INTERNATIONAL INVESTMENT IN DEVELOPING COUNTRY AGRICULTURE – ISSUES AND CHALLENGES

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The last two years have seen a surge of interest in international investment in developing country agriculture. Purchases and leasing of agricultural land in Africa by investors in various Gulf States for food production in support of their food security strategy have attracted most attention until now, although these are just one of a variety of actual or planned investment flows with different motivations. Other countries outside Africa – Indonesia, Malaysia, Laos, Pakistan, Kazakhstan, for example - are also being targeted and major investments have also been made or are being planned by Chinese, South Korean and Indian investors among others. Investment companies in Europe and North America are also exploring opportunities motivated by potentially high expected returns on investment partly due to higher food prices and especially where biofuel feedstock production is a possibility.

A major underlying concern of the recent upturn in investments and which perhaps differentiates it from the normal run of foreign investments is food security. This reflects a fear arising from the recent high food prices and policy-induced supply shocks, notably the result of export controls, that dependence on world markets for foods supplies has become more risky. For those countries facing worsening land and water constraints but with increasing populations, incomes and urbanisation and hence increasingly dependent on imported food, these fears provoked a serious reassessment of their food security strategies. Investing in producing food in countries where the land and water constraints faced domestically are not present is seen as one strategic response. At the same time, many developing countries in Africa and elsewhere are making strenuous efforts to attract such investments to exploit "surplus" land, encouraging international access to land resources whose ownership and control in the past have typically been entirely national.

Not surprisingly, the apparently anomalous situation of food insecure, least developed countries in Africa selling their land assets to rich countries to produce food to be exported to feed their own wealthier people has attracted much media interest, some sensational. The surge of interest in foreign investment in agricultural land has also attracted substantial international concern more generally, including at the G8 summit in L'Aquila where Japan called for "responsible investment" and proposed international cooperation to secure it. Certainly, complex and controversial economic, political, institutional, legal and ethical issues are raised in relation to food security, poverty reduction, rural development, technology and access to land and water. On the other hand, lack of investment in agriculture over decades has meant continuing low productivity and stagnant production in many developing countries, especially in sub-Saharan Africa. Lack of investment has been identified as an underlying cause of the recent food crisis and the difficulties developing countries encountered in dealing with it. FAO estimates that additional investments of $83 billion annually are needed if developing country agriculture is to meet food needs in 2050 (Schmidhuber *et al*, 2009). Developing countries' own capacity to fill that gap is limited. The share of public spending on

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agriculture in developing countries has fallen to around seven percent, even less in Africa, and the share of official development assistance going to agriculture has fallen to as little as five percent. Commercial bank lending going to agriculture in developing countries is also small – less than ten percent in Sub-Saharan Africa – while microfinance loans are in general too small and not suited to capital formation in agriculture. Private investment funds targeting African agriculture are an interesting recent development but actual investments are still small. Given the limitations of alternative sources of investment finance, foreign direct investment in developing country agriculture could make a significant contribution to bridging the investment gap. The question therefore is not whether foreign direct investment *should* contribute to meeting investment needs but how its impact can be optimised to maximise the benefits and to minimise the inherent risks for all involved.

This paper provides an overview of the state of knowledge concerning the recent upsurge in foreign investment in developing country agriculture, summarising what is known about the nature of these investments and the reasons for them. It looks at the economic and political issues these investments raise for host countries, investors and the international community. The paper concludes with a consideration of some policy and legal questions including an examination of the case for some kind of international regulation.

The pattern of foreign investment in developing country agriculture

Unfortunately, there are no detailed data on the extent, nature and impacts of these investments. Available foreign direct investment data lack sufficient detail and are too aggregated to determine just how much investment in agriculture there has been and what forms it takes (UNCTAD, 2009). It is therefore difficult to say with any precision whether the recent investments are a totally new development or a continuation of existing trends. Some information is available from the investors themselves and from those developing countries receiving inward investment, although not too much detail is divulged given the sensitivity of the issues surrounding these investments and the need for confidentiality. Much information is anecdotal, probably exaggerated and difficult to verify. The weakness of the available information points to the importance of country case-studies of the extent and impact of inward investments and these are being undertaken by several international organizations. However, from what limited information is available, a number of observations can be made.

