How can large-scale transnational land acquisitions contribute to inclusive and sustainable growth?

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SYNOPSIS

This paper analyses the current state of large-scale transnational land acquisitions including an overview of the estimates of the total area involved, the types of areas, the internal and external drivers and the practical implications. It ends with conclusions regarding what is required to achieve inclusive and sustainable growth.
This paper served as a background paper to the European Report on Development 2011/2012: *Confronting scarcity: Managing water, energy and land for inclusive and sustainable growth*. The European Report on Development was prepared by the Overseas Development Institute (ODI) in partnership with the Deutsches Institut für Entwicklungspolitik (DIE) and the European Centre for Development Policy Management (ECDPM).

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<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>CIRAD</td>
<td>Centre de coopération internationale en recherche agronomique pour le développement</td>
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<tr>
<td>CSO</td>
<td>Civil Society Organisation</td>
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<tr>
<td>CSR</td>
<td>Corporate Social Responsibility</td>
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<td>EU</td>
<td>European Union</td>
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<td>CFS</td>
<td>Committee on World Food Security</td>
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<td>FAO</td>
<td>Food and Agricultural Organization of the United Nations</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>FSC</td>
<td>Forest Stewardship Council</td>
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<tr>
<td>GIZ</td>
<td>Deutsche Gesellschaft für Internationale Zusammenarbeit</td>
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<td>GRAIN</td>
<td>Genetic Resources Action International</td>
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<td>ICT</td>
<td>Information and Communication Technology</td>
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<td>IFAD</td>
<td>International Fund for Agricultural Development</td>
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<td>IFPRI</td>
<td>International Food Policy Research Institute</td>
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<td>ILC</td>
<td>International Land Coalition</td>
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<td>LSLA</td>
<td>Large-scale land acquisition</td>
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<td>MDG</td>
<td>Millennium Development Goal</td>
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<tr>
<td>ODI</td>
<td>Overseas Development Institute</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<tr>
<td>SEZ</td>
<td>Special Economic Zone</td>
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<tr>
<td>TNC</td>
<td>Transnational Corporation</td>
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<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<td>WFP</td>
<td>World Food Programme</td>
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1 Introduction

Large-scale transnational land acquisitions are increasing in both frequency and size, leading to a ‘rush for land’ (Deininger and Byerlee, 2011; HLPE, 2011; Oxfam International, 2011b). This is driven mainly by concerns about the scarcity of food, energy and arable land, and – linked to these – expectations of rising land values. Neither the foreign interest in land nor the establishment of large-scale farms are new. And there has long been an assumption that farming needs to be modernised in order to improve production and that it requires economies of scale and professional management.

The current processes of transnational land acquisitions do, however, differ from earlier times. The major actors, such as host governments and international agribusiness companies and agro-investors, have changed position. First, many host governments now actively promote foreign investment, which contrasts with the post-independence period, when foreign control of land was opposed, and in some cases led to its nationalisation. Today, host countries emphasise the opportunity for investments, employment and innovation.

Second, transnational corporations (TNCs) have also made an important turnaround. In the 1970s, agribusiness started to withdraw from direct production for economic reasons and to avoid political risks. Their focus switched to more downstream activities in the value chain, such as processing and international trade, where profit margins are higher. Primary production was regarded as economically less attractive and inherently risk-prone (bad weather, pests, etc.). Agricultural production was taken over by subsidiaries or shifted to farmers throughout-grower schemes, sometimes linked to nucleus estates, and other forms of contract farming. The palm-oil sector in Malaysia is a good example of such a shift. However, rising food prices have now made investments in both primary production and land very attractive.

As this land rush becomes more visible, for example via media reports and activities on the ground, expressions of concern and calls for regulation become louder and more numerous. Most of these come from international policy-makers and civil society organisations (CSOs). The concerns can be grouped into issues related to:

- How the land deals come about, the quality of the contracts, and who will benefit and who will lose (i.e. governance and accountability issues with respect to decision-making on transactions and terms of the contracts).
- Whether there is recognition of all local rights (including informal and secondary rights) and adequate compensation.
- Whether the contracts override customary rights, resulting in smallholders, pastoralists and forest dwellers being driven from the land.
- The implications for food security/sovereignty, rural development and the future of smallholder farming.
- Risks related to water availability, environmental degradation and loss of ecosystem services.

This paper analyses the current state of large-scale transnational land acquisitions including an overview of the estimates of the total area involved, the types of areas, the internal and external drivers and the practical implications. It ends with conclusions regarding what is required to achieve inclusive and sustainable growth.
Large-scale land acquisitions in perspective

2.1 The importance of domestic and non-agricultural drivers

This paper focuses on large-scale land acquisition (LSLA) by foreign investors. It is important from the outset to acknowledge, however, that it is not possible to separate different types of land acquisition. Although the current policy debate has centred on LSLA for farming by TNCs, other pressures on local land markets are often greater than suggested by studies and available data (see 3.1).

First, it is not only transnational investors but also (mainly) city-based domestic investors that are acquiring large areas of farmland. The latter include migrants who use their remittances to buy land in their country of origin (Cotula, 2004). While not a new phenomenon, studies indicate that this form of land acquisition is accelerating (Hilhorst et al., 2011). Although the individual plots tend to be smaller than those obtained via transnational investments, the total area in the hands of domestic investors seems to be considerable, although firm data on this are lacking. In some countries – for example Angola, Kenya and Uganda – the process has been going on for some time, with the ruling elite acquiring considerable amounts of rural land.

This increasing interest is further stimulated by the expected expansion of formal land-administration systems (Hilhorst, 2010). Furthermore, discussions on transnational LSLAs seem to stimulate expectations of leasing the acquired lands to foreign investors. Domestic investors are often active in areas where transnational investors are present. In the Gambella state in Ethiopia, for example, 95% of the new entrepreneurs registered by the government as having obtained land are domestic, and between them they control about 50% of the area released for large-scale investments. The situation is similar in the Office du Niger area of Mali, where domestic investors control about 45% of the land released (Dessalegn, 2011; Papazian, 2010). Foreign and domestic investors often collaborate in joint ventures.

This domestic investment in rural land is even stronger in peri-urban areas. Urban expansion is also an important source of land acquisition. Some investors (including relatively small-scale ones) in peri-urban land regard farming as a potentially lucrative business since markets are close by. For others, it is an escape from busy city life (e.g. in Mali), or there are expectations that land will become scarce and that its value will rise. Speculation about formal changes in land use (e.g. from agricultural to residential) and the creation of new residential areas attracts both domestic investors and international hedge funds (van Westen et al., 2011). In Nigeria and many other rapidly urbanising countries, domestic investors buy plots in peri-urban areas or zones targeted for improved infrastructure and/or road construction (Kadiri and Oyalowo, 2011; Zoomers, 2003 for Bolivia). Pressure on the peri-urban areas is rapidly increasing: worldwide, thousands of hectares of agricultural land near cities lie idle, waiting for investors to buy up land for construction. This can be high-quality farmland, and in some countries (e.g. Vietnam) the protection of these lands is now under discussion.

In Africa and elsewhere, cities frequently extend their boundaries, often taking over rural land without paying any compensation to existing users. When city centres expand or become the object of new investments (shopping malls, apartments, etc.) the dwellings of the urban poor represent valuable land and the residents are often expropriated or evicted and pushed out of the city centre. This process results in the loss of livelihoods, the loss of access to services and the uprooting of communities. Those who worked the land for generations and are now being displaced seldom benefit from the rising value of urban land. Given the speed of global urbanisation, this issue should be placed high on the agenda as it also affects food security.

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1 Interviews conducted by Thea Hilhorst in 2010 in Benin and Burkina Faso.
Second, LSLAs are also taking place for purposes other than food and biofuel or agricultural production (Zoomers, 2008; 2010). Huge tracts of land are acquired for nature conservation, parks and new initiatives under the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD). Access to water for irrigation or water that is captured in the soil (e.g. 'virtual water') can be the main reason to acquire land. Land without water cannot be cultivated, and land acquisitions may lead to competition for water (see Office du Niger in Mali, or flower producers in Ethiopia and Kenya). Considerable areas of land in the Patagonian region of Argentina and the Paraguayan Chaco now belong to citizens from the USA and Europe (Sánchez, 2006).² Mining operations also consume large areas, often causing pollution and/or destroying the landscape (Noy Boocock, 2002).

Moreover, tourism – especially residential tourism – is an important factor in land acquisitions and the conversion of natural resources. Companies seek good locations to build hotels, often guided by the presence of UNESCO’s world heritage sites (Klaufus and Steel, 2010). Middle-aged people from the USA and Europe buy properties in ‘gated communities’ in countries as diverse as Costa Rica, Mozambique, Panama, South Africa and Thailand (Dixon et al., 2006; van Noorloos, 2011a, b), where they settle after retirement. The rapid growth of such communities, and the gentrification it embodies, often poses a threat to local people, whose living space is increasingly fragmented and who are confronted with rapid increases in the price of land (Rogerson and Visser, 2007).

