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Economic Commission for Africa

## LAND POLICY INITIATIVE

# Large-scale land based investments in Africa

## Synthesis report

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This assessment report on Large scale land based investments in Africa has been prepared by a team of consultants from different regions of the continent including: Dr. Cheik Omar Ba (Senegal); Dr. Olivier Iyebi-Mandjeck (Cameroon); Ms. Susan Mbaya (Zimbabwe); Dr Ward Anseeuw (South Africa). The study was coordinated by Dr. Ward Anseeuw under the supervision of the LPI Secretariat and overall guidance of the LPI Steering committee. Dr. Ward Anseeuw prepared this synthesis report using the regional reports prepared respectively by: Ms Susan Mbaya for Eastern Africa; Dr Ward Anseeuw for Southern Africa and Northern Africa; Dr Cheikh Oumar Ba for West Africa; and Dr Olivier Iyebi-Manjeck for Central Africa.

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## **List of Abbreviations and Acronyms**

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AfDB	African development Bank
AUC	African Union Commission
BRICS	Brazil-Russia-India-China-South Africa
CDE	Center for Development and Environment at the University of Bern
CIRAD	International Center for Agricultural Research for Development
CFS	Committee on World Food Security
CSR	Corporate Social responsibility
DUAT	(Mozambican) State-Granted land right
EIA	Environmental Impact Assessment
FPIC	Free and Prior Informed Consent
F&G	Framework and Guidelines on Land Policy in Africa of the AUC/UNECA/AfDB.
FAO	Food and Agricultural Organization of the United Nations
GIGA	German Institute of Global and Area Studies
GIZ	German International Development Cooperation
ILC	the International Land Coalition
LPI	Land Policy Initiative
LSLA	Large-Scale Land Acquisition
LSLBI	Large-Scale Land Based Investments
NGO	Non-Governmental Organization
RAI	Responsible agricultural Investment
RFO	Regional Farmers' Organizations
UAE	United Arab Emirates
UNECA	United Nations Economic Commission for Africa
UK	United Kingdom
USA	United States of America
VG	Voluntary Guidelines on the Responsible Governance of Tenure of Land

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## Executive Summary

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### I. Introduction

- The work presented here aims to support the LPI secretariat in spearheading the implementation of the Nairobi Action Plan, particularly the achievement of the first action related to the Assessments of large-scale land-based investments in Africa, in order to build the necessary evidence and analysis required for the implementation of the remainder of the actions under the Plan.
- The specific objective of the work is to prepare an assessment report on large-scale land-based investments in Africa with a view to building knowledge and drawing lessons based on best practices for future LSLBI deals that lead to win-win outcomes. In order to do so five regional assessments have been engaged in and are synthesized in this continental synthesis report.
- The LSLBIs included in this study are cases of announced, intended and realized transactions/investments that entail:
  - a transfer of rights to use, control or own land through sale, lease or concession
  - Have been initiated since 2000
  - Cover an area of 200 hectares or more
  - Imply the potential conversion of land from smallholder production, local community use or important ecosystem service provision to commercial use
- This synthesis report and the five regional reports are based on a two-tier methodology: i) an overall – more quantitative - assessment of the large-scale land acquisition phenomenon in Africa; ii) a review of the information available and an analytical presentation of secondary information.

### II. Large-scale land based investments in Africa – State and features

- *The rush for land in Africa – A reality:* 685 cases of large-scale land based investments initiated since the year 2000, covering an area of nearly 40 million hectares of land across the African continent have been identified. These numbers include deals at all different stages, from an expression of interest to failed deals.
- *African continent the largest target of LSLBIs:* Africa accounts for 45% of LSLBI cases globally, covering 47% of the targeted land area. Asia is the second largest target continent with 574 LSLBIs, covering 31.2 million ha (37%). Here too - these numbers include deals at all different stages, from an expression of interest to failed deals.

- *The vast majority of these deals are in East Africa:* 242 cases totaling over 15 million ha. Southern Africa has relatively many cases (216 cases covering 8.7 million ha), whereas West Africa has a relatively larger surface concerned (178 cases for 9.7 million ha). North Africa is not a destination of note for large-scale land investors.
- *Despite this widespread interest, concentration of deals is observable:* Globally, the top 20 recipients by number of deals account for 74% of the total deals reported on, making up over 80% of the total land size targeted. Among those 20 countries, 9 are African. The top 10 target countries in Africa account for nearly 70% of all concluded land deals and 53.6% of all land deals targeted across the continent. Concentration of LSLBI also appears in certain regions, characterized by fertility, water access, infrastructure, etc. Not only are these areas likely to be already used relatively intensively by local people, and not just for farming; this also leads to questions regarding the benefits of LSLBI as a development tool for the often presumably empty, idle and underused lands.
- *Many deals are effectively signed, leading to a transfer of ownership:* It is important to distinguish the status of these LSLBIs. Out of the 685 deals, 474 – covering 27 million hectares – were concluded and have been signed. Nevertheless, a large number of cases, nearly 22%, have not yet led to effective signature. In addition, another 62 cases have failed, either during the negotiation phase or after the contract had already been signed.
- *Few projects actually start operating productively:* Out of the 474 cases for which an agreement has been reached, and that have not been cancelled since, 199 cases, representing 42%, are operational, covering over 7.5 million ha. This is 29% of the total number of cases for Africa accounting for just over 19% of the land area. Nevertheless, this does not mean that all the land under contract is productive: only 8.6% of the area under contract in Africa is being cultivated. This cultivated area only makes up 1.7% of the total LSLBI reported on in Africa. These figures indicate that even though the interest in land in Africa is considerable, very little is actually achieved on the ground.
- *The rush for land is triggered by a wide range of drivers, including food:* Although much of the recent LSLBIs have been signed for agricultural projects, a large area has been obtained for other purposes such as industry, forestry (including REDD and carbon credit projects), conservation and tourism. Mining deals have been excluded from this analysis. Agriculture and livestock together total 87% of all the cases. Forestry accounts for 8.6% of the cases and is dominant in Central Africa, particularly in the Congo Basin.
- *Despite the large portion of agricultural cases, not all land is dedicated to food crops.* On average, food crops represent half of all the agricultural projects in the different regions, with Eastern Africa peaking at 65%. The importance of non-food crops shows the development of particular markets, such as biofuels and other traditional “high value crops” (e.g. rubber, palm oil and cotton). The significance of food crops is of utmost importance, particularly for food importing regions (and where initial estimations showed the preponderance of biofuels).
- *Western countries are still the main investors in Africa:* A large proportion of investment interest continues to originate from Western countries (UK is the major investor on the continent when number of cases is considered; the USA leads the rush in total size of LSLBI). Historical ties remain strong: French investors are more prevalent in West Africa and

Madagascar, whereas Portuguese investors focus mainly on Angola and Mozambique; Belgian investors are mainly active in the DRC.

- *Emerging economies are also a major source of investment.* As such: i) South Africa is a major investor on the continent, together with other BRICS countries (except for Russia); ii) Asia is also a key region of origin (for example, South Korea); iii) the Middle East, also actively engaged, appears to be more active in the Northern and Eastern part of the continent, probably through its geographical proximity and cultural resemblance. Both Asian and Middle Eastern investors originate from countries rich in capital, but that are endowed with limited natural resources necessary for the expansion of their agricultural production aiming at securing their national food needs)
- *The number of inter-regional/inter-continental investments in Africa is low compared to other regions/continents in the world:* The large majority of the large-scale land acquisition cases on the continent are with investors coming from outside Africa. In total, this represents 73% of the deals and 79% of the area concern investments from non-African origin (compared to 91% and 57% respectively for Asia and Latin America). This relates to issues of African sovereignty.
- *Slowing down overall, but evidence of long-term trend of growing commercial interest in land:* the sudden rush for farmland in 2009 was triggered primarily by the food price crisis of 2007 and 2008, related to a convergence of events that included reduced grain stocks and a jump in oil prices that prompted a diversion of some food stocks to biofuels. The rate of acquisitions slowed down in 2011 and following years. Overall, the data are suggestive of a long-term trend of growing commercial interest in land, somewhat masked by a possible new-found wariness (since 2010) about attempting very large-scale land deals or publicizing those under negotiation.

### **III. Implications and investment models and – Towards agrarian change in Africa?**

- *The drivers described are not, on their own, enough to explain the phenomenon.* It is indeed necessary to examine the contextual factors that are shaping it and enabling harmful large-scale land acquisitions to take place. As such, the rush for land must be seen as a broad, historically and politically embedded phenomenon. Although each of the assessed regions is characterized by governance and policy specificities (well-detailed in the regional reports), four main governance and policy frameworks at national and international level facilitating LSLBIs in Africa are pinpointed.
  - *Land governance that fails to protect land rights:* On one hand, many national legal systems centralize control over land and do not legally recognize the land rights of local land users, thereby paving the way for the large-scale allocation of land to prospective investors. On the other hand, land reform – in particular tenure reform – have often not been fully implemented, paving the road for blurred and overlapping rights and, subsequently, for misuse by traditional and religious powers or political well-connected elites.
  - *Weak democratic governance:* Despite advances in democratization in Africa, huge deficits of transparency, accountability, and popular empowerment exist and contribute to elite



capture of resources. Weak democratic governance exacerbates the failure to protect the rights and interests of those whose livelihoods may already be precarious due to other factors.

- *The side-lining of agriculture, family farming and smallholder production in particular:* The LSLBI phenomenon relates indeed to the failure of agricultural policy to support family farming and the commensurate and questionable enthusiasm and concrete support for a modernist vision of large-scale agriculture, mainly driven by foreign direct investment. LSLBIs in Africa come against a background of under-performing local agricultural sectors.
- *Economic governance that fails rural populations:* Subsequent to large-scale privatization schemes and macro-economic policies guided by Structural Adjustment Programmes, the present range of trade agreements furtherpursue advanced liberalisation. Progress in international human rights and environmental law have not been widely ratified and adopted into domestic legislation in Africa. As such, the emerging trade and investment regime increasingly provides extensive legal protection to investors, while far fewer and less effective arrangements have been established to protect the rights of local populations or host countries.
- *Positive and negative impacts of LSLBI, although evidence shows less favorable outcomes in the case of land devouring investment models:* By now, the potential positive and negative implications related to LSLBIs are well described. It becomes evident however, that the models implying the transfer of huge tracks of land are leading to less favorable results from, both, the investors' and populations'/local economy/host country point of view.
- *A need to unravel LSLBI – different investment models lead to different outcomes:* It is important to be aware of, and to highlight, the significant differences regarding impacts according to time and to the investment models implemented. Indeed, although often generalized and gathered under one term (such as LSLBI or even 'land grabbing'), diverse models and practices are embedded in the phenomenon and, by consequence, lead to diverse implications and outcomes, with regard to inclusiveness and local development as well as benefits for local populations and host countries.
- *A large majority of investments are failing:* Beyond a high proportion of deals never being implemented, among the projects that have been established, there is increasing evidence showing high levels of failure. Factors such as uncertain institutional environments and the difficulty of doing business, technicality of the projects and high settling and transaction costs explain part of the failures. These different aspects of the reality of agricultural and land investment models depict a not so rosy story concerning the land deals that have been implemented.
- *Broader and long term trends regarding agrarian structural transformations start occurring*
  - First, these failures *leave the population and the host countries in the worst possible situation.* Not only have local populations not had access to the land for some years -, neither do they benefit from employment opportunities and are unlikely to receive full compensations or infrastructural developments as promised.

- Second, *changing investors strategies occur*, according to three major modalities in order to limit risks and failures: i) investments in economically and institutionally more secure environments, such as emerging and developed countries; ii) the shift from direct land investment toward more invisible production control mechanisms); or iii) increased integration (see hereafter).
- Third, *increasing integrated investment and production models*: Although large-scale land acquisitions tend to focus on primary production, the many difficulties encountered push investors to vertically integrate. As such, this integration process encompasses not only the farm itself, but the entire chain of agriculture-related business, including seed supply, agrochemicals, processing, machinery, storage transport, marketing, etc.
- Fourth, *few inclusive agricultural development models*: The failures and high level of integration also lead to fewer inclusive agricultural development models. Indeed, not only do investors tend to focus more on their core business when times are hard, the integrated process limits their dependence on external inputs.
- Fifth, *enclaves and closed value-chains*: The above mentioned processes also lead to the ‘isolation’ of many of the foreign investments, often representing 1) from a geographic perspective –leading to “enclave economies” poorly integrated to their surrounding society and economies or 2) from a sectoral one, closed value-chains.
- Sixth, *Concentration and dualization within the agricultural sector*: These integrated and thus often large corporate entities bring about a corporatization process of certain sections of the agricultural sector. This, in turn, steers a concentration and dualization process. Indeed, the dual process of corporization and concentration within the African agricultural sectors is leading to a new regime characterized by the dominion of a few large international food-business groups and could lead to the marginalization of the majority of African farmers.
- *Towards more equitable LSLBI in Africa?* Recently, African countries and societies have been pro-active not only in promoting LSLBI, but also in channeling and regulating them, potentially leading to more equitable and sustainable investments. Some of these initiatives/programmes/policies are worth detailing here:
  - *Policy changes relating to the governance of land*: Certain African countries have engaged in reforms regarding their land governance in order to guard against arbitrary appropriation of land and to facilitate more inclusive development. As such, Tanzania’s land acquisition requires approvals and consent by actors extending from the village up to the President. Secondly a ceiling is placed on the amount of land that can be independently transferred by village-level authorities.
  - *Inclusive development models and processes*: Beyond the predisposition of certain investment models to include local populations and to facilitate local and host country development, some countries have started to develop initiatives leading to broader processes promoting relationships between communities and investors, mainly based on the promotion of grassroots initiated development and of the free and prior informed consent. One of the most advanced countries regarding such programs is Mozambique,

that, through its Pro-Parcerias project, developed procedures for land-based investments based on a multi-party partnership (central administration, local administration, communities, civil society and investors), initiated at village level.

- *More favorable negotiations of investment agreements and bilateral investment treaties:* A new wave of investment agreements and bilateral investment treaties is mushrooming, highlighting a potential shift in investment treaty-making which is more equitable in nature. The latter present some aspects that are formulated more carefully to reconcile investment protection with a wider set of policy goals. Such treaties i) contain more restrictive clauses on fair and equitable treatment; ii) include a provision calling on the signature governments to encourage their investors to comply with internationally recognized standards of corporate social responsibility; iii) recognize that transparency and public scrutiny are critical for these wider interests to be properly considered in arbitration proceedings, and allow NGOs to file submissions with arbitral tribunals where specified criteria are met.
- *Improved international and continental guidance:* There is now a much better international guidance on how to guide LSLBIs. Besides certain policy frameworks and models (such as the Investment Policy Framework for Sustainable Development, and the Model International Agreement on Investment for Sustainable Development), several codes of conduct and investment guidelines have recently been developed at international and continental level. They include the Responsible Agriculture Investments 'code of conduct' proposed by the World Bank (2010); FAO's *Voluntary Guidelines on the Responsible Governance of Tenure of Land* (2012) and, at the African level, the Framework and Guidelines of the LPI (2010).

#### **IV. Policy recommendations and required actions – Towards sustainable investment in agriculture in Africa**

- *Reinvest African agriculture - Reflect on long term development trajectories, reconsidering the role of local (family) farming at the centre of policies and strategies for agricultural development:* Accompanying a paradigmatic change that sees local family producers as the best-placed investors in land should be the policies and support services that level the playing field and grant local farmers an equal chance as corporate investors to fulfill this role. Solutions include policies that recognize family farming and smallholder rights to the land and water they depend on and empower them with the necessary capacity, finance, and regulation to increase their productivity, production and competitiveness, and to cope with risks and vulnerability.
- *Encourage investment, but avoid freehold, leases or concessions that involve large-scale land acquisition and conversion:* Fundamental to the way forward is defining under what parameters investments are likely to bring harm or benefit. Forms of investment that do not involve the alienation of land rights, such as sharecropping, equity sharing or outgrowing may provide some routes to more equitable investment models, although they are not a silver bullet. Where acquisition of land is a necessary and legitimate investment strategy, such acquisition should be negotiated with local communities, and should be subject to their Free, Prior and Informed Consent (FPIC).

