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for Economic Cooperation
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Investments in Land and the Phenomenon of Land Grabbing

Challenges for Development Policy



Contents

Foreword	3
1. Position of German development policy: Utilising the opportunities of responsible investments and preventing land grabbing	5
2. Future German development-policy engagement	7
Creating a solid information base	7
Formulating and implementing international guidelines	7
Supporting partner countries in terms of land policy and land management	8
Human capacity development	9
Cooperation with the private sector	9
Insisting on sustainability	10
3. Context	11
The competition for land and water, resources that are becoming increasingly scarce worldwide	11
Information gaps: lots of reports, little transparency	11
Target countries: predominantly countries with weak governance structures	12
A multitude of players with various different motives	13
4. Conclusion	15
Utilising the opportunities of responsible investments and preventing land grabbing: six basic principles	15
Necessity for realistic and transparent assessments	19
5. Bibliography	21

Foreword

Rural development and measures designed to support agriculture are key elements of all development strategies and are vital in eradicating poverty, hunger and underdevelopment. In no other sector does each euro that is invested have such a major effect on reducing poverty as in agriculture. Unfortunately, despite being well proven in empirical terms, this fact has long since been forgotten. We have put an end to this neglect. With investments in the agriculture of southern countries now increasing and development partners rediscovering the importance of rural areas, there is a great deal of satisfaction among development policymakers. We are now finally seeing the measures that we have been waiting for.

However, positive trends such as this must not be compromised in any way or completely cancelled out by negative trends. Yet it is precisely one such negative trend which is posing a threat. With vast tracts of land in developing countries now being purchased or leased for the long term, and done so in such a way that people are deprived of their rights instead of being allowed to share fairly in the benefits of investment, with natural resources being exploited in the process rather than used sustainably, this should sound alarm bells for us all. In such cases, decisive measures must be taken to counter the trend.

Land investors, regardless of where they are from, bear a social responsibility. In a highly networked world, the fact that investors have a tendency to use this responsibility as a means of achieving their own corporate success over the medium and long term is, unfortunately, not yet universally known. Even more important than the behaviour of investors, however, is the role played by countries where such purchasing and leasing of land takes place. These countries need to face up to the challenge of

preventing the irresponsible practice of land grabbing and guide investment interests instead in a direction which benefits everyone and where nobody loses out.

Land grabbing affects mainly countries with weak institutions, poor governance and widespread corruption. If a land policy designed to deliver development fails merely because of weak government capacities as opposed to a lack of political will, development cooperation can offer excellent assistance: helping to build such capacity is a core element of our work. Providing advice on land policy and developing land registration and land use planning can help to create a solid basis in equipping countries against irresponsible land investments. In contrast, where the political commitment is lacking or where political elites are even complicit with local or foreign land investors, the situation is considerably more difficult. In such cases, any development policy success will only be possible if there is the courage to engage in a patient and persistent process of government dialogue, the support of civil society groups and joint action on the international stage. International voluntary guidelines and principles, the introduction of which we are now seeing, are an important step but are simply not enough on their own.

Worldwide, land concessions already amounting to some 200 million hectares, more than five times the size of Germany, are reported to have been granted for investment purposes over the last decade. Of this figure, it is understood that Africa alone accounts for more than 130 million hectares. These can only be extremely rough estimates and herein lies part of the problem. People engaged in malicious deeds avoid the spotlight. Many deals remain secret. As a result, we will work hard to press for more information and greater transparency in the land sector.

This is the only way in which irresponsible land investments can be individually named and shamed. And this is the only way in which we will be able to develop a global culture of ethical conduct and political control in the land sector.

In keeping with our recently published position on biofuels, we have now fundamentally reformulated our position on land investments and on the phenomenon of land grabbing in order to respond appropriately to the dynamics currently at work in this area as well. Over the next few years, this position will guide us in our commitment to an important issue, namely to take full advantage of the major opportunity presented by the current interest

in land investments and agriculture in developing countries for the long-term benefit of all those involved. Our aim is to mobilise large amounts of private capital in order to permanently eradicate poverty, hunger and underdevelopment. This aim is not only worthy of, but also justifies the use of the public funds available for development policy.



Hans-Jürgen Beerfeltz

State Secretary in the Federal Ministry for Economic Cooperation and Development

1. Position of German development policy: Utilising the opportunities of responsible investments and preventing land grabbing

The demand for agricultural goods for food production and, increasingly, for energy and for industrial use too, is rising. As it does so, the competition for land, a resource that is becoming more and more scarce, is also growing. In both developing countries and emerging economies in particular, international as well as local investors are using long-term purchase or lease agreements to secure vast tracts of land. In most cases, this is done in order to use the land for cultivating food or energy crops, primarily for export. However, in the expectation that agricultural prices and land prices will continue to rise, land is also increasingly being seen as a speculative investment.

There are a growing number of reports that many of these large-scale land purchases and leases bring considerable disadvantages for the countries affected and the local populations. They can result in displacement, cause environmental problems and endanger local and national food security. 'Land grabbing' is the term that the international media has given to this form of appropriating land. Due to the particular role assigned to the resource of water in this context, the term 'land and water grabbing' is also increasingly being used.

In this regard, agricultural investments offer developing countries enormous opportunities, provided that fundamental human rights principles as well as social, economic and environmental principles are observed. Such investments can lead to the transfer of capital and technology, easier market access and improved infrastructure, increased productivity, income generation and, therefore, to better levels of food security.

