Making Agricultural Investment Work for Africa: A parliamentarian’s response to the land rush

EAST AFRICA WORKSHOP

Conference Report

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Making Agricultural Investment Work for Africa: A Parliamentarian’s Response to the Land Rush
East Africa Workshop

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Foreword

The buying or leasing of large tracts of land in developing countries has grown at an unprecedented rate following the 2007–2008 world food price crisis. Initially hailed by investors and some developing countries as a new pathway toward agricultural development, investment in land has recently been criticized by a number of civil society, governmental, and multinational actors who argue that it has had negative impacts on local communities. The lack of transparency surrounding the land deals and the sheer size of lands allocated to foreign investors are alarming. Communities fear the loss of their communal and familial customary-based land rights.

Many African countries remain highly dependent on agriculture and suffer from food insecurity, and so governments are seeing the rush for land in their agricultural sector as an opportunity. Through attractive land deals, they hope to create rural infrastructure, boost agricultural productivity, create employment and improve the livelihoods of the rural poor.

The Pan African Parliament, through its Permanent Committee on Agriculture, Rural Economy, Natural Resources and Environment, decided in 2011 to organize a series of campaigns to raise awareness among African parliamentarians by reaching out to regional and national parliaments across Africa. This process is in itself a great endeavour. Indeed, by its inclusive process, the seminar has facilitated a dialogue between members of parliament, civil society, international organizations and research institutions. The process has promoted bilateral and multilateral cooperation among parliamentarians in Africa and Europe and contributed to bringing the Pan African Parliament closer to local realities and challenges on the ground.

The current workshop was held in Kigali and co-organized with the East African Legislative Assembly and the national parliament of Rwanda. The goal was to better understand the challenges and responses for the East Africa Community. There was consensus among participants around the importance of working toward a more sustainable agriculture development through foreign and local investment without marginalizing the land rights of African communities.

Any initiative should take into account and work towards implementing the African Union Framework and Guidelines on Land Policy in Africa (LPI), the 2003 African Union Maputo Declaration, the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests, among others. We hope that these activities will bring concrete benefits to the people of Africa, particularly by developing rural economies and strengthening livelihoods.
1. Introduction

At the end of April 2013, over 90 participants from across Africa met in Kigali, Rwanda, to discuss how to make agricultural investment work for Africa. The seminar was hosted by the Pan African Parliament (PAP), East African Legislative Assembly (EALA), and national parliament of Rwanda. Regional parliaments from CEMAC and ECOWAS sent delegations. It was support by the African Union, European Parliamentarians With Africa (AWEPA), Oxfam and the International Institute for Sustainable Development (IISD).

The seminar was notable because of the high-level participation, including the Hon. Juliana Kantengwa, 4th Vice-President of the PAP; Rt. Hon. Margaret N. Zziwa, Speaker of the EALA; Dr. Agnes Kalibata, Rwandan Minister of Agriculture and Animal Resources; Hon. Rose Mukantabana, Speaker of the Chamber of Deputies of Rwanda; and Hon. Vincent Mavoungou, President of CEMAC Parliament.

Fifteen experts on agriculture, food security, land, water and investment presented findings from current research. They came from civil society, private sector and international organizations, mostly from East Africa. They provided a mix of hard data and community perspectives on the issue of foreign investment in agriculture.

The seminar is the third of its kind across Africa over the past two years and will continue through 2015. The Pan African Parliament initiated the project as a response of African Parliamentarians to the frenetic pace of speculation and investment in African farmland and the impact of this investment on rural development on the continent. An advisory group consists of IISD, African Union, NEPAD/CAADP, LPI, AWEPA, GIZ, Oxfam International, International Land Coalition (ILC), University of Pretoria, CIRAD, Africa Forum and PLAAS support the initiative. For further information, including speakers’ presentations, please see: http://www.iisd.org/investment/research/ag_workshops_africa.aspx

2. Emerging Themes: The plenary debates

Participants were seized with the urgency of the issues presented during the two-day conference and generally expressed outrage at the current state of affairs, including their own lack of information. They were enthusiastic to find immediate solutions to reverse current trends and/or block any future land deals pending a comprehensive revision and establishment of mutually beneficial criteria for foreign investment. The following issues were of key concern.

2.1 Gaps in Knowledge and Access to Information

The lack of information accessible to parliamentarians was a source of frustration for all present. It is considered one of the single largest obstacles for parliamentarians to take action and/or
protect their electorates. For example, some parliamentarians said that bilateral investment treaties and other investment agreements should be discussed in parliament before they are presented for ratification. Representatives from the African Union and other international organizations agreed to better communicate their activities and available resources to parliamentarians and other branches of national government in order to reduce knowledge gaps. Parliamentarians should be more active in global forums and platforms to ensure information flows.

