

The Politics of Land Deals – A Comparative Analysis of Global Land Policies on Large-Scale Land Acquisition

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Abstract Due to current crises, large-scale land acquisition is becoming a topic of growing concern. Public data from the Land Matrix project demonstrates that since 2000, 924 large-scale land deals have been concluded, covering an area of almost 50 million hectares¹²³. The majority of these acquisitions, also referred to as ‘land grabs’, took place between 2008 and 2010, peaking in 2009. The global land grab is largely driven by emerging economies in search for alternative ways to secure food and fuel supply in the nearby future. Large-scale land acquisitions often go hand in hand with issues of displacement, weak governance structures, corruption, conflicts, and environmental damages.

Global land policies on large-scale land acquisition could be a solution to regulate the global land grab. Several international organizations have taken the initiative in developing ‘voluntary’ principles and guidelines, also known as ‘codes of conduct’. The *effectiveness* of these so-called ‘soft law’ instruments is however increasingly being questioned. This paper therefore offers a qualitative comparative institutional analysis on the effectiveness of global land policies on large-scale land acquisition, as developed by the European Union, the World Bank Group and consortium, the Food and Agriculture Organization, and the African Union, embedded in a theoretical framework of *effectiveness*, *soft law*, and interrelations with *transparency*, *accountability* and *legitimacy*.

The research implies that the African Union Framework and Guidelines, and the FAO Voluntary Guidelines, are most likely to succeed, possibly in conjunction with each other, in effectively regulating large-scale land transactions. Combining a code of conduct for global land policies with national and international enforceable laws and regulations (human rights law), is necessary to strengthen and increase the protection of local and customary rights, since investors often already benefit from legal protection under international law.

Keywords Global Land Policies · Large-Scale Land Acquisition · Code of Conduct · Institutions · Effectiveness · Soft Law

¹ Last accessed March 2013.

² The Land Matrix database uses the following criteria for inclusion of land deals in their database (Anseeuw et al. 2012a, p. 48): (1) entail a transfer of rights to use, control or own land through sale, lease or concession; (2) have been concluded since 2000; (3) cover an area of 200 hectares or more (each); (4) involve the conversion of land from local community use or important ecosystem service provision to commercial production, and (5) are international in nature, i.e. that they involve a foreign investor. This definition includes joint ventures of foreign investors with domestic actors but excludes purely domestic acquisitions.

³ The database (<http://landportal.info/landmatrix/>) contains information on over 2,000 land deals, covering an area of more than 80 m ha, concluded since 2000 (Anseeuw et al. 2012a, 2012b). The public database only consists of reliable data, with a minimum reliability ranking score of 1, corresponding with the value ‘reliable’. The Land Matrix Database uses a reliability code scheme, ranking from 0 (‘only reported’) to 3 (‘reliable’ confirmed with publicly available contract) to classify land deals (Anseeuw et al. 2012a). The database is currently undergoing an update toward a *Land Observatory*, interactive map-based platform using the concept of crowdsourcing (e.g., Anseeuw et al. 2012b; McLaren and Handja 2012).

Abbreviations

AFA	Asian Farmers' Association for Sustainable Rural Development
AfDB	African Development Bank
AU	African Union
BIT	Bilateral Investment Treaties
CFS	Committee on World Food Security
CoC	Code of Conduct
COPROFAM	Confederación de Organizaciones de Productores Familiares del MERCOSUR
EU	European Union
EIA	Environmental Impact Assessment
EPA	Economic Partnership Agreement
FAO	Food and Agriculture Organization of the United Nations
FDI	Foreign Direct Investments
FIAS	Foreign Investment Advisory Service
GHG	Greenhouse Gas
GLP	Global Land Policies
GRAIN	Genetic Resources Action International
ICAS	Initiatives in Critical Agrarian Studies
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IFPRI	International Food Policy Research Institute
ILC	The International Land Coalition
IMF	International Monetary Fund
IO	International Organization
LPI	Land Policy Initiative
LSLA	Large-Scale Land Acquisition
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OI	The Oakland Institute
RAI	Responsible Agricultural Investment
ROPPA	Le Réseau des Organisations Paysannes et de Producteurs de l'Afrique de l'Ouest
UNCTAD	UN Conference on Trade and Development
UNECA	UN Economic Commission for Africa
UNEP	UN Environment Programme
WBG	The World Bank Group
WHO	World Health Organization

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1. Introduction

Land deals are often part of a complex system, involving a wide range of actors (state and non-state) at different governance levels. Large-scale land acquisition is assumed to be a typical North-South problem, however increasingly driven by emerging South-South economies like Brazil, China, India and the Gulf States in search for alternative ways in securing their food and fuel supply in the nearby future.

In an attempt to legitimize and regulate global land transactions, several major international organizations: the World Bank Group (WBG) and consortium, the Food and Agriculture Organization (FAO), the European Union (EU), and the African Union (AU) have developed 'voluntary principles and guidelines' (FAO et al. 2010; EU 2004; AU et al. 2010; FAO 2012), also referred to as 'codes of conduct' or 'soft law'. The effectiveness of these voluntary guidelines, is however increasingly being questioned due to (a) their voluntary character, and (b) the negative connotation surrounding these principles, mainly caused by severe criticism from NGOs and civil society organization on the 2009 WBG RAI Principles for Responsible Agricultural Investments (Table 1).

Table 1 Schematic overview important landmarks in land debates 2003 - 2012

<i>Initiative</i>	<i>Year</i>	<i>Institution</i>	<i>Focus area</i>
Land Policy Framework for Growth & Poverty Reduction	2003	World Bank	Land Markets, Poverty Reduction, Development
EU Land Policy Guidelines	2004	EU	Land Policy Reforms
Voluntary Guidelines on the Right to Food	2004	FAO	Food Security
ICARRD Principles International Conference on Agrarian Reform and Rural Development	2006	FAO	Agrarian reform: 1. The need to improve the access of the poor to land and other natural resources. 2. Improve rural capacities for development and access to services and complementary livelihood assets.
Key elements of a code of conduct for foreign land acquisition	2009	IFPRI	Dual approach: 1. Code of Conduct 2. Appropriate policies/international laws
Minimum Human Rights Principles	2009	UN – Olivier De Schutter	Human Rights
RAI Principles World Bank	2009	WBG & consortium	Responsible Agricultural Investments, respecting rights, livelihoods and resources
African Land Policy (framework & guidelines)	2009	AU, AfDB, UNECA	Land policy and land reform in Africa in order to strengthen land rights, enhance productivity and secure livelihoods
International Land Coalition partnership with regional farmers' organizations and NGOs	2010	ILC with ROPPA (West Africa), AFA (Asia) & COPROFAM (Latin America), and Action Aid & Oxfam	Dialogue on large-scale land acquisitions and alternatives
Nairobi Action Plan on Large-Scale Land Based Investments in Africa	2011	LPI	1. Assessments of land-based large-scale investments 2. Capacity support 3. Monitoring and reporting mechanism 4. Principles for sustainable land investments 5. Land policies promoting equitable access and secure land rights
'Dakar Appeal against the land grab', during the World Social Forum in Dakar, Senegal, February 2011	2011	collective appeal by civil society and social movements	Rejecting WBG RAI Principles by CFS Advocating a strong focus on human rights
Civil Society Declaration on Food Sovereignty	2012	civil society organizations worldwide	Debate with FAO to advocate for a food sovereignty concept instead of food security
Voluntary Guidelines FAO-CFS	2012	FAO	'human rights' and 'tenure right'

Sources: AU et al. 2010; Deininger 2003; EU 2004; FAO 2006; Von Braun and Meinzen-Dick 2009; FAO et al. 2010; Monsalve Suárez 2010; CFS 2011a; De Schutter 2009, 2011a; GRAIN 2012a; Wouterse et al. 2011; FAO 2012

This paper proceeds as follows: Sect. 2 provides inside in the problems current global land policy discourse is facing, based on data from the Land Matrix database, Sect. 3 offers insight in the scope large-scale land transactions worldwide, Sect. 4 gives an overview of global land policies, as established by the WBG, FAO, EU and AU, subject of analysis in this study, Sect. 5 presents the underlying theories used to establish the institutional framework as presented in Sect. 6, Sect. 7 introduces the institutional framework, including the results from the institutional analysis, Sect. 8 draws conclusions, and Sect. 9 discusses the outcome and offers recommendations for future research.

