“Land Grabbing” in Developing Countries: Foreign Investors, Regulation and Codes of Conduct

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Paper presented at the
International Conference on

Global Land Grabbing

6-8 April 2011

Organised by the Land Deals Politics Initiative (LDPI) in collaboration with the Journal of Peasant Studies and hosted by the Future Agricultures Consortium at the Institute of Development Studies, University of Sussex

International Conference on Global Land Grabbing. Institute of Development Studies, University of Sussex 6-8 April 2011

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Abstract

The paper discusses the recent developments of FDI in land in developing countries. Three issues are analyzed: the first is the available evidence on the so called "land grab" and the associated question of the role of control on land in the internationalisation of developing countries agricultural production. The focus is on multinational enterprises in agriculture, although analysis of shifting FDI strategies requires value chain considerations. The second issue is the problem of the risks of such large land deals in the context of complex and insecure land rights. The third is the possible role of corporate social responsibility and of a model code of conduct promoted by international organisations in mitigating such risks.

JEL Codes: Q15 - Land Ownership and Tenure; F23 - Multinational Firms; International Business M14 - Corporate Culture; Social Responsibility O19 - International Linkages to Development; Role of International Organizations

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Introduction

The last few years have seen a surge of interest in foreign acquisitions of land for agricultural use in developing countries, which led to fears of "land grabbing", especially because of the generally large size of the announced or realised deals and the lack of transparency and incompleteness of contracts.

The paper focuses on three issues. First it reviews the recent trends of FDI in land and its determinants, in the framework of the historical evolution of the modalities of land control by foreign investors in developing countries agriculture. Second, it identifies the possible risks of such large land deals, essentially arising from the fact that the current wave of FDI is taking place in contexts where many people have only insecure land rights, which makes them vulnerable to dispossession. Third, it discusses the possible role of corporate social responsibility and of a model code of conduct, promoted by international organisations, in mitigating such risks.

1. The historical record: a shifting balance of the costs and benefits of land internalisation

The early involvement of multinational enterprises (MNEs or TNCs)[1] in developing countries agriculture mostly included the direct control of vast areas of land, vertical integration and production largely for export. The role of the benefits of the internalisation of the land asset, such as to avoid search and negotiating costs, to control supplies and to protect the quality of intermediate products, is illustrated by important examples in the early history of MNEs activity, e.g. the evolution of United Fruit's foreign operations[2]. The benefit of secure, stable supply of controlled quality explains the early choice of resource-seeking British investors such as Dunlop to control their primary source of production rather than rely on contractual agreements, and other major investments in developing countries such as Cadbury's in cocoa plantations, Unilever in vegetable oil plantations and so on (Dunning and Lundan, 2008).

However after the Second World War multinational ownership of land in the traditional developing country "enclave" plantation agriculture - owned by foreign capital and producing almost exclusively for export - decreased. In the sugar industry expropriation, the threat of expropriation and government pressure were crucial factors in inducing progressive divestment of land holdings and parallel concentration of the activity of multinationals in marketing, shipping, managerial, financial and technical services to developing countries producers[3]. These new forms of investment, initially undertaken as a defensive reaction, reportedly came to be seen as a first best strategic option. In the banana plantations of Latin America conflicts with the local labour force, plus eventually

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[1] Throughout this paper the terms MNEs and transnational corporations (TNCs) will be used as equivalent.

[2] United fruit Company initially (in the mid nineteenth century) bought 65% of its bananas on the open market and through contracts, but it soon decided to purchase additional land with a view to producing four fifths of the fruit it marketed, prompted by the need to improve quality consistency and by the failure of local growers to respect contracts.

[3] Like in the history of the involvement of two major sugar companies, Tate and Lyle and Booker, in the Latin American sugar industry.

land invasion and land expropriations led to much greater use of contract production, (which did eventually imply lower labour costs). Similar transformations took place in the tea industry in Kenya and in the international tobacco industry.

