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The Global Response to Foreign Investment in Agriculture

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Introduction

The global community was taken by surprise at the sharp rise of investor interest in agricultural land and water after the 2008 food crisis, a phenomenon that is now commonly referred to as "land grabs." The media attention and alarming stories of secret deals and communities forced off their land created shockwaves. But the global community responded with dozens of global and regional initiatives, helping governments, investors and communities respond, and turning the investor interest into an opportunity for rural development and poverty reduction.

The response has been at both the policy and the financial levels. At the policy level, guidelines and principles have been negotiated and adopted through intergovernmental bodies such as the Committee on World Food Security. There have been regional responses, particularly from Africa, where most of the investment is taking place. The UN and international organizations such as the World Bank, established their own principles. The private sector, too, felt the need to set industry standards to avoid a race to the bottom. At the financial level, donors created a number of mechanisms to finance agricultural projects in developing countries, especially to support small-scale farmers.

All of the policy responses are voluntary for both investors and governments. Some require annual reporting, but most do not involve an oversight or monitoring role. Nevertheless, they establish important principles that help decision-makers ensure responsible agricultural investments that are transparent, involve communities, respect land rights, contribute to food security, boost employment and sustainably use land, water and other natural resources. They provide important benchmarks to test investment contracts and monitor projects on the ground. This policy brief provides an overview of the initiatives: their main features, strengths and weaknesses. Table 1 provides an overview of the initiatives and the key principles.

The Committee on World Food Security

The Committee on World Food Security (CFS) is leading the global response. This intergovernmental body includes civil society and private sector representatives working to ensure food security and nutrition for all. Its first initiative was the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (Voluntary Guidelines)*, endorsed in 2012. The *Voluntary Guidelines* support tenure rights and equitable access to land, fisheries and forests, regardless of whether they are formally recognized and recorded. This should improve transparency and functioning of tenure systems and strengthen the capacity of the agencies that implement land governance and reforms. Since then, the G20, Rio+20 and the UN General Assembly have encouraged implementation of the *Voluntary Guidelines*. In November 2013, Coke and Nestlé announced they would adopt the *Voluntary Guidelines* by reference in their corporate policies.

In 2012, the CFS launched a new process to develop *Principles for Responsible Agricultural Investment in the Context of National Food Security and Nutrition (rai)*. The principles are grounded in the *Voluntary Guidelines* but go beyond investment in land to look at the broader issues of investment in agriculture. The CFS hopes to endorse these principles in October 2014.

The strength of the CFS is that it is a multilateral process within the framework of the UN. Its initiatives and activities are strongly grounded in international law, particularly human rights law. The CFS is firmly supported by civil society but private sector participation is relatively weak. Governments are engaged and committed to the process but most would not contemplate negotiating binding rules. It remains a process largely driven from Rome with limited impact and implementation at the national level. Member states are aware of these weaknesses and there are serious efforts to strengthen implementation and impact.

The Land Policy Initiative

The Framework and Guidelines on Land Policy in Africa (Land Policy Initiative) was the African response to concerns about the "new scramble for Africa's land resources" (the first scramble referring to the colonial period). African Heads of State at the 2009 African Union Summit adopted the Land Policy Initiative, managed by the African Union, the African Development Bank and the UN Economic Commission for Africa. The Land Policy Initiative explains that the past few decades of land reforms have not had the desired impacts on development and were poorly implemented. It emphasizes the need for inclusive processes to secure land rights. It is an African initiative—by Africans, for Africans—and is widely supported there. But it does not give guidance to governments about the shape of land laws and policies. In this regard the initiative remains vague and difficult to operationalize.

The Secretariat that runs the initiative is extremely active, engaging with a variety of different stakeholders, including governments, parliamentarians, academics, civil society, private sector and farmers organisations to ensure the initiative is implemented. The Land Policy Initiative plans to set up a continent-wide online land observatory to improve accessibility of information and documentation of land issues and to support countries implementing their own national online land observatories. In 2014, the Land Policy Initiative began to develop guiding principles for large-scale land based investments. The principles will be endorsed by African Heads of State in August 2014 at the African Union Summit.