Many participants mentioned that local communities are also unaware of their rights, and thus are easily persuaded by investors to give away their natural resources. Participants were particularly concerned by testimony from civil society groups in Uganda and Tanzania and local pastoralist communities in Kenya. It is the role of civil society, as well as national governments, to provide reliable, accessible information in local languages to communities that may be victims of land grabs. Many are unaware of the market value of their land and are willing to sell it for below-market rates.

### 2.2 Ownership and Voice

Across the board, the issue of ownership—of land, government policies and decisions that affect people—was raised on numerous occasions. There was concern about the relatively weak response by parliamentarians and governments with respect to large-scale land-based investments in East African countries. One participant said: “As leaders, it is our role to determine which land is open for FDI, how much of it, and what are the best—mutually beneficial—uses for it.” There was also a strong feeling that existing investment policies should be revisited to ensure they benefit local communities as well as investors, and that they do not jeopardize gains in social development or deplete natural resources. Another participant said: “Financial resources for investment can be created within our own countries. How can we continue to lament colonialism when we do not react?”

Land-tenure regimes in the region are notoriously weak, and this can be detrimental—if not catastrophic—for smallholder farmers confronted with an investor who just signed a legal contract with the government. Parliamentarians should look at the sources of weakness in land-tenure systems in their country with a view to strengthening them, as well as protecting the rights of vulnerable groups, in particular women.

Governments, including regional parliamentary bodies, should develop and implement a strategy to respond to the land rush in their countries. NGOs and other independent international and national organizations should be working in line with a proscribed policy and strategy, and should consider national governments as allies, not constraints, in accomplishing their goals and objectives.
Similarly, international organizations like the World Bank also have a responsibility, as many land deals are financed through them. Some participants suggested calling for a freeze on World Bank-financed, land-based investments, a campaign being led by Oxfam.

### 2.3 Long-Term Development Goals vs. Short-Term Needs

Participants saw investment as an issue that will affect the ability of future generations to live and prosper in their native countries. The impulse to respond to immediate economic needs should be balanced with the long-term implications of current land deals. One participant said: “Our eagerness for FDI should not blind our long-term view to plan for future generations. At the end of the day, the entire continent will be sold to foreigners and our children will have no voice. They will be living under absentee landlords. We should look at the future implications of our decisions, and the impact on tomorrow’s generation [when crafting a response].”

### 2.4 Need for Consensus or a Common Approach

Participants felt it would be difficult to make progress if parliamentarians only work among themselves. NGOs, elected officials and other stakeholders should craft a common response strategy. They called for a harmonization of terminology, shared analysis of the problem, and common recommendations for action in East Africa.

Participants also support the creation of model laws and model investment agreements to serve as guidance for countries within the region. If laws and criteria for FDI in agriculture were harmonized, East African countries would be in a better negotiating position vis-à-vis foreign investors.

### 2.5 Being Proactive

Participants felt that governments in the region should do a better job of assessing their land and water resources to determine the type of investment needed to achieve national development goals. Investment can then be directed towards nationally defined priorities. Contracts with investors should be bound by national laws that define what investors can and cannot do, where they can invest/exploit, and what protections they are granted.

Parliamentarians should seek out and attract responsible and equitable foreign investment and ensure land is used to its full potential. This includes ensuring an equitable distribution of investment returns and mutual benefits. It requires better parliamentary oversight, robust legislative frameworks, consistent monitoring, and transparent communication and information dissemination on activities and resources.

There was consensus to put the Maputo targets and agricultural development firmly on the agenda. One participant said: “At the end of the day, we should be able to contribute to our own
development.” Another participant said: “those who do not comply with Maputo . . . should be called out.”

A few participants called for a moratorium on investments until parliamentarians are better equipped to respond. This was a topic of heated debate where some participants felt that such action should not be taken hastily, while others felt that too much is at stake to risk any additional deals being signed without having proper legislative frameworks in place. Some participants argued that enough information is available to begin work on such legislation and parliamentarians should be confident in their ability to respond immediately to this problem.


There were four presentations providing practical, ongoing examples of inclusive business models and best practices in agriculture policy reform in East Africa. In these cases, the government was successful in attracting private foreign investors while ensuring that local farmers are employed by the investment scheme, thereby protecting and enhancing their livelihoods, creating equitable growth and social and economic development for the communities involved. In addition, the presenters highlighted the critical role of civil society in empowering local communities.

