hectares, almost equivalent to two thirds the area of Zanzibar and Pemba: Katumba with 80,317 ha, Mishamo with 219,800 ha. Their package quotes powerful brand names from John Deere, Monsanto and Syngenta to Rabobank, Dupont and academic institutions (Iowa State University). A third area, Lugufu (25,000 ha), that is targeted by AgriSol, falls under the jurisdiction of another LGA, in Kigoma region.

On 11th December, 2009, a MOU was signed between Mpanda District Council and Agrisol Energy Tanzania Limited with terms and conditions that include:

2.10 That upon completion of a Feasibility Study ....... Agrisol shall notify the Council the portions of Katumba and Mishamo for which it wishes to secure Certificate(s) of Occupancy;

4.1 That except for the parties’ obligation to negotiate in utmost good faith, terms of this MOU and the parties’ respective rights and obligations with respect to the Feasibility Study specified herein and the parties respective obligations under sections 4.3, 4.8 to 4.10 and 4.12 to 4.19 hereof, this MOU does not constitute a legally binding agreement to enter into any transaction, but is intended as a statement of the good faith ....;

4.4 That the initial term of Certificate of Occupancy shall be 99 (ninety-nine) years and shall provide for a reasonable development schedule for the land under certificate of occupancy in which AgriSol agrees to development of milestones;

4.6 That AgriSol shall as a condition for right of occupancy comply with conditions stipulated in Certificate of Occupancy, including payment of land rent (Shs200/=) per acre at the time of the MOU; payment of statutory council fees; and a council fee not exceeding Tshs 500/= per acre only for cultivated land, indexed to the World Consumer Price index;

4.7 AgriSol shall work with Iowa State University and Mpanda District to develop/finance an agro-extension program for neighboring small holders.

4.8 AgriSol will benefit from the package of investment incentives and protections provided under the laws of the United Republic of Tanzania.

41 Lomborg, Bjorn (2011); “A Roadmap for the Plant: How We Live Today is Clearly Unsustainable. Why History Proves That is Completely Irrelevant”; in Newsweek, New York, June 20, 2011,
4.17 Disputes shall be resolved by consultations with recourse to arbitration at London, England under International chamber of Commerce rules.

4.18 That no failure of either party to exercise any right or power given hereunder, ...... and no custom or practice at variance with the terms hereto, shall constitute a subsequent waiver of the party’s right to demand exact compliance with the terms thereof.

Article 4.18 implies this is more than a MOU. The story of AgriSol Energy Tanzania Limited is testimony to the emergence of a new crop of carpetbaggers, targeting the developing world. There are many genuine investors and in their midst a substantial number of opportunists, corrupt personalities and even fraudsters. Land deals have now become the centre-court for grand and petty corruption in Sub Sahara Africa.

Four observations are made about the AgriSol deal: AgriSol intend to mobilize the international investors who will make most of the actual investments. The contents of the contract are heavily loaded in favor of AgriSol. The deal breaches the provisions of Tanzania’s Land Act No. 4 of 1999 on foreigners acquisition of land. The US partner holds 75% shares in a subsidiary company, AgriSol Energy Tanzania Limited, established as a special purpose vehicle ostensibly to acquire and hold the land while all user rights are vested in the holding company. Speculative land acquisition can be a quagmire for everyone.

2.3 PERSPECTIVES TO AN ELUSIVE PROBLEM

2.3.1 The Colonial Heritage and Essence of Liberation Wars
Examples of African Governments grappling with complex land distribution problems for historical reasons include the Republic of South Africa (RSA), Zimbabwe and Kenya. The RSA Government that came to power with the onset of majority rule based on democratic principles has inherited a complex modern economy that excludes a large proportion of the population from equitable access to investment and income generating assets and opportunities. The challenges of resolving the dilemma of reducing the resulting wide gap in income distribution includes the need for land redistribution through innovative instruments such as the business models for inclusive participation in agricultural investments.

Countries like Kenya and Zimbabwe whose colonial heritage included entrenched and distorted land distribution regimes have gone through painful experiences of civil disorders that underscore the need for complex and expensive land redistribution measures. Even Zimbabwe’s expropriation
solution for redistribution of land, has involved high social, political and economic costs. Better to engage in effective mitigation rather than cure the problem once it has become entrenched. These experiences makes it imperative for SSA countries need to take measures to avoid creating untenable land holding patterns in responding to current opportunities to avoid passing on similarly painful heritage to current younger generation and future ones in general.

2.3.2 Heritage of Second Post-independence Generation to Posterity

The population of Tanzania is projected to double over the coming 40 years i.e. by 2050. The current perception of abundant land could turn into a severe land distribution problem by 2050 unless strategic measures are undertaken today to safeguard available land for distribution to the third generation of post-independence Tanzanians i.e. those born from year 2000 onwards. There are ample lessons on this from other jurisdictions.\(^42\) The bleak growth outlook and limited contribution to employment and income generation by high growth sectors such as mining\(^43\), underscores the need to link poverty reduction to agricultural investments ranging from crop production to agro-processing and marketing. Linkages between large investors and domestic producers that enable the latter to benefit from access to technology in the form of agronomic practices, better inputs as well as processing and market linkage facilities is the key to improved access to production assets for poor rural households in Tanzania. This situation is true also for most other SSA countries.

Tanzania has witnessed a substantial number of disputes amongst subsistence farmers, between subsistence farmers and medium/large local farmers and between subsistence farmers and pastoralists. A pilot land registration project introducing the systematic adjudication methodology has been implemented in more than 20 villages in each of two districts (Babati and Bariadi) and is being rolled out to 15 other districts for training purposes. One of the findings

---

42 For instance, Thailand has placed about 50% of all land in registered Government holdings, limits domestic holding of land to approximately 20 hectares and foreign ownership for investment in urban areas to an average of 2 acres. These policies reflect the realities of a growing population and equitable redistribution of limited land to support peaceful co-existence. Thailand is reputed to have one of the most efficient land administration systems in the developing world, where all holdings are registered and the change of registration is a same day service (within 3 hours) if undertaken in the district where the land is located or a maximum of three days where the registration requires fresh surveying and mapping as in the case of plot-splitting.

43 Gold mining along contributes more than 50% to total export earnings but has negligible impact on employment and government revenues generation.
emerging from the Babati pilot is the fact that almost 15% of customary smallholdings involved boundary and/or ownership disputes. The pilots have also revealed a number of boundary disputes between Village Governments that have to be resolved through fresh surveying and mapping of mutually agreed village boundaries. These are signs of problems that are already beginning to expand into endemic proportions if they are not addressed early on. Babati is also home to growing hostility between small and medium commercial farmers and smallholder communities over water and land rights. This is evident in recent repetitive incidences of arson and retaliatory cases of manslaughter between the community of Kiuru Six Village and a neighboring small-scale sugar cane farmer, fueled by a historical land conflict that has been simmering for years and has been compounded by priority access to water rights for irrigation farming.\textsuperscript{44}

\textsuperscript{44} The Citizen, Tanzania, January 2011, Article on arson in Kiuru Six Village, Babati District, Tanzania.
Box 3: ACQUISITION OF BURKA COFFEE ESTATE BY ARUSHA MUNICIPALITY AND POTENTIAL DISPOSSESSION INHERENT IN HIGH COST COMPENSATION

Arusha is the seat of the East African Community headquarters and home to a vibrant gemstone mining industry including the unique Tanzanite, that is available only in Tanzania. It is also the epicenter of Tanzania’s fast growing tourism industry providing access to world famous landmarks including the Serengeti, Ngorongoro conservation area and Kilimanjaro mountains.

Burka Estate is a small but intensive coffee estate located in the heart of Arusha City, lying between the central business district and Arusha airport. The estate comprises of 418 acres of an irrigated coffee plantation. In 2010, the Municipality, negotiated a takeover of the estate from its private owners for the purpose of its sub-division into commercial and residential plots. The Municipality concluded an agreement, effective in 2011, for the buyout of the estate owners for a total consideration of USD 8.0 million (equivalent to TZS 12.0 billion).

This amounts to approximately USD 17,734 or TZS 26.6 million per acre. The land has already been subdivided into plots, allocated to and paid for by applicants at prices that range from TZS 8.0 million for a high density plot. Already there are complaints in the media regarding the modality of allocation as most low income applicants have not been successful. The high price of plots due to the premium attached to the location of the land, has enabled the Municipality to raise the funds to acquire the estate without digging into its own budget while earning a substantial windfall gain.

Very few of the original community owners of this land would have the resources to acquire such a plot, if they are around and wanted to do so. Indeed, many of the new owners of plots curved from Burka estate, are city dwellers in the commercial capital of Dar es Salaam, who may have no relationship to the communities whose land was originally acquired so as to accommodate the investment in Burka estate. The new community of Arusha municipality dwellers has been able to re-acquire land that has been under the ownership of the state and will remain under state ownership through expensive buy-out of user rights and existing investments from the owners of Burka Estate as a coffee farm.

Often, in the course of re-allocation of community land to large investors, whether foreign or national, officials take it for granted that leased land will revert back to the state at the end of a lease period that ranges from 33 to 98 years (and presumably to the community from which it was taken). However, compensation for development made on the land creates a de facto element of ownership implying that allocation of community land to TNC investors, is in fact, de facto permanent transfer of land-user rights to a new party and dispossession of the preceding holder, ergo respective local community. This is a powerful reason for diligence in negotiating and concluding contracts for land acquisition deals to ensure that the ultimate impact avoids dispossession that can only be reversed subject to high cost that is out of reach of rural communities.

Source: The Citizen (Tanzania), 11 January, 2011.
In the final analysis, success in transformation of agriculture in Tanzania and other SSA countries, will not be measured by officials statistics on output and export data. Today Tanzania does not have a major problem in land holding that calls for land redistribution that underpinned the economic miracle of South East Asia. However, current landholding patterns stand in danger of being sacrificed at the table of large FDI agricultural investments and speculative land holding by local elites. Success therefore will be measured by the extent to which current land holding patterns are safeguarded and local communities and smallholders security of tenure is enhanced while they are enabled to participate in the negotiation and implementation of land deals that do not lead to foregoing substantial land rights.

The extent of the challenge is apparent in the various sources through which local communities can lose significant land rights even in lease-holding arrangements due to the high costs of recovery involved. The case of Burka Estate portrays the ease with which local communities can lose significant access to land and the high costs of recovering such rights that makes recovery largely out of reach (Box 3). In short, the Municipality of Arusha, in northern Tanzania, has had to compensate an agricultural investor the equivalent of USD 8.0 million for a 418 acres coffee estate, for the redevelopment of Arusha city. The Municipality has been able to afford this because Arusha residents are willing to meet the cost through purchase of plots which have already been fully allocated and paid for even before the contract has been signed formally. The question is, would a local community in rural Tanzania be able to match this level of compensation if the estate was located in a rural setting.

It is from this perspective that the next chapter reviews the status of the challenges of land administration in Tanzania. This will lay the background for an examination of business models and financing instruments available for the protection and promotion of the interest of local communities and smallholders in SSA countries as African land resources become the global blue-chip investment asset of the near future generations.
CHAPTER THREE
TANZANIA's LAND ADMINISTRATION FRAMEWORK AND STATUS

Tanzania enjoyed the historical background of a very brief colonial history under German rule from the time of the 1884 Berlin Conference and the end of the First World War in 1918. Upon the conclusion of that war, Mainland Tanzania, then known as Tanganyika, was placed under the mandate of the newly organized League of Nations, which transferred that mandate to the British empire. The Government of the UK, assumed administration of Tanganyika as a protectorate with independence being granted in 1961 upon Julius Nyerere’s convincing appeal to the UN that the country was ready for self-government. For this reason, Tanzania did not experience the massive impact of land acquisition under colonialism that led to the Kikuyu uprisings in Kenya and the post independence hiatus in Zimbabwe. It is as well that Tanzanian leaders bear this historical perspective in mind and avoid giving away such a valuable historical endowment.

It is in this framework, that the first post-independence Government placed a policy premium on safeguarding communal land ownership through the establishment of Ujamaa Villages that became entrenched by subsequent regimes through the enactment of a legal and regulatory framework for land administration based on the Land Policy of 1995 and the legislation emanating from that policy, i.e. The Land Act No. 4 of 1999 and Village Land Act No. 5 of 1999. The Land Act of 1999 provides the legal basis for the management of land ownership and user rights and settlement of disputes and related matters for all land other than village land. The Village Land Act of 1999 provides for management of land, settlement of disputes and related matters specifically for village land.

The two laws provide a robust framework for safeguarding communal and individual rights to land, if effectively implemented. Land user rights are entrenched in the fundamental principles of the National Land Policy comprising of, among others, the following:

i. All land is public land and is vested in the President as trustee on behalf of all citizens;

ii. Citizens rights to land are user rights that are recognized in longstanding occupation or use of land as clarified and secured by the law;

iii. Equitable distribution and access to land by all citizens;

iv. Regulation of the amount of land that any one person or corporate body may occupy or use;

v. Recognition of the fact that an interest in land has a value and that value is taken into consideration in any transaction affecting that interest;
vi. Payment of full, fair and prompt compensation to any person whose right of occupancy or recognized long-standing occupation of customary use of land is revoked or interfered with to their detriment by the State … based on among other things: the market value of real property and cost of acquiring and getting the subject land and capital expenditure incurred for the development of the subject land;

vii. Provision of efficient, effective, economic and transparent system of land administration; and

viii. Facilitation of the operation of a market in land and regulation of the operations of that market to ensure that rural and urban smallholders and pastoralists are not disadvantaged.

3.1 THE LAND ACT (NO 4) OF 1999 AND LAND USER RIGHTS

The Land Act (No 4) of 1999, generally referred to as the Land Act, provides for three types of land holdings: general land; reserved land and village land. The Land Act empowers the President to transfer any area of land from general land to reserve or village land. The Village Land Act (No 5) of 1999, subsequently referred to as the Village Land Act, defines village land and provides for its management. It also provides for transfer of village land to general land.

There are four categories of land user rights in Tanzania: general land, reserved land, village land and hazardous land.

- **General land** defined as all public land which is not reserved land or village land, whereby public land is all the land of Tanzania based on the premise that all land is held by the President.

- **Reserved land** designated under a series of nine separate chapters including the Forests Ordinance (Cap 389), the National Parks Ordinance (Cap 412), and the Land Acquisition Act, 1967 among others.

- **Village Land** defined as including but not limited to:
  (i) land within villages registered under the Local Government (District Authorities) Act No 7 of 1982;
  (ii) Land designated as village land under the Land Tenure (Village Settlements) Act No. 27 of 1965; and
  (iii) Land the boundaries of which have been designated as village land under any law or administrative procedures at any time before the Village Land Act No. 5 of 1999 became operational.

- **Hazardous land** defined as land the development of which is likely to pose a danger to life or lead to the degradation of the environmental
destruction on contiguous land such as mangrove swamps, land within sixty meters of a river bank or shoreline, or specified land.

3.2 DERIVATIVE USER RIGHTS FOR FOREIGN INVESTORS
Citizens or group of citizens or their corporate bodies can hold land under rights of occupancy or a derivative right. Non citizens may only obtain a right of occupancy or derivative right for the purpose of investment as prescribed under the Tanzanian Investment Act (TIC), 1997. Land to be designed for investment purposes has to be identified, gazetted and allocated to the TIC which proceeds to create derivative rights to investors. A derivative right, referred to as a Residential license, confers upon licensees the right to occupy land in non-hazardous land, including urban and peri-urban area for a period of time for which the residential license has been granted.

The essence of the law on user rights and compensation for acquisition of those rights is expressly clear. However, problems remain with respect to the practices of compensation and transparency in valuation and need for changes in respective legislation and regulations. For instance, compensation legislation calls for a process of information sharing between the government officials handling the valuation of property being acquired and the owners. The reality on the ground is that a cloud of secrecy accompanies the valuation process and people are not informed of the values of their property that is being subjected to acquisition until they receive the payment cheque. This practice has culminated in a process of conflict between Government agencies and those who are affected by land acquisition for public purposes that has increasingly become common.

The same problem is also apparent in the case of land acquisition for large private agricultural investment purposes, which are often characterized by unfulfilled expectations on the part of villagers. Often land that is reallocated is communal land, as opposed to individual land parcels, implying that though individual farmers retain their plots, they still suffer considerable losses in terms of communally held land through loss of future opportunity costs, loss of right of way and the more fundamental loss of land earmarked for distribution to the current younger generation.

The salient problem of dispossession for communities perceived to have abundant unutilized land is a problem facing the third post-independence generation of Tanzania i.e. generally those born after the year 2000. It is generally a problem that has become deep-rooted today consequent to lack of dynamic implementation of the Land Act and the Village Land Act due to a range of reasons that include resistance to change at the LGAs level. The
outcome is continued reliance on chaotic paper based land information database and salient reluctance against switching to the use of GPS based land management databases although substantial groundwork has already been done in this area.

3.3 SECONDARY LEGISLATION AND INSTITUTIONAL FRAMEWORK

Effective implementation of the Land Act and Village Land Act is premised on adoption of policies and enactment of secondary legislation to provide guidance for corresponding operations in specific functional areas including: land use planning; surveying and mapping services; land valuation and estate agency services; land acquisition and compensation; land registration; land mortgages and sectional properties.

With exception of the Land Use Planning Act of 2007 and the Land Acquisition and Compensation Act, also of 2007, most of the remaining secondary policies and legislation were drawn prior to the adoption of the Land Policy of 1995 and the Land Act / Village Land Act of 1999. Further, Tanzania has never had specific legislation on the estate agency function. Specifically, the existing legislation for surveying and mapping, land valuation and land registration require major reforms for alignment with the objectives of the Land Act and the Village Land Act. Initiatives are already underway to update these statutes.

The institutional framework for implementation comprises of two central ministries: the Ministry of Lands Housing and Human Settlements Development (MLHHSD), responsible for policy formulation and oversight of land administration functions with a network of six zonal offices. Policy implementation is mandated to the Prime Minister’s Office, Regional Administration and Local Government, which oversees the operations of Local Government Authorities (LGAs). LGAs, on their part, coordinate and oversee the operations of Village Governments and Councils who have the legal mandate for land administration and management of Village Land, where the bulk of land resources are located. In 2010, the number of LGAs was increased from 134 to 168 Councils overseeing land management through approximately 15,000 villages, apart from urban jurisdictions. Institutional capacity is a factor of technical capacity embedded in human resources, systems and procedures and equipment and infrastructure for land administration ranging from surveying and mapping facilities to modern ICT-based registries located at the district level.

Available information points to an employment gap of 75% of requisite technical staff for land administration in the two ministries. Tanzania has a large pool of potential professional land administrators graduating from Ardhi (Land) University, dedicated to land administration services, with a first year
student population of 2,866 in 2009/10 academic year compared to 2,221 in 2005/06 academic year\textsuperscript{45}. The presence of this large pool has not translated into higher land administration capacity due to limitations in recruitment and limited public-private partnerships in this area. These shortcomings reinforce the implementation weaknesses stemming from rent-seeking tendencies reinforced by lack of transparency in an environment where the central land registry still operates largely as a paper based system.

The situation is compounded by latent reluctance by some LGAs to expedite land administration services including denial of capacity that has been built to facilitate the shift towards a GPS based land information services management system. This reluctance means that measures to roll out implementation from pilot districts, once the central Ministry responsible for policy oversight has withdrawn, have slowed down. It is critical that this trend is identified and reversed, if Tanzanian authorities are ever going to have access to reliable information and data on land holding patterns necessary to make informed decisions on re-categorization of Village land in favour of large agricultural investments. This can be achieved through an innovative strategy involving the redesign of Strategic Plan for the Implementation of Land Laws (SPILL), that could start with the objective of accomplishing resurvey of village land combined with participatory land use planning, issuance of CVLs and rolling out of smallholder land parcel adjudication and registration. Significant achievements can be made in the medium terms subject to building on work already accomplished and prioritization of the seven or so regions that are the prime target of large investors, including Morogoro, Coast, Tanga, Iringa, Mbeya, Ruvuma and Rukwa.

3.4 STRATEGIC PLAN FOR IMPLEMENTATION OF LAND LAWS

In 2000, Tanzania adopted the Strategic Plan for the Implementation of the Land Laws 1999 (SPILL). The implementation of SPILL is based on two fundamental pillars: the formalization of informal urban properties based on Certificates of Right of Occupancy (CROs) and the registration of village land based on Customary Certificates of Rights of Occupancy (CCROs).

The urban formalization project comprises of a process of town planning and regularization involving compensation of properties that have to give way to socio-economic infrastructure. Schemes that include community led regularization are being piloted in Dar es Salaam and Mwanza City. It is estimated that Dar es Salaam has a total of approximately 500,000 houses of which about 80% are not registered and have no documentation while Mwanza

has a total of 49,000 houses that are not registered and titled. Community-based formalization schemes enable local communities to expedite the process of formalization through contribution to costs involved in cash and kind.

The situation is dire in the case of customary held land where land scarcity has reached crisis proportions. During the period 2004 to 2009 a total of 19,073 land parcels were surveyed and issued with Customary Certificates of Rights of Occupancy (CCROs) across the whole country. Out of these 13,260 parcels, equivalent to 30.4% were located in Mbozi district, Mbeya region, as part of a pilot Sporadic Adjudication project implemented as part of a learning and training process for land officers based in LGAs. This is a drop in the ocean for a country with more than 9 million households based on a current population of 44 million and an average of 5 persons per household. An additional 30,000 parcels were registered in Babati district and 18,000 parcels in Bariadi as part of a Systematic Adjudication pilot implemented between July 2008 and June 2010.

One of the outcomes of the various piloting schemes is the salient understanding that resolution of the challenge of formalization of property rights for agricultural land is possible within a reasonable timeframe subject to adoption of systematic adjudication processes and local processing of satellite data to reduce the costs of accessing satellite imagery. Ongoing development of a state of the art geodetic network will transform the manual processes of ground surveying and mapping through access to a modern electronic system.

Apart from measures to safeguard individual land parcels security of tenure, there are also initiatives to safeguard communal land holding through certification of village land based on issuance of Certificates of Village Land (CVLs). This process includes statutory participatory land use planning which enables villages to identify and demarcate land for community activities including schools, forests, grazing land, urbanization centres and reserve land for future allocation to smallholders. Land use planning is a function of a full Village Council whose quorum is a minimum of 51% of all village households. By the end of 2009, of existing 15,000 villages or so, a total of 6,990 had been surveyed and CVLs issued to 3,204 amongst them.

One challenge facing the need for expediting registration of village land and carrying out participatory land use planning is the acceptability of some of the village boundaries whose surveying may have included an element of arbitrary boundaries adopted by Government surveyors who did not reflect real boundaries on the ground. There are known incidences of boundary dispute between neighboring villages that have had to be resolved through new

46 Reference to Babati Pilot.
surveying and mapping prior to issuance of CVLs. A second challenge is the availability of resources to fund land use planning activities that is necessary to raise the awareness of village members regarding their land rights and the legal provision for the inclusion of at least 51% of village households Village Council proceedings that have to be convened to approve the reallocation of village land exceeding 50 hectares to agricultural investors, regardless of whether they are local or foreign.

Evidence from other jurisdictions shows that the challenge of formalization of property rights for agricultural land can be accomplished within a decade or two at the maximum, with adequate political will. This is possible given the benefits of a modern geodetic network, access to cheap but high precision satellite maps combined with systematic adjudication for the verification of individual parcel ownership. However, success of this objective in Tanzania can be undermined by vested interests pervading the Government system through individuals at the political and technical levels, who seek to benefit from rent-seeking in land allocation processes.

