CONCEPT NOTE

Land based Foreign Direct Investments in Africa:

Making investments work for African agricultural development

I. Introduction

In recent years, the trend of investments in agricultural land has taken a new twist with governments and private institutions purchasing or leasing land in foreign countries. Though the recent spate of overseas farmland acquisitions is global in nature, Africa may be the biggest hotspot.

According to a joint study by the FAO, International Institute for Environment and Development (IIED), and the International Fund for Agricultural Development (IFAD), since 2004 there has been nearly 2.5 million hectares worth of "approved land allocations" in just five African countries: Ethiopia, Ghana, Madagascar, Mali and Sudan. Sudan has leased 1.5 million Ha of prime farmland to the Gulf States, Egypt and South Korea for 99 years. The Ethiopian government stated that 2.7 million hectares were now available to investors from the Middle East and East Asia. One of the largest recent deals (which has ultimately collapsed), would have given the South Korean firm, Daewoo, a 99-year lease to grow maize and other crops on 1.3 million Ha of farmland in Madagascar – half of the country's total arable land – with the bulk of this food being exported.

This fast evolving phenomenon creates opportunities, challenges and risks. Increased investment may bring macro-level benefits (GDP growth, increased government revenues) and create opportunities for raising local living standards. On the other hand, large-scale land acquisitions can result in local people losing access to their sovereign resources. It can also pose environmental and GMO risks, and result in biodiversity loss and social conflicts.

Because of the novelty of this phenomenon and the secrecy surrounding land deals, there is very little empirical evidence on the real impacts of foreign land acquisitions.

II. Reasons/Context for this Phenomenon

Food Security Concerns

Although there are other significant secondary reasons, the main reason for the recent global phenomenon of land acquisition by foreign countries is food security. In 2007/08, world food prices reached their highest levels since the 1970s. The high cost of staple grains and edible oils triggered riots across the globe – particularly in the densely populated and impoverished cities of the developing world – where the majority of the people spend up to 75% of their income on food. In an effort to prevent food price hikes and public unrest at home, some top food exporting countries imposed bans on food exports. Such bans, by taking large amounts of grain supplies off the global market, exacerbated the food insecurity of food importing nations dependent on such staples.

In an effort to avoid high food costs, supply shortages and the general volatility plaguing global food supplies, wealthy food importing countries tried to bypass world food markets by acquiring land overseas (leasing or purchasing) to use for agricultural food production and supply their own markets.

Energy Concerns

Another key objective for foreign land acquisitions is the need for energy security with many countries seeking land overseas to use for biofuel production. Government consumption targets (in the EU for instance) and financial incentives have also been a key driving force. 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.

Land as an investment

A third reason is that private-sector financiers recognize land as a safe investment in the current shaky financial climate, and hope to capitalize financially on the growing food security and energy security driven demand for agricultural land.

III. Implications for Africa (Opportunities and Risks)

The issue of farmland acquisitions in Africa by foreign entities is rife with controversy and has produced a high level of passion with polarizing effects. Some regard it as the spark for a new green revolution, while others perceive it as “new colonialism” or “land grab.” Far from being coerced into these land deals, many developing-country governments welcome them – and even lobby aggressively for them. Against a backdrop of long standing shortage of public investments in the agricultural sector, host governments hope that heavy injections of foreign capital will enhance agricultural technology, boost local employment, revitalize sagging agricultural sectors, and ultimately improve agricultural yields. They are also drawn to the new roads, bridges, and ports that some land investors promise to build. With such tantalizing incentives, many host governments rushed to dish out farmland. This phenomenon needs to be carefully scrutinized given that there are both opportunities and risks with far reaching consequences for the African populations and indeed for global agriculture and food security.

Opportunities

Supporters of these land deals consider that African small farm agriculture has failed to ensure food security in the continent. Therefore, they contend that the deals have the potential to reduce the number of hungry people and serve the interests of the most vulnerable. After all, these types of investments can enable the full and efficient application of current technology, and result in productivity levels four to five times that of many small farms. Indeed, supporters believe that these capital-intensive and technology-heavy deals, by boosting agricultural productivity, can help bring down global grain costs and reduce the threat of future food crises. In addition, the reality on the ground – a large, growing, and hungry world population – cries out for scale and capital investment. These land deals are incentives to invest in the agriculture sector where demand is soaring and supply is dwindling.

