INSTITUTE FOR AGRICULTURE AND TRADE POLICY

Land Grabs and Fragile Food Systems

The Role of Globalization

By Sophia Murphy

Institute for Agriculture and Trade Policy

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Acknowledgements:
Carin Smaller, Duncan Green, Tim Wise, Phil McMichael, Daniel de la Torre Ugarte and Raj Patel
Karen Hansen Kuhn and Ben Lilliston

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Executive Summary

IATP has worked on trade and agriculture for more than 25 years. In all that time, we have consistently argued that trade agreements need to respect and promote human rights, not drive a process of globalization that privileges commercial interests and pushes public interests aside. This paper concludes that the globalization enshrined in the free trade and investment agreements of the 1990s and 2000s have led to yet another manifestation of commercial interests trampling human rights: land grabs.

"Land grabs" is a term coined by the media to describe large-scale purchases or leases of agricultural or forest land on terms that do not serve those already living on the land. There is a large and growing body of literature—academic and more popular—on land grabs. This paper is specifically focused on two forces that we argue have contributed significantly to the problem: First, globalization—more specifically, the deregulation of trade and foreign investment laws, which has greatly eased cross-border capital flows, relaxed the limits on foreign land ownership, and opened markets to agricultural imports. And second, the failures of the international trading system during the food price crisis of 2007-08, which eroded the confidence of food import–dependent countries in international markets as a reliable source of food and fed both speculative investment and investment in actual food production.

This loss of confidence is compounded by climate change and the resulting destabilization of weather patterns, which has resulted in less predictable agricultural production. Between 1995 and 2005, 90 percent of natural disasters were weather related (floods and droughts as opposed to earthquakes and volcanoes). Climate change is making domestic food supplies less certain and affecting major producers for export, too. The United States lost 40 percent of a record large number of acres planted with maize to drought in 2012.

That loss of confidence has driven some of the richer net-food importers—countries such as Saudi Arabia and Kuwait—to invest in growing food abroad for import to their domestic markets. These countries are one of the groups heavily represented among foreign land investors.

The demand for food from richer countries coupled with the potential to grow more food elsewhere is not of itself a bad thing. Agriculture has been starved of investment for at least 20 years in developing countries, and increasing that investment has already started to yield dividends in higher output.

But land grabs, as the label implies, have to date been overwhelmingly negative. They are associated with weak institutional capacity (and sometimes corruption) in the recipient country governments, as well as authoritarian governments in the investors' home countries, making it hard to bring pressure there for better practices. The communities whose land is leased or bought are not adequately protected.

Four linked policy shifts to create a more stable and transparent international food system are needed: reformed trade rules that ensure export measures are subject to transparency and predictability requirements and that allow all countries policy space for food security policies; publicly-managed grain reserves to dampen the effects of supply shocks; readily accessible funding for the poorest food importers, which would be triggered automatically when prices increase sharply in international markets; and, the development of strong national and international laws to govern investment in land, respecting the principles and guidelines set out in the Voluntary Guidelines on Land Tenure. Tanzania's recently announced limits on how much land foreign and domestic investors can lease is a hopeful example of a national government taking the initiative to get serious about regulation.[1]

1. Land grabs: Neo-colonialism or something more?

> "The size of land affected by land acquisition agreements signed between 2008 and 2009 was more than ten times what it had been in previous annual averages." (Oxfam, Sleeping Lions, p.8)

"Land grabs" is a term coined by the media to describe large-scale purchases or leases of agricultural or forest land on terms that do not serve those already living on the land. Land grabs are manifest in a huge increase in foreign (and domestic) investment in land, concentrated in some of the world's poorest—and hungriest—countries. Some of the drivers behind land grabs predate the global food price crisis, such as the rise of the biofuel industry from approximately 2004. But the food price crisis sent investments into overdrive. While the actual numbers are opaque and disputed (how many acres? how much money?), in part because some kinds of investment are over-counted while others are undercounted, no one argues that the scale of land investment is huge and still growing.[2]

1. See the story at http://allafrica.com/stories/201212200011.html

2. One of the most comprehensive sources of up-to-date numbers can be found here, on-line at the Land Matrix portal.

At first glace, it might make sense to celebrate the rapid growth of investment capital flowing to rural communities, especially in developing and least developed countries. In many developing countries, agriculture has been starved of capital for decades and even those governments willing to reverse this trend are hard-pushed to find public monies for the task. Indeed, for some decades, the World Bank and the investment division of the U.N. Conference on Trade and Development (UNCTAD) have encouraged countries to solicit foreign direct investment, arguing that no transfer of public finance can hope to match the wealth available to private investors.