3.1 Tanzania: The role of civil society

Tanzania has a robust legislative framework to protect smallholder farmers. However, the government has also launched an initiative with the private sector to promote large-scale industrial farming, with potentially devastating results for smallholder farmers. Civil society groups have responded with a comprehensive sensitization and community-led monitoring campaign. They are engaging with local and national government structures to support village-level land-use plans; build awareness of land rights; build the capacity of community leaders and farmers to defend themselves against land grabs; and establish an information centre as well as an SMS-based monitoring system. In this way, villagers can send information on problems they are experiencing via free text message to a switchboard which is in turn responsible for researching the issue and working directly with the community to find legally-based solutions.

3.2 Uganda: Vegetable Oils Development Project

The inclusive business model presented here was successful because it incorporated the following basic principles:

- Multiple financiers: The project is funded by the International Fund for Agricultural Development (IFAD), the Government of Uganda, the private sector (investor) and farmers themselves.
• Government played an active role in setting up the investment.
  • The project is based on a crop with a high market value (palm oil is the most imported agricultural product in Uganda).
  • The opportunity is only open to investors who have a vested interest in protecting the rights of farmers and the environment.
  • Ownership: Farmers own a 10 per cent share of the investment, and keep control of their land: 3,500 hectares out of 10,000 total hectares is currently under exploitation for the project.
  • Representation: The farmers hold two positions on the project’s board of directors; a third of the community-leadership positions are filled by women;
  • Access to credit: Farmers are able to access attractive loan schemes set up by the project. They also have access to technical know-how, improved seedlings and an improved road network.
  • Equitable risk sharing: The private sector absorbs the market risk by agreeing to purchase the entire production; government absorbs the risk of crop failure due to natural disasters.

3.3 Liberia: Extractive Industries Transparency Initiative Act
In 2009, Liberia introduced the Liberia Extractive Industry Transparency Initiative Act (the LEITI Act), which requires all payments by individual companies and operating contracts and licenses to be published and reviewed on the LEITI website. It is the only country in Africa, and possibly in the world, to enact legislation requiring all foreign investment contracts in all natural resource sectors to be made public. It serves as an important model for legislation on transparency in investment that can help improve the oversight and monitoring efforts of parliamentarians.

3.4 Rwanda: National Agriculture Development Strategy
The Rwandan Minister of Agriculture and Animal Resources, Agnes Kalibata, presented the situation of agriculture in Rwanda. She presented Rwanda’s strategy for increasing public and private investment through improvements in crop and livestock production, irrigation, post-harvest facilities, research & development and promoting exports and high-value crops.

To read the presentations see:

4. Working Group Outcomes: The way forward
At the end of the first day of the conference, participants were divided into three working groups to develop a plan of action. They committed to work on the following issues:
• Support the implementation of the Nairobi Action Plan of the Land Policy Initiative. This includes: Approving the report on large-scale land-based investments; organizing public hearings; developing partnerships with key African institutions; drafting legislation on large-scale land investments; and monitoring and evaluation of investment projects.

• Improve laws on transparency. Explore the possibility for a model law on transparency for investment in land. The first step is to prepare an overview of existing transparency laws in Africa and then propose a draft that builds on current policy and practice.

• Improve laws on investment, land, agriculture and natural resources. Identify gaps in existing laws and propose new laws; strengthen laws for vulnerable groups (women, pastoralists, etc.); and collect examples of good practices and existing domestic laws, particularly on acquisition and distribution of arable land. Parliamentarians also identified a need to explore tools to support communities around the issues of relocation and compensation for lost land.

• Develop a model investment contract. Review existing investment contracts for agriculture in Africa and develop a model contract that can be adopted by individual countries or regional economic organizations.

• Conduct environmental and social impact assessments. There was a call for preliminary environmental and social impact assessments before projects are approved in order to highlight key issues that may arise.

• Consider alternative business models for agriculture. Each business model is context-specific, but some guiding principles for good business models comprise: inclusion of communities, mitigation of risk for the investor, alignment with national development objectives, technology transfer, and the support of shared ownership of productive resources between investors and the community. Parliamentarians can play an oversight role, but more information is needed on good practices, current trends and development needs.

• Build capacity of parliamentarians. Partner organizations should help build the capacity of the parliamentarians to understand the key issues, and to negotiate and engage in the investment process. Breakout groups discussed the topics below. The embedded links are the outcomes of these discussions.

Comments from the Plenary on Working Group Outcomes:

• The Land Policy Initiative (LPI) is working with ECOWAS to build convergence among 14 countries in the region with respect to introducing a framework to harmonize land policies. Participants were interested in the initiative and felt it may serve as an example for a regional approach to land policy focused on integration and cooperation.

