

African Union, African Regional Bodies

## Recommendations on the means of investing effectively in: Parliamentary response to the phenomenon of “land grab”

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African Union

## Recommendations on the means of investing effectively in: Parliamentary response to the phenomenon of “land grab”

Commencement date unknown

*[This is the version of this document from 14 October 2011.]*

### Resolutions on the role of Parliamentarians

**To act as watch dog;** in order to ensure social inclusion and transparency in investment projects: put pressure on the government for it to provide access to information, react and suggest an alternative language for the drafting of contracts, include provisions in order to protect constituencies;

**To act as law-makers;** as supervisory agents of governmental policy and as custodians of State property, include laws to make it compulsory to previously and freely obtain the clear consent of communities before the signing of investment contracts; put in place committees to examine the practices and monitor the respect of commercial practices and the impact of investment projects;

**To be political decision-makers and transcend partisan affiliations:** give priority to the capacity building of the populations in the field of negotiation, with parliamentarians as allies; transcend party affiliation in the domains of common interest;

**Translate policies** into concrete actions at the national and local levels; develop guidelines on land good governance in order to support AU Directives on land policy;

**Control** the implementation of AU Directives on land policy and the target of 10% advocated in the Maputo Declaration; use the control that Parliamentarians exert on budgetary allocations in order to put pressure for more allocations to the agricultural sector;

**Mitigate,** prevent and denounce corrupt practices.

### Recommendations and next steps

**BETTER TRANSPARENCY.** Parliamentarians have an important role to play in order to encourage governments to publish contract. It has been noticed that there is an increasing global consensus in favour of transparent contracts. In 2011, the International Bar Association and the United Nations Special Representatives for Business and Human Rights explicitly called for transparency in the award of contracts. The principles for responsible agricultural investment, developed by the World Bank calls for transparency in the access to land and investments. The United Nations Special Rapporteur on the right to food is calling for total transparency in the renting or purchase of land. Liberia has paved the way and has decided, in its 2009 Law on transparent investments, that all concessions and all contracts relating to the mining, agricultural, forestry and petroleum sectors be published. The other countries should follow this example.

**LAND REFORM.** Insecurity in the land rights has resulted in the present situation. The remedy lies in the legal recognition that traditional land rights are equivalent to the real property rights. In the absence of this legal change, communities will remain squatters on their lands. Governments must decentralize their authority on lands towards the communities that are occupying them. Local institutions must be democratized and developed in order that they can support this process (as is the case presently in South Africa, Mozambique and Angola). The traditional authority needs to reform in order to really ensure the representation of communities. National laws on rights to land, water and other natural resources must be defined, and they must clearly indicate the rights of the existing users. Besides, governments and parliaments must work in collaboration in order to develop a plan on the use of land and take stock of the available lands.

**SENSITIZATION AND CAPACITY BUILDING WITHIN THE FRAMEWORK OF FOREIGN INVESTMENT.** It is necessary to carry out a massive sensitization and capacity building campaign in such a way that communities will become aware of their rights, that they have access to investment agreements and are equipped for negotiations for positions of knowledge and expertise. The PAP and its partners should help in organizing regional workshops for Parliamentarians and the civil society.; empower communities in which substantial

investments are carried out, build the capacity of governments and local land owners in order that they become aware of the value of their natural resources and be able to negotiate with their investors.

**ESTABLISHMENT AND CONSOLIDATION** of centres of excellence on land, agriculture and natural resources. There are research works based on facts, including investors, amounts and impacts (consult Annex on bibliography). There are international and regional frameworks which can serve as resources for guidelines on foreign investment (AU Directives on land policy, FAO voluntary Directives, World Bank Principles, etc.). The IISD has a model Treaty on investment which is a useful tool. Two international processes have developed principles for responsible investment contracts. These documents should form the base to further develop the centres of excellence in the whole of Africa, including the promotion of alternative economic models for agriculture, where emphasis is laid on the promotion and collaboration of small farmers.

**MORATORIUM** on land grab. Large scale land transactions should be perceived as a last resort and priority should be given to small-scale farming and to alternative models of communitiesinvestors partnerships. A certain number of participants have deemed it necessary to ask for a moratorium on the large-scale land acquisition. They were in favour of a campaign that will be carried out all over Africa requesting a moratorium until the putting in place of an appropriate framework that will enable Africa to benefit from the current wave of investment. Other delegates were more cautious, arguing that it was better to find out how to invest more effectively in Africa rather than insisting on a moratorium.