Germany's Federal Ministry for Economic Cooperation and Development (BMZ) condemns irresponsible and purely speculative land grabbing and is

advocating that this form of land appropriation be prohibited. The position of the BMZ is that investments in land and agriculture need to be structured in such a way as to promise sustained benefits for the development of the target countries and the populations affected. In the view of the BMZ, any such development-policy benefits are guaranteed if the investments adhere to the following principles:¹

1. **Participation, transparency and accountability:** The local population should be involved in planning and negotiations as early and as comprehensively as possible. Land can only be sold or leased with the free, prior and informed consent of the people affected.
2. **Recognition of existing land and water rights:** Existing land and water rights, including traditional and collective rights as well as those recognised under common law, should be acknowledged and laid down in purchase and lease contracts. They must be accepted by the competent institutions and the population involved and safeguarded by means of corresponding mechanisms. Any breach of these rights must be penalised.
3. **Managing resettlements and compensation in a manner which is compatible with human rights:** Resettlements may only be undertaken if the investment is expected to have relevant development impacts, and if it can be demonstrated that such measures are unavoidable in order to ensure the feasibility of the investment. In such cases, resettlements must be carried out in line with both the *United Nations*

¹ Based on the principles formulated in the position paper on biofuels. Cf. Federal Ministry for Economic Cooperation and Development: Biofuels: Opportunities and risks for developing countries. Bonn/Berlin 2011

Basic Principles and Guidelines on Development-based Evictions and Displacement and the relevant standards of the World Bank Group.

4. **Unrestricted respect for the human rights to food and water:** The food security of the local and national population, as well as its access to drinking water and water for agricultural production, must not be endangered.
5. **Protection and sustainable use of natural resources:** The desired new use for the land must not endanger the conservation of biodiversity, soil fertility and water resources nor of other ecosystem services.
6. **Fair sharing in the benefits of the investment:** The participation of the directly affected local population and the target countries as a whole in value creation in the form of income-creating jobs which meet minimum social standards, but also in the form of general stimulation of the rural economy and the provision of infrastructure and services, must be ensured.

Within the responsible international institutions, the BMZ strives to establish the general pre-eminence of these principles. Partner countries in bilateral cooperation are supported in developing framework conditions for structuring large-scale land purchases and leases in a way which is conducive to development and is in accordance with these principles. German development policy is actively helping to develop instruments to ensure respect for human rights and social and environmental standards. It helps to plug gaps in information regarding the phenomenon of land grabbing and invests in the training and development of specialists in the area of land policy and land management.

In July 2013, the BMZ will report on the success of its commitment to preventing land grabbing and promoting responsible investments in land.

2. Future German development-policy engagement

In order to exploit the opportunities for developing countries that are arising in connection with the purchase and leasing of large areas of land, and to mitigate the risks of irresponsible and speculative land grabbing, anticipatory steering of policy is necessary. This is primarily the task of the target countries for investment and, in particular, of their governments. However, German development policy can provide support in key areas.

CREATING A SOLID INFORMATION BASE

German development policy will work to ensure greater information and transparency in the land sector. It will help to generate detailed information concerning large-scale land purchases and leases and thus to create a solid basis for action at a political level. A range of different multi-stakeholder platforms on country issues², where the BMZ plays an active role as a founding member, engage in intensive exchange on this matter. The BMZ also supports the setting up of an extensive online database which is designed to serve as a solid basis for information regarding national contract parties, foreign investors, land which has been purchased or about which enquires have been made, planned use as well as negotiation status³.

² In Germany: Land sub-working group in the working group on global food security (members include, for example, BMZ, Federal Ministry of Food, Agriculture and Consumer Protection (BMELV), GIZ, German Development Institute (DIE), Misereor, FIAN, OXFAM, Welthungerhilfe and Justitia et Pax); in Europe: EU Working Group on Land (members include the Netherlands, Sweden, France, Germany, Great Britain, Finland, Belgium, Denmark, Austria and Switzerland)

³ The data is likely to be published in early 2012. Investments from some sample countries can be viewed at <http://www.commercialpressuresonland.org/land-deals/search>.

FORMULATING AND IMPLEMENTING INTERNATIONAL GUIDELINES

As part of the activities carried out by the German government, the BMZ will introduce development-policy issues into the formulation and implementation of international guidelines on the responsible governance of tenure of land resources. Minimum requirements for governments and investors will be defined in cooperation with multilateral institutions, other bilateral donors, partner governments and representatives of civil society, business and the scientific and academic community. The aim of this is to make investments more compatible with applicable human rights, the needs of the local population as well as with aspects regarding the protection of resources. Good governance principles must be applied in such cases. The BMZ plays an active role in shaping the following three initiatives in particular:

Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security:

The aim of the Voluntary Guidelines, which are currently in the final phase of consultation at the UN Committee on World Food Security (CFS), is to help in ensuring secure and equitable access to natural resources for the domestic population. In specific terms, the guidelines cover the recognition and protection of individual and collective land ownership and land use rights which are either codified or recognised under common law, improving institutional land management structures, fighting corruption as well as making recommendations on how to structure land-related investments in a responsible manner. Prohibiting the breach of existing rights and respecting the human rights obligations arising from the right to food are focal issues. The guidelines are the first international instrument on this politically sensitive topic area and have

been harmonised together with all of the players involved. They are directed primarily at governments but also non-governmental players such as the private sector and civil society. The German government supports the drawing up of the guidelines and will also work to ensure that they are implemented at international, regional and national level.

Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources (PRAI):

The initiative was set up by Japan, the World Bank, FAO, the International Fund for Agricultural Development (IFAD) and the United Nations Conference on Trade and Development (UNCTAD) following the G8 summit in L'Aquila in 2009. Its aim is to formulate principles regarding the legal and political structuring of investments in agriculture. The initiative is also designed to offer investors guidance on acting in a socially responsible manner.

Framework and Guidelines on Land Policy in Africa: The *African Land Policy Initiative* was set up by the Commission of the African Union (AU) with the support of the Economic Commission for Africa (ECA) and the African Development Bank (AfDB). In consultation with the Member States of the AU, land policy guidelines were developed and approved: questions regarding their implementation are now under discussion. The BMZ supports this process primarily via the European Development Fund.

SUPPORTING PARTNER COUNTRIES IN TERMS OF LAND POLICY AND LAND MANAGEMENT

German development cooperation has a long tradition of supporting the setting up of trustworthy and efficient structures of government administration. It will use this experience in a targeted manner to offer support to partner countries in capacity building, thereby enabling them to put a stop to irresponsible land grabbing and instead to utilise opportunities that are presented by an interest to invest in land and agriculture. This occurs in particular via the following approaches:

National land policies: German development cooperation will support partner countries in formulating and implementing national land policies. The aim of this cooperation is to develop fair national land policies which are formulated in such a way as to help reduce poverty and conflict. Such policies are to be firmly anchored in the legislation of the respective country and implemented by corresponding institutions.

Land use planning: German development cooperation will support partner countries in formulating and implementing land use plans. The aim is to develop plans which are appropriate for the situation in question and which will help to balance interests and to regulate conflicts where there are competing interests as regards land use, thereby conserving biodiversity and ecosystem services. These plans form the basis for decisions regarding land use and the granting of any possible concessions.

Land registration: German development cooperation will support partner countries in formulating and implementing land registration. Registering communal and individual land rights (including,

for instance, the granting of land titles and land use certificates as well as local land use agreements) is often a key component of comprehensive land reforms. Clarifying, documenting and formalising land rights are ways of increasing the level of legal certainty for local users. Special focus is placed on securing the land ownership or land use rights of indigenous communities and particularly vulnerable groups such as women-led households.

In addition to advising government agencies, support is also provided to non-governmental organisations which actively work to ensure that the interests of the local population and, in particular, of marginalised population groups are represented not only to their respective governments but also to investors. This support includes capacity-building in the area of non-violent conflict management which can then be used to prevent conflicts in the context of large-scale land purchases and leases.

HUMAN CAPACITY DEVELOPMENT

German development cooperation will invest in the training and development of decision-makers from agencies in partner countries in the area of land policy and land management. On the ground, they receive direct support on issues such as **how to use geoinformation systems** or **setting up national training centres**. In Germany, support is provided for the *Land Management and Land Tenure course at the Technische Universität München*. This course is also aimed at specialists from partner countries and is designed to enable them to manage large-scale land purchases and leases professionally.

COOPERATION WITH THE PRIVATE SECTOR

German development cooperation will support the **implementation of partnership-based business models**, such as contract farming, lease agreements which include profit-sharing with land owners, joint ventures or management contracts whereby local farmers manage the land on behalf of a company. Thanks to such models, in which smallholders are integrated into the value-creation chain, many of the risks of large-scale land purchases and leases that have been mentioned can be avoided. Furthermore, they help to put in place values and principles such as the establishment of long-term, fair business relationships, cooperation based on trust between actors as well as resource efficiency and the conservation of ecosystems and their services.

German development cooperation will also work to ensure that the problems concerning land as a resource are reflected in the **continued development of market-based standard systems** and that these are applied in a manner which will have a broad-based impact, for instance through development partnerships with the private sector. The *Roundtable on Sustainable Biofuels*, the *Roundtable on Sustainable Palm Oil*, the *Roundtable on Responsible Soy*, the *Forest Stewardship Council* and the *Better Sugarcane Initiative* have already incorporated aspects of land management and land rights into their catalogues of criteria. These include, for example, the principle of free, prior and informed consent as a way of involving the local population in negotiations. German development cooperation also focuses on the **promotion of forums for dialogue and raising awareness** which provide a platform for engaging in exchange with the private sector.

INSISTING ON SUSTAINABILITY

The BMZ will only approve those bilateral development cooperation projects involving the purchase and lease of land, and grant support to private investment in this area if the development-policy benefit of the measure and its respect for human rights and environmental and social standards are demonstrated beyond doubt.

Through its contracting procedure, the BMZ ensures that projects supported via German implementing organisations of Technical and Financial Cooperation within the context of bilateral development cooperation are in alignment with the Ministry's strategies. In particular, the positions set out in this paper are in line with the strategy papers *Rural development and its contribution to food security and Human rights in German development policy*. BMZ strategy papers serve as a guideline for the own-account business of KfW Entwicklungsbank (KfW), Deutsche Investitions- und Entwicklungsgesellschaft (DEG) mbH and Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH with its International Services division. Furthermore, any such business which is performed is bound by international standards (such as the International Finance Corporation (IFC) standards, for instance).

