

**POLICY DOCUMENT**

## **APPETITE FOR LAND**

### **Large-Scale Foreign Investment in Land**

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## The new appetite for land

In the wake of the food price fluctuations in 2007 and 2008, and further driven by the rising demand for agricultural raw materials for energy production, interest in foreign land investment has increased dramatically. Although foreign land purchases and leases are nothing new, their numbers and magnitude have surged in recent years.

Most of these investments are made by the *private sector*, which is lured by lucrative profits with land speculation or rising food and energy prices.

The companies making these investments are based in various countries such as the USA, Sweden or Great Britain, but also China, South Korea and Saudi Arabia (GÖRGEN ET AL., 2009; pp. 4-5).

Some *governments* are also showing greater interest in foreign land. They have various motives. While world market prices for many agricultural commodities have dropped again since 2008, the prognosis for the future is for a slight increase overall, and greater price fluctuations in particular. Nations with large populations (e.g. China, India) or limited land and water resources (e.g. the Persian Gulf states) are concerned about providing their people with sufficient food and other farmed resources in the future. Hence their goal is to grow these products abroad or have them grown there through contract farming arrangements. Other nations such as the EU member states are interested in the production of biodiesel and bioethanol, as their own available land area does not suffice to meet the 10% biofuel blending quota mandated for 2020.

*Target countries* are African, Asian and in some cases Eastern European states with large areas of fertile land which is officially little used. These countries are hoping that the investments will lead to an economic upswing and, depending on the terms of contracts, the development of infrastructure, foreign exchange revenue and jobs. Local elites or national companies are frequently involved in land purchases or leases, either as intermediaries for foreign investors or in order to acquire land for themselves.

According to an FAO/IFAD study (COTULA ET AL., 2009; p. 4), agreements involving nearly 2.5 million hectares of land have been concluded in five African countries alone (Ethiopia, Ghana, Madagascar, Mali and Sudan) since 2004. This figure includes only contracts covering areas of over 1000 hectares, and excludes all ongoing land deals. According to IFPRI estimates, deals involving foreign investors have been negotiated for a total of 15 to 20 million hectares of arable land in developing countries since 2006 (in: DE SCHUTTER, 2009; p. 5).

*German companies* too have concluded land contracts in Africa. For example, the company FloraEcopower (now Acasis AG) based in Munich has leased 56,000 ha in Ethiopia for the next 50 years to produce oil (from jatropha and castor beans) for the cosmetic and pharmaceutical industries and for biodiesel (FLORAECOPOWER, 2008).

## **Serious consequences to people and the environment**

Misereor is very concerned about the current trend of increasing land acquisitions by foreign companies and governments because they harbour the following risks and developments:

### *Loss of food security*

The target countries for investments are nations whose own populations are largely dependent on agriculture, and in which the food supply is already highly critical (e.g. Madagascar, Sudan, Pakistan, Ethiopia) and becoming even more so due to climate change. Countries such as Sudan and Ethiopia are among the largest recipients of food aid from the UN World Food Programme (WFP). The food crops grown by the investors, however, are primarily intended for export. For instance, Sudan allows about 70% of the grain grown by foreign investors to be exported (THE ECONOMIST, 2009). The fertile land is hence lost to production for domestic and regional markets, thus exacerbating poverty and hunger among the disadvantaged population groups. This constitutes an infringement of the internationally established human right to food, for which an assured and fair access to land is a key prerequisite.

Despite what the investors allege, the land they lay claim to is hardly ever unused. Furthermore, the investors set their sights on fertile areas in the target countries which have access to water and are served by transport routes. These areas are the ones most used by the local population.

Some countries such as Rwanda already have a high population density; the scarcity of land was one of the factors triggering the bloody civil war of 1994 which claimed the lives of a tenth of the population. Other countries such as Zambia are less densely populated, but double their populations every 20 years. Land that is now being leased for up to 99 years will soon no longer be available as cropland to feed future generations.

### *Asymmetric balance of power – land rights not guaranteed*

The poorer strata of the population profit little from the investments and in many cases are the losers. The balance of power is very unevenly weighted towards the foreign investors and away from smallholders and local land users, especially when the investors are backed by the target country's government or national elites. Moreover, small farmers and village communities seldom possess deeds set down in writing, even though they have been living on the land for generations. Instead their land use is based on traditional management rights. According to World Bank estimates, only 2-10% of the land is in formal ownership, and such ownership is mainly restricted to urban areas (in: COTULA ET AL., 2009; p. 75). Because their land rights are not legally secured, ancestral farmers can hardly defend these rights, have no legal claim to compensation, and cannot later sue for social measures, jobs, etc. promised by investors. They are threatened with expulsion from their ancestral land and the loss of their livelihoods, and are often forced to move into urban slums.