2. Problem Definition

These principles are fore mostly seen by the WBG in a new narrative of ‘development opportunity’ (Borras and Franco 2010; FAO et al. 2010; Deininger 2011; Deininger et al. 2011), in where ‘investors profit and ‘host’ nations benefit from economic development, improved agricultural infrastructure, and employment opportunities’ (OI 2011, p. 1). This ‘investment boost’ is often justified by investors for several reasons: (1) Institutional reform is the main driver behind this narrative, because it is assumed that targeted countries often have weak land governance systems (Deininger 2011), due to a ‘lack of clear property rights’, which discourages foreign investors (Borras and Franco 2010; FAO et al. 2010), (2) these Foreign Direct Investments (FDI) are highly appreciated by the governments of ‘host countries’ (Zoomers 2011), and (3) Land deals are often being justified because the land is categorized as ‘reserve agricultural land’ (Cotula et al. 2009). These so called abandoned, marginal, idle, underutilized or degraded lands are in fact often used by rural farmers (Von Braun and Meinzen-Dick 2009; Cotula et al. 2009; Borras and Franco 2010).

Criticism by NGOs and civil society organizations is mainly focussed on the WBG helping corporations and investors invest in cheap land in developing countries at the expense of local communities, the environment, and farm groups (Vidal and Provost 2012). This argument is strengthened by the strategy of the International Finance Corporation (IFC), and the Foreign Investment Advisory Service (FIAS), both part of the WBG, providing technical as well as advisory services to governments in developing countries, promoting an ‘efficient land market’ strategy, encouraging developing countries in simplifying processes, which makes it relatively easy for foreign investors to gain access to land (Daniel and Mittal 2010; De Schutter 2011a). FDI are furthermore encouraged due to the protection of investors’ rights, under international law under investment and trade agreements, strengthening hereby [...] the legal value of individual contracts by making their violation a breach of international law’ (Graham et al. 2010, p. 6). Bilateral Investment Treaties (BIT), and Economic Partnership Agreements (EPAs) are example of such instruments, highly promoted by the EU. The BITs ‘usually include provisions that strengthen the legal power of the investors’, and ‘[...] subsequently weaken the policy space for national states and the power of host local communities’ (Graham et al. 2010, p. 6). The EPAs ‘[...] provide further incentives for land grabbing by curtailing the respective States’ policy space to protect their resources and markets for domestic use’ (Graham et al. 2010, p. 6).

Despite efforts of the WBG to regulate various crises since 2008 with proper policies, these measurements are in fact ‘[...] leading to trends that increase instability rather than provide security and opportunity’ (Daniel and Mittal 2010, p. 30).

Some scientists remain quite skeptical of a code of conduct for several reasons. First of all they are ‘not embedded in a political analysis of how they might actually work in practice’ (Borras et al. 2011, p. 210). The WBG report furthermore ‘does not address the fundamentally important questions of who wins, who loses and

why, and what are the social, political, and ecological drivers and consequences of these processes?’ (Borras et al. 2011, p. 210). Specifically the EU and AU principles and guidelines are provided with extensive background information, embedded within a historical, social, political, cultural, economic and environmental framework, forming a solid basis for the further elaboration of the principles and guidelines. The AU for example specifically reflects on experiences from the land policy implementation trajectory in East and South Africa (AU et al. 2010).

Next to the ‘reserve land’ and ‘land property rights’ discussion, CoCs are criticized on the following aspects: (1) ‘The food and energy investments brought about by the recent mega land deals will not solve the food and energy crises in the world and might even worsen them’, (2) The assumption that decentralized-localized formal and transparent multi-stakeholder land transactions are the solution to avoid negative effects of large-scale land deals is only partly correct. The representation of social groups is particular problematic, since local elites often seize power. (3) Violations are difficult to make accountable due to the voluntary character of the CoCs, and (4) An unrealistic vision on ‘partnerships’, ‘assumed to promote transparency and build win-win outcomes into any land deals’ (Borras and Franco 2010, p. 515-521). Zoomers (2010, p. 443) advocates that ‘processes of land grabbing are broader and deeper than assumed, and codes of conduct or contractual arrangements will neither help to stop nor turn the tide’, because ‘many countries neither have legal or procedural mechanisms in place to protect local rights, nor take into account local interests, livelihoods or welfare’.

The recently endorsed FAO-CFS Voluntary Guidelines (VG) are seen as an important step to combat ‘land grabbing’, albeit not exclusive. Most parties agree with combining a code of conduct, principles and/or guidelines for global land policies with (existing) binding instruments of international human rights law. Combining the FAO VG with national and international enforceable laws and regulations on land investments and related policy fields like trade is also frequently mentioned, next to the incorporation of the 2006 ICARRD principles (Table 1).

Considering the above, this paper therefore focuses on answering the following research question:
‘How effective are, and under what conditions can Global Land Policies on Large-Scale Land Acquisition be effective?’

3. Large-Scale Land Acquisition: An Overview

3.1. Introduction

To date the Land Matrix database, initiated in 2010 by the International Land Coalition (ILC), is the most comprehensive database containing information on over 2,000 LSLA deals⁴, covering an area of 80 m ha (Anseeuw et al. 2012b). The public database (Land Matrix 2013) contains data on 924 land deals with a total coverage of almost 50 m ha (reliability code ≥ 1). Data collection and analysis on LSLA has been subject of controversy and debate worldwide. Uncertainty due to a lack of reliability data in mapping global land transactions is one of the main problems when collection data on land transaction.

The Land Matrix is currently undergoing an update with crowdsourcing data. Once updated the database can serve as an important instrument in enhancing land governance systems and policies. The usage of crowdsourcing data as a reliable source can however be questioned. To ensure its legitimacy only verified and

⁴ Covering an area of 200 hectares or more (Anseeuw et al. 2012a).

reliable data should enter the database, accompanied by clear guidelines and a monitoring mechanism (e.g., McLaren and Handja 2012).

Table 2 Overview large-scale land deals per region Land Matrix Database 2000-2012*

<i>Region</i>	<i>Land Deals</i>	<i>Hectares [Ha]</i>	<i>Ha/deal [average]</i>
Northern Africa	18	3,143,880	174,660
Eastern Africa	260	8,822,237	33,932
Central Africa	27	1,065,210	39,452
Southern Africa	5	42,248	8,450
Western Africa	98	3,828,934	39,071
<i>Africa [total]</i>	<i>408</i>	<i>16,902,509</i>	<i>41,428</i>
Eastern Asia	12	1,108,396	92,366
South-East Asia	216	17,340,903	80,282
South Asia	114	4,652,142	40,808
<i>Asia [total]</i>	<i>342</i>	<i>23,101,441</i>	<i>67,548</i>
Central America	18	140,268	7,793
South America	132	6,417,193	48,615
<i>Latin America [total]</i>	<i>150</i>	<i>6,557,461</i>	<i>43,716</i>
Eastern Europe	18	1,775,601	98,645
Middle East	1	4,500	4,500
Melanesia	2	86,755	43,378
Australia & New Zealand	3	400,926	133,642
<i>Total</i>	<i>924</i>	<i>48,829,193</i>	<i>52,845</i>

Source: authors' calculations based on: Land Matrix, 2013 (March 2013 update)

*Only reported deals from the public database corresponding with a reliability code '1'

Currently 77 countries are investing in large-scale land transaction in 57 countries worldwide (Land Matrix, 2013). The Land Matrix database offers a complete overview of all investor countries, targeted countries, investment sectors and detailed information on investment companies.

Data analysis from 2000-2012 by the Land Matrix (2013) shows that the continents Africa and Asia are mainly targeted, equivalent to respectively 408 and 342 land deals, spread over 16.9 m ha and 23.1 m ha (Table 2). Latin America ends in a third position with 150 land deals over 6.6 m ha. Regional Eastern Africa and South-East Asia are mainly targeted with respectively 260 land deals over 8.8 m ha and 216 land deals over 17.3 m ha (Table 2).