The World Bank and regional development banks each apply their own standards to the assessment of projects involving land leased and purchased for the purpose of agricultural investments. Thus, a set of policies known as Safeguards are applied to all projects of the International Bank for Reconstruction and Development/International Development Association (IBRD/IDA), while Performance Standards are applied to all projects of the International Finance Corporation/Multilateral Investment Guarantee Agency (IFC/MIGA). The BMZ takes an active role in the ongoing development of these banks' respective conditions and standards, and urges them to make human rights, environmental and social principles fundamental preconditions of their projects. Furthermore, the BMZ is involved in the development of country and sector strategies by the development banks, which in turn lay foundations for the orientation of concrete projects. If, for example, project proposals are referred to the Board due to the high political sensitivity of the situation or the high volume of credit, in future the BMZ will continue to assert its position in specific terms when individual projects are under discussion.

3. Context

THE COMPETITION FOR LAND AND WATER, RESOURCES THAT ARE BECOMING INCREASINGLY SCARE WORLDWIDE

In 2010, the number of people worldwide suffering from hunger totalled some 925 million. As a result, food security remains one of the biggest challenges of our time. However, in addition to food and fodder, demand is also increasing for biomass – both as a source of raw materials (e.g. cotton for clothing) and to generate energy (e.g. maize for biofuel). These various different interests are competing more and more for ever scarcer land and water resources. The expansion of settlement areas and the accompanying paving over of land, unsustainable arable farming, overgrazing, desertification and the negative impacts of climate change are only serving to increase the pressure on land, and its associated natural resources, as a factor of production.

INFORMATION GAPS: LOTS OF REPORTS, LITTLE TRANSPARENCY

Providing evidence for the phenomenon of land grabbing in the form of hard-and-fast figures is a difficult task. According to the report of the *Global Commercial Pressures on Land Research Project*⁴, investors are reported to have requested approximately 200 million hectares of land worldwide 2000 and 2010 – an area more than five times the size of Germany; of this figure, Africa accounts for over 130 million hectares. In terms of size, the agricultural land under negotiation is often equal to a considerable share of the total agricultural area available in the target countries⁵. To date, though, only 20% of investment projects have actually resulted in a productive use of the land (World Bank 2011). However, there is a considerable degree of uncertainty attached to all of these figures. The sensitivity of the

issue is creating a high degree of media attention and a flood of information from various sources. Generally, the reports rely extensively on information from the international media and from the local press in the countries concerned. It is often unclear from these reports whether the country transactions which are described are contracts which have already been signed, ongoing negotiations or investment intentions. No binding or detailed information regarding the nature and content of the contracts is proactively provided either by government agencies or investors. As a result, there is a huge lack of transparency regarding the whole issue. International research and development organisations (including the World Bank, International Food Policy Research Institute (IFPRI), International Institute for Environment and Development (IIED), FAO, IFAD, GIZ) are trying to plug this information gap, gain a comprehensive overview of the dimensions of large-scale land purchases and leases and to use empirical country case studies in order to show current governance deficits⁶.

⁴ *Land Rights and the Rush for Land* (IIED, CIRAD, ILC, 2011), <http://www.landcoalition.org/cplstudies>

⁵ It should be noted that these figures are based on media reports which have not been verified locally and some of which relate to concessions for which enquiries have been made but which have not (yet) been granted.

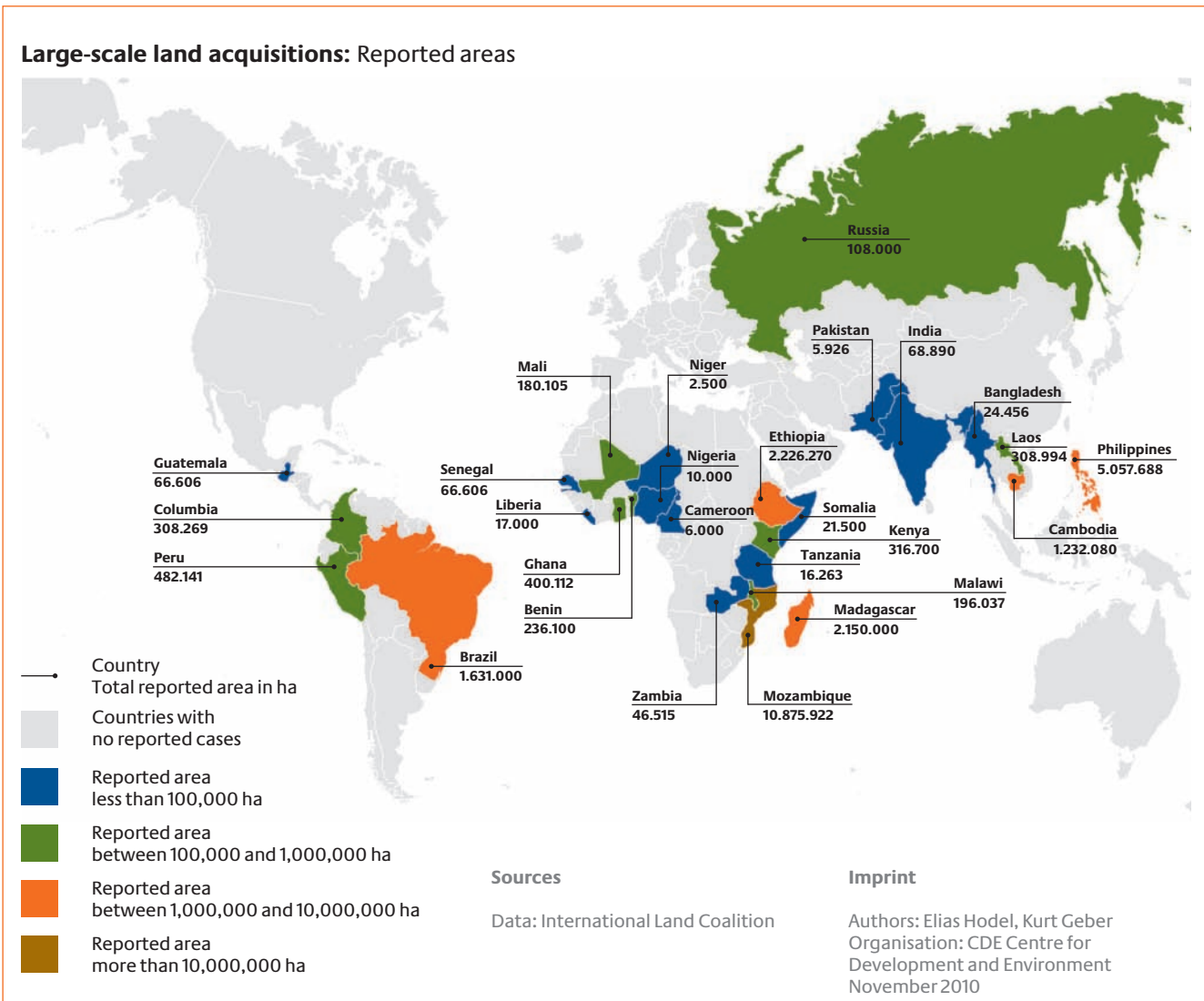
⁶ Relevant studies include *Land grab or development opportunity? Agricultural investment and international land deals in Africa* (IIED, FAO, IFAD, 2009), *Rising global interest in farmland: Can it yield sustainable and equitable benefits?* (WB, 2011), *Land Rights and the Rush for Land* (IIED, CIRAD, ILC, 2011) and *Foreign Direct Investment (FDI) in Land* (GTZ, 2010).