- Foreign investment in developing country agriculture does appear to have increased in the last two years although the number of projects actually implemented is less than the number being planned or reported in the media.
- Foreign investment in agriculture still accounts for a very small percentage of total FDI flows in most developing countries – less than two percent in African countries.
- The main form of recent investments is acquisition mostly through long-term leasing of up to 99 years of agricultural land for food production.
- Land investments can be large-scale with many involving more than 10 000 hectares and some more than 500 000 hectares.
- The amount of land in Africa acquired by foreign interests in the last three years is estimated at up to 20 million hectares but land under foreign control remains a relatively small proportion of total land areas in host countries.
- Investments can involve infrastructural developments such as construction of road or rail links or port facilities.
- The major current investors are the Gulf States but also China and South Korea.

- The main targets for recent investment 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.
- More traditional foreign direct investment continues but often emphasising various forms of joint ventures such as contract farming.
- Current investments differ from the previous pattern of foreign direct investment in several respects: they are 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.

Investor and host-country motivations

The main 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, 2009a). Prices have come down from these peaks, but they are still 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. The Gulf countries are among those most reliant on imports with more than 50 percent of calories consumed coming from imported foods. The increase and volatility of international food prices, especially aggravated by export restrictions taken by major grain exporters in the wake of the food price inflation, led to some loss of confidence in international markets, especially in the light of the relative weakness of WTO disciplines relating to export restrictions. Increasing food self-sufficiency is not a plausible option where, as in most Gulf states, land and water constraints are worsening so investment in food production overseas is seen as one possible element of a food security strategy. This offered investment opportunities to the private sector which governments and financial institutions have been willing to support. Investors outside countries with food security concerns have also seen profitable opportunities for portfolio diversification into food production investments, especially as returns on other investments became less attractive. Others have been motivated by the prospects offered by biofuel developments. A number of dedicated investment funds have recently been established to invest in African agriculture with some claiming social as well as financial objectives.

Some developing countries are seeking to attract and facilitate foreign investment into their agricultural sectors. For them, foreign direct investment is seen as a potentially important contributor to filling the investment gap, although how far these investments go towards meeting their real investments needs is uncertain. The financial benefits to host countries of asset transfers appear to be small. Land rents demanded are typically low or even zero, for example, while the various tax concessions often offered to foreign investors mean tax revenues foregone. However, foreign investments are seen as potentially providing developmental benefits through for example technology transfer, employment creation and infrastructural developments. Whether these potential developmental benefits are actually likely to be realised is a key concern. This issue is discussed further below.

Land investments are only one strategic response to the food security problems of countries with limited land and water resources and discussion of these investments needs to be set in the wider context of discussion of food security strategies more generally. A variety of other mechanisms, including creation of regional food reserves, financial instruments to manage risk, bilateral agreements including counter-trade and improvement of international food market information systems can contribute to promoting food security for resource-constrained food importers. Investment could be in much-needed infrastructure and institutions which currently constrain much developing country agriculture especially in Sub-Saharan Africa. This, together with efforts to improve the efficiency and reliability of world markets as sources of food might raise food security for all concerned more generally through expanding production and trade possibilities. Such developmental investments can be similar to official development assistance but with a potential indirect benefit to the donors through increased export availability. Japan’s planned investments to increase food production, especially in Latin America and China’s investments in technical research and development to increase rice production in Mozambique are examples.