So why the media outcry and the derogatory label—"land grabs"—suggestive as it is of colonial war parties rather than development assistance or honest commerce?

In 2008, a huge surge in investor interest in farmland around the world led commentators to coin the term "land grabs." The first deal to make the headlines was one of the most dramatic: the Korean firm Daewoo bid to lease half of Madagascar's arable land. The deal ultimately did not go through. It is said the proposed deal played a role in mobilizing public protests that led to the overthrow of an already unpopular national government in Madagascar. The deal turned out to be the poster-child of a new phase in the age-old history of fights for control of agricultural land. As a panel description for the Land Deal Politics Initiative (LDPI) defines the term, "Land deals have been called 'land grabs' where these have prompted displacement and dispossession, in contexts of weak land rights laws and institutions."[3]

Such contracts have upset even the most ardent advocates of globalization and foreign direct investment. The Financial Times (FT), a British paper whose editors and columnists have frequently proclaimed the benefits and importance of free trade, deregulated finance and private investment, was the first to break the story of Daewoo in Madagascar. Their coverage was shocked, not positive: foreign investment might be a desirable thing as a general rule from the FT's perspective, but the land contact in question, involving so much land for no return, and no clarity on how Madagascar would benefit from surrendering so much of its agricultural potential to a foreign company, was strongly criticized.

Concern at the surge in land investments from 2008 was rapid and widespread. The World Bank together with three U.N. agencies (the Food and Agriculture Organization (FAO), the International Fund for Agriculture and Development (IFAD) and the UNCTAD)) jointly produced seven Principles for Responsible Agricultural Investment, known by their acronym as PRAI (see box). Many civil society organizations, especially farmers' associations, rejected the principles because there was no consultation with civil society in their formulation. CSOs also objected that the PRAI might legitimize foreign private investment in land, which they strongly rejected. The principles are sound as far as they go but too broad to be of much practical use.

Whatever their failings, the fact that these agencies felt the need to meet and discuss land investment principles is noteworthy. Despite having promoted direct foreign investment as a major source of development finance since the early 1990s, the agencies recognized that land is a particularly sensitive issue, especially land in countries with high levels of poverty that are highly dependent on agriculture for employment and suffer from net food shortages. These are characteristics of many of the largest recipients of land investment capital, including Sudan, Ethiopia, Somalia and the Democratic Republic of the Congo. The World Bank also recognized the lack of investment law in the recipient countries, leaving the affected communities at a severe disadvantage in the contract negotiations.

UNCTAD's Principles for Responsible Agricultural Investment

Principle 1: Existing rights to land and associated natural resources are recognized and respected.

Principle 2: Investments do not jeopardize food security but rather strengthen it.

Principle 3: Processes relating to investment in agriculture are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.

Principle 4: All those materially affected are consulted, and agreements from consultations are recorded and enforced.

Principle 5: Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically, and result in durable shared value.

Principle 6: Investments generate desirable social and distributional impacts and do not increase vulnerability.

Principle 7: Environmental impacts of a project are quantified and measures taken to encourage sustainable resource use, while minimizing the risk/magnitude of negative impacts and mitigating them.

3. http://www.future-agricultures.org/panel-a-session-summaries/7539-panel-1-livelihoods-land-rights

Not only are many of the countries that have been targeted for investment themselves food insecure, but many also have problematic governments (weak or corrupt or both). Accountability, transparency and the enforcement of law in these circumstances can hardly be expected. Of course, there are also investors buying and leasing land in Eastern Europe, North America, Australia and Brazil—countries with well-developed (if imperfect) legal systems. But despite problems measuring the size and scale of the land acquisitions, the World Bank estimates some ten million hectares of land were contracted in just five African countries (Ethiopia, Liberia, Mozambique, Nigeria and Sudan) between 2004 and 2009 (Cotula, 2012). Note, too, that the investors are in many cases either private individuals or sovereign funds from countries with weak political accountability, such as China and Saudi Arabia.

Are land grabs just the latest manifestation of colonialism? Clearly there are parallels. Investors are not just looking to grow food or feed on the land—the land is being acquired for mining, forestry and industrial crops such as rubber and biofuel feedstock. Another huge pressure for land deals is the need to access the freshwater it contains: absolute water scarcity will affect some 1.8 billion people by 2025 and up to two thirds of the world's population will live in regions that face water stress (Smaller, 2010; Varghese, 2013). These are familiar drivers of colonialism. So what distinguishes the current wave of investor interest in the natural resources of other countries?