TARGET COUNTRIES: PREDOMINANTLY COUNTRIES WITH WEAK GOVERNANCE STRUCTURES

Many of the countries affected by large-scale land purchases and leases are among the world’s poorest developing countries. In some cases, these countries are struggling to overcome serious malnutrition and rural poverty, while agricultural income levels are very low; most suffer from poor governance and weak justice systems and often reveal shortcomings in terms of their land policies and land use planning. Many of them are, or have been, involved in

violent conflicts. Most of the countries affected are big countries in terms of land area, and are situated in sub-Saharan Africa. Worldwide, these account for roughly two thirds of the total land space affected by large-scale land acquisition and leasing.

According to the information available, the following partner countries of German development cooperation are particularly affected by large-scale land acquisition and leasing: Ethiopia, Ghana, Cambodia, Columbia, Laos, Liberia, Mozambique and the Philippines. However, comparable developments can also be observed in many other coun-



tries (see map). It is quite clear that the purchase and leasing of large areas of land is a phenomenon which is both widespread and hard to categorise. Furthermore, it is one which does not only affect countries with weak governance structures.

A MULTITUDE OF PLAYERS WITH VARIOUS DIFFERENT MOTIVES

Among investors engaged in large-scale land purchases and leases, a distinction can be made between state, parastatal and private players. The majority of investments are carried out by the private sector, i.e. by agricultural companies, although increasingly by investment funds as well. In many cases, national elites or companies in the developing countries themselves have an interest in these deals, for example as partners in joint ventures or as intermediaries for foreign investors. In some cases, purchase and lease contracts are negotiated directly between governments (represented, for example, by their agricultural ministries or state agricultural development companies) or concluded by government funds and companies where the state is the sole or the majority shareholder. In addition, some governments are promoting investment by private investors by means of targeted support, the creation of favourable general conditions or indirect participations by government funds in private sector investments. Financing by development banks is also helping to promote investment projects.

There are a number of different interests underlying the purchase and leasing of large areas of land. These can be categorised as follows:

→ The outsourcing of food production to third countries as a means of ensuring their own **food security** and securing water rights is a