Land acquisition for economic infrastructure, transport and the production of energy is also expanding, particularly in Asia, where in response to rapid economic growth governments acquire land on which to develop special economic zones (SEZ), build airports or other large infrastructural works (hydroelectric dams etc.) or create new mega cities. India, for example, has already created 303 SEZ covering a total area of 1400 km². In Hyderabad, large expropriations took place to make room for ICT parks and an airport. In 1998, it was decided to create a high-tech city in order to provide space for the rapidly growing ICT sector. Three years later, ‘Cyberabad’ – a zone covering 52 km² – appeared. The number of ICT parks around Hyderabad grew from five in 2000 to nearly 70 by 2007, and have since been supplemented by SEZ. This rapid development has led to the displacement of agriculture and a rapid rise in land prices (Ramachandraiah, 2008). In other Asian countries, too, investment in SEZ is taking place at a rapid pace. In Cambodia, for example, 59 ‘economic land concessions’ totalling nearly 1 million hectares were recently designated.

The growing foreign interest in land and the arrival of new kinds of actor also contributes to rising land prices and emerging land markets in rural areas. Local land markets are under increasing pressure: foreign and domestic investors are generating a range of competing claims (rural–urban, tourism, etc.) with existing or customary landholders. The rapid increase in the price of land might be beneficial for those who have some proof of ‘ownership’, possibly at the expense of other members of their households, families or communities. Overall, however, high prices are driving landless people towards more marginal areas, which can make them more vulnerable to flooding, drought and other problems.

Another consequence of rising land prices is that governments that want to invest in social land reforms, social housing and/or nature conservation are unable to do so. For instance, the government of Costa Rica can no longer afford to buy land for nature conservation (van Noorloos, 2011a, b).

Thus, transnational LSLA for farming should not be studied in isolation from land acquisitions for other purposes or that respond to non-agricultural factors. It is also vital to pay attention to the role of domestic investors and avoid focusing exclusively on foreign investors.

² Often mentioned examples are the Italian Benetton family and other US and European families owning millions of hectares in Patagonia (Sánchez, 2006), or the Moon sect owning about 600,000 ha in the Paraguayan Chaco (EFE News Service, 2005a, b; Dürksen, 2000).
2.2 Historical context

The current policy debate on LSLA pays little attention to the historical context. Both during colonial times and after independence, LSLAs took place on a huge scale. Settlers acquired land for plantations and estates from former colonial governments, a process facilitated by new legislation that did not recognise existing land rights. In the late 1800s, there were many examples of LSLAs in Latin America and Africa. One well-known example of a large landowner is the Argentinean, Carlos Casado, who in 1886 secured ownership of almost 6 million ha (an area larger than Switzerland) in the Paraguayan Chaco (Kleinpenning, 2009). Another is that of colonial Rhodesia, where the British government granted the millionaire Cecil Rhodes a royal charter that ‘gave him carte blanche for 35 years to exploit large territories we now know as Zimbabwe and Zambia’ (Palmer, 2010:1). In the colonial and post-colonial period, many countries consequently had extremely unequal patterns of land ownership, characterised by concentration in the hands of a small minority. There is a risk that this process is again taking place de facto in some countries in Africa and Asia.

2.3 Rural development policies

When assessing the causes and consequences of today’s large-scale land deals, it is useful to analyse the current trends in close relation to earlier policies in order to draw lessons from these experiences. An analysis of the extent to which governments in developing countries have been actively involved in rural development policies (Kay, 1998; de Janvry, 1998) shows that interventions focused on five fields.

1. Policies related to the ‘Green Revolution’ (starting in the 1950s, supported by foreign capital, the Rockefeller Foundation, etc.): much emphasis was given to improving the production of food and export crops. The strategy revealed the production potential of capital-intensive technology for rice, wheat and maize (e.g. new varieties, chemical fertilisers, herbicides, pesticides, often combined with irrigation infrastructure; emphasis on monocropping and mechanisation). It produced rapid agricultural growth, but only when all conditions were met. The downsides were higher production risks, as well as resource degradation and pollution (e.g. the salinisation of irrigated areas). Green Revolution technologies were not universally accessible and accelerated inequality and land concentration (Bebbington, 1996: 126–127).

2. Policies related to land reform (starting in the 1960s and 1970s): the outcomes of land-reform policies showed the economic and social importance of redistributing the land, especially in Asia and Latin America, as well as how difficult it is to change property relations, the political sensitivity of the land issue, and how creative large landholders can be in undermining or bending the rules (e.g. transferring land to their children in order to prevent expropriation). Some new beneficiaries ended up selling the land back to the previous owners (e.g. in Honduras and South Africa) (Dorner, 1992; de Janvry et al., 1998; Thiesenhusen, 1989, 1995; Kay, 1998).

3. Policies to stimulate agricultural colonisation, mainly in the 1970s and 1980s: countries with considerable areas of ‘empty’ land (e.g. Brazil and Indonesia) sought to expand the agricultural frontier through settlement schemes. This policy helped expose the myth of ‘empty’ lands, as well as leading to the devastating impacts of deforestation and environmental degradation, for example in the Amazon and Indonesia (Kyle and Cunha, 1992). It also showed that ‘organised’ settlement schemes or plantations lead to spontaneous mass migration by people looking for work and land, which is difficult to control and contributes to further deforestation etc. (Kay, 1998; Dorner, 1992).

4. Neo-liberal policies forced governments to step back from social spending, and rural development was increasingly left to market forces (Kay, 1996). In the 1990s, donors started to play an increasingly important role in encouraging governments to stimulate land titling and create transparent land markets (investments in the creation of modern cadastres, improving legislation, etc.). Land titling was promoted as a means to provide local landowners with more
security and encourage them to invest in their land (in line with de Soto, 2000), while stimulating land transfers to the most efficient users (Deininger, 1998; Zoomers and van der Haar, 2000). To the extent that these reforms took place, it became easier to purchase land. Moreover, discussions on land markets, the formalisation of rights and deregulation all contributed to the commodification of land, loosening ties with culture and identity and undermining concepts such as ‘custodianship’ or ‘stewardship’ of the land for future generations.

5. The rise of neo-liberalism saw a corresponding decline in attention to rural development and its increasing separation from policies on agricultural investment. Many countries also began to separate their strategies for smallholder farming (mainly focusing on family farms, poverty alleviation, safety nets, etc.) and for investment in agricultural development, where they sought to attract FDI and large-scale commercial farming (GRAF, 2011). This policy dichotomy has become common in most sub-Saharan African countries (e.g. Benin, Burkina Faso, Ethiopia, Mozambique, Senegal, Uganda), Latin America (e.g. Bolivia, lowland versus highland) and Asia (e.g. Cambodia, Laos, Vietnam).

A review of the policies adopted over recent decades shows that current flows of large-scale transnational investments in land are either a continuation of earlier policies, or a reversal of them, in the case of land reform. Doors were opened to foreign investors during the period of agricultural colonisation (e.g. large-scale plantations of soy and cattle ranching in the Amazon), but there was no large-scale inflow of foreign capital or direct investments in land, especially during the period of land reforms.

Policy change with respect to land administration and the emergence of a land market have helped to stimulate land transfers since the 1990s, but this mainly affected small- and medium-scale acquisitions by domestic investors, and less so for LSLAs, which are in a way ‘extra-legal’.

LSLAs are usually negotiated at the highest level, and transnational LSLAs seldom pass through ‘normal’ land markets, but are concluded between governments (e.g. between South Korea and Madagascar, or between Mozambique and Brazil (Cotula, 2011). It seems that exemptions are made or restrictions are not applied or are lifted as necessary (e.g. with respect to protected areas) (Dessalegn, 2011; Prachvuthy, 2011). Exceptions are Eastern Europe, the former USSR and parts of Latin America, which are also the regions where cadastres are in place and investment funds are most active in acquiring land (Westen et al. 2011).

Although the scale of the process is more extensive than before and is occurring at a faster pace, and there are also new actors and an overall context that facilitates FDI – owing especially to the effects of globalisation and neo-liberal policies – it is also important to acknowledge that current trends contain elements of earlier policies.

2.4 Policies that promote FDI

One of the enabling factors for transnational LSLAs is the emphasis placed by host governments on attracting FDI as their strategy of choice for promoting economic growth. The conditions and legal framework required for FDI to intensify have been prepared over at least a decade with the assistance of international organisations like the International Finance Corporation (IFC) and the World Bank, as part of the ‘good governance’ agenda.\(^3\) Attracting FDI was accompanied by deregulation, including the abolition of restrictions on importing and exporting capital and tax exemptions for investors. At the international level, both legislation and investment treaties have strengthened the position of the corporate sector vis-à-vis national governments with regard to risk, expropriation, policy change, etc. Deregulation and measures to protect investors have created conditions that are more profitable and less risky

\(^3\) See also the annual Doing Business Indicators published by IFC and the World Bank, available at: [http://www.doingbusiness.org/](http://www.doingbusiness.org/).
for foreign investors than for domestic investors (Cotula et al. 2009; van Westen et al., 2011). Case studies on Cambodia and Ethiopia show that investments in land started in around 2005, after legislation more favourable to FDI had been approved (Dessalegn, 2011; Prachvuthy, 2011).