In 2009 the Government adopted a strategic model for stimulating the onset of a green revolution through concerted public-private sector joint interventions on a set of ten strategic pillars known as Kilimo Kwanza (Agriculture First). One of the ten pillars is “access of land for Kilimo Kwanza” referring specifically to registration and titling of land for agricultural investments by subsistence as well as small, medium and large investors as the cornerstone of a green revolution.

Tanzania does not as yet have a major problem of access to land. Yet, the problem of dispossession is already in the making in view of the failure of the state to guarantee land user rights through registration as the standard tool for management of land information services.

3.5 AVAILABILITY AND STATUS OF DISTRIBUTION OF ARABLE LAND
Tanzania has a total area of 945,087 sq. km. (equivalent to 94.5 million hectares) of which 6% equivalent to 59,050 sq. km. is surface water and the balance of 88.6 million hectares is land mass. Official data disseminated by the Tanzania Investment Centre (TIC)\(^47\) states that Tanzania has 44.0 million hectares of arable land good for agricultural activities and another 44.0 million hectares of arable land suitable for grazing and that the 44.0 million hectares

of arable land suitable for farming is all available for incoming investors. However, own estimates compiled from data published by the Ministry of Agriculture and Food Security as well as the Ministry for Lands, Housing and Urban Settlements Development shows that the maximum land available for allocation to new farmers, both Tanzania smallholders and small/medium farmers as well as incoming foreign investors, big or small, is in the region of 15.0 million hectares (Table No. 1). This is not a very comfortable figure for a country whose population is going to double to approximately 90 million people by year 2050.

Going back to the TIC data, of the total arable land suitable for agricultural activities a total of 29.4 million hectares has potential for irrigation, with 2.3 million hectares having a high degree of potential, 4.8 million hectares having a medium degree of potential and 22.3 million hectares having a low degree of potential for irrigation. The data also categorically states that only 10.5 million hectares, out of a total of area of 44.0 million hectares of arable agricultural land, is occupied. Likewise, a total of 25.0 million hectares out of the 44.0 million hectares of arable grazing land is currently occupied. This creates the impression that Tanzania has a total of 88.0 million arable land of which only a total of 35.5 million. Hence the official literature for the promotion of investments states categorically that at least 44.0 million hectares of arable land is available immediately and that 29.0 million out of this land is suitable for irrigation farming. Finally TIC identifies only 35.5 million hectares as being under current agricultural production of which 10.5 million hectares is smallholder farming and 25.0 million hectares is under grazing. This is the information used by the Tanzania Investment Centre and national leaders in marketing agricultural investment opportunities to the world. TIC’s investment promotional data has convinced the decision making machinery, with the subliminal message that Tanzania has 44.0 million hectares of arable land available for large investors, as confirmed by this quote.

“Land for agriculture and livestock keeping: The country is endowed with about 94.5 mn hectares of land out of which 44 mn and 50 mn hectares are suitable for agriculture and livestock respectively. Out of this land, only 10.2 mn hectares are under cultivation while 26 mn hectares are under livestock keeping.” Tanzania Investment Guide 2008 and Beyond, 2008 (pp10).48

Using the data compiled by TIC as the basis of decisions on agricultural investments is not only misleading but also dangerous from the perspective of socio-economic stability for three reasons. In the first place, the analysis does
not include the 25% of total land that is under conservation activities from the arable land suitable for agricultural investments while underestimating land under farming and pastoralist activities from as far back as 2003 by as much as 4.5 million hectares. In the second place, the data forgets or ignores that all agricultural land has already been vested in village governments that manages the land on behalf of local communities. Village land management in practice includes making specific land allocation to every household for subsistence and cash-crop farming where this is applicable. In addition all villages normally set aside two substantial areas of land, one for communal activities such as sourcing of fuel, medicines and the other as a reserve allocation to households as the younger children reach adulthood. Decisions on acquisition of village land that do not take these realities into consideration automatically leads to dispossession of village communities and undermine livelihoods that are already precarious.
## Table 1: TANZANIA: AVAILABILITY OF ARABLE LAND FOR INVESTMENT

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>AREA (Sq km)</th>
<th>EQUIVALENT IN HECTARES</th>
<th>PERCENT OF TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0 Total country area</td>
<td>945,087</td>
<td>94,508,700</td>
<td>100%</td>
</tr>
<tr>
<td>2.0 Surface water area</td>
<td>59,050</td>
<td>5,905,000</td>
<td>6.00</td>
</tr>
<tr>
<td><strong>3.0 Total available land</strong></td>
<td><strong>886,037</strong></td>
<td><strong>88,603,700</strong></td>
<td></td>
</tr>
</tbody>
</table>

### 4.0 LESS: LAND NOT AVAILABLE FOR ECONOMIC ACTIVITY

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>AREA (Sq km)</th>
<th>EQUIVALENT IN HECTARES</th>
<th>PERCENT OF TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1 Gazetted conservation land (national parks, forests etc)</td>
<td>236,270</td>
<td>23,627,200</td>
<td>25.00</td>
</tr>
<tr>
<td>4.2 Land under govt investments (housing, farms, military)</td>
<td>10,000</td>
<td>1,000,000</td>
<td>1.13</td>
</tr>
<tr>
<td>4.3 Water catchment areas</td>
<td>16,000</td>
<td>1,600,000</td>
<td>1.81</td>
</tr>
<tr>
<td>4.4 Land under medium/large scale farming</td>
<td>15,000</td>
<td>1,500,000</td>
<td>1.69</td>
</tr>
<tr>
<td>4.6 Hazardous land</td>
<td>15,000</td>
<td>1,500,000</td>
<td>1.69</td>
</tr>
<tr>
<td><strong>4.7 Subtotal: Non available land</strong></td>
<td><strong>292,272</strong></td>
<td><strong>29,227,200</strong></td>
<td><strong>33.00</strong></td>
</tr>
</tbody>
</table>

### 5.0 Maximum land available for economic activities

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>AREA (Sq km)</th>
<th>EQUIVALENT IN HECTARES</th>
<th>PERCENT OF TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.0 Occupied Arable according to 2002/03 census data:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Agriculture (11.9 mil ha)</td>
<td></td>
<td>11,900,000</td>
<td>13.43</td>
</tr>
<tr>
<td>(b) Grazing (26.0 mil ha)</td>
<td></td>
<td>26,000,000</td>
<td>29.33</td>
</tr>
<tr>
<td>(c) Agricultural Land Bank</td>
<td></td>
<td>2,000,000</td>
<td>2.26</td>
</tr>
<tr>
<td>(d) Current concessions to mining/tourism investments</td>
<td></td>
<td>2,000,000</td>
<td>2.26</td>
</tr>
<tr>
<td>(e) Total fully occupied land</td>
<td>41,900</td>
<td><strong>41,900,000</strong></td>
<td>47.28</td>
</tr>
<tr>
<td><strong>7.0 Balance available for future economic use 2011 (2002/2003)</strong></td>
<td><strong>17,476</strong></td>
<td><strong>17,476,500</strong></td>
<td><strong>19.72</strong></td>
</tr>
<tr>
<td><strong>8.0 Estimated allocation to domestic (above 50 ha) and foreign investors and urbanization todate (own)</strong></td>
<td>40,000</td>
<td>4,000,000</td>
<td>4.51</td>
</tr>
<tr>
<td><strong>9.0 Balance available for communal use and allocation to smallholders &amp; all agricultural investments</strong></td>
<td><strong>194,000</strong></td>
<td><strong>13,476,000</strong></td>
<td><strong>15.21</strong></td>
</tr>
<tr>
<td><strong>10 GRAND TOTAL</strong></td>
<td><strong>886,037</strong></td>
<td><strong>88,603,700</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

**Sources:** Tanzania: UNCTAD, An Investment Guide to Tanzania Opportunities and Conditions, 2005; and TIC, Tanzania Investment Guide 2008 and Beyond; National Sample

---

49 The area of land under conservation does not include a strip of 60 metres around all water sources including springs, streams, rivers, and the coastline for inland lakes and the Indian Ocean. The Land Act defines this reserve as hazardous land.
Table I above shows that Tanzania has far less land available for distribution to small holders and agricultural investors. There is a maximum of 19,400,000 ha for both local communities as well as large and small holder investors, Tanzanian and foreigners, including interests in the mining and tourism sector interests. A major missing factor in the analysis in Table 1 is that of allocation or concessions in mining and tourism investments which should be quite substantial. Can Tanzania afford to concession up to half of this land i.e. 10.0 million hectares to foreign large scale investors and local elites. One has to bear in mind many villages have not reallocated land among its households to accommodate about 50% of the population that is under 18 years of age today, the majority of whom are going to depend on land resources within 10 years henceforth.

MAFSC analysis, based on 2002/03 sample agricultural census states that the average per capita holding of land in Tanzania at that time was a mere 0.1 hectares. This sounds realistic given that households have an average of 5 persons and the population has increased substantially in the interim period. To account for unreported allocations, including those held by village Governments as reserve land that is issued to needy Tanzanians from high land-shortage regions such as Mwanza, Shinyanga and Kilimanjaro, it is reasonable to double the area of land under smallholder allocation and/or reserves. This reduces the figure of land available to approximately 7.4 million hectares. MLHHSD reflects this situation in data showing that land that is available for investors is in the region of 2.0 million hectares.

The analysis in Table I above has not included the following types of land usage and holding due to lack of data:

i. Communal village use including village forestland that is critical for subsidiary activities like bee-keeping and serves as the primary source of energy;

ii. Reserve land maintained by village governments for allocation to the younger generation as they reach adulthood, critical for sustaining
current population levels given that the average size of land per household with 5 persons is less than 2 hectares. No reserve has been included for pastoralist in context of the need for a national strategy to reduce the numbers of herds and improve quality and yield to address the problem of land for pastoralists who are already occupying more than a quarter of all landmass.

iii. Guess-estimate for hazardous land and water catchment areas estimated at 1.6 million hectares.

iv. Allocations to medium and large investors made from 2007 to date in response to foreign investors and local acquisitions in response to Kilimo Kwanza. These range from very small holding in the region of 50 ha to medium deals averaging 1,000 to 5,000 ha and mega acquisitions in the mould of the AgriSol deal.

The fact that there is an increasing incidence of rural-urban migration and growing unemployment in the urban setting provides even stronger ground for reserving land for the young and implement programs demonstrating that agriculture is an honourable profession that pays. Giving away land that is their inheritance by neglect, will only contribute to increasing urban and rural poverty with its attendant consequences. Rural poverty due to access to land is a social problem that Tanzania and other SSA countries cannot afford to create. With the current population of 44 million projected to double by 2050, a major problem related to access to land is already emerging as evidenced by a substantial number of land disputes. This problem may reach crisis proportions and even get out of hand within a generation in view of current relatively smallholding sizes averaging 2 hectares per household that have an average of 5 people.50

It is in this regard that Tanzania needs to look into the various features of incoming FDI into agriculture, to ensure that apart from inclusion of smallholders and local communities into the global value chains, transfer of technology and entry into markets, there is no major change in land holding patterns based on long-leaseholds that entail de facto transfer of land to foreign investors. There has to be willingness on both sides to accept use of best practice instruments that enable TNCs access to land, under contracts that

50In January, 2011, the print media reported an incident of conflict between smallholders and large commercial farmers in Babati, central Tanzania involving the torching of a small scale sugar farm by unknown people. Babati is a rich agricultural land undertaking both rain-fed and irrigation farming of rice, maize, bananas, cotton and small scale sugar production. The district is densely populated and access to land and water rights for irrigation has become a bone of contention between smallholders and medium scale farmers. In the past a villager has been reported shot by employees of the company. Retaliatory arson responses are creating a deepening vendetta between the two sides.
are renewable over relatively reasonable periods of time in region of 20 years or so, that gives investors right to use land while ownership is retained by local communities and smallholders. Emerging evidence shows that SAGCOT is the one of a few major agricultural investment schemes that is moving in the right direction and is set to become a best-practice pilot scheme for Tanzania and others. The challenge is whether Tanzanians functionaries at the central and local government level will wait to learn from its success before embarking on major deals that will entrench irreversible harm even as SAGCOT is still at the embryonic stage.

3.6 THE ENABLING ENVIRONMENT FOR AGRICULTURAL INVESTMENTS

“Tanzania’s fast pace of urbanization has increased the population’s dependence on commercialized agriculture as a source of food and income. In the last 15 years, Tanzania’s urban population has almost doubled, while the rural population has increased by only a third. ... Over a third of the country’s population has remained food insecure during this time. To promote viable food production and distribution systems that strengthen the country’s food security, Tanzania’s enabling environment must simultaneously improve incentives for producers, processors and distributors; remove barriers to trade; increase the efficiency of handling and transportation...” USAID (2010).51

A review of the commercial, legal and institutional framework for Tanzania’s agricultural sector, published in 2010, reveals a number of major impediments that demotivates investment in agriculture. These barriers, constitutes transaction costs that lowers the advantages of access to land resources and agricultural good climatic conditions that are the driving force for the attraction of foreign investments. Difficulties in the development of large scale green field investments due to a cumbersome and prohibitive business environment, tends to strengthen the perception that requests for large areas of land include a substantial element of speculation given that land is an asset whose value is appreciating quickly.

Review of the business environment in Tanzania in comparison to peer economies in the Eastern and Southern African region reveals that Tanzania is lagging behind in the pace of regulatory and institutional reforms that contribute substantially in lowering transaction costs and contributing to competitiveness. For instance, Tanzania was ranked 128 on the aggregate ease of doing business indicator in the World Bank’s “Doing Business 2011

51USAID (2010); AgCLIR: TANZANIA Commercial Legal and Institutional Reform in Tanzania’s Agricultural Sector, Dar es Salaam.
The comparative rankings from a temporal perspective was number 131 in 2010, 127 in 2009 and 124 in 2008, confirming a trend of stagnation rather than dynamic change. The performance of regional competitors, i.e. Kenya, Rwanda and Zambia reveals much higher levels of determination in transformational change management underpinning regulatory reforms. This is exemplified by the dramatic ranking of Rwanda at number 58 in 2011 compared to 67 in 2010 and 143 in 2009. Likewise Zambia improved its performance on the same index to the impressive no 76 in 2011 compared to number 84 in 2010 and number 99 in 2009.

USAID’s review of the investment climate in the agricultural sector confirms the extent of impediments inbuilt into the existing regulatory regime and the need for change. Tanzania’s GDP is ranked as the fifth most dependent on agriculture in the world. Meanwhile 40% of the population lives in chronic food deficit regions. The report notes that unlike its peers in the region, Tanzania is not a major world producer for any crop with exception of sisal, compared to countries like Kenya which is number 3 world producer for tea (with a total annual output of 300,000 tons compared to Tanzania’s 35,000 tons), number 10 for coffee and a global leader in the export of horticultural products or Ethiopia which is the third largest producer of coffee.

If the government’s data that the entire land mass after taking out surface water resources, equivalent to 88.4 million hectares is arable (44.0 million for agriculture and the balance for grazing) is faulty, then there is a case for reviewing the salient policy approach to land administration and allocation. It is also necessary to guide incoming agricultural investors to adopt the good agricultural principles to refocus on intensive farming methods that require less reliance on large land volumes and links with smallholders. It is equally important to reconsider the prudence of allowing an incoming investor access to long-term user rights if that land is going to lie fallow for the coming twenty or thirty years waiting for future land scarcity when the investor can sublease at handsome profits in view of the predicted future value of land as an prime asset world-wide.

Intensive farming methods also requires calls for a major shift in government policies for agricultural development from blunt second and third best tools like export bans, import tariffs, price controls and input subsidies. It calls for identification of alternatives in the form of developmental instruments that will lead to improvement of the regulatory regime in key sectors with priorities going to business entry through:

- simple registration for legalization purposes and reform of the regulatory licensing regime to focus on effective regulation rather than revenue generation;
• efficient land administration to improve security of tenure and use of land as an economic asset; improvement of justice delivery for rapid resolution of disputes;

• supporting adoption of good agricultural practices to improve quality and productivity;

• streamlining of the tax administration regime;

• provision of agricultural extension and business development services;

• Trade facilitation including improvement of import/export operations at the ports and raising efficiency in multi-modal transportation systems; and

• supporting market linkages and entry for SMEs.

The Government adopted a roadmap to expedite reforms in these and other areas in July 2010. Whether these reforms will come quickly so as to have a significant impact on improvement of the business environment on the framework for attracting real investment into agriculture will depend on responses at the Local Government level where most impediments against agricultural investment are embedded. While the call for reforms has been received with enthusiasm at the national level, the outlook in a substantial number of the LGAs may be lukewarm, depending on the inclination of local leadership. A combination of resistance to change, limited awareness of best practice tools and policy capture by vested interests stands in the way of early success. Other challenges impacting on bona fide agricultural investments include the status of Dar es Salaam port and now endemic power shortages and load-shedding.

Typical trends towards policy capture cum resistance to real change is apparent in the land administration sector where information already captured electronically for a cadastral register with more than 200,000 out of a total of 400,000 informal properties has been practically cast aside by some of the LGAs in Dar es Salaam, although they participated in its collection and are hosting the equipment holding the data. In-spite of this rich information that is considered the first-best instrument for revenue generation, available information shows that some of the LGAs have commissioned the compilation of a new database that cannot match the integrity of the GPS based system. The objective is to create a source of information for administration of property taxes in the three municipalities that constitute Dar es Salaam city. The irony is that the World Bank is said to be supporting both projects.
Tanzania’s current problems in the agricultural sector pose a challenge that can be addressed through a combination of code of ethics for agricultural investments, business models and financing instruments that are the subject of subsequent chapters. However, these will only deliver the desired solution either through extension of massive and endless tax exemptions or major improvement in the business environment. Tax holidays are generally extended to foreign investors in a situation where it is imperative to link foreign agricultural investment with domestic economic agents as the tool for commercialization of subsistence agriculture. They are supposed to be ad interim instruments compensating for a highly distorted and cumbersome business environment while the Government is implementing reforms to remove laws and procedures that are the source of legal and administrative burdens. Hence the importance of adopting the only solution that is tenable and sustainable in the medium and long term i.e. rapid improvement of the business environment. This has to happen if SAGCOT and the other development corridors are going to take off successfully.
3.7 EXPERIMENTATION WITH BEST PRACTICE INSTRUMENTS IN TANZANIA

“... Mwanza - In May 2010, cotton stakeholders in Tanzania resolved to implement contract farming throughout the country’s western cotton growing area (WCGA) starting this season... the farming model to be employed in Tanzania entails formation of farmer-business groups (FBGs) comprising between 50 and 90 smallholders ..... the number of FBGs that have joined contract farming between 2008 and 2011 has increased by 353% from 47 groups, with 2241 farmers in 2008 to the current 587 groups with 37,951 farmers”. (The Citizen on Sunday, Special Report, 16 January, 2011).

Results from piloting of the Mwanza cotton project shows that yields per acre have gone up from 341 kg per acre to 487 kgs per acre in pilot areas. Consequently project stakeholders including the Tanzania Cotton Marketing Board with funding from GATSBY, with TECHNOSERVE providing technical services, have agreed to scale up production to include 30 ginneries serving as processors/marketers. The ginneries will interact with smallholders through Farmer’s Business Groups (FBGs) comprising of between 50 and 90 farmers under contract farming arrangements. The Ginneries will provide access to upstream production inputs including pesticides and fertilizers to be recovered from sales. The scheme’s structure links farmers to specific ginneries to avoid side-selling by farmers. The role of ginneries is underwritten by a Cotton Development Trust Fund (CDTF) supported by the Tanzania Gatsby Trust and the Tanzania Cotton Board.

3.7.1 Interventions for Agricultural Transformation

A second model investment instrument that is in the offing, involves a Korean investment company backed by the Government of South Korea investing in irrigation farming in the Rufiji Delta. The Korean side has taken precautions to avoid a repeat of the painful experience of the flopped 1.3 million hectare deal in Madagascar. This time the deal is much smaller, starting with a total of 50,000 hectares of which 50% will be developed into an out-grower irrigation scheme operated by local farmers while the other 50% will be operated by the company along the nucleus contract farming concept. The success of the first round of investment will inform the prudence of further extension.
Box 4: THE LOWER RUFIJJI BASIN: ABJECT POVERTY IN THE MIDST OF PLENTY

The Lower Rufiji plain comprises of an area of 5,000 sq km stretching from Stiegler’s gorge upstream down to the mouth of the Rufiji delta on the Indian ocean. It covers more than a third of Rufiji district with a total area of 13,339 sq. km. of which 7,914 sq. km. or 60% is classified as Government reserve land and only 40% (approximately 5,000 sq. km) is open land for economic activity. The Lower Rufiji basin comprises of approximately 400,000 hectares of which 350,000 hectares can be placed under diversified irrigation farming subject to subdivision into three categories with different but major investment requirements:

- 120,000 hectares of floodplain and river channels that constitute the delta and is amenable to crop farming only if the problems of salination and high susceptibility to flooding are addressed through large investment outlays;
- 150,000 hectares of flood plain comprising of “former” river channels, levees and shallow depressions that is good for crop farming subject to reasonable capital investments to control flooding; and
- River terraces surrounding the Rufiji middle flood plain and separating the upper flood plains from lower flood plains which spans both sides of the river (Northern and Southern terraces) that is estimated to comprise of more than 900,000 hectares.

The Rufiji basin, with its rich alluvial soils, can support production of food crops including rice, multiple herbaceous crops (maize, soya beans, sorghum, oilseeds including sesame and sunflower) and vegetables (onions, tomatoes) as well as cash crops i.e. cotton and cane sugar. It has attracted a number of speculative land deals by local investors of recent. Finally, Stiegler’s gorge is also Tanzania’s largest untapped hydro power generation source, with capacity exceeding 2,000 mega watts.

In 2002, Rufiji district had a population of approximately 200,000 people living in 45,000 households of 4.5 persons each in 98 registered villages. Three quarters of the households (35,000) were rural based. Literacy rates stood at 66% for males and 34% for females with access to education provided through 98 primary schools, one in each village, and only 4 Secondary Schools. Poverty in Rufiji takes the form of: food insecurity due to a subsistence economy characterized by insufficient harvests; intermittent flooding and draught; large rates of on-farm and post-harvest crop losses amounting to 50% of output; and forced food sales to raise money to cover costs of access to health and education services.

Poverty is entrenched by social patterns that include: high level of migration to urban centres; seasonal migration from residential villages located in higher land down to the floodplain during the farming season involving separation of families for up to 4 months a year and necessity to invest in temporary shelter in the flood plain, long distances between residences and the fields and a complex land-holding system and use arrangements.

Rufiji residents are suffering in abject poverty in the midst of high potential for plenty that can only be realized subject to major investment in minimum infrastructure to control floods. Clearly there is a fundamental role for a large agricultural investor and an investment fund focusing on social objectives and the Korea/Tanzania initiative.
through KRC/RUBADA is moving in the right direction. A good agricultural investment contract will have to recognize that local communities have settled in the basin four months each year during the farming season and move to higher ground during the heavy rains and that without ownership of this land, they are doomed to endless poverty.

Box 4, on the Rufiji basin and its potential as a model agricultural investment scheme shows the importance of using the emerging investment opportunities to address challenges posed by the need to use modern technology to conquer nature. The kind of irrigation infrastructure required to develop the Rufiji basin is out of reach of the local population. Investment in such infrastructure and introduction of out-grower schemes or other business models that provides for inclusion of local communities is not a choice but a prerogative if the Rufiji communities are to benefit from their endowment of rich agricultural land and large water resources.