More in general, as part of the decolonization process, governments tended to assume control over their natural resources, including land[4]; foreign ownership of land became increasingly restrictive across most of the developing world, and TNCs increasingly assured the control of agricultural production through non-equity forms (Oman et al. 1989 ; Rama and Wilkinson, 2008; Unctad, 2009)[5].

In summary, in the history of the involvement of multinational enterprises in agriculture there has been a pattern of shift from direct, equity participation through foreign direct investment in land to direct, non-equity participation through contract farming, or indirect, non-equity participation through standards and other information-intensive relationships i.e. a shift from land internalisation to value chain coordination, which parallels the shift away from traditional FDI in many other sectors (Altenburg, 2006). FDI and contract farming are at present the basic exemplars respectively, of equity and non-equity forms of MNEs participation in developing country agriculture (UNCTAD, 2009).

The aggregate FDI flows data and the merger and acquisition (M&A) data[6] of figure 1 and the stock data of table 1 show clearly that foreign investments in food processing dominate foreign investments in agriculture, i.e. TNCs participation is concentrated in the non primary sector of the value chain.

[4] During 1960–1976, agriculture was second, after banking and insurance, among industries affected by a wave of nationalizations of foreign enterprises in developing countries.

[5] TNCs' involvement in agriculture is the focus of the 2009 World Investment Report (UNCTAD, 2009) covering not only TNCs purely or primarily in agriculture such as plantation companies, but also the much larger set of TNCs that participate to a degree in any part of the value chain. Participation can be "equity", if it entails foreign direct investment through the ownership of farms; and non-equity, including a variety of modes, such as management contracts (to run farms on behalf of owners) or contract farming.

[6]FDI (equity investment, intra-company loans and reinvested earnings) flows refer to agriculture, forestry, fishing and hunting; food, beverages and tobacco. M&A data refer to agricultural production and food processing only, as detailed industry data are available.

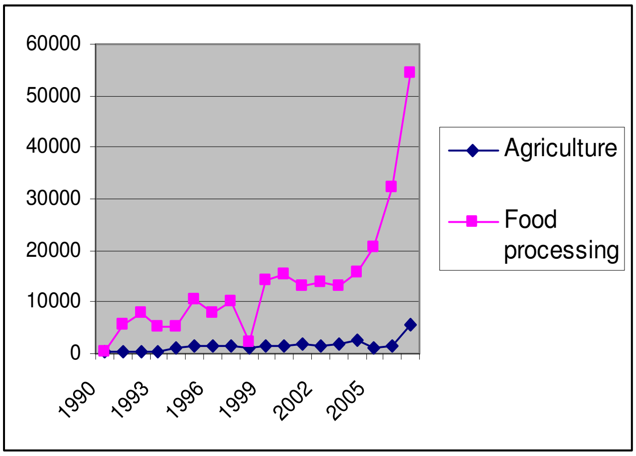

Figure 1a FDI Inflows (million $)

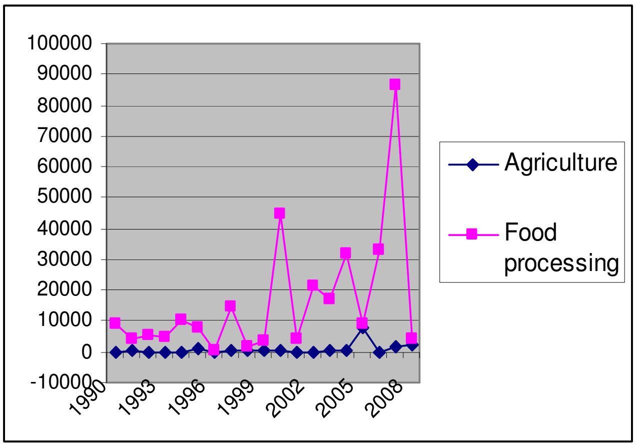

Figure 1b Net Cross-border M&A sales (million $)

Source: UNCTAD, FDI/TNC database and cross-border M&A database

Table 1 World inward FDI stock (millions of dollars)