3.2. Major players and controversies

The top 10 investment *country* list (Table 3a) is dominated by emerging and developing economies (e.g. IMF 2012). This corresponds with recent developments in LSLA deals (Anseeuw et al. 2012a, p. 21-22). The Global North is represented by the US, UK and Northern Ireland and Canada. The major players in the LSLA discourse are states, private companies and multilateral agencies. Investments in global farmland for food production by pension funds are an example of an emerging trend (GRAIN 2011). Private companies from the US and the UK are currently the most active investors (Anseeuw et al. 2012a).

India is the largest investor country with a total of 120 land deals spread over more than 6 m ha (Table 3a). The largest projects are located in the country itself, Ethiopia and Madagascar (Table 3b).

Table 3a Top 10 investor countries Land Matrix Database 2000-2012⁺

Ranking	Investor Country [*]	Land Deals	Hectares [Ha]	Targeted Countries [#]	Investment Sector
1	India	120	6,331,016	India, Ethiopia, Madagascar	Agriculture (Jatropha, Corn, Oil Palm), Industry
2	Malaysia	27	5,698,590	Malaysia, Indonesia, Liberia	Agriculture (Oil Palm, Acacia), Forestry
3	Indonesia	10	5,487,902	Indonesia, Tanzania	Agriculture (Papaya, Oil Palm, Corn)
4	USA	36	2,737,356	Sudan, Indonesia, Brazil	Agriculture, Forestry, Mining
5	UK and Northern Ireland	39	2,352,104	Philippines, Madagascar, Liberia	Agriculture (Jatropha, Oil Palm)
6	United Arab Emirates	5	1,882,739	Sudan, Zambia, Pakistan	Tourism, Agriculture (Jatropha, Sugar)
7	China	46	1,742,824	China, Argentina, Zimbabwe	Agriculture, Forestry
8	South Africa	16	1,396,411	Benin, Congo, Angola	Agriculture (Oil Palm, Cereals)
9	Canada	22	1,248,697	Australia, Brazil, Kenya	Forestry, Mining, Agriculture (Jatropha)
10	Philippines	7	1,066,721	Philippines	Agriculture, Mining

Source: authors' calculations based on: Land Matrix 2013

⁺a complete overview is available at the Land Matrix database (Land Matrix 2013)

^{*}data availability on 754 land deals (44,135,624 ha)

[#]top 3 most targeted countries

Land deals are often concluded within multiple-complex partnerships between for example private companies and national governments (Land Matrix 2013). One of the most notorious cases⁵ that have been subject to controversy is the 1,6 m ha (1,3 m dollar) land deal in Madagascar by the South Korean Daewoo Logistics for corn (1,3 m ha) and oil palm (0,3 m ha) purposes, eventually leading to the cancellation of the project and the fall of the government of Madagascar (Cotula et al. 2009; Borras et al. 2011; Hall 2011; Zoomers 2011).

Table 3b Top 10 targeted countries Land Matrix Database 2000-2012⁺

Ranking	Target Country [*]	Land Deals	Hectares [Ha]	Investor Countries [#]	Investment Sector
1	Indonesia	23	7527760	Indonesia, Malaysia, Qatar	Agriculture (Oil Palm)
2	Malaysia	20	4819483	Malaysia, Singapore	Agriculture (Oil Palm, Acacia)
3	India	109	4616760	India, Australia	Agriculture (Jatropha), Industry
4	Brazil	61	3871824	USA, Canada, Brazil	Agriculture (sugar cane, Soya beans), Mining
5	Philippines	30	3191021	Philippines, UK, Saudi Arabia	Agriculture (Cassava, Jatropha), Mining
6	Sudan	17	3123430	United Arab Emirates, USA, Sudan	Tourism, Agriculture
7	Ethiopia	56	2412562	India, Germany, Ethiopia	Agriculture (Oil Palm, Jatropha)
8	Madagascar	36	2176241	India, UK, USA	Agriculture (Corn, Jatropha)
9	Mozambique	96	2017912	Sweden, Germany, India	Forestry, Agriculture, Livestock
10	Argentina	22	1505020	China, Argentina, US	Agriculture, Livestock, Tourism

Source: authors' calculations based on: Land Matrix 2013

⁺a complete overview is available at the Land Matrix database (Land Matrix, 2013)

^{*}data availability on 924 land deals (48,829,193 ha)

[#]top 3 investment countries

⁵ Other examples are: (1) 'The Herakles Debacle', referring to the 2009 investment deal between the government of Cameroon and American-owned SG Sustainable Oils Cameroon, Ltd. (SGSOC) and American based NGO 'All for Africa' to promote socio-economic development and environmental protection through the investment in a 73,086 ha palm-oil plantation, through a 99-year land lease contract. Empirical evidence reveals that negative social as well as environmental impacts are experienced, like massive deforestation and loss of livelihoods (OI 2012a), and (2) the controversial SOCFIN rubber and oil palm deal in the Malen Chiefdom, Pujehun district, Sierra Leone (OI 2012b). The Oakland Institute (<http://www.oaklandinstitute.org/>) publishes 'land deal briefs', containing detailed information on land deals. The website <http://farmlandgrab.org/>, initiated by GRAIN, furthermore collects daily news reports on worldwide land acquisitions and offers an overview of all actors involved.

3.3. Investment Sectors

The Land Matrix Database (Land Matrix 2013) provides information on six Investment Sectors (Table 4). Agriculture dominates with 679 land deals (85% of total ha). Most land deals are biofuel oriented, with Jatropha (131 land deals) and oil palm (92 land deals) as the most targeted crops (Table 4).

The food insecure and oil dependent Gulf States are predominantly involved in staple food land deals, making them extreme vulnerable due to the inability to produce their own crops (Nooteboom and Rutten, 2011; Zoomers 2011). Gulf States' state-owned firms are foremost involved in food production activities in Sudan, Ethiopia, Egypt, Angola, Mali, Malawi, and Asian countries for export to Arab markets (Cotula et al. 2009; Zoomers 2011). Cultural and religious affinity seems to be a precondition, since most of Gulf States' land deal investments are in Islamic countries in Africa and Asia (Nooteboom and Rutten, 2011; Anseeuw et al. 2012a).

Table 4 LSLA Investment Sectors

<i>Investment Sector</i> ⁺	<i>Land Deals</i>	<i>Hectares [Ha]</i>	<i>Crop</i> ^{**}
Agriculture	679	40,042,164	Jatropha, Oil palm, Sugar Cane
Forestry	24	1,650,437	Wood/Forest
Industry	85	1,577,153	n/a
Livestock	43	511,341	n/a
Mining	50	1,727,040	n/a
Tourism	10	1,874,119	n/a
<i>Total</i>	<i>891</i>	<i>47,382,254</i>	-

Source: authors' calculations based on: Land Matrix 2013

⁺ based on Investment sector1. Investment sector2 is not incorporated. The most commonly reported land deals with multiple purposes are Agriculture/Livestock and Agriculture/Forestry. See the Land Matrix database for a complete overview (Land Matrix 2013)

^{*} top 3 crops

[#] data availability on 891 land deals

The EU, US and Brazil seem to dominate the biofuel market in the coming decade⁶, with a main focus on bio-ethanol and bio-diesel. Although the EU⁷ has recently lowered its 10% renewable energy target for the use of food-based biofuels in the transport sector, from 10% to 5%⁸ in 2020, to limit global land conversion for biofuel production.

4. Global Land Policies

4.1. Introduction

Due to the problems arising from LSLA, several multilateral institutions have developed Global Land Policies in an attempt to control and legitimize the 'global land grab'. In 2004 the European Union (EU) has developed Guidelines for support to land policy design and land policy reform processes in developing countries (EU, 2004).

In 2009 the World Bank Group (WBG) developed their RAI *Principles for Responsible Agricultural Investments*, in consortium with FAO, IFAD and UNCTAD (FAO *et al.*, 2010), based on an already existing Code of Conduct framework for foreign land acquisition by the International Food Policy Research Institute (IFPRI) (Von Braun and Meinzen-Dick 2009). Regional and national initiatives started to emerge as an answer

⁶ See the OECD and FAO Agricultural Outlook 2012-2021 <http://www.oecd.org/site/oecd-faoagriculturaloutlook/> and <http://www.grain.org/article/entries/4653-land-grabbing-for-biofuels-must-stop#8> accessed 14 March 2013.

