Land grab or development opportunity?

Agricultural investment and international land deals in Africa

Lorenzo Cotula, Sonja Vermeulen,
Rebeca Leonard and James Keeley

iied

FAO FIAT PANIS

IFAD
Enabling poor rural people
to overcome poverty

Land grab or development opportunity?

Agricultural investment and international land deals in Africa

Lorenzo Cotula, Sonja Vermeulen,
Rebeca Leonard and James Keeley

Enabling poor rural people
to overcome poverty

Land grab or development opportunity?
Agricultural investment and international land deals in Africa

Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley

For copies of this publication, contact IIED. Email: newbooks@iied.org
IIED Order No: 12561IIED
Citation: Cotula, L., Vermeulen, S., Leonard, R. and Keeley, J., 2009, LAND GRAB OR DEVELOPMENT OPPORTUNITY? AGRICULTURAL INVESTMENT AND INTERNATIONAL LAND DEALS IN AFRICA, IIED/FAO/IFAD, London/Rome.
ISBN: 978-1-84369-741-1

Cover photo: Men harvesting leaves on a sisal plantation in Kisangata, Tanzania
© Ron Giling / Still Pictures
Design: Smith+Bell (www.smithplusbell.com)
Printing: Russell Press (www.russellpress.com)
Printed on: Greencoat Velvet 200 gsm and Greencoat Velvet 100 gsm

ACKNOWLEDGEMENTS

This report is the outcome of a collaboration between the Food and Agriculture Organization of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the International Institute for Environment and Development (IIED). It also benefited from links with a parallel study led by the World Bank and involving IIED and FAO.

The research was done by a team of researchers at IIED, and led by the consortium IIED-FAO-IFAD. The authors are particularly thankful to Paul Mathieu and Paul Munro-Faure at FAO and to Harold Liversage, Sappho Haralambous and Monica Romano at IFAD for their input and support throughout the implementation of this research. Research also benefited from the intellectual stimulation and rigour of Klaus Deininger and Derek Byerlee at the World Bank. The study used FAO unpublished data on land suitability and availability. Livia Peiser at FAO provided input on technical aspects concerning land suitability, and developed the maps featured in the report. Nicole Kenton at IIED coordinated the production of this publication.

The report would not have been possible without the research undertaken by country teams – Berhanu Adenew (Ethiopia), Dominic Ayine and Prince Intsiful (Ghana), Rasamoelina Rakotomanonjy and Onimandimbisoa Andrianandrasana (Madagascar), Moussa Djiré (Mali), for the quantitative studies; and Alda Salomao, Isilda Nhantumbo and Emmanuel Sulle for the qualitative in-country research. Amy Horton and Amanda Mitchell provided research assistance during the early stages of the project.

Ingilab Ahmadov, Derek Byerlee, Klaus Deininger, Olivier Dubois, Claudio Gregorio, Thea Hilhorst, Devlin Kuyek, Harold Liversage, Howard Mann, Paul Mathieu, Paul Munro-Faure, Harris Selod, Andrea Shemberg, Mercedes Stickler, Camilla Toulmin, Andreas von Brandt and Eckart Woertz contributed helpful comments on earlier drafts of the report.

FAO and IFAD provided funding for international research. The UK Department for International Development (DFID) provided complementary resources to support international and quantitative in-country research through the IIED-led "Legal Tools for Citizen Empowerment" programme, funded by the DFID-IIED framework agreement (PPA); the reports also builds on case studies in Mozambique and Tanzania funded through IIED's Multidonor Framework Agreement, generously supported by Danida (Denmark), DFID (UK), DGIS (the Netherlands), Irish Aid, Norad (Norway), SDC (Switzerland) and Sida (Sweden). The publication of this report was funded by FAO and IFAD, and by DFID through the "Legal Tools" programme.