Year	1990			2008		
Sector/industry	Developed	Developing	World	Developed	Developing	SE Europe;CIS
Total	1698256	383527	2081782	11788565	3384939	317678
Agriculture, hunting, forestry and fishing	3733	4851	8584	13271	15841	2676
% of total	0,2	1,3	0,4	0,1	0,5	0,8
Food, beverages and tobacco	76117	11039	87156	466979	61838	12763
% of total	4,5	2,9	4,2	4,0	1,8	4,0

2008/1990	Developed	Developing	World
Total	6,9	8,8	7,4
Agriculture, hunting, forestry and fishing	3,6	3,3	3,7
Food, beverages and tobacco	6,1	5,6	6,2

Source: UNCTAD, 2009

Furthermore between 1990 and 2008 the inward stock of FDI in developing economies grew by a factor of 3.3 in agriculture, forestry and fishing and by factor of 5.6 in the food beverages and tobacco sector. Many of the investments in food processing may also be market seeking since demand for processed foods is increasing rapidly in developing countries along with the supermarket sector.

2 Recent trends: "land grab"?

The last few years however have seen a surge of foreign acquisitions of land for agricultural use in developing countries (often referred to as "land grab") which is not reflected in available databases. First, there is FDI in agriculture which does not go through TNCs. Indeed, as the 2009 World Investments Report remarks, new investors in agricultural production are "new" for a number of reasons including the fact that non-TNC actors have emerged, often private equity or State-owned funds, sometimes especially established for this purpose. Second, since a transaction appears in FDI data only when it has been fully paid, a very recent trend such as "land grabbing" would not be reflected in FDI data for a substantial length of time.

Hence the phenomenon of land acquisitions by foreign investors emerged mainly through media reports and then prompted case study analysis: the available sources consider contracts, at various stages of existence, on the basis of case studies (Cotula et al., 2009; Fao, 2009b; GTZ, 2009; Smaller and Mann, 2009) or media reports (GRAIN[7] , 2010; v. Braun and Meinzen-Dick, 2009), or both (World Bank, 2010).

This recent FDI in land - i.e. taking control over land through either rights of use, generally valid for a limited period with possible extensions, or land-ownership- has several distinctive characteristics: the mentioned involvement of international investors other than "traditional" (MNEs) ones; their geographical origin; the large size of the deals in terms of the amount of land involved; the lack of transparency and incompleteness of contracts; the emergence of resource-seeking investors oriented to the production of food for export to their home markets.

The main form of this FDI is acquisition of agricultural land mostly through long-term leasing of up to 99 years. Investments can be large-scale with many involving more than 10 000 hectares and some more than 500 000 hectares[8] and infrastructural developments such as construction of road or rail links or port facilities are often involved.

As for the geographical pattern, the major current investors are the Gulf States but also China and South Korea and the main targets are countries in Africa, but there are also investments in South-East Asia and South America. A particular pattern of bilateral investment flows emerged following established cultural, political and business ties and geographical restrictions on investment funds: Gulf Countries have favoured investments in Sudan and other, mainly African, OIC member states, for example, while outside Asia China has favoured Zambia, Angola and Mozambique.

Investors are primarily private sector but governments and sovereign wealth funds are also involved in providing finance and other support to private investors or in some cases directly. Private sector investors are often investment or holding companies rather than agro-food specialists which means that necessary expertise for managing complex large-scale agricultural investments needs to be acquired. In host countries it is governments who are engaged in negotiating investment deals.

Current investments tend to be resource-seeking (land and water) rather than market seeking; they emphasise production of basic foods, including for animal feed, for export back to the investing country rather than tropical crops for wider commercial export; they involve acquisition of land and actual production rather than looser forms of joint venture.

[7] GRAIN, a Spanish-based grassroots NGO, has done an excellent job of monitoring and collating media articles. The International Food Policy Research Institute (IFPRI) has done a similar job of monitoring and collating media reports on foreign land deals.