The challenge on the part of Tanzania is to negotiate a balanced contract that accords the right value to land and to technology. Intuitively, the 50-50 deal that is being worked out through two public institutions representing the government of Tanzania and that of Korea is the right tool. The Rufiji scheme is being implemented in a participatory manner involving the local communities in the conclusion of the deal. Does the package address the issue of land acquisition and water rights protection adequately. In the final analysis the massive investment in infrastructure for flood control and its maintenance over time rationalizes the 50-50 approach being adopted, without which the residents of Rufiji will remain condemned to endemic poverty in the midst of so much potential for a higher living standard.

To understand the difference between a good and bad investment deal, look at one of the most controversial land acquisition projects in the tourism sector which took place more than 10 years ago. The deal involved the allocation of exclusive hunting rights over substantial areas of land in Loliondo district granted to Messrs Ortelo Business Corporation (OBC). OBC, a company belonging to the Sultan of Dubai, has been accorded full rights to land formerly belonging to local communities in eight pastoralist villages, a deal that was concluded and remains rooted in secrecy. Today villager’s presence in the area is treated as trespassing. Incidences of demonstrations by pastoralists in 2010 was resolved violently including burning up of nomadic settlements on the grounds of the official explanation that those involved were impostors from the other side of the border.

This raises questions about other deals that are in the offing as reported in the media. For instance, will the Saudi interest and request for 500,000 hectares
(equivalent to 5,000 sq km), lead to a development initiative akin to the Rufiji scheme or will it take the model of OBC’s Loliondo hunting territory and become a foreign enclave, the size of Zanzibar, scattered over different regions in Tanzania (it is practically impossible to find a single piece of land this size without creating the politically untenable dislocation entailing the relocation of the population of an entire district. Tanzania has 168 Local Government Authorities and the average size of a district is in the region of 5,000 to 10,000 sq km. Limiting the size of land allocation for agricultural investors and a slower pace in the consideration and approval of such deals pending the lessons from SAGCOT and other pilot schemes would enable Tanzania to learn from the envisaged experience before scaling up or rolling out to other regions and districts. Pilots have their own advantage for mistakes made in the initial stages are easy to correct during the rolling out or scaling up stages.

A conscious policy decision to adopt the principles of good agricultural investments and deliberate enhanced application of suitable investment models to ensure proactive participation of local farmers is a matter of pressing importance. Although the principles and the underlying models have been adopted sub-consciously, it is imperative that decisions that influence major developments regarding potential conflict or its avoidance in future are not left to chance and goodwill on the part of government but are subjected to strategic policy implementation guidelines. Good practices in agricultural investments have to become the norm rather than the exception. It is in this context that specific policy measures are being recommended with the proviso that the updating of the agricultural policy be undertaken to accommodate changes necessary to address the following: climate change phenomenon; increasing deforestation and other land degradation practices; and promotion of agricultural investment opportunities in compliance with the good principles.

3.7.2 Omerta the Conspiracy of Inaction and Silence

One question which many inside and outside Sub-Sahara Africa are asking themselves today concerns the single most important issues that should be addressed to ensure that Africa does not miss the second decade of the 21st Century much the same as it missed the two decades of 1980s and 1990s. Clearly the answer lies in good governance. To-date poor governance has been the bane of development leading to massive leakage of financial resources that could produce wonders if invested judiciously in the continent. World Bank data reports that capital flight from Africa due to this leakage is about equal to ODA inflows.
A popular joke in Tanzania, common during the 1990s, compared corrupt government negotiators in Africa with their counterparts in Asia. The African party would demand a 50% stake of the contract sum as “tea” or “kola-nut” money to be shared with the big men behind the scenes and the road or bridge will end up not being constructed. To the contrary, the Asian compatriot would demand his 10% or 20% cut but also ensure that a good road or bridge is delivered.

That was the perception of rent-seeking in an environment of severe lack of transparency during the 1990s. Today, transparency has improved in the face of growth in democratic institutions but open rent-seeking has exploded into gluttonous proportions and pervade all levels of government in SSA: from the lowest rungs of the civil service ladders to the highest offices in the land. The problems have reached the level of open anarchy as governments are losing legitimacy and hordes of unemployed youth threaten socio-political systems with impending implosion. The incidence of failed states could rise to unmanageable proportions in the near future unless the current trend in land allocations for agricultural investments is addressed to ensure that the interests of smallholders are taken into consideration.

The extent of rent-seeking within the political sphere of government machinery has been well documented in cases such as the Mobutu regime in the then Zaire during the 1980s. At the height of his heydays Mobutu presided over a patrimonial government system that made his family one of the five or so richest ones in the world for quite a while. Nigeria’s military oligarchies of the 1970s and 1980s did also throw up a spate of millionaires built on the graveyard of state resources, as Ministers handed out supply contracts that were paid for handsomely but delivered little. One of the most blatant cases involved a Honourable former Minister, Umaru Dikko, reported to have amassed USD4.0 billion before taking refuge and residence in London. An initiative to kidnap this mogul of corruption and fly him back to Nigeria to face justice, reputedly contracted out to former Israeli intelligence officials, aborted with the discovery of a container carrying this precious live human cargo at an airport in London, on the point of being loaded amongst airfreight cargo destined for Lagos.

Clearly, the mess of corruption in Africa is largely attributed to the degeneration of moral probity and integrity. However, experience from other jurisdictions shows that a functioning civil service can provide a necessary, but not sufficient antidote and deterrence for political level corruption. At any rate, the political class cannot succeed on its own volition, without the benign or active support of middle and top level civil servants. The key to future success in curbing corruption, depends on the extent to which there is willingness to
build strong public institutions with systems that are able to provide the checks and balances that contribute to enforcing the virtues of good governance in public life. This is true for Tanzania and other SSA countries. Undoubtedly, investment in electronic government and the computerization of civil registries, particularly in the critical areas of tax administration, government budget management, and land administration and information services are a powerful tool in discouraging corrupt practices as new databases with records that cannot be destroyed at will, provide a new form of deterrence against gross corrupt practices in government service delivery. The key, therefore, is to expedite regulatory reforms combined with institutional capacity building in key service areas based on harnessing ICT in areas where corruption is most strife. One of the few areas where this transformation is a must is that of land administration and land information services delivery.

The technology for bona-fide, guaranteed land registration and administration services lies in the adoption of GPS (geographical positioning systems) in the development of a land registry in which fraud related operations that pervades the existing manual systems will be a story of the past. A GPS-based land registry is also a major revenue collection instrument for central and local governments and the foundation for creating an efficient land market, in which land can become a powerful economic asset for the poor and one for guaranteeing security of tenure for the poor and the rich, the powerful and the downtrodden, men and women alike.

However, efforts in Tanzania in this direction are not moving as well as would be desirable for the poor who are always on the losing end in most land conflicts largely due to cross sharing of responsibility between central ministries and local authorities under the Devolution by Decentralization policy, particularly in the cases of LGAs that are not keen to bring order into chaotic systems where a few officials are benefitting. In the meantime, incidences for acquisition of large stakes of land like the AgriSol initiative are being made and some of them could be allowed to take place largely because the authorities lack the information to portray the real situation on land holding patterns on the ground and the imminent dangers of the large land deals on the table.

Clearly the Agrisol deal cannot be compared to the SAGCOT initiative. While SAGCOT is a carefully designed program seeking to establish a best practice model upon which the Tanzanian authorities could draw in handling future land deals, Agrisol is as speculative as any of the other land deals that have raised eyebrows and concern across the world. Yet these developments are taking place without taking into consideration the future rights and fate of the 70% currently dependent on land for their livelihood and more so that of their children who will constitute the bulk of Tanzania’s population expected to have
doubled by year 2050. How are these masses going to survive in a global world where their land will have been gobbled up and ring-fenced by the likes of AgriSol Energy Tanzania Limited.

Undoubtedly, there is a conspiracy of silence and inaction, prevailing across most SSA countries that is contributing to the pervasive and increasing incidence of corruption at all levels. There could very well be a code of silence reflecting the maxim of “scratch my back and I will scratch yours.... “Do not ask and you will not know. Do not investigate and you will not find. Do not find and you cannot be guilty of collaboration...” It is the cancer that must be uprooted if Government, regardless of the shade of political party that may be in power, is to regain its legitimacy in the eyes of the people across Sub Sahara Africa, Tanzania included.

This trend strengthens and validates part of Dambisa Moyo’s treatise in “Dead Aid” and the imperative of taking action at the national level. Moyo’s argument that Africa’s continual aid-dependency throws up a host of other problems such as commitment to pursue tax revenues through different forms of taxation and reducing the size of Government may be true. However, there is no denying the fact that aid has contributed considerably in enabling countries like Kenya that have transformed the tea and horticultural sub-sectors through instruments like contract farming. Today this transformation has enabled that country to widen its tax base and reduce its dependence on aid substantially. Sometimes it is good to address the causes that make aid ineffective rather than cutting off aid altogether. Further, aid does perform a gap bridging function that has contributed substantially to achievements recorded in Sub-Sahara Africa in the areas of development of social and economic infrastructure as well as reversing the adverse impact of ignorance and disease that are addressed through the MDGs.

The impact of ODA has a human face as well as a political one and scholars should not emphasize on one side to the detriment of the other. While it cannot be denied that ODA can increase the loot available to the corrupt, it is necessary to avoid throwing out the baby with the dirty water. The key is to find effective instruments that underscore the forces of corruption. In this regard the starting point is formal recognition that the culture of deliberate silence and inaction is enabling and fuelling unbridled corruption to hold sway and multiply as technocrats supposed to initiate measures necessary to stem and deter this evil, are caught inside the very web of corrupt practices itself.

The end result is an ingrained culture of inaction reinforced by an enduring conspiracy of silence.
CHAPTER FOUR

GOOD PRACTICES IN AGRICULTURAL INVESTMENT

Several African countries have had to grapple with difficult land redistribution issues from the moment of attaining statehood and are still engaged in momentous and difficult tasks of resolving this colonial legacy. For instance, Kenya and Zimbabwe have paid a high price for inherited land holding patterns that have been the cause of severe civil disturbance in the recent past. The Republic of South Africa continues to face major hurdles of reducing income distribution inequalities that are deeply rooted in access to production assets and opportunities for the majority of its population, which includes access to land. All three are compelled to work on difficult land redistribution measures as the prerequisite for social cohesion that is necessary to facilitate smooth transition from agriculture driven economic growth to new opportunities based on a combination of industrialization and services driven growth.

It is telling that even as we have witnessed recent political conflict in countries like Kenya and Zimbabwe that is rooted in access to arable land for the rural poor many African countries have embarked on the race to the bottom for attracting agricultural investments without putting in place a national strategy on how to maximize expected benefits and minimize any adverse unintended consequences. Cotula, in the course of his analysis on “Land deals in Africa: What is in the Contracts?” concludes that out of the four largest leading hosts for agricultural investments comprising of Sudan, Ethiopia, Mali and Liberia, identifies Liberia as the only country that has consistently made concerted efforts for adoption of best practices in land-lease contracts.

Investment in agriculture that seeks to transform smallholder's agriculture from subsistence to commercial, raise productivity towards global standards, and provide secure links to markets is the prerequisite for poverty reduction in Africa. This was the cornerstone of the green revolution that preceded the industrial transformation in the case of the Asian tigers including Korea during the 1970s Thailand during the 1980s and 1990s and Vietnam more recently. One salient feature of that green revolution was the reform of land policies that included a package of land redistribution and land administration to guarantee individual property rights and accessible information on land as an asset ranging from survey of individual plots, soil mapping and national land valuation databases supporting the use of land as a powerful economic asset.
The political will behind these developments, in the case of South East Asia, was based on responses to two premises: the fact that land is a limited asset that cannot be expanded in tandem with a growing population and the importance of using agricultural sector policies to maximize the contribution of land; and use of the green revolution to create a strong domestic economy and set in motion a sustainable process of industrialization to take advantage of expanding world trade in manufactured products. It is telling that apart from good performance in select industrial sectors, the larger Asian tigers created niches in the global agricultural market in which they become and to-date retain strong leadership as top producers and/or exporters. For instance Thailand is either a leading producer or exporter of rice, cassava, pineapples, and orchids (flowers). The same strategy underpins ongoing transformation of the latest success stories emerging in Asia i.e. the unfolding story of Vietnam and perhaps, in the near future, that of Cambodia.

Many African countries aspire to emulate the Asian miracle. Unfortunately, most are captivated by the predominant literature on the role that export led manufacturing has played in their case. They have failed to grasp the more salient role of agricultural transformation preceding a successful industrialization process.

It is from this perspective that initiatives to transform African agriculture must operate. Investments in agriculture are necessary to fuel and fire the engine that will kick-start a process of sustainable industrialization. A sustainable process of industrial take-off in SSA today should logically be based on converting natural resources comparative advantages into competitive edges in selected areas and subsectors. This entails a combination of agro-processing, agribusiness and value addition on agricultural and other natural resources endowment as well as harnessing of new technologies to build capacities to excel in new products and the services sectors. Agricultural investments flows into Africa should support this scenario if they are to contribute to the realization of the promise of raising productivity and welfare in a manner that is consistent with strategies for growth and poverty reduction. The international literature highlights three conformity premises for foreign investments to contribute to the dream of African development:

- respect for the rights of existing users of land, water and other resources;
- protection and improvement of livelihoods at the household and community level; and
- support for environmental and social sustainability.

A host of factors have triggered a renewed sharp increase in interest for acquisition and use of significant agricultural land, water, grassland, and
forested areas in developing and transition economies. These include speculation on land and commodity price increases and possibly anticipation of payments for carbon sequestration. The range of key actors includes agro-enterprises in agri-food, bio-fuels, and extractive industries, private equity and other financial institutions, government-linked companies including sovereign wealth funds, and individual entrepreneurs.

Countries with functioning market supporting institutions have benefitted substantially from private investment in the agricultural sector through better access to capital, technology and skills, generation of employment, and productivity increases. Other benefits have accrued from investment vehicles that facilitate participation of the local populations such as contract farming and other out-grower arrangements, and joint ventures with local communities, as schemes that seek to share both risks and rewards.

States where rights are not well defined, governance is weak, or those affected by lack of voice, have not benefitted from these opportunities. To the contrary, investments have culminated in higher exposure to risks for the local population. The outcome has been displacement of local populations, negation of existing rights, increased corruption, reduced food security, environmental damage culminating in loss of livelihoods or opportunity for land access by the vulnerable, nutritional deprivation, social polarization and political instability. This does not include the ultimate failure of large farming investments that have denied governments from receiving the envisaged tax revenue inflows and transfer of technologies that were hyped during the take off period. It does not include endless exemptions from taxation and lease rentals.

It is in this perspective that FAO, IFAD, the UNCTAD Secretariat and the World Bank Group joined forces to come up with proposals on the “Principles for good agricultural investment” and related best practice business models and financing instruments that include guidelines and governance frameworks and ultimately codes of practice for major private sector actors. The intention is mitigation against the rapid advance of a problem that is getting out of control even before the ink dries out on contracts guaranteeing access to large land areas and future monopoly to limited water resources that will deprive local communities of their key livelihood sources. This time, there will be no Berlin conference to blame, but the performance of third generation post independence leadership and the extent to which their rule has honored fundamental democratic principles rooted in transparency and good governance.

4.1 SEVEN PRINCIPLES OF RESPONSIBLE INVESTMENTS IN AGRICULTURE

78
The shift in interest towards agricultural investments is a good omen and one that SSA and other developing countries have been searching for. However, the envisaged benefits will not come about automatically without implementation of deliberate measures to ensure that investments contribute to the realization of the goals of achieving broad and shared growth. The “principles of responsible investments in agriculture” is a multilateral agencies initiative responding to the need for prior mitigation against adverse unintended consequences resulting from major agricultural investments. The thrust of the principles is maintenance of existing land and other resources user rights in the hands of local communities as well as safeguarding social and environmental sustainability. The following subsections describe the principles and their roles in supporting mutually beneficial land transfer/acquisition deals for major agricultural investments.

**4.1.1 Respect for Land and Resource Rights:**

“Many investments requiring access to land on a large-scale focus on areas which outsiders consider ‘empty’ or ‘marginal’. Yet ... there are few areas truly ‘unoccupied’ or “unclaimed”, and that frequently land classified as such is, in fact, subject to long-standing rights of use, access and management based on custom. Failure to recognize such rights, including secondary ones, will deprive locals of key resources on which their wealth and livelihoods depend.”

The first and most fundamental principle responds to the need to ensure that user or ownership rights to land, whether statutory or customary, primary or secondary, formal or informal, group or individual, should be respected. This requires: (i) the identification of all rights holders; (ii) legal recognition of all rights and uses, together with options for their demarcation and registration or recording; (iii) negotiation with land holders/users, based on informed and free choice, in order to identify the types of rights to be transferred and modalities for doing so; (iv) fair and prompt payment for all acquired rights; and (v) independent avenues for resolving disputes or grievances.

The salient rights of pastoralists, displaced population groups and gender groups are often neglected in the course of reallocation of land rights to facilitate agricultural investments. Governments have the obligation to ensure full recognition of rights to land and associated natural resources and the right to determine their uses as a tool for empowerment of local communities.

53 FAO, IFAD, the UNCTAD Secretariat and the World Bank Group; Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources; Synoptic Version of discussion note; February 2010; p2.
4.1.2 Food Security: In the second place, it is equally important to ensure that agricultural investments do strengthen food security rather than jeopardizing it in terms of availability, access, utilization and stability. Policy-makers should initiate and implement measures to ensure that affected populations have: (i) continuing access to food; (ii) enhanced opportunities for out-grower involvement and off-farm employment to protect livelihoods and increase incomes; (iii) staple food preferences are taken into account; and (iv) adaptation of strategies to reduce potential supply instability.

4.1.3 Transparency, Good Governance and Enabling Environment: Third, it is pertinent that processes relating to investment in agriculture are transparent, monitored, and ensures accountability by all stakeholders, and that they are informed and guided by compliance requirements entrenched in an appropriate regulatory business environment. Undoubtedly, lack of transparency leads to loss of trust and confidence between the three major parties involved i.e. incoming investors, government actors and members of local communities. Lack of trust and confidence eliminates the potential of resolving misunderstandings and differences in position before they escalate into full-blown conflict that undermines the reputational risks of host governments and large investors. Greater transparency also reduces transaction costs and lowers the cost of doing business. These factors contribute to creating a better image of the host country as a good investment destination while enhancing the sustainability of incoming investors business, leading to mutual benefits for all sides.

Such an enabling regulatory environment requires that the policies, laws and regulations affecting the business environment are benchmarked against globally accepted good practices as well as development of efficient implementing institutions. The objective is to ensure efficiency in government service delivery supporting agricultural investments through: (i) public availability of information on availability of land and benefits of agricultural investments such as resources inflows and tax revenue streams; (ii) efficient and rapid processing of analysis and selection of investments to be accepted, land transfers and provision of incentives on the basis of good governance principles; and (iii) monitoring and evaluation of investments to ensure realization of agreed objectives.

Further, innovative private sector solutions based on public/private sector collaboration in addressing binding constraints such as the provision of infrastructural services that require large investments in key sectors such as power generation and modernization of transportation systems if critical for facilitating market linkages. According to the World Bank, Africa needs to move carefully in utilizing its “fairly abundant” water and land resources, by
creating a better investment climate to create considerable scope for profitable production of bulk commodities. However:

“.... Infrastructure constraints imply that, initially, supply would be limited to domestic and regional markets, worth some $50 billion a year, which could then provide a springboard for global exports. Investors will need to work with local communities to engage smallholders. And if farming is large-scale, attention needs to be given to the rights of local land users. While still at an early stage, experiences with productive partnerships and between large operations and local smallholders that have been initiated by a number of investors recently could provide valuable lessons and help identify good practice.”

4.1.4 Consultation and Participation: The fourth principle emphasizes participatory implementation so that all those materially affected are consulted, while resulting agreements are recorded and available to all parties for effective enforcement. Participation of local communities in agricultural investments is key to sustainability of such investments, that is possible through adoption of business models and instruments that take into consideration the local people’s vision and expectations of development. Even where consultations are the norm, the degree and nature of involvement can make a difference between success and failure impacting on sustainability. More effective consultative processes are critical subject to ensuring that they are supported by: (i) clear definition of the appropriate representation of local stakeholders; (ii) development and use of model agreements to guide the content of consultations and ensure that resulting deals are formalized and recorded; and (iii) specification of methods for enforcement and sanctions for non-compliance.

4.1.5 Responsible Agro-Enterprise Investments: Fifth, it is also important that investors ensure that their projects comply with the rule of law, reflect industry best practices and have economic viability with shared values. Investors have a special responsibility to apply high standards in the design and execution of their projects. Economic viability, which in turn rests on technical feasibility, is a precondition for the generation of benefits that can then be distributed among stakeholders. The offer of public resources including tax breaks or public assets like complementary infrastructure as incentives to investors, creates obligations for government agencies to undertake due diligence on investment proposals and review feasibility reports.

to ensure that host countries, affected communities, and local stakeholders will benefit from the investment and that investment proposals fit into broader food security and development strategies.

Further, due diligence process on project proposals is necessary to ensure that investors undertake to: (i) comply with host country policies, laws and regulations and complimentary international treaties and conventions; (ii) adhere to global good practices for transparency, accountability and corporate responsibility; and (iii) generate significant and tangible benefits for local communities and the host country in the course of increasing their shareholder’s value.

4.1.6 Social Sustainability: The sixth principle calls for agricultural investments that generate desirable social and distributional impacts and do not increase the vulnerability of local communities and host countries. Economically viable and generally sustainable projects may have unintended adverse social impact such as displacement of local communities with inadequate compensation and benefits being captured by local elites and bypassing deserving groups. It is therefore necessary for investors and host governments to have in-depth analysis of the cultural context of the investment locality, including sources of vulnerability and potential conflict, as well as sources of livelihood and food security with a view to identifying and implementing risk mitigation measures to ensure social stability and sustainability. This calls for explicit consideration of the interests of vulnerable groups particularly women, transfer of technology measures, provision of public goods and services and generation of employment and incomes as an integral part of investment design.

4.1.7 Environmental Sustainability: Finally, it is necessary to identify and quantify the environmental impact of agricultural investment projects and initiate measures to encourage sustainable resource use. Often, the profit maximization objective conflicts with rigorous demands for environmental sustainability in an investment world striving to address the challenges of climate change. Investors motivated by cost reduction imperatives in meeting the competitiveness challenge have little incentives to invest substantially in measures for environmental sustainability. Hence host governments have to put in place, regulations for environmentally sustainable agricultural investment activities that take into consideration remote impacts such as river basin and deforestation impacts that may lead to population dislocation outside the project area. This calls for capacity to monitor effectively the environmental impact of agricultural projects given the possibility of investors
reneging on agreements or denying responsibility for effects materializing in the latter stages of project lifecycle.

Collaborative efforts between investors and governments are necessary so that agricultural investments projects comply with the following requirements: (i) undertaking of independent environmental impact analysis to inform project approval to provide full information on potential loss of public goods, such as biodiversity and forests; (ii) increasing productivity on resources already in use; (iii) adoption of the most appropriate productions system to enhance efficient and sustainable resource utilization; and (iv) adoption of good environmental practices for all activities along the entire value chain putting in place an effective monitoring and evaluation framework.