In countries where transnational LSLA is taking place the host governments emphasise the importance of attracting investments in areas such as infrastructure (e.g. roads, irrigation), innovative farming practices, value-chain development, employment creation and obtaining foreign exchange. Promises of associated investments in infrastructure – for instance, airports or harbours (e.g. Tana River development in Kenya) – are additional reasons for inviting investors to set up large-scale farming and mining enterprises.

Moreover, host countries and even the African Union⁴ state that they expect firms to invest in delivering basic services, such as healthcare, drinking water and primary education. Many companies promise to invest in these services for their employees and sometimes also for neighbouring communities – actions that could be seen as a form of corporate social responsibility (CSR). This offer to provide basic services explains why communities may welcome investors, especially those living in more remote areas that have received little government support.

This approach to providing basic services, however, raises fundamental questions about equity and sustainability, as well as alignment with government policies, which are an important aspect of the Millennium Development Goals (MDGs). One major problem is that the provision of basic services in a piecemeal fashion by individual foreign companies runs against progress in developing sectoral policies on water, primary health and education, and ensuring equitable access and sustainable services for all. The question is whether and how these basic services will be connected to national higher education or health-referral systems, and whether they will be subject to government regulation and quality control. A more sustainable approach would be for investing companies to provide financial assistance to enable the government or private non-profit organisations that are working alongside the government to provide basic services.

2.5 Policies related to food security and climate change

Concerns about food security are an important motive for LSLA. The price of food and other agricultural products have been increasing since 2007 and are expected to remain high. Agriculture has therefore once again become economically attractive. Rising food prices in 2007 and the scarcity of food on the world market led some food-producing countries to stop exports in 2008 (e.g. China, India and Vietnam). This was a wake-up call for relatively rich countries in Asia and the Gulf that have only limited arable land (and water) and rely on importing food to satisfy the needs of their populations, including migrant labourers in the construction and service sectors. Some of these countries decided to secure their food supply by investing directly in farming and acquiring arable abroad, referred to in The Economist as ‘outsourcing agriculture’. Examples of countries doing this include China, the Gulf States, Japan and South Korea.

The debate on global food security continues to stimulate interest in large-scale farming, which is perceived as more productive and efficient. The argument runs as follows: given that by 2050 some 9 billion people will need to be fed,⁵ there is a need for a significant increase in production and productivity, which can be achieved only by replacing smallholder farming with

⁴ Presentation at the World Bank, April 2011. ‘We welcome investors in land who will not displace populations into desperate conditions but those who will also concern themselves with Socio economic development such as provision of community services including rural infrastructure, support for health facilities, educational institutions, human and institutional capacity building especially in and around where such foreign direct investment is deployed’, available at: http://au.int/en/dp/rea/sites/default/files/1st%20draft%20world%20bank%20land%20conference.pdf.

⁵ See http://www.foodsecurityportal.org.
industrial-type farming (cf. Collier, 2010). Others contend, however, that smallholder farming can be just as efficient (e.g. Deininger and Byerlee, 2011).

Another driver of LSLA relates to policies on climate change and the growing demand for biofuel feedstock. Some crops can be used for both food and biofuels, for example maize, oil palm, sugar cane and soy. The EU climate-change mitigation policies, which set minimum biofuel targets, are pushing up the demand for biofuel feedstocks. Subsidies for producing biofuel in the USA also drive this demand for feedstock. Moreover, the higher the price of oil, the more attractive biofuel becomes. In addition, some host governments have adopted ‘green economy’ policies and aspire to become self-sufficient in energy and also major suppliers of biofuel (e.g. Mozambique) or hydroelectricity (e.g. Vietnam) (see also Borras et al., 2010).

Finally, the increasing demand for agricultural products, the expectations of high prices and the awareness that arable land with sufficient water is a finite asset, are leading to speculation. This was important before the 2007 financial crisis, when hedge funds were set up in the USA. Investment in rural land is again attracting much interest even in Europe, given the uncertainty surrounding the euro and the global economy in general. Some investors reason that the availability of land (and water) is finite and that it will become an even scarcer commodity in the future (Oxfam International, 2011a, b).

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6 The value of land depends on factors including location, quality and accessibility and tenure security.
The scale of transnational large-scale land acquisition

At the global level, there is a lack of complete and reliable information on the extent of transnational LSLAs, even taking into account only acquisitions of over 1000 ha made since 2000. There have been several attempts to develop such an overview, based on national-level information and country-level studies. In 2009, the World Bank (2010) counted 389 deals concerning 47 million ha. The Global Land Project (Friis and Reenberg, 2010), however, cites a minimum of around 10 million ha in each of Congo, Democratic Republic of Congo and Mozambique alone. In the 27 African countries screened, it notes 177 deals covering between 51 million and 63 million ha. Insofar as efforts are being made to quantify transnational LSLAs, most attention is focused on sub-Saharan Africa. Only scant attention is paid to LSLAs in Asia and Latin America, where millions of hectares are now devoted to biofuels, e.g. sugar or soya in Argentina, Bolivia, Brazil and Paraguay (Goldfarb, 2011), and oil palm in Indonesia (Susanti and Burgers, 2011). Here, too, the total area involved is rapidly expanding.

The lack of reliable statistics means that there is no complete overview of how much land is involved in transnational LSLAs, where it is located or how many people are being displaced. ‘While there is clearly much uncertainty about how much land is changing hands, all sources agree that the trend is markedly upward and is likely to continue’ (HLPE, 2011:15).

3.1 Global data on land acquisitions

The most complete global database on LSLAs is being developed by a coalition of the International Land Coalition (ILC), Oxfam Novib, the Centre de coopération internationale en recherche agronomique pour le développement (CIRAD), the University of Pretoria, the Centre for Development and Environment of the University of Bern (CDE), and GIZ. The database (‘the land matrix’) takes the year 2000 as its starting point, covering transactions that entail a transfer of rights to use, control or own land through concessions, lease or sale. The area involved is at least 500 ha. The deals covered to date imply generally a transformation of land-use rights from communities and smallholders, or for ecosystems services, to large-scale commercial use.

The data are collected from the GRAIN and ILC websites, media reports, case and other studies, national inventories and research. All the data are cross-checked and geo-referenced and the database should be launched in March 2012. Oxfam International argues that as many as 227 million ha have been sold or leased since 2001 (Oxfam International, 2011b).

Both domestic and foreign investments are recorded in the database, including private investors, governments or government-backed private investors. Land may be acquired to produce food or biofuel, extract timber, carbon sequestration, mine for minerals, conserve nature or start a tourism venture. A first summary of the data presented in October 2010 included 1209 announced or publicised LSLAs (‘deals’) in 90 countries, involving 110,412 million ha (Bosch, 2011). At the end of 2011 it was announced that over 2,000 deals are included.8

Most deals in the database relate to agriculture (85%), followed by special economic zones, mining and ‘unknown’. Purchases for industrial purposes seem to have been the most successful, followed by agriculture and mining. As the database is not yet available, it is impossible to analyse any potential bias towards acquisitions for other uses.

8 ILEIA (2011) Farming Matters, December, Wageningen: ILEIA.
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The most significant countries with respect to these deals are Cambodia, Laos, Ethiopia, the Philippines, Madagascar, Mozambique, Tanzania and Sudan. With the exception of Sudan, these are also the countries with the largest number of deals that have been completed with a contract.

Table 3.1 presents deals announced in the media, in research reports or in other ways and that resulted in a signed contract: 534 (44%) deals covering 28,447 million ha (26%) were signed between 2000 and 2010; the rest are still in the pipeline or have been abandoned. Overall, about 25% of the deals have gone through. The World Bank calculated that about 20% of the announced deals resulted in signed contracts (Deininger and Byerlee, 2011). The controversies surrounding LSLAs may have resulted in companies withdrawing or in host countries delaying the process. Other ‘announcements’ may have been no more than rumours.

**Table 3.1 Percentage of announced investment deals resulting in contracts**

<table>
<thead>
<tr>
<th>Land use (announced intention)</th>
<th>Completed deals</th>
<th>% of announced deals</th>
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<tr>
<td>Agriculture</td>
<td>452</td>
<td>40</td>
</tr>
<tr>
<td>Carbon sequestration</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Mining</td>
<td>19</td>
<td>37</td>
</tr>
<tr>
<td>Tourism</td>
<td>5</td>
<td>0.5</td>
</tr>
<tr>
<td>Industry/special economic zones</td>
<td>33</td>
<td>96</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>80</td>
</tr>
<tr>
<td>Unknown</td>
<td>22</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>534</td>
<td>44%</td>
</tr>
</tbody>
</table>

Source: based on Bosch (2011)

In terms of the area involved for completed deals, 96% is for agriculture (i.e. food, biofuels, non-food crops, livestock, forestry) while the area for mining, tourism or economic zones is comparatively small. These data are estimates. Contracts, particularly those involving relatively large areas, are sometimes bound to certain conditions, e.g. that only when sufficient progress has been made will the rest of the land be made available. This is the situation for the much-publicised Karuturi land lease in Ethiopia: it covers 300,000 ha but to gain access to the full amount the company must first bring 100,000 ha into production.

