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New challenges for ACP countries?

Land is an asset of enormous importance for billions of rural dwellers in the developing world. Recent trends are prompting a massive increase in global commercial interest in land and natural resources, and this is creating unprecedented pressures on land resources, especially in developing countries.

In addition to the rapid demographic growth in many developing countries and an increasing urbanisation process, the recent food and economic crises are also increasing pressure on land for agricultural production. Over the past three to four years, private investors and governments have shown a growing

interest in the acquisition or long-term lease of large portions of arable land in countries, mostly in the developing world. Although estimates are difficult to verify, recent evidence published by the International Food Policy Research Institute (IFPRI) and the NGO Grain suggests significant levels of activity and upward trends over the past five years in foreign investors acquiring large tracts of arable land in developing countries (von Braun and Meinzen-Dick, April 2009). The land which has been highest in demand is that which is close to water resources and can therefore be irrigated at a relatively low

cost in infrastructures and that which is closest to markets and from which the produce can be exported easily (de Schutter, June 2009).

The land acquired is not intended to produce crops to sell on the world market or to feed the local population, but rather to meet food and biofuel demand in the country that invested in this land.

Similarly, given the current global financial crisis, commodity traders, agri-food corporations and private investors (often domestic) increasingly

Isolina Boto

Head
Brussels Office
The Technical Centre for Agricultural
and Rural Cooperation (CTA)
boto@cta.int

◀ *Contracts between foreign investors and host countries must ensure that the promised technology transfer will be realised and will also benefit local farmers.*

see investment in developing farmland as an important new source of revenue. While investments in agriculture are well received as a way to improve the use of available arable land, land acquisitions pose some challenges to developing countries' agricultural sectors, and notably create the risk of moving towards large-scale mechanised farms and monoculture systems threatening smallholder farmers who rely on diversified agriculture.

■ Well-negotiated agreements

What appears to be new as compared to past investments is the spec-

ulative nature of the deals, the fact that they mainly concern farmland devoted to staple food crops (cereals, rice, maize) which are key to local food security and the interest in land and water which are seen as new commodities.

There needs to be a careful examination of the terms of the agreements made between foreign investors and host countries, to help ensure that the promised technology transfers can be fulfilled, or that food production on local farms will also benefit farmers (UNCTAD, 2009). Recipient countries need to negotiate contracts wisely, and an enforceable code of conduct should be envisaged in order to ensure the participation of local producers, respect for customary property rights, appropriate compensation, sustainable management of natural resources, and non-impaired trade policy rules (von Braun, 2008).

■ Land policies back on the agenda?

Secure land rights are now recognised by most governments as critical for peace, stability and economic growth. Governments from developing countries must take the lead in land policy and tenure reform, since political interests are at stake and donors should support this process (African Union, 2006). In many places, titling and registration of land may be much less important than working to strengthen local institutions with responsibility for managing land rights and related disputes. The recent shift towards decentralising government has been valuable in getting land rights management much closer to the field and taking into account the views of the poorest and marginalised groups (C. Toulmin, 2006). A key issue to a good negotiation of land acquisition by governments or private companies is the strengthening of the national land



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management systems which, when functioning, should be able to provide information, guidelines on tenure systems and property rights so as to have a legal framework at the national level.

■ Towards a code of conduct for land acquisition?

The idea of having an international code of conduct for land acquisition is being discussed by various organisations such as IFPRI and the World Bank, IFAD and FAO and the governments of Japan and Saudi Arabia. In June 2009, the United Nations also proposed a minimum set of principles and measures based on human rights in the elaboration of large-scale transnational land acquisitions and leases. These principles and measures are intended to assist both investors and host governments in the negotiation and implementation of large-scale land leases and acquisitions, in order to ensure that such investments work for the benefit of the population including the most vulnerable groups in the host country. The measures are grounded in principles of international human rights laws (de Schutter, 2009).

A multilateral approach could avoid beggar-thy-neighbour policies, with countries competing against each other for the arrival of foreign direct investment and thus lowering the requirements imposed on foreign investors. It could provide increased legal certainty

for the investors and shield them from the risk of reputational losses if they comply with the principles.

A key element in a code of conduct for foreign land acquisition is **transparency** in negotiations. Existing local landholders must be informed and involved in negotiations over land deals. This lack of transparency limits the involvement of civil society in negotiating and implementing deals and the ability of local stakeholders to respond to new challenges and opportunities (von Braun, Meinzen-Dick, 2009).

Another component of the code of conduct is **respect for existing land rights**, including customary and common property rights. Those who lose land should be compensated and helped to evolve and develop livelihood equivalent to the loss. Some organisations call for a careful environmental impact assessment and monitoring of land acquisitions to ensure that sound and sustainable production practices are implemented in the leased areas.

The code of conduct for land acquisition was discussed at the last G8 Summit in July 2009, in L'Aquila, Italy. Little information is available as to how such a code might be developed, what its purpose may be, and what it may contain. It was also noted that a number of mechanisms already exist, particularly international human rights and environmental conventions, as well as invest-

ment treaties, which could be used to guide and even enforce good practice.

On their part, development agencies can play a role in ensuring that existing guidelines on trade and investment are respected, including ensuring that investors undertake adequate impact assessments of proposed projects, covering the right to food, and social, cultural and environmental aspects of the investment. The application of the EU Land Policy can play a role in this.

Deals need to be economically and socially viable and environmentally sustainable and should not increase vulnerability and food insecurity. In this context, independent monitoring should also be put in place. The example of the Extract Industries Transparency Initiative, which has proven to be successful for mining and oil industry could inspire land transactions.

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A full list of references is available on the website www.rural21.com

Zusammenfassung

Der Anstieg der globalen Landaufkäufe erhöht in zahlreichen Ländern des Südens den Druck auf die natürlichen Ressourcen. Gefragt ist vor allem Land, das in der Nähe von Wasserquellen liegt und solches, das einen leichten Marktzugang verspricht. Eine kluge Politik zu Bodenrecht und Landreform ist hier ebenso vonnöten wie die Stärkung lokaler Institutionen, um Landrechtsfragen und damit verbundene Streitfälle klären zu können. Hier sind die nationalen Regierungen der betroffenen Länder gefragt. Doch auch die Organisationen der Entwicklungszusammenarbeit sind in der Verantwortung: Sie sollten

dafür Sorge tragen, dass die bestehenden Gesetze eingehalten werden und dass die Investoren zu Folgenabschätzungen ihrer geplanten Projekte auf die Ernährungs- und Umwelt-, aber auch auf die soziale und kulturelle Situation in den betroffenen Ländern verpflichtet werden.

Resumen

En numerosos países del Sur, el aumento de las compras globales de tierras refuerza la presión sobre los recursos naturales. Las tierras en mayor demanda son aquellas que se encuentran cerca de fuentes de agua y aquellas que ofrecen un fácil acceso al mercado. Se necesita tanto una

política inteligente de derechos de propiedad sobre tierras agrícolas y reforma agraria, como también el fortalecimiento de las instituciones locales, a fin de poder aclarar las interrogantes sobre derechos de propiedad y resolver los conflictos relacionados con estos últimos. Sin embargo, también las organizaciones de la cooperación para el desarrollo deben asumir una responsabilidad a este respecto: les toca velar por que se cumplan las leyes existentes y se obligue a los inversores a sopesar las consecuencias de sus proyectos planificados sobre la situación alimentaria, ambiental y también social y cultural de los países afectados.