



Economic Commission for Africa



African Development Bank



African Union



CoDA

**Land Policy Initiative**

**CoDA & LPI Policy Forum**  
**On**  
***Foreign Direct Investments in Land in Africa:***  
***“Risks, Opportunities, Challenges”***

***Lisbon***  
***7 June 2011***

**Summary Report**

**CoDA & LPI Policy Forum**  
**On**  
***Foreign Direct Investments in Land in Africa: “Risks, Opportunities,  
Challenges”***  
**Summary Report**

**1- Introduction**

On 7 June 2011, the Coalition for Dialogue on Africa (CoDA) and the Secretariat of the African Union Commission (AUC), UN Economic Commission for Africa (ECA), African Development Bank (AfDB) joint Land Policy Initiative organized a policy forum on “*Foreign Direct investments in land in Africa: risks, opportunities, challenges*”. The forum which took place in Lisbon, Portugal, as a side event of the 2011 annual meetings of the African Development Bank (AfDB), brought together a diversity of African stakeholders including representatives of continental institutions, regional farmers’ platforms and other civil society organizations, private sector leaders, as well as representatives from African centres of excellences. Several members of the CoDA board, including the CoDA Chairperson, as well as representatives of development agencies and the international media also participated in the policy forum.

The key objectives of the forum were:

- To engage African institutions and stakeholders in the ongoing international reflection and debate on the issue of recent increases in large scale land acquisitions in Africa;
- To help provide an appropriate, factually based, and cogently presented, response to the concerns expressed by African stakeholders regarding the current phenomenon of large scale land acquisitions in Africa;
- To prepare the ground for the development of clear guidelines and recommendations on the issue of FDI in land in Africa, based on the principles set out by the AU-led “*Framework and Guidelines on land policy in Africa*” (F&G).

It was expected to arrive at the following outcomes:

- Provide concrete information on different aspects of large scale land acquisitions in Africa;
- Help to move the debate forward from an emotive perception to clear understanding and balanced perception of the risks, opportunities and challenges associated with FDI in agricultural lands in Africa;
- Point the way towards the recommendation of concrete actions to appropriately address the issue of increasing FDI in land, based on the consideration of the long term interests of the African Continent.

The one day panel discussion was structured in three key sessions

- Session 1 was dedicated to presenting concrete information on *what is happening on the ground*, based on specific case studies;
- Session 2 was dedicated to policy analysis of the issue of large land acquisition in Africa, in order to arrive at a *better understanding of underlying risks, opportunities and challenges*;

- Session 3 was dedicated to drawing out possible *land policy implications* and identifying promising directions to address the issue of FDI in land in Africa.

The panel sessions were facilitated by two professional moderators from the international broadcast media (Ms. Martine Dennis, BBC World News Presenter and Ms. Madeline Mukamabano, formerly of Radio France International).

The opening ceremony featured the following presentations:

- Opening remarks by H. E. Festus Mogae, Former President of Botswana, and chairperson of CoDA
- Opening remarks by Ambassador John K. Shinkaiye, Chief of Staff, Bureau of the Chairperson of the African Union, representing the LPI Consortium
- General overview on land acquisitions in Africa and historical perspective, by Prof. Abdoulaye Bathily, Vice President of CoDA

## **2. The panel sessions**

### **2.1- Session 1 “What is happening on the ground: facts and data”.**

The session was informed by brief introductory comments from experts who have undertaken case studies of the situation in different parts of the continent.

- Dr Dessalegn Rahmato (Ethiopia), commented on the increasing demand for farmlands by foreign investors;
- Dr Mahamadou Zongo (Burkina Faso), commented on the perspectives of domestic investors; and,
- Dr Moussa Djire (Mali) commented on the contractual aspects and details of some of the new deals that have been signed.

#### **Dr Dessalegn Rahmato**

Ethiopia was presented as having an “open door” policy for foreign investors, who have taken advantage of this favourable climate to gain large tracks of land at concessionary terms. Asian investors (principally from India and the Arabian Gulf) are the most prominent in Ethiopia. The Indian “Karuturi” firm, for example, is reported to have leased 100 000 ha in Gambella, 11 000 ha in Bako and is operating several flower farms across the country. After the European scramble for Africa’s land resources in the 19<sup>th</sup> Century, are we witnessing today the “Asian scramble” for Africa’s land resources?