- *Legally recognize the land rights of local populations, in particular over the commons:* The AU framework and guidelines espouses a continental land regime which prioritizes security of tenure for all categories of land rights. Ensuring ‘good’ formalisation, with voice for women and recognition of their rights and assertion of other vulnerable rights holders is key. A priority action for States is to review their land laws and regulations to ensure that all categories of land rights are protected in light of powerful private interests in land held under customary tenure. On their part, Member States should ensure the protection of land rights of communities in the context of investments.
- *Regulate LSLBI to ensure respect for human and property rights, particularly taking into consideration women, pastoralists and marginal populations:* An urgent step required is frameworks to be developed that provide agreed benchmarks for responsible investment. States, both receiving and countries of origin of LSLBI, must therefore operationalize regulatory frameworks to ensure LSLBI are implemented in a manner which recognizes and respects these human rights.
- *Democratize decision-making over land and enable open and inclusive debate by all stakeholders on investment frameworks, land use, and rural development:* Good governance practice necessitates improved consultation and dialogue between investors, communities as well as all stakeholders, such as Government and civil society, who are concerned by LSLBI. For this to happen, all impediments to the full participation of affected communities should be addressed, including capacity building for communities, legal support for their meaningful engagement in contract related discussions, building institutions at the local level that are empowered to administer land under their jurisdiction and capacity for collective action by local populations.
- *Balancing market interests and development, environment and social priorities:* Decisions over large-scale land conversions should be made with a full appreciation of the total range of costs of doing so, including implications for the provision of developmental, social and environmental goods and services (not least water), on which local livelihoods depend. Where national-level legislation provides adequate safeguards, such as demanding independent Social and Environmental Impact Assessments, these should be undertaken in an open and transparent manner, and their results made public.
- *Development of mechanisms to promote transparency, accountability and monitoring of land-based investments:* Improved transparency and disclosure at critical stages in the process of state land and natural resource use planning, land-investment contract negotiation, allocation of rights and project management would allow poor decisions or corrupt practices to be identified and reversed before they are formalized or implemented. More transparent investment practices would not only protect local populations, but also investors willing to invest in a transparent way. An important complement to improved transparency is the monitoring of investment practices by civil society so as to exercise accountability where necessary, and more widely to provide an evidence basis for action.
- *Establish a solid information platform, to assess and monitor LSLBI and its implications:* A comprehensive, accurate, timely and accessible data platform on proposed and existing LSLBI is required to provide analysts, policy makers and planners with the information they require in order to monitor and mitigate (if necessary) the impacts of LSLBI. At the same time

an information management system which captures the various approaches to LSLBI and their outcomes is required in order to facilitate learning and exchange of experiences between initiatives and countries. The African Union has both the mandate and the necessary relationships with key policy institutions to commission such a platform. In so doing, the AU can build on existing initiatives which have begun to provide reliable information on the subject.

### **Conclusion: Provoking a new era in land rights and rural development**

- *The need for a proactive response from Africa:* Confronting the increased demand for land in an increasingly unequal world demands a deliberate and proactive response that considers the full range of consequences for the almost one billion people that face each day hungry. This starts with the crucial step of recognizing their legitimate land rights. It goes beyond this to rethinking the development models we are presently engaged in. It implies a willingness to consider a broad package of measures and instruments, at global, national and local levels, acting together in order to bring into reality more fair and equitable societies.
- *More structural reflections on the overall socio-economic trajectories of African countries are needed:* These include reflections on agricultural reforms, land based-activities and rural development, as well as their links with the urban sectors and the general economy, questioning the objectives and capacities of the present solely project-based investments to profoundly restructure the economy, the rural sectors and the host societies overall.
- *There are alternatives that can work.* An alternative to the current system must incorporate diversity of production systems, based on indigenous, community-based, people-empowering models. It should recognize and institutionalize the rights of the local populations, with a central and equal role for women in shaping economic life. In addition, there is a need to strengthen local and inherent economic and social development, providing incentives to local investors and a prioritization of smallholder agriculture. This should be inherent in an overall long term development strategy - and not just based on a short term vision based on isolated projects dependent on foreign funds – that takes into consideration the majority of the people and their needs.

# **I. Introduction**

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Struggles over land were one of the defining features of movements to overcome poverty, hunger, discrimination, and political repression in the 20th century. The first decade of the 21st century suggests that competition for land and natural resources is likely to continue, and even intensify. Growing demand for food, feed, fuels, and other commodities, combined with a shrinking resource base and the liberalization of trade and investment regimes, are among factors driving a new global rush for land. Lands that only a short time ago seemed marginal to the global economy are now being sought by international and national investors and speculators to an unprecedented degree, placing the latter in direct competition with local communities for access to land, water, and other natural resources.

As such, increasing large-scale investment in land, particularly in the agricultural sector, but also in other sectors such as mining, biofuels, tourism, forestry and carbon sequestration, is of interest and concern to a wide variety of organizations in Africa and globally. The phenomenon raises fundamental questions on land rights, development, ecosystem management and food security. Diverse responses have been proposed by different stakeholders, from seeing such acquisitions as a driver for rural development through to calling for an immediate cessation of large-scale land acquisitions.

In the broader sense, it is this trend of renewed capital flow into agriculture and land, with all its controversy, that perhaps forms renewed models for agricultural development in Africa that offer scope for further investigation into the implications of land acquisitions and resource control. Understanding the nature of this global rush for land is a step towards choosing paths that, on one hand, may be able to avoid the specter of accelerated land loss – and more general disenfranchisement – for the rural poor, and, on the other hand, leads to broader reflections on Africa's agricultural development and agrarian transformations.

## **1. Background and rationale of a study on large-scale investment in land**

The commitment of African governments to address land issues that hamper development (see the *Declaration on Land Issues and Challenges in Africa*) is the basis of this project. It calls for an examination, analyses and addresses issues surrounding large-scale land based investments (LSLBI), applying the Framework and Guidelines on land policy in Africa (F&G). As such, analyzing the existing land deals is crucial in assessing the extent to which the demands for land by investors can be met while observing sustainability guidelines and without marginalizing the land rights of African communities. These assessments should also provide information on how these land deals contribute to the achievement of Africa's development agenda.

In 2011, under the auspices of the Land Policy Initiative (LPI), African governments, parliamentarians, civil society, traditional leaders met at a High Level land policy Forum held in October, 2011 in Nairobi, Kenya, to discuss the growing investment opportunities in agriculture as well as the challenges encountered by African States in their efforts to promote land based investments. The meeting culminated in the Nairobi Plan of Action on large scale land based investments (See Box 1). Furthermore, the Nairobi Action Plan on Large Scale Land Based

investments in Africa recommended that issues surrounding LSLBI be clarified through an assessment of current land investments, including gender differentiated and poverty impacts, as a basis for “evidence-based advocacy that draws on best practices and ongoing initiatives of governments, private sector and development partners to promote profitable, equitable and sustainable land-based investments” (Nairobi Action Plan on LSLBI). As such, analyzing the existing land investments is crucial in assessing the extent to which the demands for land by domestic and foreign investors can be met to boost agricultural productivity and ensure food security, while observing sustainability guidelines and without marginalizing the land rights of African communities. Finally, such assessments should provide information on how LSLBI contribute to the achievement of Africa’s development agenda.

**Box 1: The main elements of the Nairobi Action Plan**

1. *Assessments of land-based large-scale investments*, including gender differentiated and poverty impacts, in support of evidence-based advocacy that draws on best practices and ongoing initiatives of governments, private sector and development partners to promote profitable, equitable and sustainable land-based investments
2. *Capacity support* to governments, traditional leaders, civil society organizations and communities to facilitate fair and transparent negotiations that lead to equitable land related investments
3. *Establishment of a monitoring and reporting mechanism* for tracking large-scale land based investments with a view to ensuring that these ventures are beneficial to national economic development and local communities, including women
4. *Development of principles* which encourage sound and sustainable investments in land and guide fiscal policy in this regards
5. *Development and implementation of land policies and land use plans* that facilitate equitable access and secure land rights for communities – including women – and investors, both local and foreign

At the Nairobi Forum, the LPI was tasked with developing and implementing a rigorous work plan of activities to implement the action plan. In response to this call, the LPI has developed a 24-month work plan which will not only implement the activities but also mobilize the needed resources and capacities to support the Secretariat in implementing the activities.

The work presented here aims to support the LPI secretariat in spearheading the implementation of the Nairobi Action Plan, particularly the achievement of the first action related to the Assessments of large-scale land-based investments in Africa, in order to build the necessary evidence and analysis required for the implementation of the remainder of the actions under the Plan.

## **2. Overall goal, specific objectives and expected outcomes of this report regarding Africa**

The specific objective of the work is to prepare an assessment report on large-scale land-based investments in Africa with a view to building knowledge and drawing lessons based on best practices for future LSLBI land deals that lead to win-win outcomes. In order to do so a five regional assessments have been engaged in and are synthesized in this continental synthesis report.

This synthesis report will thus present the results of the assessment conducted regarding large-scale land-based investments in Africa. More specifically, it will focus on:

1. Clarify and define the concept of LSLBI, taking into consideration regional and national specificities
2. Conduct a review of ongoing initiatives and available resources on LSBI in Africa;
3. Conduct a review on LSLBI in Africa, building on existing work.
4. Assisting in the identification and documenting of best practices in LSLBI.

The outcome of this synthesis report, presenting the results of above analysis, is an identification of information gaps, capacity building needs, lessons learnt and policy implications.

## **3. Large-scale land based investments – A definition**

The LSLBIs included in this study are cases of announced, intended and realized transactions/investments that entail:

- a transfer of rights to use, control or own land through sale, lease or concession
- Have been initiated since 2000
- Cover an area of 200 hectares or more
- Imply the potential conversion of land from smallholder production, local community use or important ecosystem service provision to commercial use

Retaining a generic definition was a necessity for this study, as it allows for an overall assessment of the LSLBI phenomenon. This being said, this definition should not lead to an overgeneralization as the LSBI vary significantly, according to the specific conditions at local/country/regional level (the investment on 200ha represent a significant size in some countries of West and Central Africa, where it is relatively small in most Southern African countries), to the land rights (transfer of community rights, freehold land, ...) and to the term of the transferred (from annual to 99 leases), etc. These specificities will be highlighted (and are detailed in the different regional reports) in the framework of more disaggregated analyses.

Two additional points should be detailed here. The first one is regarding the foreign nature of these deals. Key actors and drivers behind the recent land rush have tended to be foreign investors. They are, however, usually assisted by national elites, and governments desperate for foreign investments. Although analyses will endeavor to highlight this, separating both is often difficult. The second one is related to the term LSLBI itself. As we will see in this report, large-



scale land acquisitions have taken many forms; not all of them are “land grabs”. “Land grabs” have been termed by the International Land Coalition as when “acquisitions or concessions are one or more of the following: (i) in violation of human rights, particularly the equal rights of women; (ii) not based on free, prior and informed consent of the affected land-users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation.”(ILC, 2012).

#### **4. Methodology – Combining an overall assessment of the phenomenon with a more qualitative analysis of the various land investment models**

The regional assessments and thus also the synthesis report are based on two complementary methodologies.

- The first one represents an overall assessment of the large-scale land acquisition phenomenon in Africa. It will detail the state of these acquisitions, their features and the drivers that have led to the latter in the region. It is based on a desktop study which includes an analysis of data mainly provided by the Land Matrix (see box 2). This data was complemented by the collation of complementary information on LSLBI. This process, engaged by LPI country focal points, resource persons and other stakeholders, had the objective to:
  - cross-checking and processing available information, and identifying possible information gaps
  - identifying, and gathering information from national institutions and non state actors, including telephone interviews of experts

The latter, however, due to a lack of responses of the above mentioned resource persons, did not lead to additional information

### Box 2: The Land Matrix

Since 2009 a partnership between the Centre for Development and Environment (CDE) at the University of Bern, CIRAD, the German Institute of Global and Area Studies (GIGA), GIZ and ILC, has been systematically collating and verifying information on large-scale land acquisitions. This Land Matrix records transactions that entail a transfer of rights to use, control or own land through sale, lease or concession that are 200 ha or larger; and that have been concluded since the year 2000. The database is now the largest of its kind, and is available on [www.landmatrix.org](http://www.landmatrix.org).

The data comes from a variety of sources that include media reports, reports by international organizations and NGOs, company websites and reports as well as academic research including field-based research projects. These different reports are being sourced through the two most active Internet portals that deal with land transactions, [www.commercialpressuresonland.org](http://www.commercialpressuresonland.org) of the Land Portal operated by the International Land Coalition (ILC) and [www.farmlandgrab.org](http://www.farmlandgrab.org) operated by the NGO GRAIN. In addition, networks are established with key figures in the countries. Through crowd-sourcing and continuous research work by the LM team, the data in the matrix is updated as soon as information on deals become available, making the matrix a dynamic tool to track developments in large-scale land acquisitions.

- The second methodology is based on the review of the information available. For this purpose, an analytical presentation of secondary information, but based on quality primary research and fieldwork, has been developed. For the synthesis report, this has been done on the basis of the regional reviews and reports. As such, special attention has been given to regional specificities of the LSLBI phenomenon.

## 5. This report

In concordance with the methodology, the report is structured in two main parts:

- The first part will give a broad overview of the large-scale land-related investments in Africa. It will detail LSLBIs state, features and drivers.
- The second part will present the results from the literature review, presenting major aspects for the continent and regional specificities regarding LSLBI.

The final concluding chapter recaps the results, draws broad conclusion on trends identified through the desktop and empirical analyses and culminates by drawing recommendations regarding large-scale land investments.

## II. Large-scale land based investments in Africa – State and features

### 1. The rush for land in Africa – A reality

The Land Matrix contains a total number of 685 cases of large-scale land based investments that have been initiated since the year 2000, covering an area of nearly 40 million hectares of land across the African continent<sup>1</sup>. The vast majority of these deals are in East Africa (242 cases totaling over 15 million ha). Southern Africa has relatively many cases (216 cases covering 8.7 million ha), whereas West Africa has a relatively larger surface concerned (178 cases for 9.7 million ha). North Africa is not a destination of note for large-scale land investors, which might be explained by the small area of fertile arable land available in this region (Table 1, Figure1).

The following comments need to be observed when interpreting these figures:

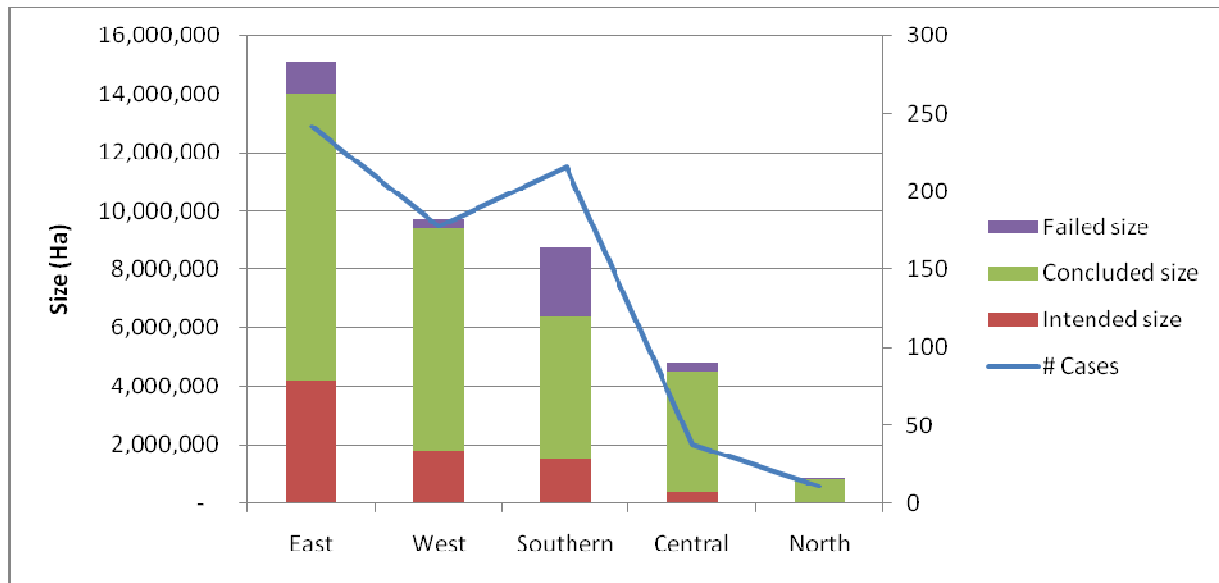
- Firstly, precise quantification is complex as 1) many transactions remain non-transparent and have not been identified yet, 2) domestic transactions (as they are smaller in size and often embedded in local dynamics) are difficult to trace; 3) the mining sector has not been included; 4) the status of certain transactions/activities is often unclear.
- Secondly, the reported data include cases at all stages of progress, including cases under negotiation/not signed yet, signed and effectively implemented deals and abandoned ones. It is important to keep the information regarding these different stages (even the not yet signed or abandoned projects) as it gives a precise reflection of the extend and scale of the phenomenon (including the demand and interest for land) of the commercial pressures on these lands, which can still jeopardize local populations' land rights (even if the deal does not go through).