**Table 3.2 Area of land involved in contracts**

<table>
<thead>
<tr>
<th>Land use (announced intention)</th>
<th>Total area (x 1000 ha)</th>
<th>% area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>27,276</td>
<td>96%</td>
</tr>
<tr>
<td>Mining</td>
<td>856</td>
<td>3.0%</td>
</tr>
<tr>
<td>Tourism</td>
<td>8</td>
<td>0.0%</td>
</tr>
<tr>
<td>Industry/special economic zones</td>
<td>69</td>
<td>0.2%</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
<td>0.0%</td>
</tr>
<tr>
<td>Unknown</td>
<td>234</td>
<td>0.8%</td>
</tr>
<tr>
<td>Total</td>
<td>28,447</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: based on Bosch (2011)

Of the deals related to agriculture, 36% concerned biofuel and 56% food crops (see Table 3). The average area of land per deal that is intended for food crops (including animal feed) is larger than for biofuel. The success rate of deals oriented towards livestock or forestry is below the 40% average. There is no information on the quality or type of land involved, e.g. primary forest, grazing land, already cultivated or arable land; and/or whether the land had been used by communities, commercial farmers and/or ex-state farms.
How can large-scale transnational land acquisitions contribute to inclusive and sustainable growth?

Table 3.3 Characteristics of signed land deals for agriculture with respect to land use and area

<table>
<thead>
<tr>
<th>Land use</th>
<th>Contracts per type of land use</th>
<th>Total area involved (x1000 ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biofuel</td>
<td>248</td>
<td>9752 (36%)</td>
</tr>
<tr>
<td>Food crops</td>
<td>100</td>
<td>15,307 (56%)</td>
</tr>
<tr>
<td>Non-food crops</td>
<td>64</td>
<td>764 (3%)</td>
</tr>
<tr>
<td>Livestock</td>
<td>9</td>
<td>373 (1%)</td>
</tr>
<tr>
<td>Forestry</td>
<td>31</td>
<td>1078 (4%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>452</strong></td>
<td><strong>27,274 (100%)</strong></td>
</tr>
</tbody>
</table>

Source: based on Bosch (2011)

These estimated data reflect the very least amount of land involved, as becomes clear when comparing global data with country-specific data gathered by local researchers who make use of government statistics, and including deals smaller than 1000 ha.

Table 3.4 Comparison of ILC database on signed land deals with official data for selected countries

<table>
<thead>
<tr>
<th></th>
<th>ILC(^a) verified land transactions Jan. 2000—June 2010</th>
<th>Data from other sources</th>
<th>Difference (ILC data compared to other sources)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethiopia</td>
<td>2,226,270 ha</td>
<td>3,589,678 ha(^b)</td>
<td>60%</td>
</tr>
<tr>
<td>Madagascar</td>
<td>21,500 ha</td>
<td>150,000(^d)</td>
<td>14%</td>
</tr>
<tr>
<td>Mali</td>
<td>180,105 ha</td>
<td>Leases: 50,000 ha(^c)</td>
<td>Contracts: 293,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Intentions: 527,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>60%</td>
</tr>
</tbody>
</table>

Sources: [http://www.commercialpressuresonland.org/sites/default/files/images/WebVerifiedArea-fullsize.png](http://www.commercialpressuresonland.org/sites/default/files/images/WebVerifiedArea-fullsize.png); MOARD (2009c, 2010a), cited in Dessalegn (2011); Papazian (2010); Andrianirina-Ratsialonana et al. (2011)

The impact of transnational LSLAs on land use and inclusive and sustainable growth represents a ‘moving target’ in several respects. There is uncertainty about the deal itself: whether it is fully confirmed, what is in the contract, what kind of investments will actually be made, and whether there are any financial resources for investment.

A concluded deal does not lead immediately to a change in land use or to displacement. There is often a long time lapse between acquiring land and seeing the results. Planned investments are often slow to develop or are postponed. Moreover, some newly acquired land is used for speculative purposes, for instance by international hedge funds (van Westen et al., 2011). For example, in Madagascar it was reported that only 23,050 ha (18%) of the 129,500 ha of land included in signed deals was actually cultivated, in this case mostly with biofuels (Andrianirina-Ratsialonana et al., 2010).

In Mali, the area effectively cultivated in 2010 was still small, because irrigation infrastructure was needed in order to farm the land productively. Malibya, for example, signed an agreement for 100,000 ha. The first part of the contract covers 25,000 ha, of which only 5000 ha are under cultivation while a primary irrigation canal of 40 km is still being built (Baumgart, 2011).
3.2 Land-acquisition chain

LSLAs concern mainly state-controlled land, and in these cases it is usually central governments that are involved in decisions on land deals. Acquisitions can also involve established commercial farms that are for sale, as in South Africa. This situation is different in the case of medium- and small-scale acquisitions, where land is usually taken over from customary landholders or via the conventional land market.

A wide range of companies wishes to acquire land. Some companies are linked to sovereign wealth funds or investment funds. The companies also differ in both size and experience with respect to agriculture, business target and timeframe, country of origin, ownership structure, funding structure, and whether they are responsive to CSR guidance.

Certain investors seek out situations of high risk and potentially high profit, and focus on countries where governance is weak (World Bank 2010). Much of the land is located in post-conflict areas where some of the population is displaced and ownership and/or governance relations are unclear (Mabikke, 2011). This evidence flies in the face of standard assumptions about businesses seeking to avoid risk and wanting predictable administrative procedures; the more risk-averse investors and investment funds prefer to avoid situations of tenure insecurity, and thus focus on established commercial farms.9

The two main parties involved in transnational LSLAs are therefore investors (and their advisers) wanting to acquire land and governments that are willing to sell or lease land under certain conditions. Some deals start with agreements between governments (e.g. between South Korea and Madagascar, Saudi Arabia and Ethiopia, or Brazil and Mozambique). Host governments can be involved through various ministries, departments (e.g. investment agencies, departments of agriculture or forestry) or even at the presidential level, and also at central, provincial or local levels. The behaviour of government officials can be influenced by their views on modernisation and development, as well as by private interests (e.g. risk of corruption).

The chain of transnational LSLAs starts with the decision to acquire land for investment, either on the company’s own initiative and/or following an invitation from host governments. Then follows the selection of an area that meets the right conditions; perhaps some consultation with affected communities; contract negotiations and signing; implementation by the company; and monitoring of compliance with the conditions set out in the contract by the government or other agencies. Figure 1 below gives an overview of this chain, with actors linked to the private sector at the top and government engagement below. Companies may acquire support services from subcontractors, such as land prospectors, lawyers and brokers, farm managers, agribusiness companies, banks or other financial organisations. Figure 1 also indicates the entry point for international policies and codes of conduct, and the variable importance of different types of national policies and treaties.

A weak point in this chain is the engagement with local communities and customary landholders. It is commonly acknowledged that local populations or farmers’ organisations are often not part of the negotiation process or do not participate effectively. Local groups may not be informed and become aware only when the actual work starts (e.g. land clearance and production). Displaced populations may not receive compensation; or, if they do, the money is seldom enough to buy new land, especially given the increased pressure (de Schutter, 2011; Oxfam International, 2011b; HLPE, 2011). Agreements are usually made between central government representatives and investors; the arrangements tend to be confidential, and the national parliament may not be in a position to scrutinise the contracts.

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9 For example, if a company is interested in palm oil, it will seek to acquire underpriced, properly zoned agricultural land.
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Figure 3.1 Actors and activities involved in large-scale transnational land acquisitions

3.3 Type of land acquired

LSLA often relates to agricultural colonisation areas, where forest has been (or will be) converted into farmland, or at the expense of ‘common land’, namely reserves used by local communities for extensive animal husbandry and the harvesting of fruits, firewood, etc. Such areas are often presented as ‘empty lands’. This process has gone hand in hand with the rapid expansion in large-scale mono-cropping and mechanisation. Investments are often made in the better agricultural land, i.e. more fertile soils in areas with sufficient rainfall or good irrigation potential, and with better access to markets (Cotula and Vermeulen, 2009). It is increasingly recognised that while some land may be underused, very little is truly vacant or unused. Many of the areas involved are in fact occupied or used by various groups for a range of purposes (Alden Wily, 2010a, b), and thus contributes to local livelihoods and food security.

A number of LSLAs are located in what used to be protected forests or wetlands declassified by governments following acquisition requests (e.g. Gambella in Ethiopia, north-east Cambodia, and wetlands in Uganda, Rwanda, Mozambique) (Dessalegn, 2011; Prachvuthy, 2011; Ansoms, 2009 and 2011; Susanti and Burgers, 2011).