#### **Dr Mamadou Zongo**

The debate on large land-based investments is focusing on foreign investors, while domestic investors are since a long time, key players in this process. Burkina Faso is not an attractive destination for foreign investors, but a family farm dominant agricultural economy. However, since 2000, the government has been promoting agribusiness as a response to the “failure” of small farm holders to enhance agricultural productivity, increase production and ensure food security. More than 200 domestic investors are now operating in the country. Most of them are civil service employees (52%), political elites (22%) and private investors (19%). More than 61% of the farms operated by domestic investors are less than 50 hectares, while 19% of the farms range from 50 to 100 hectares

and 14% are above 100 hectares (in this category, certain farms are up to 1000 hectares large).

### **Dr Moussa Djire**

Dr Djire outlined the legal aspects of the “Malibya” land deal signed between the government of Mali and the Government of Libya. Despite its denomination, “Malibya” is not a joint Malian and Libyan company but a Libyan public company. The purpose of the contract is to “put at the disposal” of Malibya, free of charge, lands at the *Office du Niger* scheme. The concept of “*putting at the disposal*” is unclear with regard to the Malian land Code. The amount of land up at the disposal of Malibya is as much as 100 000 hectares. In addition, the Government of Mali has committed to providing necessary water resources to Malibya and the Malibya Company is to pay water related taxes.

## **2.2- Session 2: Risks, challenges and opportunities associated with FDI in land in Africa.**

The session featured the following panellists:

- Mr Philip Kiriroti (Kenya) commented from a farmer’s perspective, on the key risks associated with FDI in Africa;
- Mr Simeao Cambaco (Mozambique) commented on why foreign investors are interested in investing in land acquisitions in Africa, and,
- Mr Lassine Diawara (Burkina Faso), presented an African private sector perspective on investments in land

### **Mr Philip Kiriroti**

In Africa, land is the most important resource at the disposal of the rural poor. The majority of African people still draw their livelihood from agriculture. As agriculture is viewed as the engine of African development, African governments are fighting to attract investors, most of whom are foreign investors, into the agricultural sector. The recent scramble of foreign investors for Africa’s land resources is seen by most African governments as a unique opportunity, which needs to be seized. At the same time, the recent trend of large scale land acquisitions across Africa is raising serious concerns among African stakeholders, and especially, among small scale farm holders. The current trend of FDI in land in Africa is highly risky for several reasons: i) Foreign companies are investing in the Africa’s lands and agriculture, not to ensure food security for African people but to solve their own problems; ii) The large size of the lands allocated to foreign investors is a matter of serious concerns for African farmers and communities; iii) African governments are rushing to lease/sell their so called “idle” lands to foreign investors, without seriously assessing the quality of these investors, the sustainability of their investments or the long term impact of these investments on the local environment and biodiversity. Finally, while it might be legitimate for African governments to try to seize opportunities resulting from the recent interest of foreign investors in the African agricultural sector; it is clearly wrong for them to do so while neglecting their own producers.

**Mr Simeao Cambaco (Mozambique)**

Recently, Africa's huge land resources, which are considered "available" for agricultural production, are increasingly attracting the attention of foreign investors. In addition to having important land resources, Africa is appreciated for offering cheap and young manpower. The low value of land and access to land resources is clearly an additional attractive factor to foreign investors. More surprisingly, however poor governance and weak institutions are also seen as an attractive factor for certain investors. In fact, most African countries are not considering either the proper value of their land resources or the potential of resources which might result from appropriate land taxation systems. Other valuable natural resources existing on the land such as water sources and forests are also not often taken into consideration in the negotiations either. All this leads to the questioning of the principle of state sovereignty over land and an exposure of the poor management of land resources by some government agencies.

**Mr Lassine Diawara**

The partnership between the African private sector and international investors is crucial to the sustainable development of Africa. For a long time, agriculture has been the poor sector of African development. Today, the growing interest of foreign investors for agriculture in Africa contains clear risks, but also provides opportunities which have to be seized now. The trend of private sector engagement in the agricultural sector clearly results from the failure of past agricultural and rural development policies, as well as the drastic decrease of public investments in agriculture, including investments from the World Bank, in the 1990s. Therefore, promoting access to land for the private sector is a legitimate response to the reduction of public funds in the agricultural sector. It is expected that private investments in the agricultural sector will lead to the modernisation of African agriculture, to increased employment opportunities as well as to the creation of infrastructure and enhancement of agricultural technology. While attracting FDI in the African agricultural sector is critical to Africa's development, such investments need to be governed by clear policies and appropriate regulations which protect the rights of all land users, nationals or foreigners. In this regard, the AU *Framework and Guidelines* is an invaluable tool for those countries, which are currently in the process of formulating their land policies and laws. Finally, investments can offer extremely important development opportunities to African countries, if they are properly regulated by sound national land policies and laws.

