



## Seminar -The 21st Century Land Rush: colonial style land-grabbing or a new development opportunity?

### Background

The focus of the seminar was to explore the increasing interest in land acquisition in Africa from the different perspectives of the major stakeholders. It took place at Sida on the 10<sup>th</sup> of November, 2010.

### Perspective 1: Corporate Investment

The first perspective was that of the Corporate Investor. This is the stakeholder group which is the most proactive and pushes current developments at a speed and in such a way that the phrase “land-grabbing” has become a common way to refer to current trends.

Many who are vocal in the current debate consider corporate investors to be problematic, in part because they are usually foreign and in spite of the fact that there is widespread agreement that more investment in agriculture is a high priority need for the majority of African countries.

The first presenter was **Pär Oscarsson**, an Agricultural Engineer who runs an organic farm in Tierp and has worked for many years as a Private Sector and Investment consultant in Africa. He was formerly in charge of SEKAB’s agricultural land acquisition program in Rufiji, Tanzania and is currently an Agri-Business advisor in a Finnida project in southern Tanzania.

His presentation (available on the SIANI website) was entitled “**Future Tanzania Vigorous Trade Partner or Dependent Museum?**”. He began with a discussion of the motivations for entrepreneurs to invest in land: they see an opportunity to turn the challenge of climate change or food shortage into an opportunity to develop a profitable business. But they often confront many challenges that cannot be solved by their own responsibility such as:

- Poor infrastructure
- Lack of access to finance
- Difficulties securing land
- Limited market access and economies of scale
- Taxes and export barriers

An Investor wants to secure access to land in order to control a major part of the production and thereby reduce risk. Finance, market access and economy of scale are other areas where an investor will be looking for starting with a large investment in order to reduce the above-mentioned challenges.

The land process for an Investor in Tanzania is more complex than it seems. Pär explained that Tanzania has a system of leasehold where one can be given a user right for up to 99 years, making it a very strong legal ownership. There are three types of land and only the first – General land – can be given as a Title or leasehold.

When an investor wants to get access to land, the easiest is when the land is already General Land – in this case it is almost like any land deal – it can be bought and the only difference from other countries is that the land right will be granted through TIC as a foreign Investor not can own land in Tanzania.

Also Investors have to pass basic steps in the land process and if things run smoothly they will take at least two years: First step is for the Investor to be approved by the Central Government, TIC (Tanzania Investment Center) and other national bodies. Second step is to conduct meetings in the village to inform, discuss and later demarcate land and get approval. And the third step is then more of a formal process where the Central Government representatives control that the land transfer proposed fits into the district plan, is not made up of reserved lands, etc.

It is worth emphasizing that this process is participatory and democratic and involves the whole population of the village. The process includes discussions and information to the village in a time span of at least a year.

Pär reviewed a number of technical challenges and limitations on the Investments; one major challenge is that for most parts of Tanzania there are no updated maps or satellite images. For investments in lands one also needs access to good data about climate, soil types, water availability, etc. This data is also in most cases very limited or non-existent.

*“There are a number of administrative challenges as well. Most of these are related to a poorly motivated staff and a big insecurity on how to move forward with investments. The politicians of Tanzania do not present a united picture either. Some are calling for more investment while some want a total ban for foreigners to get any land at all despite the development vision as mentioned before. This is further compounded when we get a “food or energy” debate in the west. “*

In conclusion land investment for agricultural matters is very new process to Tanzania and would require more support – even at the top level - to become faster and more efficient.

Pär referred to a playing field (for land acquisitions) where there are few players but many referees.

## **Perspective 2: Government**

While private sector or corporate investors are pushing the investments in lands, governments are also interested in attracting investment in agriculture. The government is viewed as an important player by investors and is expected to make the processes for acquiring land clear, understandable and socially acceptable to investors and communities alike.

Presenting a government perspective (with examples from Mozambique) was the former Vice Minister of Agriculture and Head of the IDR (Instituto de Desenvolvimento Rural), **João Carillho**. His presentation, available on the SIANI website, was entitled: **The Institutional Setting for Investment in Agricultural Land in Mozambique**.