[8] For example Cotula et al. (2009) report that the maximum size of approved projects in the period 2004-2009 in terms of largest land allocation in five African countries (Ethiopia, Ghana, Madagascar, Mali and Sudan) ranged between 100,000 ha in Mali and 425,000 ha in Madagascar.

Indeed an important underlying driver for the recent spate of interest in international investment in food production appears to be food security and a fear arising from the recent high food prices and policy-induced supply shocks that dependence on world markets for foods supplies or agricultural raw materials has become more risky. In the first few months of 2008 international food prices reached their highest level in 30 years and more than 50 percent up on 2007 (FAO, 2009c). Prices have come down from these peaks, but they are still significantly above the levels observed in recent years and are expected to remain so. Furthermore, even though prices are lower, this is more a reflection of slowing demand than increasing food supplies. The recent volatility of international food prices has understandably provoked concerns about the cost and availability of food in those countries heavily dependent upon imports for their food security. For the richer countries, the concern is not so much the price of imported food as its availability where as in 2007-8 major exporters may resort to export restrictions in times of crisis. In the longer term, the food security concerns of these countries dependent on food imports may be well-founded in the light of population growth, increasing incomes, increasingly binding land and water constraints and climate change (Hallam, 2010).

Although data on recent FDI in land are fragmentary, and the number of projects actually implemented is less than the number being planned or reported in the media (and actually media and civil society attention has played a role in the non implementation of some of the projects, including the 1.3 million ha deal between the South Korean company Daewoo Logistics and the government of Madagascar [9]), the size of many projects, the centrality of land in the economy of the communities involved and the incompleteness and lack of transparency of contracts (as for example in the 100,000 ha agreement between Mali and Libya [10]) have caused international concern and raised the question of regulation and corporate social responsibility for these investments.

Land, as discussed, has been the most controversial issue in the history of FDI in agriculture. It may be argued that conflicts over foreign ownership of land have had a crucial influence in shaping the current pattern of internationalisation of agricultural production in developing countries. Since, for a variety of reasons, FDI on land seems to be again a strategy for MNEs and other investors, again the complexity of property rights on land gives reasons for concern.

[9] The project received extensive media coverage and finally was abandoned as reported in the Financial Time (2009): “Daewoo Logistic’s deal to lease a huge tract of farmland, half the size of Belgium, to grow food crops to send back to Seoul was a source of popular resentment that contributed to the fall of… the former president”.

[10] Through this agreement, signed in June 2008, Mali has made 100,000 ha of land available to Malibya-Agriculture for the development of irrigation farming, agro industries and cattle-rearing. The lands have been granted on a 50-year renewable lease without preliminary studies or public consultations performed to ascertain and take account of local interests and concerns. Water provision in the off-season is notably problematic for long-cycle cultivation and the Malian Government has not so far made any arrangements to cover the relocation costs for the people who will be displaced because of the agreement. Apart from the water fees and the obligation to respect the Malian law and regulations on the environment, the contract does not say anything else about any duties or obligations of the Libyan side (GTZ , 2009c).

In a study on large land acquisitions focusing on Sub-Saharan Africa Cotula et al. (2009) observe that most if not all productive land targeted for potential investment was likely to be already claimed by farmers, herders, hunters or foragers. Land is most commonly owned or otherwise held by the state, local people may enjoy use rights over state land, land titles are extremely rare - the World Bank estimates that, across Africa, only between 2 and 10% of the land, mainly urban, is held under formal land tenure- and the extent to which national legal frameworks protect local land claims is variable but often limited. The World Bank (2010) recent report on land investments concludes that countries with poorer records of formally recognized rural land tenure have attracted greater interest, whilst, in contrast to standard results on general foreign direct investment, rule of law and a favourable investment climate had a weak effect on planned and none on implemented investment. Hence the current wave of FDI flows and land acquisitions is taking place in contexts where many people have only insecure land rights – which makes them vulnerable to dispossession. A GTZ (2009c) study on land acquisitions in Mali also observes that the core problem is the fact that statutory law considers all land to be state land (national domain) of which the central government can dispose neglecting unwritten customary rights, thus making FDI a major threat to local people; an FAO (2009b) case study in Ghana contains similar considerations. In summary all the case study literature on recent large land acquisitions points out that there may be substantial negative implications in the context of complex and insecure land rights, essentially because existing land uses and claims may go unrecognized.