**2.3- Session 3 land policy implications of FDI in land in Africa**

The session was featured the following panellists:

- Ms Ruth Hall (South Africa) discussed the question of whether FDI was the most effective option for rapidly advancing Africa's agricultural development;
- Prof. Paul Collier (UK) outlined the principles of the Natural Resource Charter Initiative.
- Mr Mafa Chipeta (Malawi) presented his views on how land can play its proper role in the African agricultural revolution.
- Dr Hubert Ouedraogo (LPI) highlighted the importance of equipping African countries with comprehensive national land policies

**Ms Ruth Hall**

African governments should not over-estimate the role of land-based FDI. The ongoing land deals are liable to increase social inequities in access to land, and land based FDI can be fickle. Last, but not least, land-based FDI may have non-reversible land policy implications in the long term, as it will be difficult for weak African countries to renegotiate the deals concluded today with unbalanced legal clauses and conditions. The priority role of African governments should be to secure customary-based land rights as a prerequisite to allocating land to foreign and even domestic investors. They also need to take the lead in developing their agricultural sector, through investing in their local farmers, rather than replacing them. At the same time, alternative investment models, not necessarily requiring the acquisition of land, need to be explored. In conclusion, the way forward for sustainable investments in the agricultural sector is to operationalise the *AU Framework and Guidelines* on land policy in Africa across the continent, in support of sound land policy development and implementation, providing secured land rights to all land users and creating the foundation for a productive agriculture and improved livelihood. In this perspective, the LPI needs to work and influence the ongoing international processes, mainly the FAO-led Voluntary guidelines on land tenure.

**Prof. Paul Collier**

The Natural Resource Charter is a set of “precepts” for governments and societies on how to best manage the opportunities created by natural resources for development. The Charter comprises twelve precepts, or principles, that encapsulate the choices and suggested strategies that governments might pursue to increase the prospects of sustained economic development from natural resource exploitation

The 12 precepts of the NRC are the following:

1. Government to secure the greatest social and economic benefit for its people
2. Government accountability to an informed public.
3. Fiscal policies and contractual terms
4. Competition in the award of contracts
5. Awareness of the positive or negative local economic, environmental and social effects
6. Transparency/ commercial viability
7. Resource revenues used primarily to promote sustained, inclusive economic development.
8. Domestic expenditure and investment to be built up gradually
9. Use resource wealth as an opportunity to increase the efficiency and equity of public spending
10. Facilitate private sector investments at the national and local level
11. Require and enforce best practice
12. Follow best practices in contracting, operations and payments

**Mr Mafa Chipeta (Malawi)**

The main challenge for Africa today is to eradicate poverty. The primary objective of an African agricultural revolution is therefore to boost economic development and improve the livelihoods of African people. The land issue has to be put into this global perspective, as land is not a value *per se*. To impact on economic development, poverty

reduction and improve the livelihoods of African people, land in the agricultural sector needs to be made productive. Improved land management and land use should lead to increased agricultural production and productivity. How can land play its proper role in such an African agricultural revolution? In other continents, thanks to agricultural productivity, a very limited percentage of the population (3-5%) is able to feed the rest of the population and to have surpluses for export. In Africa, while 70% of the population is engaged in farming, the continent is short of food and fails to feed its population. FDI could quickly help improve African agriculture; today, the former so-called “land grab” countries (Argentina, Australia, Brazil, Canada, USA...) are those who are exporting food to Africa through international food aid and import of commercial foods. The dominant opinion today is to disapprove the new interest of investors in land-based investments, without even assessing them and trying to find better benefit sharing options. In other terms, Africa wants to “make omelettes without breaking the eggs”. It is beyond question that Africa needs massive increase in agricultural investments. Therefore, the current debate should focus on the overall investment package, and not just on the land deals, as land is only one element in successful agriculture. The asymmetries and unbalanced outcomes in current investment deals call for assistance to African countries, rather than general condemnation. Africa needs to learn from the mining sector where foreign investors have been very active. An exaggerated fear of foreign investors might result in preventing African countries from being wealthier. There is no reason for Africa to delay making its land fully productive, including through the attraction of FDI. Africa needs to understand that development never happens by accident; it is planned and implemented.