⁷ The EU Climate and Energy package is also known as '20-20-20', hereby referring to (1) 20% reduction of GHG emissions, compared to 1990 levels (2) 20% of EU energy consumption produced from renewable resources (3) 20% improvement of EU's energy efficiency. http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/targets/index_en.htm, accessed 14 March 2013.

⁸ http://ec.europa.eu/energy/renewables/targets_en.htm, accessed 14 March 2013.

to the developments in the international land policy discourse. The African Union developed, in 2009, jointly with the African Development Bank (AfDB) and the UN Economic Commission for Africa (ECA), a ‘Framework and Guidelines on Land Policy’ to strengthen land rights, enhance productivity and secure livelihoods (AU et al. 2010).

Table 5 Establishment Global Land Policies EU, WBG, FAO-CFS, AU.

	<i>EU</i>	<i>WBG*</i>	<i>AU</i>	<i>FAO-CFS</i>
<i>Endorsed</i>	2004	2009	2009	2012

Sources: EU 2004; AU et al. 2010; FAO et al. 2010; FAO 2012

*Not formally endorsed, the status of the RAI Principles still remains ‘draft’

On May 11th, 2012, during its 38th session, the FAO Committee on World Food Security (CFS) has endorsed the ‘Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security’ (FAO, 2012).

4.2. European Union Land Policy Guidelines

In 2004 the European Union developed ‘EU Land Policy Guidelines’ to support land policy design and land policy reform processes in developing countries (EU 2004). The EU land policies focus primarily on ‘land policy reforms’, since ‘[I]and policy reform can make substantial contributions to poverty reduction, in removing obstacles on access to land for the poor, in giving them legal rights and access to credit through collateral, in giving people access to assets and economic opportunities linked to agriculture or natural resources, in forbidding land grabbing, encroachment and other processes of exclusion’ (EU 2004, p. 20). The EU key principles for a successful land policy design are given in Table 6.

Table 6: EU key principles for successful policy design

<i>No.</i>	<i>Principle</i>
1	Learn from local land policies to encourage greater growth, equity or environmental sustainability
2	Long term processes
3	Promote inter-ministerial work, with in-depth analysis of current situations
4	Promote a participatory approach to policy making
5	Take into account the distance between statutory law and local practice
6	Identify key principles and allow for diverse solutions within them
7	Take implementation costs into account in the design of land tenure reform measures
8	Carefully craft the rules and tools
9	Recognize that the impact of reform depends on changes in practices and not on the legal texts alone
10	Ensure widespread dissemination of information on the scope and content of the reform as well as on the policy, legislation and procedures
11	Gender issues need a careful approach
12	Policy provision to increase access to land by women must be accompanied by the necessary support mechanisms to enable them to access, control and utilize land successfully
13	The rights of minorities and indigenous peoples are to be adequately recognized
14	Land policy has to include sound land use planning

Source: EU 2004, p. 17-19

The EU report underlines the important relationship of land tenure with other major policy areas (poverty reduction, citizenship, human rights & social justice, gender equality, agricultural development, conflicts & post-conflict recovery, land administration and governance, local government & decentralization, taxation, environment, and land use planning), and the role of different stakeholders (central & local government, private sector, civil society groups, local communities, and donors) in implementing land policies (EU 2004).

4.3. WBG Principles of Responsible Agricultural Investments (RAI)

In 2009 the International Food Policy Research Institute (IFPRI) initiated the concept of a ‘code of conduct’ for foreign land acquisition (Von Braun and Meinzen-Dick 2009). An overview of the key elements of this code of conduct is presented in Table 7.

Table 7 IFPRI key elements of an international ‘Code of Conduct’ for Large-Scale Land Acquisition

<i>No.</i>	<i>Element</i>	<i>Description</i>
1	Transparency in negotiations	Inform and involve existing local landholders in negotiations over land deals. Particular efforts are required to protect the rights of indigenous and other marginalized ethnic groups. The media and civil society can play a key role in making information available to the public.
2	Respect for existing land rights, including customary and common property rights	Those who lose land should be compensated and rehabilitated to an equivalent livelihood (Example of policies: the standards of the World Commission on Dams)
3	Sharing of benefits	The local community should benefit from foreign investments in agriculture. Leases, contract farming or out-grower schemes are preferable to lump-sum, because they leave smallholders in control of their land. Explicit measures needed if agreed-upon investment or compensation is not forthcoming.
4	Environmental sustainability	Careful environmental impact assessment and monitoring required ensuring sound and sustainable agricultural production practices.
5	Adherence to national trade policies	Domestic supplies prioritized when national food security is at risk. Foreign investors should not have a right to export during an acute national food crisis.

Source: Von Braun and Meinzen-Dick 2009, p. 2-3

Building further upon the IFPRI Code of Conduct (Von Braun and Meinzen-Dick 2009), the 2003 ‘Land Policy Framework’, and an in-dept study ‘Large-Scale Acquisition of Land Rights for Agricultural or Natural Resource-based Use’, which started in 2009 in 20 most targeted countries and focussed specifically on the policy framework and social, economic, and environmental impact analysis, (FAO et al. 2010), four major international organizations: WBG, FAO, IFAD and UNCTAD, joined together to develop seven ‘Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources’ (Table 8), also referred to as the RAI Principles (RAI 2012). It is however important to notice that the WBG RAI principles have never been formally endorsed (CFS 2011a).

Table 8 WBG RAI Principles

<i>No.</i>	<i>Aim</i>	<i>Principle</i>
1	Respecting land and resource rights	Existing rights to land and associated natural resources are recognized and respected.
2	Ensuring food security	Investments do not jeopardize food security but strengthen it.
3	Ensuring transparency, good governance, and a proper enabling environment	Processes for acquiring land and other resources and then making associated investments are transparent and monitored, ensuring the accountability of all stakeholders within a proper legal, regulatory, and business environment.
4	Consultation and participation	All those materially affected are consulted, and the agreements from consultations are recorded and enforced.
5	Responsible agro-investing	Investors ensure that projects respect the rule of law, reflect industry best practice, are economically viable, and result in durable shared value.
6	Social sustainability	Investments generate desirable social and distributional impacts and do not increase vulnerability.
7	Environmental sustainability	Environmental impacts of a project are quantified and measures are taken to encourage sustainable resource use while minimizing and mitigating the risk and magnitude of negative impacts.

Sources: FAO et al. 2010; Deininger et al. 2011

4.4. African Union Framework and Guidelines on Land Policy

In April 2009 African Union Heads of State adopted the ‘Framework and Guidelines on Land Policy: a Framework to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods’, a joint initiative by the African Union (AU), the African Development Bank (AfDB), and the UN Economic Commission for Africa (ECA), with the aim ‘to promote Africa’s socioeconomic development, through inter alia, agricultural transformation and modernization’ (AU et al. 2010, p. xi). The Land Policy Initiative (LPI) and the European Union help in facilitating the implementation of the guidelines (AU et al. 2010; Graham et al. 2010).

Table 9 AU Framework and Guidelines on Land Policy in Africa

<i>No.</i>	<i>Element</i>
1	Offer a basis for commitment by African member states to the formulation and operationalization of sound land policies as a basis for sustainable human development that includes assuring social stability, maintaining economic growth and alleviating poverty and protecting natural resources from degradation and pollution.
2	Promote consensus for shared principles as the basis for securing access to land for all users, enhancing agricultural productivity and sustaining livelihoods.
3	Underscore the need for popular participation in land policy formulation and implementation so as to facilitate improved governance of land resources.
4	Suggest standards for best practices for land policy reforms and benchmarks for the performance of land institutions that member states can adopt in keeping with their respective contexts.
5	Articulate a policy framework for addressing emerging issues and anticipating future trends relating to land resources.
6	Provide a basis for more coherent partnership between states, citizens and development partners in land policy formulation and implementation on the continent.
7	Establish general principles for engaging development partners for the purposes of mobilizing resources for building capacities for transformative land policy reform processes.
8	Develop guidelines for regional convergence on the sustainable management and utilization of land and associated resources shared by two or more member states in various parts of Africa.

Source: AUC et al. 2010, p. 2

Next to providing a framework with guidelines (Table 9), the document also offers an historical, political, social and economic insight in African land policies. The framework and guidelines have been compiled through an extensive consultation process, which started in 2006, involving the participation of African stakeholders ranging from civil society organizations, NGOs, government agencies, Regional Economic Communities (RECs), practitioners and researchers.