• Participants highlighted the need to emphasize the importance of local investors. Rwanda’s success is based on the recognition of partners and partnership with civil society and other stakeholders. In addition, the government of Rwanda addressed the issue of land grabs.
directly. Although not a huge issue in Rwanda, the government was able to redistribute the land where it did exist, with farmers taking centre stage.

For further details see http://www.iisd.org/investment/research/ag_workshops_africa.aspx:
- Working Group 1: Model Laws on Transparency and Investment Contracts.

5. Declaration And Conclusions

At the end of the seminar, the parliamentarians issued a declaration to reinforce their plan of action (see Annex I below). They reiterated the points above on transparency, strengthening existing laws and adopting new laws on all aspects of investment in land, water and other natural resources. They emphasized the need for attracting investment that contributes to poverty reduction, food security, increased employment, infrastructure, technology transfer and protection of the environment. They requested governments implement legally binding and enforceable obligations on investors to ensure that investment contributes to the local economy and well-being of society. They also called for consultations with local communities and other affected people prior to concluding land deals and based on free, prior and informed consent. They advocated the creation of a network of parliamentarians on responsible governance of investment and land.
Annex I: FINAL DECLARATION

We, parliamentarians from the Pan-African Parliament, East African Legislative Assembly, ECOWAS parliament, CEMAC parliament and the parliament of Rwanda, having met in Kigali, Rwanda, on 26–27 April 2013, on the invitation of the Pan-African Parliament and East African Legislative Assembly, to attend the Parliamentary Workshop on “Making Agricultural Investment Work for Africa: A Parliamentarian’s response to the land rush”;

Conscious of the need to invest in the development of Africa, in particular in the agricultural sector and the rural areas;

Noting with great concern the recent increase in land grabs as well as the impact of direct foreign and local investments on land, water resources and related natural resources;

Concerned about the negative impact of land grabbing on human rights, in particular on the vulnerable populations and women;

Preoccupied with the guarantee of access to land for all users in order to improve agricultural production and the living conditions of the populations;

Reaffirming our commitment in favour of sustainable development and determined to uphold human dignity for all;

Cognisant of the importance of attaining the Millennium Development Goals (MDGs) and acknowledging that eradication of poverty, hunger and malnutrition, and protection of natural resources is essential for sustainable development;

Recognizing the importance of defending and promoting the principles of equality and equity among our peoples;


Acknowledging the importance of the Maputo Declaration of 2003 on Agriculture and Food Security in Africa, in particular the commitment to devote 10% of the national budget to the implementation of agricultural and rural development policies;

Acknowledging that AU and partners have put in place the GrowAfrica initiative to promote and guide private investments in agriculture in member-States;

We do hereby request that:

1. Member States of the African Union, signatories of the 2003 Maputo Declaration on Agriculture and food security in Africa, and the AU Declaration on Land Issues and Challenges in Africa, honour their commitments;
2. Member States improve transparency on the process of acquiring and distributing arable land;
3. Member States of the African Union to develop and implement land use master plan to guide investments;
4. Member States initiate, review and implement legislation on direct foreign and local investments relating to land, water and other natural resources, which guarantees the benefits of the investment to the African peoples and for sustainable development. This implies inter alia:

   a. The legally binding and enforceable obligation for the investor to contribute to the local economy and the well-being of society;
   b. Poverty reduction, the improvement of food security, protection of the environment;
   c. The increase in employment in both quantitative and qualitative levels;
   d. Capacity-building, improvement of infrastructure and technology transfer;
   e. Prior consultations with local communities and people affected by investment projects and approval of
investment deals as a result of free, prior and informed consent from the communities concerned;

5. Member States to create awareness on existing laws on land investments and on the value of lands;
6. Governments to facilitate the access to contracts on land investments by publishing them in the official gazette and tabling them in parliament.

We commit to:

1. Work towards transparency of all investment contracts and treaties, whether by local or foreign investors, by making them available to the public in a timely manner;
2. Mobilise public opinion and governments on the question of land grabs and raise awareness among citizens through public campaigns and special parliamentary debates;
3. Strengthen existing laws at the national and regional levels and harmonise them with the Framework and Guidelines on Land Policy and other international good practices;
4. Adopt new laws that are appropriate and adapted to all aspects of investment in agricultural land, water and related natural resources;
5. Advocate at national and international level, with a view to mobilising resources to promote agriculture in Africa, and at each National Parliament level, during the study and voting of the budget in order to secure the implementation of the 2003 Maputo Declaration;
7. Establish a joint Committee of Parliamentarians and Development Partners to monitor implementation of investment policies and laws on lands;
8. Call on the African Union and all other African regional institutions and organisations to support the implementation of this programme of making investments in agriculture work for Africa;
9. Make this declaration public by publishing it in the agenda of our national and regional parliaments.

Kigali, 27 April 2013