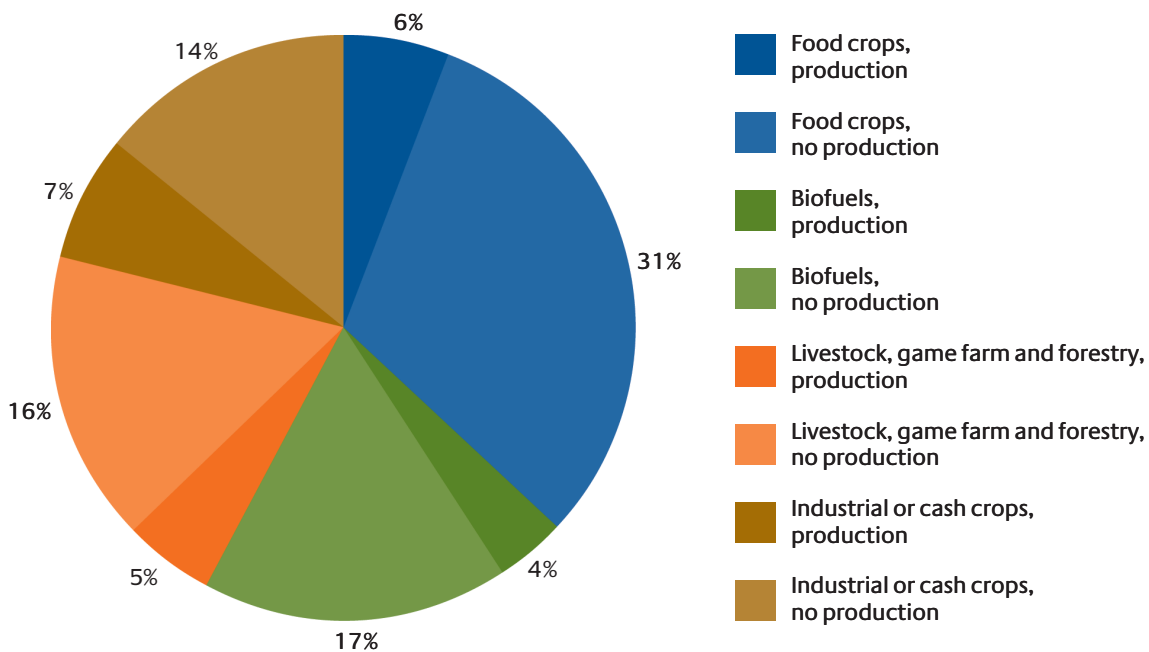
strategy pursued by those countries which do not have sufficient agricultural land or water resources of their own. These include, in particular, countries with a high level of population pressure and strong economic growth (mainly East Asian countries like China, South Korea and Japan, as well as other countries such as South Africa and Vietnam) in addition to countries with extremely limited land and water resources, but plenty of capital available thanks to oil riches (Bahrain, Libya, Kuwait, Qatar, Saudi Arabia). Such countries are dependent to a large extent on food imports and the price trends on global markets. The export ban imposed by some net exporters of food in reaction to the food crisis in 2008 as well as sharply fluctuating food prices have encouraged these importing countries to step up their efforts to reduce dependency on the world market for agricultural products.

→ The global demand for **biomass in order to generate energy**, but also for fodder crops and agricultural raw materials for industrial use has made developing countries the focus of interest for agricultural investors, primarily from the **developed world**. Energy investors, for instance, are acquiring land with the aim of growing large areas of energy crops and fast-growing tree species for national and international bioenergy markets. In many places, blending quotas for agrofuels, for instance the European Union (EU) Directive (2009/28/EC) on the promotion of the use of energy from renewable sources, rising oil prices, as well as efforts to phase out nuclear power provide additional incentives to either carry out or encourage investments in the cultivation of energy crops.

→ New investment and speculation opportunities: Private sector investment funds investing in agricultural land in order both to generate a profit from agro-industrial production and to benefit from the increased value as a result of the shortage of land are an attractive product on the financial markets. Even though

there are, as yet, barely any reliable findings relating to the impacts on long-term developments of the most recent financial crisis, it is plausible to assume that the expectation of a continued rise in land prices will entail further land purchases and leases and will increase speculation.

Large-scale land acquisitions: Share of projects by commodity and production status



Source: Deininger/Byerlee (2011)

4. Conclusion

UTILISING THE OPPORTUNITIES OF RESPONSIBLE INVESTMENTS AND PREVENTING LAND GRABBING: SIX BASIC PRINCIPLES

The economic, political, social, ecological and human rights impacts on the local population and region of large-scale purchases and leases of land depend greatly on the regulatory framework within which they must operate and on how the contracts are to be structured and implemented. In rural areas in particular, responsible investments can improve the lives of the affected population. Many developing countries have huge agricultural potential which, thus far, has remained either completely or largely unexploited. This can be mobilised by means of development-oriented land use planning and increases in agricultural productivity as well as by tapping the potential of public environmental goods to a greater degree⁷. However, many developing countries are unable to raise the related investment capital independently which is the reason why investments by external donors are often vital. Yet investments which are neither sustainable nor which fail to benefit the local population can also make the lives of the affected population much worse.

In connection with the purchase and leasing of large areas of land, German development policy is convinced that the following basic principles must be observed in order to realise the potential of investments in sustainable agricultural projects and to successfully counter the risks associated with such purchasing and leasing.

1. Participation, transparency and accountability

The local population should be involved as early and as comprehensively as possible, i.e. when formulating land policies and land use plans as well as when planning agricultural projects. Contract negotiations are to be conducted transparently and with systematic involvement of the relevant stakeholders, including civil society and, most particularly, local land users. Above all, population groups who are frequently disadvantaged in decision-making processes (women, for instance, who are often in relationships of dependency where access to land and water is concerned and who are not given the appropriate opportunity to put forward their interests), should have a say in the negotiations. The decision as to whether and under what conditions land is sold or leased to an investor should only be taken with the free, prior and informed consent of the people affected. In order to safeguard their political participation, important considerations are the establishment of administrations close to the communities they serve as a measure accompanying the investment, the efficient provision of municipal services and infrastructure, and the promotion of capacity development measures on the subject of accountability.