Moreover, some central governments are using the prospect of international investments to encourage local communities to transfer land that is formally under their control to the state. These communities do not realise that they cannot get the land back even if the investment does not go ahead, which gives the ‘land-grabbing’ debate a special dimension.

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10 This is one of the arguments used in favour of large-scale land acquisition: ‘Finally, unused arable land will become productive’ (cf. Juma, 2011, Morris et al. 2009). This suggests that using this land for agriculture is ‘better’ than leaving it in its present state.

11 Personal communication: Georg Schoneveld on Zambia, Alda Salomao on Mozambique.
4 Analysis of outcome and impact

It is as yet not possible to conduct a systematic discussion on the outcomes of the recent wave of transnational LSLAs, let alone on the impact at the micro and macro levels. There are too few studies on results, and those that have been conducted focus on the micro level and relate to new investments. One explanation is that relatively few deals have so far resulted in working operations, or that deals took longer than expected to finalise. Moreover, starting up a farm requires a lot of preparation, assuming that the land was not acquired solely for speculative purposes.

Reports and studies on actual operations generally analyse how contracts came about, the extent to which local landholders were involved and what happened to local users.

The arrival of companies to set up large-scale agro-industrial projects is often a shock to local communities. Often, these communities stand to lose land and access to natural resources, and receive compensation only if these projects are backed by international donors (e.g. the Millennium Challenge Account investment in the Office du Niger in Mali).

Respecting rights: Violation of rights, exclusion, displacement or being overrun by migrant labour are often among the first impacts on local communities. Previous livelihood systems become unsustainable or impossible to continue, particularly where forests were important (Dessalegn, 2011; Prachvuthy, 2011; Oxfam International, 2011b; HLPE, 2011). The lack of acknowledgement of the rights of existing land users has ‘contributed to asset loss and left people worse off than they would have been without the investment’ (World Bank 2010: xx). These problems are caused primarily by the myth of empty areas, and because the host government does not acknowledge customary rights when it completes land transactions.

Employment: Rural unemployment and underemployment are a major concern in many host countries, where about half the population tend to be young people. The creation of employment is a major reason for communities to accept or even welcome investors. However, the number of jobs generated is relatively small once the land has been cleared, since mechanised farming is by definition not labour-intensive. It also depends on the type of crop grown. Little labour is needed for such crops as maize and soya – only one worker per 1000 ha in the case of soya. New jobs may go to migrants if local people lack the skills or the ‘discipline’. In Cambodia and Indonesia, for instance, plantations attracted migrants\(^\text{12}\) from surrounding areas, while local people were pushed aside (Susanti and Burgers, 2009; Prachvuthy, 2011). Even so, the jobs created by these companies are likely to provide the bulk of any formal employment in rural areas.\(^\text{13}\) They may thus generate tax revenues for governments and are an entry point to improve the position of labourers.

Little attention has been paid to the indirect effects of land acquisitions. The rapid expansion of investments in oil palm in Indonesia, for example, was soon followed by a large influx of people seeking to occupy the land and/or find work (Susanti and Burgers, 2011). The additional pressure on local land markets may be even stronger than the pressure caused by the actual investment. Migrants force out other groups, who then seek new lands in often more marginal areas, thus generating ripples of displacement.

The slow progress to date, coupled with the rather disturbing media reports, raises the question of whether the disadvantages will outweigh the expected benefits. *The Economist* ended a May 2011 article quoting Meinzen-Dick: ‘the burden of evidence has shifted and it is

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\(^{12}\) The diasporas and global migration play an important role in facilitating investors from the countries where these people now live (Plaza and Ratha, 2011).

\(^{13}\) Sugar plantations in Mali are expected to create 6000 jobs, representing 80% of all formal rural employment (CSLP, 2011).
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up to the proponents of land deals to show that they work. At the moment, they have precious few examples to point to.14

It could be argued that reports emphasising rights violations and evictions indicate comprehensive failures in how these investments have been negotiated, the lack of due diligence and poor communication, but that ultimately there will be micro and macro benefits, and that any individuals who do lose out should be properly compensated.

4.1 Expected benefits from foreign investments in land

The expected benefits are in some respects comparable to FDI in other parts of the economy. Transnational LSLAs are welcomed by host governments and promoted by international policy advisers as a way to obtain investment in farming and infrastructure, rural job creation, technology transfer, foreign exchange via export crops, and improved food security.15 FDI is seen also as a way to make up for a long period of under-investment in agriculture (World Bank, 2007).

Technology transfer to smallholder farmers: Although often mentioned, it is unlikely that there will be any technology transfer in relation to primary production. The differences in approach and capital outlay between agro-industrial plantations and smallholder farming are too great. Moreover, large-scale farms are not automatically successful – many of those that were set up as government enterprises following independence failed on technical grounds. More recently, a review of domestic investors in Burkina Faso found that if they did produce a crop, the productivity and benefits were at best equal to those of neighbouring smallholders and often inferior (GRAF, 2011).

Some large-scale farms are starting out-grower schemes to supply the processing unit. Out-grower schemes and contract farming are not inherently either good or bad for smallholders. It all depends on the conditions of the contract, the division of costs, benefits and risks, and whether the smallholders’ interests are effectively represented in the contract negotiations (Baumann, 2010; Cotula and Vermeulen, 2010). In some cases, however, out-grower schemes are set up to pacify neighbouring communities.16 Companies setting up large-scale farming also need to develop processing infrastructure and marketing networks, or may boost existing provision by supplying large amounts of raw material. Smallholders may be able to benefit from value-chain development if they grow similar crops and have access to these services on beneficial terms. Nucleus estates, as set up for oil palm, are examples of such a development. There are few recent examples of initiatives to arrive at this type of integration between newly established large-scale farms and neighbouring communities. Some examples are the establishment of out-grower schemes in Ghana by a Norwegian firm producing maize and soya. A company that is setting up a sugarcane plantation in Sierra Leone is assisting neighbouring smallholders to document their land rights.

Infrastructure investments and development pole: From a wider cost–benefit perspective, the benefits at the regional or wider level have yet to materialise. Companies’ investment in infrastructure focuses on their own needs. Host governments are expected to contribute to building access roads, although they may receive some support via sovereign wealth funds. In irrigated areas, investors tend to seek plots that are served by existing infrastructure, thus competing with local farmers (e.g. sugar-cane expansion in Mali) (GIZ, 2011; Papazian, 2010). Often the investors take the initiative since transporting bulk produce grown in a remote area to local or export markets depends on a good road system.

15 One challenge is to include these aspects in the contracts as a means to ensure that the promises are met, and that any breach of contract is monitored and sanctioned.
16 Interviews conducted by Thea Hilhorst in Ghana May 2011, where large-scale investors report problems of theft and conflict with neighbouring communities.
Apart from when they work with land banks and some form of land-use planning, LSLAs are not connected to the wider vision of economic development. New economic activities seem to result largely from an emerging local service sector to feed and host migrant farm workers (Prachvuthy, 2011).

Even the setting up of land banks seems to be principally driven by ‘empty’ land that needs to be brought into production. There are no reported economic multiplier effects (clusters and corridors) resulting from large-scale transnational investments. The extent to which transnational LSLAs contribute to rural development poles, clusters or corridors is not clear, but ongoing research in the Beira corridor in Mozambique may shed light on this aspect.

**Production, productivity and sustainable farming practices:** There are no available data on the production and productivity of the new wave of LSLAs. Some farms are productive and there have been media reports of rice being exported from Ethiopia and of maize being sold to the World Food Programme (WFP), again in Ethiopia. It obviously makes a difference whether those who are hired to manage and run a farm have a good understanding of local production conditions. Many of the new investors are not from an agribusiness background and some are now bringing in farm managers with this expertise. South African companies are reportedly playing an important role in this respect (Hall, 2011). Large farms may also experience weather-related risks, which can be reduced by installing irrigation – at a cost. They may also find that large-scale mechanised farming is not widespread, and that technology developed elsewhere is not easily transferable. Some crops are relatively new (e.g. jatropha) or have not yet been produced on a large-scale mechanised farm (e.g. in Mali, smallholders produce rice). There is no information about whether sustainable, modern farming practices will be used, or whether companies will instead rely on mechanisation and high levels of chemical input (e.g. fertilisers, herbicides and pesticides). The extensive use of heavy equipment can compact the soil and render it less productive. Farms that are started on newly cleared forestland initially benefit from the accumulated nutrients and fewer pests, but these advantages are short-lived. The low purchase cost or rents paid for the land may encourage this squandering of natural resources, as happened in the Amazon during the expansion of the agricultural frontier in the 1970s and 1980s.

Moreover, the availability of water for cultivation is either taken for granted or was the main reason for acquiring the land in the first place. These large farms may consume water at the expense of downstream users, as has happened in Mali, Mozambique and Kenya. The monitoring of production and productivity thus needs to take place over a period of time for the true impacts to be detected.