4.5. FAO Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forests

The Committee on World Food Security (CFS) is one of the governing bodies of the UN FAO (CFS 2012), with the aim to coordinate a global approach to food security. In 2009 the CFS has improved its institutional structure by including a wider group of stakeholders to gain more strength in promoting food policies worldwide. The ‘Voluntary Guidelines (VG) on the Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security’ seek to improve the governance of land tenure and fisheries and forests, with a specific focus on vulnerable and marginalized people (FAO 2012).

The VG are subdivided into seven main parts that can be read as operational guidelines, based on five General Principles for Responsible Governance of Land Tenure (FAO 2012, p. 3): (1) Recognize and respect all legitimate tenure right holders and their rights, (2) Safeguard legitimate tenure rights against threats and infringements, (3) Promote and facilitate the enjoyment of legitimate tenure rights, (4) Provide access to justice

to deal with infringements of legitimate tenure rights, and (5) Prevent tenure disputes, violent conflicts and corruption. Guidelines for the implementation process are given in Table 10.

Table 10 FAO-CFS Principles of Implementation

<i>No.</i>	<i>Principles of Implementation</i>	<i>Description</i>
1	Human dignity	Recognizing the inherent dignity and the equal and inalienable human rights of all individuals.
2	Non-discrimination	No one should be subject to discrimination under law and policies as well as in practice.
3	Equity and justice	Equality between individuals may require acknowledging differences between individuals.
4	Gender equality	Ensure the equal right of women and men to the enjoyment of all human rights.
5	Holistic and sustainable approach	Recognizing that natural resources and their uses are interconnected, adopting an integrated and sustainable approach to their administration.
6	Consultation and participation	Engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions.
7	Rule of law	Adopting a rules-based approach through laws consistent with national and international law, and voluntary commitments.
8	Transparency	Policies, laws and procedures in applicable languages and formats accessible to all.
9	Accountability	Holding individuals, public agencies and non-state actors responsible for their actions and decisions according to the principles rule of law.
10	Continuous improvement	Improvement of mechanisms for monitoring and analysis of tenure governance by states to develop evidence-based programmes and secure on-going improvements.

Source: FAO 2012, p. 4-5

The VG were established, taking into account existing frameworks addressing ‘human rights’ and ‘tenure rights’ (see Table 1 for an overview), such as the RAI principles (CFS 2011b), the ‘Minimum Human Rights Principles’, developed by UN Special Rapporteur on the Right to Food in 2009, to ‘address the human rights challenge of large-scale land acquisitions and leases’ (De Schutter 2009; 2011a, p. 253; CFS 2011a), the ‘Voluntary Guidelines on the Right to Food’, and the ICARRD Principles (FAO 2012). The VG guidelines were developed as a result of an extensive consultation process, regionally as well as worldwide, amongst a wide range of actors from the public and private sector, civil society and academic world (FAO 2009, 2012).

5. Theoretical Framework

5.1. Soft Law

As stated in the introduction, the global land policies under investigation are based on voluntary non-binding commitments, also referred to as ‘soft law’.

Nowadays most international law can be considered as ‘soft’ (Abbott and Snidal, 2000), a result of the development and expansion of a ramified framework of institutions after WWII, a rapid increase of the ‘UN family’ of organizations, an increase of NGOs, and the evolution of the world economy and state interdependency (Dupuy 1991, p. 420-421). Abbott and Snidal (2000) argue that international actors often decide on purpose to use softer forms of legalization, as superior to ‘hard law’. The soft law concept fits within the current dynamics of a decentralized and globalized world, as formulated by Dupuy more than twenty years

ago (1991, p. 534): ‘soft law is a sign and product of the permanent state of multilateral cooperation and competition among the heterogeneous members of the contemporary world community’.

Soft law can be subdivided in two categories: ‘legal soft law’ and ‘non-legal soft law’ (Chinkin 1989). Legal soft law refers to norms in the form of treaties, including ‘soft’ obligations. Non-legal soft law refers to non-binding or voluntary resolutions and instruments like ‘codes of conduct’, broadly accepted and often embedded in international principles.

Depending on its applicability, soft law instruments vary in their level of abstraction; they either have a high level of abstraction and generality or are very specified and ‘extremely narrow in subject matter’⁹ (Chinkin 1989, p. 852). The latter seems to benefit the *effectiveness* of the instruments. According to Kolk and Van Tulder (2005, p. 9) ‘[t]he more specific the codes are, the better can they be measured and, subsequently, monitored’, and conversely monitoring is ‘expected to enhance codes’ comprehensiveness and compliance likelihood’.

Skjærseth et al. (2006) explore the relationship between soft law, hard law and *institutional effectiveness*. One of their main conclusions is that ‘[...] ambitious norms are more easily achieved in soft law institutions than in legally binding ones’, mainly due to ‘the greater flexibility offered by soft law instruments’ (Skjærseth et al., p. 118).

5.2. Transparency, Accountability and Legitimacy

The shift toward more decentralized governance systems in the last decades brings problems of transparency, accountability, and legitimacy (Kersbergen and Van Waarden 2001, 2004; Biermann and Gupta 2011). Climate change, as a relatively new challenge, will put a severe pressure on these institutions. Particularly issues of *accountability* and *legitimacy* are still an underdeveloped research area in current global climate governance discourse (Biermann and Gupta 2011). These three elements, their complexities and inter linkages are important determinants toward more *effective* climate governance regimes.

Transparency

Transparency is of great importance in negotiations over land deals. According to Cuffaro and Hallam (2011, p. 1) ‘the lack of transparency and incompleteness of contracts’ in large foreign land deals is problematic, as several case studies imply (ch. 3.2). Transparency of administrative processes by means of a clear format for information reporting is mentioned as a solution to increase transparency, additionally it enhances the process, reduces transaction costs and the likelihood of conflicts (Deiningert et al. 2011).

In theory *governance transparency* mechanisms interrelate with *disclosure of information* strategies and initiatives (Gupta, 2010; Mitchell, 2011). Transformative potential of governance by information disclosure is however limited, but can work in conjunction with other mechanisms (Gupta, 2010).

Mitchell (2011) distinguishes two types of transparency *for* governance policy mechanisms: (1) disclosure-based transparency, and (2) education-based transparency. Both aim at influencing an actors’ behaviour through information dissemination. Mitchell (2011, p. 1889) concludes that the influence of both strands is quite small since ‘[...] information is usually a weak cause of behaviour’.

⁹ Chinkin (1989) hereby refers to (1) the 1981 WHO International Code of Marketing of Breast-milk Substitutes (WHO 1981), and (2) the FAO International Code of Conduct on the Distribution and Use of Pesticides 1985 (FAO 2003).

Accountability

Accountability refers to ‘the willingness to accept responsibility or to account for one’s actions’ (Biermann and Gupta, 2011, p. 1857).

Within accountability theories an important distinction can be made into internal and external accountability, in where external accountability is related to normative assumptions as in ‘[...] people outside the acting entity, whose lives are affected by it’ (Keohane 2002, p. 14-15). According to Keohane (2002) the condition of being affected is not valid to create a claim *an sich*. With respect to external applicability of transnational accountable ‘entities’, in the context of international organizations, Keohane (2002) discusses the widespread belief that these organizations can be ‘held accountable’ for their actions by civil society organizations and NGO’s, representing ‘the affected’. These normative claims can lead to more *legitimacy* and *transparency* in institutional policies and processes.

Translated toward practical applicability, accountability can be directly linked to issues of ‘procedural fairness’, by means of: (1) transparency and information sharing; (2) monitoring and reporting mechanism; (3) balanced representation of stakeholders (‘participatory accountability’) (Bäckstrand, 2008, p. 98).

Legitimacy

Legitimacy can be linked to norms, rules, sanctions, and legality. According to Schouten and Glasbergen (2011) *legality* is an important precondition for legitimacy. Legitimacy can be described as ‘[...] being in accord with established legal norms and requirements, or conforming to recognized principles or accepted rules and standards of behaviour’ (Biermann and Gupta, 2011, p. 1858).

With respect to (formal) land rights, Deininger (2003, p. xxiii) argues that specifically in Africa ‘the gap between *legality* and *legitimacy* has been a major source of friction, something that is illustrated by the fact that often more than 90 percent of land remains outside the existing legal system’ due to ‘failure to give legal backing to land administration institutions that enjoy social legitimacy’. Institutions however have also proven to be ineffective if they are in fact legal, but without social recognition.