	Intended		Concluded		Failed		TOTAL	
	# Cases	Size (ha)	# Cases	Size (ha)	# Cases	Size (ha)	# Cases	Size (ha)
<b>Central</b>	10	384,406	27	4,102,545	1	300,000	<b>38</b>	<b>4,786,951</b>
<b>East</b>	48	4,197,759	173	9,777,627	21	1,111,574	<b>242</b>	<b>15,086,960</b>
<b>North</b>	2	45,000	8	819,952	1	40,000	<b>11</b>	<b>904,952</b>
<b>Southern</b>	52	1,504,214	135	4,892,851	29	2,347,255	<b>216</b>	<b>8,744,320</b>
<b>West</b>	37	1,791,270	131	7,590,708	10	357,948	<b>178</b>	<b>9,739,926</b>
<b>TOTAL</b>	<b>149</b>	<b>7,922,649</b>	<b>474</b>	<b>27,183,683</b>	<b>62</b>	<b>4,156,777</b>	<b>685</b>	<b>39,263,109</b>

**Table 1: Number of large-scale land based investment cases and their size in Africa**

Source: Land Matrix, 2013

<sup>1</sup> The figures in this section are based on data in the Land Matrix on 25 July 2013, unless otherwise mentioned



**Figure 1: Number of large scale land based investment cases and their size in Africa**

Source: Land Matrix, 2013

It is however important to distinguish the status of these LSLBIs. Out of the 685 deals, 474 – covering 27 million hectares – were concluded and have been signed, of which 199 have started production. Nevertheless, a large number of cases, nearly 22% have not led to effective signature. Especially East Africa seems to have a large area of such intended cases. In addition, another 62 cases have failed, either during the negotiation phase or after the contract had already been signed. Lastly, 28 projects have been abandoned, but it is not certain if the contract has been cancelled or the investor still holds ownership of the land. This is particularly the case in Southern Africa, where many investors had started negotiations, mostly in Madagascar, but have since then retracted on their intentions.

The difference between the intended cases and implemented/signed deals is related to the following factors:

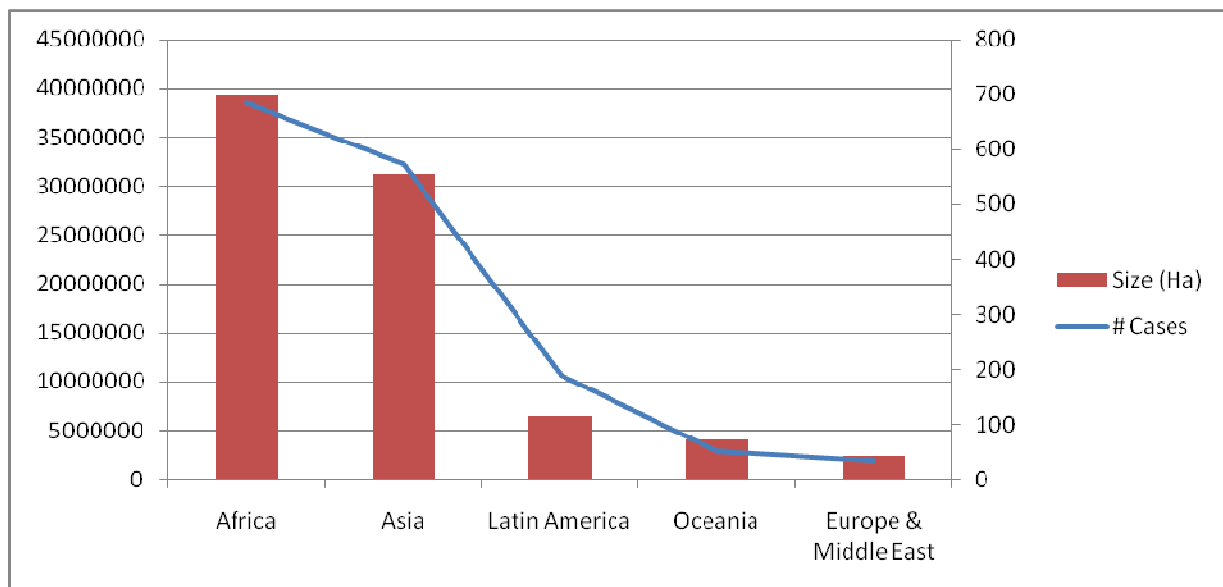
- Firstly, some operators may have underestimated the managerial and technical difficulties related to the implementation of large land deals in often difficult ecological, political, bureaucratic and socio-economic environments. This issue is likely to be particularly relevant to operators that do not have an established track-record in agriculture.
- Secondly, investors may not be successful in gaining the attributes they seek (such as infrastructure, land security, etc.), thus leading the investor to pull out. This was reportedly the case of Daewoo in Madagascar, among others (Andrianirina-Ratsialonana et al., 2011).
- Thirdly, some public announcements of land deal negotiations may reflect the strategic positioning of investors aiming for instance to secure land even in the absence of specific investment plans in the short term (therefore the objective would be speculation and rent-seeking).

The gap between reported cases and signed and effectively implemented deals should not cause complacency. Indeed, announcements, negotiations and certainly contracts signed but not implemented may still exacerbate pressures on land and lead to displacements or a weakening of

land rights for the local population. Furthermore, in such cases, potential benefits of long-term investments, such as irrigation and other infrastructure, access to markets and jobs, will of course also not materialize. Therefore, people may lose secure access to land without gaining any potential benefits (Anseeuw et al., 2012).

## 2. African countries and regions are among the most affected in the world

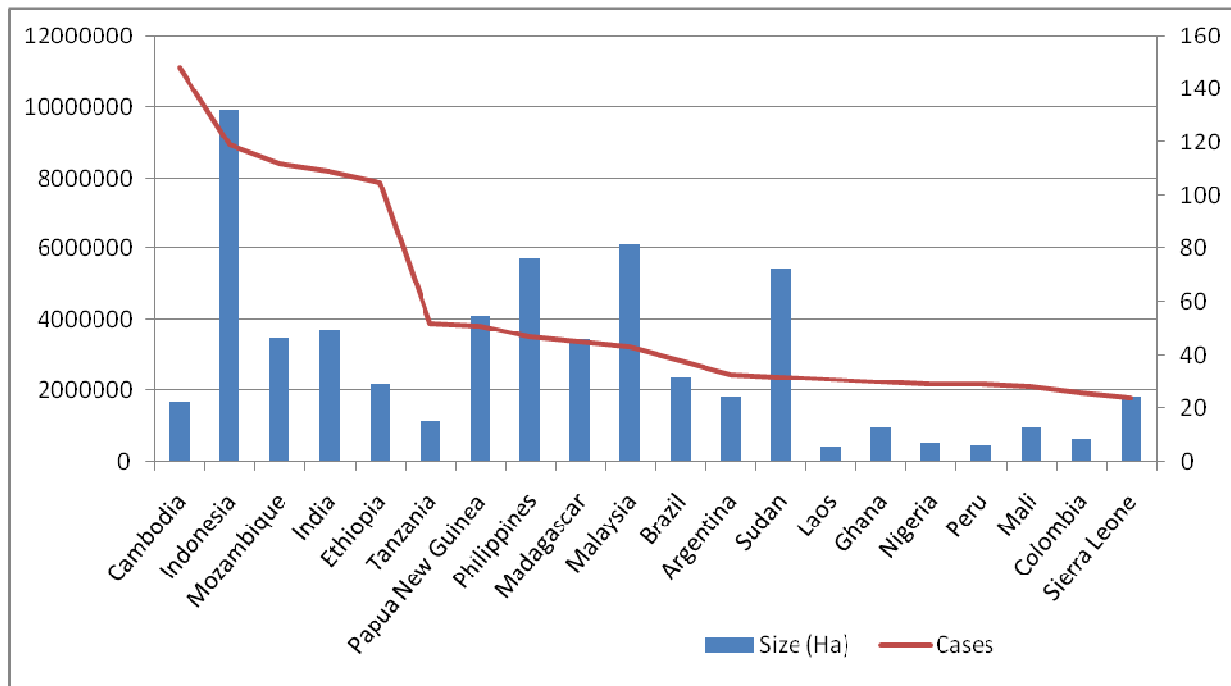
LSLBIs seem to be located mostly across middle- and lower-income countries all over the world. The total number of projects captured in the Land Matrix is 1,546. The 685 cases in Africa contribute 45% of these, covering 47% of the targeted land area, which makes the African continent the largest target of LSBIs. Asia is the second largest target continent with 574 LSBIs, covering 31.2 million ha (37%). These numbers include deals at all different stages, from an expression of interest to failed deals (Figure 2).



**Figure 2: Total size and number of LSBI cases by continent**

Source: Land Matrix, 2013

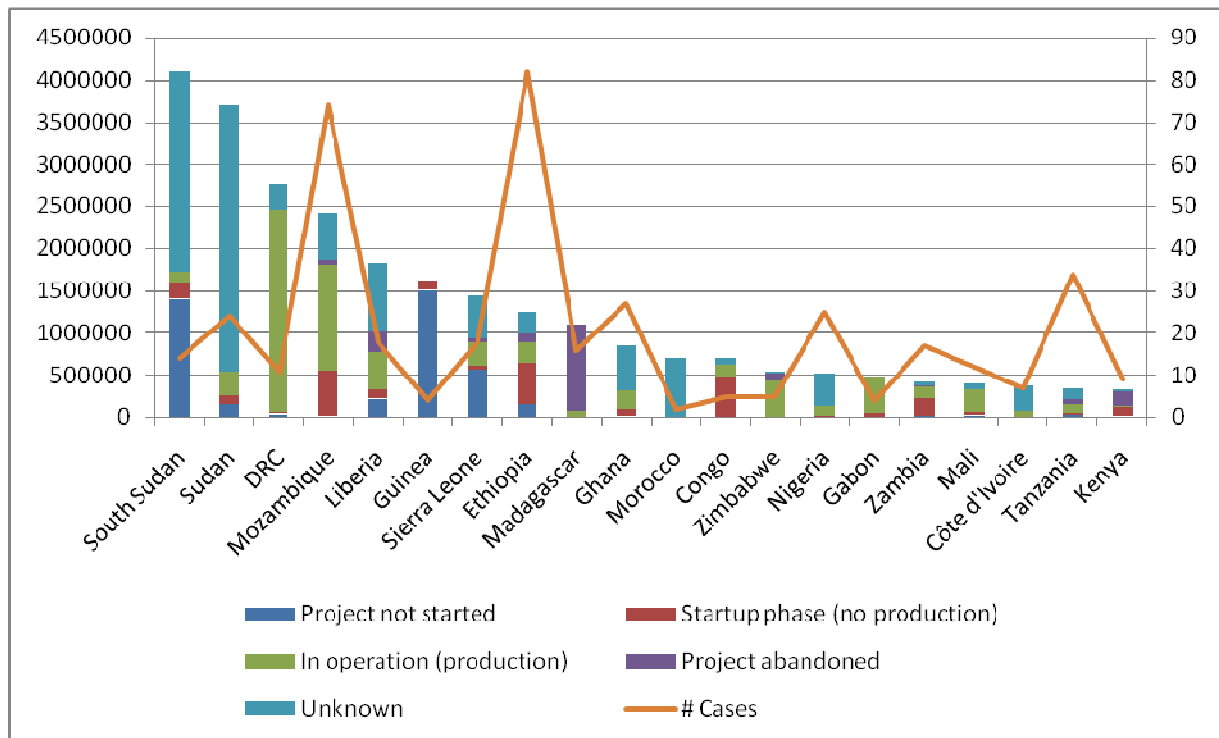
A total of 72 countries of the Global South are targeted by investors in large-scale land operations. Despite this widespread interest, concentration of deals is observable: The top 20 recipients by number of deals account for 74% of the total deals reported on, making up over 80% of the total land size targeted. Among those 20 countries, 9 are African (Figure 3). Although providing a good indication of the interest in Africa's land, this may also reflect a bias related to information accessibility. The latter can be related to the strong media interest in African deals (for example, some food-importing African countries that are or were major recipients of food aid, such as Ethiopia and Sudan, have attracted extensive media reporting) as well as to data reporting differences (which can be related to Government policies (Liberia publishes its contracts) or the presence or not of grassroots organizations (as in Madagascar or Mozambique)).



**Figure 3: Top 20 target countries by total number of deals**

Source: Land Matrix, 2013

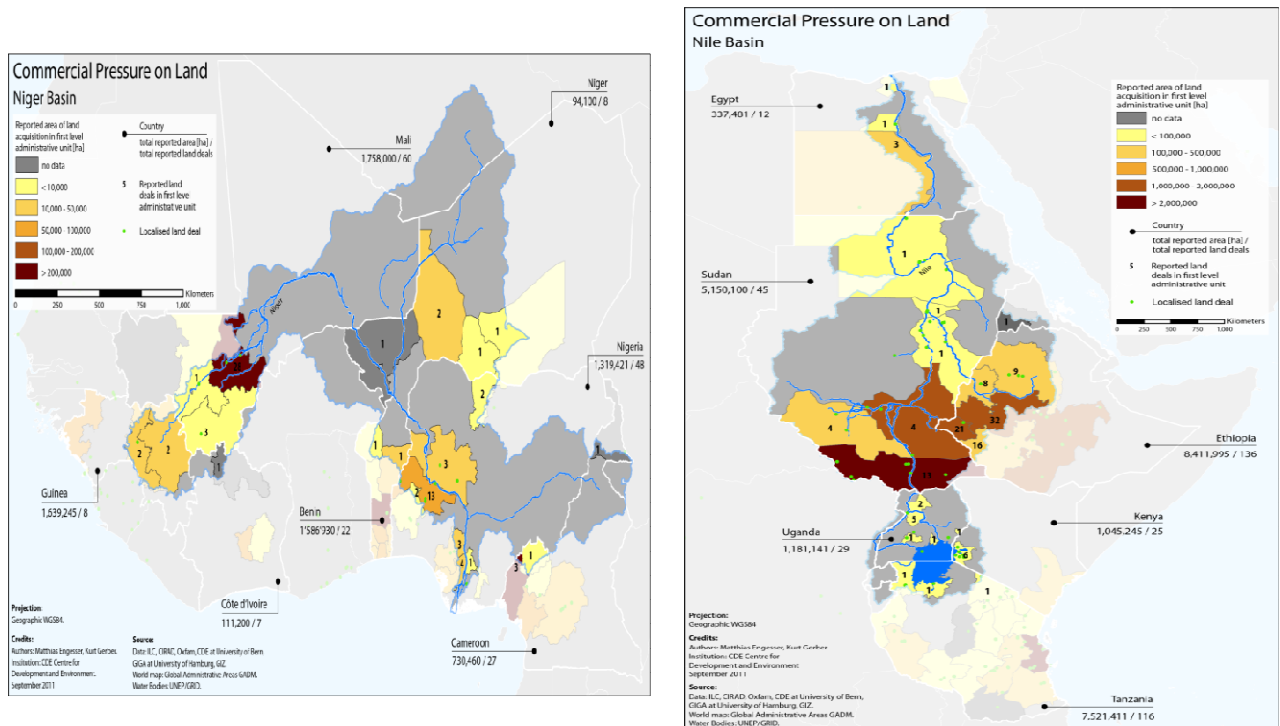
Besides Mozambique, the Eastern African countries of Ethiopia, Tanzania and Madagascar are facing a large part of the demand for land, mainly in terms of number of deals (Figure 3). In size, South Sudan and Sudan – again Eastern African countries – are heading the list (Figure 4). Countries not included in the top 20 by number of deals (Figure 3) but that do appear in the top 10 African countries by size (Figure 4), such as South Sudan, the DRC and Liberia, either have a high percentage of deals actually concluded or have signed a small number of deals but for a very large average area which makes them highly vulnerable to the actions of a few investors. On the other hand, much interest in land has been shown in Tanzania but few contracts have actually been signed (hence their absence or low ranking in Figure 4).



