

**GOVERNANCE OF LARGE SCALE AGRICULTURAL INVESTMENTS IN AFRICA: THE
CASE OF ETHIOPIA**

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1. INTRODUCTION

This paper is based on a study commissioned by the World Bank to evaluate the current policy, legal and institutional framework (PLIAF) regarding large-scale agricultural investments in Ethiopia. The evaluation was carried out on the basis of a diagnostic tool prepared by the World Bank comprising of a set of indicators and sub-level dimensions that have been designed to evaluate the context in which these investments or investment proposals take place. 42 PLI dimensions focusing on a set of issues related to land, investments, and social and environmental safeguards have been used to assess the governance situation of large-scale agricultural investments at the national level.

The process and methodology used to carry out the assessment basically comprised of two steps. The first step involved conducting expert investigations by gathering data and information relevant to the respective PLI dimensions through the collection and analysis of existing policy and legal documents relevant to this study; available statistics; published reports and other forms of accessible primary and secondary data and information. To some extent, interviews were also made with relevant stakeholders at both the federal and regional levels.

The second step, which was the core strategy for the PLIAF assessment, was convening panel of experts in a one-day workshop to assess and rank the respective PLI dimensions. Accordingly, six panel workshops were organized for this purpose. The panel members were made up of three to five persons from both the public and private sectors who have the appropriate knowledge and expertise in the areas subject to assessment. The panel of experts were provided with the data and information gathered during the expert investigations to aid them in their preliminary assessment of the respective dimensions. Each panel member initially made his/her individual assessment and ranking of the PLI dimensions. Subsequently, the panels were reconvened to discuss their individual rankings in order to come up with a consensus ranking on each of the PLI dimensions. After a lot of debate and discussions on each of the PLI dimensions, the panel members have, in almost all cases, achieved a consensus ranking. This paper will be discussing the findings made during the panel workshops as well as the expert investigations.

Before proceeding to discussing the results of the assessment, however, it would be pertinent to raise some of the limitations of the assessment. First, some of the PLI dimension statements required quantitative data for adequate assessment. However, there were sparse or no available quantitative data country-wide or at a disaggregated level that could give a sufficient picture in order to assess and rank some of the dimension statements. In such cases, therefore, the assessment and ranking was made on partially available data or on 'educated' estimate and may not give a reliable picture on the level of governance regarding such dimensions. This fact may also have led to a subjective assessment and ranking of some of the dimensions rather than being 'objective'. Secondly, most of the dimensions were assessed and ranked on the basis of desk study and secondary materials that were available during the period of study. These were supplemented by the knowledge and expertise of the panel of experts in the different areas of the study as well as by interviews made with different stakeholders at both the Federal and Regional levels. However, it was not possible to back up these findings with the actual practice on the ground in the different regions due mainly to time constraint. Sometimes, the practice

may be quite different from what is provided in policies and laws. Thirdly, to date, it is only four regional states (Amhara, Tigray, Oromia and Southern Nations, Nationalities and Peoples regional states) that have gone some way to provide laws and institutions for land administration in the country while the other five regional states (Benishangul-Gumuz, Afar, Gambella, Somali and Harari regional states) have yet to put in place a land administration system in their respective regions. Most of the findings of this study and the assessment made is based on the four regions that have already put in place a land administration system. Although it is reported that a number of large-scale agricultural investments is increasingly taking place in the regions that have not yet put in place laws and regulations to deal with such investments, there isn't much information as to how they are dealing with such investments in the absence of a land administration system put in place in such regions.²

In general, therefore, the results of the assessment and ranking of the governance situation regarding large-scale agricultural investments should be viewed to provide a somewhat preliminary, and partial finding and therefore require more further and comprehensive research and field studies in order to come with a more adequate picture of the existing governance framework in Ethiopia.

Following, the paper will initially give a brief background to the Ethiopian land policy context in order to provide the overall framework in which large-scale agricultural investments take place or will be taking place. The second section, which is the core part of the paper, will discuss the main findings regarding the governance situation of large-scale agricultural investments in the country. This part is divided into three thematic areas: land, investments and environmental and social safeguards. Under each thematic area, a number of issues related to the thematic areas will be discussed including the findings of the assessment.

2. Background to the Ethiopian Land Policy Context

The Ethiopian economy is fundamentally rural and relies heavily on the agricultural sector which contributes to nearly half of the GDP, 85 percent of exports and 85 percent of total employment. Agriculture in Ethiopia is dominated by small-scale farmers who earn their livelihood primarily from subsistence rain-fed agriculture with only limited use of modern inputs. In the highlands of Ethiopia, where the majority of the country's population live, the holding size is very small and highly fragmented, rainfall patterns volatile and levels of productivity very low. As a result, the country has always been suffering from persistent food shortages particularly evident in times of famine. Investment in and maintenance of yield-enhancing infrastructure and irrigation has been low which has been partly attributed to low levels of perceived tenure security. Even public investment in irrigation may either not be maintained properly or be used to its full potential without clear and secure property rights to land. Large scale investment in more mechanized types of farming can potentially provide an option in remote regions but will not help create employment or sustainable development in the country's core.

² During the course of this study, an inventory of large-scale agricultural investments was made in five regional states (Amhara, SNNP, Oromia, Benishangul-Gumuz and Gambella regional states. The latter two regions do not yet have their own land administration and use laws but have already granted a significant amount of land for large-scale agricultural investments (threshold taken as equal to or above 500ha) for various domestic and foreign investors

The country has undergone major political changes over the past four decades which has been accompanied by major land reforms. Ethiopia moved from a predominantly feudal system that simultaneously recognized kinship, tenancy and private forms of tenure, to a socialist regime that instituted public ownership of land through nationalization and redistribution to peasant households; to the current market oriented economy under which land still remains public property and constitutionally entrenched.

Ethiopia currently has a federal structure that allows for considerable autonomy to the regional states and decentralized decision-making up to the lowest level in political, economic and social spheres including for administration of land. Regional states have the mandate to administer land subject to the general policies and laws issued at the Federal level. Decision-making regarding land not only involves the highest levels of regional government but also involves active engagement of lower levels such as zones, woredas (districts) and peasant associations in the respective regional states.

Since the coming into power of the EPRDF-led government in Ethiopia in 1991, the main thrust of the agricultural policy of the country has been what is dubbed as the Agricultural Development Led Industrialization (ADLI). The core pillar of ADLI is based on the premise that, in a capital starved country like Ethiopia, labor intensive agriculture is the engine of growth and a mechanism for reducing poverty in the country. In other words, ADLI subscribes to the policy that the development of agriculture is considered as the main engine of industrialization by providing the raw material, capital base, surplus labor and capital accumulation (MoFED, 2002:13). ADLI has been considered as pro-poor and, as such, the main instrument for alleviating poverty of the majority of small-holder farmers in Ethiopia.