The Government wants to promote commercial agriculture, attracting investors but at the same time it understands the need to protect rights of communities. The primary way of protecting communities is to strengthen their negotiation capacity and ensure that negotiations are carried out in a transparent and democratic manner. This sounds simple, but in reality does not happen for a number of reasons.

One of the most obvious reasons is that decentralization of centralized state power, i.e. the ability of communities to make decisions over resources, has been carried out without adequate means and agreements.

The process of consultation is shaped by the information that is given and when the process of consultation for delimitation starts that means in some cases that delimitation becomes a vehicle for the power structure, becoming not only a problem for communities and investors but also in terms of the number of laws needed to regulate a process that is supposed to be easy and transparent. Delimitation of rural areas for arable land often has significant political and administrative implications.

The laws of ownership and delimitation of the areas have been processed, but rural small holders still have very different ways of describing the tenure systems in which they live. In terms of the land law, which is the framework within which

land acquisition is carried out, this appears to be theoretically adequate for most formal transfers of agricultural land. However, in reality, most small farmers do not have a formal paper for the land they farm and the concept of “ownership” is uncommon in poorer villages. Ownership has historically been viewed as user’s rights and thus many small farmers regard what they use as theirs, irrespective of land laws or title deeds. It can even be the expectation of the community that an outside investor begin *using* the land before he seeks formal title. (This is not acceptable to most investors).

Governments need investment in the land inventory system and zoning. However, before these can be effective, they also need some kind of registration system, in where customary rights can be written and structured so to reflect the farmer’s conditionality for areas for investment or cultivation. There must exist an incentive to national integration of communities (central cadastre, formal/informal interface, etc.) in favor of individual registration of rights

In the case of NGOs and Donors, some see land and natural resources as a leverage for communities to enter into partnerships, while others oppose attracting investors (either domestic or foreign) seeing them as a capitalist or neo-corporate-colonialist threat, engendering landlessness.

Balancing this potential threat is the fact that those who invest in large-scale commercial agriculture know that they need the acceptance of local/neighborhood communities to secure land use rights and be able to operate successfully. They are usually open to participate in community consultation. There are cases in where some investors are opposed to performing typically state responsibilities (such as constructing social and economic infrastructure) which are typically voiced as demands by the community during consultations and negotiations.

General conclusions for the Mozambican context included the following:

- No need to push for deep law revision
  - Some spot revision: review functions of DNTF
  - Balance technological choices with existing capacity
- Strong need to push land into top priority issues
  - Focus on reducing inequality
- More collaboration among interested parties
  - Strengthening their capacity (according to the technological choice)
  - Joint missions (adequately funded and with significant impact – move away from pilot experiments triggered by investments or conflicts)
- Strengthen a recording of the existing customary rules and compare with formal/law systems by training cadastral officers at sub-district level.

### **Perspective 3: Communities**

One of the most important and least heard voices in the controversy over large-scale land acquisitions is that of the small-holder farmer and or resident of a rural community. The discussion at the seminar was greatly enhanced by the presence of **Eslony Hatimbula**, regional representative (Monze) from the **Zambian Land Alliance**, an NGO that supports local communities and vulnerable individuals in land disputes. His presentation, entitled “**Land Grabbing in Zambia**” is available on the SIANI website.

After presenting a history of land legislation and land tenure frameworks in Zambia, it was clear that the legal situation in Zambia differs from the Tanzanian and Mozambican contexts in that there is a lack of legality and transparency there which causes problems for small holders involved in tenure disputes, whether or not these be with large-scale foreign investors or the local elite.

Many of the problems which emerge within the land tenure system have to do with the political power structures and the role of the traditional leaders. This is similar for the other two countries where “modern” and “traditional” tenure systems co-exist. Mr. Hatimbula pointed to the need to strengthen the accountability of the local leaders to the population, something that has been problematic in decentralization processes in many countries.