Considering the public policy rationale, policymakers welcome more private investments (mainly foreign investors) in farming, at a time when public agricultural investment remains strikingly low (African governments spend, on average, only 5 percent of their national budgets on agriculture). Estimates also show that developing countries need an additional $30 billion per year in investments; however, agriculture's share of international donor aid is just 3 percent. One could conclude that such shortfalls "beckon" commercial investors in the sector.

Risks

One of the key negative aspects of these land deals is the presence of "lopsided" power relationships in most of them. Foreign investors are typically large, wealthy transnational firms or rich governments, while host governments are poor, at war or embroiled in political conflict. Few of the host governments can boast of strong and independent democratic institutions, a concern for both the investors and for the local affected communities who may find their governments have no authority to speak on their behalf.

Another concern is the conflicting interpretation of land use. Government officials often claim that the land they plan to sell or lease is unused. However, what the government may categorize as unused or wasteland might very well be meeting an important share of rural people's household needs. Rural communities often use uncultivated land as a source for grazing, wild foods, medicinal plants and water.

Another concern is about the deleterious impacts on small farmers, their land, their livelihoods and the environment. It can be argued that the deals' purported benefits could become moot if they result in losses of family lands, mass displacements, land degradation and resource shortages.

Ultimately, the extent to which international land deals seize opportunities and mitigate risks depends on the **terms and conditions** of those land deals. The key question is the extent to which host-country benefits – capital inflows, technology transfers, higher employment – can "spill over" into the host-country agriculture sector and create a synergistic relationship with the existing smallholder systems.

IV. Potential policy responses

Historically, the investment community has actually avoided agriculture, owing to its fears about the passions and emotions whipped up by outsiders' involvement in land. Only in the last few years, when the commercial rationale became so compelling (thanks in large part to the realization that agricultural investments can serve as a portfolio diversifier and hedge against inflation) has this situation changed. Land investments remain "a reality to be reckoned with" and foreign investors today are negotiating deals at a rapid rate. Given this reality, African policymakers and civil society can no longer settle for making "blanket pronouncements praising or denouncing the deals", but must instead focus on what can be done to help host countries to seize the opportunities and mitigate the risks surrounding the deals.

One of the continental vehicles for addressing this issue is the *Framework and Guidelines on Land Policy in Africa* (F&G) which was adopted by African Union Heads of State in 2010. The Framework was developed to strengthen land rights, enhance productivity and secure livelihoods for the continent's population. The implementation of the Framework by AU member states would go a long way in addressing the challenges posed by foreign land acquisitions. Addressing the issue of what is considered as the new scramble for Africa's land resources, the F&G considers that the question to be asked is whether foreign demands for land can be met while observing sustainability guidelines and without marginalizing the land rights of African communities.

To appropriately address these land deals, governments need to pose a number of key questions for any potential international farmland transaction, in order to help determine how beneficial it would be for host governments, local communities and for the investors as well. These questions should focus on land property rights (whose land is needed by investors) current land use (how and by whom the land in question is currently being used) and on land tenure arrangements (through which modalities can land be made available for investments).

The questions could include the following:

1. Do individuals have formal rights to the land? does the informal “customary” land rights of local communities are recognized by the government?
2. How “informed and involved” are land users in the negotiations over these land deals? Is the negotiation process transparent?
3. Are the negotiations process informed by social and environmental impact assessments? Will the land be able to withstand long-term, intensive production? finally,
4. What are the deals’ terms and conditions – will the land be sold or leased (the latter offers revenue streams and reversibility options, but if short-term may not create incentives for long-term environmental sustainability)?
5. To what extent will proposed benefits of the deals be “shared” with locals – will farmers be able to participate in contracting arrangements, and will they have access to improved technologies?
6. Will there be enforcement provisions and monitoring and evaluation mechanisms?
7. Will local communities benefit the food produced on their land – particularly during food shortages?

In addition, all stakeholders should consider developing and adopting an “International Code of Conduct” to help ensure foreign land related investments are “economically, socially, and ecologically sustainable.” Such a code would emphasize on human rights, transparency, respect for land rights (including customary rights), benefits-sharing, environmental sustainability and adherence to national trade policies – including the host country’s right to restrict exports during times of crisis. The wide dissemination of such a code would better prepare communities, host governments, and investors for constructive negotiations. For this arrangement to work, however, a variety of actors must participate. The international community must enforce the code in both investor and host countries; host governments must monitor local people’s rights; the media must “showcase” the better deals, “shame” the bad ones, and push for more transparency; and civil society must focus on human rights and “preventing unjust expropriation.”