2. Recognition of existing land and water rights:

If land ownership and land use rights in the affected territories (e.g. rights to grazing, rights of way, water rights and rights to gather products such as firewood and medicinal plants) have no basis in formal law or are only inadequately documented, barely any protection can be afforded to the local population against risks such as land conflicts, uncompensated resettlement and displacement. Existing land and water rights therefore need to be acknowledged and laid down in purchase and lease contracts. **This is a main precondition for ensur-**

⁷ The potential for this is shown, for example, by the international initiative *The Economics of Ecosystems and Biodiversity* (TEEB) at <http://www.teebweb.org/>.

ing that investments do not damage but instead benefit the affected population. The challenge is becoming especially clear in Africa: whereas *de jure* the land claimed for a concession is often state land, *de facto* it will have been used by local arable and livestock farmers for generations. This means that informal and traditional land ownership and land use rights are also to be respected and guarantees regarding future uses must be inserted into the contracts. Women are frequently disadvantaged, both in modern and in traditional land law, particularly with regard to questions of ownership. However, recognition of traditional rights must not play a role in perpetuating discrimination. Instead, equal access to land and water must be guaranteed, irrespective of the legal form. To this end, the registration of communal and individual land and water rights is a central element which is, in turn, fundamental to the formulation and implementation of land policies and land use plans. The corresponding rights must be accepted by the competent institutions and the population involved and implemented and guaranteed using the necessary mechanisms. Any breach of these rights must be penalised.

Calling for land and water rights to be recognised and laid down is also an important instrument in involving the population in negotiations at an early stage and, where necessary, in setting guidelines regarding any compensation payments which may be required.

3. Handling resettlements and compensation in a manner which is compatible with human rights

The forced resettlement of people is a major point of conflict and should be prevented at all costs. Yet even investments which make sense from a development policy perspective may, in individual cases, require people to be resettled if the feasibility of investments depends on this. In order for

these resettlements to be carried out in a manner which is compatible with human rights, they must adhere to the UN Basic Principles and Guidelines on Development-based Evictions and Displacement and the corresponding standards of the World Bank Group. These specify that all alternatives to forced resettlement must be examined first, vulnerable groups must be given special protection and prior consultation should be sought with the population affected. Anyone losing land, living space or sources of income from land use must be compensated on the basis of the equivalent livelihood value of whatever is lost. Those persons affected must be granted opportunities to lodge complaints as well as be given recourse to take legal action; particular regulations and considerations apply in such cases to indigenous groups.

Those in need of protection include, in particular, the inhabitants of areas where there are traditional ownership and land use rights, especially vulnerable groups such as indigenous peoples, migrants and widows as land is usually the only resource from which they can derive their subsistence. Where there are few fall-back areas and the population density is high, the risk is especially great that they will be forced back on to degraded land. Particularly in countries which are struggling to overcome corruption and a lack of legal certainty, large-scale land purchases and leases can lead to human rights violations such as forced resettlements, or exacerbate these in countries already affected by conflict. In such situations, these land transactions can pose a threat to the stability and peace in a region or country.

4. Unrestricted respect for the human rights to food and water

The food security of the local and national population, as well as its access to drinking water and water

for agricultural production must not be endangered. In the case of any large-scale investment in land, the availability of and access to food and water must remain guaranteed for all population groups. Especially in cases where, following investment, land which was once used for subsistence agriculture and for agricultural production to serve domestic markets is now committed to be used for export products, the already often precarious food situation for the local population may be exacerbated further if there is no compensatory land available. Fulfilling the right to food may also become more difficult for the population. Further conflicts regarding access and allocation may arise and already-existing disputes may be aggravated as a result of the (over-) exploitation of water resources; such circumstances also place the fulfilment of the right to water at risk. If equal sharing of the affected population groups in the benefit or in the profits of the investment fails to bring about individual increases in income, or if suitable compensation agreements are not signed or implemented, these negative effects will be intensified.

This does not mean, however, that investment projects always have to be rejected if the agricultural production which they aim to generate is to be used purely for export purposes. From a short-term perspective in particular, adapting production to meet the needs of the domestic market, or at least focusing both on domestic and foreign markets, certainly helps to reduce the risks of greater food insecurity at local level. The key point, however, and especially when viewed from a long-term perspective, is not whether an investment is targeted at local or international markets but instead whether an investment gives the affected population a fair share in the benefits of the measure taken, and whether the creation of a reliable stream of income makes it possible for the people affected to buy food

at local markets. As far as investments in land are concerned, inclusive business models in particular (see point 6) appear to be a suitable method for helping the population to achieve this fair share and reliable income.

5. Protection and sustainable use of natural resources

Whenever large areas of land are purchased or leased, negative impacts on natural resources (soil, water, forests, biodiversity, ecosystems, climate) must be prevented or minimised as far as possible. In so doing, particular account should also be taken of the key importance of ecosystem services for food security. To this end, it is vital not only to adhere to sustainability standards and principles but also to carry out strategic environmental impact assessments in terms of land policy and land use planning.

A failure to sufficiently protect natural resources or to use these in a sustainable fashion during land use planning will result in considerable natural and environmental hazards. This is a very distinct risk, especially in countries where governance is weak. The most notable threats include over-exploitation and deterioration in the quality of soil and water resources (e.g. as a result of over-fertilisation, excessive use of pesticides and sediment from erosion), a decline in biodiversity and accelerated climate change due to the loss of CO₂ reservoirs. The latter occurs in particular when ecosystems with a high capacity to sequester carbon (e.g. forests, bogs and mires) are converted into arable land.

However, opportunities for nature and the environment act as a counterbalance to the risks which need to be tackled. These opportunities should be exploited. For instance, investments in land can help to rehabilitate areas of degraded land for agriculture. Crop cover can stem the erosion of these

soils and improve their capacity to store water and CO₂. Moreover, the rehabilitated areas can be used as eco-corridors to link up existing ecosystems, which supports the conservation of biodiversity. Although considerable investment is required in order to prepare land for such measures, appropriate incentives can be put in place for investors, e.g. they can be tied into government investment incentive programmes.

