



APPENDIX ONE

Methodology of and Issues Encountered in Collecting Inventory Data

Country level data collection was complicated by the generally limited amount of information collected from investors preapproval and especially postapproval of the investment, the lack of data coordination between different agencies and levels of government, and in some cases the complete absence or questionable provenance of important details, such as the investment's location and implementation status. The results of this exercise, along with a detailed discussion of the challenges faced in collecting information from each study country, are presented below.

CAMBODIA

The Ministry of Agriculture, Forestry and Fisheries (MAFF) created an inventory in 2006 in response to strong international pressure to increase the openness of the process of awarding concessions. This pressure ultimately resulted in the Subdecree on Economic Land Concession in 2005 and an agreement to cancel all concessions larger than 10,000 hectares (ha).¹ The government was set to release an updated inventory in June 2009 but did not do so, forcing us to rely on 2006 data.

Difficulties were encountered regarding internal consistency and the interpretation of global positioning system (GPS) coordinates included in the database. Interviews with officials in Kampong Thom province suggested that grants by local authorities continue and that capacity gaps hinder full implementation of measures that aim to promote competitive award

of economic land concessions, as well as the monitoring envisaged in the subdecree. These reports are consistent with independent findings (United Nations 2007). Public information on economic land concessions remains incomplete, and many environmental and social impact assessments, if conducted at all, involve little community participation or fall short of international best practice.

DEMOCRATIC REPUBLIC OF CONGO

A national inventory includes all concessions of at least 500 ha for agricultural or forestry-based uses approved by the Minister of Land Affairs since 2005. As land records are maintained at the district level, follow-up data collection was undertaken in a selection of districts in Katanga, Kinshasa, Équateur, Orientale, and Bandundu provinces. Efforts were made to obtain information on projects involving 1,000–2,000 ha (which require ministerial approval) and projects involving more than 2,000 ha (which require parliamentary approval). Although all concessions of at least 1,000 ha must be approved by the Minister of Land Affairs, evidence from pilot data collection in Katanga and Kinshasa suggests that governors have in some cases awarded multiple concessions of up to 1,000 ha each to individual investors without the required approvals. Although the media has reported concessions of up to 3 million ha, the largest of the 40 projects listed in official data was only 163,000 ha in size. However, seven projects involved transfers of 10,000 ha or more and thus accounted for more than 97 percent of the total area transferred.

Despite speculation that projected carbon offset revenues (for example, from REDD) might set off a global land grab, particularly in the still heavily forested Democratic Republic of Congo, the sole carbon offset project identified was an 8,000 ha World Bank–funded project in the Bateke region of Kinshasa province. Initial investigations at the provincial level suggest that many of the investments approved within the past five years are either not yet operational or have only recently begun land-clearing on a limited scale. In the forest zone, only two projects (a 500-ha project for palm oil and a 4,000 ha project for rubber) approved in the past five years in Équateur province were found to be operational. A single investment was authorized during this period in Orientale province; it was not operational at the time of this study.

ETHIOPIA

As Africa's largest recipient of food aid, Ethiopia has attracted considerable media attention based on reports about private investors, especially from the Gulf States, obtaining large tracts of land for export production in a country that is chronically food insecure. The highlands, where 80 percent of the country's 85 million live, are densely populated (150 persons/km²). But there are at

least 3.5 million ha of potential cropland in the lowlands with a population density of only 30 persons/km², but with pervasive presence of pastoralists who use land virtually everywhere.² After unsuccessful attempts at resettlement from the densely settled highlands to the lowlands, the government now encourages investors to start mechanized production of oilseeds and other crops. Following disastrous land collectivization in the 1980s, land rights for the mainly sedentary population have recently been strengthened through certification of user rights (without the right to buy or sell land). We looked at data on 406 projects from inventories in five of Ethiopia's nine regions that together account for 1.19 million ha of leased land.