LIST OF ABBREVIATIONS

AOAD	Arab Organisation for Agricultural Development
BIT	Bilateral Investment Treaty
COFCO	China National Cereals, Oils and Foodstuffs Import and Export Company
DFID	UK Department for International Development
DUAT	Land Use and Benefit Right (Mozambique)
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FDI	Foreign Direct Investment
FPIC	Free Prior Informed Consent
GDP	Gross Domestic Product
GEM	Green Energy Madagascar Ltd
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IFPRI	International Food Policy Research Institute
IIED	International Institute for Environment and Development

IMF	International Monetary Fund
IWG	International Working Group
LAP	Libya Africa Investment Portfolio
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
QIA	Qatar Investment Authority
REDD	Reduced Emissions from Deforestation and Forest Degradation
SOE	State-Owned Enterprise
SWF	Sovereign Wealth Fund
TIC	Tanzania Investment Centre
UEMOA	Union Economique et Monétaire Ouest Africaine
UN	United Nations
US	United States of America

CONTENTS

EXECUTIVE SUMMARY

LAND GRAB OR DEVELOPMENT OPPORTUNITY?

Over the past 12 months, large-scale acquisitions of farmland in Africa, Latin America, Central Asia and Southeast Asia have made headlines in a flurry of media reports across the world. Lands that only a short time ago seemed of little outside interest are now being sought by international investors to the tune of hundreds of thousands of hectares. And while a failed attempt to lease 1.3 million ha in Madagascar has attracted much media attention, deals reported in the international press constitute the tip of the iceberg. This is rightly a hot issue because land is so central to identity, livelihoods and food security.

Despite the spate of media reports and some published research, international land deals and their impacts remain still little understood. This report is a step towards filling this gap. The outcome of a collaboration between IIED, FAO and IFAD, the report discusses key trends and drivers in land acquisitions, the contractual arrangements underpinning them and the way these are negotiated, as well as the early impacts on land access for rural people in recipient countries. The report looks at large-scale land acquisitions, broadly defined as acquisitions (whether purchases, leases or other) of land areas over 1,000 ha. While international land deals are emerging as a global phenomenon, this report focuses on sub-Saharan Africa.

The report draws on a literature review; on qualitative interviews with key informants internationally; on national inventories of approved and proposed land acquisitions since 2004 in five African countries (Ethiopia, Ghana, Madagascar, Mali and Sudan), as well as qualitative case studies in Mozambique and Tanzania; and on legal analysis of applicable law and of a small sample of land deals.

THE EMERGING PICTURE

Primary and secondary data on land acquisitions in Africa is scarce and often of limited reliability.[1] This means that evidence and the conclusions drawn from the study need to be treated with caution. Nevertheless a picture is emerging of large-scale land acquisitions in Africa. Key features include:

1. On the limitations affecting the figures presented in this report, read section 2.3.

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

WHY THE GROWING INTEREST IN LARGE-SCALE LAND ACQUISITION?

Several factors seem to underpin these land acquisitions. These include **food security concerns**, particularly in investor countries, which are a key driver of government-backed investment. Food supply problems and uncertainties are created by constraints in agricultural production due to limited availability of water and arable land; by bottlenecks in storage and distribution; and by the expansion of biofuel production, an important competing land and crop use. Increasing urbanisation rates and changing diets are also pushing up global food demand. The food price hikes of 2007 and 2008 shook the assumption that the world will continue to experience low food prices. While grain and other food prices have dropped from the highs seen in the summer of 2008, some of the structural factors underpinning rising prices are likely to stay.

Government-backed deals can also be driven by investment opportunities rather than food security concerns. In addition, global demand for biofuels and other non-food agricultural commodities, expectations of rising rates of return in agriculture and land values, and policy measures in home and host countries are key factors driving new patterns of land investment.

With regard to **biofuels**, government consumption targets (in the European Union, for instance) and financial incentives have been a key driving force. It is possible that the recent decline in the oil price from the highs of 2008 may dampen enthusiasm for biofuel investments. But given the projections of diminishing supplies of non-renewables, biofuels are likely to remain and increase as an option in the longer-term, unless policies shift in response to concerns about the impacts of biofuel expansion on food security.

As for **rates of return in agriculture**, rising agricultural commodity prices make the acquisition of land for agricultural production look like an increasingly attractive option. Some agribusiness players traditionally involved in food processing and distribution are pursuing vertical integration strategies to move upstream and enter direct production.

Although political risk remains high in many African countries, **policy reforms** have improved the attractiveness of the investment climate in several countries – including through a growing number of investment treaties and codes, and through reform of sectoral legislation on land, banking, taxation, customs regimes or other aspects.