This paper will argue that two things make this iteration of the phenomenon distinct: climate change and economic integration through globalization. Both are causes of rising vulnerability in the world's food and agriculture systems. In turn, land grabs are a response to that vulnerability: both to the perception (and likely reality) of mounting scarcity as a finite planet continues to be governed by insatiable consumer-driven economies, and to the very real uncertainty that climate change is already creating around the world as weather patterns are disrupted, and droughts and floods increase.

2. Land grabs: The role of globalization

Globalization refers to a process of integrating national economies into a more closely linked international system. In the late 20th century, globalization accelerated under the impetus of two tightly interlinked forces: technological advances, particularly in transportation and communications, that facilitated the movement of highly sophisticated (and simple) goods and services over much greater distances in much less time; and legal and regulatory changes, negotiated in trade and investment agreements, which reduced tariffs and other barriers to imports in most countries around the globe, and facilitated the movement of capital across borders.

Agriculture had historically not been a global matter, though food has been traded across borders for thousands of years. Since land cannot be moved, and capital used not to be particularly mobile either, not to mention that many foods are highly perishable and therefore unsuited for transportation over large distances, there were significant natural barriers to trade. Even today, estimates suggest only 10 to 15 percent of food production crosses a border. Until 1995, agriculture was exempt from the General Agreement on Tariffs and Trade (GATT), which governed the trade in most other goods.[4]

Two policy shifts globalized food production and distribution starting from the 1980s: one was in trade and the other in finance. Both were, in part, the products the same set of treaties and international loan agreements: the free trade agreements of the 1990s and 2000s, together with the "Washington Consensus" that governed most development assistance, bilateral and multilateral, from the 1980s through into the first years of the 21st century. One of the defining documents for agriculture was the Agreement on Agriculture (AoA), one of the Uruguay Round Agreements adopted by the members of what became the World Trade Organization in 1995. The AoA ended the exemption of agriculture from GATT rules. The AoA enshrined in law a distinct place for agriculture in the international trade system.

The AoA rules put pressure on domestic agricultural policies in WTO member states. Already a shift in domestic politics had lessened the political voice of farmers in many developed countries. Globalization as enshrined in the AoA pushed governments to open borders to both imports and exports. For example, import quotas were prohibited and tariffs were lowered. Development assistance to poorer countries focused on developing export sectors, pushing countries to import cheap food from international markets so as to free land for export crop production instead. Developing countries' dependence on food imports increased sharply over these years. For some counties, this was the result of a diversifying and growing economy that generated employment and increased consumers' purchasing power. In these cases, increasing levels of food imports reflected changes in what people wanted to eat and their growing ability to buy what they wanted. For other countries, particularly least developed countries, the shift to import-dependence was not the

4. The General Agreement on Tariffs and Trade (GATT) was first agreed in 1947 and periodically amended subsequently. The latest version, GATT 1994, is one of the agreements overseen by the WTO.

result of improved purchasing power. Rather, it was due to the erosion of domestic food production, increasingly depopulated rural areas and growing demand from urban centers where many remain unemployed or underemployed but had no land on which to grow their own food.

Alongside these changes enshrined in multilateral policy, the U.S. government decided from the 1980s to end its practice of holding public reserves of grain to manage supply on their domestic markets and create a price floor for producers. The sheer scale of U.S. agriculture and its importance in world markets meant U.S. prices at that time set world prices, at least in wheat, corn and soy. The handful of global grain companies that dominated trade disliked public stocks because they limited price volatility and therefore potential profits. These companies campaigned actively to end public stockholding. In the 1980s, the U.S. government liquidated its grain stocks, driving down world prices to dramatically lower levels in the process.[5] There is very little grain in public stocks in the United States today, leaving one of the world's dominant agricultural exporters with no reserve should its production fall short one year.

The policies and laws governing finance and commodity exchanges were also changed by globalization, affecting food systems worldwide. Early in the 2000s, investment funds started to treat agricultural commodities (and land and, indirectly, freshwater) as assets. Land became an increasingly attractive asset in its own right—over time, land tends to appreciate in value, sometimes dramatically. While in developed countries land prices are very high, investors see land in a lot of poorer countries, particularly in Africa and parts of Asia, as under-valued, and so likely to return a profit over time, even if the land is not in production (Cotula, 2012).