The fact that the regions can authorize land allocations below 5,000 ha required visits to five of the country's nine regions.³ Information on existing investments from federal and regional authorities differed greatly, partly because regional investment authorities can allocate land without consulting other agencies (for example, those responsible for environmental impact and land administration) and there is no routine process for data sharing. All foreign investors, including those entering into joint ventures, must first obtain a federal investment license from the relevant ministry. Once this license is obtained, land may be requested from the Regional Investment Authority (or the Environmental Protection, Land Administration and Use Authority in Amhara), a process that domestic investors also follow. Once the request has been approved, actual land allocations are made at the district or zonal level, possibly for amounts different from those that had been requested.⁴

INDONESIA

The government views plantation crops as key to its development strategy and has supported, and is planning to support, a number of large existing and planned investments in bioenergy and plantation forestry, wood-based products, and food security (Obidzinski 2010). Given the decentralized approach to governance in Indonesia, we approached officials involved in the land concession approval processes at the national, provincial, and district levels for inventory data.⁵ Given the lack of response at the national level, we organized a field visit to one of the most heavily affected provinces, East Kalimantan, to collect data from the provincial governor's office and forestry service. The limited information shared at the provincial level may be related to the delayed approval of the provincial special plan, which has prevented the allocation of land for new concessions and forced interested investors to take over existing concessions.

LIBERIA

Upon coming to office in 2006, the current government cancelled all large concessions (some of which had been awarded 60 years earlier) and established a

process for renegotiating them through the Ministry of Agriculture or the Forestry Development Authority. Information on land area, rents, and tax payments is thus official and complete, although investment data relate to plans rather than actual values. GPS coordinates do not accurately reflect actual cultivated area, as concessions awarded in the past may never have been fully utilized or had fallen into disuse during the civil war.

LAO PEOPLE'S DEMOCRATIC REPUBLIC

By the end of 2009, 248,846 ha had been awarded under 1,143 concessions, including at least 398 for foreign investors. Fragmentation and lack of upstream reporting in the approval processes, together with lack of accountability with responsible state institutions, are reported to have led to significant underreporting (World Bank 2010). There is growing evidence that many concessions have failed to contribute to national economic development as expected. One study indicates, for example, that in one province only 13 percent of plantation projects approved between October 2003 and July 2007 had been developed (Thongmanivong and others 2009).

MOZAMBIQUE

Mozambique has large amounts of land that are not currently cultivated: the Food and Agriculture Organization of the United Nations estimates that of the country's 36 million ha of potentially arable land, at most 6 million ha were cropped in 2005. Following a long civil war, in 1997 Mozambique passed a progressive land law to recognize communities' land rights. It later established a mechanism to formally recognize these rights through the issuance of land use rights known as *direito de uso e aproveitamento da terra* (DUATs). The National Directorate of Land and Forests (DINATEF) can also issue provisional and nontransferable DUATs to investors based on an approved investment proposal, payment of (nominal) annual rents, and a community consultation. In theory, provisional DUATs can be converted into "definitive" rights once the investment has been implemented but lapse if the proposal is not implemented within a specified period of time. In practice, provisional DUATs are rarely cancelled, and most DUATs remain provisional.

The large areas of potentially productive land in Mozambique and their location close to ports and South African markets prompted leaders to aggressively market land resources to potential investors. Their efforts resulted in a flood of applications, with informal requests for 13 million ha received within an 18-month period, according to the investment agency. The overwhelming response, together with results from a land audit suggesting that less than half of the land awarded to investors had actually been used, led to a reversal of policy, the imposition of stricter requirements for economic analysis, and a

moratorium on the allocation of land for biofuel projects until proper zoning to identify suitable land for different crops was completed. Our data include all DUATs and applications for DUATs of at least 1,000 ha for agriculture, livestock, plantation forestry, and game farms between 2004 and 2009. We have information on the status of the land rights, the investor's country of origin, and the size and location of the investment. DUATs were granted for just over 1 million ha to 259 projects; another 117 project proposals, involving more than 1.27 million ha, are being reviewed.