### **Dr Hubert Ouedraogo**

The question which one needs to answer in this discussion is not *if land-based FDI are good or bad*; it is rather *to find out how land can play its proper role in African development*. Definitely, land issues need to be integrated in the discussion and design of appropriate strategies for African development. For land to be effectively accessed, efficiently used, and properly managed and finally, for African people to invest in the development of their lands, Africa needs to make serious improvements in land tenure security, enhance land administration systems and promote land governance. The *AU Framework and Guidelines* on land policy in Africa has identified some of the promising avenues to follow in order to make land play its proper role in development. In particular, African countries need to properly address their priority land issues through the participatory development of comprehensive land policies. Furthermore, such land policies need to be effectively implemented monitored and periodically evaluated, in order to make a significant impact on the livelihood of African people. It is beyond question that Africa badly needs investments in its agricultural sector. However it is important to understand that foreigners are not the only investors: domestic investors need to be seriously considered as well. In this regard, small farm holders are also to be considered as investors in the agricultural sector. Therefore they need to benefit from relevant policies, adequate facilities and receive the necessary support from governments in order to be more productive (as is the case for foreign and domestic investors): African

farmers need to be empowered; and their customary based land-rights need to be acknowledged and secured through innovative land administration systems.

### **III- Conclusions and recommendations for the way forward**

#### **3.1. Key messages from the policy forum**

In the final session, Dr Josue Dione, the Director of Food Security and Sustainable Development Division (FSSDD) at ECA, captured the key messages and action points for the way forward arising from the policy dialogue. These were articulated along the following three areas:

- i) Information on land deals;
- ii) Guiding principles for investment in agricultural land; and,
- iii) Capacity to negotiate and implement appropriate deals for investment in agricultural land.

##### **3.1.1. Information on land deals**

- The very perception of land abundance is questionable and needs to be carefully pondered against concerns of rapid progress towards land carrying capacity limits under fast-growing population pressure on both land and water resources in Africa.
- Linked to the issue of weak governance are major concerns about the details of many of the negotiations. To cope with the problem of lack of transparency around most FDI land deals, a systematic inventory and critical review of existing deals should be undertaken, with special emphasis on critical dimensions (terms) of these deals such as: land size involved, duration of contracts, source of investment, commodities produced (e.g. food vs. bio-fuel crops), business models, tenure arrangements, resource access (for both the investor and local communities), lease/compensation payments, local population displacement, settlement, labor and infrastructure.
- Information on FDI land deals and contracts should be made public and available to parliaments and all concerned stakeholders and interested parties for debate and eventual challenge.
- There is also need to investigate and ascertain the extent of implementation (available evidence indicates that up to 50% of the land transferred in recent deals may remain unused or not fully used) and the actual economic, social and environmental impacts of the deals, paying special attention to gender issues.
- Comprehensive work on the areas highlighted above should lead to a clear typology of FDI land deals, as well as to the identification, review and documentation of best practices in FDI deals in agricultural land in Africa.

##### **3.1.2. Guiding principles for investment in agricultural land**

- From the outset, any investment (both domestic and foreign) in African agricultural land should be conceived with a view to contributing to a structural and sustainable transformation of African agriculture, from subsistence-based systems to more competitive, market-oriented systems.
- While providing for profitability and security of investment, agricultural land deals (especially those related to FDI in land) must comply with the central principles (requirements) of economic efficiency in land allocation and use, social equity in access to land, and environmental sustainability of the land resource base.
- Such deals must also take into account Africa's strategic interests and ambitions for the short, medium, as well as, long term, chief among which are the achievement of sustainable food security in the face of a fast-growing population and a changing climate, and becoming a major regional player in the global food and agricultural market.
- Accordingly, preference in FDI deals in land should favor joint ventures between foreign investors and actors in Africa's own private agro-business community, and African countries should develop appropriate legal frameworks to achieve this.

### **3.1.3. Capacity to negotiate and implement appropriate land deals**

To cope with the weak capacity of African countries to negotiate and implement appropriate FDI land deals, it is recommended that:

- The AUC-ECA-AfDB Land Policy Initiative (LPI) scale up efforts to assist countries in using the AU Land Policy *Framework and Guidelines* to develop comprehensive national land policies that address issues of land deals related to the operations of both foreign and domestic investors.
- The LPI should help strengthen the networking capacity of the dispersed expertise on land policy in Africa and harness such expertise to assist African countries.
- The LPI should conduct a critical review of existing FDI land deals, identify and document best practices and, on the basis of these and, further using the resources of international processes such as the FAO Voluntary Guidelines on land tenure and the Natural Resource Charter initiative, develop guidelines for a model contract, as well as a code of conduct for FDI in agricultural land.
- CoDA should commission a legal review of existing contracts of FDI land deals and, with support from the AfDB Legal Support Facility, assist African countries in rescinding existing bad contracts.

## **IV- Closing session**

Mr Ken Johm from the AfDB made a call for the LPI High level forum on *Land based foreign direct investments in Africa: making investments work for African agricultural development*, scheduled to take place in Lusaka Zambia, on 4- 5 October 2011

The session was closed by H.E. Festus Mogae, Chairman of CoDA.