The trend began with the deregulation of banking and finance in developed countries, including the dissolution of laws that had separated banks from insurance firms in the United States. Laws that limited the amount of speculative capital that banks and other investors could invest in commodity markets were also relaxed. The resulting increase in investment capital, coupled with the deregulation of capital movement between countries, made it possible for foreign control of land to expand dramatically. On the recipients' side, the opening of economies to foreign investment was also crucial. These changes came about under structural adjustment loans from the World Bank and IMF. In Mexico, they preceded and accompanied the negotiations on the North American Free Trade Agreement (NAFTA), reflecting the Mexican government's commitment to privatizing state industries, dissolving communal land ownership and opening land ownership to foreigners for the first time in almost 100 years.

Banks, investors and grain traders all started to sell derivatives based on food and agriculture commodities in the 1990s (Clapp, 2012, ch.5). Derivatives bundle together different classes of assets; in this case, commodities were bundled with non-commodities, creating linkages between different kinds of markets that had never before existed. The term used to describe this shift is "financialization." Financialization gave investors a new and direct relationship to agricultural land, sometimes involving leaseholds and outright land purchases as well.

The globalization of food production, distribution and finance played a central part in the food price crisis of 2007-08 and the subsequent period of high and volatile food commodity prices that still persists. Globalization as shaped by late 20th century trade and investment agreements fueled land grabs in two ways: it made land an attractive asset for increasingly global investors; and, it increased the risks, particularly for rich net-food importing countries, that international markets might fail to provide the food they depended on, pushing governments to look for other solutions to their food import needs.

3. The global food price crisis: from plenty to scarcity

The food price crisis marked a watershed in our understanding of the world's food systems. It highlighted the flaws of relying on open markets alone to realize food security. International markets, though ostensibly more stable than domestic food markets because they can theoretically draw on the whole world's production for supply, lack key features of a stable system, including reserves as a hedge against bad harvests in the largest exporting regions.

Markets allocate goods to the highest bidder. If supplies are tight, prices will rise. Only those willing and able to pay more will access the reduced supply. When supplies were tight during the food crisis of 2007-08, would-be importers from international markets found the competition much fiercer than they had before. Everyone had to pay a lot more for the food, and not everyone was equally able to afford the higher prices. Some net-food importing countries grew scared food imports might not be available at any price. The panic was largely misplaced, exacerbated by the failings of the WTO's trade rules, which had successfully reined in import tariffs

5. See the charts in http://www.ers.usda.gov/data-products/wheat-data.aspx#25171.

but failed to discipline export taxes, allowing food exporting countries to restrict or even ban exports just when food markets were short on supply.

Food security is psychological, not just physical: it is about having the confidence that there will be food in the weeks and months ahead, not just the knowledge that there is food immediately on hand (Timmer, 2010). In time, higher prices prompt more production. Indeed, the supply responses, particularly in Africa, to higher prices (in part the result of market deregulation, it must be said, as well as to government measures to boost production more directly) eased the effects of subsequent price spikes in international markets in 2010 and 2012. The two responses that dominated policy advice following the food price crisis were to strengthen safety nets (for example creating school lunch programs, or targeting welfare payments to vulnerable populations) and to increase investment in agricultural production. Yet for countries such as Saudi Arabia and Kuwait, neither of these offered a solution because they do not have the necessary arable land (particularly the access to freshwater) that will allow them to grow their own food at a reasonable cost. The Gulf region imports 60 percent of its food already, and its population is set to double from 30 million in 2000 to nearly 60 million people in 2030 (cited in Cotula, 2012).

Several governments in the region responded to the food price crisis by increasing their imports (to build a strategic stock) and creating sovereign investment funds that began to sign leases with governments abroad so as to grow food for export back to the Gulf.

The message to food importers was that international markets are not to be relied upon in a crisis. The governments in exporting countries, who had been so adamant that there could be no flexibility on import tariff rules at the WTO, have not accepted disciplines on their export taxes. The FAO surveyed 77 countries in 2008 and found approximately a quarter of them had used export restrictions during the 2007-08 crisis.[6] Meanwhile, the four companies that between them control an estimated 75 percent or more of the international grain trade saw their profits soar (Clapp et al, 2012). Globalization had deregulated trade but allowed competition to languish.