Further reasons for concern and potential conflict with local interests are the fact that large-scale land allocations tend to focus on higher value lands (e.g. those with greater irrigation potential or proximity to markets) and the issue of water. For instance the Malibya investment is mostly taking place in the most fertile area of Mali with production depending on irrigation from the Niger River, water availability during the dry season is limited and demand in land is already creating water conflicts with cattle breaders. More generally Smaller and Mann (2009) hold that water is one of the most significant long term drivers of the recent surge of investment: the renewed interest is in purchasing or leasing land and securing scarce water rights for agricultural production. Indeed it should be noted the important role in these investments of capital rich, food importing countries with land and water constrains such as the Gulf States.

FDI in land obviously offers also crucial opportunities in terms of access to capital, technology, knowhow and markets, and infrastructure development. Indeed as Cotula et al. (2009) point out a recurring theme of these investments is the low importance of land fees and other financial transfers compared to expected benefits such as employment generation and infrastructure development.

Ultimately the balance will depend on governments capacity to guide FDI in the interest of development; on the terms and conditions of the contracts; on governments ability to monitor and enforce them. However both government capacity and the transparency and completeness of contracts for these recent large land deals are very problematic.

Given the very large size of the deals it is therefore important to address the issue of regulation, self regulation and development assistance in this context.

3. MNEs: Regulation, self-regulation and codes of conduct

In an ideal world governments would be able to use FDI in the interest of development and to regulate business transactions by appropriate legislation and implementation in environmental protection laws, workers rights and safety, consumer rights, pensions, competition laws, financial rules, and auditing. In real world, governments often have limited capacity in regulation and regulatory enforcement, and such limits are generally stronger in developing countries because regulators have fewer resources.

Firms on their part may have a number of market-based incentives to adopt self-imposed regulation including: risks of civil claims and criminal fines for environmental or social misconduct in breach of the law and of loss of reputation for bad practices even if legal, with adverse reaction from consumers and investors and consequent financial loss, especially when firms derive much of their value from their brand; pressure from consumers and civil society; pressure from shareholders.

MNEs in particular are likely to have stronger incentives in self regulation because they are confronted with a variety of regulatory structures in the countries where they invest and because such regulatory structures are often weak especially in many developing countries, which may not be an advantage considering the generally high exposure of MNEs to pressures from consumers and civil society.

Governments on their part could regulate by mandating specific technologies or behaviours; or by specifying outcomes to be achieved or avoided by firms; or by making firms responsible for putting in place internal planning and management processes which take into account the public goods defined by the regulators.

From the government point of view however regulation is generally costly and difficult; from the corporations point of view self-imposed constraints may be more cost effective than those that governments would impose. There may thus be a mutual interest in codes of conduct fostering self regulation.

MNEs are international actors and there is an international dimension of the regulation of their activity. A number of international treaties such as the Universal Declaration of Human Rights, the ILO's Fundamental Principles on Rights at Work, and the Rio Principles on Environment and Development, commit governments to respect standards, to which they have jointly agreed, that are relevant to MNEs conduct. None however apply directly to corporations and firms, and none are directly enforced by legal actions or sanctions. The United Nations has pursued in the last decade a strategy aimed at improving the human rights accountability of transnational corporations, both in general and in the domain of agriculture and large land acquisitions (UN, 2003; De Schutter, 2005 and 2009; Narula, 2006). In actual fact however the current human rights legal framework does not adequately address the obligations of non state actors such as TNCs and the effects of their policies abroad. Mechanisms to hold TNCs directly accountable are "soft law", non-binding and ultimately inadequate; indirect accountability through the role of the state is weak and states that do not ratify the treaties may escape obligations altogether.