4.2 AGRICULTURAL INVESTMENT BUSINESS MODELS AND INVESTMENT FUNDS

While land has always been a finite economic resource, the growing scarcity of arable land for agricultural production to meet rapid expansion of demand for food and bio-fuel products, is the driving force behind emerging investor interest in land acquisition.

Technological developments in the area of production technologies, including chemical and genetic agricultural production practices are providing new opportunities for shifting production possibility frontiers to higher levels. Technological innovation can also be used to recover degraded land already lost to agricultural activities. However, its application is rather limited and largely out of reach to low income developing countries due to the high costs involved. Recent trends in the allocation of substantially large tracts of arable land resources by governments of low income countries to international agricultural investors, based on expectations of access to technology with little or no due diligence and analysis of how this will be realized has triggered concerns at the national and international levels.

Concerns at the national level have taken the form of simmering socio-political conflicts and resistance to perceptions of land-grabbing by agricultural investors. Concerns at the international level have culminated in positive developments like the development of a code of conduct for international agricultural investments in the form of the seven principles of good agricultural practices. Other international responses include renewed interests in agricultural business models to support investments that do not necessarily lead to changes in land ownership patterns as well as financing instruments that popularize the adoption of models that balance the interests of agricultural investors, local communities and host governments.
Evidence from the financial crises of the 2008/2009 highlights the reality that, the assumption of rational behavior that underpins commercial decisions in the face of hard realities of business decisions driven by profits have to be supported by stronger regulatory measures by governments. Firms operating in environments with weak regulatory regimes are inclined to include speculative practices in their decisions, where these make business sense. Continuing deadlock in negotiations for the liberalization of multilateral agricultural trade, the food price increases of 2008 and erratic bans of food commodity exports by countries with large population project future conflict scenarios in the face of imminent world crises related to food-security and access to water resources.

In a global agricultural market characterized by rising food prices and erratic bans of food exports, where SSA countries have little influence on international production decisions and even lesser influence on trade flows (SSA share of world trade is limited to a mere 6% of the total volume at present), strategic repositioning is a prudent prerogative. This repositioning requires taking proactive measures to reinforce the location of SSA national interests in changing global value chains.

SSA and other law income countries have to be able to read and respond to the changing configuration of power relations that are transforming former supplier and buyer driven value chains into integrated systems increasingly dominated by transnational firms. For the first time, SSAs are in possession of a powerful instrument, in the form of arable land, that they can use judiciously to curve a niche in evolving value chain power relations at the production, processing and marketing levels.

There is a clear perception of future power lying in the hands of those who control production assets, including land and technology especially seeds.

---


56 The analysis of power relationships in the global value chains over the past twenty years reveals that the less advanced developing countries have been locked into the production side of buyer driven (demand-driven) value chains and to the distribution side of producer driven (supply-driven) value chains. Consequently these countries have been operating in markets where they have remained on the receiving side of primary decisions that has ensured that values accruing to economic agents have maximized the benefits of those who exercise maximum influence on the power relations in the supply chain. The current concerns are tipping the scale in power relationships for supply or value chains in the agricultural sector towards concentration of power across the whole chain in favour of large investors in the industrialized countries.
apart from related agronomic practices. SSA’s potential in earning adequate returns from emerging international trading relationships depends on the astuteness of governments in supporting local community participation in global markets and sharing in value chain power relationships. Review and analysis of agricultural business models in application world-wide reveals six models that have attracted major domestic and international investments into agriculture. These models are based on different landholding patterns that range from retention of the status quo to partial transfer of land user rights in favour of incoming investors. SSA countries can adopt these instruments to retain land rights in the hands of local communities in host countries, in mitigation against the growing risk of land dispossession for future generations.

Four of these models focus on mitigation against the risk of land dispossession i.e.: contract farming; leasing and management contracts; tenant farming / sharecropping; and joint venture schemes. Two other models, providing options for engaging in activities along agricultural production chains, are “farmer-owned businesses” and “upstream and downstream business linkages”.

Vermuelen and Cotula describe four factors or criteria that can be applied for systematic analysis of the six business models, on the basis of the extent to which each of the models responds to sharing of values between agribusiness investors and local landholders and operators. The four criteria are extent of ownership, voice in business decisions, extent of risk sharing and extent of reward sharing.

- **Ownership**: this refers to ownership of the business in the form of equity shareholding and of key project assets such as land and processing facilities;
- **Voice**: refers to the ability to influence key business decisions including role in decision making, review of grievances and degree of asymmetries in access to information;
- **Risk**: refers to the extent of sharing in business risks particularly commercial, political and reputational risks; and
- **Reward**: refers to the extent of sharing in economic costs and benefits, financing arrangements and price setting.

---

A combination of targeted business strategies by the private sector and corresponding policies on the part of Government are a necessary but not sufficient condition to ensure successful implementation and outcomes in handling land reallocation for agricultural investments. These models provide the instruments for collaborative public interventions and private sector actions for mitigation of problems associated with low income countries desire to receive and accommodate major international agricultural investments. Subsequent sections of this chapter undertakes an analytical review of these models with a view to setting the background for policy recommendations on instruments for responding to the emerging problem of allocation of land acquisition requests for agro-investments without undermining the rights of smallholders and local communities in SSA countries.

4.2.1 Contract Farming and Out-grower Schemes: Contract farming is a business model comprising a package of supply and marketing arrangements linking a large number of small local farmers and/or medium farmers with a buyer or buyers organized as a company or companies based on a number of separate contracts or agreements. The contract provides for the company to purchase the agricultural produce of the local farmers specified in quality and quantity at pre-agreed dates and prices and undertakes value addition, processing and marketing. The contract also calls for the company to provide production inputs and technical expertise for good agricultural practice on credit with costs being recovered from the sales proceeds. Companies are therefore assured of raw materials and rural communities are assured of access to latest agronomic practices and inputs with guaranteed markets for the output.

There are four variants of contract farming in practice i.e.: the nucleus estate model, the multiparty model, the informal model and the intermediary model.

- **Nucleus estate model**: This is the most common variant whereby the company owns and runs a nucleus plantation, processing / marketing facilities and input supplies are supplemented by contracts with out-growers;
- **Multiparty model**: this variant links local farmers with joint venture companies bringing into play a wide range of parties;
- **Informal model**: in this instance, the contract or agreements are in verbal form supported by seasonal agreements; and
- **Intermediary model**: the agribusiness company does not link directly with out-growers but may sign agreements with middlemen or intermediaries who contract with a large number of small farmers.
This model is a tool to create opportunities to bypass the need for land ownership for production based on large plantations common in tree crop farming, sugar and tea industries as well as products that require access to unique technology to support compliance with rigorous standards. The nucleus estate model provides for ownership of land rights by both the company and small holders. The company has a strong voice on business decision-making, particularly in cases where out-growers are a supplementary source of raw materials but small holders wield considerable power in cases where all production is in their hands.

Contract farming is a unique instrument for accommodating agricultural investments that provide for inclusive participation of local communities as out-growers and ensures their benefitting from linkage with processing facilities and global markets simultaneously ensuring security of tenure for small holder land rights. Negative side effects that require proactive government intervention includes the potential for deeper marginalization of women’s access to land user rights subsequent to commercialization of food crops and overall marginalization of local communities by local elites who may seize out-grower investment opportunities and related shifting patterns in land utilization.

Contract farming has been a major instrument in involving local communities in fruit and vegetable farming in the Kenyan horticultural industry with approximately 46% of the share in horticultural exports, as well as 60% of the production of tea and sugar. This tool also supports 75% of poultry production in Brazil (number 2 exporter in the world after the USA). It also supports 90% of production of cotton, 50% of tea and 40% of rice production in Vietnam; and 100% of production of cotton in Mozambique.

It is noteworthy that state owned enterprises (SOEs) have at times played the role of the company in contract farming as exemplified by case studies in Kenya and Malaysia and schemes supported by the IFC and the CDC. Tanzania is also implementing a number of successful contract farming schemes in the sugar industry and the model underpins the unfolding development of the horticultural and forest/wood subsectors.

Government policies to support contract farming should address the need to balance power relationships between companies and farmers through standard tools like model contracts and farmers training and encouragement of the industry to come up with a voluntary code of conduct. While smallholders carry the production risks, the company bears the burden of other risks such as marketing risks especially in volatile commodity markets. Rewards are often a factor of purchase prices and terms of input supplies and the capacity of local
farmers to negotiate good contracts reflecting changing world market conditions.

Other government roles in contract farming include the scaling up of successful pilot schemes established with the support of international agencies such as the IFC and CDC supporting the introduction of the model and roll-out to other products, sector or localities. Governments also have the duty to supplement training on agronomic practices and negotiation of balanced contracts and establishment of a suitable institutional and regulatory framework to support contract farming. Governments can promote trust and confidence between the company and smallholders in the early stages by underwriting or guaranteeing the role of the company and sensitizing small farmers on the importance of honoring out-grower contracts specifically with respect to avoiding side-selling of contracted produce to third parties.

Effective government interventions in these roles make contract farming a powerful tool for mutually beneficial agricultural investments, particularly in projects that respond to food security concerns. It is also appropriate in the case of bio-fuel production subject to preconditions that part local communities make adequate land provision and resources to food production that is equally supported by the company.

4.2.2 Leases and Management Contracts: Under the lease and management contract, a farmer or a company works on agricultural land that belongs to someone else through a leasing arrangement in return for payment of lease rentals or management contracts for fees that may include some form of profit sharing. This model is commonly adopted by large estates holders who contract agribusiness companies to manage their plantations. The estate holders may be individuals, companies, state owned enterprises or local communities and or groups of smallholders who own land/or hold it jointly under long-term leases. Sharing of rewards under lease contracts is often limited to lease rentals while management contracts are rewarded through fixed fees with profit sharing serving as motivation for farm managers. Leasehold and management contracts may provide for payment in cash or sharing of the final output. Both schemes provide for the company or agribusiness to wield full control over farming operations while land ownership remains under the ownership of a local community or group of smallholders. Assets, other that land, resulting from the investment can be held jointly. This model places all business decisions in the hands of the leaseholder or management firm while landholders are free to review the terms of the contract when it comes up for renewal. Leases provide for sharing of production and market risks by both parties while the landholders carries solely the risks associated with the opportunity cost of placing land under alternative better
uses in a dynamic environment. Ultimately, the sharing of rewards is not automatically linked to risks but is also determined during contract negotiation stage and depends on the capacities of local communities to negotiate balanced and mutually beneficial contracts. Model contracts are useful in providing negotiation benchmarks for unsophisticated smallholder farmers.

Shortcomings of the model include lack of provisions to enable usage of leased land for joint production of agreed commercial products as well as food products for subsistence purposes. However, innovative changes to address this shortcoming include shortening the duration of management contracts so as to create opportunities for contract renegotiations in rapidly changing market conditions. Other changes may provide for demarcation of areas of leased land for subsistence production activities to address challenges of unemployment and food security, especially in cases of land acquisition for bio-fuel production. It is also possible to modify management and leasehold contracts to provide for crop-sharing or profit-sharing as tools for promoting farer returns in response to the changing values of land.

Under this model, the role of the Government includes provision of the regulatory framework governing leasehold and management contracts. Advantages of this model include simplicity in the model’s operations and opportunities for better returns to landowning communities combined with additional benefits of inclusion in market entry opportunities and benefits accruing to externalities such as access to the carbon market and cultural tourism opportunities.

Management contracts are prevalent in economies where management of farms and ownership of land have become separated including industrialized countries and emerging economies such as Brazil and South Africa. A model case in low income countries is that of Papua New Guinea where the landholders receive royalties as well as land rental fees under a simple leasing model. In South Africa, Mondi Ltd, leases land from a Community Trust that allows the company to grow timber and to conduct commercial forestry operations on the community’s land in return for indexed fees under a deal that was negotiated as part of land restitution settlements by the South African Government.58

This instrument is relatively uncommon in its pure form in the Tanzanian environment. However, contract management has been applied in several cases as part of the package of instruments applied in venture capital initiatives, ostensibly as an instrument to raise production standards to levels necessary to access the global market. A typical example is the case of

58 Ibid, Vermeulen S.; Sonja; & Cotula (2010), pp51
Tanzania Tea Packers Ltd, a public company with investments in tea farming and processing, that has diversified into the horticultural sector in response to market entry opportunities under the fair trade opportunities. The project has been supported by the CDC through an equity that is managed by ACTIS. Through this support TATEPA is a successful company that is also promoting robust out-grower schemes in tea and avocados farming.

4.2.3 Tenant Farming and Sharecropping: Tenant farming and sharecropping is a variant of the lease and management contracts enabling small and medium farmers without land to gain access and operate on land held by large agribusinesses. In the developing countries sharecropping is common within communities with large population segments that have no access to land while there are a number of landlords, including small and medium owners, with proportionately larger holdings. It is well known and substantially applied in the coffee growing region of Kagera in north western Tanzania.

The model enables retention of land ownership under existing large scale holders while allowing small farmers inclusive participation in production activities. The small farmer carries the bulk of farming, production, market and financial risks although in sharecropping some of these risks are shared by the large-scale landholder. Correspondingly, the tenant farmer retains all returns and parts with the pre-agreed fixed fee.

Tenant farming is specifically appropriate in supporting large agribusiness-small holder relations in settlement or irrigation schemes that cannot take off without the resources of large firms. For instance, state owned enterprises or private companies can develop costly irrigation infra-structure and recover the costs from local farmers who are allocated small plots of land on the irrigation scheme. Tenancy also provides a viable option for participatory forest management schemes that facilitates sharing in potential benefits such as those resulting from programs for Reduced Emissions from Deforestation and Forest Degradation (REDD).

To support tenant farming, governments have to put in place the regulatory framework for successful undertaking of tenancy and sharecropping contracts, which seek to promote the rights of the poor to minimize potential for exploitative practices by landlords.

4.2.4 Joint Ventures: This involves arrangements whereby two or more parties jointly run a business venture with each party contributing to the business, in cash and kind (land, technology etc), and participating in sharing
the profits. JVs have different degrees of formalization ranging from incorporation of a company to loose business alliances. A JV agro-investment business model between an agribusiness and smallholder farmers will enable the former to contribute expertise, technology and financial resources while the farmer’s contribution may include land and labour.

The advantages of land-based JVs include: (i) creating opportunities for small holders and local communities co-ownership in farming projects where they receive dividends; (ii) builds the image of equality between the two sides of a JV and the background for dispute resolution without recourse to the courts.

For every advantage there are challenges that include: (i) involvement of smallholders in complex business practices in collaboration with large agribusiness that may opt to engage in transfer pricing to undermine shared profits; and (ii) low capacity of smallholders to carry large business risks including the challenge of financing of expansion of future activities and the problem of dilution of smallholder interests.

There is potential to improve further the potential benefits by extending shared equity beyond land as an asset to cover processing facilities and allowing subsistence farming to co-exist with commercial production to improve local food security concerns. For countries where there are instruments for use of land as a collective asset, such as Tanzania under the provisions of the Village Land Act No. 5 of 1999, JVs can provide a useful avenue for mitigating against the problems inherent in large scale foreign land acquisition.

JVs between smallholders and agribusiness are very common and well established globally, in both the temperate and tropical regions in high and low income countries and bring together multinational companies with local communities. Land-based JVs bringing smallholders, whose contribution is in the form of land, with agribusiness, requires formal and legal recognition of communal ownership of land whether resulting from traditional practices or pooling of separate landholdings. Countries that have documented land-based joint ventures include Tanzania, South Africa, Papua New Guinea as well as Canada, Sweden and South Africa.

The roles of Government in promoting JVs include: provision of the basic regulatory framework; serving as one of the joint equity owners; provision of business advice and support to local communities with the drawing up of business plans; and extension services. Governments can also serve as underwriters for some of the risks involved, brokers for JV deals and capacity builders for smallholders engaging agribusiness in JVs.
4.2.5 Farmer-owned Businesses: Under this model, groups of farmers deal with agribusiness through a formal alliance that may be incorporated into a company with the mandate to enter into specific types of business such as processing and marketing and limit the liability of individual members. Main forms of such organization include associations, trusts, enterprises such as cooperatives, partnerships and farmer owned companies limited by shares or by guarantees. Cooperatives and farmer-owned companies allow smallholders to collectively own and run a business entity that provides for more egalitarian cooperation with an agribusiness leading to a more equal voice in business operations and risk sharing.

Small-scale farmer owned businesses and cooperatives are common across the world, ranging from marketing agencies or boards, processing companies, distribution agencies and service provision companies. The legal and regulatory framework for the establishment and operations of cooperatives and farmer owned business are necessary to guide the processes of access to land, finance and other assets. Cooperatives create opportunities for pooling resources to add value to raw produce and facilitate market entry while enabling members to work on equal terms with agribusiness. Challenges include the fact that this form of organization exposes smallholders and farmers to a new and wide range of risks associated with international business practices as well as the dangers of capture of their resources by the local elite. Decision making under collective ownership can be cumbersome and time consuming while it is difficult to sustain motivation amongst a large spectrum of members with differing interests.

Simplification of the procedures and structures of companies and cooperatives are key to successful use of this instrument by communities as a tool for engaging beneficially with agribusiness and accessing new marketing opportunities such as “fair-trade” practices and other differentiated markets. Developing countries are increasingly adopting variants of this instrument in combination with the other models to address the problem of access to land without leading to major acquisitions, albeit without conscious awareness of the benefits of preventing large scale land acquisition by a few individuals.

4.2.6 Upstream and Downstream Business Links: The set of business opportunities that lie beyond the domain of agricultural production constitute upstream activities including supply of inputs and advisory services and downstream activities such as processing, storage and distribution activities. Farmer-owned business can participate in both upstream and downstream activities. However, this model does not focus on land ownership issues and does not offer specific opportunities for shared decision making although it
does create a wide range of opportunities when applied in combination with other models. Its underlying goal is expansion of access to larger and longer-term financial benefits.

Governments do have a role in the robust use of this instrument in view of the large range of activities covered by upstream and downstream business links. It is a powerful instrument for building capacity to address the challenges of compliance with standards and good agricultural practices as part of upstream activities that require major investment in training and certification of smallholders, producing for the high quality demanding global export market.

4.3 ROLE OF INVESTMENT FUNDS AND OTHER PARTIES
The current interest in agricultural investment is a unique opportunity for the transformation and commercialization of agriculture in SSA countries. For this to happen in a manner that does not lead to marginalization of local populations but ensures their integration into the global market and its benefits, it is necessary that Governments adopt and implement policies that entrench and enforce compliance with the seven principles of responsible investments in agriculture based on select business models that suit local situations. Implementation of pilot programs introducing and popularizing the models is already underway to different degrees in SSAs reflecting the nature of target crops and unique problems that are being addressed.

The challenge lies in the high costs involved in introducing the models to local communities, financing and providing the technical assistance required for successful implementation. Towards this end, bilateral development partners and multilateral development agencies have established a variety of investment funds to support the establishment of local business development services (BDS) providers as collaborators in implementing a range of specific programs that have successfully introduced variants and combinations of the six models with tremendous levels of success. One of the unique stories of success is the transformation of the Kenyan horticultural and tea industries over the last twenty years.

Miller and Richter\textsuperscript{59} have identified a total of 80 investment funds, fund management companies and corporate bodies supporting agricultural investments world-wide underpinning a new approach to donor support for the development of agriculture. The new approach is shifting support from grants towards increasing production of food supplies and promotion of market based

\textsuperscript{59} Miller C, and Richter S (2009), Agricultural Investment Funds for Developing Countries (p13), for Connective Capital, Frankfurt.
agriculture enterprises. This is a holistic intervention process that includes promotion of agribusiness, development of rural infrastructure, institutional development and empowerment of small farmers. The objective is to increase competitiveness and profitability along the commodity value chain from the farmer to the consumer while enhancing sustainability of the environment and natural resources base and empowering rural people to manage change.\(^\text{60}\)

**4.3.1 Funds Intervention Strategies:** The intervention of investment funds is based on review of the different stakeholders who compose and influence the agricultural value chain of a product or subsectors of interest with a view to identifying effective instruments and measures for the development and transformation of that product/sub-sector. This enables the fund to identify specific investment needs. Stakeholders involved include: agricultural producers such as smallholder farmers and various agribusinesses ranging from SMEs dealing with farm inputs and service suppliers, downstream processors, traders and retailers operating along the value chain.

The standard value chain comprises of three distinct sub-sectors constituting a total of five groups of stakeholders or industries. The first sub-sector is agricultural production whose stakeholders comprise of the input industry and producers. The second sub-sector is the food sub-sector which brings together the food processing, the food distribution and retail industries. The third one is the Consumption sector comprising of consumers themselves.

In the first place, funds interventions seek to facilitate the growth of a dynamic private agribusiness sector through supporting a package of measures that address each of the three subsectors and its constituent stakeholders. A second key element of agricultural investment funds operations is their position in respect of expected returns. Most publicly funded firms, for instance SAGF, a public private initiative supported by the Government of Holland and Rabo Bank, operate without return expectations or with limited return expectations. The public sector investor in public private partnership (PPP) funds normally aims at achieving a high level of developmental impact. Conversely, private investors in PPP financing models are motivated by the profit motive but have essentially low risk appetite levels. Other private agricultural investment funds are driven by the perception of emerging investment opportunities providing long-term portfolio diversification avenues while others see in agriculture a new asset providing quality risk return profiles. There are also private funds that

---

\(^{60}\) World Bank 2007 in Miller C, and Richter S (2009), Agricultural Investment Funds for Developing Countries, for Connective Capital, Frankfurt.
seek to combine profit making objectives balanced with some form of social impact such as contribution to poverty reduction.

4.3.2 Investment Funds, Financial Organizations and BDS Providers:
From the conventional private sector perspective, commodity value chains have been buyer driven, with the highest returns located close to the consumers where markets are intensely competitive and the challenge is the ability to compete based on innovative business strategies. In this regard, the distribution and international buyers/retailers sub-sector has been the most profitable and attractive segment of global value chains and have been the focus of investors. Consequently private sector profit oriented investment funds have tended to focus on this segment in the past.

Prior to the current food security crisis and interest in bio-fuel production, there were very few commodities characterized by supplier driven value chains that place high returns on the production segments of the chain. As such, international investment funds looking for investment opportunities in SSA shied away from the production side. Hence very little investment has gone into agricultural production in the past due to the high risks and low returns involved. Likewise conventional profit-making funds cannot afford to finance the task of training smallholder farmers to adopt good agricultural practices and raise their levels of productivity and quality to match the demands of nucleus contract farmers and processors/exporters targeting the export market for food crops. Specialized funds, which operate partially on grant-financing based on the objective of support for social development, have been established to fill a financing vacuum in the upstream end of the value chain.

Grants are best suited to support business development services (BDS) providers and interventions targeting parts of the value chain that are not attractive to private sector investors because of large outlays involved in introducing new business models. Grants and subsidized financing is the instrument of choice for extending support to value chain segments comprising of smallholder farmers and primary producers that are characterized by low profits and high risks but have high potential for viability subject to interventions that support the enhancement of productivity and quality.

In the middle segment of agricultural commodity value chains, one finds a group of stakeholders comprising of processors, exporters and related agencies. The middle segment is essentially less profitable than the downstream distribution and retailing activities. However, inherent activities are substantially profitable and do offer reasonably attractive investment opportunities for the private sector. In the past this segment has been
characterized by collaborative arrangements between investment funds involved in the production side with private sector operators who are guaranteed raw material inputs ostensibly to provide the requisite processing and market linkages for small-holder producers.