MITIGATING RISKS, SEIZING OPPORTUNITIES

For people in recipient countries, this new context creates **risks and opportunities**. Increased investment may bring macro-level benefits (such as GDP growth and improved government revenues), and may create opportunities for economic development and livelihood improvement in rural areas.

But as governments or markets make land available to prospecting investors, large-scale land acquisitions may result in local people losing access to the resources on which they depend for their food security – particularly as some key recipient countries are themselves faced with food security challenges. While there is a **perception that land is abundant** in certain countries, these claims need to be **treated with caution**. In many cases land is already being used or claimed – yet existing land uses and claims go unrecognised because land users are marginalised from formal land rights and access to the law and institutions. And even in countries where some land is available, large-scale land allocations may still result in displacement as demand focuses on higher value lands (e.g. those with greater irrigation potential or proximity to markets).

Ultimately, the extent to which international land deals seize opportunities and mitigate risks **depends on their terms and conditions**: how are risks assessed and mitigated – for instance through considerations in project location? What business models are favoured in project implementation (from plantations to contract farming, purchase agreements, policy incentives, or joint ventures)? How are costs and benefits shared – for example, in terms of safeguards against arbitrary land takings, or revenue-sharing arrangements? And who decides on these issues and how?

UNPACKING LAND DEALS

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

- Land deals must be **assessed in the light of the often complex overall package** they are part of, including commitments on investment, infrastructure development and employment – the "land grab" emphasised by some media is only part of the equation;

- **Land leases**, rather than purchases, are predominant in Africa, and host country governments tend to play a key role in allocating them;

- Land fees and other **monetary transfers are not the main host country benefit**, not least due to the difficulty of setting land prices in the absence of well-established formal land markets;

- Host country benefits are mainly seen in the form of investor **commitments on investment levels, employment creation and infrastructure development** – though these commitments tend to lack teeth in the overall structure of documented land deals.

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

Many countries do **not have in place legal or procedural mechanisms to protect local rights and take account of local interests, livelihoods and welfare.** Even in the minority of countries where legal requirements for community consultation are in place, processes to negotiate land access with communities remain unsatisfactory. **Lack of transparency and of checks and balances in contract negotiations** creates a breeding ground for **corruption** and deals that do not maximise the public interest. **Insecure** use **rights** on state-owned land, inaccessible registration procedures, vaguely defined productive use requirements, legislative gaps, and compensation limited to loss of improvements like crops and trees (thus excluding loss of land) all undermine the position of local people.

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

RECOMMENDATIONS

Recommendations for policy and practice can only be tentative at this stage. In addition, land deals take many different forms and proceed in a wide diversity of contexts. Large-scale land deals may involve 1,000 hectares or 500,000 hectares. This diversity means that recommendations need to be tailored to their contexts. Below are sets of general recommendations for different stakeholders:[2]

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

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

- While investment funds are playing a growing role in land acquisitions, they tend to be more familiar with financial deals than agricultural ones. Yet projects of the size documented in this report raise significant challenges even for experienced agribusiness, let alone for newcomers in agriculture. **Investors need to make realistic assessments of their capacity to manage large-scale farming projects.**

- **Issues of image and reputational risk should not be underestimated.** Investors can be seen as dealing with or propping up corrupt regimes and human rights violators. They may also be perceived as land grabbers in food-insecure countries.

- **Long-term land leases – for 50 or even 99 years – are unsustainable unless there is some level of local satisfaction.** In this context, innovative business models that promote local participation in economic activities may make even more commercial sense. These include outgrower schemes, joint equity with local communities and local content requirements.

- **At the local level, land rights may be hotly disputed.** The local tenure situation may be very complex, involving customary rights. **Careful assessment of local contexts** is critical, as well as **long-term engagement with local interests (not just elites).**

- **Clarity is needed about the costs and benefits of the business transaction from the start.** This includes realistic estimates and honest communication of what the project will bring – e.g. in terms of numbers and types of jobs and other positive and negative project impacts.

2. Please refer to section 4.2 of the report for a fuller explanation of these recommendations.

- **Clear principles for engagement at the local level are required.** Local consultation is likely to be a key success factor during project implementation, whether or not it is legally required. Principles and procedures for **free, prior and informed consent** particularly as developed in the forestry and extractive sectors will increasingly provide guidance relevant to the agricultural sector.