An interesting distinction within the *legitimacy* discourse is between input and output legitimacy. Output legitimacy (i.e. governability) refers to the level of success of specific policies (in this case) as a precondition for being legitimate (Kersbergen and Van Waarden 2004).

5.3. Effectiveness

Research on the effectiveness of international environmental regimes has been subject to debate in global environmental governance literature for over 30 years (Young 2011). In solving environmental problems, governance systems seem to work well on the national level, but overall fail on international, transnational, and global levels (Young 2011). An institution can be considered effective if it meets the following criteria: (1) changes the behaviour of states and member parties in an intended direction, (2) solves the (environmental) problems it was designed to solve, and (3) do so in an efficient and equitable manner (Bernauer 1995, p. 358).

Based upon the previously defined theories of *transparency*, *accountability*, and *legitimacy*, for this research, the Bernauer’s definition will be applied as global land policies being considered effective under the following conditions (1) proper disclosure of information in the global land policy process is leading to more transparency

and behavioural changes¹⁰; (2) institutions being held accountable for their actions by civil society organizations and NGO's, thus seen as more successful (i.e. legitimate); (3) these normative claims subsequently lead to more *legitimacy* and *transparency* in institutional policies and processes.

6. Institutional Framework

Methodologically, this research is based on a *comparative institutional analysis*, testing the effectiveness of global land policy schemes from four institutions: (1) the European Union, (2) the World Bank Group and consortium, (3) the Food and Agriculture Organization, and (4) the African Union.

The research question will be tested dependently as well as independently in the pursuit to achieve optimal results. A comprehensive institutional framework (*dependent analysis*) therefore forms the basis of this research. A literature review will seek to find explanations for effectiveness qualitatively (*independent analysis*).

6.1. Key Variables & Operationalization

In order to make a statement on the effectiveness of Global Land Policies, this chapter offers an institutional framework, in where, based on theoretical evidence, the dependent and independent variables and corresponding criteria and indicators have been defined. An institutional matrix (Table 11) forms the basis for the institutional analysis. A positive 'causal' correlation between the *independent variables* x_1 , x_2 , x_3 , et cetera and the *dependent variable* effectiveness (y) has led to the formulation of twelve hypotheses under the following conditions:

'The more x, the more y'¹¹

The twelve hypotheses can be defined as:

h_1 = The *higher* the transparency (x_1) of the institutions' Global Land Policies the *more effective*;

h_2 = The *more* legality (x_2) the institutions' Global Land Policies embrace, the *more effective*;

et cetera.

6.1.1. Independent variables: The Institutional Framework

The institutional framework for analyzing and comparing global land policies for the four IOs (EU, WBG, FAO & AU) is presented in Table 11. Based on a literature review¹², the x variables (set of causal combinations) are divided into three main clusters: 'Content', 'Participatory', and 'Measure'.

¹⁰ Behavioural change can in this context be understood as the result (outcome) of implementing a regime (Miles et al. 2001), in the context of this research, referred to as a *global land policy regime*.

¹¹ It is expected that a reverse construction (*the less x, the more y*) will be applicable for H_7 (addressee): *the less global, the more effective*.

¹² Kolk and Van Tulder (2005) developed a comprehensive model to analyze and compare 'codes of conduct' for international organizations. This model was first introduced in 1999 (Kolk, Van Tulder, and Welters). In developing an institutional framework for global land policies parts of this model have been used, specifically with regards to the classification framing of the hypotheses: h_5 , h_6 , h_7 , h_{11} & h_{12} , categorized under the 'operationalization' part in Table 11.

Table 11 Institutional framework to analyze and compare Global Land Policies on Large-Scale Land Acquisition

	<i>Independent variables</i>	<i>Indicator</i>	<i>Operationalization</i>
C O N T E N T	Quality of Standards	1) Transparency	1) Transparency in negotiations, and contracts; availability of, and access to information
		2) Legality	2) Regulatory requirements/legality (norms/rules) available
		3) Technical guidelines	3) Level of direct applicability of the GLP principles and guidelines
		4) Specific in subject matter	4) Level of detail: Extremely narrow and specific in subject matter (Chinkin, 1989: 852; Kolk and Van Tulder, 2005: 9)
	Quantitative Standards	Issues quantified	Issues addressed* Level of quantification: % of issues quantified: >90% (predominant); 51%-90% (majority); 25%-50% (medium); 10%-25% (minority); <10% (few); none (no)
	Time horizon	Defined timeframe(s)	Clearly defined timeframe(s) for implementation and operationalization
P A R T I C I P A T O R Y	Addressee	Geographic scope / focus group	Focus group/area of the established criteria/principles. global (weak); nearly global (low); general region (moderate); specific country (strong).
	Role of government (local/national)	Local, national involvement	Involvement of local/national governments in the establishment of the criteria/principles
	Participation	Stakeholders involvement	(proper)consultations to create a wider support: local (land owners), (principles local consultation: Cotula et al., 2009: 105), national/ governmental (FAO, 2003), regional, NGOs
	Implementation	Level of implementation (criteria), and operationalization	1. Formulation of operational criteria or guidelines 2. Adherence with local, regional or national policies
M E A S U R E	Monitoring	Monitoring system embedded in criteria	Good insight into system and process (clear); reference to some parts, but criteria or timeframes are lacking (clear to vague); only general reference to monitoring without details (vague)
	Sanctioning	Sanctioning mechanism embedded in criteria	See <i>monitoring</i>

Source: authors' own calculations, based on: Chinkin 1989; Kolk, Van Tulder, and Welters 1999; Van Tulder and Kolk 2001; FAO 2003; EU 2004; Kolk and Van Tulder 2005; Von Braun and Meinzen-Dick 2009; Cotula et al. 2009; AU et al. 2010; FAO et al. 2010; Deininger et al. 2011; Meier 2011; OI 2011; FAO 2012.

* Focus not only on production of food and biofuels for export purposes (although most important according to Land Matrix database (Land Matrix 2013, see also §1.1), but on all seven processes driving the current 'global land grab' (Zoomers 2010, p. 434-440): (1) Offshore farming: FDI in food production, (2) FDI in non-food agricultural commodities and biofuels, (3) Development of protected areas, nature reserves, ecotourism and hideaways, (4) SEZs (Spezial Economic Zones), large-scale infrastructure works, urban extensions, (5) Large-scale tourist complexes, (6) Retirement and residential migration, and (7) Land purchases by migrants in their countries of origin. The Tanzanian government and private partners invest for example largely in tourism in its own country (Gardner 2012; Land Matrix 2013). An argument for investing in tourism is that it 'offers possibilities for rapid economic growth' (Zoomers 2010, p. 438).

6.1.2. *Dependent variable: Effectiveness*

Referring back to the formulated research question, *y* is hereby defined as *Effectiveness of Global Land Policies*.

Explanations for effectiveness can be found qualitatively. Based on a state-of-the-art literature review, social and environmental criteria of effectiveness have been selected (Table 12).

All four criteria are interrelated, therefore the inter linkages will be discussed, specifically with regards to the impact and effects of large-scale land transactions on targeted countries and affected populations, groups, and/or individuals.

Table 12 Social and Environmental Criteria of Effectiveness

<i>Category</i>	<i>No.</i>	<i>Criteria</i>
Social & Environment	1	Support of the poor
	2	Ensuring energy security
	3	Prevent displacement (loss of livelihoods)
	4	Environmental sustainability

Source: author’s own interpretation

Social criteria

There is growing evidence that climate change puts a severe burden on agricultural productivity (Cotula et al. 2009; Hertel et al. 2010; IFPRI 2012: 39), leading to droughts, water shortages, food insecurities, eventually resulting in loss of livelihoods.

Competition over land and weak tenure governance can deteriorate into serious conflicts, leading to all sorts of problems (OI 2012b). People are often forced from their ancestral lands by corrupt governments, while land is being leased (often for a long period) to foreign companies, increasing poverty and hunger. According to Breisinger et al. (2012, p. 32) ‘[...] natural resource scarcity plus projected strong impacts of climate change may also exacerbate conflicts’. A recent survey by Global Witness (2012) finds a sharp rise in killings over land and forests in the last decade, specifically in Brazil, Peru, Colombia and the Philippines.