**Food security:** The direct contribution of LSLAs to national food sovereignty depends on the type of crop grown and whether it is locally marketed at affordable prices. In Ethiopia, these large farms sell grain to WFP, which uses them to feed those who left the famine areas and are now in camps. It is important to look at local as well as national food security. As mentioned, the first effect of these large-scale farms is often that local smallholders lose access to land and natural resources, which undermines their livelihoods, food security and ability to accumulate resources. These losses may be partly compensated for if new jobs are created that allow these people to earn sufficient to feed themselves and their families to a comparable level in terms of quantity and quality, and also to pay for other services.

**Environment and ecosystem services:** There can be severe effects on ecosystem services and the environmental sustainability of transnational LSLAs that change the use of land and involve the clearing of primary forest area, planting of wetlands or ploughing of grazing areas. The impact depends on the fragility of the ecosystems concerned (e.g. biodiversity, soils, slopes), and their function in hydrological systems and with respect to the traditional movement of wildlife. First reports are not encouraging. It has been found that several governments either do not apply or relax existing legislation with respect to protected areas (e.g. Prachvuthy,

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Moreover, environmental impact assessments, although obligatory, are often just a formality since there is no capacity to implement them or scrutinise the results (Dessalegn, 2011). A number of LSLAs have resulted in the conversion of primary forests and wetlands (Sustanti and Burgers, 2011; Prachvuthy, 2011) and the loss of wildlife (Dessalegn 2011). LSLAs can be detrimental to forest areas and affect ecologically fragile land. In Indonesia, for example, oil palm first led to deforestation and is now causing the loss of peat lands, which are both less productive and ecologically more vulnerable (Sustanti and Burgers, 2011). There are initiatives to orient the expansion of oil palm towards ‘degraded’ farmland rather than forests, but for economic and management reasons (and the obligation to deal with the local population) companies prefer forestland (WRI, 2011).

**Tax revenues:** No data are available with respect to generating revenues and taxes that governments can then invest. Much depends on the conditions set out in the contract, such as land rent and tax exemptions, as well as any investments required of the government, for instance to build roads. There may be issues about how TNCs spread the profits, costs and losses across their branches in different countries, which is often related to tax regimes. When companies acquire land only for speculative purposes, there will be no revenues unless the government can tax the land that is not being used (i.e. an anti-speculation tax) or has included similar penalties in the contract. If companies do pay revenues there is the question of how governments account for and invest them. It may be possible to build on approaches developed to enhance transparency in other sectors (e.g. petroleum and mining), including the role of companies (e.g. the ‘Publish What You Pay’ initiative) and investment policies. Much will depend, however, on effective scrutiny by parliament and society at large. Compensating local communities that might bear the brunt of LSLAs may be part of this. Equally, when communities receive some form of compensation, transparent systems for accounting for it and solid investment planning are required to ensure that it is equitably shared. There may be lessons to be drawn from community forestry and similar schemes.

**Governance:** The way that deals have been concluded with respect to LSLAs may have major consequences for governance and may even reverse efforts to enhance transparency and reduce corruption. The limited transparency and accountability of the negotiations and contracts seem to be a general feature (Cotula, 2011) and somewhat resemble the situation in the mining and petroleum sectors. This concerns issues such as who is involved, what is in the contract and what are the revenues. The range of overlapping actors and interests – governments, companies, finance agencies, CSOs, etc. – combined with a lack of information and a high level of secrecy, creates muddy waters. Sometimes the contract process moves very fast. Parliaments tend not to be consulted. There may be limited consultation of line ministries or of local governments, some of which may have technical concerns about the deals. Where information about contracts is made available there tend to be questions about land valuation and the terms of the lease. Contracts tend to be long term and at very low fees, while business conditions are generous (tax exemptions) and control mechanisms lack teeth. As indicated, local rights are insufficiently protected (Cotula, 2011; HLPE, 2011; Oxfam International, 2011b).

**Conflict:** LSLAs can lead to conflicts, for instance between the investor and local communities if the latter feel robbed of or inadequately compensated for their property. There are also reported cases of conflict between the original population and migrant workers. LSLAs in post-conflict areas where the population was displaced and are currently settled in camps (such as in north Uganda and Sudan) may become conflict flashpoints (Oxfam International, 2011b).

### 4.2 Role of host governments

A range of actors are involved in LSLAs, as shown in Figure 2, which presents a schematic overview of the various sets of stakeholders, their internal diversity and their linkages.
How can large-scale transnational land acquisitions contribute to inclusive and sustainable growth?

Figure 4.1 Overview of the stakeholders, their internal diversity and their linkages

Source: HLPE (2011)

Host governments play a central role. They can influence decisions regarding the type of transactions and conditions, where the land is located, the area and the engagement of local landholders. Once the contract has been signed and the land is transferred, this influence may decline, depending on the contract conditions on monitoring and sanctioning, and upholding the ‘rule of law’.

Such decisions are fundamentally influenced by visions and beliefs about agricultural policy, food security and ‘modernisation’, and ultimately about what development is and the importance attached to environmental protection. They are also influenced by how the government relates to local communities and the overall role of government. Is it for the government to protect local people’s rights? Or are smallholders and herders regarded as obstructing development? Private interests can also influence the outcome of decisions, such as payments following a successful transaction, or by being a shareholder or bringing in capital goods.

Host governments are overwhelmingly positive about and welcoming to transnational LSLAs, and may therefore compete to attract investors. This ‘race to the bottom’ results in even lower land rents and fewer conditions in the contracts, and signals the need for national dialogue on the kind of development envisaged, on farming, on land use, on land policy and on governance. There is a need for mechanisms whereby society can hold governments and parliaments to account on these crucial matters. It is important that producers’ organisations are engaged in these debates, along with consumers, whose prime interest is cheap food. The African Union is initiating such discussions, and this represents an important move.18

Finally, governments should monitor contracts far more rigorously and also engage with communities, both of which require transparency on the conditions of the deal.
Role of the European Union

Over the last years, LSLAs have become an issue for EU policy-makers for various reasons.

5.1 International policy initiatives to regulate the impact of LSLAs

Land Policy Guidelines: The EU has been actively monitoring land policy since 2000. In 2004, the European Commission approved the European Union Land Policy Guidelines (EC, 2004). These guidelines mainly focus on rural land, including the broad range of natural resources, such as trees, pasture, water, wildlife and fish stocks (see Box 1). They also describe the importance of secure land rights, the central elements for designing land policy, and the role of different stakeholders in implementing land policies. In addition, they provide operational guidance for assessing the national context and policy framework and designing the appropriate type of support. A possible set of interventions has also been formulated, accompanied by key principles for donors. The EU working group on land decided in 2009 that the guidelines accommodate LSLAs, so there was no need to update them.

Box 5.1 Key concepts in the EU Land Policy Guidelines

Land tenure and land rights

- Land tenure should be defined broadly as the ‘system of access to and control over land and related resources’. It defines the rules and rights that govern the appropriation, cultivation and use of natural resources on a given space or piece of land.
- Strictly speaking, it is not land itself that is owned, but the rights and duties relating to it. The rights and duties held by individuals or families are themselves embedded in a set of rules and norms, defined and enforced by authorities and institutions that may be those of rural communities and/or of the state.
- No system of land tenure can work without a body with the power and authority to define and enforce the rules, and to arbitrate conflict. Thus, a land-tenure system is made up of rules, authorities, institutions and rights. Land administration (maps, deeds, registers, etc) is only one part of this system.
- Land rights are not limited to private ownership in the strict sense, but can be a very diverse balance between individual rights and duties, and collective regulations, private or family ownership being one possible case.

Security of land tenure

- Rights are secure if they are not contested without reason and if, in the case of contestation, they can be confirmed by the legal or arbitration authorities (whether these be customary or governmental, or both).
- Securing land rights is thus largely a question of having effective institutions and enforcement of rules for their management, and not merely the formal legal nature of any such rights.

Land policy

- A land policy aims to achieve objectives relating to the security and distribution of land rights, land use and land management, and access to land, including the forms of tenure under which it is held.
- It defines the principles and rules governing property rights over land and the natural resources it bears as well as the legal methods of access and use, and the validation and transfer of these rights.
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Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources

Building on the experience of developing international guidance on the ‘right to food’, approved by FAO member states in 2004, the FAO started a consultation process on voluntary guidelines to improve the governance of tenure of land and other natural resources. The consultation process started in 2009 supported by, for example, Finland, France and Germany, and also IFAD.

The issue of LSLA is only one aspect of these guidelines, but it is generating much discussion. A zero draft was prepared in June 2011 and was the product of consultation at the regional level and with key stakeholder groups (e.g. civil society, private sector, governments) It was hoped that the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security would be endorsed by member states during the World Commission on Food security in October 2011. However, the intergovernmental negotiations – using the zero draft as point of departure – which started in June 2011 and continued in October were not completed in time. Negotiations will resume in March 2012. The EU is participating actively in these negotiations and has developed a common position, together with Switzerland. The Voluntary Guideline discussions focus particularly on investments in land and on the integration of international human rights principles, especially the issue of free prior informed consent (FPIC). This is a concept developed in relation to indigenous peoples, which explains some reluctance to incorporate this precise wording into the Voluntary Guidelines.