The “land grab” and alternatives

The much-publicised “land grab” involving the acquisition of agricultural land in developing countries for food production is just one form of investment and one which arguably is least likely to deliver significant developmental benefits to the host country. Some investors see acquisition of physical land assets as providing a measure of security to their investments. However, it is not clear that it is necessary or desirable: acquisition of land does not necessarily provide immunity from sovereign risk and can provoke social, political and economic conflict. Other forms of investment such as contract farming might offer just as much security of supply.

Some developing countries are seeking foreign investments to exploit “surplus” land currently unused or under-utilised. One reason land may not be used to its full potential is that the infrastructural investments needed to bring it into production are so significant as to be beyond the budgetary resources of the country. International investments might bring much-needed infrastructural investments from which all can benefit. However, selling, leasing or providing concessional access to land raises the questions of how the land concerned was previously being utilised, by whom and on what tenurial basis. In many cases, the situation is unclear due to ill-defined property rights, with informal land rights based on tradition and culture. Who actually *owns* the land in Africa varies from country to country: in some cases, such as Ethiopia, land is owned by the state while elsewhere it may be owned by local or village councils.

While much land in Sub-Saharan Africa may currently not be utilised to its full potential, apparently "surplus" land overall does not mean land is unused or unoccupied. Its exploitation under new investments involves reconciling different claims. Change of use and access may involve potentially negative effects on food security and raise complex economic, social and cultural issues. These issues and the questions of entitlement to compensation are more difficult to resolve in the absence of clear land rights (Cotula *et al*, 2009). Such difficulties at least demand consultation with those with traditional rights to land, and may favour alternative arrangements for investments which explicitly provide for local involvement.

As noted above, foreign investment involving acquisition of land is controversial and carries a number of inherent risks. Where economies of scale are important or supporting infrastructural investments are needed, for example, investors may well favour land acquisitions and large scale commercial agriculture. Where these considerations are not significant and indeed in many other circumstances, other forms of investment such as joint ventures or contract farming and out-grower schemes may be preferable in terms of benefits to smallholders shared value. Such arrangements can offer greater scope for smallholders to be included and to share value and can in principle offer just as much security of supply to investors. It is interesting to note that in other contexts, vertical coordination tends to be based much more on such non-equity arrangements than on the traditional acquisition of upstream or downstream stages. The involvement of European supermarket chains in the development of East African horticultural production for export is a case in point. Looser business arrangements may be more conducive to the interests of the host country, offering more accessible benefits to smallholders and their associations. However, even here there are likely to be questions as to the compatibility of the volume and quality needs of investors with dispersed smallholder agriculture. Where this leads to increasing size and concentration of suppliers it can raise questions about poverty reduction potential. Women farmers in particular may lose out from these kinds of structural changes. Nevertheless, joint ventures between foreign investors and local producers or their associations as partners might offer more spillover benefits for the host country. Under contract farming or outgrower schemes, smallholders can be offered inputs including credit, technical advice and a guaranteed market at a fixed price although at the cost of some freedom of choice over crops to be grown. Mixed models are also possible with investments in a large-scale core enterprise at the centre but also involving outgrowers under contracts to supplement core production. Some governments have been active in encouraging foreign involvement in such enterprises, as in the Tanzanian sugar sector or the so-called "Farm Blocks" in Zambia.

What business model is most appropriate will depend on the specific circumstances and the commodity concerned and there is therefore no one business model which is the best option for smallholders in all circumstances (Vermeulen & Cotula, 2010). The extent to which smallholders share value with foreign investors depends on the detail of how the business and decision-making are organized and local smallholders may be at a disadvantage in negotiating these aspects, especially where their land rights are not secure. They may also be at a disadvantage in terms of access information relevant to negotiating contracts.

What are the developmental benefits of foreign investment?