Out of the 80 assorted institutions involved in agricultural investments, 31 are agricultural investment funds with worldwide operations, of which 18 (equivalent to 58% of the total) were set up since 2007. The key features of these funds include the financing instruments that are preferred in carrying out their objectives, which include equity financing and involvement in decision making through presence on the board. For instance 14 of the funds, were established over the past four years, and operate as venture capitalists to support agribusiness firms through equity injection in listed companies (equity funds) or unlisted companies through private equity funds.

Most equity investments target support to middle level companies operating as processors and exporters. Equity funds identified by Miller hold US$3.07 billion of the total financing of US$7.08 billion. Other instruments include debt funding, a combination of debt/equity financing, micro-financing, guarantee funds and trade finance facilities. A key feature of the funds is the degree of public private partnerships as a source of funds with 58% of the total funds being pooled from public-private sector resources.

On their part, BDS providers often take the form of consulting firms or non-governmental organizations (NGOs) established to promote economic growth and developmental objectives. BDS providers work closely with funds to break new ground in transforming smallholder production cultures by introducing agronomic practices for new crops or introducing good agricultural practices that are necessary to improve the quality of agricultural production through building capacity for compliance with private sector imposed standards.

4.3.3 Investment Funds Targeting SSA: Ten of the 31 funds referred to above, are specifically targeting the SSA region while ten others have global operations that cover SSA as well. The global funds hold a total of 46% of the funds available, while 22% of those funds are intended for SSA only. The overall capital base of all 31 funds amounts to approximately US$7.08 billion.61 These amounts remain substantially low given the immensity of the challenges involved.

61 Ibid, Miller and Richter et al (2009): For a comprehensive list of all the 80 institutions supporting agricultural investments worldwide and the 31 investment funds including those which focus on Africa, refer to Miller, C & Richter S, Agricultural Investment Funds for Developing Countries, CONCAP, Frankfurt, 2009.
Most funds operation in SSA target companies and firms falling in the group of the “missing middle” i.e. excluding firms under the micro enterprises and large enterprises categories. Funds whose operations are common in East Africa and Tanzania include ACTIS Africa Agribusiness Fund (AAAF), Africa Seed Investment Fund (ASIF), and SAGF. ACTIS works in collaboration with the Commonwealth Development Fund, providing management services of equity investments by the latter. A typical case is the role of CDC as Venture Capitalist behind the successful start-up firm, TATEPA, now registered at the Dar es Salaam Stock Exchange.

A substantial number of funds driven by high return expectations that are operating in the SSA region perceive higher levels of return through investment in agricultural farm land. Accordingly:

“... the idea is to buy farmland in areas with inexpensive and fertile soil, to consolidate small plots of land into large more productive units and to farm the acquired land, at the same time introducing new technologies and investing in additional infrastructure and equipment, such as grain elevators”\(^{62}\).

The class of investors, whose investment interests are responding to the vision of SSA land as a new class of asset with future high returns due to food security concerns and high demand for bio-fuels is the source of politically sensitive land-grabbing perceptions and incidences in SSA over the past five years. Evidence of substantial acquisition of large areas of land by companies backed by sending Governments in emerging economies with severe shortage of arable land, long leasehold periods for allocated land, combined with non-development of such allocation is strong circumstantial evidence of land-grabbing perceptions.

4.3.4 Emerging Economies as New Sources of Funding: The emerging economies, particularly those with limited land resources and large populations including China and India, and countries in the Middle East characterized by desert conditions, are seeking access to land resources in SSA and elsewhere for cultivation of food crops as a hedge against food security concerns. Requests for large land areas in the region of half a million ha or more by investors backed by their Governments have been granted without due consideration of the interests and needs of local communities that are dislocated to facilitate transfer of ownership. The wave of continuing dispossession has created concern that is the cause for concerted calls for strategic policy measures and regulations to provide the framework for

agricultural investments that is mutually beneficial for sending and receiving or host countries.

China with its huge financial reserves has become a major provider of soft loan development finance for many developing countries today. It is reported that by 2010, China had surpassed the World Bank as a source of investment financing. Its huge hunger for large volumes of raw materials to fuel industrial exports, and the rising competitiveness due to increasing technological competence and access to low-cost but highly proficient labor force, has become the investment enigma. China is the potential partner for mutually beneficial agricultural investments for the SSA region. Many SSA countries are benefitting through a new strategic partnership with Africa, through promises made to the Continent in 2007 that include: doubling of aid to Africa to a billion dollars per annum; setting aside a USD 5 billion fund for Chinese investment in Africa; preferential loans and buyer’s credits amounting to an additional USD5 billion; cancellation of large-scale debts to Africa as well as training of African professionals, building of infrastructure and establishment of “economic cooperation zones” on the continent.63 The USD 5 billion investment fund is also available for supporting agricultural investments.

4.3.5 Government Institutions and Farmer’s Business Organizations:
Ultimately, specialized investment funds are a temporary instrument intended to carry the high business and financing risks involved in start-up investment activities whose goal is to bring together smallholder farmers with large agricultural investors to maximize value along the global value chain through linking production with processing and distribution/retailing. The role of investment funds, like that of venture capitalists in green-field investments, is an interim developmental one. Investment funds will pull out as the investments mature and relationships between the smallholder producers, possibly operating through producer organizations, with middlemen or TNCs playing the roles of processors and exporters, reaches profitable and self-sustaining levels of operations.

Following withdrawal of investment funds, promotional roles including the provision of research and extension services reverts to farmer’s business organizations and Government agencies entrusted with specific mandates. In this regard, farmer’s organizations and designated government institutions ideally have to co-exist and work side by side. In a developing world environment, the functions of the farmer’s business organizations would be

63 China’s Foreign Aid Activities in Africa, May 2007, Promises made by Chinese President Hu Jintao and Premier Wen Jiabao during several visits to the Continent during the second half of the 2000’s, Google.
advocacy for a better policy and regulatory environment and provision of membership services that include marketing aspects such as negotiating better deals and entry into new marketing arrangements that seek to improve the value of small holder producers.

4.4 BENEFITS FOR WHOM?
The seven principles have to be taken into consideration by incoming investors and host governments in order to protect and promote the interests of local communities that are often on the losing side in cases of changing patterns of land user rights resulting from reallocation of land for agricultural investments. Governance is an issue even at the international level. Abortive management takeover of TATEPA for lack of transparency and non-compliance with capital markets regulations and procedures provides an interesting case study.

Tanzania Tea Packers (TATEPA) is a company established in 1995 and listed on the Dar es Salaam Stock Exchange in 1999. Its development and growth has been financed under venture capital arrangements by Commonwealth Development Corporation (CDC). CDC’s equity stake in TATEPA has been channeled through Freshfields Investment and is managed by ACTIS, an investment fund spun-off from CDC in 2004. In early 2009, the Chairman of the board of directors of TATEPA and two other minority shareholders, including the CEO of TATEPA, jointly formed a Consortium of individuals then holding a total of 16.80% of the issued and paid up shares of TATEPA and made an offer for the acquisition of 100% of TATEPA shares and sought approval of the same by the Capital Markets and Securities Authority (CMSA). CMSA did not approve the offer for two reasons: (i) that the applicant had failed to make a public announcement on the imminent offer contrary to the law; and (ii) the applicant failed to comply with disclosure requirements as required by the law.

The Consortium made a second try, by reconstituting the Offeror from Consortium of individuals to an offshore company registered in Mauritius. The shareholders of the offshore company included members of TATEPA management behind the abortive consortium as well as two UK firms. The approval of the offer would have changed the ownership structure of TATEPA from the proportions shown in the third column of Table 2 below.

The end result is that current shareholders of TATEPA including CDC with 54.43% as the venture capitalist, with the social objective of supporting Tanzania win the war against poverty, would be captured by three or four minority investors, the majority of whom are foreign shareholders, who would also acquire current land rights held by TATEPA. TATEPA’s assets include prime agricultural land in the Southern Highlands of Tanzania. Current public
shareholders include 1,600 ordinary Tanzanians, two pension funds and two other Tanzanian private investors all with a total stake of 43% while CDC has 54% of the stake and one other foreign investor 2.55% shareholding. If the management takeover was approved, CDC would pull out and foreign ownership would rise to a minimum of 65% (Table 2).

The rules provide for a maximum foreign ownership of 60% and require that the share price should reflect a fair market value that includes the company’s future prospects and that shareholders who are being bought out (with the exception of the venture capitalist who is reported to have accepted the offer) are informed and participate in the process through a transparent process that includes discussion and approval of the proposal by an extra-ordinary shareholders general meeting. In the final analysis the Offeror did not comply and the offer was not approved and became abortive.

At a glance this is a normal occurrence in the business world. Mergers and acquisitions are the tools that keep capital markets active and alive through changes that bring in new technologies and management to potential investments characterized by stagnant performance. However, looking at TATEPA as an agricultural investment with access to prime agricultural land, that has already broken through into the global market, the picture changes. TATEPA’s prime assets are devolving from tea processing and blending facilities to organic production. Land and climate in unique locations that can influence taste and quality are replacing blending and knowledge of markets as the high value segments of the global value chain (GVC).

| TABLE 2: TATEPA PRE-DELISTING AND PLANNED POST-DELISTING SHAREHOLDING STRUCTURE |
|----------------------------------|----------------------|
| SE No. | NAME OF INVESTOR | PERCENTAGE SHAREHOLDING STRUCTURE |
|       |                     | PRE TAKEOVER | POST TAKEOVER |
| 1.   | Foreign Investors  |               | 65.0          |
| 0    |                     | 56.98        |               |
|      | (a) CDC (Freshfields Ltd) |            | 0.0           |
|      | (b) Thompson Lloyd & Ewart |        | 30.0          |
|      | (a) African Century | 54.43        | 30.0          |

100
Food 5.0

(b) Mr. Www

2. Tanzanian Start-up 14.45
   Investors
      (a) Mr. Xxx 7.87 10.0
      (b) Mr. Yyy 6.38 25.0

3. Shareholders DSE 28.77
   IPO
      3.1 PPF 11.25 0.0
      3.2 NSSF 5.01 0.0
      3.3 1,664 Small 12.51% 0.0
   Shareholders

4. GRAND TOTAL 100.00%

Tanzania Tea Packers (TATEPA) is an upstart investment in the tea industry established in 1995 with venture capital support from the Commonwealth Development Corporation (CDC) managed by ACTIS, an equity fund created by CDC in 1994. Initial investment was placed in tea cultivation, processing of green leaf tea and tea blending. In 1997 the company divested its shares in the profitable tea blending subsidiary to support diversification investments in horticultural production of avocados for the UK market. In 1999 it floated its shares at the Dar es Salaam Stock Exchange, to raise capital for expansion of processing capacity and diversification into horticultural production including a network of tea out-growers as well as another 1,600 out-growers producing 50% of avocados output.

TATEPA is a small profitable public company, with an annual turnover of TShs 12.2 billion (equivalent to USD 8.13 million in 2010), with CDC holding 56% shares and 1,500 small shareholders holding 28.7% shares. According to the Chairman of the Board, in his annual report for 2009, TATEPA has bright future prospects:

“….although the avocado project is denying shareholders dividends for the next two to three years, it will develop into a very exciting and profitable new business ... a good hedge against tea and a robust diversification initiative. ... Avocados are a more profitable agricultural commodity than tea with a growing global market. ... In Rungwe, the fruit grows naturally and ... has a very favorable sales window to the global market, with its harvest between March and May - the low season for other parts of the world”.

The board and management is dominated by three minority investors behind the takeover initiative, a classic self-dealing transaction. At one time they claimed that “... the Offer would increase ownership by Tanzanians” although it was quite clear that Tanzanian shareholding would have been reduced from the then current level of 43% of total shareholding, held by about 1,600 small shareholders, two pension funds and two minority shareholders before acquisition to a maximum of 35% held by two minority shareholders subsequent to acquisition and delisting from the stock exchange. The Capital Markets and Securities Authority declined approval of the bid for lack of transparency and non-compliance with smallholders’ rights.

The Question for CDC is: What is the more powerful instrument for fighting poverty: dispossession of 1,600 shareholders and two pension funds with 28% shares or concentration of ownership in three foreign owners with a majority stake and their two Tanzanian partners. Is this the reward for shareholders who took the risk to support the company when it was young and fledging and in need for finance? Yet ACTIS did quietly support the takeover bid. What is the point of selling off successful companies to CDCs own associates after successful takeoff as reported on CDC’s website through numerous cases, instead of offloading shares to the people of the countries being supported (e.g. case of The Palms shopping mall in Lagos, Nigeria).

Land belonging to the company is the hot cake that does not even feature on its balance sheet. TATEPA’s land is also located in areas where irrigation potential is high and developments relating to climate change render this asset even more valuable. Notwithstanding these hidden attributes of the company, the existing management made an offer that was almost half the price that is listed on the exchange on the pretext that the share is not attractive in the market and that investors who came in through the stock exchange have already recouped more than their fair return through a high dividend payout in 2007 when one of its subsidiaries, Tanzania Tea Blenders, was sold out. There are different ways of interpreting these developments. Box 4 presents more details to enable readers form their own opinion relative to the issue of foreign agricultural investments and the future landholding patterns in SSA. This case presents one more reason why Governments and its institutions in SSA need to remain fully awake on land related transactions. As the Chinese saying goes, the tiger remains the tiger, regardless of whether it came in through the front or the back door.
CHAPTER FIVE
FINDINGS AND RECOMMENDATIONS ON THE CONSEQUENCES OF FIRST GENERATION LAND DEALS IN SSA

5.1 OVERVIEW ON FINDINGS

Tanzania’s performance in the area of agricultural investments over the ten-year period ending 2010 is a mixed record. The earliest deals reflect decisions based on the assumption that investors would somehow link local smallholders into their investments and the latter would benefit automatically through employment, access to technology and market linkages. There was no conscious effort to determine how this would happen and provide for it in contracts between the Government and the investors. Further, the involvement of local communities in the deals was primarily limited to superficial consultations involving a lot of verbal promises with little obligatory commitments. Initiatives currently on the table reveal a deeper understanding of the stakes involved and the results will, hopefully, lead to higher quality and more balanced investments.

5.1.1 General findings

The guidelines for investment in bio-fuels are a development in the right direction. Yet, developments in this sub-sector continue to defy the norms, notwithstanding existence of these guidelines. The careful preparations embarked upon towards the implementation of SAGCOT and the factor of support from various stakeholders and parties is a positive factor contributing to efforts to stimulate the adoption of best practices based on evidence that has been compiled at the international level. Developments under SAGCOT and the Korea/Tanzania deal in the Rufiji basin are still exceptions to the norm, rather than normal practice in agricultural investments. There is, therefore, a need to put in place clear and specific policy guidelines that provide for systematic handling of incoming agricultural investment flows into the crops and livestock sub-sectors rather than reliance on the goodwill of a few high level officials in individual schemes that is influencing deals on the table today. For instance, the bio-fuel investment guidelines need backing by legal fiat to create the obligation for compliance and mandate for enforcement.

Commitments in business deals have to be negotiated and entrenched into contracts covering a reasonable duration of time to accommodate future flexibility to respond to unforeseen developments. Governments have to adjust their role from that of primary negotiator in land-lease contracts in recognition of the fact that land being reallocated has already been placed under the
ownership and management of local communities. In Tanzania’s case, the categorization of village land into general land should be subjected to rigorous checks and balances provided for in the law to minimize the potential abuse that has already been witnessed through several Ponzi schemes, some of which may not have surfaced but are in the making.

Essentially, negotiations for land acquisition should be an all stakeholder four party process highlighting the role of local communities as de facto land owners. Land, water, passage and related rights should be seen as constituting the primary assets being contributed by Tanzanian investors in agricultural investment contracts while technology/equipment, financing and know-how are the complimentary contributions by incoming investors. In principle, governments should lead and support local communities in negotiating balanced agricultural investment contracts.

5.1.2 Overall Recommendations

Four parties are involved in negotiating land-lease contracts for agricultural investments i.e.: local communities, agricultural investors, smallholder producers and/or local elites; and the host government. These parties face several challenges in the consultations and negotiation processes as they seek to balance their diverse interests and strike win-win deals. In response to these findings and associated concerns, Tanzania and other SSA countries need to develop a strategic vision on the long-term positioning of African agriculture in the global economy including niches for local communities/smallholders and SME processors in specific global value chains (GVC). Negotiations should be informed by analysis including GVC analysis.

More specifically, the findings and recommendations of this review falls under nine specific issues that is the subject of this chapter and includes, among others, the following:

(a) Prioritization of collaborative global and national responses to food security and sustainable human development processes;
(b) Availability of efficient land administration and information services for informed decision making on re-allocation of available land resources;
(c) Equitable access to water rights and contribution to mitigation against climate change as well as safeguard of passage rights;
(d) Creating the right investment climate for competitive agricultural investments;
(e) Strategic development of infrastructural services in transportation, power and the agricultural sector itself to support transformation of agricultural production;

(f) Paradigm shift in choice of first best development oriented intervention instruments in support of good agricultural practices;

(g) Adaptation of best practice agricultural investment models and financing instruments to support agricultural transformation in low income developing countries in SSA and elsewhere; and

(h) Effective monitoring and evaluation of implementation of programs and schemes supporting the achievement of objectives underlying the preceding recommendations.

5.2 FOOD SECURITY AND SUSTAINABLE HUMAN DEVELOPMENT

The general finding is that Food security is a multi-faceted problem with different meanings and implications for different countries. For industrialized countries food security generally refers to guaranteed continuing access to quality food conforming to high food hygiene and safety standards in the future and against possible use of food as a weapon of war. For emerging economies it could be diversification of sources from importation to own offshore production to ensure access and affordability as windfall gains from abundant natural resources begin to dwindle. However, for low income developing countries it is a pressing current problem of malnutrition, and its ramifications that is the driving force behind a debilitating poverty vicious cycle.

For instance, the 46 per cent of Tanzanians living in poverty fall into three categories. A proportion of 46 out of every 100 people who have no access to basic needs including food, clothing and shelter, often defined as living below one USD a day. Within the whole population, there is a subset of 33 people out of every 100 Tanzanians who are unable to get adequate food and are considered to suffer from food poverty. Again within the whole population, there is a third smaller subset of 20 out of every 100 Tanzanians who lack access to nutritious food and suffer from malnutrition and its consequences.

For instance, the impact of malnutrition on children starts with dwarfism and extends to poor cognitive development affecting their educational development and, if not resolved, eventually leads to dropping out of formal education channels at an early stage. The result is a crop of young men and women, often under-age, in poor health and with low productive and reproductive capacity starting new families, procreating children who are exposed to the same malnutrition experiences as their parents. Severe malnutrition leads to prevalence of incidences of marasmus and kwashiorkor and related poor health
conditions that is particularly prevalent in rural societies and is the driver of a self-perpetuating cycle of families who suffer from nutrition poverty. Malnutrition perpetuates the failure of efforts to transform the agricultural practices of rural communities whose agricultural activities are limited to subsistence production. It is a factor which contributes to the perception of abundant unutilized land, evident in the data on average per capita land use of 0.1 hectares in Tanzania.64

5.2.1 Findings on Food Security

The findings on food security in SSA highlights two fundamental challenges facing Tanzania and other SSAs with respect to food security concerns and the importance for continued access to land and water rights for marginalized rural communities:

(a) Available information shows that the World is producing enough food and is capable of feeding its people. The problem is not availability of food but one of accessibility to existing food stocks, at national and international levels. From this perspective, long-term food security concerns provide a unique opportunity for building a better world through a global perspective promoting cooperation along the GVC rather than taking individualist national perspectives and entrenching them across borders. Responses reflecting the prisoner’s dilemma will only perpetuate an emerging problem that brings to the fore the elements of human greed and a disastrous phobia of cooperation and collaboration.

(b) There is a need for a strategic response that prioritizes SSAs prevailing food security problems and places the food security issues of emerging economies and industrialized countries in the right perspective. For SSA food insecurity is the core of the vicious cycle of endemic poverty that can be broken if its land resources and related water rights combined with incoming investors are mobilized to achieve the requisite solution.

5.2.2 Recommendations on Food Security

The world is obliged to resolve the deepening of food insecurity starting where it hurts most – in malnourished societies in countries that have the resources required to provide the long-term solution for global food security in the long-run future. Adopting a solution based on a scramble for acquisition of land and water rights that worsens food insecurity in SSA, undermines the very foundation that is necessary to resolve perceived food insecurity that is bound

64 MAFSC, Ibid, 2009
to affect the broader world community adversely. Consequently it is recommended that:

(a) The world cooperates in addressing the current debilitating features of food insecurity in SSA and other low income developing countries to generate the goodwill and foundation for addressing longer term perspectives that are the concern of emerging economies and the industrialized world;

(b) Implementing the code of conduct and best practices in agricultural investments in support of the green revolution in SSA is the foundation that the world needs to stabilize, then liberalize and expand multilateral agricultural trade that is derailing the Doha Development round as part of measures to resolve global food security concerns;

(c) All parties involved, ranging from SSA governments to the shareholders and management of TNCs, as well as bilateral and multilateral development partners, and emerging investment funds, have to respond by bringing out their best performance to demonstrate and build the goodwill that will stimulate a spirit of cooperation rather than negative cut-throat competition. This is a long and slow process that requires a clear vision on the evolving future of the nation-state and its successor entity in an environment where access to information and the resulting high degree of transparency has raised the power of the individual to phenomenal proportions and is reducing the conventional political and administrative power of the state to levels of near redundancy; and

(d) The world has to set its priorities right. It is imperative to tackle food security by addressing the problem of malnutrition today and create the grounds for addressing the fears of access to adequate and high quality food stocks for the longer-term future. SSA countries have to lead the way by ensuring that even as they are inviting and welcoming agricultural investors, the underlying deals and contracts reflect best practice tools and instruments for facilitating large agricultural investments without destabilizing transfer of ownership of land user rights that is likely to worsen their precarious current and short-run food security concerns.

In short, food security should not be seen solely as the subject of global trading relationships. Food security is a common human problem whose resolution should be part of a broader initiative to build a better world at the political, social and economic levels. It should not be seen as a purely economic endeavor left to the whims of the profit making motivation. There is a strong moral perspective to it. The spirit behind the award of the Nobel Memorial Prize in Economic Sciences to Professor Amartya Sen in 1998, ostensibly for his
work in welfare economics, must have been influenced by the need to remind the world that we are living during an era where moral obligations to the common needs of humanity must take precedence over the material benefits that underpin the profit motive in economic relationships. Effective cooperation can be built on the premises of bringing together the resources of different regions in resolving a common human problem, with equitable treatment of contributions based on land and technological know-how through balanced win-win scenarios. That is where the sustainability of our global world lies today and in the days to come.

5.3 LAND ADMINISTRATION AND INFORMATION SERVICES
A highly disturbing finding is the impact of decisions being made on agricultural investments without clear policy backing based on little or no analytical advice and evidence. Lack of reliable information and data on ownership and/or land-usage patterns to support allocation of land resources to agricultural investors, means that SSA leaders are making decisions in the dark. It is a critical factor in view of increasing requests for allocation of large areas of land by TNCs and government-backed foreign enterprises responding to the food security concerns and sustainable energy resources. This situation prevails equally across all SSA countries, with the possible exception of Liberia, which has been at the forefront of good practices in accommodating incoming investors. The challenge is how to mobilize technologies that include geographic information systems (GIS) technology to bridge gaps in land administration and information systems that is critical to guaranteeing security of tenure and use of land as an investment asset by African smallholders and their communities.