**Figure 4: Top 10 target countries in Africa for concluded deals by size (ha)**

Source: Land Matrix, 2013

The top 10 target countries in Africa account for nearly 70% of all concluded land deals and 53.6% of all land deals targeted across the continent (Figure 4). Concentration of LSLBI also appears in certain regions. Despite the rhetoric of targeting marginal lands, acquirers are most interested in lands that are fertile, well-watered or with good rainfall, easily accessed by roads or rail, and with electricity transmission, market centres, habitation (helpful for employing people), and export servicing centres nearby. Not only are these areas likely to be already used relatively intensively by local people, and not just for farming. This also leads to questions regarding the benefits of LSLBI as a development tool for the often presumably empty, idle and underused lands. Figure 5 and 6 show how water is a key factor in the location of LSLBI in some countries, with acquisitions focused in irrigable river basin areas – leading to many to refer to this phenomenon as “water grabbing” (Keulertz, 2011). They illustrate the concentration of LSLBI in the upper river basins of two of the most important trans-boundary rivers of Africa, the Niger and the Nile.

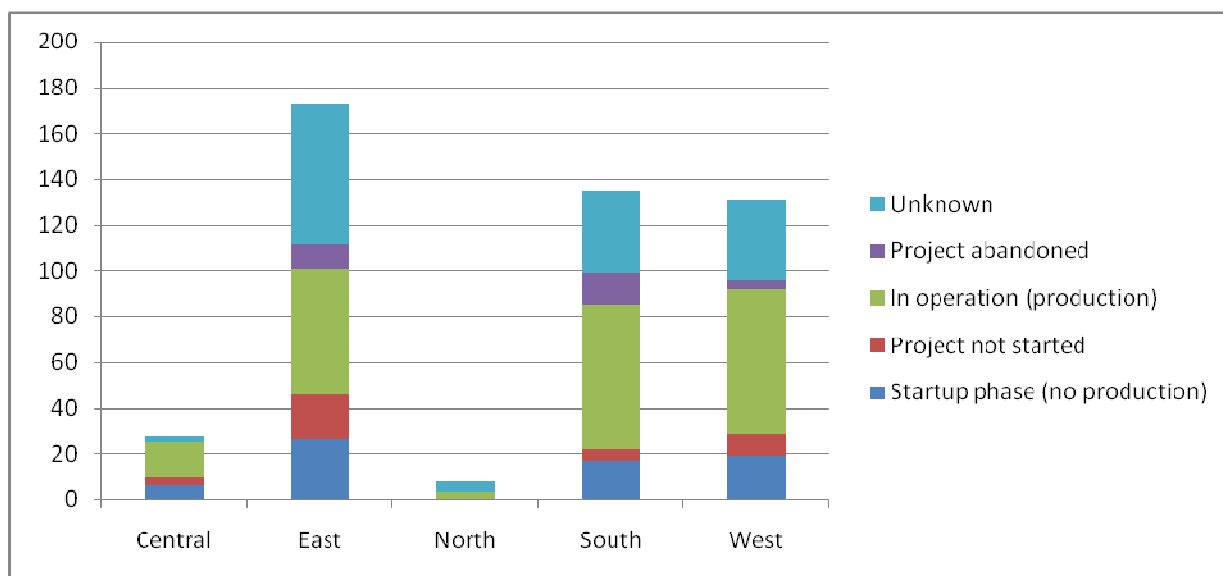


**Figure 5 and 6: Patterns of concentration of LSLBI in the Nile and Niger rivers**  
Source: Anseeuw et al. (2012)

### 3. Little effective production

Out of the LSLBI cases, few projects actually start operating productively. Out of the 474 cases for which an agreement has been reached, and that have not been cancelled since, 199 cases, representing 42%, are operational, covering 7,552,246ha (Figure 7). This is 29% of the total number of cases for Africa registered in the Land Matrix accounting for just over 19% of the land area. Nevertheless, this does not mean that all the land under contract is productive. Information on area brought under production is limited. The Land Matrix has information available on 94 cases which in total have cultivated 652,350ha of land. This includes projects in the start-up phase where land has been planted with young, not-yet productive, trees. As such, only 8.6% of the area under contract in Africa is being cultivated. This cultivated area only makes up 1.7% of the total LSLBI reported on in Africa.





**Figure 7: Number of cases by status (concluded deals only)**

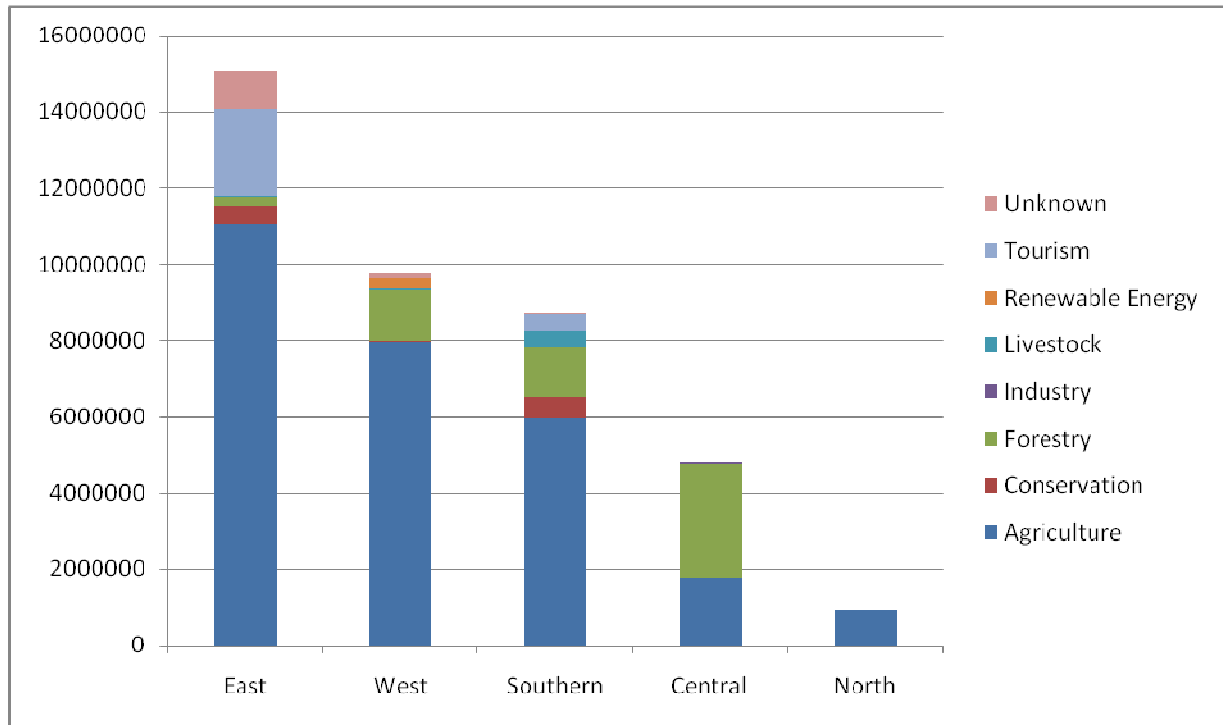
Source: Land Matrix, 2013

Out of the 474 cases for which an agreement has been reached, and that have not been cancelled since, 39 projects covering over 4.2 million ha have not yet started any activities. A further 68 projects covering 2.6 million ha are in the start-up phase but do not have any actual production. In a number of cases this is due to the long time to reach production, such as with the growth of palm oil and rubber trees. Lastly, 28 projects covering nearly 1.9 million ha have been abandoned by the investor. In most instances it is not known whether the land lease contract has been cancelled or if the investor still has legal ownership over the land.

These figures indicate that even though the interest in land in Africa is considerable, very little is actually achieved on the ground. As mentioned earlier, this can be related to technical difficulties, governance issues or to the positioning of investors aiming at securing land even in the absence of specific investments plans in the short term. In both cases, host governments need to be aware of the risks of non-performance when they sign contracts for LSLBIs, in order to be in a position to intervene as there is a need to significantly increase effective production on these lands.

#### **4. The rush for land is triggered by a wide range of drivers, including food**

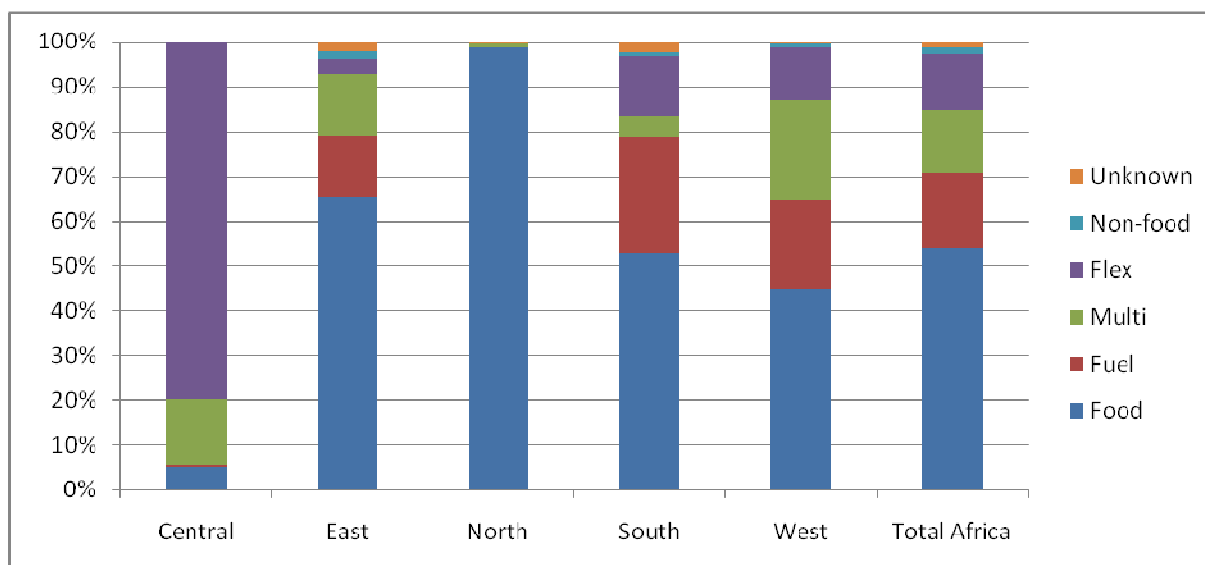
Although much of the recent LSLBIs have been signed for agricultural projects, a large area has been obtained for other purposes such as industry, forestry (including REDD and carbon credit projects), conservation and tourism. Mining deals have been excluded from this analysis. Out of the total 685 cases, 567 deals reported on are in the agricultural sector with a further 30 livestock projects. These sectors together total 87% of all the cases. Forestry accounts for 8.6% of the cases and is dominant in Central Africa, particularly in the Congo Basin (Figure 8).



**Figure 8: Area covered per sector, per region (in ha)**

Source: Land Matrix, 2013

Despite the large portion of agricultural cases, not all land is dedicated to food crops. On average, food crops represent half of all the agricultural projects in the different regions, with Northern Africa and Eastern Africa peaking respectively at 100% and 65% (Figure 9). The significance of food crops is of utmost importance, particularly for food importing regions (and where initial estimations showed the preponderance of biofuels - Anseeuw et al., 2012). The importance of non-food crops shows the development of particular markets, such as biofuels and other traditional “high value crops” (e.g. rubber tree, palm oil and cotton). For example, fuel crops (especially jatropha) are mainly occurring in Southern Africa, on 26% of the region’s LSLBI area.



**Figure 9: Percentage of land area for agricultural projects covered by sub-sector, per region**

Source: Land Matrix, 2013

Of note is that a number of projects are for multiple intentions, combining for example agriculture with renewable energy or forestry. This particularly the case in West Africa, where a considerable part of the agricultural projects included both food and fuel crops. Central Africa is largely targeted for flex crops<sup>2</sup>, mainly oil palm. The large share of projects presenting multiple productions or the production of flex crops can be interpreted as a strategy to mitigate risks (such as price volatility or the risk of commercialization) and to benefit from the best opportunity. The rush for land is therefore not only about food security. It appears to be driven by a range of factors, all ultimately linked to rising commercial pressures on land, in a context of finite natural resources and ecosystem services.

Interesting to mention is that fuel and other non-food projects tend to be smaller in size than the other sub-sectors. Whereas these subsectors cover 18% of the land, they make up 29% of the number of agricultural projects. Food deals on the other hand are much smaller: 39% of the projects covering 54% of the land (Table 2).

	Food	Fuel	Multi	Flex	Non-food	Unknown
Central	7%	3%	27%	63%	0%	0%
East	41%	20%	16%	10%	10%	4%
North	73%	0%	9%	0%	9%	9%
Southern	38%	31%	10%	12%	7%	3%
West	41%	22%	16%	18%	3%	1%
<b>Total</b>	<b>39%</b>	<b>22%</b>	<b>15%</b>	<b>15%</b>	<b>7%</b>	<b>2%</b>

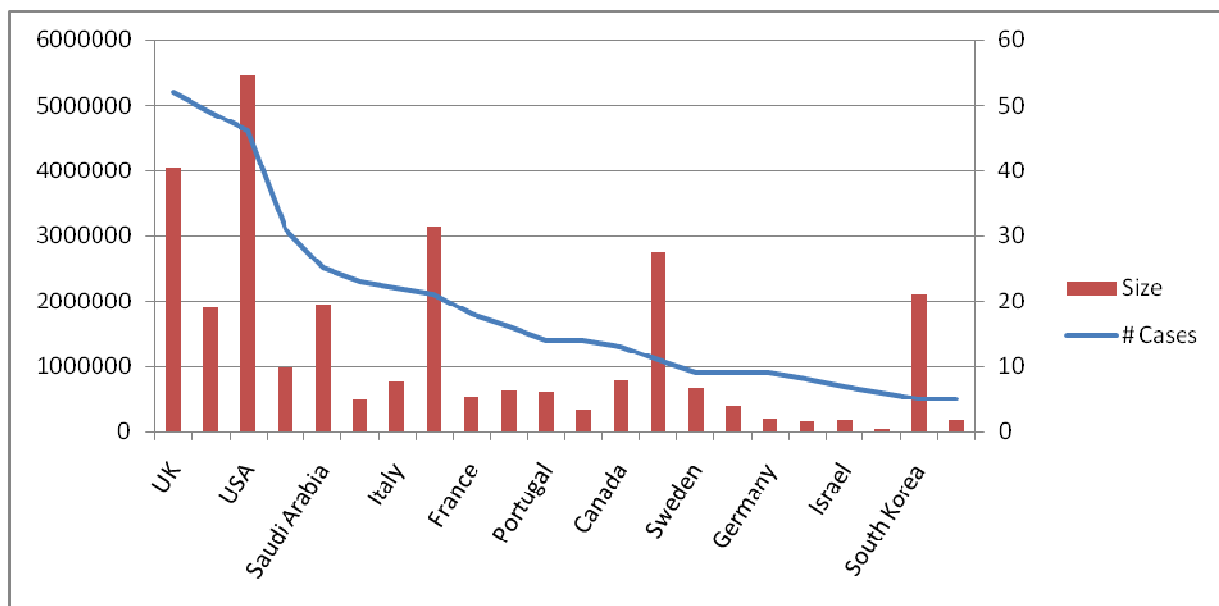
**Table 2: Percentage of agricultural cases by sub-sector per region**

Source: Land Matrix, 2013

<sup>2</sup>Flex crops are crops that can have multiple purposes. It is, for example, the case of the oil palm, which can be produced as a food crop (as vegetable oil) or a biofuel crop. Other examples of flex crops are sugarcane, canola, etc.

## 5. Western countries are still the main investors in Africa, Emerging and Middle Eastern countries are upcoming

A large proportion of investment interest continues to originate from Western countries (see Figure 10). As such, the UK is the major investor on the continent when number of cases is considered; the USA leads the rush in total size of LSLBI. Other countries are: Italy, France, Portugal, The Netherlands, etc. Historical ties remain strong: French investors are more prevalent in West Africa and Madagascar, whereas Portuguese investors focus mainly on Angola and Mozambique; Belgian investors are mainly active in the DRC.