In 2002, the government issued the first Poverty Reduction Strategy Paper (PRSP), known as the “Sustainable Development and Poverty Reduction Program” (SDPRP), after a consultative process involving various stakeholders at both the Federal and Regional levels. The SDPRP was based on the basic tenets of ADLI with its major focus on agricultural and rural development. Its emphasis was mainly directed to stimulating rural growth centered on small-holder agriculture.

The second round of the PRSP process, known as “the Plan for Accelerated and Sustainable Development to End Poverty” (PASDEP), covers the period 2005-2010 and is the current overarching policy framework in Ethiopia. Although the PASDEP builds upon most of the important strategic directions articulated in the former SDPRP, there is a major shift from the previous policy direction in that it places an emphasis on economic growth with a greater focus on commercialization of agriculture with a strong push from the private sector (MoFED, 2006:11). The PASDEP aims to accelerate economic growth in the country with the private sector playing a lead role

It is in light of the current policy framework that aims at promoting private large-scale agricultural investments in Ethiopia by both foreign and domestic investors that the government has, in recent years, been actively engaged in allocating land for large-scale agricultural investments. It is with this in mind, therefore, that there is a need to assess the governance situation of such investments that indicate the strength and weaknesses of the current governance system to serve as an input for all interested stakeholders to build and improve upon on what exists currently.

3. Governance of Large-Scale Agricultural Investments in Ethiopia

This part will discuss the main findings of the assessment regarding the governance situation of large scale agricultural investments in Ethiopia. The section is divided into three thematic areas, land, investments and environmental and social safeguards. Under each thematic area, various issues that serve as an indicator to measure the governance of large-scale agricultural investments in the country will be reviewed.

3.1 LAND

Recognition and Enforcement of Land Rights

As the supreme law of Ethiopia, the Federal Constitution lays down the basic legal framework that determine land tenure rights of the country. According to the Federal Constitution, the right to ownership of land including other natural resources is exclusively vested in the State and the peoples of Ethiopia.³ Moreover, the Constitution provides that land is not subject to “sale or other means of exchange”, which clearly indicates that land cannot in any way be alienated and therefore precludes any form of private or communal “ownership” of land in the absolute sense of the term.

Hence, all other subsidiary laws issued by both the Federal and Regional States recognize use rights either in the form of state, private or communal/group holdings. More specifically, both the Federal and Regional Constitutions as well as the land administration laws issued by the Federal and Regional States provide that peasants and pastoralists have the right to acquire use rights over rural land free of charge and without time limit including the protection against eviction from their land except for public purposes subject to the payment of advance compensation commensurate to the value of the property.⁴ Apart from this, any private individual or entity may have the right to acquire land on the basis of payment and for a fixed period of time to be determined by regional laws.⁵

To date, however, only four regional states constituting around 70% of the rural population of the country, namely, the Amhara, Oromia, Tigray and Southern Nations, Nationalities and Peoples (SNNP) regional states have issued implementation legislation and proceeded with issuing land holding certificates to peasant households formally giving recognition to the rights provided for under the Constitution.⁶ The other five regional states (Afar, Somali, Benishangul-Gumuz, Gambella and Harari

³ Proclamation No.1/1995, the Constitution of the Federal Democratic Republic of Ethiopia

⁴ Article 40(8) of the Federal Constitution;

⁵ Article 40(6) of the Federal Consitution

⁶ The relevant laws are the Federal Rural Land Administration and Land Use Proclamation No. 456/2005; the Amhara National Regional State Rural Land Administration and Use Proclamation No. 133/2006; Regulation No.51/2007, Regulation for the Implementation of Proclamation 133/2006; Oromia National Regional State Rural Land Administration and Utilization Proclamation No.130/2007; Southern Nations Nationalities and Peoples Regional State Rural Land Administration and Utilization Proclamation No.110/2007; Tigray National Regional State Rural Land Administration and Use Proclamation No.97/2006; Tigray Land Administration and Use Regulation No.37/2007

regional states) have not yet issued their own implementation legislation.⁷ In the absence of detailed land administration laws in the other five regional states, it is not clear how the land holding rights given to peasants and pastoralists under the Constitution is being implemented within these regional states.

Moreover, the transferability of these rights is restricted as per the Constitution as well as the Federal and Regional rural land administration laws. Private individual holding are not subject to sale or other means of exchange. Such holding can only be transferred through inheritance and only to family members residing with the right holder. If private individual holdings can be leased to other farmers or investors, this is subject to legal restrictions on the size and duration of the lease which may vary from one regional state to the other on the basis of legal provisions stipulated in the land administration and use laws of the respective regional states.⁸ Furthermore, the laws do not allow peasants to pledge their land use rights as collateral while an investor who leases rural land may present his/her use right as a collateral.⁹

In light of the absence of regional implementation laws in all but four of the regional states, the formal recognition of rights in the regions with as yet no detailed laws is a key limitation in the formal recognition of rights particularly of pastoralist communities which predominantly reside in these regions and constitute around 12 per cent of the total population of the country (or around 15 percent of the rural population). Notably, the examination of the relevant provisions of the Constitution as well as the existing federal and regional rural administration laws indeed reflect an agrarian focused conception of individual and communal rights to rural land.

In regard to community landholdings in rural areas, both the Federal and existing regional laws generally define communal holdings of rural land stating that the government may allocate rural land to communities for common grazing, forestry and other social services.¹⁰ However, the relevant provisions of these laws or other subsidiary legislation do not provide clear provisions that specify the extent of rights of communal landholdings nor do they set the criteria and procedures for legal recognition. Moreover, the Federal land administration law as well as the respective regional laws provide that the government may reallocate communal holdings to private holdings as it sees fit¹¹ which weakens much

⁷ The Afar and Benishangul-Gumuz Regional States have been reported to have a draft Land Administration and Use Proclamation still under review and subject to approval by the respective regional councils

⁸ For instance, the SNNP regional state land administration law (Proclamation 110/2007) provides that land rent among peasants can be for a duration of up to five years and for investors for a duration of up to 10 years or may extend up to 25 years if the investor is cultivating perennial crops (Article 8); the Oromia land administration law (Proclamation 130/2007) provides a duration of up to three years if the land is rented out to traditional farmers and up to fifteen years for mechanized farming and also limits the land to be rented out to half of a peasant's land holding (Article 5)

⁹ Article 8(4) of Proclamation 456/2007

¹⁰ Article 2(12) of the Federal Rural Land Administration and Land Use Proclamation No.456/2005 defines communal holdings as "...land given to local residents for common grazing, forestry and other social services. The definition given to such holdings in the regional laws are more or less the same

¹¹ e.g. Article 5(3) of Proclamation No.456/2005; Article 5(14) of the SNNPR Proclamation

the tenure security of such rights. In light of this, it may be concluded that communal land holders do not have the same rights as that of individual land holders if it is the government and not the community members themselves, that make decisions regarding the transfer of use rights of communal land to private holdings. Furthermore, the content of the landholding rights of pastoralists has not yet been specifically and clearly defined in subsidiary laws to date thereby weakening the tenure rights of pastoralist communities recognised under the Constitution which is inherently communal in nature.