5.3.1 Findings on Land Administration in SSA
From the SSA perspectives, it is important that governments formulate and implement strategies for implementation of measures that promote security of tenure and facilitate use of land as an efficient economic asset. It is the only way to kick-start the green revolution. Guaranteed user-rights and effective implementation of land laws is necessary to create the confidence necessary for citizens of low income countries to invest in their land. Where necessary entrenchment of user rights must be preceded by land redistribution policies that seek to provide equitable access to production assets in situations where as much as 70% of the people subsist on the land as their primary source of

livelihood. Such redistribution has to be followed by registration and titling of agricultural land. This is one area where Africa needs to learn from South East Asia. It will be difficult for Africa to achieve the industrial revolution, regardless of whether it is prudent to go for one today, without an underlying green revolution.

### 5.3.2 Recommendations on Land Administration in SSA

SSA governments should develop and implement, as a matter of urgency, strategies for formalization of property rights for rural communities and households to provide security of tenure. Such strategies should include negotiation of land deals on the basis of the seven best practices for agricultural investments.

1. **The principle of the state owning land in trust for the people has often been abused by the functionaries of the state who are engaging in speculative land holding on their part. Transparency in land administration services should start with creation of databases providing open information on land holding patterns, including the adequacy of land held by communities in terms of current and future requirements and the appropriate corresponding models of providing access to land for incoming investors. Measures to prevent the capture of benefits relating to transfer of land rights by elites and the dispossession of local communities should be entrenched in strategies for effective land administration. The transparency that is possible through establishment of a publicly accessible electronic cadastral register is a powerful tool against secretive land deals and speculation in land by elites in SSA countries as a top priority.**

2. **There is a need for a national strategy to expedite the process of formalization of property rights nation-wide as the instrument for safeguarding community and smallholder land rights and prevent the threat of impending landlessness of rural communities that is already taking place. An effective strategy has to address problems of governance and inherent reluctance at the level of LGAs which have the responsibility for implementation of land registration at the village community and individual smallholder levels. Developments in Tanzania highlight the need for a stronger role by central government**
authorities. This could take the form of the Ministry responsible for land issues assuming initial responsibility for working jointly with LGAs to develop the initial database, including first-time adjudication of individual land parcels, before passing on the recurrent maintenance and update of land registers to LGAs. Although there are many LGAs that are doing a good job but are constrained by lack of resources, both human and financial, it is important to bear in mind that even a few officials operating at the LGA level bent on personal interests can create havoc that can undermine the good work of the majority.

5.3.3 Findings and Recommendations on Land Administration in Tanzania

From a total of approximately 15,000 villages in existence only 3,204 have been registered and issued with CVLs. From a general perspective, the lesson from Tanzania concerns the challenge of formalization of property through functions located in a total of 186 LGAs and the need for a strong central coordination function to drive the implementation process. The Ministry responsible for local governments and regional administration oversees and coordinates the implementation of land policies formulated by MLHHSD and has limited capacity in terms of technical staff and equipment for effective implementation. This reinforces the tendency of some of the LGAs to slow down the implementation process, sometimes for personal reasons. This undermines the effectiveness of policies through poor implementation and makes the oversight function of responsible sector ministries practically difficult, but not impossible. Tanzania has found a solution for this problem in some of the key sectors like education and agriculture and needs similar initiatives in the area of land administration services. There are several powerful lessons for SSA on this issue as enumerated below.

Tanzania has an excellent land policy and equally good instruments for implementation in the Land Act 1999 and the Village Land Act 1999. The effectiveness of these instruments lie in actual implementation and efficacy of secondary implementation instruments including: Secondary legislation and regulations in the areas of land use planning, surveying and mapping, land valuation and estate agency services, land acquisition and compensation and land-based mortgages among others. The basic source of information on communal landholding patterns is embedded in the Village Land Act. This information is available in real terms for villages that have undertaken participatory land-use planning and have been issued with certificates of village land (CVLs). Findings specific to Tanzania include:
The land administration function at the LGAs level is facing a number of teething problems of an administrative nature that is undermining the spirit of expediting land administration services by locating the function close to the people that includes benign reluctance in some local jurisdictions.

Reliable information on the status of land user rights to facilitate rational decision making and responses to requests for allocation of land for agricultural investment is lacking. There is a need to expedite registration of village land and issuance of CVLs including commissioning resurvey where this is pertinent to correct for past errors so as to compile such information. This is a task that can be accomplished quickly in view of the ground work that has already been accomplished. Simultaneously, strategies to expedite formalization of individual land user rights have to be expedited.

Land use planning facilitates communal agreement on land allocation for household farmsteads, communal village use such as agro-forestry and grazing range, reserves for allocation to younger and future generations and development of social services and facilities including urbanization. The sensitization that goes with land use planning campaigns that culminate in the issuance of a CVL also prepares local communities to deal with request for land for agricultural investment in view of the detailed information on reserve land that is available for local communal and individual activities and the maximum areas that can be re-categorized as general land for agricultural investors, both national and international;

The process of preparation of CVLs is also necessary to enable local communities understand and defend their land-user rights, in the course of participation in land leasing contracts in which their land is taken over by central government and reallocated to investors, for little or no compensation for land to which loss of access is practically permanent; and

Further, available information shows that in some of the LGAs, including those in Dar es Salaam, the spirit of implementing formalization of property rights has slowed down for no apparent good reason. This is
also apparent in decision to ignore the existence of a bona fide property data compiled to support the residential letter’s project and recreation of an alternative database for the purpose of collection of property taxes that ignores the existing cadastral register. Uncoordinated decisions are leading to a situation where valuable and scarce financial resources are being spent to duplicate data collection and in so doing producing a database of property owners whose integrity is questionable and cannot match the superiority of the cadastral register that has been compiled through the urban formalization project initiated by MLHHSD and now passed on to the LGAs for finalization.

5.4 EQUITABLE ACCESS TO WATER RIGHTS AND CLIMATE CHANGE CHALLENGES

The climate change phenomenon makes the issue of equitable access to water rights for local communities, individuals as well as agricultural investors, as important as the aspect of security of communal and individual land user rights. Current land related conflicts, particularly between pastoralists and smallholders as well as small holders and medium/large farmers include a substantial element of struggle for water rights. This struggle is bound to intensify with time as agricultural activities expand, irrigation agriculture increases and demand of water for other national needs, including power generation, creates a situation of intense competition for declining water resources. Changing climatic patterns including rising temperatures and shorter rainfall seasons and increasing incidence of draught, highlight increasing demand for water resources by large as well as small producers and allocation of user rights should consider more equitable access for all.

5.4.1 Findings on Climate Change and Access to Water Rights and Right of Passage

(a) By guaranteeing access to water rights adequate for large areas of land exceeding over 100,000 hectares for very long periods of time ranging between 50 and 98 years, SSA governments are sacrificing the sustainability of rural livelihoods for their people in the long-term perspective. Climate change has removed the certainty of availability of water in future even in areas that have abundant water supply today. Many of the deals already concluded to-date ignores the future of local communities which implies that resulting deals cannot be sustained without creating major socio-political conflict and attendant civil disorder.
(b) Rights of way and passage in rural environments where road networks are underdeveloped and transportation a major impediment to poverty eradication is jeopardized when investors fence off large areas of land and impose circuitous routes to the nearest urban centre for accessing social facilities including education and health services and compliance with government administrative requirements. Fencing off of areas the size of normal administrative districts, (500,000 hectares exceeds the total area of Zanzibar island), complete with undeveloped buffer zones and creates new enclaves of development that could eventually behave like autonomous jurisdictions. This undermines the effectiveness of the sovereign mandate of SSA governments inside their own countries as government functionaries are bound to end up with limited right of entry and administration of rule of law inside large agricultural investment enclaves.

5.4.2 Recommendations on Access to Water Rights and Right of Passage

(a) Equitable access to water and passage rights calls for allocation of reasonable areas of land and the conclusion of land-lease contracts that makes it mandatory for inclusion of local communities and individuals in production activities through existing best practice instruments such as nucleus contract farming and out-grower schemes that integrates local smallholders with large investors. Contract clauses on water rights should include flexibility to accommodate adverse changes resulting from unforeseen climate change developments.

(b) Agricultural investors should be obliged to pay for water rights. Land lease contracts should avoid the tendency to extend permanent subsidies to big investors through free access to guaranteed water rights for a century; and

(c) Allocation of land should provide for preservation of existing passage rights that may be in the form of age-old footpaths and their upgrading to passable roads. The real challenge here is participatory involvement of host communities and frank consultations on intentions of the incoming investors that affect basic issues in village life such as passage rights.
5.5 BUSINESS ENVIRONMENT FOR AGRICULTURAL TRANSFORMATION

SSA is struggling to transform its productive sectors at a time when the world economy is facing a number of daunting challenges that affect both supply capacities and demand responses. For instance, there is already an apparent decline in the size of arable land due to changing climatic patterns combined with rapid population growth in developing countries, estimated at 2.8 per annum in the case of Tanzania. Changing demographic patterns in the industrialized world and developing world is increasing the dependency ratio in a manner that will be difficult to sustain in the long-run. There is persistent unsustainable use of non-renewable resources combined with disregard of production practices that are environmentally sustainable in the name of retaining the competitive edge across the world that shows a common disregard of the need to sustain renewable resources. There is emerging a picture of short-sighted responses to issues with far-reaching consequences, often due to conflict of interest and rent-seeking behavior within and across nations.

Resolution of these issues calls for stronger but more efficient regulatory regimes at the national level. However, many SSA countries, Tanzania included, have lacked adequately strong political will to over-ride resistance to fundamental regulatory reforms necessary for creating a business environment conducive to private sector development as the engine of growth. This is evident in the failure to sustain transformational change processes to logical conclusion and tolerance of reversal of reforms including creeping back of impediments eliminated in the past such as administrative burdens, outdated laws, illegal regulations and a stream of licenses at central and local government level whose objective is revenue generation rather than necessary regulation of economic activity to protect key social interests.

Resistance to change within the pillars of the state, particularly the Judiciary and other arms of the legal sector, and in the Executive, particularly in institutions that deliver fundamentally critical services such as land administration and the regulation of business conduct, reflects an untenable degree of deterioration of professional and ethical standards, and a high level of moral decay in the wider society. Tanzania still carries on its statutes a wide array of regulations, norms and values that were inherited from the colonial regime as well as others put in place as instruments for implementation of socialist policies that were abandoned a generation ago. Consequently, the speed of pushing through much needed regulatory reforms remains unquestionably slow, often largely due to a combination of resistance and inertia, often on the part of middle level management in the civil service.
Regulatory impediments are particularly prevalent in rural LGAs where most agricultural production activities are located. Features of impediments at LGAs level include a multiplicity of licenses and levies targeting revenue generation that contravenes existing primary regulation that remains unknown at the central government level.

5.5.1 Findings on Business Environment

The challenge for SSAs lagging behind on driving through transformational change including in the areas of business environment strengthening pose a particularly demanding challenge for governments. These challenges include:

(a) How to convert commitments made in formal decisions to expeditious action to targeted results with impact on the ground. Determination and commitment declared at the political level loses momentum and direction at the implementation level. Governments need to maintain the momentum for change through instruments such as vigorous follow-through, continuous intense publicity and sensitization on reforms and high level continuous political engagement with change management. Mobilization of independent private sector institutions to oversee the monitoring and evaluation functions for major reform programs is a potential instrument for achievement of desired results.

(b) Acceptance of the need to include a strong component of regulatory reforms in local government change programs that includes setting standards for desired outcomes is a necessary tool. LGAs need not only to be convinced of the need for change, but there are times when they have to be compelled to change in view of their critical role in facilitating the outreach of policy implementation at the grass roots level, particularly in the agricultural sector.

5.5.2 Recommendations on Business Environment

Ownership of reforms at sectoral level should not be allowed to undermine the broader concept of “single government” and derail key reforms as has been the case with slow SSA regulatory reformers over the past ten years. Where necessary, recourse to use of sanctions to enforce implementation of business environment reforms should be adopted. Success in agricultural investments will not deliver the envisaged benefits without putting in place a better business environment in the short run, as well as addressing factors that lie in the broader investment climate, in particular adequate and affordable power supply and modernization of port and railway transportation systems in the
longer run. Where necessary, recourse to use of sanctions to enforce implementation should be adopted. Ownership of reforms at sectoral level should not be allowed to undermine the broader concept of “single government” and derail key reforms as has been the case with slow SSA regulatory reformers over the past ten years.

In addition, in the immediate short-run perspective, SSA countries, including Tanzania, should make determined efforts to adopt first best policy instruments in implementing policies that seek to surmount identified impediments to growth and development. For instance, subsidies to agricultural production may not have the desired impact without access to the right agronomic skills and measures to minimize abuse of subsidies through diversion of subsidized inputs to neighboring countries that is common in SSA. More innovative instruments that include a combination of subsidy through access to skills and inputs that is involved in contract farming and out-grower schemes is much more efficient and has been proven to work.

Consequently, marketing problems in countries characterized by large geographical areas and sparse transportation infrastructure, border trade with neighbouring countries helps to surmount the challenges of high transport costs that can render smallholder producers non-competitive. Export bans in such circumstances lead to the inevitable unofficial trade channels that are so common in SSA economies. There is abundant evidence of the havoc this can create for national smallholder production and marketing patterns embedded in the experiences of groundnut production and marketing in West Africa and Coffee in East Africa. Export bans without matching alternative markets, tends to discourage smallholders from increasing investments in targeted crops and graduation from micro producers focusing on subsistence objectives with a little surplus for sale within village communities to small scale commercially oriented producers who will be the large producers of tomorrow.

5.6 THE INVESTMENT CLIMATE: TRANSPORTATION AND OTHER INFRASTRUCTURE BASED SERVICES

Infrastructure based services in the areas of transportation and energy remains the lifeblood of the African economies. SSA has the resources but seem unable to come up with strategies to use those resources for the effective development of their people. Africa has the financial resources through its unique natural resources endowment, but for reasons related to poor governance and lack of transparency, seems unable to marshal those resources to meet the development challenge.

5.6.1 Findings on Infrastructure Development and Power Supply.
Agricultural investment without cheap and reliable multi-modal transportation networks where the key is to produce and move large volumes of grains and raw or semi-processed products to agro-processing facilities and the final output to domestic and global markets in a competitive manner is a non-starter. SSA has to look at this part of the economic production systems and come up with broad national strategies that will ensure the development of the infrastructure for delivery of efficient and reliable services to support competitive agricultural investments. Revival of the moribund railway networks across SSA countries is the first imperative. However, the challenge of magnitude of resources involved has led to silence on the future of this system. The key is coming up with a strategy that establishes the right priorities in agricultural sectors and supporting systems and consistency in implementation. Priority should go to sectors or systems that maximize initial benefits and generates returns that can be re-invested.

(a) **Cost effective and reliable transport network and power supply as drivers of regional and global competitiveness:** Intuitively, the choice of TAZARA corridor and prioritization of SAGCOT as the pilot scheme for initiatives to transform Tanzania’s agriculture confirms this reality on the part of TNCs interested in agriculture. No reliable transportation no agricultural investment, even where you have access to the best land in the world – unless the investors are also willing to develop the transportation system that will carry output to the global market. This is critical if Arica wants to build on current opportunities and curve out for themselves new niches in the global market.

Reliability and affordability of other infrastructural services, in particular, power supply is also a key prerogative. The alternative is to continue to subsidize TNCs through perpetual tax holidays to compensate shortcomings in infrastructural services and the regulatory framework that deny governments capacity to invest in better social services, particularly in the health and education sectors.

(b) **Agricultural infrastructure development:** This is another area where SSA lost the lessons coming from South East Asia. Agricultural infrastructure development includes infrastructure for irrigation that starts with local technologies for land conservation and irrigation that seems to have disintegrated in Africa. It also includes proportionally larger investment in perennial tree crops that require larger investment outlays initially with very low maintenance investment.
over a relatively long economic life-span. Interest in large scale irrigation schemes that have foundered due to lack of maintenance and limited ownership at the local level is not the key. Starting small with full ownership in rural areas has to be the take-off point. Substituting local ownership with large government schemes or agricultural investment projects has the danger of dispossessing the poor of their assets without alternatives, which runs counter to the objectives of stimulating poverty reducing broad-based growth. SSA countries have also failed in stimulating adequate investment in tree crops that serves as a tool for land conservation and long term guaranteed incomes with lower labour costs.

(c) **Financial and ICT infrastructure:** These provide a unique opportunity to leapfrog the development process and raise low income countries to middle income economies within a decade or two as can be witnessed by developments in Vietnam. Somehow the dynamism in strategic thinking and commitment in implementation of agricultural transformation strategies that is necessary to make this happen seem to be missing in most SSA countries. However, there are countries like Botswana, Rwanda and Kenya where ongoing reforms and initiatives will provide future lessons to countries that have chosen to become followers in pursuing development opportunities made possible by electronic government and transformation of socio-economic services delivery through ICT based systems.

**5.6.2 Recommendations on Infrastructure Development**

The challenges on infrastructural development for agricultural transformation are daunting and include:

(i) Identification of quick wins in reducing business transaction costs to reduce the overall burden of doing business and the pressures of need for competitiveness;

(ii) Willingness to identify and implement hard infrastructure projects with a broad nation-wide impact over projects that are favored by special interest groups. In this regard addressing the woes of power supply and modernization of core national transportation systems is of paramount importance. The key is to come up with realistic national and regional strategies that build on synergies to serve priority productive sectors through ensuring access to reliable and affordable cost effective sources of power/energy and transportation that provides effective links between
rural communities and domestic/regional markets as the starting point. African agricultural production cannot become competitive in the global market, especially for food products, unless the transportation infrastructure challenges are addressed appropriately.

(iii) Willingness to mobilize the potential of soft infrastructure including technical skills, ICT and innovative financial instruments to support the transformation of rural livelihood through agricultural investments is a necessary factor; and

(iv) Governments should encourage smallholders to engage in tree crop production, perennial crops, targeting fruits and timber production both as a tool of forest restoration programs and reducing the dependence on backbreaking investments in annual crops.

5.6 PARADIGM SHIFT IN CHOICE OF DEVELOPMENTAL INTERVENTION INSTRUMENTS

Eventually, these findings converge towards the need for a paradigm shift in policy framework and the choice of policy instruments. Tanzania is famed for formulating good policies and even enacting appropriate legislation as the primary instrument for policy implementation. However, available evidence reveals existence of gaps between good policies and supporting legislation and the choice of appropriate instruments and strategies for effective implementation. Often, there has been inordinate delay between the enactment of primary legislation and review of related legislation or even the enactment of secondary legislation and regulations as evident in the case of land administration where certain secondary legislation is yet to be updated 10 years after enactment of the Land Act and the Village Land Act. Often the rationale for such delay is lack of resources. Further, lack of corresponding measures to enhance institutional capacities for effective implementation is also a major shortcoming.

Apart from building public sector capacities for more efficient service delivery, governments also have a role in supporting and implementing measures to expedite the process of private sector development including the creation of competencies for competitiveness. Governments have tended to stick with age-old conventional instruments to address non-conventional challenges, such as extension of production subsidies in a situation where the binding constraint is not financing of inputs but access to good agricultural practices. Access to
efficient extension services can have a better impact than provision of subsidies which are open to massive abuse.

5.7.1 Findings and Recommendations on Choice of Policy Instruments

The challenges and recommendations on choice of intervention instruments include:

(i) Adoption of first-best instruments for government interventions that seek to support transformation of private sector competencies. The basic criteria is to limit government interventions to the provision of public goods, that cannot be commercialized. Nevertheless, under special circumstances, choice of second best instruments is also prudent;

(ii) Scaling up and rolling out the outreach of successful business models with proven efficacy to new sectors and areas through the government budget;

(iii) Use of public institutions and agencies in the public sector to play the role of promoters and change agents using proven business models such as contract farming.

5.8 BEST PRACTICE BUSINESS MODELS AND FINANCING INSTRUMENTS

Even as Tanzania is striving to create a land bank for foreign investors and taking into consideration direct allocations that have already been made as exemplified in Appendix B as well as speculative land deals involving local elites, there is need and urgency for measures to ensure that the larger part of allocation of land for agricultural investments does not lead to dispossession of the vulnerable. Prior to the issuance of the Guidelines for bio-fuels investors, derivative rights for foreign investors were based on leases of 33 years to 98 years. Clearly these long durations and outright leases that do not build in specific interventions and benefits for local communities is not only a waste of the opportunity but also a dangerous development as demand for local communities access to land creates the need and temptation for a “Zimbabwean typology” of response with its social and political costs. SSA countries have to avoid that eventuality well in advance.

As demonstrated by the Burka estate case, the expiry of a lease hold based on derivative rights will not lead to automatic return of land to the communities from which it was acquired and reclassified as general land several generations before. Indeed, recovery of land that already carries expensive major developments in terms of infrastructure and equipment, is an expensive
undertaking that is generally out of reach of local communities. The key to returning land to original communities, where this is a future necessity, lies in negotiating contracts that last for short durations and include explicit provisions for contract renegotiation every twenty years or so. The solution has to be included in the package that is negotiated in advance. Very few of the contracts for land leasing and grants signed to date have drawn upon available business models that are designed to address the challenge of sustaining existing land ownership patterns while facilitating agricultural investments and transformation of local agricultural practices.

5.8.1 Findings on Business Models and Financial Instruments

The challenge on this front is one of willingness to learn new ways of doing things and adapting them into existing government and private sector practices and includes:

(i) Adaptation of the existing “wheel technology” to match with your environment rather than striving to reinvent it. Africa is known for its prevarication in adopting new solutions that have been proven to deliver in the pretext of looking for a home grown solution. Will SSA countries move quickly in adopting these models before it is too late. Is it possible to renegotiate some of the particularly poor deals to reflect more rational undertakings?

(ii) Specifically for Tanzania, extension of the bio-fuels guidelines to agricultural investment for cash and food crops and inclusion of innovations to introduce reasonable duration of contracts and entrench community ownership of land is a good starting point. The assumption that all land belongs to the state undermines the practical rights of village communities. More innovative policy instruments can be adopted to tackle this problem. For instance, the Tanzanian Guidelines for Investment in Bio-fuels, should be backed by legal force through enactment of suitable legislation.

5.8.2 Recommendations on Business Models and Financial Instruments

The business models provide the best practices framework for negotiation and conclusion of land-lease contracts. Hence it is recommended to undertake the following measures in handling agricultural investments:
5.9 STRATEGIC VISION OF AFRICAN AGRICULTURE IN GLOBAL ECONOMIC RELATIONS

Many SSA countries have not been able to exercise the discipline of strategic planning and prioritization in implementation that underpins such success stories in building world class excellence in terms of quality and quantities. It takes commitment to join the group of five top leaders in world output on any product or in any sub-sector. In the 1960s Tanzania was in this group of world leaders for sisal and cashew nuts and had a relatively high rank for cotton in terms of quality. World class excellence also provides room for integration along the value chain from production to processing and marketing subject to adoption and implementation of concerted strategies. Today the leading company in tea blending in the world is Sri Lankan. An excellent African model is available in the story of development of the tea industry in Kenya. From a relatively modest production level of .......... tons in the 1980s, today Kenyan tea output has risen to 300,000 tons per annum (ten times the Tanzanian level), largely produced by smallholders. Kenyan tea has a high quality premium commanding double the price of Tanzanian tea in the market and about 60% of the whole output is blended and packed in Kenya. Finally, Kenya now plays host to a powerful global marketing channel for tea through the Mombasa auction. This success story has been repeated in the horticulture industry.