A key issue is the extent to which benefits from foreign investments spill over into the domestic sector in a synergistic and catalytic relationship including with existing smallholder production systems and other value chain actors such as input suppliers. The fact that many developing countries are seeking to attract inward investment suggests that they see these benefits as desirable and real. A prerequisite for such a relationship is a domestic agricultural sector with absorptive capacity. Benefits should arise from capital inflows, technology transfer leading to innovation and productivity increase, upgrading domestic production, quality improvement, employment creation, backward and forward linkages and multiplier effects through local sourcing of labour and other inputs and processing of outputs and possibly an increase in food supplies for the domestic market and for export. However, these benefits will not flow if investment results in the creation of an enclave of advanced agriculture in a dualistic system with traditional smallholder agriculture and which smallholders cannot emulate. The necessary conditions for positive spillover benefits may often not be present in which case policy interventions are needed to create them.

Additional political and ethical concerns are raised where the receiving country is food insecure. While there is a presumption that investments will increase aggregate food supplies this does not imply that domestic food availability will increase, notably where the intention is that food produced is exported to the investing country. It could even decrease where land and water resources are commandeered by the international investment project at the expense of domestic smallholders or where foreign investments push up land values. Extensive control of land by other countries can also raise questions of political interference and influence.

Research into the nature and impacts of recent foreign investments has tended to rely on case studies, usually at country level. Gerlach and Liu (2010) review evidence from a number of recent African case studies. As would be expected, investments involving large-scale land acquisition in situations where local land rights are not clearly defined and governance is weak are problematic. The case studies reviewed catalogue a lack of transparency in land transfers, no consultation with local stakeholders and no recognition of their rights. Land transfers involved displacement of local smallholders and loss of grazing land for pastoralists with consequent negative impacts on livelihoods and no compensation. Instances are also noted of environmental damage arising from additional demands on local water resources caused by large-scale production of crops such as oil palm and sugar. Such large-scale monocultures also limit biodiversity. In many respects, these findings echo those of the African case studies undertaken by Cotula et al (2009). They highlight the need for social and environmental impacts assessments of any investment project involving large-scale land transfers.

At the same time, there is evidence of some positive effects of foreign investments. They can lead to significant employment creation although this needs to be balanced against loss of traditional livelihoods where smallholders are displaced. GTZ (2009) note that the Marakala sugar project in Mali is expected to generate 5000 jobs directly and up to 20000 indirectly against a displacement of 1600 smallholders. Foreign investments in agriculture in Ghana are estimated to have created 180000 jobs between 2001 and 2008 (FAO, 2009b). Foreign investments are also not invariably environmentally damaging: foreign investors in floriculture in Uganda, for example, have introduced more environmentally-friendly production methods (Gerlach and Liu, 2010).

Technology transfer is cited by governments as an important reason for seeking to attract foreign investments. The case study evidence is mixed, with productivity – enhancing technology spillovers apparent in Morocco, Egypt and Uganda but less so in Senegal. The UNCTAD *World Investment Report 2009* concludes that technological contributions of transnational corporations have been limited since technologies developed for the production of commercial crops are not easily transferable to smallholder production of staples. The contribution of technology and production of foreign investments to local food security would presumably be zero where crops are grown entirely for export back to the investor's own country. It could even be negative if land, water and other resources are taken out of production for subsistence or local markets. However, there is evidence of increases in local availability of palm oil in Ghana, horticultural products in Senegal and rice in Uganda as a result of foreign investments.

Clearly, it is difficult to generalise from these studies as to the benefits or otherwise of foreign investments. Not all aspects are addressed so only a partial picture is provided. Even within a particular country the evidence from different individual investments can be conflicting and individual investments can also have both positive and negative impacts. More research is needed.

While information on recent international investments is scarce there is a lot of knowledge and research on foreign direct investment (FDI) more generally in agriculture. In spite of the particular economic and political dimensions of land acquisitions, the general FDI experience can provide some guidance not only on the likely benefits and pitfalls but also the pros and cons of different forms of FDI (Cuffaro, 2009). As noted above, some of the features of the current surge of investment, especially in land, are contrary to trends in FDI more generally which seems to be favouring various looser contractual arrangements rather than actual acquisition of major assets.