The globalization of food systems has left agricultural supply and demand tightly aligned—there are few supplies in storage, and there is therefore little or no slack when a harvest fails in a major exporting region or when demand rises sharply, as it did with the advent of biofuels from 2004. The expansion of the biofuels industry has also tightened the correlation between oil and agricultural commodity prices, creating new pricing signals that have little to do with food security or demand for food. The financialization of international agricultural markets has increased price volatility, making it harder for buyers and sellers to use commodity exchanges and other instruments to discover prices. Exponential growth in speculation on commodity markets is part of this financialization and has contributed materially to more volatile prices and less stable distribution systems, particularly imports for poor net-food importing countries.

Of course, it was not globalization alone that wrought the food price crisis. A second powerful driver is climate change, and with it, our growing understanding of planetary boundaries and the limitations of living on a finite, if infinitely ingenious, planet. Climate change is forcing everyone's attention on just how precious productive resources are. If the power balance established by globalization prevails, those resources will be increasingly concentrated in very few hands, far from the people who live where the resources are found.

4. Land tenure and trade: four strategies to ease the pressure

The objective in this world of greater uncertainty and likely scarcity should be to establish more resilient, more stable and more reliable food systems. Land grabs are inimical to such an outcome, though increased investment in agricultural production need not be.

Better rules for trade and investment can both improve the quality of the transactions and reduce the impetus for land investments in the first place. Four linked policy shifts to create a more stable and transparent international food system are needed: **reformed trade rules** that ensure export measures are subject to transparency and predictability requirements and that allow all countries policy space for food security policies; **publicly-managed grain reserves** to dampen the effects of supply shocks; r**eadily accessible funding for the poorest food importers**, which would be triggered automatically when prices increase sharply in international markets; and, the development of **strong national and international laws to govern investment in land**, respecting the principles and guidelines set out in the Voluntary Guidelines on Land Tenure. Tanzania's recently announced moratorium is a hopeful example of a national government taking the initiative to get serious about regulation.

6. http://www.fao.org/fileadmin/templates/est/PUBLICATIONS/Comm_Working_Papers/EST-WP32.pdf_.

1. Trade

Agricultural trade rules need reform. Whether at the WTO or in the regional and bilateral free trade agreements such as NAFTA, the rules are premised on the assertion that open markets are best, yet are the product of a mercantilist bargaining system (open others' markets as much as possible and your own as little as you can). This means rich countries can and mostly do continue with protectionist policies, while denying poorer countries the same possibility. Many clearly trade-distorting practices are permitted, while some practices that would make little or no difference to international markets are prohibited (in particular, countries may under no circumstances raise tariffs above bound ceilings, even if there is a clear public interest in doing so).

The trade rules of the AoA and the regional agreements that have come since do too little to encourage the diversity and competition markets need to thrive. Fifteen years into the implementation of the WTO rules, international markets are still heavily concentrated among four to five major producers for each of the major cereal crops. Corporate concentration is more marked than ever, and both horizontal and vertical integration have increased across the globe. The resulting supply chains are highly problematic for many small-scale producers, though opportunities exist, especially for farmers with access to some minimum level of capital (IIED and Hivos, 2012). The WTO rules were created to limit surpluses and force open markets among importers. They failed to consider the necessary contribution of exporters to the system, creating a one-sided framework that is neither sufficiently predictable nor transparent.

The disciplines on export restrictions in the AoA are effectively useless (Sharma and Konandreas, 2008). Before the Doha Agenda was adopted in November 2001, Japan and Switzerland each submitted proposals to discipline export taxes along the lines of the "tarrification" process used during the Uruguay Round to open markets to increased imports. Tarrification was a formula to turn all import barriers—such as import quotas—into a tariff equivalent. That tariff amount was then locked in as a ceiling (tariffs could not rise above that level) and staged reductions were built into the rules, to ratchet the tariff level down.[7] Japan and Switzerland proposed export restrictions receive the same treatment but their proposals were not included in the Doha Agenda. Other similar but less specific proposals to constrain export restrictions also failed to find sufficient support.

In 2011, the issue was raised again ahead of the WTO Trade Ministerial Conference held in December in Geneva. Egypt submitted a proposal that echoed earlier proposals from net-food importing developing countries that export taxes should be disciplined. Without rejecting it outright, a number of governments made it clear they would not support Egypt's proposal, and it was not included in the political text sent to Ministers for their approval.[8] The result of this refusal of some of the major agricultural exporters to accept disciplines that would stabilize international markets has deepened the political paralysis in the WTO negotiations. Net-food importers are all the more adamant in their demands for more control over their borders.