The role of international law has been weak especially when compared to the specific and enforceable sets of rights enjoyed by investors against the rights of governments to regulate economic activity within their borders (Graham and Woods, 2006; Narula, 2006). This protection is entrenched in bilateral investment treaties (or investment promotion and protection agreements), through the 1965 Washington Convention, which created the International Center for the Settlement of Investment Disputes, and through the World Trade Organization and the specific agreements on TRIPS and TRIMS.

On the other hand of course, MNEs are subject to national host countries laws and regulation on admission of foreign investors, incentives for foreign direct investment, taxation, property law, water rights and rates, and an array of laws relating to the potential impacts of the investment on the local community.

Hence, the overall balance depends on the strength of the host countries national regulatory systems. The problem is that these are often weak and, as a result, the role of the specific international investment contract between the host state and the investor becomes critical.

Investment contracts basically identify the key elements of the fiscal and economic bargain relating to the investment; they have a propensity to become the legal code for the investment; they generally include clauses that either preclude the application of, or require compensation for new or changed regulatory measures that affect the investments ("stabilization" clauses) and also determine which law applies to interpret the contract in the event of a dispute (courts of the home state, arbitration in the home state under domestic law; international arbitration process, the latter being the preferred choice of investors). Hence, whilst a domestic investor is subject to the rule of domestic law, an international investor may acquire additional, potentially damaging, rights (Smaller and Mann, 2009).

Responsibility codes encompass guidelines, recommendations or rules issued by entities within society with the intent to affect the behaviour of business entities in order to enhance corporate social responsibility (CSR), i.e., a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders over and above legal requirements, voluntarily, because businesses deem it to be in their long-term interest (European Commission, 2002; Kolk and van Tulder, 2005)[11].

In the '70s a first wave of codes attempting to regulate MNEs, largely aiming at improving the bargaining power of developing countries, was promoted by international organisations. These included the ILO and OECD codes, which are still the most universal and comprehensive international codes of conduct for multinationals (ILO, 2006; OECD, 2000). After a period of disinterest, the picture changed drastically in the 1990s: governments, NGOs, and companies, especially MNEs and their business associations, started to draw up responsibility codes and a growing number of individual companies, such as Nike, Levi Strauss and Shell, introduced them. As a result, a plethora of codes now exist and business initiated codes, especially by multinationals, took the lead (Kolk and van Tulder, 2005; Jenkins, 2001; OECD, 1999; World Bank; 2003).

[11] Definitions do vary: the World Bank CSR Practice adopted a much broader definition of CSR as "The commitment of business to contribute to sustainable economic development working with employees, their families, the local community, and society at large to improve their quality of life, in ways that are both good for business and good for development." Other World Bank sources use a more narrow interpretation (World Bank, 2003).

A large variety of codes have been adopted also in agribusiness and, as in other sectors, there is a prevalence of retailers codes addressed to suppliers and contractors[12]. The probability of codes adoption and implementation tends to increase with three variables: integration along value chains; effectiveness of civil society pressure; vulnerability of key actors to such pressure[13]. Retailers have a clear business case for the quality of all the products they sell and that may include ethical attributes, depending on consumers attitudes, hence codes in agribusiness mostly apply to commodities that reach the consumer in an identifiable form, implying that they are perceived as a quality specification of a product. In the case of producers, traceability and strong market linkages are important if single firms are to be motivated by a business case to take responsibility for social issues along the value chain.

Land rights have been so far a marginal topic in the CSR debate, but the recent wave of FDI in agriculture has focused international attention on it (RAI, 2010).

Investors may have a self interest in commitments linked to land and specifically on property rights in land in a context involving local communities, in order to avoid conflicts and in exchange for consensus on stability of their rights in a “globalised” framework that includes international agencies. Indeed, considering both past experiences and recent reactions to land deals, it seems that investors definitely do have a self interest in this domain and should therefore pursue appropriate CSR.