**Figure 10: Top 25 (foreign) investor countries by decreasing number of all concluded cases**

Source: Land Matrix, 2013

However, emerging economies are rapidly becoming a major source of investment (Figure 8). As such:

- South Africa is a major investor on the continent. South Africa presently invests in more than 26 countries in Africa (Van Burick, 2012). The remainder of African investors (except for Egypt in the top 20) are mainly engaged in domestic deals.
- Other major investors are part of the BRICS countries (except for Russia). While much public attention has been paid to the role of China, investments from this country seem to be limited in size (Brautigam and Stensrud Ekman, 2012). India is pursuing the largest land area in Africa from this group of countries.
- The Land Matrix suggests that Asia is also a key region of origin. Investors from countries such as South Korea, who pursued 1.3 million ha in Madagascar, appear to be active in land deal negotiations. These investors originate from countries rich in capital, but that are endowed with limited natural resources necessary for the expansion of their agricultural production aiming at securing their national food needs (Cotula, 2011a).

- The Middle East, also actively engaged, appears to be more active in the Northern and Eastern part of the continent, probably through its geographical proximity and cultural resemblance (Table 3).

North	West	Central	East	Southern
Saudi Arabia	UK	USA	Egypt	South Korea <sup>3</sup>
UAE	India	Malaysia	UAE	South Africa
South Africa	Italy	Canada	USA	UK
Japan	Liberia	Singapore	Jordan	Brazil
-	France	Belgium	Saudi Arabia	India

**Table 3: Top 5 investor countries per region by total land area**

Source: Land Matrix, 2013

The large majority of the large scale land acquisition cases on the continent are with investors coming from outside Africa (Table 4). In total, out of the 685 reported cases of land acquisition on the continent, 502 cases (covering 31,010,057 ha) concern investments from non-African origin. This represents 73% of the deals and 79% of the area concerned. Southern Africa receives the most inter-regional interest, mainly from South African investors. These figures need to be taken cautiously as domestic cases might be underestimated, as they are less visible. Also, domestic participation within the foreign acquisition cases should not be underestimated.

Region	Regional	Continental (incl. Regional)
North	-	9%
West	6%	8%
Central	-	3%
East	3%	8%
Southern	14%	15%

**Table 4: Percentage of cases by Regional and Continental investors**

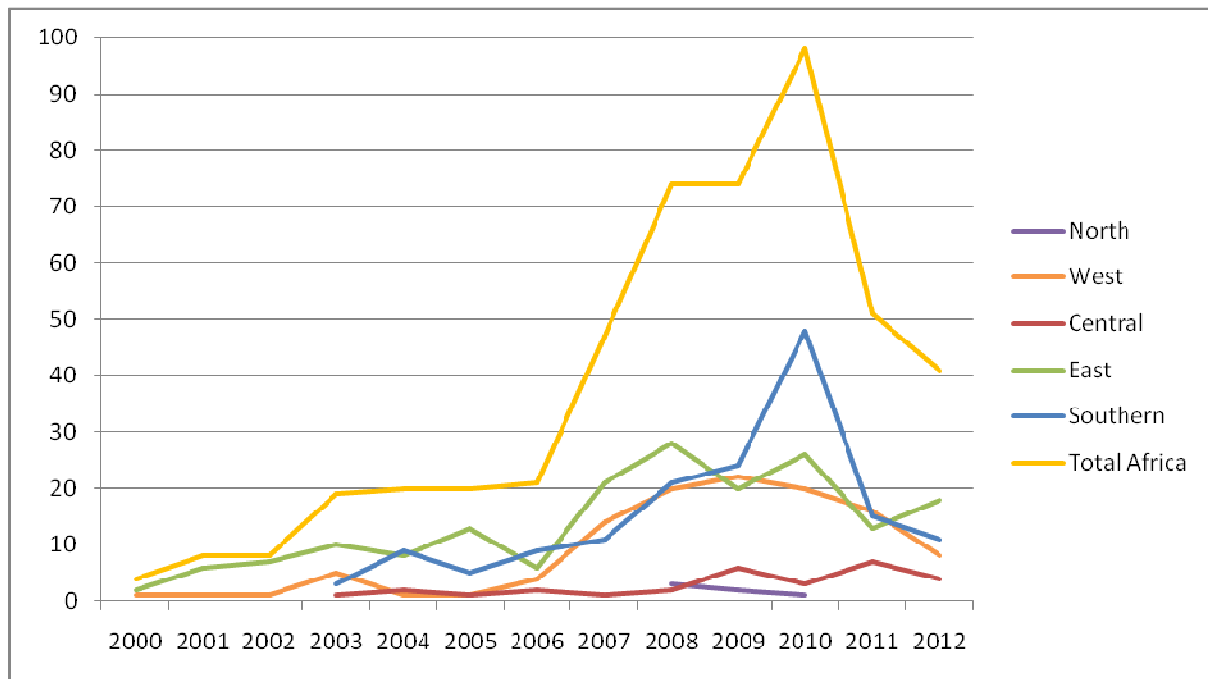
Source: Land Matrix, 2013

The number of inter-regional/inter-continental investments in Africa is low compared to other regions/continents in the world. Based on Land Matrix data from 2011, 91% of Asian cases were by inter-regional investors (Taylor, 2011). In Latin America, this figure was 43%, still considerably higher than the 27% in Africa. This relates to issues of African sovereignty.

## 6. Slowing down overall, but evidence of long-term trend of growing commercial interest in land

<sup>3</sup> South Korean investor Daewoo Logistics pursued a total of 1.3 million ha in Madagascar in two separate deals. Related to political unrest linked to these deals, Daewoo Logistics cancelled its intentions (Andrianirina – Ratsialonana et al, 2011).

Is the land rush a short-lived phenomenon, or is it here to stay? The Land Matrix data suggest that the rate of acquisition cases (at all stages, from negotiations to effective implementations) remained low until 2005, where after they accelerated greatly, peaking in 2010 and slowing down again in 2011 and following years. This trend is observable for all regions in Africa (Figure 11).



**Figure 11: The pace of LSLBI in Africa per region**

Source: Land Matrix, 2013

On one hand, the sudden rush for farmland in 2009 was triggered primarily by the food price crisis of 2007 and 2008, related to a convergence of events that included reduced grain stocks and a jump in oil prices that prompted a diversion of some food stocks to biofuels (Headley and Fan, 2008).

On the other hand, the slowdown since 2010 is likely partly due to:

- The 2008–2009 financial crisis and availability of funding.
- The high number of failures, with potential acquirers becoming more realistic about the risks of difficult conditions, technically but also socio-politically (Anseeuw, 2013-LSLBI).
- The fact that significant critical press coverage has made potential acquirers more wary of large-scale acquisitions in poor countries, or at least less inclined to publicly announce new large acquisitions.
- Host countries, such as the case in Tanzania, are getting better prepared, implementing processes and measures (sometimes according to more participatory approaches), and better negotiating deals (Mbaya, 2013-LSLBI).

Overall, the data are suggestive of a long-term trend of growing commercial interest in land, somewhat masked by a possible new-found wariness (since 2010) about attempting very large-

scale land deals or publicizing those under negotiation. As such, the food crisis marked a turning point. No longer were some food-importing countries willing to depend upon unpredictable world markets for their national food security. It also provoked expectations that after two decades of stagnation, food prices would rise over the longer term. This has so far proved correct, and food prices have again hit new highs in 2011 and 2012. Expectations of rising prices reflect longer-term trends that can be called the drivers of the rush for land. The food price crisis brought to attention trends of rising commodity prices that had been under way since 2000 (Deininger and Byerlee, 2010). Underlying these trends are the facts of a growing world population and, in particular, rising levels of consumption by the world's growing middle classes. By 2050 the world will need and consume 70% more food than is consumed today (Ibid.).

### **III. Implications and investment models and – Towards agrarian change in Africa?**

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Section One draws on the latest data to characterize some of the key features of the land rush in Africa: How big is it? Who is involved? And what land is it targeting? The following Section Two will go beyond this more descriptive presentation, and will re-contextualize the LSLBI phenomenon. It will do so by examining the factors that are driving this phenomenon; detailing evidence on the impacts it is having, at the local as well as broader agrarian level; and presenting some recent evolutions that could lead to more inclusive, equitable and sustainable land based investments.

#### **1. Triggers, drivers and enabling factors of large-scale land based investments – Investors solely are not to be blamed**

In order to better understand the causes of LSLBIs, it is helpful to differentiate between what we may call “triggers” and “drivers” of the phenomenon. As shown earlier in this report, on one hand, the sudden rush for farmland in 2009 was triggered primarily by the food price crisis of 2007 and 2008, related to a convergence of events that included reduced grain stocks and a jump in oil prices that prompted a diversion of some food stocks to biofuels (Headley and Fan, 2008). As such, demand for food is not the only driver of the land rush. Data from the Land Matrix shows that significant demand for land is for non-food production. The relatively high proportion of land being acquired for biofuels/jatropha is particularly striking, considering the displacement of real or potential food production on these lands in this food-importing continent. The rise in demand for land appears thus to be driven by a range of factors, all ultimately linked to rising levels of food, fiber, energy, carbon, mineral and leisure consumption by at least part of the world’s growing population, in the context of finite natural resources and ecosystem services in the framework of climate change (Anseeuw et al., 2012).

But the drivers described are not, on their own, enough to explain the phenomenon. It is indeed necessary to examine the contextual factors that are shaping it and enabling harmful large-scale land acquisitions to take place. As such, the rush for land must be seen as a broad, historically and politically embedded phenomenon (Iyebi-Mandjek, 2013-LSLBI). Although each of the assessed regions is characterized by governance and policy specificities (well-detailed in the regional reports), four main governance and policy frameworks at national and international level facilitating LSLBIs in Africa are pinpointed. These are most notably:

- *Land governance that fails to protect land rights:* This is related to the failure of most land governance systems to recognize and protect customary land rights, including particularly the rights of women and common property rights, and to the tendency of governments to vest all untitled lands in the State (Alden Wily 2010, 2011). On one hand, many national legal systems centralize control over land and do not legally recognize the land rights of local land users, thereby paving the way for the large-scale allocation of land to prospective investors (Ngaido et al., 2013-LSLBI). On the other hand, land reform – in particular tenure reform – have often not been fully implemented, paving the road for blurred and overlapping



rights and, subsequently, for misuse by traditional and religious powers (Ngaido et al., 2013-LSLBI) or economic and political well-connected elites (Mbaya, 2013-LSLBI). Indeed, another key avenue of land investment – related to the increased commercial pressures on land and land-related resources as a knock-on effect of LSLBI - occurs where local and smaller investors who see the new opportunity and ‘grab’ land in their own interest or where such local elites coerce or manipulate access to these lands on behalf of investors and speculators (Schoneveld 2010; O’Brien, 2011). Often less visible, these domestic can occur in large numbers and have significant local impacts (Hilhorst, 2011).

- *Weak democratic governance:* Despite advances in democratization in Africa, huge deficits of transparency, accountability, and popular empowerment exist and contribute to elite capture of resources. Weak democratic governance – governance processes that fail those who may not have a strong voice in society – exacerbate failure to protect the rights and interests of those whose livelihoods may already be precarious due to other factors. More specifically related to LSLBI, decision-making and negotiations for land deals often happen behind closed doors. Only rarely do local landholders have a say in such negotiations and few contracts are available to the public. This reduces scope for public scrutiny and creates a breeding ground for corruption (Alden Wily, 2011). In addition, another aspect of governance is the following of due process in decisions that affect rural land users. The principle of obtaining free, prior and informed consent, in particular is central to understandings of the right to freedom from eviction and respect for other rights such as the rights of indigenous peoples. Breaches of such due process are widely reflected in the different regions in Africa. A further problem concerns the limited development of genuinely devolved local government which can legally represent the interests of rural communities. Following political reforms in the 1990s a wave of decentralisation occurred in Africa (Ibid). In some cases, as in Francophone West Africa, this included decentralisation of land administration. In practice, such developments have (with exceptions) ultimately been either artificial or devolved only certain powers, leaving land-related decision-making vested in central government or remote provincial or regional state entities (Ngaido et al., 2013-LSLBI). While the rural poor as a whole are disadvantaged in the absence of fully localised governance machinery, groups like women (see box...), pastoralists, and youth, the future land holders, are generally even more remotely connected and represented in decision-making (Daley, 2011).

#### **Box: Women and LSLBI**

Rural women in developing countries constitute the most resource poor and neglected socio-economic groups worldwide. Women produce 80% of household food needs, but globally on average control less than 2% of the land (FAO, 2012). Despite their essential contribution to national development, by far the greatest hindrance to rural women’s empowerment is the denial of equal rights in land and property ownership (Agarwal, 2002). Research has found that changes in land tenure systems and the related changes in land use have consistently weakened women’s land entitlements, particularly where women are poor and their access to land is dependent on male relatives, as is the case in most customary land systems in Africa (Whitehead and Tsikata, 2003). Whether within customary, individualised or state tenure systems, land and property are crucial in attaining women’s rights. Although land deals presume a willing buyer and a willing

seller, they often involve contracts negotiated behind closed doors and between powerful groups that rarely include the people who use the land in question on a daily basis, this raises particular concerns in terms of how women will fare in this most recent conjuncture of competition to control Africa's resources (Kachingwe, 2012). Land grabs are precisely the outcome of the failure of governments and investors to recognise that women's unregistered rights to fields to grow food for their families and for markets, to forests, to water and other natural resources are legitimate property rights and must be recognised as such (Hall, 2013). Similarly, rural women are seldom visible in national accounting and data collection systems, and therefore not adequately catered for in policy making and nor considered as a strategic target group when measuring the impacts of policies or measures such as LSLBI (Nidhi, 2011; Kachingwe, 2012).

- *The side-lining of agriculture, family farming and smallholder production in particular:* The LSLBI phenomenon relates indeed to the failure of agricultural policy to support family farming and the commensurate and questionable enthusiasm and concrete support for a modernist vision of large-scale agriculture, mainly driven by foreign direct investment. LSLBIs in Africa come against a background of under-performing local agricultural sectors. The local, often smallholder, sector has failed to become the engine of economic growth, not because – as its detractors argued over several decades – it is 'backward' and intrinsically unable to do so, but because of a consistent lack of well-defined and coordinated support (Iyebi-Mandjek, 2013-LSLBI). The long-standing neglect of agriculture in many developing countries has resulted in dwindling agricultural production and productivity. Africa, where most of the population remains dependent upon self-produced food, has become a net importer of basic food commodities since the 1970s. While a number of states like Angola, were exporting food in 1980 it now imports half its food needs. In 2007 the continent as a whole imported 15% of its basic consumption at a cost of US\$ 119 billion (Anseeuw and Wambo, 2008). This legacy is reflected in governments' lack of commitments towards agriculture in general, and to smallholder farming in particular. For example, by signing the Maputo Declaration in 2004, African governments pledged to spend 10% of their national budget on agriculture. In practice only four of the 53 country signatories had in fact done so by 2009 (Wambo, 2009). These deficiencies of the African governments goes hand in hand with the failings of international financial institutions and of ODA programmes to focus on and protect local land users and farmers (See box ...). A critically important public debate around this subject needs to take place, but is itself being side-lined in the enthusiasm for industrial-scale agricultural investment. Against this background, interest by global investors in large-scale, industrialised agriculture has been seen by many host countries as a new way forward, even as a solution to the problem of rural development. In opposition to local agricultural support, tremendous institutional support has been given to encouraging foreign investment (including tax holidays, low land use fees, availability of concessional lending, ...). This is particularly the case in East African (Mbaya, 2013-LSLBI), where this production stands in stark contrast to the risk of periodic famines, including recurrent crises in the Horn of Africa.