Mr. Hatimbula presented photographs and case histories of actual cases of land grabbing, to illustrate what is currently going on. He ended his presentation with several recommendations:

- Enable customary rights to be written down and incorporated into formal land legislation
- Conduct round table meetings with government and Traditional Leaders as a lasting solution to land grabs
- Empower communities to know their land rights
- Lobby government to pro-poor land policy to protect the interests of marginalised groups

### **Perspective 4: Research and Analysis**

After hearing the presentations of the three major stakeholders in the land acquisition process, **Lorenzo Cotula** from IIED presented the results of international research and analysis of the trends and drivers in land investment. His presentation, entitled “**Land deals in Africa: Trends, drivers, impacts and responses**” is available on the SIANI website.

Land Investments are on the increase in Africa and can bring many opportunities

(employment, investment in infrastructures, increases in agricultural productivity) but can also cause great harm if local people are excluded from decisions about allocating land and if their land rights are not protected.

Dr. Cotula explained that while land-based investment has been rising over the past five years and foreign investment dominates the picture, domestic investors are also playing a big role in land acquisitions. The biggest concerns are about food and energy security, but other factors such as business opportunities and demand for agricultural commodities are receiving attention.

While a great deal of land is being acquired, very little is happening with it in productive terms and the potential benefits of large-scale investments have yet to be realized.

Given the difficulties in acquiring land, confusion caused by parallel and overlapping tenure systems and the tendency not to do much with large land tracts once they are acquired, Dr. Cotula made a number of recommendations as to how investors can invest in agricultural production without actually acquiring land. Promoting contract farming might be one way to balance off the needs for investment with the impetus for this coming from the private sector.

### **Perspective 5: Donors**

To round off the presentations, a representative from Sida was asked to give a brief overview of the donor perspective and possible constructive roles for the donor to play in land acquisition processes. **Lasse Krantz**, from Sida's policy division, made a brief reference to discussions held on the previous day, discussing a mapping study of Sida's involvement in land-related programs during the past ten years.

This mapping study indicated that, while Sida has been involved in supporting a number of interesting and successful initiatives in land-related issues, there is no systematic support for land issues within Sida, no "institutional home". The successes which have been achieved have come as a direct or indirect result of programs with other purposes, or general support to organizations who work with land-related issues.

Mr. Krantz concluded that, based on experience thus far, the donor can support organizations which provide support to community rights and strengthen local knowledge to strengthen the community position in land tenure negotiations.

### **Panel Discussion**

The Panel was split rather evenly on the question of whether or not African countries have sufficient mechanisms to protect local land rights and land-based

livelihoods.

However, while there were differences of opinion on the adequacy of the formal laws and legal procedures in place; there was consensus that a number of factors, including a lack of transparency and insecure local land rights, inaccessible registration procedures, and vaguely defined productive use requirements, too often undermine the position of local people.

Panelists agreed that Investors may bring capital, technology, know-how, infrastructure and market access, and have the potential to play an important role in catalyzing economic development in rural areas. (There were differences of opinion about whether investors SHOULD bring infrastructure, but the potential is there).

To make the transition from potential to actual economic development it was felt that the community should be more active and better represented in negotiations.

Overall, lack of transparency is a major challenge in many negotiations, with little public access to information and decision-making. This includes many government-to-government negotiations, which may be expected to be subject to greater public scrutiny. Lack of transparency and contract negotiations create a ground for corruption and deals that do not maximize the public interest.

Adding to the general recommendations, local governments must create incentives to promote inclusive business models that integrate rural small-holders and family farms, and ensure respect of commitments by the investors. The national government is expected to provide a framework for investor's activity which is constant over time and clearly understood by all parties.

Today the small and medium-scale investors are at a disadvantage, they are not major players on the national level and do not have the financial or political muscle to deal with situations where the rules of the game are unclear or changing. With a secure national framework, the interests of local villages would be easier to incorporate into local negotiations.

One imbalance that was highlighted was the role of communities where customary rights are strong and most land use laws or regulations are implemented by local chiefs. Sometimes these chiefs have more power than the local or national government over the disposition of land, but they are not a strong negotiating party vis a vis a foreign investor. Just because a negotiation has taken place at the local level, does not mean it is automatically democratic or representative of what the local community wants.

As interest in land investment grows, efforts must be strengthened in many countries to secure local land rights, including customary rights, using collective or local and formal land registration.