5.9.1 Findings on Strategic Visioning on the Role of Agriculture in SSAs

Tanzania has the potential to recreate a niche in the global market for a number of products in view of its climatic, land and human resources. However, this is possible subject to picking one or two priorities and channeling national efforts and resources towards the same over considerably long periods of time. World class excellence in any agricultural product has benefits. Such benefits will have a premium in future if the choice is in the food sub-sector. However, it requires diligence and persistence in implementation. Agro-
investments provide a new opportunity to kick-start such persistent action once again. Will SSA respond proactively? Will Tanzania respond proactively?

The current trend of rolling out the red carpet for agricultural investors in Tanzania and other SSA countries, and the allocation of large tracts of land, water and other related rights needs to be informed by an evidence based policy frame that takes into consideration a strategic vision of the status of African farmers and land holding patterns towards the end of the 21st Century. This is inevitable given that the heightened interest in agricultural investments is based on concerns for food security and access to alternative renewable fuel beyond the coming fifty years. Africa cannot afford to respond to long term interests through spontaneous decisions based on past and current concerns while incoming investors are thinking a hundred years ahead. This means that SSA government’s responses have to take off from the basis of well-informed policy frameworks that extends beyond the horizon of current problems informed by past experiences but building on evidence concerning emerging opportunities and building on future expectations and predictions.

5.9.2 Recommendations on Strategic Visioning on the Role of Agriculture in SSAs

The challenges in this area highlight the ability and willingness of SSA countries to come up with a strategic vision for the development of its agricultural sector and its positioning in the global market based on three approaches:

(i) That SSA countries, including Tanzania, to revisit their land and agricultural development policies and consider adoption of best practice implementation instruments, including those reviewed in this paper to influence current and future global economic relations and create niches for its people to improve their share in growing income through judicious use of a rich endowment of a valuable resource base, including land and water resources;

(ii) The transformation of agriculture has to start with revival of Africa’s railway system as the only competitive transportation linkage to the global market place. SSA countries should use its natural resources, particularly minerals, to revamp and expand its railroad transport system and invest in the development of specific agricultural infrastructure that will turn Africa into the world’s bread basket for the 21st Century and beyond. Resolving power woes in the midst of abundant and potentially competitive sources of energy is an absolute prerogative;

(iii) Africa needs to create effective and efficient institutions as part of economic systems that underpin a green revolution. The starting point is the transformation of the civil service into an efficient system embodying
national analytical capacity that underpins commitment and willingness to adopt best practices in policy formulation and implementation using first-best instruments. This is the only route to success as evident from the few SSA countries that have transformed their economies such as Botswana. The simple message is that the wheel has been perfected and to refuse to adopt its usage because it is not home grown is self-denial of the benefits of knowledge and skills that have become a common human free goods. Reluctance to adopt and adapt strategies that are working wonders even within the continent underpins many of the policy failures in SSA countries, including Tanzania. Pride and vainglory is a luxury that Africa cannot afford to maintain today.

Transforming agricultural practices to make SSA the leading bread basket in a global economy may sound a very distant dream today. However, it is the only salvation for Africa and it can be done. The starting point is leadership commitment and transformation of the civil service, to create the champions that will drive and sustain the change process.

5.10 FROM VISION AND GOOD PLANNING TO EFFECTIVE IMPLEMENTATION

In the final analysis, there is a strong indication that SSA countries have been able to develop, over the past 40 years, reasonably good strategic documents and plans for transforming their economies. However, there has not been equally good performance in implementation.

5.10.1 Findings on Effective Implementation

The failure of policy implementation in many SSA is based largely on lack of effective monitoring and performance evaluation. Even where this does occur, there is a tendency, amongst officialdom to hide real developments in the field, starting from the planning stage through failure to establish realistic benchmarks. Africa has also been unwilling to adopt best practices emerging from other economies as a norm, preferring in many instances home baked policy instruments that have are known to suffer from failure to deliver transformation.

5.10.2 Recommendations on Effective Implementation

SSA governments have to adopt best practices in development of economic strategies and strategic plans for their implementation. There is little meaning in wanting to redesign the wheel as an excuse for adopting sub-standard policy measures that compound existing problems.
5.11 GOOD GOVERNANCE AND INVESTMENT IN INSTITUTIONS AND CIVIL SYSTEMS

Finally, there is a critical role for the multilateral and bilateral development partners and agencies, NGO and others who have been involved in the development of the good agricultural investment and funding models to support the shift that is necessary to raise the effectiveness of the opportunities for increased inflow of agricultural investments from the advanced and emerging economies into low income countries. There is a salient obligation for these partners to support the rolling out of the emerging experiences by among other things the following:

(i) Support the orientation of food security concerns to adoption and implementation of good policies that stimulate agricultural investment leading to higher yields and quality, processing and marketing rather than trade-bans;

(ii) Support agribusiness models scaling up and rolling out of best practice business models and funding schemes as a major tool for poverty reduction;

(iii) Support continuation of reforms of the regulatory environment to create a conducive business environment for agricultural investments with emphasis on change at the LGAs level;

(iv) Support paradigm shift in choice of policy instruments from blunt tools such as monetary subsidies that are prone to rent-seeking abuse and focus on first or even second best instruments that focus on the development side of production such as access to extension services and liberalized marketing; and

(v) Support building world class excellence in production of a few selected products based on building competencies of the SSA domestic private sector in select agricultural sub-sectors or specific products.
CHAPTER SIX
CONCLUSION AND WAY FORWARD

“Ukiona vinaelea, vimeundwa” (Swahili proverb meaning “the impressive vessel you see floating on the high seas is the outcome of innovation, creativity and hard work”)

This paper has undertaken a review of current trends in agricultural investments in SSA consequent to the quest for alternative sources of renewable energy and increasing concern about food security in the developed and developing world. Over the past five years, there has emerged an apparent shift in global value chain relationships with TNCs seeking to integrate vertically across the entire chain of agricultural products. The result is the appreciation of land as an asset and a flood of acquisitions of large areas of arable land with guaranteed access to water rights in lower income developing countries by TNCs and firms from emerging economies supported by their governments. As seen earlier, World Bank data indicates that SSA has granted 70 per cent of the 45 million hectares that allocated to investors on long term leases across the world between 2004 and 2009. Yet there is evidence that the incoming investors cannot develop such huge land even in the normal “long-run” strategic planning perspective of one to two decades. For instance the largest farm in the world, located in Saudi Arabia, occupies a 259 sq km while only two farms in the US exceed the area of 50,000 hectares. These developments have become a new source of concern regarding the future of efforts to stimulate a sustainable process of rapid and broad-based growth in developing countries, in particular those in SSA, as the tool for achievement of the MDGs and ultimate poverty eradication.

6.1 CONCLUSION
The review confirms that whereas food security concern is a global preoccupation, it is, first and foremost, an African dilemma. For the industrialized world, food security is a question of guaranteeing access to quality food conforming to high standards of hygiene and safety for health and an issue of mitigation against the remote probability of a situation where access to food becomes an instrument of conflict. For the emerging economies, it is an issue of ensuring alternative and affordable sources of food in the long run as a safeguard against future shortages as resources that provide windfall profits that make food imports a minor factor in their budgets dwindle and populations are expanding.
Further, this paper has reviewed emerging practices in land lease contracts undertaken in SSA over the past five years, the size of the land involved and the contents of the contracts. The emerging structure has been analysed in the backdrop of farm sizes and agricultural practices in developed and emerging economies. The resulting conclusion is that the mega land acquisitions taking place in Africa today cannot be for bona fide agricultural production but mere transfer of land that will enable the beneficiaries become the lessor landlords of tomorrow. The most likely lessees will be members of the communities who are loosing their land in shoddy deals. A number of case studies showing the grave policy mistakes being committed through ongoing land leasing contracts and how difficult, if not impossible, to regain the land even at the expiry of a 98 year leasehold have been presented.

Modernization of agricultural production in Africa, is an issue of survival. However, there are key binding constraints to ensuring achievement of higher productivity and viability, and these must be removed if a sustainable process of growth and development is to be attained. Measures to ensure real linkages between local communities and their smallholders with the incoming investors are mentioned without any specific clauses in the contracts to make these binding. Most SSAs seem to be oblivious of the real nature of these contracts as governments continue to receive and conclude deals that grant large areas of land, leading to displacement of local populations and tying up valuable water rights for long durations of up to 98 years, without any rigorous impact analysis. These responses have already led to social and political conflict in some countries and pose a major threat to socio-economic conflict and civil strife across Africa.

Food security and the search for viable alternative sources of renewable energy is a unique opportunity for reviving world agricultural trade and creating new market niches for African economies whose core productive assets remain land and labour. In the course of building on these opportunities, the multilateral development agencies have come up with a code of conduct, comprising of good agricultural investment practices. Incorporation of these practices in the policy framework of agricultural investment host countries and voluntary compliance by TNCs and emerging economies governments that seek to invest in SSA agricultural sector is the key to building on this opportunity and contribute to building a better world. The international community has also come up with innovative financial instruments to support agricultural investments that lead the way in transforming agricultural practices in SSA and contribute to resolving the pressing food security concerns. This is logical in view of the truism that the world has enough food to feed its population and the real problem is not availability but accessibility, particularly for poor countries at the global level and for poor communities at the national level.
Current responses are worsening the problem of access without necessarily improving the availability of food across the board. This is a situation that has no winner and one that calls for collaborative redress measures. Over the past five years, most low income countries, particularly those in SSA, have concluded land-lease contracts that have led to displacement of local communities without consideration of expanding population whose livelihood remains in the rural economy. Lack of reliable information on land administration combined with erroneous data characterized by double counting portrays a picture of abundant idle land that can be allocated to investors who want up to 1.0 million hectares at a song. In environments where major policy decisions are not based on solid evidence collected from rigorous review and analysis, this picture ends in misleading SSA national leaders into making major policy decisions, that are difficult to reverse, on the basis of faulty evidence. Liberia is the only SSA country that is leading the way in concluding investment deals that are structured around the good agricultural investment principles and have taken advantage of the financing tools available. A few other countries are already experimenting with the intervention instruments for introducing good agricultural practices in SSA.

Nevertheless it is necessary to move quickly to stop the current practice of signing away hundreds of thousands of hectares to single investors, granting water rights to match the area of land given away without due consideration and entrenchment of practices that safeguard the rights of local communities and smallholders. The review has come up with a few case studies that show the pitfalls involved in the fatal assumption that investors will deliver on the basis of verbal promises made during the initial consultative processes. Contracts for agricultural investment that have entrenched major rights for investors must equally address the concerns of host communities and governments in a holistic manner that will ensure win-win outcomes for all parties. This is the only route to sustainable transformation of agriculture in SSA in a manner that resolves global food security concerns by prioritizing those of host countries whose situation is already quite precarious.

6.2 WAY FORWARD

On the basis of the foregoing conclusion, the review has come up with eleven recommendations responding to three fundamental problems whose resolution is the prerogative for success. In the first place, the findings highlighted the recommendation to prioritize the need to resolve once and for all, Africa’s own untenable food security threat, attributable to persistently low agricultural productivity and declining quality of food products, as a necessary condition for resolving the wider global food security issue.
Secondly, the findings highlight the importance of implementing measures to formalize property rights at the communal and individual level to mitigate against the increasing incidence of land-related conflict and safeguard the principal asset that underwrites the continued livelihood of rural communities, currently comprising 70% of population in SSA countries. Finally, Africa cannot afford to move blindly in adopting the seven principles of good agricultural investments. There is a host of complimentary policy measures that have to be put in place to reduce the high costs of investment that makes investing in African agriculture non-attractive for bona fide investors. Without a paradigm shift in implementing measures to remove barriers to investment that create unnecessary high transaction costs, Africa will be compelled to maintain major tax exemptions that they can hardly afford to compensate for unnecessary and high transaction costs.

Yet, Africa needs all the financial resources it can access to modernize the infrastructure based services including revival of moribund railway systems and generation of reliable and affordable power without which investment in African agriculture cannot become competitive. Failure to implement measures addressing the three issues mean that SSA countries will not be able to stem the tide of quest for allocation of land resources and water rights for agricultural investors in SSA countries. It will only lead to minimal development of land already allocated leading to the worsening image of speculative land acquisitions.

In conclusion, SSA countries, Tanzania included, need a common strategic vision and course of action, including the institutions, norms, code of conducts and implementation strategies that will enable the continent build on the opportunities that have come with the quest for agricultural investments. While TNCs and emerging governments have concerns about food security and new sources of energy, Africa’s primary concern is about transforming its agricultural sector in a manner in which poor rural communities will be at the centre of the change process and be the primary and leading beneficiaries. They must be involved in sharing the envisaged benefits. This will only happen if they retain primary ownership of the assets of production. They must be involved in the deals and remain in the driving seat during negotiations and implementation. Land lease deals must be for shorter periods of time as shown in the case studies on Liberia where deals have been limited to the region of 20 years rather than 50-98 years that has been the practice in most other host countries. Communities must receive the same access to water rights that is guaranteed for incoming large investors.

Liberia is already a leader in good agricultural investment practices. Tanzania is also experimenting with its own cases as evident in SAGCOT and the Korea/Tanzania deal in the Rufiji. The development partners also have their
own challenges as it would appear to emerge from the case of ACTIS and TATEPA. It is a challenging situation but one the world must surmount successfully. Africa’s loss will in fact become a global problem. Neither the developed, emerging or developing countries, including low income ones can afford to sit on the fence. We live in a global village where we either swim or sink together. May God help us all as we strive to make the right decisions and build on a delicate opportunity where success depends on goodwill and commitment to cooperation across the board.

6.3 EPILOGUE ON TRUTH AND RECONCILIATION

The SSAs today, Tanzania included, are a living re-incarnation of Greek tragedies, so dramatically captured and passed on to posterity through the writings of Sophocles, among others. However, for the Greeks it was theatre with a political message. For the Roman empire, in the build up to and during the 100-years war, real-politik tragicomedies so close to Greek theatre, spelt its ultimate undoing. Plutarch’s (46 – 120 AD) biographies have preserved the rich lessons of the decline, decay and disintegration of the Roman Empire for the politicians and citizens of future generations across time, today made popular by Shakespearian drama. For most SSAs, the political fumbling and consequent economic degeneration that underpins the real-life tragedies that Africans are going through to-day, resemble too much the parallel decay and demise of the Roman Empire as recorded through Plutarch’s indelible pen. The performance of most African leadership today mirrors too much the irresponsible actions of the reckless Roman generals, characters in the mode and ilk of Mark Anthony and General Sulla, whose striving for individual power, wealth and glory, drove them to embrace corruption and abuse of military power, spelling the beginning of the end of an empire that once transcended the whole civilized world. Too many African leaders reflect the personalities and behavior of the likes of the Generals and Emperors behind the 100 years war, whose anticlimax was personified by Caligula (37 – 41 AD).

The African chieftaincies of the 18th and 19th Century may have sold people they overpowered in tribal wars to slavery as well as their own lands for strings of worthless beads. Today we are doing much worse as we succumb to the negative side of the new Carpetbaggers because they simply tell us what we want to hear and we are anxious to believe them because their interests mirror our own individual dreams for wealth that we do not want to work for. The darker side of the Carpetbaggers is winning and the communities losing out

---

66 Lucius Metrius Plutarchus (50 – 90 AD); Parallel Lives 50 – 90 AD, in Clough A. R. (Editor); The Dryden Translation of Plutarch’s Lives (1631-1700); Random House Inc.; 1992.

131
because there are modern chiefs whose beads are a token of shareholding in speculative land-deals that are already marginalizing the younger generation and laying the grounds for social implosion amongst the next generation.

We have borne witness to this through the pain that has befallen the Congo, now DRC since its pre-independence days when that beautiful country was the personal estate of Belgian royalty. We have borne witness to this decay and decline in the disintegration of the modern state in Somalia, Liberia and Sierra Leone and the resulting pain and the effort that it has taken to bring order back into Sierra Leone and Liberia. We are bearing witness to this scene in North Africa today. It will be far worse the third time it happens again in SSA and that time is not too far unless African Governments and people make deliberate efforts to change.

Change remains elusive because we as human beings cannot foretell what will happen tomorrow and the only way we can influence the unknown future is to stick to the path of truth and righteousness even as we delve into the unknown and adapt to the unfolding environment. However, for shortsighted personal motives ranging from the hunger for power, thirst for vainglory and inordinate greed for wealth that we may never use, we are throwing all the rules of temperance and human dignity into the wind and have embarked on the route that is leading us to self and communal destruction, portrayed in the historical Greek tragedies.

It is for this reason that the hidden compact amongst African political leadership and the civil service echelons that underpins the culture of silence and conspiracy of inaction, with everyone looking askance whenever things go wrong in any specific sector, must come to an end. The obvious victims are the common folk who have always been the cannon fodder of decision making at times of war and peace and whose interests are now being sacrificed at the table of wanton ineptitude that can only arise from extreme conflict of interest between personal and national objectives. The not-so hidden culprits are the perpetrators of the culture of silence and inaction, those who are abdicating their official responsibilities to promote the personal interests of their cohorts and colleagues, through unwritten Masonic agreements that compels them to look askance when things go wrong.

This is the new culture of Omerta – silence, dead silence and inaction when things are falling apart, and we end up in civil wars and fratricide as the degeneration process touches rock bottom. Many of the elites in SSA, Tanzania included, are now building marble houses; castles in which we will not live and hoarding wealth that we shall never touch and enjoy. We have been allowing our countries to descend towards civil disorders and even wars in the quest to
hide the truth and guard ill-gotten wealth. In the end, in our individuality, like dominos, we succumb to the inner pressures of ill conscience and bad living, making horrendous payments for past misdeeds in this very same world. Look at SSAs political history over the past 40 years. Rich and poor alike, governors and the governed alike, it has been a life of misery, pain and suffering for most. For many the suffering has been in the open savannah as we succumb to the frequent hunger that has become the symbol of the vagaries of nature that we allow to control our nations as we stash billions in offshore accounts. For the elites the pain has taken different forms overtime including early indisposition behind the screening walls of marble castles that were meant to display wealth and prowess, largely consequent to extremely bad life-styles under the illusion of enjoying ill-gotten wealth.

Little did we know then and even now, that we will all end up as bedridden prisoners of our own deeds and conscience inside the cells of our marble castles and the blindness of our wanton gluttony and rampant greed. For the bedridden, gold is as good as common sand by the sea shore. Where are the post-independence leaders of yester years whose bathrooms were decked in gold; those who turned their blessed lands into forsaken paradises empty of life as the multitudes voted with their feet and sought refuge elsewhere; those who awarded themselves titles like “the only miracle of country X”, titles that are fit only for the saints and angels of the Other World; those who decorated their breasts with countless medals till there was no space for more and had to find new hobbies for self-praise and vainglory; those who have triggered unrecorded “genocidal tendencies through benign tribal wars” pitting brother against brother in the political machinations of retaining power and controlling resources; those whose compromise in economic policies to capture natural resources are condemning their people to needless poverty in the midst of plenty; those who are now aligning with the new Carpetbaggers to give away the only resources that has provided the resilience for survival to the downtrodden masses in SSA.

For those of us who fall in the tragic group of leaders who have and are abdicating our responsibilities to our societies, we still have a chance if we will embrace the principles of truth and reconciliation that has become the instrument of choice for mending and healing broken socio-economic and political relationships across Africa: in RSA yesterday, Kenya and Ivory Coast today and Libya and many others tomorrow. Yes, many others, including Tanzania where we glory in the peace we inherited from the father of the nation even as we are doing our best to dismantle its pillars and dig up its foundation. We can change things for the better before the pain gets out of bounds.
Drawing on the words made famous by Alan Paton, let us “Cry, for the Beloved Country”. Yes! Cry indeed, My Beloved Continent. Cry My Beloved People, as those whom we have chosen to lead and guide us, those coming from humble beginnings to whom we have given trust and honors greater than that earned by the strongest kings in history, to whom we have given constitutional guarantees that they will live the rest of their lives in manners befitting kings, if only they would honor the social contract, are breaking their vows and betraying our trust in them. They are going beyond the contract, looking for what we know not. It is the Greek tragedy all over again, a comedy most of the time but always painfully tragic at the end. Man has always sought illusive satisfaction in the unknown, and in the course, bringing so much pain upon himself and to all.

Cry my Brothers and Sisters that we may yet listen to and hear the voices of reason and our choice leaders may take the right path in leading us to the promised-land in this very world? Even as they are leading us astray, let us not shrug our shoulders and say it is up to them for the pain engulfs all of us. Let us reach out and shout at the top of our voices against what is wrong and praise what is right. Let us pray for them too when they are no longer able to differentiate between right and wrong and when there is too much noise among their cohorts so that they can no longer hear the human voice of reason and make recourse to the bullet in resolving ordinary social problems.

Cry Fathers and Mothers for the lives of the children of tomorrow whose welfare is being sacrificed at the wayward “altar” of gluttony by a world that has chosen to ignore the simple fact that the doom of mankind lies in the very same technology that we have so far used quite effectively to control our environment and transform our lives. This is so clear if only we will look at the past into how we have harnessed science. As we have broken across new frontiers of scientific discovery and use the findings to commercialize new technologies that have made our lives easier, better and richer, in the very same noble process we have often moved beyond what is tenable scientifically to embrace the untenable.

Cry you all who respect humanity and life in its very essence, as we reach the stage where reckless technological innovation ignores the fundamental warnings from the underlying science and gluttony drives us to succumb to the pressures of wealth accumulation, driving us to cross the Rubicon of scientific premises, as we cut corners in the course of commercialization of technologies so as to expand and exploit windfall margins.

67 Paton, Alan Stewart; Cry, the Beloved Country; (1948)
We have been there already in tobacco, asbestos, nuclear fusion energy and now climate change. We are going to be there again and again in hard drugs, genetics and other scientific frontiers that we know not today. Technology and innovation has raised humanity to new heights - look at the evidence in medicine, transportation, construction, engineering, information and communication. Yet, it will also be the undoing of humanity when we will have allowed individual or corporate greed to spur the blindness that will launch the ultimate havoc against mankind.

For the citizens of Africa, we have been there already. We have seen minor fore-runners in the contagion to the financial crises and melt down that the world is still struggling to emerge from today, the continuing denial of the dangers of climate change and the disintegration of the institution of the family. Allowing interest groups to capture the instruments of state as part of untrammeled striving for higher returns and sitting by the fence regarding African contribution to the climate change paradox is probably even worse than the position of those in the industrialized world who portray the phenomenon as unwarranted fear-mongering. In reality, climate change is not a question of whether it can become the source of cataclysm against man and the globalized world, but one of when it is going to happen if we do not accept the challenge now, and work on counter measures to reverse its rolling on tendency. The minimum we can do today is to aim at regaining the desire for reasonable lifestyles that respect the fundamental right to life for everyone, current and future generations alike. Do the very best where you are now, when you can. Protecting and safeguarding balanced land rights for future generations is one critical factor in the scheme of survival of mankind and the most fundamental obligation on the part of the current generation. Do all that which you can where you are today and do it now.

SSA’s first post-independence leadership generation understood the sensitivities around land holding patterns and made decisions that sought to maintain some degree of probity and sanity in this area. Does the second and third post-independence generation, the young men and women who have ascended to power at the onset of the 3rd Millennium, understand the enormity and the dangers inherent in all decisions that they are now making that involve land ownership and/or user land and water rights?