First time registration of individually held properties in rural areas are to date confined to four regional states (Amhara, Oromia, Tigray and SNNP regional states) and includes the three most populous regional states (Amhara, Oromia and SNNP regional states). Official figures until 2005 and project reports since then show that the first stage registration and certification of rural private holdings have already covered 85% of rural households in the four Regional States representing around 70% of the total rural population in the country. Even in such cases, first-time registration did not involve formal delineation and demarcation of land and mapping (cadastre).¹²

On the other hand, even in the four regional states where rural land registration has taken place, there is little communal land that has been demarcated or mapped/surveyed to date nor have communal holdings been significantly registered. However, pilot projects involving demarcation and simple surveys have been undertaken in selected areas of two regions, namely, the Amhara and Tigray regions.

With respect to mapping of forest land and registering rights over such land, two primary laws issued by the Federal government in 2007 govern the management and use of forest lands and wildlife areas.¹³ There are also laws issued by some regional states which are basically in line with the Federal laws. The Forestry law recognize two types of forests, namely, state forests which may be under the ownership of the Federal government or Regional States; and private forests, which may be developed by private individuals, peasant associations, private organizations, investors or NGOs. The law also provides for the designation, demarcation and registration of major forest lands as state forests and the demarcation and legal recognition of forestlands held privately. Similarly, the wildlife law also provides for the designation of wildlife conservation areas including national parks, wildlife sanctuaries, wildlife reserves and wildlife controlled areas through federal and regional laws.

Some protected forests and national parks have already been designated and demarcated by law¹⁴ but other major state forests and national parks such as the Bale Mountains, Gambella, Nechisar and Yangudi Rassa have yet to be designated and demarcated by law.¹⁵ To date, there is a lack of a comprehensive formal initiative to demarcate state owned forest lands and the mapping, designation

¹² Deininger et.al, Rural land certification in Ethiopia: Process, initial impact and implications for other countries (2007)

¹³ Forest Development, Conservation and Utilization Proclamation No.542/2007 and the Development, Conservation and Utilization of Wildlife Proclamation No.541/2007

¹⁴ E.g. Awash, Simien Mountains, Omo and Mago national parks

¹⁵ The Food and Agricultural Organization: Global Forest Resources Assessment, 2005

and formal registration of such rights is absent. The lack of mapping and registration of rights over state forests has reportedly resulted in drastically reduced size of state forests and wildlife areas due to encroachment by local communities living around the area. Similarly, the on-going land registration in the regions which have started the exercise have not yet included the survey and mapping of forest lands, although there are some on-going efforts in this direction recently.¹⁶

Land Conflicts

Generally, land related disputes among smallholder farmers constitute a large share of all cases handled within the formal judicial system. Although it was not possible to acquire quantitative data during this study, interviews made with judges in SNNP Regional State and West Shoa Zone of the Oromia Region, state revealed that land cases constitute more than 50% of cases handled by the Courts in SNNPR and more than 75 % in Oromia Regional State.

However, according to the information obtained from regional investment and land administration officials in the regional states visited during this study, conflicts directly or indirectly related to large-scale agricultural investments are not widespread or if it arises, is very low.¹⁷ The main reason given by the experts for such low levels of conflict in this sector is because of the practice of allocating “unutilized” land to investors engaged in large-scale agricultural investments although this claim is challenged by some studies.¹⁸

Restriction on Land Rights and Land Use Planning

The Federal Rural Land Administration and Land Use Proclamation as well as comparable legislations in the Amhara, Tigray, Oromia and SNNP regional states provide some land use restrictions and stipulate the development of a guiding land use master plan by the competent authority. The provisions include restrictions applicable on the use of slopy, gully and wetlands and indicate that land use types and obligations of the holder are among the elements to be recorded in the land registry and land holding certificate.¹⁹ In practice, apart from pilot initiatives, the land registration books as well as the land certificates issued in the four regions so far do not contain the land use restrictions applicable to each plot of registered land.²⁰

¹⁶ Interviews made with land administration experts in Amhara, Oromia, SNNP and Benishangul-Gumuz regional states

¹⁷ Interview with land administration expert in the Amhara regional state and an expert in the Investment Commission of the Benishangul-Gumuz regional state

¹⁸ Melca Mahiber, Rapid Assessment of Biofuels Development Status in Ethiopia, 2008

¹⁹ e.g. Article 13 of the Federal Rural Land Administration and Land Use Proclamation 456/2005; Article 18 of the Oromia Rural Land Use and Administration Proclamation No. 130/2007; Article 13 the SNNPR Rural Land Administration and Utilization Proclamation

²⁰ K. Deininger, Implementing Low-Cost Rural Certification: The Case of Ethiopia, 2008

However, the land use plans required by the laws have not yet been developed and not currently available in any of the regional states. Accordingly, the allocation of land for large-scale agricultural investments is not made on already classified land for different purposes but based on the fact that land is “unutilized” at the time by other users in the vicinity. According to an interview with an expert in the Amhara regional state, one of the major problems in allocating land for large-scale agricultural investments has been the absence of land use plans in the region. Due to this fact, land is allocated not based on the suitability of land for a specific investment purpose but simply on grounds that the land is not currently utilized.

Public Land Management

According to the Constitution, the basic land policy and laws are set at the Federal level and the mandate to administer land is given to the respective regions in accordance with the policies and laws issued at the Federal level.²¹ Accordingly, regional states may issue their own land policies and implementation legislation and directives in line with those set at the Federal level.