Although some countries such as Tanzania and Mozambique already have national laws stipulating that land investments are contingent upon the approval of the local population concerned, in reality they are not being properly enforced (COTULA ET AL., 2009; pp. 72/73).

### *Social conflict*

Land has great economic and emotional significance and is hence a potential source of conflict that can span generations. Conflicts are inevitable where land acquisitions have been legally transacted but are nonetheless viewed as illegitimate by the ancestral inhabitants. The

concentration of land in a few hands in combination with growing numbers of landless and jobless people is fuel for violent confrontation. Local populations have already openly demonstrated their resentment of some land deals. For example, contract negotiations between the government of **Madagascar** and the South Korean corporation Daewoo Logistics concerning the leasing of 1.3 million hectares of farmland (= about half the nation's total arable land area) for 99 years led to massive protests in 2008. These protests put the project on hold for the time being and also contributed to a change of government in Madagascar. Currently, however, negotiations are apparently in progress with a newly founded subsidiary of the same South Korean company. Furthermore, 465,000 ha of land have been leased to the Indian company Varun International for rice production (De Schutter 2010: 6).

In **Kenya**, the local population has resisted the government's plans to hand over 40,000 ha of fertile land in the Tana River delta to the Persian Gulf state of Qatar for vegetable and fruit production. In return, Qatar had offered to upgrade the harbour of the nearby city of Lamu, among other things (THE INDEPENDENT, 2009).

In **Mozambique**, the population put up a fight against the settlement of thousands of Chinese agricultural workers to farm leased land (VON BRAUN & MEINZEN-DICK, 2009; p. 1).

In the **Philippines**, the Japanese company Pacific Bio-Fields concluded a 50 year lease agreement in 2009 for 400,000 ha of land for coconut plantations. In 2008 South Korea and Bahrain had already secured 100,000 and 10,000 ha, respectively, to grow rice for their own populations. Meanwhile, 700,000 small farmers in the Philippines are still awaiting the allocation of 1.1 million hectares in the context of the agricultural reform programme CARP, which has been ongoing since 1988 (HERRE, 2009; p. 15).

### *Loss of water lifelines*

Plantation agriculture in more arid regions requires irrigation. Water conflicts arise because investors are given preference over the local population in access to water. Poorer urban districts are cut off from water supplies in order to supply the flower industry. Rivers are even diverted, or enormous volumes of water are pumped out of them (e.g. the São Francisco River in Brazil) in order to irrigate plantations in other regions.

### *Loss of jobs due to mechanization*

Agricultural investors frequently promise to create many new jobs. These expectations often remain unfulfilled, however, because agro-industrial production is so highly mechanized that fewer jobs are created than are lost by the displacement of small farmers. Foreign corporations frequently bring along their own higher level managerial personnel and, in the case of China, their own unskilled workers too.

### *Ecological damage from monocultures*

Investments are usually in large-area, industrial plantation agriculture, which entails the use of synthetic fertilizers and chemical plant protectants. Monocultures destroy species diversity and damage soils. The production of soya, maize, cotton and sugarcane in Brazil and Argentina over many years has shown that such exploitation of fragile soils by monocultures ultimately leaves behind a desert wasteland. Pesticides often enter the groundwater and poison rivers. The clearing of forests and drainage of wetlands for large plantations also causes dramatic changes in climate.

This trend towards capital-intensive, industrialized agriculture, with its imbalanced focus on productivity increase, is in direct opposition to the principles established by the World Agriculture Report published in 2008. That report states that to combat hunger and poverty, the social and ecological functions of agriculture must be taken into account along with the production-related aspects. Among other things, this requires the inclusion of small farmers in agricultural development and the use of resource-conserving methods in an agricultural production system guided by the principle of sustainability.

### *Lack of transparency and democracy, prevalence of corruption*

Many land deals are conducted in a non-transparent manner, hence access to reliable information is extremely limited and disseminated data must be treated with caution. Some contracts contain provisions for the sale of part of the production on the local market and for accompanying social measures (e.g. the building of schools). On the other hand, governments frequently charge only a small lease fee – if any – and grant the corporations diverse entitlements such as tax breaks without any stipulations on food security (i.e. a minimum amount of produce to remain in the country). This is tantamount to a surrender of national sovereignty. Because the contracts are almost never publicly disclosed, it is very difficult for civil society to evaluate their terms.