Once approved, the effectiveness of the Voluntary Guidelines will depend on the follow-up at country level. Here, lessons can be drawn from the ‘right to food’ process, one of the sources of inspiration for this process. There are also suggestions regarding the mandatory monitoring of progress at each Food Security Committee meeting.

Land policy is contained in texts issued by governments, and is further developed through legislation, decrees, rules and regulations governing the operation of institutions established for the purposes of land administration, the management of land rights, and land-use planning.

To be effective, land policy must propose a practical and coherent set of rules, institutions and tools that are considered both legitimate and legal, and are appropriate for different contexts and interest groups.

Land administration

A land-administration system is the set of structures and institutions that implement the land policy, affect rights, deliver titles and deeds, and manage information systems. These structures can be state or local government institutions. Sometimes, customary institutions perform some of these functions.

Proximity, accessibility and accountability of land-administration institutions are key issues that are also relevant for traditional authorities.


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19 See: http://www.srfood.org/.
21 The words ‘in the Context of National Food Security’ were added following the July 2011 negotiations.
22 This issue was on the agenda of the 37th session of the Committee on World Food Security in October 2011 (http://www.fao.org/cfs/en/).
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The issue of LSLA has also generated international policy initiatives. Since the first 2008 media reports on LSLAs in Madagascar to produce food for South Korea and the launch of the GRAIN website, which in turn triggered a range of other publications, international organisations such as the FAO, IFAD and the World Bank have reacted. This was partly in response to the request to the UN made in 2009 by relatively rich countries without sufficient land and water to ensure food sovereignty, which wanted to get more directly involved in food production elsewhere because their reliance on world markets during a food crisis exposed.

Box 5.2 The Voluntary Guidelines

In response to growing and widespread interest, the FAO (and other partners) embarked on the development of ‘Voluntary Guidelines on the Responsible Governance of tenure of land and other natural resources’ (known as the Voluntary Guidelines, in 2011 reformulated as Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security).

A Zero draft was prepared based on consultations in various countries and different stakeholders searching for ‘national’ consensus.

The Voluntary Guidelines ‘seek to improve governance of tenure of land, fisheries and forestries for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goal of food security, poverty alleviation, sustainable livelihoods, social stability, housing security, rural development, environmental protection and economic growth’ (p.5). The Voluntary Guidelines are to provide a framework for responsible tenure governance that supports food security, poverty alleviation, sustainable resource use and environmental protection. It sets out principles and internationally accepted practices to guide the preparation and implementation of policies and laws related to tenure governance, and places the emphasis on protecting tenure rights to land, fisheries and forestry and resolving conflicts, and on legal recognition of indigenous and other customary tenure rights, as well as informal rights (not only to land, but also other natural resources, including gathering rights.

In particular, ‘(...) states should protect tenure rights, and ensure that people are not arbitrarily evicted from their homes or otherwise deprived of their tenure rights); states should remove all forms of discrimination that prevent people from acquiring, enjoying or disposing of tenure rights, including by inheritance, in accordance with national and local norms that do not violate international and regional human rights obligations (pp.7–8, zero draft).

Guiding principles for responsible investment as formulated in the zero draft document are: Respect (to recognise and respect the right to tenure, whether or not it is formally recorded); Protect (to safeguard tenure rights, using human rights as a starting point, and stressing consultation and participation); Transparency (i.e. providing information about rules and current situation) and Accountability (holding people and public agencies responsible for their actions and decisions). See also: www.fao.org/nr/tenure/voluntary-guidelines/en/.

Voluntary principles and standards for the EU-based private sector

The issue of LSLA has also generated international policy initiatives. Since the first 2008 media reports on LSLAs in Madagascar to produce food for South Korea and the launch of the GRAIN website, which in turn triggered a range of other publications, international organisations such as the FAO, IFAD and the World Bank have reacted. This was partly in response to the request to the UN made in 2009 by relatively rich countries without sufficient land and water to ensure food sovereignty, which wanted to get more directly involved in food production elsewhere because their reliance on world markets during a food crisis exposed.

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23 This initiative builds on and supports the voluntary guidelines to support the ‘progressive realization of the right to adequate food in the context of national food security’, which were adopted by the FAO council at its hundred and twenty seventh session in November 2004, and the 2006 international conference on agrarian reform and rural development (ICARRD).

24 In 2009–2010, global and regional concerns regarding the governance of tenure were identified through a comprehensive consultation process. Regional consultations were held in Brazil, Burkina Faso, Ethiopia, Jordan, Namibia, Panama, Romania, the Russian Federation, Samoa and Vietnam. These consultations brought together almost 700 people from 133 countries, representing the public and private sector, civil society and academia, and demonstrated a strong consensus for an international instrument to deal with the governance of land, fisheries and forests (also in line with the MDGs).

25 A press conference by a South Korean firm (Daewoo) on its acquisition of over 1 million ha in Madagascar to grow food for export to Asia was reported in the Financial Times, 19 November 2008.

26 See: http://farmlandgrab.org/.
them to unacceptable risk as some food-producing countries had banned exports in 2008. At the same time, some of the countries that are making large tracts of land available to transnational agribusiness to produce food for export are themselves food-insecure.

The FAO, IFAD and the World Bank departments that work on land rights, food security and rural development increasingly acknowledge the risks involved in LSLAs if they are not well governed with respect to protecting the rights and livelihoods of local people, and without consideration for the environment, and for stability in general. The departments working on agribusiness, however, actively promote LSLAs. Indeed, one World Bank report acknowledges these differences of opinion (Deininger and Byerlee, 2011).

One approach is to set industry standards for agribusiness firms and financial institutions. The FAO, IFAD, UNCTAD and the World Bank have developed a proposed code of conduct, the Principles for Responsible Agricultural Investment, or RAI Principles, together with appropriate land policies (World Bank, 2010); the private sector and/or agribusiness are also actively involved. It had been suggested that the Committee on World Food Security should discuss the RAI Principles, but CSOs firmly opposed this. The next step now proposed by the Committee on World Food Security is a policy round table on increasing food security through smallholder-sensitive investment in agriculture, which will also address linkages with LSLA.

The Special Rapporteur on the Right to Food (UN, 2009) also proposed a set of core principles and measures for host states and investors to ensure the informed participation of local communities, adequate benefit sharing and modes of agriculture that respect the environment.

Transnational agribusiness has already taken the initiative to ensure that large investors act more responsibly, such as the round tables for sustainable oil palm, soy production and biofuels. Financial companies now appear to be using these standards as well as those of the IFC for assessing investment proposals. Given the immense range of companies, however, there is the strong risk that those with no consumers in or trade ties with Europe or the USA may be less concerned – unless they export to markets where CSR is an issue (e.g. the 2009 case of the Wilmar palm-oil company in Indonesia. Following a complaint by a global coalition of NGOs that Wilmar was not adhering to agreed procedures for sustainable palm oil, the IFC suspended its lending to Wilmar and international processors stopped buying the palm oil). Nevertheless, the question still remains of how to deal with those investors which target countries with weak governance in seeking high risk and large profits.

Private-sector actors and investment funds are becoming increasingly cautious about LSLAs, and there is also greater fear of reputational risk. This explains why they might seek to observe the various standards developed in the round tables. The IFC guidelines are also important, and are being reviewed to take better account of issues related to food security and respect for land rights. Pension funds have recently launched guidelines on farmland principles.

Special attention must also be paid to respect for and the quality of environmental and social impact assessments, and to respect legislation on protected areas.

Putting standards and guidelines in place is the first step. The second step is to ensure that enough leading companies and financial institutions accept and act upon them. The third step is for regulators to monitor compliance and quality control. The situation may become more complex if host governments do not permit companies to observe international regulations on compensation for displaced people whom the government regard as squatters who are trespassing (e.g. the Uganda case reported in Oxfam International, 2011b). It is therefore incumbent on potential investors to exercise due diligence with respect to the actual status of the land and the position of existing landholders.

Policy coherence is another important aspect. The EU is the world’s largest single development donor. The EU and its member states have endorsed also international human rights

conventions and developed standards for the behaviour of private sector (e.g. OECD guidelines28). In addition, many standards, regulations and laws already exist with respect to the environment, sustainability, labourers rights’. These can be used as point of departure for arriving at ‘responsible land-related investments from EU-based companies and investors’ and to protect the rights and livelihoods of smallholders. However, the insufficient awareness and monitoring of these regulations undermines their effectiveness.