Export disciplines are an obvious and important step towards a more reliable trade system. Countries need not commit to ceilings on export taxes but a system that is predictable and transparent, with agreed processes in place to cope with emergency supply shortfalls. This is essential if importers are to feel confident in relying on international trade for some part of their food supply.

A further, complicated yet important task in building food importers' confidence in international markets is how to protect a food supply within the larger production of agricultural commodities. Public reserves are one way to achieve this outcome, and are described in more detail below. Another possibility is to force the biofuel industry to act as a shock absorber when prices rise (a role now played by the world's poor urban consumers in developing countries). A number of ideas are circulating on how biofuels might—were governments willing—be subject to slow-downs or capped production when markets supplies were deemed to be getting too tight. Brian Wright (Wright, 2011) has explored a number of ideas, and a 2012 Chatham House paper also considers some possibilities.[9] Unfortunately, the U.S. biofuels industry showed no sign of accepting any relaxing or waiving of mandates on their production even during the worst drought in 50 years in the United States in the summer of 2012.

7. On the import side, this process generated the extraordinary tariffs on certain goods arising from the AoA, such as Japanese rice imports, some of which are taxed at almost 800 percent.

8. Discussed in *Bridges*, 7 December 2011 (ICTSD reporting). "...while no single member explicitly blocked the inclusion of either proposal in the final document on political guidance, doubts raised by some members made consensus difficult to achieve."

9. Chatham House proposes this "Food: Major grain-based and oilseed-based biofuel-producing countries could collectively purchase call options from their biofuel industries. This arrangement would act as a virtual global food reserve. These contracts could specify a trigger–based on a price index–which when activated would obligate the producer to release feedstock back into food chains." (Lee, 2012, p. 10. Executive Summary)

Thirty years of globalization have undermined the resilience of food systems. Governments and policymakers did not adequately assess the benefits of free trade against the risks that dependence on international markets for food imports create. The gaping disparities in relative wealth among the buyers in those markets, the asymmetries of information between the handful of dominant world grain traders and the food importers, and the critical role that food imports play in food security (which makes them highly sensitive politically), were not weighed in the balance when exporting countries and firms encouraged trade liberalization so strongly. Free trade aims to create a single market. The effect is to turn the poorest consumers into shock absorbers: When supply is not adequate to demand, the poor are pushed out of the market and must eat less or even starve. It is like the Bengal famine of 1943, made famous in the writings of Amartya Sen: An increase in the purchasing power of one group within the state priced other groups out of the market. The result was famine, created not from absolute scarcity but from a change in the relative purchasing power that allowed some buyers to suddenly buy a lot more than they had before (Sen, 1989).

Today, the markets are international. They pit rich countries against poor, and the demand for energy crops and animal feed against the food needs of the low income urban poor in cities across the developing world. Trade rules need to learn how to discriminate; they should discriminate against dumping of agricultural commodities (the sale of underpriced goods in international markets). They should protect public procurement from purely commercial requirements, in recognition of the contribution public investment can make in supporting local livelihoods and food security. The private investor has neither the obligation nor the incentive to make investments on this basis. Trade rules should ban the patenting of life forms, including seeds. Resilient agriculture depends upon biologically and culturally diverse farming systems, in which traditional knowledge and farmer saved seed and seed exchanges play a vital role. Such systems require protection from commercial investors, who seek to charge a rent for knowledge that belongs in the public realm.

2. Food reserves

Public food reserves are necessary to limit price volatility and to stabilize international trade (HLPE, 2011). Like a bank that is only as solid as its customers' faith that it has the reserves it needs to cover its debt, grain reserves allow traders to buy and sell with confidence that the supply will not collapse without warning. Once trust that the system is properly underpinned is broken, it is very difficult to restore.

It is cheaper for countries to avoid holding stocks and instead rely on trade to import when their domestic supply is inadequate. But if every country takes this option, the international system is increasingly prone to instability and failure. There have to be stocks somewhere or high levels of price volatility are inevitable (HLPE, 2011). To provide an effective stabilizing role, those stocks must be publicly held and transparently managed. Fortunately some of the biggest importers, especially Asian countries such as China and Indonesia, did have and use stocks. Their governments were able to limit price volatility in domestic markets. Their behaviour did not help stabilize international prices, but their stocks did limit the potential disruption by avoiding the panic buying of the Philippines and some other countries, which do not have reserves.