Dar es Salaam, August, 2011.
### 6.0 APPENDICES

**APPENDIX A**

SAMPLE OF INVESTMENT PROJECTS INVOLVING ACQUISITION OF LARGE AREAS IN SELECTED SUB-SAHARA AFRICAN COUNTRIES BETWEEN YEAR 2004 AND 2010

<table>
<thead>
<tr>
<th>S N</th>
<th>LOCATION (REGION)</th>
<th>NAME OF INVESTOR</th>
<th>MODE OF ACQUISITION</th>
<th>DETAILS OF THE DEAL / CONTROVERSY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Tana River Delta - Kenya</td>
<td>Government of Qatar</td>
<td>The Kenyan Government <strong>leased 40,000</strong> ha of high potential land in the Tana river delta to Qatar for horticultural production.</td>
<td>Not available.</td>
<td>Source : <a href="http://www.fian.org">www.fian.org</a> <a href="http://www.nation.co.ke/News">www.nation.co.ke/News</a> and</td>
</tr>
<tr>
<td>2</td>
<td>Tana River Delta - Kenya</td>
<td>Mumias Sugar Company</td>
<td>Planned public private joint venture by Mumias Sugar Company Ltd and the state-run Tana Athi River Development Authority (TARDA) to develop 16,000 ha of sugar cane plantation for bio-fuel production.</td>
<td>Sugarcane monoculture. These projects will lead to displacement of tens of thousands of peasant farmers who currently use this land for food crops like maize, cassava, beans vegetables and mangos. Also pastoralists such as Orma and Wardei have been using this area for cattle grazing for generations.</td>
<td>Source : <a href="http://www.fian.org">www.fian.org</a></td>
</tr>
<tr>
<td>3</td>
<td>North Eastern shoreline of Lake Victoria Kenya covering 17,500ha</td>
<td>Dominion Farms Ltd, a subsidiary of Dominion Group of USA</td>
<td>Agreement between Siaya and Bondo County Councils covering 6,900 ha of the 17,500 ha for duration of 25 years with the possibility of extension</td>
<td>It provide for major ecological livelihoods for neighbouring communities. This land is for Siaya and Bondo County Councils with a population of half a million people.</td>
<td>Source : <a href="http://www.fian.org">www.fian.org</a></td>
</tr>
<tr>
<td>S N</td>
<td>LOCATION (REGION)</td>
<td>NAME OF INVESTOR</td>
<td>MODE OF ACQUISITION</td>
<td>DETAILS OF THE DEAL / CONTROVERSY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------</td>
<td>-----------------------------------------</td>
<td>-------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>4</td>
<td>Massingir / Mozambique</td>
<td>Bio Energy (British company)</td>
<td>Renewable long term lease of 50 years</td>
<td>Pro Cana intends to invest approximately USD 510 million on 30,000 ha of land to produce sugarcane and export ethanol mainly to South Africa. The target land is the main source of livelihood for the Massingir communities who use it for livestock grazing, subsistence farming and production of charcoal. The government granted Pro-Cana extensive rights for irrigation water from the Massingir Dam. Such reallocation of water resources undermines the autonomy and capacity of adjacent communities to produce food for subsistence consumption.</td>
<td>Source: <a href="http://www.fian.org">www.fian.org</a></td>
</tr>
</tbody>
</table>
| 5   | Nyari Valley / Congo DRC| ABSA Agribusiness, South Africa         | Land-lease, granting 200,000 hectares to South African farmers. Agri SA, a commercial farmers’ association, was initially contacted by the Congolese government in January 2009, who were seeking a strategic non-governmental organization in the form of a professional farmers’ union, rather than a political state controlled entity as a | There are three main reasons stated by Andre Botha, President of Agri Gauteng, a division of Agri SA on why they are in the Congo:  
• Diversify ABSA’s businesses;  
• Assist local farmers to commercially develop their own land;  
• Assist the government of South Africa to fulfill the expectations of the world in stabilizing the African continent through the exchange of skills and technology.  
No Congolese subsistence farmers occupy the land area. The Congo’s numerous state-owned farms, neglected | www.thoughtleader.co.za/admin |


<table>
<thead>
<tr>
<th>SN</th>
<th>LOCATION (REGION)</th>
<th>NAME OF INVESTOR</th>
<th>MODE OF ACQUISITION</th>
<th>DETAILS OF THE DEAL / CONTROVERSY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Democratic Republic of Congo (DRC) Equateur and Bandundu provinces, in the Province of Orientale and in West-Kasai.</td>
<td>Chinese company, ZTE International</td>
<td>partner.</td>
<td>for 12 years, are situated between two mountain ranges in the fertile Nyari Valley. Despite neglect and the dilapidation of some homes and infrastructure, the bulk of the property, states Agri SA Deputy President Dr Theo de Jager “remains in good condition”. Invest US$1 billion in an immense 3 million hectare oil palm plantation with the aim of producing bio-fuels. Congo DRC is home to the world's second largest undisturbed tropical rainforest, an invaluable hotspot of biodiversity and carbon sink that is increasingly under pressure from (illegal) logging operations. A rush into the bio-fuel sector could threaten these ecosystems further. On the other hand, if managed carefully, the bio-fuels opportunity could help lift the Congolese people - who rank amongst the poorest in the world - out of dire poverty and revive the DRC's economy.</td>
<td><a href="http://www.news.mongabay.com">www.news.mongabay.com</a></td>
</tr>
<tr>
<td>7</td>
<td>Democratic Republic of Congo (DRC)</td>
<td>ENI, Italian Oil Company</td>
<td>70,000 ha to develop an oil palm monoculture plantation for bio-fuel production</td>
<td></td>
<td><a href="http://www.Taz.de/taz/nf">www.Taz.de/taz/nf</a></td>
</tr>
<tr>
<td>8</td>
<td>Madagascar</td>
<td>Daewoo Group of South Korea</td>
<td>Lease for 99 years</td>
<td>Lease of 1.3 million ha for 99 years for corn plantation (in the West) and palm oil (in the East). The objective was to boost Korea food security, (from the lease, Korea intends to provide about</td>
<td></td>
</tr>
<tr>
<td>S N</td>
<td>LOCATION (REGION)</td>
<td>NAME OF INVESTOR</td>
<td>MODE OF ACQUISITION</td>
<td>DETAILS OF THE DEAL / CONTROVERSY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------</td>
<td>------------------</td>
<td>---------------------</td>
<td>-----------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td></td>
<td>Ethiopia / Awassa</td>
<td>Saudi billionaire businessman, Ethiopian-born Sheikh Mohammed al-Amoudi, one of 50 richest men in the world and his Saudi Star</td>
<td>Acquire and develop 500,000 hectares of land in Ethiopia in an area leased for 99 years.</td>
<td>half South Korea’s maize imports of 5.0 million tons per annum. Hong Jong-wan, a manager at Daewoo is reported to have stated that: “We want to plant corn there to ensure our food security. Food can be a weapon in this world. We can either export the harvests to other countries or ship them back to Korea in case of a food crisis.” The area of 1.3 million ha is almost half Madagascar arable land estimated at 2.5m ha. The proposed development strategy included: • 1 million ha of corn in western regions (seeds imported from Latin America); • 300,000 ha of oil palm trees in eastern region (seeds from Costa Rica) Eventually the deal aborted consequent to civil disorders and change of Government.</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td>Includes 1,000 hectares of land which includes the Awassa greenhouses. The company started with purchase of four farms and is already growing wheat, rice, vegetables and flowers for the Saudi market. Expects to employ more than 10,000 people eventually.</td>
<td></td>
</tr>
<tr>
<td>SN</td>
<td>LOCATION (REGION)</td>
<td>NAME OF INVESTOR</td>
<td>MODE OF ACQUISITION</td>
<td>DETAILS OF THE DEAL / CONTROVERSY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>----</td>
<td>-------------------</td>
<td>------------------</td>
<td>---------------------</td>
<td>-----------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>10</td>
<td>Ethiopia in five kebeles i.e. Jantaya, Gublak, Dabata, Dilkankokol and Jarduban.</td>
<td>Sun Biofuels Ethiopia / National Biodiesel Corporation (NBC)</td>
<td>NBC has obtained 80,000 ha of land on a 50 years lease in the Metekel zone in Dandure Woreda at the lease price of Ethiopian Birr (ETB) 25 per hectare for the development of a jatropha plantation.</td>
<td>This is mostly forest, woodland and range land with very little agricultural activities. There are various types of plant and animal species in the area. Loss of biodiversity and wildlife would be the immediate impact. This could be followed by soil chemical composition changes due to change in land use, increased soil erosion and land degradation due to increased runoff, with severe impact on the watershed.</td>
<td><a href="http://www.melca-ethiopia.org/Biofuel">www.melca-ethiopia.org/Biofuel</a></td>
</tr>
<tr>
<td>11</td>
<td>Ethiopia / Awi Zone</td>
<td>BDFC is a subsidiary of the US based B &amp; D Food Corporation.</td>
<td>Has acquired 18,000 ha with the intention of producing sugar and ethanol. The project includes development of out-growers on a scheme of up to 30,000 ha. Plans to produce 70,000 tons of sugarcane and 30,000 tons of ethanol per year based on investment of up to 300 million Ethiopian Birr.</td>
<td>The introduction of monoculture farming poses a big threat through the loss of biodiversity in the area. For instance, an individual farmer grows about 22 types of different crops, vegetables and root crops (excluding bee hives) on a plot of land which is now being converted to jatropha or castor bean cultivation. In addition, the use of fertilizers and pesticides, will lead to increased water pollution and pave the way for the spreading of GMO seeds.</td>
<td><a href="http://www.melca-ethiopia.org/Biofuel">www.melca-ethiopia.org/Biofuel</a></td>
</tr>
<tr>
<td>12</td>
<td>Ghana</td>
<td>Galten Global Alternative Energy of Israel</td>
<td>Leased 100,000 ha and has already planted 1,000 ha with jatropha.</td>
<td></td>
<td><a href="http://www.galten-group.com/company.html">www.galten-group.com/company.html</a></td>
</tr>
<tr>
<td>S N</td>
<td>LOCATION (REGION)</td>
<td>NAME OF INVESTOR</td>
<td>MODE OF ACQUISITION</td>
<td>DETAILS OF THE DEAL / CONTROVERSY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------</td>
<td>------------------</td>
<td>---------------------</td>
<td>-----------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>13</td>
<td>Kumasi in the Ashanti region</td>
<td>ScanFuel- Norway</td>
<td>Has leased a vast area of land, amounting to 400,000 ha, for a period of 50 years, with up to 60 percent for bio-fuel production. Not less than 30 percent of the land will be allocated to food production and 10% serve as a biodiversity buffer zone.</td>
<td>ScanFuel AS Norway was co-founded by Hesselberg and three others in 2007 and had its Ghanaian subsidiary, ScanFuel Ghana Ltd, registered the same year. Hesselberg states that ScanFuel, has invested $4 million in seed funding for the project. The firm intended to raise an additional US$ 20 to $30 million to commercialize the project despite a global credit squeeze which led other European biofuel firms to pull back from Africa due to lack of finance.</td>
<td>m <a href="http://www.ghanabusinessnews.com/2010/02/23">www.ghanabusinessnews.com/2010/02/23</a> and <a href="http://www.in.reuters.com/article">http://www.in.reuters.com/article</a></td>
</tr>
</tbody>
</table>
## APPENDIX  B

### SAMPLE OF INVESTMENT PROJECTS INVOLVING INITIATIVES FOR ACQUISITION OF LAND IN TANZANIA FOR THE PERIOD 2000 TO 2010

<table>
<thead>
<tr>
<th>S/N</th>
<th>LOCATION (DISTRICT)</th>
<th>NAME OF INVESTOR (DISTRICT)</th>
<th>NAME OF INVESTOR (BRITISH FIRM)</th>
<th>MODE OF ACQUISITION</th>
<th>DETAILS OF ACQUISITION AND EMERGING CONTROVERSY</th>
<th>SOURCES OF INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kisarawe district in Coast Region.</td>
<td>Sun Biofuels</td>
<td>Sun Biofuels (British firm)</td>
<td>Leasehold of 99 years free of charge for growing Jatropha curcas, an energy plant with high oil content for bio fuel production. Registered by TIC with certificate of Incentives No. 010176</td>
<td><strong>Involves 9,000ha (22,230 acres)</strong> of sparsely populated farmland. The company will invest about US$ 20 million to build roads and schools. Sun Biofuels wants to expand their production to 50,000 ha (124,000 acres) as soon as possible. About 11,000 people live in the villages surrounding the acquired land which has been used by the villagers as a source of energy (fire wood and charcoal making). Charcoal is also a major source of income. This area is also the source of clay for pottery making and collection of herbal medicines and condiments for food preparation. The area also includes a swamp where the local people draw water during the dry season. Compensation has been paid at the rate of USD 250 per household. A lot of village land is being sold off primarily due to lack of other opportunities available as well as lack of knowledge about land values and rights amongst local people. This change of ownership will eventually lead to displacement of rural poor creating potential for long term socio-political instability.</td>
<td><a href="http://www.spiegel.de/international/">www.spiegel.de/international/</a> <a href="http://www.files.theecologist.org/resources">www.files.theecologist.org/resources</a></td>
</tr>
<tr>
<td></td>
<td>Location</td>
<td>Company/Agreement Details</td>
<td>Remarks</td>
<td>References</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>(Coast region)</td>
<td>SEKAB BT of Sweden. A consortium of Bio-Alcohol Fuel Foundation (BAFF) of Sweden, Svensk EthanolKemi AB (SEKAB) of Sweden and Community Finance Company Ltd (CFC) of Tanzania) Acquired 22,000 ha of land in Bagamoyo district through Tanzania Investment Centre land bank. Small portion of the land already under cultivation. SEKAB were initially targeting a much more grandiose project involving the acquisition of up to 500,000 ha, partially in Bagamoyo and in the Rufiji basin. However, the deal aborted after withdrawal of financial support from Scandinavian pension funds who had been lined up to finance the project. This withdrawal was prompted by the “land grabbing” features of the project. Eventually SEKAB has sold the project to another company.</td>
<td><a href="http://www.coet.udsm.ac.tz">www.coet.udsm.ac.tz</a> and <a href="http://www.dailynews.co.tz">www.dailynews.co.tz</a> and Sule &amp; Nelson, ibid.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Mpanda, Rukwa region</td>
<td>Prokon (German firm) 16,800 ha with outgrowers contracted to cultivate about 9,600 ha of Jatropha in Mpanda <strong>10,000 hectares</strong> of land is cultivated with Jatropha</td>
<td></td>
<td><a href="http://www.troz.uni-hohenheim.de">www.troz.uni-hohenheim.de</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Biharamulo, Kagera region</td>
<td>WILMA (US firm) The land, lies entirely within Biharamulo district, Kagera region, and is divided into plantation areas of 20,000 hectares. Includes a local outgrowing scheme with 40,000 ha The Company is a joint venture between TTT-WILMA Biofuel and Emission Reduction Company, part of the WILMA Group (<a href="http://www.wilma.us">www.wilma.us</a>), and the National Investments Company Limited (NICO) of Tanzania (<a href="http://www.nico.co.tz">www.nico.co.tz</a>).</td>
<td></td>
<td><a href="http://www.wilma.us">www.wilma.us</a> / toolkit/AB-brochure-English.pdf</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
planted with a total of 12 million trees.

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>China (Chongqing Seed Corp)</td>
<td>Aid commitment made by China in 2006.</td>
<td>300 hectares (740 acres) secured to grow rice in Tanzania in May 2008 as China seeks new ways to cope with soaring global grain prices and shrinking domestic farmland. The company says that it will contract out production to local farmers and export the harvest to China.</td>
<td><a href="http://www.terradaily.com/report">http://www.terradaily.com/report</a></td>
</tr>
<tr>
<td>6</td>
<td>Handeni / Bagamoyo</td>
<td>CAMS Group (UK)</td>
<td>Purchased 45,000 ha to produce 240 million litres of ethanol a year from sweet sorghum</td>
<td><a href="http://www.automotiveworld.com/news/">http://www.automotiveworld.com/news/</a></td>
</tr>
<tr>
<td>7</td>
<td>Lindi</td>
<td>BioMassive AB (Swedish firm)</td>
<td>Acquisition of 55,000 ha on a leasehold agreement of 66-year signed with Lindi District Council</td>
<td>Acquisition of 55,000 hectares of land in September 2007 to cultivate jatropha. Involves Ediphine Masasi as the Tanzanian nominal shareholder. Has avoided payment of land rent for all the 55,000 ha under the contract on the premise that “rent will be calculated on the actual amount of land under cultivation and not the total” acquired. BioMassive officials left the country in early 2010 promising to raise funds for investment in the project whose development remains on paper.</td>
</tr>
<tr>
<td>8</td>
<td>Kilwa</td>
<td>BioShape</td>
<td>Contract signed by Kilwa district has given a third of its surface</td>
<td><a href="http://www.ngonewsafrika.org">www.ngonewsafrika.org</a></td>
</tr>
<tr>
<td></td>
<td>(Netherlands)</td>
<td>the company and villagers for 50-year lease period</td>
<td>area (81,000 ha) of land for cultivation of jatropha to Dutch biofuel giant, <strong>BIOSHAPE BV.</strong></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>9</td>
<td>Rufiji / Ikwiriri</td>
<td>Africa Green Oils Limited (Norwegian)</td>
<td>The company was incorporated in 2007 with the aim of establishing a 20,000 ha oil palm plantation by 2020. By 31st May, 2009, the company had already acquired 5,000 ha and planted 435 ha.</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Loliondo</td>
<td>Ortello Business Company (OBC) and the Royal Family of Dubai</td>
<td>Allocation of block of land for hunting purposes by the Government on a Presidential License</td>
<td>OBC was allowed to rent an enormous hunting block in the Loliondo area in 1992 by the Government (Ministry of Natural Resources and Tourism). The block is located in an area already settled by 8 pastoralist villages whose presence in the area is now considered illegal.</td>
</tr>
<tr>
<td>11.</td>
<td>Kigoma -Tanzania</td>
<td>FELISA- Belgian</td>
<td>FELISA – a Tanzanian-Belgian start-up company that is promoting cultivation of hybrid oil palm in Kigoma Region. It is targeting production of oil palm on 10,000 ha in the region. Roughly half of this is expected to come from local smallholder out growers and half from a plantation, with a land area of nearly 5,000 ha</td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Arusha</td>
<td>Diligent Tanzania Ltd – a Dutch company</td>
<td>Processing jatropha produced by more than 5,000 contracted local farmers from across northern Tanzania. Contract farmers have planted about 3,500 ha so far, and the land area is expected to reach 10,000 ha by 2010. Diligent is one of the few biofuel companies in Tanzania already producing and selling bio-fuel. It is also one of the few companies which is not directly producing, or intending to directly produce, its own fuel crops, but instead relies entirely on contracted smallholder</td>
<td><a href="http://pubs.iied.org/pdfs">http://pubs.iied.org/pdfs</a></td>
</tr>
<tr>
<td></td>
<td>Rufiji district, Coast Region.</td>
<td>South Korean corporation KRC and Tanzanian Rufiji Basin Development Authority (RUBADA)</td>
<td>Development of 100,000 hectares of which half will be farmed by KRC and the other half by Outgrowers.</td>
<td>The Korean and Tanzanian government is establishing a JV between KRC and RUBADA for the development of 100,000 hectares of land in Tanzania’s Rufiji basin. Half will be developed and handed over to local farmers and the rest will be available for South Korean food processing companies to produce cooking oil, wine and starch. Includes plans to set up an education centre for Tanzanian farmers in the food-processing zone in order to transfer agricultural know-how and irrigation expertise. About <a href="http://www.tanzaniainvest.com">www.tanzaniainvest.com</a></td>
</tr>
</tbody>
</table>
100bn won (US$83m) would be spent to develop an initial 100 sq km of land under the initial development phase.

<table>
<thead>
<tr>
<th></th>
<th>Kilombero, Morogoro Region</th>
<th>Kilombero Sugar Company.</th>
<th>4,500 hectares</th>
<th>Kilombero Sugar Co has created more than 7,000 out growers who are now providing 45 to 50 per cent of sugarcane supply for sugar production in a plant acquired through privatization of a former state owned firm. The company has invested more than 20 million US dollars. Out growers have increased from 25</th>
</tr>
</thead>
</table>
|   | Mpanda district (Rukwa Region) and Kigoma Region | AgriSol Energy plc registered in Delaware USA through AgriSol Energy Tanzania Limited. | Investment in Biofuels and other crops | Targets acquisition of land area amounting 325,117 hectares through acquisition of three former refugee camps: Katumba (80,317 hectares) and Mishamo (219,800 hectares) both in Mpanda and Lugufu (25,000 hectares) in Kigoma region. MOU was signed between Mpanda District Local Government authorities and AgriSol in December 2009. Not known whether the deal
| The Oakland Institute, Understanding Land Investment Deals in Africa, Agrisol Energy and Pharos Globnal Agriculture Fund’s Land Deal in Tanzania, June, 2011 (www.oaklandinstitute.org) | Initially to 200 farmers producing eight tons per hectare, compared to less than two tons per hectare initially. |
has been approved or not. The nationality of shareholders behind AgriSol Energy Tanzania is 75% USA and 25% Tanzanian (held by former senior Cabinet Minister). The acquisition is illegal in view of the Tanzanian minority shareholding.
BIBLIOGRAPHY

10. FAO, IFAD, UNCTAD and World Bank Group, (2010); Principles for Responsible Agricultural Investments that Respects Rights’, Livelihoods and Resources.
11. Google Search, Internet, Geography of Tanzania, Rwanda, Belgium and Swaziland.


15. Memorandum of Understanding, (11th December 2009); MOU for Conducting Feasibility Study Between Mpanda District Council and AgriSol Energy Tanzania Limited, Dar es Salaam; published by The Oakland Institute, Oakland, California, June, 2011.


19. Munissi et al; Sokoine University of Agrisulture; Study for the MOFEA and the Planning Process on Climate Change


26. Property and Business Formalization Project (PBFP or MKUTABITA); Diganostic Study, President’s Office, Dar es Salaam, September 2005.


32. Miller Calvin and Richter Sylvia pp16


35. NYU School of Law Centre for HR & GJ; Foreign Land Deals and Human Rights: Case Studies on Africultural and Biofuel Investments, New York, 2010.

36. Paton, Alan Stewart; Cry, the Beloved Country; 1948.

37. Plutarchus, Lucius Metrius, (50 – 90 AD); “Parallel Lives” in Clough A. R. (Editor); The Dryden Translation of Plutarch’s Lives (1631-1700); Random House Inc; 1992.


39. Theting H, & Brekke B. (2010); Land Investments or Land Grab? A critical view from Tanzania and Mozambique.

40. UNDP; Creating Value for All: Strategies for Doing Business With the Poor; New York, 2008.


42. UN General Assembly Human Rights Council 13th Session Agenda item 3, Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights, including the Right to Development: Large Scale Land Acquisitions and Leases: A set of Minimum principles and Measures to Address the Human Rights Challenge, New York.


55. United Republic of Tanzania, Five Year Plan 2011/12 to 2015/16, President’s Office, Planning Commission, June 2011.

56. USAID (2010); AgCLIR: Tanzania Commercial Legal and Institutional Reform in Tanzania’s Agricultural Sector, Dar es Salaam.