**EU renewable energy and biofuel requirements targets**

There is a discussion about the direct link between the EU biofuels target and the incidence of ‘land grabbing’ by large-scale producers biofuel feedstocks. It is important to reduce or abolish targets that oblige European countries to use a minimum percentage of biofuel in petrol, and to challenge pension funds and banks to show that they are not involved in the financing of ‘land grabs’ (Oxfam International, 2011b). Related to this are voluntary schemes to certify biofuels. In July 2011, the European Commission (COM) approved seven voluntary schemes that will certify biofuels as sustainable in accordance with criteria set out by the Renewable Energy Directive (RED), which also affect land governance. It is important that all these seven schemes use standards that are ‘comparable’ and applied strictly. If relatively ‘weaker’ schemes are approved, than this may produce a ‘race to the bottom’.29

**Technical assistance to host governments**

A number of host governments are trying to get the maximum benefit from FDI while simultaneously reducing their exposure to risk. Technical assistance can make a difference in reducing the environmental damage caused by large-scale transnational investments and in enhancing links with the economy: certain companies with the necessary experience and resources have been willing to sign investment contracts that are favourable to all parties and enhance the ability to monitor compliance and to impose sanctions when needed.

Elements of the relevant technical assistance include:

- **Legal advice**: host countries will benefit from top-class legal assistance when negotiating contracts. They may also need such support when trying to revoke existing contracts that are clearly to their disadvantage.

- **Selecting companies**: outcomes are more likely to be sustainable and to contribute to growth if companies have the required experience, a long-term horizon and a solid business plan. ‘Cowboy companies’ that seek to acquire land for speculative purposes, while presenting over-ambitious plans, will not bring development but will generate frustration and conflict. Host governments may need support in screening companies and business plans. These screening processes need to be transparent, as does the willingness of companies to invest responsibly.

- **Information on TNCs**: host countries need easier access to information that will allow them to track companies interested in investing in land, and embassies could assist in this regard.

- **Land-use planning**: technical support could be useful in deciding what land to make available for investments and what land to protect. From the perspective of managing resource scarcity and degradation, the following steps are the most influential in the LSLA process: site selection (constitution of land banks) combined with the protection of ‘no-go’ areas (for social and environmental reasons); application of environmental legislation; full valuation of land and natural resource(s) (e.g. water) reflected in the rent; contract conditions with respect to sustainable land use; monitoring of conditions and application of sanctions as necessary.

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28 Available at: [http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html).

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- **Land information/GIS data**: when selecting land for land banks, environmental considerations and ecosystems services need to be given far more priority. The destruction of watersheds can provoke flooding downstream, while production conditions deteriorate. The destruction of unique biodiversity or wildlife also rules out alternative economic development that is uniquely linked to that particular site. Government agencies need to make use of up-to-date land information and land-use data when selecting land; they must also define ‘no-go’ areas that need to be protected from land investments for agricultural purposes. In fact, the better-prepared companies also base their initial choices on GIS analysis combining data with respect to soils, weather patterns, infrastructure and population density.

- **Land-use conditions in the contract**: companies are central in deciding how the land will be used, what crops will be grown, and when and to whom the crops will be sold. Contracts are likely to have conditions on land use and expected benefits and should be monitored so that any errors or omissions can be corrected. Some companies that have received land, e.g. in Ethiopia, have taken initiatives to promote more sustainable farming practices. This will be more feasible if the companies share similar objectives and are open to such concerns. Overseeing labour contracts, wages and working conditions is also important for protecting workers’ rights.

- **Master planning**: to develop growth corridors and consequently decide on what type of companies are most needed; capacity to assess business plans and develop conditions; capacity to monitor and to sanction. A master plan stimulates a more proactive approach, so that LSLAs are not ‘incidents’ whose emergence is driven primarily by the interest of a private company. A government’s vision on how to use the land, including proper environmental valuation, also requires a factual assessment of the vigour and contribution to food security of existing farmers.

- **Exchange visits**: host countries may benefit greatly from visits to countries that have experienced similar situations and where approaches have been developed to regulate the phenomenon – for example, the use of a moratorium in Argentina. Moratoria have also been suggested and temporarily applied in Mozambique, northern Uganda and possibly Tanzania.

- **Assisting host governments to develop policies**: on agricultural development, food security and land in a participatory way and to organise social dialogue on LSLAs could be considered. Support to farmers’ organisations, CSOs and watchdog organisations in collecting and analysing information and engaging with the government and the private sector is equally important to reaching better outcomes.

### Key factors for host governments regarding transnational land acquisitions:

1. **Geography**: quality, location and size of the land made available to investors.
2. **Types of company that wish to acquire land and are accepted by host governments**, scrutiny of business plan, and the willingness to invest responsibly.
3. **Respect for local rights and ability of local people to protect their rights and develop alternative livelihoods**.
4. **Participation by farmers’ groups and organisations**.
5. **Application of legislation on protected areas and environmental governance**.
6. **Contract negotiations, the price of land and conditions placed on resource use**.
7. **Monitoring and enforcement of contracts**.
8. **Promotion of sustainable land use and economic integration**.
6 Conclusions

6.1 Under what conditions can large-scale transnational land acquisition contribute to sustainable growth?

The idea that a country has large areas of empty, unused land and sufficient water to irrigate this land, or that large areas are being used unproductively by smallholders and herders, drives governments to make land available to outside – foreign or domestic – investors rather than investing in smallholders. There are, however, sufficient data and studies to show that there is very little land and few natural resources that are not being used or are not already owned. It is precisely because of the expectation of growing scarcity and rising value that transnational investors are so interested in acquiring land, either purchasing it outright or under long-term lease agreements. This pressure in itself exacerbates existing scarcity.

There is a mismatch in the perception of scarcity between host governments and even some local landholders who seek to trade their abundance in land, versus the companies that expect to benefit from control over increasingly scarce resources. This partly explains why host governments hand over the land so readily and so cheaply. The valuation of land is clearly out of balance. In addition, investors that acquire land very cheaply may be less inclined to protect its production value (e.g. to maintain forests, soils or streams). The issue of land rents (i.e. setting and capturing rents, and how rents are used and invested) is thus critical to promoting sustainable development, providing appropriate incentives for sustainable use and ensuring that this transfer of a valuable resource produces growth that benefits local landholders and the wider economy.

Sustainable growth also requires a balanced and factual perspective on existing smallholder farming and its role in the economy and society (including providing food security). LSLAs may have a role to play under certain conditions, but seeking to displace existing farmers is economically unsound and often disastrous from a social and food-security perspective.

6.2 Under what conditions can large-scale transnational land acquisition contribute to inclusive development?

The acknowledgement of all local rights, including informal rights, is a first step towards achieving more inclusive development. Here, the role of government as a duty-bearer is to protect the rights of its citizens. The second step is to ensure that communities whose land is potentially subject to purchase or lease are fully informed and consulted, and are given the power to say no. To date, however, the experience of free prior informed consent (FPIC) processes in other domains leaves much to be desired. Without assisting local landholders and communities in these processes, and without honest brokers, FPIC may help to push through decisions that are not in the communities’ interest and that can result in losses of rights and livelihoods, and provoke future conflicts.

The weak process of contract negotiations and concluded deals has been analysed by several authors (Cotula, 2011). Not only does the process lack transparency and public scrutiny, thus increasing the risk of corruption, but the deals tend to favour companies rather than host governments with respect to sharing costs and benefits. Compensation, or even remuneration, for existing communities that are likely to suffer the consequences (e.g. displacement) is often neglected, and may be left to the host country to pay. Moreover, the contract conditions may be weak and difficult to monitor, if indeed they are monitored at all. Issues with respect to food security for the host government are seldom included.

30 Some investors have even boasted about what good deals they have made, e.g. in the case of Ethiopia.
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Host governments may find it difficult to regulate companies that have already acquired land or to seek redress for ‘unfair’ contracts. Governments that have tried to cancel contracts because the conditions were not being met have found that it is a time-consuming process, and may confront resistance from the investor and from members of the local elite who are implicated in the endeavour. In addition, many investors are protected by legislation in their home countries through bilateral investment treaties. These international or transnational companies are therefore in a more advantageous position than that of the domestic private sector.

6.3 Next steps

Transnational LSLAs are expected to continue and get bigger, although the ‘transnational’ character may evolve into a joint venture or even a national subsidiary. The current scale of transnational LSLAs continues to be based on ‘guestimates’ (see HLPE, 2011). There are as yet no systematic overviews of outcomes either at the local level or at a more macro level. Following initial quick scans and other scoping studies, a number of research institutes and networks now have research projects underway. The database developed by the ILC and its partners containing verified data on over 1000 deals, referred to earlier, is expected to be available in March 2012.

There is now promising collaboration among a range of international actors from academia, the policy sphere, civil society and the business sector aimed at improving land governance. This now needs to be replicated at the host-country level and in investors’ home countries. The World Committee on Food Security now plays a key role, but its monitoring function needs to be strengthened. The uncertainties with respect to scale, process and impact at various levels should not be allowed to block the development of policy responses at all levels and among key local, national and international stakeholders to ensure that these developments effectively contribute to inclusive and sustainable growth, and at the same time stopping those investments that will be environmentally disastrous or could fuel conflicts (particularly in post-conflict settings) or result in forced evictions.
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References


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