Ideally, stocks relieve some pressure on the international market by easing the pressure on when delivery must be taken. Of course, the timing of stock replenishment is important: buying stocks when supplies are tight will worsen instability, as happened during the rice price crisis in March 2008. The potential gains are sufficient to warrant multilateral coordination, to overcome the problem of free-riders and to create a functioning system of publicly managed food reserves. The WTO agriculture rules do not prohibit grain reserves (Murphy, 2010), but neither do they encourage them. In November 2012, India led a group of 46 countries in presenting a proposal at the WTO to ease the restrictions on public acquisition of food for public stockholding. The existing rules say governments must pay prevailing market prices for food that is put into public storage and if they pay more, the difference should count as a subsidy. India and the other supporting countries argue that the public stockholding purchases support low-income farmers and meet food security objectives, including providing food for public distribution systems.

3. Finance

Finance has always been an important dimension of trade. Richer governments have long relied on export credits as a way to make their goods (and their companies) more attractive to potential customers. Trade involves inevitable time lags between the dispatch and arrival of goods, lags that require financing from somewhere: either the buyer must advance the money, or the seller must be able to afford to wait between making an investment and realizing a sale, or a third party is required to cover the gap, whether for profit as a financier, or as with a state-supported export credit scheme, using tax revenues to support the businesses involved.

During the Uruguay Round negotiations, a number of developing countries protested that trade liberalization would push prices in international markets higher, making their

food imports more expensive.[10] Governments responded by adopting the so-called Marrakech Decision,[11] which provided for public financing (through the International Monetary Fund) for poorer countries in case they faced sharp price increases due to trade policy reforms. The Marrakech decision was never effective because the IMF conditions for accessing the funding were too stringent (it was not enough that prices were higher—a causal relationship had to be demonstrated with trade policy reforms in order to trigger the funds).

FAO economists have proposed a variant on the Marrakesh mechanism, called a Food Import Financing Facility, which would successfully provide the poorest net-food importing countries with access to financing for food imports when prices rise above a given level. The proposed trigger is dynamic, possibly set as a percentage deviation from a weighted average of recent prices, to capture volatility rather than longer-term price shifts (Sarris, 2009). What matters is to have a responsive system that is able to act quickly—the average imports to many of the poorest countries take up to three months to arrive, so it is important to avoid adding any further to the delay.

Money is only useful, however, if there is food in the market to buy. And as the global economic crisis continues, many traditional donors are unwilling to continue to fund overseas development at the same levels they had in the recent past. Many policy advisors are proposing private sector tools, such as insurance and futures contracts, as cheaper and more flexible tools to assist vulnerable food-importing countries. Yet these demand levels of expertise, and public funding, that few developing countries are in a position to supply.

4. Investment rules

It is of course essential to tackle land grabs directly, with better investment rules. There is no overarching international legal framework for investment. Instead, several multilateral agreements (including two WTO agreements: the General Agreement on Trade in Services (GATS), and Trade Related Investment Measures (TRIMs) operate alongside bilateral investment treaties (BITs) and free trade agreements (both bilateral and regional). Since the passage of NAFTA in 1994, free trade agreements almost all include services and investment components. The pattern of the agreements is to grant significant power to private companies to insist their commercial needs trump public policy concerns, including threats to public health and environmental pollution. The lack of a coherent framework means many vital issues are left unaddressed. Few national jurisdictions have adequate regulation for foreign investment, while trade agreements have given private corporations unprecedented legal rights to assert over governments.

At the multilateral level, the PRAI (see above) gave way to a FAO-led process that had begun around the same time as the PRAI were agreed. The process was called the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (often referred to simply as the Voluntary Guidelines or VG). The U.N. Committee on World Food Security (CFS) took on the VG negotiations in 2011, and they became the primary focus of inter-governmental negotiations to control land grabs. The VG were finalized in March 2012 and adopted May 2012 at the CFS. The VG were the result of extensive consultations, both in regions and with many public and private sector actors. They have strong CSO support as a result.

In October 2012, governments at the CFS launched a further process, somewhat confusingly known as Responsible Agricultural Investments Principles or RAI principles. The terms of reference for the process are set out in Annex D of the final report of CFS 39.[12] The rules will be voluntary, building on the original PRAI and the VG. They are aimed at all investments: foreign and domestic, public and private, small to large scale. The needs and interests of smallholder producers feature prominently in the terms of reference. Endorsement by governments is foreseen for October 2014.