A recent concerted effort for establishing consensus among development agencies (FAO, IFAD, UNCTAD, World Bank) on an international code for large land acquisitions, produced a set of principles for responsible agricultural investment involving significant acquisitions of resource rights (FAO et al., 2010), the first of which, respecting land and resource rights, is no doubt the core of the matter, as the available evidence shows.

One common characteristic of countries targeted for large scale acquisitions is the fact that the state ‘owns’ large amounts of land, and such land, even if occupied by traditional users, is easily transferred to outsiders, often in less than fully transparent ways. Respecting land and resource rights would require, according to FAO et al. (2010) a systematic process of recognition and demarcation of land rights, which, it is argued, is

[12] The similarity with apparel is interesting. The vast majority of the apparel codes issued by companies are retailers codes addressed to suppliers and contractors. In many instances the codes “threaten” to terminate the contract if the labour standard is not met in their supply chain (Gordon and Miyake, 1999).

[13] A comparative analysis (Tallontire and Greenhalgh, 2005) shows that horticulture is one of the subsectors with stronger implementation, largely as an extension of standards and quality assurance activity vis-à-vis consumers (EurepGap, recently rebranded GlobalGap). In particular the value chain for fresh semi-prepared and packaged vegetables from Sub-Saharan Africa sold in supermarkets is the classic example of a buy-driven chain with key actors very exposed to consumer’s attitudes. In the coffee sector good practice codes have been mostly introduced in the specialty market because it is based on origin and quality, and in Fairtrade etc. also certification and labelling, and therefore coffee can be traced to source. On the other hand, in the cocoa value chain dispersed and unorganized small producers account for most of the supply, the technical incentive to traceability has declined, the ability of the brands to dominate the chain alone is curtailed by mutual dependence on the grinders and also the fragmented end market and codes have had a much lesser role; labour issues have been raised but child labour and other potentially problematic labour practices are not as easily codified when embedded in smallholder agriculture.

much preferable to the identification of land rights on a case by case basis; use of expropriation strictly circumscribed and with prompt and fair compensation[14]; clear and transparent mechanisms to transfer land rights, since many countries dispose of public land in an *ad hoc* way that can be source of corruption and patronage.

In this key area a code of conduct would serve the function of addressing the shortcomings of institutions in the host countries. The proposed "principles" demand governments to consistently improve their land rights framework and to accept a self limitation of the scope of their intervention in the land market, which in many developing countries is indeed very large[15]. The question to be asked is how a specific instrument as a code of conduct can contribute to such a virtuous outcome; and as usual it is safe to assume that self interest is crucial.

In a multistakeholder context involving governments, investors, international organizations and civil society, governments are generally interested in attracting FDI, in the case of land deals this is a clear fact; their incentive to accommodate principle one is if it makes it easier to achieve this objective, implying that principle one - existing rights to land and associated natural resources are recognized and respected- is part of the investors' CSR strategies. Investors on their part may have a strong self interest in principle one, linked to reducing the risk of conflicts. Civil society can act as a further incentive to CSR in the way it has acted in many other fields of social responsibility. In other words, it seems that in the context of a discussion on codes, one should focus on the requirement that in large scale land investments CSR includes principle one. Widespread CSR could act as signal/pressure for governments.

A further point to stress is that transparency is a very promising concept in the context of these large investments. Mandatory disclosure is a very good prerequisite for effective corporate self-regulatory codes, because voluntary disclosure could damage more transparent companies. Hence, there is grounds for urging governments in the investors home countries to set mandatory disclosure of (standardized[16]) information on environmental, labour rights, and human rights performance(Graham and Woods, 2006). Transparency in this context serves both directly, as a means of monitoring implementation, and indirectly because it makes companies more accountable to civil

[14] Many countries require expropriation of land before it can be transferred to private investors, which increases complexity and discretion; private negotiation between the parties can instead be desirable where land governance is weak.