V. Toward a High level forum on land based foreign direct investments

The land investment story currently unfolding reflects deep global economic and social transformations. These ongoing processes have profound implications for the future of Africa’s agriculture. Decisions taken today will have major repercussions for the livelihoods and food security of many, for decades to come. This means that choices made now must be based on strategic thinking. What should African agriculture look like in 30 years’ time? What place should large investment and smallholders play within that, and why? These basic questions should frame decision-making processes of governments, investors, donors and all other relevant stakeholders. Public deliberation is essential to ensure that these questions are properly addressed and factored into choices between different options.

Below are, based on the inputs of the Lisbon side event on FDI in land in Africa, a variety of possible recommendations, to stimulate this much-needed debate during the forthcoming Nairobi High level policy forum.

Recommendations for Host Governments

1. Do not outsource ultimate responsibility for rural development policies to foreign investors, but invest in the empowerment of African farmers, including small farm holders.
2. Uphold the right to food as a human right and Protect the most vulnerable
3. Using the *Framework and Guidelines on Land Policy in Africa,* develop in a participatory manner, comprehensive land policies that serve national development goals and objectives;
4. Recognize customary based land rights of local communities in law and practice and, give specific attention to the need to protect the land rights of African women, considering this issue as human rights related;
5. In collaboration with the joint AUC- ECA- AfDB joint Land policy Initiative and other partners, develop specific "guiding principles for investment in African agricultural lands" (including for domestic investments), that observe human rights, reflect national and local interests, and consider alternative business models that do not necessarily involve large scale land acquisitions by foreign investors;
6. Enhance land governance and build their capacity to negotiate land based investments that observe environmental sustainability guidelines while protecting the rights of local communities;
7. Review the existing land related deals, and renegotiate and revise them as needed in line with the guiding principles for investment in African agricultural lands;

Recommendations for Investors

1. Understand and respect local conditions and observe environmental sustainability guidelines;
2. Ensure that their actions are in conformity with their relevant responsibilities related to human rights and, invest in the people, rather than in the government of the day;
3. Make careful assessment of their capacity to manage large-scale farming projects and carefully evaluate the qualifications of local partners; and
4. Consider the merits of contract farming and assure its benefits for farmers.

Recommendations for parliamentarians

1. Request from Governments information on existing land deals, as well as on ongoing negotiations, and make them available to the public
2. Review the content of contractual arrangements and request the revision or repeal of unbalanced contracts; periodically investigate and ascertain the extent of implementation of these contracts;
3. Support the development of comprehensive land policies, and laws, in line with the Framework and Guidelines on Land policy in Africa;
4. Periodically assess progress achieved in the effective implementation of these land policies and laws;

Recommendations for Civil Society

1. Gather and make available reliable information on existing land deals
2. Advocate for more transparency and accountability in land deals;
3. Provide legal support to people affected by investment projects to help them get a better deal from incoming investments; and
4. Fast-track the establishment of clear principles of engagement at the local level especially procedures to ensure free, prior and informed consent of local communities.
5. Monitor the respect of human rights

Recommendations for International Development Agencies – Catalyzing positive reforms

1. Engage with investors, recipient governments and civil society to ensure that land deals maximize the investment's contribution to sustainable development;
2. Help address the lack of clear and easily accessible information on land acquisitions and agricultural investments; and
3. Provide expert advice and support capacity building to governments, private sector and civil society in Africa.

VI. The Nairobi Forum

- **Title**: High level policy Forum on land based Foreign Direct investments in Africa

- **Dates**: 4- 5 October 2011

- **Venue**: Nairobi, Kenya

- **Objectives**
    i. Share information and experiences on Foreign Direct Investment in land
    ii. Develop an African perspective on land-based investments in Africa
    iii. propose concrete interventions in the framework of the implementation of the AU declaration on land issues

- **Expected outcomes**
    i. better information on different aspects of land based investments in Africa
    ii. Consensus on how to make investments work for African agricultural development
    iii. Concrete actions proposed in order to assist AU member states address the issue of land-based FDI in land

- **Participants**
    i. Land experts from all regions of the continent
    ii. African Ministers in charge of land

iii. African eminent personalities
iv. Parliamentarians
v. Representatives of CSOs, farmers organizations, women organizations
vi. The African private sector
vii. Centers of excellences
viii. Development partners

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