The heart of these principles, and the national legislation that must ultimately (and quickly) be the policy objective, lies with a national debate on land and land ownership. But to ignore the role that international trade and investment agreements play, both directly and as they shape food systems, would be a serious mistake. Investment treaties as they now exist, and as proposed in negotiations such as those for the Trans Pacific Partnership or TPP, give investors weighty claims against host governments (for example for financial restitution if "expected profits" are somehow reduced by changes in public policy), but they do nothing to protect the people whose land is leased or sold, or those who live nearby.

10. For a number of reasons, this did not prove true in commercial markets (in which prices continue to fall for some years, until around 2004) but the food stocks that were sold at less than commercial rates that many poorer countries had grown dependent upon did dry up,as the larger exporting producers ended their stockholding policies. So developing countries grew dependent on food imports while food was under-valued in international markets, and then had to pay commercial prices as the trade agreements took effect.

11. The full name of the agreement is the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

12. Available on-line at http://www.csm4cfs.org/files/News/87/mf027_cfs_39_final_report_compiled_e.pdf.

The principles, guidelines and soft law now in negotiation offer governments and civil society an opportunity to explore how to create space for central public policy concerns, including the right to food, food sovereignty and food security. They should take that chance, and deliberately link their land policies to the other policies that affect their food systems, particularly their ability to protect and promote the right to food.

5. Conclusions and recommendations

Land grabs are a rare policy area where almost no one thinks the status quo is acceptable. The discrepancies in power, the inadequacy of existing regulations, and the growing awareness of the finite (though renewable) nature of the arable land and freshwater on which human survival depends make the issue both politically charged but also perhaps surprisingly uncontested. There is not agreement on what is to be done, nor on the role foreign investment should play, but there is at least agreement that the *status quo* is problematic, and many go much further. The U.N. Special Rapporteur on the Right to Food, Olivier de Schutter, is one such critic. He has documented his concern that land grabs are curtailing communal access to land and small-scale producers' livelihoods, and thereby threatening the realization of the right to food (de Schutter, 2011).

What next?

1. Reform multilateral (and regional and bilateral) trade rules to build a reliable, stable and transparent system. This should include new rules on export disciplines and reform of biofuels mandates. In the face of climate change and less predictable supplies, governments need to support the trade system with better risk management systems. Trade rules need strong measures to stop the dumping (the sale at less than cost of production prices) of agricultural commodities in international markets. They should protect public procurement as a tool for public investment in both food security and livelihoods. Trade rules should prohibit the patenting of life forms, including seeds. Resilient agriculture depends upon biologically and culturally diverse farming systems, in which traditional knowledge and farmer saved seed and seed exchanges play a vital role.

2. Build a system of internationally coordinated public reserves. Even beyond the direct benefits for national and regional food security, such a system would help to restore confidence in the availability of food and lessen the drive to lock in supplies through land purchases.

3. Create a funding mechanism that facilitates the purchase of food in international markets for poor net-food importing countries when prices spike upwards. Money alone will not solve the problem of poor countries competing with multiple demands on available agricultural supplies, but it can help, especially as a short-term measure, and especially to provide some confidence for buyers that they will not have to drop out of the international market without warning.

4. Develop binding national and international investment law, and implement the Voluntary Guidelines on Land Tenure. As voluntary guidelines, they allow countries to shape their land investment laws according to their local needs and customs. Given the complexity of land issues, it is arguably a good thing that the debate got underway without the political weight of binding negotiations; the more so since a relatively quick political process ensued. The challenge is now to turn the guidelines into law, and to review the contracts already signed that do not conform to the principles now set out in the guidelines.

The world, and agricultural production along with it, is only getting less predictable. Climate change—a scientific fact if also a political quagmire—is already affecting production. Freshwater scarcity is already a reality for many people and in many countries. A recent report released by UK-based Chatham House, *Resources Futures*, says, "volatility is the new normal" (Lee, 2012). Resource trade, measured in volume terms, has increased 50 percent in the past decade (measuring iron and oil, minerals and steel, soybeans and wheat together). In thinking through how to manage this demand given our planetary boundaries and the demands of social justice (what Oxfam's Kate Raworth calls the donut—or, more prosaically, a just and safe space for humanity),[13] the inevitable conclusion is that the scale and pace of land investment now underway is a threat to food security and a threat to sane and just outcomes for our planet and its people.

13. See http://www.oxfam.org/en/grow/video/2012/introducing-doughnut-safe-and-just-space-humanity.

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