**Box: New finance channels and the focus on large-scale foreign investment-led initiatives**

Three different initiatives have to be mentioned here. First, the activities of (public) finance corporations and development banks, who are presently supporting large-scale investments in agriculture and land (Shepard, 2011). Second, new channels of investments – mainly through investment funds – pulling together huge amounts of funds, including from ODA, development banks and international development agencies) (Ducastel and Anseeuw, 2011). Thirdly, through new initiatives – such as the New Alliance for Food Security and Nutrition, through which G8 countries are seeking to mobilise the private sector and multi-national corporations to boost African agriculture (Jacobs, 2013). These initiatives, which bring together development aid and corporate investment opportunities, are foreign investment-led initiatives for African development, in favour of an investment-driven, input-heavy productivity drive in Africa (Sulle and Hall, 2013). These initiatives suggest that, with the support of national governments, the direction of agrarian change will be determined by large-scale, corporate and multinational private capital. As Sulle and Hall (2013) write, such initiatives run the risk of smoothing the way for global investor interests to preside over local smallholder interests. For existing smallholder farmers to engage into an organic growth trajectory an all-inclusive policy effort is necessary, backed up by legal reforms, institutional change and targeted budgets, to secure land rights and invest in the productivity of existing farmers.

- *Economic governance that fails rural populations:* First of all, the present LSLBs reflect for many, as well described for the Central African States (Iyebi-Mandjek, 2013-LSLBI), a path dependency that has been initiated during the first years after independence. This stemmed especially in Africa from large-scale privatisation schemes, and exacerbated by a shift in donor sector support to generalised macro-economic budgetary support, related to Structural adjustment in the 1980s and 1990s. But presently, LSLBIs are also being enabled by the rapid development of international law over the past few decades. This has strengthened the legal protection of investment and investors in acquiring large areas of lands (Mbaya, 2013-LSLBI). The signing of the WTO agreement and related treaties, including the Agreement on Agriculture, signalled a new wave of trade liberalisation that has reduced barriers to trade in agricultural commodities (Bürgi Bonanomi, 2011). Trade liberalisation has also been pursued through a growing number of bilateral or regional Free Trade Agreements (FTAs), while the EU and African, Caribbean and Pacific states are negotiating comprehensive Economic Partnership Agreements. In addition to trade liberalisation, a booming number of investment treaties and growing state consent to settling investment disputes through international arbitration rather than domestic courts have considerably strengthened international safeguards for foreign investment. In addition, advances in international human rights and environmental law (Heri, 2011) have not been widely ratified and adopted into domestic legislation in Africa: Only one country has ratified the above-mentioned ILO Convention No. 169 of 1989 on indigenous and tribal peoples (Cotula, 2013b). Only about half of African states have ratified the African Court Protocol, meaning that the other countries can only be held accountable before the African Commission on Human and Peoples' Rights (Ibid). As such, the emerging trade and investment regime increasingly provides extensive legal protection to investors, while far fewer and less effective arrangements have been established to protect the rights of local populations or host countries or to ensure that greater trade and investment translate into inclusive sustainable development and poverty reduction (Mbaya, 2013-LSLBI).

These trends, in themselves, are not new. They are a continuation of processes that began with colonization in Africa, with the legacy of colonialism is apparent in many of the factors that are shaping and enabling the current wave of large-scale land based investments. What is new is the rate of change since 2005, and the prospect that today's enhanced investor interest in land resources is unlikely to fade in the foreseeable future, within a context of increased pressures on natural resources.

Rural communities throughout Africa have had to live for decades with insecure and threatened claims to land, but now increasingly face the prospect of losing access to these resources to a new wave of expropriation. In this sense, structural changes presently occur beyond which we will see large-scale and irreversible changes in ownership and control over land and water, in agricultural systems, and in rural societies.

## **2. Implications of large-scale land based investments in Africa: Understanding opportunities and risks of different investment models in the longer term**

The effects of LSLBI and wider commercial pressures on land can be conceptualised in different manners – they occur at local level, a national level, or globally through world markets and global ecosystems. They can involve direct outcomes such as new employment or loss of access to a resource, but can exert an indirect impact food security, both local or elsewhere. People may also be affected in different ways, positively and negatively: income, way of living and economic development, but also food production and availability. Also important are issues of dignity, self-determination and the right of people to decide their own path of development and to control their own food systems if they want to do so (De Schutter, 2011). Lastly, commercial pressures on land have different impacts on different groups of people. Such groups include international land purchasers and host country elites, the population of host countries and other countries, and the local communities directly affected (O'Brien, 2011). But it is also vital to remember that there are divisions and power relations within these groups. It is the poor who are most likely to be negatively affected, as are pastoralists and forest-dependent people.

By now, based on the multiple publications and research reports published since 2008, the potential positive and negative implications related to LSLBIs are well described. They are well detailed in all regional reports implemented in the framework of this study and synthesized in **Table 5**.

(Potential) Positive Impacts	(Potential) Negative Impacts
<ul style="list-style-type: none"> <li>-Employment (job) creation</li> <li>-Increased agricultural production for local consumption</li> <li>-Increased exports</li> <li>-Decrease dependency on food imports</li> <li>-Infrastructure development (direct and indirect related to agricultural production)</li> <li>-Transfer of technology development (direct and</li> </ul>	<ul style="list-style-type: none"> <li>-Loss of land (agricultural, grazing residential), including alienation of customary land occupied by locals</li> <li>-LSLBI can result in de facto changes in tenure and dwindling legal security of tenure regarding land</li> <li>-Locking out / closing off of land to communities (due to blocking of access roads, etc.)</li> <li>-Displacement of households</li> </ul>

indirect related to agricultural production) -Increased market development -Increased State revenue (taxes, ...)	-Loss of livelihoods for local communities, subsequently increased poverty -Community rights to food are compromised and increased food insecurity -Implications for community rights to self determination -Decreased food sovereignty -Increased commercial pressure on lands -Increased marginalization of women and marginalized groups such as pastoralists -Communities are often not compensated meaningfully -LSLBI have implications for environmental sustainability and biodiversity -Negative impacts on community rights and access to water -Increased conflicts -Excessive incentives imply revenue losses (tax exemptions, ...) -Democratic governance jeopardized due to increased non-transparency and accountability -Smallholder farming is marginalized -Significant human rights considerations, especially right to food -Pressure on labour rights
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**Table 5: Potential impacts of LSLBI**

Observations from the field should, however, be treated with caution for several reasons. Firstly, the cases observed were often in the initial stages of investment. Adverse impacts tend to be concentrated at the initial stages of project implementation (e.g. loss of local land rights). In addition, some of the claimed benefits (e.g. public revenues, employment) would only fully materialise in the future once investment projects are operating at full scale. Secondly, case study evidence is strongest on local impacts, and less strong on wider economic impacts, which would require a different set of methodologies. Thirdly, much of the research on which this section is based took place in contexts where foreign investment in natural resources is treated as an unalloyed good by government and other powerful actors. Therefore, many of the contributing organisations have sought to draw attention to some of the overlooked or deliberately ignored downsides of investment practices, particularly those that affect marginalised land users who otherwise have little voice within public debate and policy-making. Finally, the case studies of land-based investments relate to an extremely diverse range of geographic, sectoral and practical specificities. As a result, the observations may not be applicable in different contexts. The evidence presented here is therefore indicative rather than conclusive and constitutes a preliminary reflection on possible implications.

As such, it is important to be aware of, and to highlight, the significant differences regarding impacts according to the investment models implemented. Indeed, although often generalized and gathered under one term (such as LSLBI or even ‘land grabbing’), diverse models and practices are embedded in the phenomenon and, by consequence, lead to diverse implications and outcomes. Lately, more in-depth analyses are presently mushrooming presenting the diversity of investment models implemented in Africa and analyzing their differentiated implications, in the long term, in the framework of the continent’s broader agrarian trajectories.

### ***Unravelling LSLBI – different investment models leading to different outcomes***

Without claiming to be exhaustive, nor unique (See Hall (2010) for another classification), Boche and Anseeuw, (2013) identify six broad models of LSLBI, which vary according to their set-ups and investors strategies. These different types of investments lead to different implementation strategies and processes and, subsequently, to diverse outcomes with regard inclusiveness and local development as well as benefits for local populations and host countries (Table 6).

Models	Independent farmer model	Cooperative farmer model	Speculative 1,000-day model	Asset management model	Contracting model	Agribusiness Estate model
<b>Variants and Sub-models</b>						
	-Independent farmers -Delocalized auxiliary farming model -Resource pooling farmers	Cooperative farmer model	1000-day model	Asset management model	-Contract farming -Nucleus Estate -Reverse Tenancy -Ingrower scheme	Agribusiness Model
<b>Set up and organization</b>						
<b>Mechanisms of Governance</b>	Independent	Cooperative (hybrid)	Financial corporate (hybrid)	Financial corporate (hybrid)	Processing corporate (hybrid)	Agribusiness (corporate)
<b>Actors involved</b>	Independent farmer and some informal groupings	Union, cooperative, farmers,	Developer/consultant, financier	Asset management company, financier	Agribusiness already established and local farmers	Agribusiness
<b>Investment (structure)</b>	Independent funds	Investment secured by the cooperative	Private equity partner	Private equity partner	Agribusiness	Agribusiness
<b>Average size of the project</b>	<1,000 ha	10,000 – 80,000 ha	5,000-10,000 ha	5,000-10,000 ha	> 5,000 ha	> 10,000 ha
<b>Establishment/ Access to land</b>	Implementation started at local level	Bilateral treaty; Top down decision process	Acquisition of old state farms facilitated by political network	Takeover of old state farms; Expansion on surrounding area	Already established agribusiness; Support from donors to identify outgrowers and secure land access	Centralized decision; Top down decision process; Takeover of failed projects
<b>Contracting/ agreement</b>	No contracting	National bilateral agreements; Farmers with cooperative	Too early or for prospective purposes	Possible off-set contracts (transport, logistic, value chain service providers)	Production and marketing contracts	National bilateral agreements; Possible off-set contracts (land clearing and transport)
<b>-Degree of vertical integration</b>	Little	Little	Relatively high	Relatively high to High	High	Total vertical integration
<b>Result, outcome, sustainability</b>						
<b>Mechanisms for Sharing rent</b>	N/A	Cooperative – salaries and paid out to cooperative members	Dividend on margin made	Shares of the asset management company	Depending on the contract	N/A as integrated
<b>Outcome</b>	Farming production	Farming production; Transfer of technology; Geopolitical influence	Farming infrastructure; ROI for financier	Farming production; ROI for financier	Farming production and processing	Farming, processing
<b>Level of failure</b>	High	Too early or for prospective purposes	High	Relatively High	Low	Low
<b>Inclusiveness and national/local development</b>						
<b>Ownership/ Voice/ Risk/Reward into core activities</b>	Mentorship within informal grouping	None	None	None	Contract farming, nucleus Estate management contract	Development as “enclave economy”
<b>Local benefits</b>	Land taxes;	Land taxes;	None	Land taxes	Land taxes;	Land taxes;

	Labor intensive model; Some collective action with local emergent farmers	Labor intensive production model		Employment creation volatile	Productive uplifting and market access; Labor intensive production model	Compensation; Highly mechanized production model
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**Table 6: The Different Large-Scale Land Based Investment Models**

Source: Boche and Anseeuw, 2013.

From the above, while potential positive outcomes are identified and do occur in the framework of certain investment and business models, more frequently, literature sources point to the fact anticipated benefits has fallen far short of expectations. There is little evidence that communities living in the areas where investments are taking place have benefited in ways consistent with the stated objectives and outcomes. The latter is particularly the case when acquisitions (whether through ownership or leasehold) of large tracks of land are involved and when the business model does not include local communities nor focuses on local development. The latter is particularly the case when the acquisition has not been preceded on the basis of a rigorous application of the principles of Free, Prior, and Informed Consent (FPIC) of existing users and claimants. Standard processes and contracts are presently being developed, aiming at ensuring the equity and sustainability of the different stakeholders engaged (Smaller, 2013) ([See box](#)).

**Box: ‘Good’ contracts in 10 steps**

‘Good’ contracts include:

1. Preparation of the negotiating environment (identifying the needs of the country, understanding the economic bargain, assessing the value of NR, FPIC of concerned community);
2. Conducting feasibility studies (business feasibility, economic and technical viability, potential social and environmental constraints, developing a business plan, and verification by an independent third party);
3. Conducting and implementing impact assessments (Environmental and social impact studies and management plans which are incorporated into the contract as binding obligations, should take place before occupying the land, and before starting construction and operations);
4. Define land rights and water access;
5. Determine the financial and other incentives (which should not jeopardize the countries fiscal revenues nor should they disfavor domestic farmers);
6. Avoid stabilisation clauses;
7. Specify the investors’ obligations in terms of development (contribution of the project to employment, technology transfer, infrastructure development, local market provision; and community development agreement);
8. Identifying environmental parameters
9. Implementation of appropriate dispute resolution measures (national versus international; courts versus arbitration);
10. Follow up and annual reports on the implementation of the management and action plans as well as other contractual obligations.

Source: Smaller, 2013.



### ***Longer term outcomes and evolutions related to Africa's LSLBI and agrarian change***

As detailed, the above presented implications are often short term. This is mainly related to the nature of these LSLBI, which are implemented and thus analysed since relatively recently. Some longer term perspectives and analyses are presently mushrooming.

As shown in the first section of this report, a high proportion of deals are never implemented. Beyond the latter, among the projects that have been established, there is increasing evidence showing high levels of failure (Boche and Anseeuw, 2013). Without pretending to be exhaustive, several reasons explaining this high level of failure have been identified: i) Uncertain institutional environments and the difficulty of doing business; ii) Technicality of the projects; iii) The lack of markets; iv) Lack of financial services; v) High settling and transaction costs (Favrot, 2011; Boche and Anseeuw, 2013). These different aspects of the reality of agricultural and land investment models depict a not so rosy story concerning the land deals that have been implemented. A large number of projects have failed, even before effectively starting to produce (Boche and Anseeuw, 2013). This leads to several major interrelated implications, concerning Africa's agrarian change:

- First, these failures *leave the population and the host countries in the worst possible situation*. Not only haven't local populations had access to the land for some years - stopping their own farming activities and altering their livelihoods, neither do they benefit from employment opportunities and are very unlikely, full compensations or infrastructural developments as promised. In some situations the land is just abandoned, with this new uncertainty on land rights creating even more clashes. This illustrates the role of public policies and national authorities: Public policies must not only be attracting investors but also be screening and assessing their projects in a selective way.
- Second, *changing strategies of investors*, according to three major modalities in order to limit risks and failures: i) investments in economically and institutionally more secure environments, such as emerging (South Africa (Fraser, 2013)) and developed countries (Australia and Canada (Moir, 2011; Glasson, 2013)); ii) the shift from direct land investment toward more invisible production control mechanisms (besides contractual arrangement, this can be through equity, shareholding in local businesses) (Ducastel and Anseeuw, 2011; Shepard, 2012); or iii) increased integration (see hereafter).
- Third, *increasing integrated investment and production models*: Although large-scale land acquisitions tend to focus on the primary production, the many difficulties encountered pushes investors to vertically integrate. As such, this integration process encompasses not only the farm itself, but also the entire chain of agriculture-related business, including seed supply, agrochemicals, processing, machinery, storage transport, marketing, etc. The approach is not new (South Africa), however, over the past few years, this strategy has been applied more widely, both geographically (Kenya, Zambia, Mozambique, ...) and at the level of the concerned value-chains (e.g. cereal).

- Fourth, *few inclusive agricultural development models and pressure on labour rights*: The failures and high level of integration lead to investors to focus more on their core business, aiming at establishing their activities first before tending to support other ones, it also puts significant pressure on labour, which tends to be based on casual and temporary contracts (Li, 2011).
  
- Fifth, *enclaves and closed value-chains*: The above mentioned processes also lead to the 'isolation' of many of the foreign investments, often representing 1) from a geographic perspective - "enclave economies" poorly integrated to their surrounding society and economies (Ferguson 2005) or 2) from a sectoral one, closed value-chains (Boche and Anseeuw, 2013). In the extreme case, the total integration of these activities allows dominant actors to widen their control over the productive cycle in its entirety (Reardon et al., 2009) as well as over sectoral and territorial regulation mechanisms (which can be problematic in the case of foreign powers).
  
- Sixth, *Concentration and dualization within the agricultural sector*: These integrated and thus often large corporate entities bring about a corporatization process of certain sections of the agricultural sector (Anseeuw and Ducastel, 2013). This, in turn, steers a concentration and dualization process. Indeed, the dual process of corporization and concentration within the African agricultural sectors is leading to a new regime which is characterized by the dominion of a few large international food-business groups (Huggins, 2011) and could lead to the marginalization of the majority of African farmers due to biased power relations and confrontation with models of significantly higher means and productivity (Losch et al., 2012). This will strengthen the dualism within the agricultural sector. This concentration is already visible in several African countries and concerns land and primary production as well as up- and downstream section of the agricultural value-chains (Reardon et al., 2009)(box W).