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

- **Governments need to clarify what kinds of investment they want to attract.** Given the long-term nature and large scale of much recent land acquisition, strategic thinking rather than ad hoc decision-making is needed.

- **Attention to increased agricultural productivity needs to be balanced with assessment of how gains are achieved** (for example, through mechanised or labour-intensive production) **and how benefits are shared.** This has implications for the **content of land deals**, for instance through mainstreaming minimum requirements for job creation, infrastructure, community benefits, national fiscal benefits and environmental protection. It also has implications for the way government agencies and officials work – for example, by **rewarding agencies and officials based on the quality not just quantity of investment** they attract.

- **State-of-the-art assessments of the social and environmental impacts of proposed investments are needed.** For example, on the environment side, key issues include: whether investments are likely to be associated with a short-term mining of soils and water (through cultivation of crops with high water or nutrient demands); the likelihood of pest or disease problems, particularly associated with monocultural production; possible impacts on biodiversity; and capacity to contribute to longer-term sustainable soil and water management.

- **Governments should ask hard questions about the capacity of investors to manage large-scale agricultural investments effectively.**

- **Land contracts must be structured so as to maximise the investment's contribution to sustainable development.** This includes devising incentive systems to promote inclusive business models, and giving legal teeth to commitments on investment levels, job creation, infrastructure development, public revenues, environmental protection, safeguards in land takings, and other aspects. **Skillful negotiation is key, and governments may need to invest in their own capacity to negotiate.**

- **Mechanisms should be developed to discourage purely speculative land acquisitions.** High-level government commitment and capacity across administrative structures are essential to enforce compliance with investment plan requirements. Innovative thinking must be used to develop ways to discourage non-compliance beyond the early stages of the project.

- **Investment decision-making must be transparent.** Investors need to be given clear information on procedures, criteria for decision-making, and conditionalities. As long-term, large-scale land deals are likely to affect public and third-party interests, decision-making must be open to public scrutiny; this may increase the legitimacy and ensure the long-term sustainability of land deals.

- Perhaps most importantly, efforts must be stepped up in many countries to **secure local land rights.** This may help local people avoid being arbitrarily dispossessed of their land, and obtain better deals from incoming investors – for instance, through providing land as in-kind contribution to a joint venture in which both investor and community have a stake. **Collective land registration** may be a valuable policy option in this regard. Where mappings and inventories of "available" lands for possible allocation to investors are undertaken, care must be taken to respect existing land uses and claims. The principle of **free, prior and informed consent** and **robust compensation regimes** should provide a cornerstone of government policy, and must be integrated in national legislation.

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

- Scope for influencing private deals is highly limited, but there should be more room for inputing into processes involving government. Evidence for this to date is limited, however, and **advocacy to promote transparency in land deals** is needed.

- **Advocacy and awareness-raising are also needed at each stage of the land investment process** – from project design and structuring of contracts through to implementation and calling investors to account on their promises.

- **Legal support** to people affected by investment projects can help them get a better deal from incoming investment – through better compensation regimes and investor-community partnerships, for example. This may include legal literacy training, paralegal programmes, legal clinics, legal advice and representation in negotiations with government and investors, training on negotiating skills, through to public interest litigation.

- The new land acquisition trend may require revisiting the longstanding debate about land titling in Africa. Local ("customary") land rights systems can work well at the local level, but they are irrelevant to investors. **Collective registration of community lands can be a powerful tool for protecting local land rights vis-à-vis incoming investors.** Experience from countries that have implemented community land registration programmes, in Africa and elsewhere, may provide useful lessons.

International development agencies – catalysing positive change

- **Engage with investor and recipient governments, private sector and civil society to ensure that land deals maximise the investment's contribution to sustainable development.** This may include supporting policy reform in recipient countries towards greater transparency of decision-making and greater consideration of social and environmental issues. The ongoing, FAO-led process to develop **Voluntary Guidelines for Responsible Governance** of Land and Other Natural Resources, and the **Framework and Guidelines for Land Policies in Africa** being developed under the leadership of the African Union, the UN Economic Commission for Africa and the African Development Bank are useful steps in that direction.

- **Help address the lack of clear and easily accessible information on land acquisitions and agricultural investments.** Effective systems to monitor land deals (inventories, maps, databases) can improve transparency and public scrutiny, as well as access to information for governments and prospecting investors. International agencies can play a role in making this happen.

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