The historical evidence on the effects of foreign direct investment in agriculture suggests that the claimed benefits do not always materialise and catalogue concerns over highly mechanised production technologies with limited employment creation effects; dependence on imported inputs and hence limited domestic multiplier effects; adverse environmental impacts of production practices such as chemical contamination, land degradation and depletion of water resources; and limited labour rights and poor working conditions. At the same time, there is also evidence of longer-run benefits in terms of improved technology, upgrading of local suppliers, improved product quality and sanitary and phytosanitary standards, for example. In considering the benefits or otherwise of FDI in agriculture it is therefore important to take a dynamic perspective.

Policy options and considerations

International investment should bring development benefits to the receiving country in terms of technology transfer, employment creation, upstream and downstream linkages and so on. However, these beneficial flows are not automatic: care must be taken in the formulation of investment contracts and selection of suitable business models and appropriate legislative and policy frameworks need to be in place to ensure that development benefits are obtained and the risks minimised. There is an urgent need to monitor the extent, nature and impacts of international investments and to catalogue best practices in law and policy to better inform both host countries and investors. Detailed impact analysis is needed to assess what policies and legislation, whether national or international, are needed and what specific measures are most appropriate.

The investment objectives of investors needs to be reconciled with the investment needs of developing countries. Investment priorities need to be identified in a comprehensive and coherent investment strategy and efforts made to identify the most effective measures to promote the matching-up of capital to opportunities and needs. The onus to attract investments to where strategic needs are greatest and to ensure that those needs are met falls primarily on the host countries. Apart from the financial terms and conditions of the investment, consideration needs to be given to *inter alia* local sourcing of inputs including labour, social and environmental standards, property rights and stakeholder involvement, consistency with food security strategies, distribution of food produced between export and local markets, and distribution of revenues. Such issues might be part of an investment contract between the investor and the host government although in practice investment contracts tend to be rather short and unspecific on such issues. Obviously, where investments are joint ventures which include host governments as a partner local interests can be better protected, always provided that government recognizes these.

The actual investment contract is one element of the legal framework surrounding international investments. Domestic law and international investment agreements provide the legal context for investment contracts with the latter generally prevailing over the former. Investment contracts can also override domestic law, especially where as in many cases domestic law is not comprehensive or clear in terms of defending local stakeholder interests. In general, the legal framework tends to favour the investor rather than the host country and in particular to favour investors' rights over those of host country stakeholders. This points to the importance of strong investment contracts which reference host country concerns, although the scope for this may be limited where international investment agreements preclude so-called "performance requirements". Clear and comprehensive domestic law is essential (Smaller and Mann, 2009).

Beyond policy and legal frameworks to minimise inherent risks and maximise benefits, a variety of policy measures are available to host countries to attempt to attract international investment and steer it towards priority areas in support of their food security and poverty reduction strategies. Provision of information concerning investments needs and priorities can bring opportunities to the attention of foreign investors and incentives such as tax concessions or local financing initiatives can help focus investment in priority areas. Investing countries can use similar measures to encourage outward investment. Host countries can also create a more positive investment climate through policies which reduce transactions costs and reduce investor risks. Many developing countries have introduced extensive policy reforms in this respect in recent years, liberalizing entry conditions and establishing investment promotion institutions to facilitate inward investment. Many have signed international investment agreements, although as noted above, the commitments these can entail need to be balanced in domestic law. Some participate in bilateral treaties and other international agreements and conventions for contract enforcement, arbitration and dispute settlement such as the Multilateral Investment Guarantee Agency. Some countries – Ghana, Mozambique, Senegal and Tanzania, for example - have sought to attract and facilitate inward investment through the establishment of investment agencies and authorities which provide a one-stop shop to attract investments and steer investors through the various bureaucratic procedures involved. However, the frequent lack of clear property rights, especially to land, remains a concern of some international investors. Lack of adequate infrastructure may also be a deterrent to some investors which can be overcome by public infrastructural development: the Zambian Farm Block Development Plan, for example, provides for government investment in basic infrastructure such as roads. However, other foreign investors may see provision of infrastructure as a necessary and integral component of their investments.