The administration of rural land, and more specifically, land allocation and transfer for large-scale agricultural investments, are handled by government institutions under the prevailing land tenure system in Ethiopia. Until very recently, the administration and allocation of land for investment purposes took place at the regional level on the basis of the Constitutional mandate given to the respective regional States to exercise administrative powers as per federal laws. Specific delegations to this effect are also found in the subsequent federal land laws such as the rural land administration Proclamation.²² However, the Federal Ministry of Agriculture and Rural Development has recently established an Agricultural Investment Support Directorate to administer the allocation of rural land for investment purposes above 5000 hectares. The Directorate, which has recently become operational, exercises this mandate on the basis of delegation by the Regional States which have already demarcated large tracts of rural land for such purpose.²³

This new arrangement, which has transferred the allocation of land above 5000 hectares to the Federal government poses serious challenges at least on two major grounds. First, the Federal Constitution provides that the Federal government may delegate the mandates given to it under the Constitution to Regional states²⁴ while there is no provision in the Constitution that specifically provides for upward delegation of the mandates given to the Regional States. In light of this, the current upward delegation by Regional states of their mandates to administer land to the Federal government stands on a shaky constitutional basis. Secondly, and at a more practical level, the relative responsibilities of the concerned Federal and Regional agencies in the process of allocating land to investors and subsequent follow-up and monitoring of such investments has yet to be clarified.

²¹ Article 52 (2)d of the Federal Constitution

²² Article 17 of the Federal Rural Land Administration and Land Use Proclamation No. 456/2005

²³ Interview with expert in the Agricultural Investment Support Directorate

²⁴ Article 50(9) of the Federal Constitution

At the regional level, rural land allocations and transfers for investment purposes are almost always undertaken by the respective investment authorities of the Regional States. Though other agencies such as environmental protection organs and agricultural bureaus have relevant primary mandates, they are seldom involved in the actual allocation and transfer. The only exception identified is the Amhara Region where the Environmental Protection, Land Administration and Use Authority (EPLAUA) exercises the whole range of mandates including the provision of rural land for large-scale agricultural investments.

There are other problems relating to the relative mandates of institutions involved in the promotion and channelling of land. These problems mostly arise in relation to the mandates of the investment authorities, land administration authorities, environmental agencies, and agricultural bureaus. For instance, while the environmental laws require an environmental impact assessment prior to land allocation, investment laws do not anticipate such a requirement. Investment authorities are thus allocating and transferring land often without the necessary environmental impact assessments. Moreover, there is little or no coordination or exchange of information between these authorities in most cases.

In relation to operational guidelines for the allocation and transfer of land, most regional governments have issued general laws for the administration of rural land as well as detailed regulations that guide the allocation of rural land for investment. Such legal standards have, for instance, been identified in the Amahara, SNNP, Oromia, Tigray and Gambella Regions during field visits. These laws provide relatively clear standards for the promotion and channelling of land for investment including standards relevant to ethical performance. On the other hand, the federal agency responsible for allocation of large rural land for investment does not yet have similar standards or, at least, the information is not yet publicly available. This is a serious gap, since the federal rural land administration proclamation was meant to serve only as a framework legislation anticipating more detailed laws at the regional level.

Public land transactions in rural areas, including those for large-scale agricultural investments, is usually conducted through negotiations between the concerned government agencies and the investors based on applications and proposals submitted by individual investors. Such transactions are not officially published nor are the agreements open to public scrutiny although it may be possible to acquire such information and data regarding such transactions upon request from the concerned agencies.

Land lease fees required from investors for large-scale agricultural investments differs from region to region and from one investment to the other depending on the sector and size of investment. The land rent is determined per hectare and is usually paid on an annual basis.²⁵ Generally, land rents are nominal and seem quite low and do not actually reflect the market price for land. Land fees are annually paid by investors to the finance bureaus of the respective regions and interviews made in the regions visited during this study also confirmed that there is no problem in the collection of land fees.

²⁵ For instance, in the Directive issued by the Amhara Regional State for the Implementation of the Region's laws, the starting bid price for rural land is approximately between USD10-13 per ha; in one unpublished study (Nigussie Abebe, 2009), the lease price in Oromia is between USD 5-10 per ha; in Tigray USD 2-3 per ha.

Expropriation and Compensation

In all regional states visited during this research, it has been emphatically claimed that land allocated or set aside for large-scale agricultural investments is that which is under government holding or “unutilized” land found in the respective regional states. This would mean that, in the case of large-scale agricultural investments²⁶, the issue of expropriation of private or communal landholdings and consequent compensation for those expropriated does not arise or is minimal. Although this cannot be verified on the ground, there are several instances of expropriation of private/communal holdings for private investment purposes particularly where investors are engaged in flower farms etc.. One can also envisage that private or communally held land may be expropriated in the coming future since there is no law explicitly prohibiting such expropriation on “public purpose” grounds.

The Federal Constitution provides that the government has the power to expropriate private property on land for public purposes subject to the payment of *advance compensation commensurate* to the value of the property.²⁷ Private property is defined as “any tangible or intangible product which has value and is produced by the labor, creativity, enterprise or capital of individual citizens, associations which enjoy juridical personality under the law, or in appropriate circumstances, by communities specifically empowered by law to own property in common.”²⁸

The governing law for expropriation and compensation of private property in Ethiopia is Proclamation 455/2005 and Council of Ministers Regulations 135/2007 issued at the Federal level.²⁹ Based on the Federal law, regional states are expected to issue directives for its implementation. The Proclamation defines the term “public purpose” in a very broad manner which opens the way for public authorities to consider any activity as serving the public purpose.³⁰ There is no provision in the Proclamation that requires prior declaration of the existence of public purpose or to provide landholders or other interested third parties to have the opportunity to challenge the existence of public purpose.

The power to expropriate is principally given to Woreda (district) and Urban Administrations upon payment of advance compensation. However, the decision to expropriate may be made by the appropriate higher regional or Federal government organs although there is no mention of who these

²⁶ During this research, the threshold land size to be considered as “large-scale” was taken as land greater than 500ha although this may need some kind of consensus

²⁷ Article 40(8) of the Federal Constitution

²⁸ Article 40(2) of the Federal Constitution

²⁹ Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No.455/2005 and Payment of Compensation for Property situated on landholding expropriated for public purpose, Council of Ministers Regulations No.135/2007

³⁰ Article 2(5) defines the term “public purpose” as “the use of land defined as such by the decision of the appropriate body in conformity with an urban structure plan or development plan in order to ensure the interest of the people to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.”

“higher organs” are.³¹ The law also requires a written notification order to be issued to the land holder stating the period within which the holding has to be vacated and the amount of compensation to be paid. The minimum period of vacating a holding on which there is property is stated to be not less than 90 days from the date compensation is received while the period for land on which there is no property is not less than 30 days after receiving notification of expropriation order.³² While the Proclamation identifies the mandated government body and detailed standards as to time and procedures, there is no provision for any form of participation or negotiations involving the landholder.

The amount of compensation to be paid to the expropriated landholder is to be determined by a certified private or public institutions or individual consultants based on valuation formula to be adopted at the national level. However, the Proclamation provides that until such time that such capacity is created, the valuation shall be carried out by a valuation committee composed of five persons with the relevant qualifications to be established by the Woreda Administration.³³ The Proclamation as well as the regulation issued pursuant to it do not provide further details on the kind of expertise required for the valuation.