#### Box W: Land concentration in Mozambique

Based on cadastral records in the Sofala province (Mozambique) from 1988 up to 2012, this table shows significant land concentration in Mozambique. Although land concentration was already present in the late 1990, it has been reinforced since 2005.

#### DUAT (land registration) applications in Sofala, Mozambique, from 1998 to 2012

	1998 to 2004		2005 to 2012	
Size of land (ha)	NbDUAT	Total area (ha)	NbDUAT	Total area (ha)
0 – 10	24 (37,5%)	101 (0,3%)	72 (37,7%)	161 (0,1%)
10 – 50	22 (34,4%)	411 (1,1%)	22 (11,5%)	435 (0,2%)
50 – 100	2 (3,1%)	145 (0,4%)	11 (5,8%)	741 (0,4%)
100 – 500	5 (7,8%)	920 (2,4%)	32 (16,8%)	6 257 (3%)
500 – 1 000	4 (6,3%)	2947 (7,7%)	14 (7,3%)	9 418 (4,6%)
1 000 – 10 000	6 (9,4%)	23 276 (61%)	33 (17,3%)	96 715 (47%)
➤ 10 000	1 (1,6%)	10 348 (27,1%)	7 (3,7%)	92 000 (44,7%)
Total	64	38 150	191	205 728

Source: Boche, 2013.

### 3. Towards more equitable LSLBI in Africa? Initiatives and lessons learned

Recently, African countries and societies have been pro-active not only in promoting LSLBI, but also in channeling and regulating them, potentially leading to more equitable and sustainable investments. These evolutions are related to:

- Firstly, to the significant social reaction and mobilization, at local, national and international level. On one hand, growing NGO scrutiny and popular mobilization has increased pressure on governments to take fuller account of sustainable development considerations. A good example in Southern Africa is Madagascar, where popular mobilization contributed to the destabilization of the previous regime (Andrianirina-Ratsialonana et al., 2011).
- Secondly, some countries have been very vocal in challenging investment protection regimes, with some countries terminating BITs (Cotula, 2013a).
- Thirdly, related to the high number of failures and missed opportunities and to create a more appropriate environment, investors and public authorities are looking for developments and solutions, in order to get more out of the investments (Boche et al., 2013).
- Fourthly, as detailed by Cotula (2013a), high-income countries are more and more important capital importers. While in the past these countries promoted robust standards of investment

protection, they have now developed model investment treaties that better balance investment protection with a continued ability of governments to regulate in the public interest.

- Lastly, there is now much better international guidance on how to guide these investments.

Some of these initiatives/programmes/policies are worth detailing here:

#### **\* Policy changes relating to the governance of land**

Certain African countries have engaged in reforms regarding their land governance in order to guard against arbitrary appropriation of land and to facilitate more inclusive development. As such, although many problems still persist and the country is affected by land governance issues and conflicts (Kigambo, 2012), Tanzania is often considered an example with respect to the manner in which LSLBI should be negotiated (Box 4). Tanzania's land acquisition requirements are distinguished from others by an elaborate system of approvals and consent by actors extending from the village up to the President. This system has protected against loss of village land. Secondly a ceiling is placed on the amount of land that can be independently transferred by village-level authorities (Mbaya, 2013-LSLBI).

##### **Box 3: The process of negotiating LSLBI in Tanzania**

- In Tanzania all land is vested in the President as trustee. Hence transfers across land categories are subject to the Executive's approval. Statutory provisions also confer administrative responsibilities to state actors and village authorities.
- Tanzania's land laws provide explicit protections for customary rights, which are placed on an equal footing with statutory rights, and which hold sway regardless of whether they are certified. Customary rights of use prevail across the different categories and persist even where land is transferred across categories. As with more formal rights, they can be re-assigned through lease and inheritance but are administered by customary authorities, the Elder's Councils, whose endorsement is required for allocation and in dispute resolution.
- Most land targeted by investors is village land which is regulated under the Village Land Act of 1999. The Act allows Village Councils (with consultation and approval of Village Assemblies) to transfer village land. Such transfers require the approval of village assemblies and cannot exceed 250 ha of land. Transfers involving more than 250 ha (as with most land acquisitions by investors) must be approved by the Minister of Lands.
- To transfer these lands to investors, village land must first be re-categorized to general land, which is then vested in the Tanzania Investment Centre for allocation to investors. The Minister of Lands is required to ensure that the purpose of any proposed transfer of village to general land is explained to the Village Assembly by the Commissioner of Lands. Moreover, the investor is required to address the Village Assembly in order to respond to villagers' concerns.
- If the Village Assembly approves and recommends the transfer, the Commissioner of Lands forwards the approval to the President, who signs off on the transfer to general land. After the President's approval, the notice of transfer is gazetted and another 30 days is provided to allow any aggrieved party to lodge complaints prior to the final transfer.
- The land is then vested in the Tanzania Investment Centre, which issues derivative rights of occupancy to foreign-owned investments or a granted right of occupancy to a Tanzanian-owned enterprise. Such leases must not exceed 99 years, and may include periods of 33 and 66 years.
- Leases can be renewed. They can also be revoked subject to the investor's performance in upholding the terms of the lease.
- Compensation must be paid prior to transfer (Village Land Act, 1999; Land Act, 1999). It can be paid for by the investor if the President so directs (Land Act, 1999).

Source: German et. al., 2011; cited by Mbaya, 2013-LSLBI.

Similarly, the 2009 Land Law in South Sudan places the primary responsibility for allocating community land for investment with the traditional authority. This is only made subject to approval by the State authorities when allocations exceed set limits. According to the Act, root interests in the land remain with the community and upon expiry of the lease the land reverts to the community. The Law also clarifies the process by which traditional authorities may allocate land, requiring community involvement and consensus as well as full consideration of social and environmental impacts of proposed investments (Oakland Institute; 2011, cited by Mbaya, 2013-LSLBI). Although such power transfers to traditional authorities may still lead to power abuse, this time at local level (Ngaido et al., 2013-LSLBI); it potentially allows for more inclusiveness.

#### **\* Inclusive development models and processes**

Regarding the latter, the LSLBI typology presented earlier in this section has shown the diverse predisposition of certain investment models to include local populations and to facilitate local and host country development. In addition, several academic works present, detail and analyse a diversity of models that could facilitate linking smallholder farmers with agribusinesses and investors (Vermeulen and Cotula, 2010). These models vary from contract farming and outgrowers schemes to more complex joint ventures, equity share schemes, etc. Although caution is drawn regarding their potential benefits (Freguin et al., 2012), these models are often presented as alternatives and as more inclusive and equitable to those based on land acquisition solely (Vorley et al., 2008; IFC, 2013). South Africa, for example, through its strategic partnership model, facilitates such arrangements (Lahiff et al., 2012); Mozambique as well as Zambia, Malawi and Tanzania promote such linkages in the framework of their corridor development programmes (Hanlon and Smart, 2012; Sulle and Hall, 2013).

Beyond these business models, in the framework of the LSLBI phenomenon, some countries have started to reflect and develop initiatives leading to broader processes promoting relationships between communities and investors, mainly based on the promotion of grassroots initiated development and of the free and prior informant consent. One of the most advanced countries regarding such programs is Mozambique, that, through its Pro-Parcerias project, developed procedures for land-based investments based on a multi-party partnership (central administration, local administration, communities, civil society and investors), initiated at village level (Box 5). Although several government engagements are being initiated in order to deal with and channel LSLBIs (Tanzania, Zambia, etc.), the Pro-Parcerias project presents a different approach, initiated from the grassroots level, endeavoring to create conditions for a fair partnership between investors and communities in Mozambique.

#### Box 4: Promoting Inclusive Development Processes – Mozambique’s Pro-Parcerias model

Instead of top down implementation of large-scale land acquisition projects, the Pro-Parcerias initiative is based on the wish of local communities to attract investors in order to establish inclusive and sustainable projects. Concretely, the project aims at implementing institutional arrangements that secure viable and sustainable investments for all the stakeholders involved. These institutional arrangements mainly reside into three aspects:

- *Community initiation:* Communities decide whether or not they want to enter in the process. The process is thus initiated at grassroots level. During this process, the community will establish a Communal Committee of Natural Resource Use in order to establish a land use plan for the community (aiming at diminished opportunistic behavior and solve potential conflicts regarding the use of their land).
- *The establishment of a multi-stakeholder consortium* in support of the fair implementation of the investment project. The involvement of this consortium facilitates a close coordination between the investor and the community, empowering the communities in their negotiation with potential investors and (auto-)monitoring the relationship between the different parties. It also provides support to the Communal Committee of Natural Resource Use.
- *Guideline development for investor selection and engagement:* Guidelines are established supporting and guiding communities, government and authorities at the different levels as well as investors. This will include an “agricultural potential assessment”, which besides assessment itself, is to be realized with the members of the communities in order to define the type of partnership and project these communities want to engage in, and which will be used for the negotiation with the investors willing to develop a project, as well as an assessment of the possibilities.

It is being established by the National Directorate for the Promotion of Rural Development of the Ministry of State Administration of Mozambique, with the support of the FAO. Although the Pro-Parcerias project is still being developed and tuned and is not being fully implemented yet; it is presently tested through five pilot projects, in the Manica, Sofala and Zambezia provinces.

Source: Boche et al., 2013.

#### \* More favorable negotiations of investment agreements and bilateral investment treaties

As detailed by Cotula (2013a), a new wave of investment agreements and bilateral investment treaties is mushrooming, highlighting a potential shift in investment treaty-making which is more equitable in nature. The latter present some aspects that are formulated more carefully to reconcile investment protection with a wider set of policy goals. Based on a BIT signed between Canada and Benin, these treaties contain more restrictive clauses on fair and equitable treatment, and clarify that this standard does not create new obligations beyond more narrowly interpreted customary law requirements (Ibid).

In addition, in general, investment treaties typically establish rights, but not obligations for investors. As such, most treaties say little or nothing about the duty of investors to comply with environmental regulations, for example. This newer type of treaties include a provision calling on the two governments to encourage their investors to comply with internationally recognised standards of corporate social responsibility (Ibid).

Also, again commonly, investment treaties enable investors to bring disputes to international arbitration. On contrary, these latest treaties recognise that transparency and public scrutiny are critical for these wider interests to be properly considered in arbitration proceedings, and allows NGOs to file submissions with arbitral tribunals where specified criteria are met (Ibid).

Although these improvement remain limited (limited reference to corporate social responsibility standards, for example), some governments are becoming more assertive. Last year, South Africa

terminated a BIT and announced more cancellations. Concerted action by organisations representing a region or sub-region's interests, such as the Southern African Development Community (SADC), can help address asymmetries in negotiating power. For example, SADC has developed a model investment treaty that more carefully balances investment protection with other policy goals (ibid)

### **Improved international and continental guidance**

Lastly, there is now much better international guidance on how to guide LSLBIs. Besides certain policy frameworks and models (such as the Investment Policy Framework for Sustainable Development (UNCTAD, 2009), several codes of conduct and investment guidelines have recently been developed at international and continental level. They include the Responsible Agricultural Investments 'code of conduct' proposed by the World Bank (2010); the *Voluntary Guidelines on the Responsible Governance of Tenure of Land* (2012) and, at African level, the Frame and Guidelines of the LPI (AUC/UNECA/AfDB, 2009).

#### *The Voluntary Guidelines on Responsible Governance of Tenure (VG)*

The VGs state that tenure, or the manner in which people, communities and companies access and resources associated with land such as water and forests impacts eradication of hunger and poverty and the sustainable use of the environment. Accordingly, the manner in which tenure is governed is a crucial element in determining if and how people, communities and others are able to acquire rights and associated duties to use, control land and associated resources (FAO, 2012). Accordingly a set of guidelines on the responsible governance of tenure have been developed and finalized in 2012 through the efforts of a global partnership of relevant institutions and actors. The VGs lay out the agreed considerations which should guide the governance of land including; general principles; the rights and duties associated with transfers and other changes to tenure (including in the case of investments); the administration of tenure (including valuation of land) and environmental considerations (FAO, 2012; cited by Mbaya, 2013-LSLBI).

#### **Box 5: Founding Principles of the Voluntary Guidelines on the Responsible Governance of Tenure**

States should:

- Recognize and respect all legitimate tenure rights and the people who hold them,
- Safeguard legitimate tenure rights against threats,
- Promote and facilitate the enjoyment of legitimate tenure rights,
- Provide access to justice when tenure rights are infringed upon,
- Prevent tenure disputes, violent conflicts and opportunities for corruption.

Non-state actors (including business enterprises):

- Have a responsibility to respect human rights and legitimate tenure rights.

The principles of implementation include i) human dignity, ii) non-discrimination, iii) equity and justice, iv) gender equality, v) holistic sustainable approaches, vi) consultation and participation, vii) continuous improvement, viii) rule of law, ix) transparency, and x) accountability.

Source: FAO, 2012

#### *Responsible Agricultural Investments (RAI)*

Based on the VG, the FAO in collaboration with the UNCTAF, IFAD and the World Bank have jointly developed the Principles for Responsible Agricultural Investment (RAI). The RAI draw attention to rights and livelihoods of rural populations and the need for socially and environmentally sustainable agricultural investments. It is anticipated that once finalized, the RAI will be guiding the development of laws and policies which ensure agricultural investments supportive of the rights and livelihoods of communities (World Bank, 2010; cited by Mbaya, 2013-LSLBI)

*AU Declaration on Land, Framework and Guidelines for Land Policy in Africa (F&G)*

The Framework and Guidelines (F&G) on Land Policy in Africa were developed by the Land Policy Initiative (an initiative of the AU, UNECA and AfDB). The F&G articulates principles which should inform the development, content and implementation of land policies in African member states. The F&G highlights several priority areas including the articulation of a policy framework for:

- addressing emerging issues and anticipating future trends relating to land resources;
- providing a basis for more coherent partnership between states, citizens and development partners in land policy formulation and implementation on the continent.

The F&G also identify principles which should govern land policy development and implementation in Africa. These include democratization, transparency, good governance, popular participation, equity, poverty eradication, subsidiarity, gender equity and sustainability among others (Box 7) (AU/UNECA/AfDB, 2010; cited by Mbaya, 2013).

By addressing the emerging issues and future trends, the F&G provide States with guidance in the conduct of LSLBI. The F&G refer specifically to large scale investment in rural land, identifying LSLBI as one of the strategic issues to be addressed by land policy in African states. In this way, the F&G provides Member states with guidance with respect to the principles which should govern the implementation of LSLBI (ibid).



#### **Box 6: Framework and Guidelines on land policy in Africa**

1. Interests and roles of stakeholders in the land sector must be first clarified and taken on board before the process is launched.
2. It is imperative that the issue of equal access to and representation on all structures that are responsible for land management and administration are addressed.
3. Care must be taken to ensure all categories of the land using public, especially women, are reached.
4. Land policy development should recognise and adequately provide for a deep engagement with the civil society organisations (CSOs).
5. Detailed policy development and legislative and institutional reform should take place through a phased and iterative process rather than a sequential linear model.
6. Land policy development and reform should be to restructure institutions for land administration to achieve delivery of land services in a manner which meets customer requirements and financially self-sustaining.
7. The development of land policies in Africa does not take into account full financial and economic cost appraisals hence provide only for inadequate resource commitment and mobilization for reform implantation.
8. Effective communication should be integral and cross-cutting hence requires the development of a coherent strategy that takes account of the entire policy development process.
9. The status of land resources is an important determent of the health and vitality of sectors and sub-

## **IV. Policy recommendations and required actions – Towards sustainable investment in agriculture in Africa**

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African countries have responded to the growth of LSLBI by developing policies, procedures and, in some cases, institutions for the management of these investment projects. The latter have been supported by international codes of conduct and guidelines. However, the widespread occurrence of unintended points to the fact that the promotion of LSLBI and their implementation in the legal and policy environment has not evolved sufficiently to provide the required guidance and safeguards in the framework of LSLBI. Indications show that even where laws exist and institutions for their administration are in place, poor implementation has undermined the achievement of the results anticipated from LSLBI.

Several priority policy actions therefore emerge, stretching from the establishment of information platforms, via policies aiming at securing land and basic democratic rights for host countries' citizens, to broad reflections regarding the countries' development trajectories.