6. Benefit-sharing

In order to ensure that the directly affected local population as well as the target country as a whole benefit from an investment in agriculture, it is essential that the detailed formulation of contracts should be development-oriented, pro-poor and compatible with human rights. Fair sharing in the benefit of investments can be determined by a number of important factors. These include directly creating jobs which meet minimum standards, the application of partnership-based models of cooperation, profit-sharing mechanisms, stimulation of the rural economy, increasing the level of government resources allocated to development and ensuring an overall economic benefit.

Employment: Since income-creating jobs which meet minimum social standards are an important way of ensuring the participation of the local population, this should be clearly stipulated in contracts. In addition to guaranteeing the ILO core labour standards, the OECD Guidelines for Multinational Enterprises, the UN Global Compact and other voluntary standards, contracts should also include a commitment on the part of the investor to create a minimum number of jobs and to prioritise local over foreign workers. The investor's commitment to train local workers should be made a contractual requirement especially if mechanised production methods are to be used.

Partnership-based cooperation: In many cases, establishing partnership-based cooperation between an investor and various other local players can be an important basis for sharing benefits fairly. Inclusive business models, such as contract farming or mentor models, are models of partnerships characterised by close cooperation between local employees, suppliers and the processing industry, integrated quality management and consulting and training services throughout the value-creation chain. Local workers are therefore able to develop their skills (e.g. on farming and processing methods). The development of social and technical infrastructure, such as health centres, schools and roads, as well as the registration and formalisation of communal and individual land rights (e.g. fees for the awarding of land titles and land use certificates are covered by the investor) can be integral components of such models. Inclusive business models provide local smallholders with access to knowledge, capital and markets. For instance, by improving the quality of their products (e.g. by using better seeds or by learning about product standards), they can achieve higher market prices and thus raise their income levels.

Equity-participations: One way in which the local population can share in the benefits of investment is by means of equity participations. These allow a farmers' union or another local organisation to exchange its land use rights for shares in a company and thereby share in the profit. Both job-allocation and profit-sharing mechanisms should be designed with gender equity in mind. In order to ensure that state revenues are used transparently and for the national well-being, it is a good idea to forward any duties paid, such as a trade tax in the case of fiscal decentralisation, directly to the municipalities in question.

Measures to ensure the general stimulation of the rural economy: Investments in land have the potential to create additional employment and income opportunities. By increasing production and raising productivity, and thanks to better sales opportunities, local producers can achieve a higher level of income. The creation of additional upstream and downstream jobs enables local workers to pursue gainful employment. On the whole, the chance of earning an income, building up savings and carrying out investments increases as a consequence. A general rise in purchasing power will ultimately provide opportunities for economic diversification, as a way of increasing value creation in rural areas. This potential for generally stimulating the rural economy exists most notably where investments in land come hand in hand with other private sector investments in rural infrastructure (in particular electrification and road building) and in the training of workers.

Increasing government resources allocated to development and ensuring an overall economic benefit: The introduction of land use licences and the collection of production taxes and export duties is a way of increasing state revenue and allowing this to be used for improving services to the public (e.g. in the areas of education, health and infrastructure). This increase in the amount of government resources devoted to development can also improve the general conditions for stimulating the economy further. However, at the same time, the risk of land investors being granted very high subsidies under investment incentive programmes in the form of tax relief, trading preferences or below-cost water prices, must be avoided since such factors will in turn counteract the expected impacts in the form of jobs, tax receipts and technology transfer. Any non-sustainable use of land causes the loss of key ecosystem services, which should be

given greater weight in economic considerations⁸. Care must also be taken to ensure that concessions granted to investors, for example through support from their countries of origin and by international development banks, do not distort the competition and, as a result, lead to smallholders being forced out of local markets.

NECESSITY FOR REALISTIC AND TRANSPARENT ASSESSMENTS

If large-scale land purchases and leases are agreed upon and implemented with due regard to the six basic principles, they can play an important role from a development policy perspective in the development of rural areas.

To arrive at a realistic assessment of the risks and opportunities, an analysis of the economic benefits and an objective appraisal of the human rights, socio-economic and ecological impacts of the proposal should be carried out before contractual negotiations begin⁹. Evidence of sustainability should be demonstrated and communicated on a continuous basis by means of certification systems.

⁸ The BMZ examines the economic assessment of non-sustainable use of agricultural land in the study entitled "The Economics of Land Degradation" (publication in 2012). The potential for capturing the value of ecosystem services is highlighted by, for example, the international initiative entitled "The Economics of Ecosystems and Biodiversity" (TEEB): <http://www.teebweb.org/>.

⁹ Effective instruments for this purpose are the Environmental and Social Impact Assessment, Human Rights Impact Assessment and the Poverty and Social Impact Assessment. The due diligence obligations associated with corporate human rights responsibilities are set out in the UN Framework for Business and Human Rights "Protect, Respect, Remedy", which should be used as an important reference.

Results of assessments and evaluations should be accessible not only to investors and policy-makers but also to the affected population and the general public in an appropriate form. The role of civil society is an important one, both with regard to information about the opportunities and risks of large-scale land purchases and leases, and in relation to monitoring contract negotiations, contract implementa-

tion and the impacts of investment. Representatives of civil society, particularly the affected parties themselves, should be actively involved in the contract negotiations and, where necessary, actively supported in exercising their monitoring function. In this regard, attention must be paid to equitable representation of the affected population groups, and of men and women in particular.

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