Compensation is defined as payment to be made in cash, in kind or both to a person for his/her property situated on the expropriated holdings.³⁴ Compensation is payable for each property situated on the land and for permanent improvements made on the land. Compensation is also payable for permanent displacement and, in case of temporary displacement, it is only payable as long as the displacement continues. It should also be noted, that the Woreda administration may decide to compensate the displaced person by providing substitute land. In such cases, compensation payment is due to the landholder in cash which cannot exceed the one –time payment of the average annual income secured during the five years preceding the expropriation of land.³⁵ Further details for the assessment of compensation; what types of properties are to included during the assessment and the formula to be used for valuation are provided in the regulations.

What needs to be noted at this stage is that although the Federal Proclamation provides that the respective regional states should issue directives for the appropriate implementation of the Proclamation, all regional states, except for the Amhara region, have not yet issued such directives or have issued directives dealing partially with some of issues dealt with in the Federal Proclamation (cite in footnote the case of valuation). What we see is that some of the regional states, notably the Amhara, Oromia, SNNP and Tigray regional states have some provisions in their respective land administration laws that deal with expropriation and compensation issues which may or may not be in line with the Federal Proclamation.

³¹ Article 3(1) of Proclamation 455/2005

³² Article 4 of Proclamation 455/2005

³³ Article 10 of Proclamation 455/2005

³⁴ Article 2(2) of Proclamation 455/2005

³⁵ Article 8 of Proclamation 455/2005

A study made on expropriation and compensation procedures in the four regions (Amhara, Tigray, Oromia and SNNP regions) clearly shows that the current practice in regional states with respect to expropriation and compensation of land holders is far from consistent with what is envisaged in the Federal law. Among the problems cited in this study are the process of property inventory, valuation and determination of the compensation amount is not transparent; compensation for property is not paid properly or not at all in some cases for instance for permanent improvements on land; there exists an imbalance of power between investors and peasant landholders which is seen in the ease with which investors use security forces to evict landholders; lack of awareness on the part of both the individual landholders and the respective Woreda authorities of some of the main requirements provided in the Federal Proclamation.³⁶

In regard to eligibility to claim compensation, the definition given to “landholder” in the Federal Proclamation provides, as one element of the definition, the requirement of *proof of lawful possession* over the land holding to be expropriated and ownership of the property thereon.³⁷ When we come to the land administration laws of the regions we see some variations in the definition given to “private holding” and what proof is required for such holding. The definition given to private holdings in the Amhara region, requires holding certificates as proof holding which means that a landholding certificate becomes a prerequisite as proof to become eligible for compensation. The Tigray proclamation, similar to the Federal land administration and use law, seems to require holding certificates in case where peasant farmers rent out their holdings but is silent on whether such requirement exists in case of eligibility for compensation. The Oromia and SNNPR Proclamation seem to be silent on the issue as they define private holding to be those farmers who are entitled by law to have legal rights to use the land.³⁸ Presumably, the latter two Proclamations appear to require certificate of holdings as proof of holding rights and eligibility for compensation.

In general, one may assume that certificate of holdings seem to be a requirement for eligibility of compensation in the regions which have already issued their own laws and have proceeded to issue certificate of holdings in their respective regions. What is not clear is what requirements are used in the other regions which have not yet issued their own land administration laws. More importantly, the issuance of holding certificates for private holdings in the four regional states cited earlier has not yet been completed although it has gone a long way. Therefore, strictly speaking in legal terms, this would mean that those peasant farmers who have not yet been issued with holding certificates would not be eligible to compensation. In practice, this gap seems to be resolved by some regions by means of issuing simple documents with an official seal or by issuing temporary certificates as proof of holdings.³⁹

³⁶ Ethiopian Land Tenure and Administration Program (ELTAP): Study on the Assessment of Rural Land Valuation and Compensation Practices in Ethiopia, Final Main Report (2007)

³⁷ Article 2(3) of Proclamation 455/2005

³⁸ Article 2(6) of the Oromia Proclamation No.130/2007 and Article 2(13) of the SNNPRS Proclamation 110/2007

³⁹ ELTAP, pp.30-31

With respect to communal holdings, both the Federal and regional land administration laws are not clear and seem to exclude community holdings from eligibility to compensation. Although the Federal proclamation gives a definition to communal land,⁴⁰ it provides that communal rural landholdings can be changed to private holdings as may be necessary.⁴¹ This shows that the rights held by communities is tenuous and may be subject to transfer to private holdings through the decision of the government not necessarily on “public purpose” grounds. It may be concluded, therefore, that community landholders do not have the same rights as individual landholders, if it is the government that takes the decisions regarding the transfer of use rights of communal landholdings. In the Amhara region, although the definition given to communal holdings is more or less similar to that given under the Federal law, other provisions in the land administration proclamation clearly recognize that land may be held communally.⁴² Accordingly, it may be safely assumed that in the Amhara region, communal holding rights is recognized. Moreover, the regulation issued in the region clearly provides that the compensation provisions in the regulations also apply to communal lands.⁴³ The land administration and use laws in the other regions are not clear whether community held land is eligible for compensation since they provide a more or less similar provision as that of the Federal Proclamation. In general, one can conclude that except for the Amhara region, communal holding rights may be subject to privatization at any time without the consent of the communities concerned and that there are no clear legal provisions as to whether or not communally held land is to be compensated.

Finally, with respect to grievances and appeals regarding expropriation and compensation, the Federal law makes it clear that such grievances and appeals may only be made on compensation amounts and not a regards the expropriated land.⁴⁴ What this means is that there is no possibility of challenging the “public purpose” nature of a proposed investment project for which the expropriation is being carried out by the persons who are the subject of the expropriation. In case of expropriation in rural areas, grievances against the amount of compensation are to be submitted to a regular court of competent jurisdiction and, in case the complainant is not satisfied with the decision, he may appeal to the appellate court within thirty days from the date the appellant is provided with a copy of the decision of the first instance court.⁴⁵ The practice in some regions shows that expropriated landholders are not well aware about compensation issues and where to resort to to submit their grievances. Equally, courts do not have sufficient knowledge of the pertinent law to deal with such cases (footnot ELTAP p 42).

INVESTMENTS

Investment Incentives

⁴⁰ Article 2(3) of Proclamation No.456/2005

⁴¹ Article 5(3) of Proclamation No. 456/2005

⁴² Article 2(10) of the Amhara Proclamation No. 113/2006

⁴³ Article 29 (8) of the Amhara Regulation No. 51/2007

⁴⁴ Article 11 (1) of Proclamation No. 455/2005

⁴⁵ Article 18 of Proclamation No. 455/2005

Pursuant to the current investment law,⁴⁶ two regulations have been issued that specify the areas of investment eligible for incentives as well as the type and extent of entitlements to incentives that equally apply to both domestic and foreign investors including for those engaged in large-scale agricultural investments.⁴⁷ These are exemptions from income tax and exemption from customs duty.