### ***1. Reinvest African agriculture - Reflect on long term development trajectories, reconsidering the role of local (family) farming at the centre of policies and strategies for agricultural development***

The rush towards farmland in developing countries is the result of failures in the past; failure in the past to adequately invest in agriculture and rural development in developing countries, particularly sub-Saharan Africa; failure in the past to promote means of agricultural production which do not deplete the soils and exhaust groundwater reserves and the present day failure today to establish well-functioning and more reliable global markets for agricultural commodities. On this basis, the Special Rapporteur on the Right to Food proposed that any efforts to better regulate LSLBI should be accompanied by concerted efforts to address these underlying circumstances which make LSLBI look like a desirable option (De Schutter, 2009; cited by Mbaya, 2013-LSLBI).

At the same time, African states have, in different platforms, acknowledged the importance of addressing the historic under-investment in agriculture. Primary among these is the Maputo pledge. Progress in the fulfillment of this has been slow. Ongoing political will to ensure its fulfillment is required. This goes hand in hand with the withdrawal of measures that favor foreign LSLBI (tax exemptions, import and export incentives, Trade Agreements and Bilateral Investment Treaties that do not give an equal chance to smallholder producers, etc.), leading to biased competition and unfavorable development environments for smallholders and domestic producers (Hanlon and Smart, 2012; Borras and Franco, 2012).

In addition, accompanying a paradigmatic change that sees local family, including smallholder, producers as the best-placed investors in land should be the policies and support services that level the playing field and grant local farmers an equal chance as corporate investors to fulfill this role. Failure to do so at this point in time would represent a colossal missed opportunity to

enable local family agriculture to simultaneously contribute to meeting global food demand while at the same time reducing poverty and promoting sustainable livelihoods in agrarian economies. Solutions include policies that recognize family farming and smallholder rights to the land and water they depend on and empower them -above all the majority who are women- with the necessary capacity, finance, and regulation to increase their productivity, production and competitiveness, and to cope with risks and vulnerability (IAASTD, 2009).

**KEY ACTIONS****Host governments:**

Policy reform to recognize and equip smallholder farming as a central pillar of agricultural development  
Avoid adopting tax benefits, Trade Agreements and Bilateral Investment Treaties that do not give an equal chance to smallholder producers

**Farmers' organizations:**

Build strong and well-defined agricultural development models based on family farming, to be supported in policy spheres  
Strengthen farmers' organizations at the different levels in order to reinforce and support the family farmer paradigm

**Civil society:**

Contribute to the strengthening of social movements and organizations representing smallholders, women, landless people, fisher folk, pastoralists and agricultural laborers

## ***2. Encourage investment, but avoid large-scale land acquisitions, leases or concessions that involve large-scale land acquisition and conversion***

Fundamental to the way forward is defining under what parameters investments are likely to bring harm or benefit. Contexts are diverse, demanding different strategies, and attempting to define a one-size-fits-all model for investment would be counter-productive. However, evidence so far indicates that the first point of divergence between investments that are very unlikely to be beneficial to local populations, and those that could benefit local populations is whether or not the investment is predicated on a transfer of land rights (in legal or de facto terms) away from local land users (HLPE, 2011). The case has been made that forms of investment entailing the acquisition and conversion of large tracks of land from local production or ecosystem service provision is doing more harm than good (Cotula *et. al.*, 2009; Anseeuw *et al.*, 2012).

Alternative forms of investment that do not involve the alienation of land rights, such as sharecropping, equity sharing or outgrowing may provide some routes to more equitable investment models, although they are not a silver bullet (Sulle and Nelson, 2009; Cotula and Leonard, 2010; Burnod *et al.*, 2012). Where acquisition of land is a necessary and legitimate investment strategy, such acquisition should be negotiated with local communities, and should be subject to their Free, Prior and Informed Consent (FPIC).

**KEY ACTIONS****Host governments:**

Develop investment guidelines and procedures for attracting investment that do *not* involve transfers of land rights

**Civil society and farmers' organizations:**

Mobilize local land users and farmers to represent their interests to decision-makers in investment contexts where they face possible dispossession

**Investors:**

Recognize local claims to land and respect the moral right of local communities to Free, Prior and Informed Consent even if these are not legally required or enforced

Avoid investment strategies that involve conversion of land from smallholder production or provision of important ecosystem services

**African regional and continental bodies as well as development partners:**

Facilitate sharing best practices and consider subsidizing the opportunity costs of investors who are willing to adopt models that are able to meet local priorities.

### ***3. Legally recognize the land rights of local populations, in particular over the commons***

The AU framework and guidelines espouses a continental land regime which prioritizes security of tenure for all categories of land rights. A priority action for States is to review their land laws and regulations to ensure that all categories of land rights are protected in light of powerful private interests in land held under customary tenure. On their part, Member States should ensure the protection of land rights of communities in the context of investments. Revisions to legislation may be required in order to make mandatory the prior, informed consent of affected communities with respect to LSLBI agreements as well as establishing the basis for their compensation (Mbaya, 2013-LSLBI).

A founding impediment for communities to benefit from the opportunities presented by increased demand for land is the weak status of their land rights, particularly in the commons. Law is not a panacea; studies also provide examples of illegal acquisition of formalized rights/lands. Ensuring ‘good’ formalisation, with voice for women and recognition of their rights and assertion of other vulnerable rights holders is key.

Nonetheless, getting the legal norms in place that support and protect customary land rights inclusive of common property rights is a prerequisite. The law should recognize that local land users have entitlements to own, use and manage customary lands. Customary interests in land, whether held individually or communally, should have equivalent legal force with statutory entitlements, even if these customary interests are not formally certified. This should recognize the complexities of customary tenure systems, which are often diverse, flexible and plural.

#### **KEY ACTIONS**

**Host governments:**

Demarcate and allocate community lands as a priority, especially in areas under investment interest  
Policy and legal reform to give equal statutory recognition to customary land rights over the commons  
Ensure the land rights of women are recognized and enforced

**Civil Society and farmers’ organizations:**

Ensure the voice of all land-dependent groups – in particular women – in national level policy and legal reforms

**African regional and continental bodies as well as development partners:**

Facilitate the continued piloting and sharing of best practice in innovative, participatory and equitable methods for registering land rights

### ***4. Regulate LSLBI to ensure respect for human and property rights, particularly taking into consideration women, pastoralists and marginal populations***

LSLBI have important human rights implications including the right to food, the right to development and the right to self-determination. It is the prevalence of these impacts which has led a commentator to state that ‘For the African governments involved in these deals, the imperatives of national development are seen to override the interests of local communities. It is about putting the land to better and more productive use than that to which the communities are putting it’ (Odhiambo, 2011). Yet the obligation of States to principle of the Right to respect and protect essentially mean that investment should not deprive people from existing access to food. Under the Right to Food principle, States also have obligations to ensure that they do not undermine the Right to Food of populations beyond their own territories. This includes the obligation to regulate the overseas activities of private companies falling under their jurisdiction (De Schutter, 2009; cited by Mbaya, 2013-LSLBI).

An urgent step required is frameworks to be developed that provide agreed benchmarks for responsible investment. States, both receiving and countries of origin of LSLBI, must therefore operationalize regulatory frameworks to ensure LSLBI are implemented in a manner which recognizes and respects these human rights. The assessment criteria developed by Künnemann (2009) offer a useful starting point for guiding for ensuring that investments are in compliant.

#### **KEY ACTIONS**

##### **Host governments:**

With VGs, RAIs and F&G as guidelines, develop agreed national frameworks for land-based investments

Consider national moratoria on acceptance of land-based investments and Bilateral Investment Treaties until national frameworks for land-based investments have been agreed through wide consultations

##### **African regional and continental bodies:**

Promote the development and implementation of regulatory measures with regards LSLBI and land policies overall

Establish continental and regional monitoring and enforcement measures with regards LSLBI and land policies overall

##### **Civil society:**

Advocate for the development and implementation of regulatory measures with regards LSLBI and land policies overall

### ***5. Democratize decision-making over land and enable open and inclusive debate by all stakeholders on investment frameworks, land use, and rural development***

Good governance practice necessitates improved consultation and dialogue between investors, communities as well as all stakeholders, such as Government and civil society, who are concerned by LSLBI.

It is a good sign that questions of large-scale land investments have started to become widely debated in various international fora, and even in a number of national and regional parliaments. However, a mark of these debates has been their exclusivity. The voices of those with the most to lose if it is done badly – the land users themselves – have not been adequately heard.

For this to happen, all impediments to the full participation of affected communities should be addressed. This may entail capacity building for communities or providing them with legal support for their meaningful engagement in contract related discussions. In addition, the democratizing decision-making over land in part implies building institutions at the local level that are empowered to administer land under their jurisdiction (village land areas, delimited

domains, etc). Alongside decentralization of decision making is the need to support the capacity for collective action by local populations; in particular social movements representing direct stakeholders, including those representing farmers, women, landless and indigenous peoples. Indeed, initial evidence suggests that this may be the most effective way of preventing illegitimate dispossession.

#### **KEY ACTIONS**

##### **Host governments:**

Enable inclusive debates at national level and in areas targeted for investments on the priorities of local populations for land use and rural development.

Establish decentralized and democratic structures for the administration of land tenure

##### **Civil society and farmers' organizations:**

Mobilize different user groups, in particular women and other groups of land users who are vulnerable to marginalization, to develop evidence-based positions and contribute to debates on land and investment

Strengthen local farmers' organizations and their links with higher levels, in order to empower local farmers in building and in partaking in more representative decision-making spheres

##### **African regional and continental bodies as well as development partners:**

Provide resources to the building of organizations representing land-dependent groups

Ensure that the development of global standards for equitable investment, such as those convened by the CFS, follows an open and inclusive process, especially of land-users themselves

## ***6. Balancing market interests and development, environment and social priorities***

African states require policy tools to reconcile emerging competing interests in land. Existing policy provisions should be reviewed and where necessary, revised, in order to ensure that besides economic and growth aspects, social, environmental and development determinants of LSLBI are fully considered, in the long term. At the same time, approaches to LSLBI are required which provide a conducive climate for investors without undermining national interests (for interest through under valuing the land) and local livelihoods.

Decisions over large-scale land conversions should be made with a full appreciation of the total range of costs of doing so, including implications for the provision of developmental, social and environmental goods and services (not least water), on which local livelihoods depend. Where national-level legislation provides adequate safeguards, such as demanding independent Social and Environmental Impact Assessments, these should be undertaken in an open and transparent manner, and their results made public.

#### **KEY ACTIONS**

##### **Host governments:**

Ensure implementation of independent and transparent Social and Environmental Impacts Assessments as a prerequisite to decision-making on land-based investments

Ensure contractual limits on water extraction, based on assessments of sustainability and competing water demands

##### **Farmer's organizations:**

Partake in the development, implementation and monitoring of Impact Assessments, ensuring that the local populations' and farmers' stakes and issues are considered

##### **Civil society:**

Monitor the proper implementation of Impact Assessments and promote accountability for adherence to global and national environmental standards

##### **Development partners:**

Support the development and application of techniques to define the full costs of land conversions

## ***7. Development of mechanisms to promote transparency, accountability and monitoring of land-based investments***

A major obstacle to promoting good practice in land-based investments is the current lack of transparency that characterizes many investment deals. Without transparency, accountability cannot be exercised for investors to either adhere to voluntary benchmarks for good investment practice, nor to meet national legal obligations where these exist. Improved transparency and disclosure at critical stages in the process of state land and natural resource use planning, land-investment contract negotiation, allocation of rights and project management would allow poor decisions or corrupt practices to be identified and reversed before they are formalized or implemented. More transparent investment practices would not only also protect local populations, but also investors willing to invest in a transparent way. An important complement to improved transparency is the monitoring of investment practices by civil society so as to exercise accountability where necessary, and more widely to provide an evidence basis for action.

The protection of communities cannot be complete in the absence of mechanisms to monitor the performance of LSLBI and their impacts. These systems, together with clear accountabilities in the event of negative impacts should be considered as minimum requirements for the protection of communities. Support is needed to help communities build their capacity in negotiating benefits, compensation and other terms of agreements. In view of the tremendous disparity in the capacities of communities and investors, the playing field should be leveled somewhat through provisions for independent legal counsel for communities (Mbaya, 2013-LSLBI).

### **KEY ACTIONS**

#### **Host governments:**

Adopt a full disclosure policy for all land-based investments

#### **Civil society and farmers' organizations:**

Develop national, regional and global observatories to monitor investment and land-related activities and trends

#### **Private Sector:**

Voluntarily disclose relevant information on land-based investments

## ***8. Establish a solid information platform, to assess and monitor LSLBI and its implications***

Whilst the case has been made for LSLBI to enhance food security, fuel energy security, to contribute to climate change mitigation and to broader agricultural rural development, there is sufficient emerging evidence pointing to serious negative social, political, environmental and economic impacts of LSLBI. A comprehensive, accurate, timely and accessible data platform on proposed and existing LSLBI, is required to provide analysts, policy makers and planners with the information they require in order to monitor and mitigate (if necessary) the impacts of LSLBI. At the same time an information management system which captures the various approaches to LSLBI and their outcomes is required in order to facilitate learning and exchange of experiences between initiatives and countries. The African Union has both the mandate and

the necessary relationships with key policy institutions to commission such a platform. In so doing, the AU can build on existing initiatives which have begun to provide reliable information on the subject (Mbaya, 2013-LSLBI).

#### **KEY ACTIONS**

##### **Host governments:**

Establish national information platforms, based on open data, and inclusive of all stakeholders

Establishment of multi-stakeholder platforms that can feed these information platforms and which will promote policy debates

##### **African regional and continental bodies:**

Establish regional and continental platforms, linked to the national ones, in order to develop a broader and well-structured information and monitoring system

Developing information networks allowing to facilitate sharing of best practices, etc.

##### **Development partners:**

Support financially and through human resources the establishment of these platforms and networks

## ***9. Conclusion: Provoking a new era in land rights and rural development***

Some countries have started to reflect and even develop initiatives, program and/or processes which include some of the above-mentioned recommendations. Ethiopia, Zambia, Mozambique are examples of countries presented in this report having developed procedures, some of them based on multi-party partnership, for land-based investments. Continental (LPI) and international initiatives (VGs, RAI) presently provide the guidance and safeguards aiming for more inclusive and equitable investments. Although necessary, accompanying these investments – and therefore blindly accepting them and the paradigm they imply - is however not enough, even hazardous (Borras and Franco, 2012).

Indeed, the end of the first decade of the 21<sup>st</sup> Century in many ways marks a new era in the place of land, water and other natural resources in global economic and political processes. Questions of land use and land tenure, and their role in economic development and food security have grabbed the attention of policy makers and even the general public to an unprecedented extent, and the value of owning and controlling these resources in a world of rising consumption is becoming starkly apparent. The governance systems that have regulated the access, use, control, management and ownership of land, which to some degree have been tolerably insufficient in the past, are now clearly inadequate. The scale of the demand for land means that such shortcomings can no longer be tolerated. At the same time, solving them means addressing wider questions of governance that extend far deeper than how to invest equitably.

Confronting the increased demand for land in an increasingly unequal world demands a deliberate and proactive response that considers the full range of consequences for the almost one billion people that face each day hungry. This starts with the crucial step of recognizing their legitimate land rights. It goes beyond this to rethinking the development models we are presently engaged in. It implies a willingness to consider a broad package of measures and instruments, at global and also at national and local levels, acting together in order to bring into reality more fair and equitable societies.

For this to be genuine and to have effective implications in host countries there is a need for broader reflections and a strategic vision based on vigorous public debate. More structural



reflections on the overall socio-economic trajectories, including on agricultural reforms, land based-activities and rural development, as well as their links with the urban sectors and the general economy, seem necessary, questioning the objectives and capacities of the present solely project-based investments to profoundly restructure the economy, the rural sectors and the host societies overall.

There are alternatives that can work. An alternative to the current system must incorporate diversity of alternative production systems, be based on indigenous, community-based, people-empowering models. It should recognize and institutionalize the rights of the local populations, with a central and equal role for women in shaping economic life. In addition, there is a need to strengthen local and inherent economic and social development, needing incentives to local investors and a prioritization of smallholder agriculture. This should be inherent in an overall long term development strategy - and not just based on a short term vision based on isolated projects dependent on foreign funds – that takes into consideration the majority of the people and their needs.

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