The application process in Mozambique requires that all projects involving more than 1,000 ha be reviewed by the minister of agriculture. Our inventory thus includes only projects above this threshold. Government records generally do not go beyond the project approval stage, with the possible exception of additional documentation required to convert short-term (2–5 year) “provisional” allocations of land use rights to “definitive” use rights valid for up to 50 years. Although formal surveying and demarcation and the implementation of proposed business plans are prerequisites for conversion to full definitive use rights, no investments included in this inventory had yet completed the demarcation process and less than 1 percent had been checked for demonstrated progress.⁶ There are, therefore, no data on implementation progress, and all projects reported here have at best provisional land use rights. Our research confirms that even in cases in which investments have been cancelled or not yet implemented to their projected scale, the land acquisition process and land clearance can have negative impacts on local communities and the environment (FIAN 2010).⁷

Projects involving less than 1,000 ha do not enter the national approval process and may thus not be fully reflected in our inventory. As in the Democratic Republic of Congo, case studies identified some instances in which local approval of multiple projects was used to avoid national approval requirements. The fact that only one copy of each investor application is available created a significant bottleneck for reviewing and updating applications.

NIGERIA

All land allocations in Nigeria are decentralized to the state level. Our inventory relies mainly on data collected from 26 of Nigeria's 36 states,⁸ the federal ministries for agriculture and the environment, and the Forestry Research Institute. Concession data are not maintained in any uniform manner, making it difficult to draw conclusions.

PAKISTAN

Pakistan was included because it featured highly on some investors' priority lists and because the government reportedly made efforts to attract investors.

The political sensitivities surrounding landownership did not allow compilation of an inventory. Field trips were undertaken to cross-check the projects cited in media reports catalogued on the GRAIN blog. In none of these cases could evidence of any investments be identified on the ground.

PARAGUAY

Land transactions in Paraguay are a private matter. Registration and census data were examined to explore patterns of large-scale land ownership. Census data provided information on overall land concentration. Exploring data from the registry proved difficult, because many properties are not registered and there is considerable overlap (some 10 percent to 20 percent of parcels in each department), with inaccuracies higher in areas with active land markets. Attempts to access relevant data through the public registers, where leases are registered, were unsuccessful. However, examination of the cadastre data revealed that some 2.4 million ha (4.5 percent) of the country's land resources are titled to banks. According to the latest census data, non-nationals own 28 percent of parcels larger than 100 ha.

PERU

Concessions for forestry and agriculture in Peru are processed by separate agencies with very different processes. Since the 1990s, public land for agricultural use, mainly in irrigation projects along the coast, has been divested through competitive public auctions. As investors are required to make formal bids with verifiable capital to obtain these parcels, data on the minimum bid value of the land and investment commitment were available from ProInversión, the agency responsible for running the auctions. Bids consist of a purchase price as well as an amount of investment (a significant part of which has to be deposited in an escrow account to ensure compliance), with an average concession size of 3,800 ha and investment commitments of more than US\$4,000/ha (Hernandez 2010). Monitoring investors' honoring of their commitments is an integral part of this function.

Forestry concessions in Peru's interior can be allocated through bidding by small and medium-size producers, a process that resulted in granting of some 7.5 million ha of forestry concessions between 2002 and 2006.⁹ Some 700,000 ha of forested areas are being used for agricultural production, including 300,000 ha for intensive production of, for example, coffee. The practice of granting agricultural concessions on former forest concessions cleared of their vegetation is a source of considerable concern and recent political unrest, discussed in detail in chapter 4.

SUDAN

Sudan illustrates the case of a fairly land-abundant country that aggressively promoted large-scale agricultural investment in response to the 1970s oil shock with mixed results. Land seems no less controversial today than it was before the decade-long civil war. Our country inventory makes up a partial list of 132 land use licenses from the Ministry of Agriculture and from investment commissions in nine states granted between 2003 and 2008. Only information on area allocated was available.