Under the incentive scheme, an investor who exports at least 50% of his/her products or services; or supplies 75% of his/her product or services to an exporter as a production input shall be eligible for income tax exemption for five years. This income tax exemption may be extended for up to seven years by the Investment Board under “special circumstances” or may be extended for more than seven years upon the decision of the Council of Ministers. An investor who exports less than 50% of his products or services, or supplies his/her products or services only for the domestic market shall be eligible for income tax exemption for a period of two years. This period may be extended for up to five years by the Federal Investment Board under “special circumstances”. If the investor engages in investment in relatively underdeveloped regions of the country, then he/she would be entitled to an additional one year of income tax exemption.⁴⁸

Regarding custom duties, the law provides for three types of exemptions. The first is for the importation of duty-free capital goods and construction materials necessary for establishing a new enterprise or for the expansion or upgrading of an already existing enterprise. Secondly, an investor is eligible for duty free importation of spare parts the value of which is not greater than 15% of the total value of the capital goods imported. Finally, the law also provides for duty free importation of vehicles to be determined by the investment board depending on the type and nature of the investment.⁴⁹

The above discussion shows that incentives to be given for investors is clearly defined by law. However, there are two drawbacks to the clarity of the current incentive provisions. First, the mandate given to the Federal investment board to determine eligible investments through directives and to extend tax exemptions periods for certain investments opens the door for ambiguity and administrative discretion. In addition to this, the granting of duty free privileges to import capital goods and spare parts appears to be a matter of discretion subject to negotiated agreements between the investor and the concerned government agencies and lacks clear implementation guidelines. This kind of arrangement inherently impacts upon the uniform application of the current incentive regime.

Another challenge identified during field visits to regional states, is the practice of exempting some investors engaged in large-scale agriculture from paying land lease/rent as an incentive to attract investors into the region. For instance, in the Benishangul-Gumuz regional state, investors were

⁴⁶ Article 9 of Investment Proclamation No. 280/2002

⁴⁷ Council of Ministers Regulation on Investment Incentives and Investment Areas Reserved for Domestic Investors No. 84/2003 and Council of Ministers Regulation to Amend the Investment Incentives and Investment Areas Reserved for Domestic Investors No. 146/2008

⁴⁸ Articles 4 and 5 of Regulation No. 84/2003

⁴⁹ Article 8 of Regulation No. 84/2003

exempted from paying land lease fee for a period of five years (insert footnot of interviewee). Though the practice has been suspended in 2009, the fact that such incentives are not provided for by the relevant federal and regional laws indicates the existence of arbitrary practices regarding investment incentives. (The ranking for this that there is progress towards good governance)

Benefit-Sharing Mechanisms

Examination of the policy and legislative framework for agricultural investments, including investment laws, rural land administration laws, laws for the regulation of commercial enterprises, and model lease contracts, reveal that there are no laws, regulations or directives in place that are clearly articulated to ensure benefit-sharing between the investor and the public.⁵⁰ Investors are thus under no legal obligation to share the benefits of accruing from their investments.⁵¹ Interviews conducted with experts in the investment and land administration agencies in some of the regions also confirmed that benefit sharing mechanisms are not envisaged to be incorporated in contractual agreements with investors engaged in large-scale agricultural investments but that such investors will be preferred if they voluntarily incorporate such arrangements in their investment proposals.⁵²

Although benefit sharing mechanisms are not incorporated in contractual agreements with investors, a directive issued in the Amhara regional state for the implementation of the land administration law has provisions to consider benefits to be accrued to the local community when assessing proposed investment projects. Such investment proposals will be preferred over others which do not provide such benefits to the community.⁵³ However, since these proposed benefit sharing mechanisms are not included in the contractual agreement between the investor and the concerned authority coupled with the lack of an effective monitoring system to check whether or not such promised benefits have indeed taken place, it is difficult to assume whether there is any benefit sharing in reality.

Procedures and Information Requirements for Investments

Since land in Ethiopia is state owned, allocation of land to investors for the purpose of large-scale agricultural investments is made by the concerned Federal or Regional government agencies. Prior to the acquisition of land for large-scale agricultural investment, an investment license should be obtained by the concerned investor.

⁵⁰ Model lease contracts with investors in the SNNPRS and Amhara Regional States have been examined

⁵¹ The benefits to the public, particularly to local communities are often expected to accrue in terms of job opportunities, skills development and incidental benefits through the provision of locally produced inputs and services to the established entity. Modern agricultural investments are especially expected to introduce peasants to improved technologies and create market access in rural areas. More evident benefits are expected to materialize through taxes and other income as well as foreign currency generated by such investments which may then be invested on basic services by the government

⁵² Interviews conducted with experts in the investment offices of the SNNPRS and the Benishangul regional states and with expert in the land administration office of the Amhara regional state

⁵³ Directive issued to for the implementation of rural land administration and use Proclamation 133/2006

The application for an investment license may be made at the Federal or Regional State levels depending on the identity of the investor or place of investment. According to the Investment Proclamation No.280/2002, the Federal Ethiopian Investment Authority has the mandate to issue investment permit for investments made by foreign investors; foreign nationals taken as domestic investors; investment made by domestic investors in areas eligible for incentives; and joint investment by domestic and foreign investors. All other investments apart from those vested in the Ethiopian Investment Authority are subject to the jurisdiction of the respective Regional Investment Agencies. Obtaining an investment licence at both the Federal and Regional levels is not a cumbersome process and the information requirements are not lengthy and do not require detailed technical and financial proposal. The average time it takes to obtain an investment licence is usually not more than ten to fifteen days.

The allocation of land for the purpose of large-scale agricultural investments was the sole mandate of the respective regional states. Recently, however, the mandate to allocate land above 5000 ha. has been given to the Ministry of Agriculture and Rural Development and, more specifically, to the Agricultural Investment Support Directorate under the Ministry on the basis of delegation by the Regional States.

The allocation of land to investors is carried out through negotiations except the Amhara regional state which has, in recent years, started to allocate land based on an auction process. In this region, the Directive issued to implement the land administration laws provides detailed criteria on the basis of which investment proposals will be assessed and selected. Investors are required to submit two types of proposals, namely, technical proposals and the amount of proposed payment for the land requested for lease.