The 2008 food crisis has led to a ‘global rush’ for land to secure countries’ energy and food supply in the near future, leaving specifically Arab countries extremely vulnerable to water and food insecurities (Breisinger et al. 2012; IFPRI 2012, p. 80-81). African countries are increasingly affected due to water scarcity, as a result from climate change and land transactions (GRAIN 2012b; Prateek 2012). When there is little opportunity left for the inhabitants due to land loss, this often leads to increased levels of food insecurity, malnutrition, and migration to areas or countries with better living conditions. In order to support the poor sharing of benefits and respect for local land rights are of major importance, as illustrated by the Sierra Leone Malen case study (OI 2012b). Securing local land rights can offer farmers a valuable asset for negotiation (Vermeulen and Cotula 2010; Cotula et al. 2011). Business models can offer opportunities for smallholder farmers ‘in countries where government land policy has created strong incentives for business to work with local groups’ (Cotula et al. (2011, p. 110). Vermeulen and Cotula (2010) offer a review of business models that can provide opportunities for smallholder farmers. Land policies are an important element towards poverty reduction, stable governance, economic growth, and environmental sustainability (Deininger 2003).

Adherence to national trade policy (and/or land policies) makes it possible to respect a country’s national rights. Export restrictions could for example be significant when national food security is at risk due to a disaster. Food security can also be in danger when local ecosystems are not taken into account, as for example was evident for the Malen case study in Sierra Leone (OI 2012b).

Environmental sustainability

Large-scale land transactions are often accompanied by changes in land-used. Considering the risks climate change brings toward the earth’s climate and society, this extra burden needs not to be taken into serious

consideration (e.g. Foley et al. 2005). Mapping and measuring the agricultural impact of land transactions through environmental and social impact analysis can be a useful tool (Cotula et al. 2011; UNEP 2011; OI 2012b). Based on empirical evidence from a multi-country study in Africa, Cotula et al. (2011, p. 104) state that ‘several countries require an environmental impact assessment (EIA) or an environmental and social impact assessment (ESIA) to be carried out prior to project approval’. To ensure environmental sustainability, UNEP (2011, p. 6) also advocates for the implementation of EIAs, supplemented by ‘social impact assessments and periodic, independent inspection [...]’.

7. Institutional Analysis & Results

The institutional framework and a literature review of the original global land policy documents have resulted in an institutional matrix as shown in table 13. Subsequently the twelve defined hypotheses have been tested qualitatively in a dependent as well as independent analysis. The results of the institutional analysis of the independent variables are presented in tables 13 & 14, and Fig. 1.

7.1. Dependent analysis

Both the FAO-CFS and AU score relatively high with respectively scores of 9.0 and 10.0 out of 12.00, corresponding with 75% and 83% coverage of the total score. The EU scores quite moderate with 65% (7.75 out of 12), and the WBG ranks lowest with 42% (5.0 out of 12).

The dependent analysis implies that the FAO, AU, and the EU VG are most effective in order of appearance, basically because the implementation process is taken more seriously, by, inter alia (1) the involvement of a wide range of stakeholders, which enhances a successful implementation, and (2) the inter linkages with other relevant policy areas like gender issues, poverty reduction and environmental security. No *sanctioning mechanisms* were found in all the four involved cases, however all organizations are linked to some form of compliance with legal systems, like human rights law (Table 13 *Legality*).

EU

The EU is individually as well as collectively most criticized for ignoring its obligations under international human rights law (Graham et al. 2010), seen by scholars and civil society as a precondition for more effective land policies (ch. 2). The outcome conflicts with the medium *legality* score as the EU (2004, p. 3) land policies proclaim ‘[...] a practical and coherent set of rules, institutions, and tools, which are considered both legitimate and legal, and are appropriate for different context and interest groups’.

The EU scores particular high on *specificity* of the guidelines and *stakeholder involvement*. The operational guidelines specifically focus on the role of stakeholders and donors in the implementation process of the guidelines.

Major improvements can be made on the establishment of an adequate timeframe, and the development of a clear implementation and sanctioning mechanism. The geographical scope (*addressee*) of the guidelines is further more too broad.

Table 13 Institutional Matrix Independent Variables

<i>Variables</i>	<i>Institutions</i>	<i>EU</i>	<i>WBG</i>	<i>FAO</i>	<i>AU</i>
CONTENT	x ₁ Transparency	transparent procedures & transparent and accountable land acquisition schemes	- clear and transparent procedures - major role for civil society in helping to improve transparency	policies, laws and procedures in applicable languages and formats accessible to all	- institutions responsible for land governance act transparent/accountable - effective tracking mechanism
	x ₂ Legality	legislative framework: historical background, local land rights & law, socio-political rights, applicability of law	- respect existing land and resource rights - policies, laws, and regulations affecting investment climate benchmarked	- consistency with international rights law - legal recognition and allocation of tenure rights and duties	- harmonization with existing laws - provision of affordable and legally secure land and housing rights
	x ₃ Specificity	detailed, overview of links with other policy areas, and overview major issues, trends, and priorities per region	low, issues briefly discussed	detailed, inter linkages with issues of human dignity, non-discrimination, gender, environment, equity & justice	detailed, with a specific focus on the African regions
	x ₄ Guidelines	key principles for policy design & donors (response strategy/set of interventions) & operational guidelines, high applicability	principles for responsible agricultural investment, weak applicability	operational guidelines; general principles & implementation principles, high applicability	framework & guidelines, high applicability
	x ₅ Issues	land policy reform, gender equality, human rights, social justice, conflicts, environment, poverty reduction	land policies, institutional reform, rights, livelihoods, resources, food security, environmental sustainability	besides land tenure, focus on fisheries and forests, and important issues addressed in implementation principles	'people-driven land policies' and reform, land rights, productivity, livelihood, environment, gender issues, tourism
	x ₆ Time	In context of timetable by governments for consultation & donor interventions	None	none	- realistic timeframe government for policy review & adjustments - roadmap for a 'land policy framework' instead of timetables
PARTICIPATORY	x ₇ Addressee	developing countries	lower income countries and rural areas	vulnerable and marginalized people	African countries; regional, local
	x ₈ Government	encourage governments to participate with civil society, local communities, farmers	- provide investors with adequate inform. - involvement of local governments - governmental protection vulnerable gr.	- states' role is widely discussed, as being responsible for taking governance - strengthening local governments	- central role of African governments to ensure sustainable livelihoods - enhance dialogue with stakeholders
	x ₉ Stakeholders	land policy reform participatory: civil society, private sector, local communities	extensive consultation process, involving a broad selection of stakeholders	participatory, involving a wide range of stakeholders local/national/regional	extensive consultation, involving the 5 regions, experts, ministers, civil society
	x ₁₀ Implementation	operational guidelines to assess national policies and design an EU response strategy	n/a: the principles still need to be translated into concrete actions for investors, governments, donors & IOs	- principles of implementation - CFS global forum for assessing progress on implementation of the guidelines	- implementation facilitated by LPI/EU - tracking principles - standards for best practices/benchmark
MEASURE	x ₁₁ Monitoring	- support monitoring and evaluation of impact of reform. - 'outcome indicators' preferred - civil society engagement	- independent monitoring of principles, guidelines, governance frameworks - environmental sustainability: implementation monitoring	- monitoring implementation & impact LSLA agreements - multi-stakeholder platforms/frameworks at local, national & regional level	- tracking principles - monitoring the effects of land policy - land-related participatory monitoring & evaluation (PME) systems
	x ₁₂ Sanctioning	none	none	none	none