UN, World Bank and OECD Initiatives

Principles for Responsible Agricultural Investment (PRAI): In 2009, shortly after the scale of investor interest in land became known, the World Bank, the Food and Agriculture Organisation (FAO), the International Fund for Agricultural Development (IFAD) and the UN Conference on Trade and Development (UNCTAD) launched the PRAI. The four agencies have since focused on implementation of the principles. They have produced some of the most compelling evidence of the positive and negative impacts of large-scale agricultural investments, both in terms of the historical evidence of what works and what does not (Tyler and Dixie, 2012), evidence from country case studies on foreign direct investment (FAO, 2013), and through field surveys of existing large-scale projects which assess economic, social and environmental impacts (Mirza, Speller, Dixie & Goodman, 2014).

The principles were not endorsed by any global body, but enjoy significant support from the United States, Japan, and other G8 and G20 countries. However, they are heavily criticised by some civil society groups for being a tool to "legitimize land-grabbing" and for creating an "illusion that land grabbing can proceed without disastrous consequences to peoples, communities, eco-systems and the climate" (La Via Campesina, FIAN, Land Action Network, & GRAIN, 2010).

OECD Policy Framework For Investment in Agriculture: The Organization for Economic Cooperation and Development (OECD) developed the framework to assist governments to mobilize private investment in agriculture. They propose a survey to help host countries attract private investment, focusing on ten policy areas. The framework has been used by Burkina Faso, Indonesia, Myanmar, and Tanzania to improve agricultural investment climates (OECD, 2012).

Principles for Responsible Contracts: Professor John Ruggie, former UN Special Representative on Business and Human Rights, drafted these general principles in 2011 to guide governments and investors on contract negotiations for all sectors. The principles reinforce an emerging trend in investment circles to properly consider links between investment and sustainable development. They take a holistic approach to integrating human rights considerations into investment contracts. A key issue was stabilization provisions—clauses in contracts that freeze domestic laws at the time the contract is signed. Ruggie's principles helped create consensus that broad stabilization provisions that include non-fiscal regulatory functions (such as labour, environment, health and safety issues) are unacceptable. Ruggie's principles maintained support for stabilization provisions for a narrow set of fiscal issues, to avoid arbitrary or discriminatory acts by the host government (Mann, 2011).

Large-scale land acquisitions and leases: a set of minimum principles and measures to address the human rights challenge: Professor Olivier de Schutter, UN Special Rapporteur on the Right to Food, was the first person to respond to these new land investments, in 2009. He laid out a human rights vision for how to promote investment in the agriculture sector. His approach and the ideas laid out in his principles have informed and influenced much of the thinking since.

Private Sector Initiatives

Principles for Responsible Investment in Farmland (Farmland Principles): These were developed by an existing international network of financial investors working to put six Principles for Responsible Investment into practice. The goal is to help make the global financial system more sustainable. The Farmland Principles were launched in 2011 to guide investors who interested in responsible farmland investment. They were developed by a group of investors who had invested in or were planning to invest in farmland. In 2012two of the signatories, Rabo Bank and TIAA-CREF, published reports on how they have implement the principles (Rabo Bank, 2012 and TIAA-CREF, 2012).

Other relevant private sector initiatives are not direct responses to increased land investments. These include the Equator Principles, roundtables on responsible soy, palm oil and biofuels, and the Better Sugar Initiative. These industry-driven standards, developed without input from States and little input from civil society, are an effective means of pressuring companies to improve their standards and publicly shame companies when they violate internationally accepted standards.

Financing Initiatives

To complement the diverse policy response, governments, donors and the private sector have created financing mechanisms to provide grants, loans and credit for investment in agriculture. The commitment is to support national rural development and food security strategies, like those that have been developed through the Comprehensive Africa Agriculture Development Programme (CAADP). The emphasis is on investing in small-scale farmers, improving their productivity, providing them with agricultural inputs such as seeds and fertilizers, and facilitating access to markets. There are three main financing initiatives.