To obtain land, investors are also required to prove their financial capacity to undertake their proposed investment plans. In the SNNP region, for instance, this is done through submitting a bank statement covering around 30% of the planned investment for the first year as well as putting a sum equivalent to 1.5% of the investment for the first year in a blocked account.⁵⁴ Similarly, in the Benishangul-Gumuz regional state, the investor is required to provide a bank statement of 30% of the proposed capital or sufficient evidence that the investor has bought machineries to be used for agricultural production.⁵⁵

A major drawback regarding the information required from investors, is the reliability and truthfulness of the information which is seldom checked by the concerned authorities. Interviews with experts during field visits in some of the regions has revealed that the capital investment investors provide when submitting their investment proposals to the concerned government agencies is usually highly exaggerated and that subsequently the investment agencies find out that some of the investors do not have the required investment capital even to start up the proposed investment.

At the Federal level, where land above 5000ha has started to be allocated recently, it was not possible to acquire information as to what procedure is followed or information required from the investor to

⁵⁴ Interview with an expert in the Investment Authority of the SNNP regional state

⁵⁵ Regulation No. 29/2009 of the Benishangul-Gumuz Regional State (Amharic version)

obtain the land. In light of this, it is difficult at this stage to assess whether or not the information required from the investors at the Federal level is adequate or not.

Moreover, the information submitted by an investor is rarely made available to the public and is at best scanty when provided. Since the investors and authorities are keen to protect the confidentiality of the contents of the proposals, the information submitted by an investor is often treated in a veil of secrecy. Key informants contacted during field visits in some regions have confirmed this finding.⁵⁶

The time required for examining and approving an investment application could be segregated into two components, namely, issuance of investment licence and allocation of land. The issuance of investment licenses is, as discussed earlier on, shandled by the respective investment authorities at the Federal and Regional levels. Issuing investment licenses usually takes a short period of time once the information requirements are fulfilled by an investor ranging from a few days to a month.

Except for the Amhara Regional State, allocation of land for large-scale agricultural investments is also made by the respective investment authorities in Region. The allocation and delivery of land takes significantly more time. For instance, recent records for the Gambella Region show that the process may take between four to six months while the auction process in the Amhara region also requires a more or less comparable duration to assess bid documents and allocate the land requested. Usually, the amount of time spent to identify the relevant land and process the tranfer at the local level is lengthy.⁵⁷

ENVIRONMENTAL AND SOCIAL SAFEGUARDS

An environmental impact assessment law was issued in 2002 in Ethiopia.⁵⁸ According to this law, no person may commence implementation of a project that requires an environmental impact assessment (EIA) without the authorization of the Federal Environmental Protection Authority (EPA) or the respective environmental agencies at the Regional level. The law also provides that any licensing agency empowered by law to issue an investment permit or a trade or operating license shall ensure that the Federal EPA or the relevant regional environmental agency has authorized the implementation of the project prior to the issuance of any permit.⁵⁹ The Proclamation further provides that a directive will be

⁵⁶ Interview with expert/officials in the Investment Authorities of the SNNP, Amhara and Benishangul-Gumuz regional states

⁵⁷ Interviews with experts/officials in the Amhara, SNNP, Benishangul-Gumuz regional states

⁵⁸ Environmental Impact Assessment Proclamation No. 299/2002

⁵⁹ Article 3 of Proclamation No. 299/2002

issued that categorizes projects that require EIA and that classifies projects that are likely to have adverse environmental impacts and thus require EIA.⁶⁰

The Directive was issued in 2008 by the Environmental Council to determine the type of projects that will be subject to EIA.⁶¹ This directive provides that that irrigation development projects exceeding 3000 hectares; horticulture and floriculture development projects destined for export and investments near protected areas, among others, will be subject to EIA. It is not clear why the directive excludes irrigation projects less than 3000 ha or rainfed agriculture or what criteria has been used to exclude other large-scale agricultural projects from the EIA process. Moreover, there is no evidence found that this directive has been implemented to date.

In practice, investors have in large part not been required to conduct EIA during the licensing of such investments or prior to the allocation of land. Equally, although the EIA laws and guidelines require conducting a social impact assessment of projects, they have not been set as a requirement for approval of large scale agricultural investment projects. Interviews with experts at both the Federal and Regional levels has also confirmed that EIA and social impact assessment are not a routine requirement for large-scale agricultural investments.

Among the major reasons for the absence of environmental and social impacts assessments for large scale investments in agricultural are: the limited involvement of the environmental agencies at the both the Federal and Regional levels in the process of approval of land to investors due to lack of coordination between the investment agencies and the respective environmental bodies and lack of capacity and resources of the environmental agencies. In addition to this, an interview made with an expert at the Federal Environmental Protection Authority has revealed that the EPA has recently delegated its mandate of approving EIAs given to it by law, including for agricultural investment, to the respective sectoral agencies.

Conclusions and Policy Recommendations

The assessment shows that there are a number of areas where some progress towards good governance in the policy, legal and institutional framework for large-scale agricultural investments exists. The legal recognition of rights in rural areas particularly for peasants in areas where the majority of the population lives is, in large part, put in place although there are some major issues in relation to the robustness of the rights recognized. The major limitation in this area is that the holding rights given to pastoralists under the Constitution has not been clearly defined in subsidiary legislation both at the Federal and Regional levels and may thus weaken the tenure security of the pastoralist population and

⁶⁰ Article 5 of Proclamation No. 299/2002

⁶¹ Environmental Council Directive No.1/2008, Directive issued to determine the categories of projects subject to the Environment Impact Assessment Proclamation No. 299/2002

subject such rights to undue expropriation and consequent compensation. Although communal holdings are recognised by both the Federal and existing regional laws, the key limitation in this respect is that there is a provision in the law that communal holdings in rural areas may be transferred to private holdings at the discretion of the government which makes tenure security of such holdings tenuous in contrast to private holdings. First-time registration of individual peasant holdings have taken place to a significant extent in the four regional states that have already issued their own implementation legislation. However, such registration have delineated boundaries mostly through traditional methods and mapping of boundaries through a cadastre system has not taken place (although piloted in some regional states such as the Amhara regional state). Equally, registration of communal holdings as well as government holdings including the demarcation and mapping of such holdings have not taken place in most of the regional states. The level of conflicts generated as a result of land acquisition for large-scale agricultural investments is also low (although the resolution of such conflicts if and when they arise are not always expeditious and transparent. Finally, investment incentives are clearly specified under existing laws but their application may not be consistent and transparently applied.