To a large extent, land investments are currently transacted in **countries** that have either **weak or no democratic structures**. In such countries it is particularly difficult to ensure that land acquisitions are transacted on the basis of social, ecological and economic impact analyses that are oriented towards poverty reduction strategies, and that transparent information and inclusion of the local population on an equal footing result.

## **Guiding principles**

In order to comply with human rights, social, ecological and ethical standards, the following fundamental principles must be respected in land investments.

- In every case the **human right to food** must be respected. Agricultural investments for export must not jeopardize the **food sovereignty** of the population. The production of food for the local population must always take precedence.
- Under no circumstances may current land uses by the local population, whether legally secured (formally or traditionally) or informal, be usurped. No land may be leased or sold against their will. Existing land reform programmes also must not be undermined by turning over land to foreign governments or companies. Before a contract is concluded, the local resident population must be adequately **informed** and **consulted**, and in the event that they do give their voluntary consent, fairly **compensated** for loss of land ownership (i.e. at least with land of equivalent quality in terms of soil fertility, water availability and access to infrastructure) (WORLD BANK, 2001).
- The ecological and climatic consequences of large-scale monocultures, especially those resulting from the clear-cutting of forests or the utilization of wetlands, must be avoided. This includes the impacts on soils, water quality and quantity, air and climate. Land investments must instead ensure **ecological sustainability**.
- Investment approaches that build on **production by local small-scale farmers** (e.g. contract farming; purchasing of crops at guaranteed minimum prices) can offer these farmers secure market opportunities and in most cases are preferable to land leases or sales, provided that the terms of contract are fair.

- For their employees, investors must at least undertake to comply with the **International Labour Organization (ILO) conventions** pertaining to the agricultural sector. In addition, investors and governments should promote production systems that are sufficiently labour-intensive to sustain or create local **employment opportunities**.
- The signing of contracts placing large areas of land under the control of foreign interests or local elites should be a subject of **public debate** in parliament and the media, and reasonable time periods allowing those affected and civil-society advocates to file appeals should be provided. Before concluding any contract involving a large-scale land acquisition, a human rights impact assessment, with a special focus on the right to food, must be undertaken as a basis for decision-making. The contract terms must be transparent, and the conditions upon and obligations of the investors must be clearly defined and established therein in order to make them enforceable (incl. sanction mechanisms in the event of non-compliance with contractual obligations).

### **Action plan for German policy**

- Land-use rights and agricultural policy should be addressed during **negotiations with participating and affected governments**, as suggested by the German Federal Ministry for Economic Cooperation and Development (BMZ) in a discussion paper published in 2009. Simultaneously the Ministry should offer technical assistance with **land law reform** via the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ – German Technical Cooperation), in order to establish and protect traditional land-use rights by law and to enable the victims of wrongful land appropriation to obtain **judicial assistance**.
- Efforts by UN organisations such as the FAO to establish "voluntary **guidelines for the use of land** and other resources" based on the right to food should be actively supported by the German federal government. Through global negotiations with all governments, an important foundation could be established upon which those affected in the nations involved can also rely. The EU Land Policy Guidelines of 2004 constitute a useful basis for this purpose.
- The German federal government should make **smallholder agriculture suited to the location**, along with local processing and marketing, the focus of development cooperation. In the context of multilateral and bilateral trade agreements, poor developing countries must be granted opportunities to protect their own economic regions in order to ensure their food security, and enforceable legal frameworks governing the responsibility of German companies involved in foreign investment must be set up.
- Over the long term, **international law** should be further developed, the right to food made legally enforceable, and infringements of this right proscribed. An important step is the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights adopted by the UN General Assembly in 2008, which establishes individual complaint mechanisms. The German federal government should ratify this as soon as possible.

***What is Misereor doing?***

*Along with awareness raising and lobby work in Germany, Misereor is informing local partner organisations about land acquisition developments in the countries concerned and advising them of the risks to the local population, as this information is sometimes much harder to obtain locally than it is from Germany. With its support of grassroots organisations and legal advice, Misereor is also strengthening the ability of rural populations to resist land grabbing. Furthermore, Misereor is helping partners to mount radio programmes, campaigns and political lobbying in order to raise public and government awareness of land conflicts and critical cases of land grabbing, and to lend more weight to the right to food and access to land for disadvantaged groups in the policy-making process.*

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