Federal and state ministries of agriculture and investment commissions can allocate large concessions. Allocation of land is the main mandate of the Government Agricultural Land Disposition Committee (GALDC), which applies the procedures for land allocation.¹⁰ To obtain an agricultural leasehold, an applicant submits an application to the state's governor explaining the intentions behind and purpose for requesting the land, provides proof of financial capacity, and indicates the location and size of the requested area, among other information. The governor then transfers the application to the GALDC, and the Ministry of Agriculture makes a technical inspection on-site to check whether the proposed project is viable. After the GALDC approves the application, and in the absence of contestation during the publicity period, dues are paid to the Land Department and the land lease contract can be signed and sent to the Land Registration Office for recording. Although the federal Ministry of Investment is expected to maintain a comprehensive concession database, inadequate sharing of information with state-level authorities limits its comprehensiveness and currency. For this reason, we collected data in nine of the country's 25 states in the north and central regions (Blue Nile, River Nile, North Kordofan, Northern, Gedarif, Gazira, Khartoum, Kasala, and White Nile). No information on project implementation was available. Nearly half of the projects targeted irrigated crop development. Data quality suffered as a result of the transfer of responsibilities for land allocation and investment approval between ministries and investment commissions.

UKRAINE

As land transactions in Ukraine are between individual landowners and investors, there is no centralized concession database. To collect data, we interviewed by phone all 2,984 agricultural operators farming at least 2,000 ha (based on the Statistics Committee's official database of farm operators). Because the willingness to share sensitive financial information was limited, only very basic data (for example, land area, location, investor origin) could be obtained.

ZAMBIA

A list of all 100 rural properties larger than 500 ha was obtained from the Ministry of Lands to allow us to obtain the relevant information on the nature of planned investments from the Zambia Development Agency (ZDA) and investor characteristics from the Patents and Companies Registration Office (PACRO). After long delays, the ZDA provided data on 20 of these projects, most of them devoted to game viewing, hunting, or tourism; PACRO identified that only 10 of these projects were agricultural investments.¹¹ Although the Environmental Council of Zambia, which reviews environmental impact assessments (EIAs), was approached to obtain data on land use, the fact that few agricultural projects conduct EIAs made it difficult to obtain data of interest to this study. The small sample size and the fact that, as ZDA (which was incorporated only in 2007) is still consolidating its operations suggests there may be considerable underreporting, making it difficult to draw conclusions. However, case studies revealed that, as of late 2009, implementation had not yet started on any of the farm block projects designed by ZDA, suggesting that investor interest may be limited.

NOTES

1. Initially, provincial and municipal governors were empowered to authorize land concessions of up to 1,000 ha. The prime minister issued a declaration in September 2008 revoking this power and granting MAFF the exclusive authority to award concessions.
2. In past attempts at resettlement, pastoralist rights were often neglected. Neglect of these rights was not conducive to the success of resettlement and led to conflict (Pankhurst and Piguet 2009). Protection of pastoralist use rights in current legislation remains weak.
3. Amhara, Benishangul-Gumuz, Gambela, Oromia, and the SNNPR.
4. These findings are corroborated by a recent report on biofuels development in Ethiopia by MELCA Movement for Ecological Learning and Community Action (Mahiber 2008).
5. We contacted officials from the ministries of agriculture and forestry, national land agencies, and national investment coordination boards as well as governors and heads of districts in selected pilot areas.
6. Under Article 30(2) of the Land Law Regulations, formal surveying and demarcation must be completed within a year of concession approval.
7. The case studies reveal that many concessions have not been put to productive use and that a number of biofuel investments have gone bankrupt or halted operations.
8. The states surveyed include five in the northeast, four in the northwest, six in the north central, two in the southeast, four in the South, and six in the southwest. In each state, the lead investigator administered the inventory questionnaire to the commissioners of agriculture; natural resources, environment, and lands; and housing. A team of student enumerators cross-checked these official data with data from interviews with investors; nongovernmental organizations (farmers organizations,

chambers of commerce and industry); and parastatal agencies (the Nigerian Investment Promotion Commission, the Nigerian National Petroleum Commission, and the Corporate Affairs Commission).

9. In 2006, a moratorium on forestry concessions was put in place to allow transfer of responsibility for allocating forest concessions to regional governments in the context of the country's overall decentralization process.
10. The committee is made up of members of state-level ministries and institutions (agriculture, survey department, urban planning, forestry, irrigation, land registration).
11. Information on the remaining 70 projects was either unavailable with PACRO or projects were registered as neither agricultural nor forestry (that is, outside the purview of this study).

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