First, the *New Alliance for Food Security and Nutrition*, launched by the United States. under G8 leadership in 2012, as a joint initiative between African leaders, the private sector, G8 and other donors. According to USAID, the initiative promises to lift 50 million people out of poverty by 2022, and leverage US$3.75 billion in private sector investment (including from Monsanto, Syngenta, Yara International, Cargill, DuPont and PepsiCo). It involves a series of donor pledges, policy reforms in African countries, and private sector financing commitments. But the initiative has been strongly criticised. Olivier de Schutter, the UN special rapporteur on the right to food, said governments had been making promises to investors “completely behind the screen”, with “no long-term view about the future of smallholder farmers” and without their participation (Guardian, 2014). Oxfam says policy reforms have not been driven by the needs of small-scale farmers but in order to create an enabling environment for the private sector (Oxfam, 2013). And African civil society groups have denounced the G8 initiative as “a new wave of colonialism” (Statement by civil society in Africa, 2013).

Second, *Grow Africa*, an initiative convened by the African Union Commission, the New Partnership for Africa’s Development (NEPAD) and the World Economic Forum, focused on public-private partnerships. In 2012 companies announced over US$3.5 billion of planned investment across the eight countries supported by Grow Africa (Grow Africa, 2013). Projects include the Beira Agricultural Growth Corridor (BAGC) in Mozambique, the Southern African Growth Corridor of Tanzania (SAGCOT) in Tanzania and the Bagré Growth Pole in Burkina Faso. The initiative is criticised by some civil society groups. GRAIN, for example, says the voices of farmers and peasants are excluded from closed-door consultations between African governments and multinational companies on the promotion of private investment (GRAIN, 2013).

Finally, the *Global Agriculture and Food Security Program (GAFSP)*, is the most popular financing initiative, but struggles for funding. The program was established by the G20 in 2010. The largest donor is the United States but it is also supported by Australia, the Bill and Melinda Gates Foundation, Canada, Ireland, Japan, Republic of Korea, Netherlands, Spain and the U.K. Dozens of food-insecure countries have benefited from the program, through loans, credit guarantees, and equity for private investments (gafspfund.org). According to the UN Sustainable Development Solutions Network, the GAFSP “is chronically short of funds because of the lack of G8 follow through. It remains the single best instrument available to scale up international support for smallholder farmers” (UNSDS, 2012). The World Bank manages it with a Steering Committee of relevant stakeholders.

Conclusion

The result of all these efforts is a rich and diverse body of information and guidance for governments, investors and communities on how to make investment yield better results for all. Importantly, the initiatives that have been launched since 2009 are mutually supportive. There is a broad consensus on what is needed to enhance the positive outcomes from investment and reduce the negative impacts. The challenge for the principles is that they are not specific enough to implement and are voluntary. The greatest challenge to the financing initiatives is their ability to genuinely support and invest in small-scale farmers. The task now is to translate the principles into specific reforms and turn them into concrete action on the ground. IISD is committed to making this happen. You can visit our website for more information on our activities.

Table 1: Global and Regional Initiatives on Investment in Farmland

What?	Whose initiative?	Key principles
Guiding Principles on Large-Scale Land Based Investments in Africa, 2014	African Union, UN Economic Commission for Africa and African Development Bank.	Guidelines for African Heads of State on large-scale land investment in the agriculture sector in Africa.
Principles for responsible agricultural investment in the context of national food security and nutrition (rai), 2014	To be endorsed by the Committee on World Food Security (CFS). The CFS is the top UN forum for reviewing and following up policies on world food security.	Principles to promote investments in agriculture that contribute to food security and nutrition and to support the progressive realization of the right to adequate food.
Policy Framework for Investment in Agriculture, 2013	Organisation for Economic Cooperation and Development (OECD)	Proposes questions in ten policy areas to help host countries evaluate and design policies to mobilize private investment in agriculture. The ten policy areas are: 1. Investment policy 2. Investment promotion and facilitation 3. Infrastructure development 4. Trade policy 5. Financial sector development 6. Human resources, research and innovation 7. Tax policy 8. Risk management 9. Responsible business conduct 10. Sustainable use of natural resources and environmental management
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, 2012	Committee on World Food Security (CFS).	Include the following goals: 1. Improve tenure governance by providing guidance and information on internationally accepted practices for tenure systems. 2. Contribute to the improvement and development of the policy, and legal and organizational frameworks regulating the range of tenure rights. 3. Enhance the transparency and improve the functioning of tenure systems. 4. Strengthen the capacities and operations of implementing agencies: courts; local governments; organizations of farmers and small-scale producers, fishers, forest users, indigenous peoples; the private sector; civil society; and academia.
Principles for Responsible Contracts, 2011	Professor John Ruggie, UN Special Representative of the Secretary General on Business and Human Rights	Ten principles for governments and investors when negotiating contracts: 1. The parties should be adequately prepared and have the capacity to address the human rights implications of projects during negotiations. 2. Responsibilities for the prevention and mitigation of human rights risks associated with the project should be clarified before the contract is finalized. 3. The laws, regulations and standards governing the project should facilitate the prevention, mitigation and remediation of any negative human rights impacts. 4. Stabilization clauses, if used, should be carefully drafted so that any protections for investors against future changes in law do not interfere with the State's efforts to meet its human rights obligations. 5. Where the contract envisages that investors will provide additional services beyond the scope of the project, this should be carried out in a manner compatible with the State's human rights obligations and the investor's human rights responsibilities. 6. Physical security for the project's facilities, installations or personnel should be provided in a manner consistent with human rights principles and standards. 7. The project should have an effective community engagement plan through its life cycle, starting at the earliest stages. 8. The State should be able to monitor the project's compliance with relevant standards to protect human rights while providing necessary assurances for business investors against arbitrary interference.