Policies in a variety of other areas beyond that focused specifically on investment are also relevant in governing international investments. Trade policy is involved where investors intend to export food produced back to their own countries since this may conflict with the host country's right under WTO rules to impose export controls in times of domestic food crises. Some host countries appear to have offered to waive their rights under WTO rules and agreed not to impose export controls even in food crises. Bilateral investment contracts may by-pass WTO rules more generally and may conflict with commitments under regional trade agreements. Consistency with the Agreement on Trade-related Investment Measures (TRIMS) may be an issue where investment incentives are offered.

No matter how successful developing countries are in attracting foreign investments, no positive developmental impacts will result if their agricultural sectors are not capable of capitalising on any spillover benefits of these investments. Appropriate domestic agricultural and rural development policy measures need to be in place to ensure that local agriculture can benefit from new technologies and the local economy can respond to new demands for inputs and services. Policy towards foreign investment needs to be an integral part of comprehensive agricultural and rural development strategies.

The case for international action

Large-scale land acquisitions by foreign investors have attracted international concern and the perceived risks attached to such investments are such that there have been calls for international action to regulate them. In the absence of strong domestic legislation and equitable investment contracts, an international initiative – whether a voluntary code of conduct, guidelines or statement of principles - could highlight host country interests but could also be seen as a guide for investors to socially responsible investment. The case for an international response highlighting the need for transparency, sustainability, involvement of local stakeholders and recognition of their interests and emphasising concerns for domestic food security and rural development appears to have broad political support.

FAO, the World Bank, UNCTAD and IFAD are developing a minimum set of *principles for responsible agricultural investment that respects rights, livelihoods and resources* along these lines. These principles based on detailed research concerning the nature, extent and impacts of foreign investment and best practices in law and policy are intended to distil and encapsulate the lessons learned and provide a framework to which national regulations, international investment agreements, global corporate social responsibility initiatives and individual investment contracts might refer. The principles proposed by the four organizations include the following.

i) *respect for land and resource rights*: existing rights to land and natural resources are recognized and respected;

ii) *food security and rural development*: investments do not jeopardize food security and rural development, but rather strengthen it;
iii) *transparency, good governance and enabling environment*: processes for relating to investment in agriculture are transparent, monitored, and ensure accountability by all stakeholders;
iv) *consultation and participation*: all those materially affected are consulted and agreements from consultations are recorded and enforced;
v) *economic viability and responsible agro-enterprise investing*: projects are viable economically, respect the rule of law, reflect industry best practice, and result in durable shared value;
vi) *social sustainability*: investments generate desirable social and distributional impacts and do not increase vulnerability;
vii) *environmental sustainability*: environmental impacts are quantified and measures taken to encourage sustainable resource use while minimizing and mitigating negative impacts.

However, while there appears to be broad support these principles, agreement on how to operationalize and implement them may prove more difficult to achieve. There seems to be little political support for a rigorously enforceable legal instrument embodying these principles. There are already existing international instruments and commitments that address similar concerns though in slightly different contexts. The first principle draws on the FAO *Voluntary Guidelines on Governance of Land Tenure and other Natural Resources*. The Equator Principles address some of the social and environmental issues referenced in the last two principles. The OECD Guidelines for Multinational Enterprises and various human rights commitments including the *Voluntary Guidelines on the Right to Food* also provide relevant models and references. Nevertheless, the further development of these principles demands widespread consultation with all stakeholders including governments, farmers' organizations, NGOs, the private sector and civil society more generally. Such a consultative process is inevitably lengthy but without inclusive, comprehensive and effective consultation and input from all interested parties it is unlikely that anything workable could be achieved. However, experience shows that the very process of developing such principles, guidelines and voluntary codes can itself be beneficial in terms of promoting more responsible investment behaviour.

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