Apart from the above, the findings of the assessment indicate that most of the other dimensions seem to be far from desirable in meeting the criteria of good governance. The fact that land use plans are virtually absent in rural areas means that the decisions on land allocation for large-scale agricultural investments are not based on assessing the suitability of land for a specific investment purpose which may entail negative consequences (economic, environmental, social) for all stakeholders concerned. The lack of coordination or minimal cooperation among government agencies which have direct or indirect mandates in making decisions for allocating land for large scale agricultural investments, both horizontally and vertically, and minimal exchange of information among them, if any, is another major drawback in this respect. There is an absence of transparency and consultations with other stakeholders and the public regarding public land transactions on large-scale agricultural investments. Finally, benefit-sharing mechanisms as well as environmental and social safeguards are also virtually absent although environmental laws and procedures are put in place and require such assessments and monitoring of such safeguards to be made prior to approval and allocation of land for large-scale agricultural investments.

Based on the findings of the PLIAF assessment, the following policy measures are tentatively suggested to address some of the identified gaps and limitations to improve the standards of good governance in the existing policy, legal and institutional framework for large-scale agricultural investments in Ethiopia:

Suggestions for Action

Based on the findings during the expert investigations and issues raised by the panel of experts discussions, the following policy measures, though not comprehensive, are tentatively suggested to address identified gaps and harmonize the current land administration system with accepted standards of good governance:

- ***Need for a clear definition of the contents of communal and pastoral holding rights by law-*** as discussed in this paper, the contents of communal holding rights is not clearly defined or seems to be ambiguous as provided in the current Federal and Regional legislations. Since the laws provided give discretion to the government to transfer communal holdings to private holdings as it deems fit, presumably even without the consent of the concerned communities, this may give rise to undue expropriation of such holding without compensation although this may not be the intention or policy of the government. Equally, although the rights of pastoralists is clearly recognized by the Constitution, there has been no subsidiary legislation defining the contents of such rights which is basically communal in nature and subject such rights to expropriation and transfer to private holdings without adequate compensation. Accordingly, there is a need for policy and decision-makers at the Federal and regional levels to put in place laws that clearly define the contents of holding rights of communally held land and land held by pastoralists that would prevent undue takings of land held by such communities.

- ***More detailed guidelines for the implementation of federal laws:*** Though land related legislation falls within the mandates of the Federal Government, important policy choices have been delegated to the Regional States. Moreover, the law making process provides no guidelines as to the issues to be addressed by proclamation, regulation or directives. This sometimes leads to inconsistencies between laws issued at the Federal and Regional levels and leads to unpredictability of the investment environment and arbitrary actions in the different regional states. Thus, it is suggested that more detailed guidelines for the implementation of federal laws as well as the hierarchy of legislation needs to be developed in order to address this gap.

- ***Establishment of an institution to monitor implementation of federal land policies and laws:*** To date there is little monitoring carried out to see to it that Federal policies and laws are appropriately and consistently implemented in the respective regional states. Accordingly, it is suggested that there be an institution at the Federal level that is responsible to follow-up and monitor the implementation of federal laws in a uniform and consistent manner - probably the Ministry of Agriculture and Rural Development or the Ministry of Federal Affairs. This would also help in providing

- ***Enhance the completion of registering and mapping of publicly, privately and communally held land:*** Although the issuance of holding certificates and registering holding rights have taken place in four regional states to date are encouraging, this effort should also cover other regional states which have not yet started to do so. In fact, significant investments in large-scale agriculture is currently taking place in some of the regions (e.g. Gambella, Benishangul-Gumuz) that have not yet started this initiative and where rights of the peasants and pastoral communities have not been yet been registered. In such situation, it is difficult to see how the property rights are enforced in these regions the lack of which increases the risk of takings without compensation. Even in the four regional states that have initiated registration, public as well as communal holdings have still been not registered and boundaries delineated in large part. Thus, it is high time to enhance the completion of comprehensive registration and mapping of private, public and communal holdings in rural areas so as to avoid the risk of takings for investment purposes without adequate compensation. In addition, mechanisms should be put in place to ensure that the actual rights over land are specifically and clearly stated in such registers as well as in the text of title deeds.

- ***Develop and implement rural land use master plans:*** Although the applicable Federal and Regional rural land administration laws stipulate that a guiding rural land use master plans shall be developed, such master plan has not yet been developed and comprehensive land use plans for rural areas are not currently available in any of the regional states. The absence of rural land use plans has made it difficult to determine the land use restrictions applying to any given plot of rural land. This, in turn, could potentially lead to inappropriate and controversial rural land acquisition deals. Therefore, it is of high priority to develop and implement rural land use master plans by the competent authorities.
- ***Clarity of mandate and coordination among institutions involved in land acquisition:*** The absence of clear guidelines on the implementation of the mandates of the newly established federal agency vis-à-vis the regional actors is identified as one of institutional issues related to the subject matter of this assessment. Moreover, the legality of transferring the constitutionally recognized mandate of the Regional States to the federal agency without going through the proper procedures is questionable. In most regions, there are inadequate links among institutions responsible for allocating land to large-scale agricultural investments both horizontally and vertically and absence of a monitoring system have unduly extended the discretion of the responsible authorities. This has worked against transparency in allocating land and opened the way to unethical and corrupt practices some of which have been widely reported in the media. Therefore, it is recommended that policy and legislative measures should be taken to clarify institutional mandates among and within the federal and regional agencies involved in land acquisition. It is also necessary to establish coordinating mechanisms among the institutions.
- ***Put in place mechanisms to ensure benefit sharing from large-scale agricultural investment:*** Currently, there are no laws, regulations or directives in place to ensure that the public shares the benefit from agricultural investment. Therefore, legal reform measures should be taken to address this legal vacuum.
- ***Reform the policy and practice on the requirement and disclosure of information from investors:*** The information currently required from investors is found to be insufficient to assess benefits of the project. Moreover, there are no effective mechanisms to check the correctness of the information provided by investors. Besides, the information provided by investors is not made available to the public. In order to address these problems, there is a need to reform the policy and practice on the requirement and disclosure of information from investors.
- ***Ensure the enforcement of the laws on environmental and social impact assessment:*** Although the environmental laws of the country require social and environmental impact assessment for large scale agricultural investments, in practice such assessments are rarely conducted prior to investment mainly because the assessments are not among the requirements for licensing or allocation and delivery of land. In most regions, there are no procedures in place to identify and select economically, environmentally, and socially beneficial investments and implement these effectively. Therefore, properly enforcing the laws on environmental impact assessment and integrating environmental and social consideration in allocation and delivery of land for large-scale agriculture should be given priority.
- ***Put in place effective mechanism to monitor and enforce compliance with safeguards related to investment in agriculture:*** currently there is lack of regular and effective monitoring of compliance with safeguards related to agricultural investment by the responsible government agencies. The lack of mechanisms to monitor large-scale agricultural investments once land is allocated has led to misuse of natural resources and adverse environmental and social impacts.

Therefore, it is recommended that effective mechanisms to monitor and enforce compliance with safeguards related to investment in agriculture should be put and properly implemented.

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