What?	Whose initiative?	Key principles
		9. Individuals and communities affected by project activities should have access to an effective non-judicial grievance mechanism. 10. The contract's terms should be disclosed, and the scope and duration of exceptions should be based on compelling justifications.
Principles for Responsible Investment in Farmland, 2011	Private sector initiative—pension and hedge funds	Five principles prepared by eight investment funds for the financial sector: 1. Promote environmental sustainability 2. Respect land and human rights 3. Respect existing land and resource rights 4. Uphold high business and ethical standards 5. Report on activities and progress
Framework and Guidelines on Land Policy In Africa, 2010	African Union, UN Economic Commission for Africa and African Development Bank.	Explains why the land sector has not played its primary role in the development process in Africa and the potential role it can play. It lays out key operational processes and measures to develop comprehensive land policies and to track progress.
Principles for Responsible Agricultural Investments, 2009	World Bank, UN Conference on Trade and Development (UNCTAD), FAO, International Fund for Agriculture Development (IFAD)	1. Existing rights to land and associated natural resources are recognized and respected. 2. Investments do not jeopardize food security, but rather strengthen it. 3. Processes for accessing land and other resources and then making associated investments are transparent and monitored, and ensure accountability by all stakeholders, within a proper business, legal and regulatory environment. 4. All those materially affected are consulted, and agreements from consultations are recorded and enforced. 5. Investors ensure that projects respect the rule of law, reflect industry best practice, are economically viable, and result in durable shared value. 6. Investments generate desirable social and distributional impacts and do not increase vulnerability. 7. Environmental impacts due to a project are quantified and measures are taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.
Large-scale land acquisitions and leases: a set of minimum principles and measures to address the human rights challenge, 2009	Professor Olivier de Schutter, UN Special Rapporteur on the Right to Food	A set of eleven core principles and measures for host States and investors: 1. Negotiations should be conducted in a fully transparent manner, and with the participation of local communities. 2. Any shifts in land use can only take place with the free, prior and informed consent of the local communities concerned. 3. States should adopt legislation protecting local communities, specifying the conditions according to which shifts in land use, or evictions, may take place. 4. The local population should benefit from the revenues generated by the investment agreement. 5. Host States and investors should establish and promote farming systems that are sufficiently labour-intensive to contribute to employment creation. 6. Host States and investors should ensure that agricultural production does not accelerate climate change, soil depletion, or exhaust freshwater reserves. 7. Obligations of the investor should be defined in clear terms, and be enforceable. 8. Investment agreements with net food-importing countries should include a clause for a certain minimum percentage of crops to be sold on local markets. 9. Impact assessments should be conducted prior to the completion of the negotiations. 10. States shall consult and cooperate in good faith with indigenous peoples concerned. 11. Waged agricultural workers should be provided with adequate protection, consistent with the applicable International Labour Organisation (ILO) instruments.

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