[15] In countries targeted for large deals land is often nationalised or otherwise mainly controlled by the state. In many African countries for instance outright purchases are outlawed, whilst transfers of "underdeveloped" state lands may be enabled, even if radical title ultimately remains vested with the state. Private land ownership in rural areas is mostly not widespread even where it is formally recognised (Cotula et al., 2009). In FDI contracts leases are therefore likely to be common and governments play a predominant role.

[16] The global reporting initiative (GRI), a now independent organization initiated in 1997 in partnership between the UN Environment Program and the Coalition for Environmentally Responsible Economies (CERES) is an important development in voluntary standardized reporting.

society. Transparency is key to the EITI[17] for instance; statutory disclosure programs have been effective in reducing environmental damage by companies in developing countries in South East Asia and Latin America; large companies and retailers, especially in the apparel sector, have dealt with the issue of implementation along supply chains[18] because of the perceived (and realized) costs of being accused of bad practice, and pressure depends also on transparency of information about processes of production (O'Rourke, 2006).

Transparency of administrative processes in host countries on the other hand would make it easier to quickly initiate production and would reduce transaction costs and the likelihood of conflicts (World Bank, 2010).

If one considers the examples of investment contracts given in the recent case studies literature on large land acquisitions, it seems obvious that there is enormous room for improvements in this context.

A code developed by international organisations can have a role model and trigger coalitions. Furthermore when a code were promoted by development agencies, assistance in analysis, implementation and conflict avoidance could be gained in the interest of both destination countries and investors.

Conclusions

In the history of the involvement of multinational enterprises in agriculture there has been a pattern of shift from direct, equity participation through foreign direct investment in land to direct, non-equity participation through contract farming, or indirect, non-equity participation through standards and other information-intensive relationships i.e. a shift from land internalisation to value chain coordination. However, there has been a recent trend of foreign acquisitions of land for agricultural use in developing countries, with peculiar characteristics such as the involvement of international investors other than "traditional" (MNEs) ones, the large size of the deals in terms of the amount of land involved, the emergence of resource-seeking investors oriented to the production of food for export to their home markets.

This recent wave of concluded or announced large investments in land on the part of traditional or non traditional investors has provoked concerns in civil society, the media and development agencies. The concern is motivated by several reasons. First the deals involve at least one crucial asset, land, usually on a very large scale and predominantly in the context of complex and often unclear structures of property rights; second, a number of weak stakeholders may have insufficient "voice" vis-à-vis their governments; third,

[17] The Extractive Industry Transparency Initiative requires that participating governments publish what they earn from resource rents, and firms operating in the country publish what they pay to extract resources.

[18] The Gap, for instance, has a Vendor Compliance department with over 100 staff responsible for monitoring the implementation of the company's code of conduct throughout its global supply chain and similar programs have been established by Levi's, Disney, Wal-Mart, H&M, and other companies (O'Rourke, 2006).

governments may have weak planning and regulatory abilities especially vis-à-vis multinationals; fourth, the latter are at present not accountable under international law.

Obviously the first best option is to solve the set of problems mentioned above, and all of them need of course to be addressed: codes and CSR do not substitute laws, public regulation and public action. A specific self regulation tool could however have a role for several reasons and investors may have a self interest in commitments linked to property rights in land in a context involving local communities, in order to avoid conflicts and in exchange for consensus on stability of their rights in a "globalised" framework that includes international agencies. Indeed, considering both past experiences and recent reactions to land deals, it seems that investors definitely do have a self interest in this domain and should therefore pursue appropriate CSR. In turn, widespread CSR could act as signal/pressure for governments interested in attracting FDI, in the interest of the protection of weak stakeholders. A code developed by international, development organisations could have a role model and trigger coalitions.

Basically these investments presents both risks and opportunities; given their large size both risks and opportunities are significant, and given the asymmetrical institutional strength of investors versus receiving countries guidelines and development assistance can have a potentially large positive impact.

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