Sources: EU 2004; AU et al. 2010; FAO et al. 2010; FAO 2012

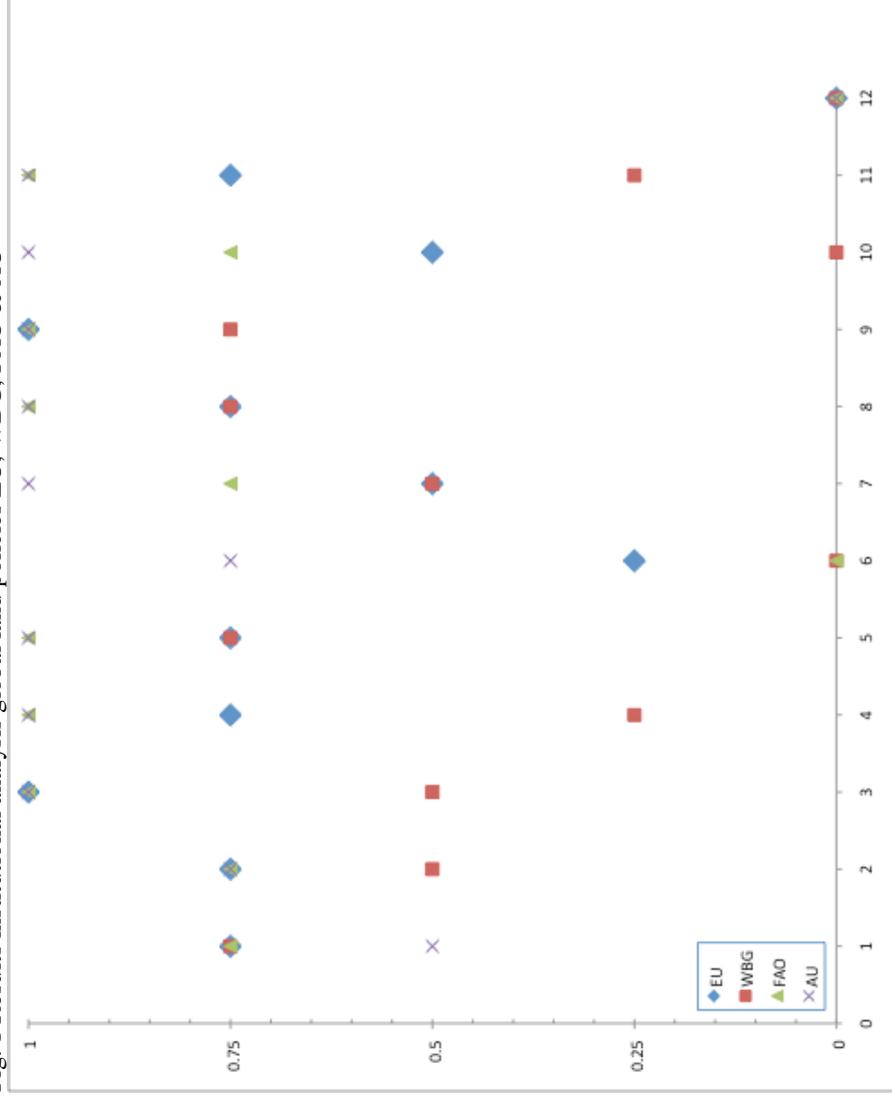
Table 14 Outcome Institutional Analysis

<i>Hypotheses</i>	<i>Institutions</i>	$X_{1,2,3,4,5,6,7,8,9,10}$	EU	WBG	FAO	AU
	CONTENT					
h_1	Transparency		0.75	0.75	0.75	0.50
h_2	Legality		0.75	0.50	0.75	0.75
h_3	Specificity		1.00	0.50	1.00	1.00
h_4	Guidelines		0.75	0.25	1.00	1.00
h_5	Issues		0.75	0.75	1.00	1.00
h_6	Time		0.25	0	0	0.75
h_7	Addressee		0.50	0.50	0.75	1.00
h_8	Government		0.75	0.75	1.00	1.00
h_9	Stakeholders		1.00	0.75	1.00	1.00
h_{10}	Implementation		0.50	0	0.75	1.00
h_{11}	Monitoring		0.75	0.25	1.00	1.00
h_{12}	Sanctioning		0	0	0	0
	MEASURE					
	<i>Total score</i>		7.75 65%	5.0 42%	9.0 75%	10.0 83%
	<i>Effectiveness (Y)*</i>		--	--	+	++

* Outcome analysis dependent variable

<u>Classification Independent Variables</u>	<u>Classification Dependent Variable 'Effectiveness'</u>
0.0 = None	-- = None
0.25 = Weak (vague, mild)	- = Weak (vague, mild)
0.50 = Low (weak to vague)	+/- = Low (weak to vague)
0.75 = Medium (moderate, clear to vague)	+ = Medium (moderate, clear to vague)
1.00 = High (clear, severe, strong)	++ = High (clear, severe, strong)

Fig. 1 Results institutional analysis global land policies EU, WBG, FAO & AU



WBG

The WBG RAI principles are highly criticized, particular by civil society, smallholder farmers and NGOs for a lack of transparency in the process, a lack of stakeholder involvement, and a lack of a clear vision for the future. This seems to conflict with the medium results on *transparency*, *government*, and *stakeholder involvement*. Ensuring transparency, good governance, and consultation and participation are all incorporated in the seven RAI Principles. Although the WBG principles advocate for ‘respecting land and resource rights’ (Principle 1), serious improvements can be made in the development of a legislative framework. Other improvements can be made on: the applicability of the principles (*guidelines*), the establishment of an adequate timeframe, and the development of an implementation, monitoring, and sanctioning mechanism. The geographical scope of the principles is furthermore too broadly defined.

FAO-CFS

The FAO has obtained the second highest score, mainly to due to *transparency* in procedures, a high level of *stakeholder involvement*, *specificity* (i.e. narrowness in subject matter) of the guidelines, and a high level of *issues* addressed; next to fisheries and forests, inter alia, food security, equity & justice, gender, human rights, sustainability. The FAO VG furthermore discusses states’ involvement and role in land transaction procedures widely, and focuses on strengthening local governments. The FAO has also developed principles for implementations, and uses multi-stakeholder platforms at local, national, and regional level to monitor the implementation, and impact of LSLA deals. Major improvements can be made on the establishment of an adequate timeframe, and the development of a sanctioning mechanism.

AU

The AU framework and guidelines scores highest, mainly due to clear procedural descriptions, historical in-depth analyses, and inter linkages with other policy areas. The criteria are furthermore regionally focussed (Northern, Eastern, Southern, Central and West Africa), and more specific in subject matter, which, as theoretical evidence (ch. 5) implies, largely benefits the effectiveness. Furthermore they advocate for a roadmap for reform with ‘clear milestones’, avoiding ‘[...] detailed prescriptions and timetables for institutional reform unless it is quite clear that these are feasible and that associated costs have been budgeted for’ (AU et al. 2010, p. 27). The EU currently focuses on the implementation process of the AU framework and guidelines, together with the LPI, as reflected in the Joint Africa EU Strategy Action Plan 2011-2013 (EU 2011). Monitoring is based on ‘tracking principles’, and experiences are shared through land-related participatory monitoring & evaluation (PME) systems. Improvements can be made on issues of *transparency* and *sanctioning*.

7.2. Independent analysis

The selected criteria for the dependent variable (y) are specifically designed to make an independent statement on the effectiveness of GLP, regardless the outcome of the institutional analysis. Four ‘Social & Environment’ criteria have therefore been formulated: (1) *support of the poor*, (2) *ensure food security*, (3) *prevent displacement*, and (4) *environmental sustainability*. The final outcome is summarized in Table 14, conform a ‘+’ to ‘-’ classification. The analysis was however restricted, due to a lack of available and adequate literature on the EU land policy guidelines, the FAO voluntary guidelines, and the AU framework and guidelines on land policy.

In summary can be concluded that most arguments, as derived from a literature review, work in favour of the African Union Framework and Guidelines, and the FAO-CFS Voluntary Guidelines. The WBG RAI principles and the EU land policy guidelines are highly contested.

EU

In a comprehensive study by Graham et al. (2010, p. 1) on the impact of EU's policies and practices on African agriculture and *food security*, one of the main conclusions is that the impact of land policies '[...] can further burden African farmers who are struggling to feed their communities and countries in increasingly harsh environments'. Graham et al. (2010, p. 65) claim that in 'all aspects of agricultural development and development cooperation strategies', the EU overall fails to 'mention the need to prioritize support for strengthening family farming', because 'the role of smallholders agriculture for development, food security and poverty reduction in Africa', is not sufficiently emphasized, as reflected in EU's 2007 commitment to Advance African Agriculture (AAA)¹³.

The EU guidelines are highly criticized for promoting land transactions by enhancing the investors climate, offering legal protection for investors under international law, in the form of investment and trade agreements to secure property rights (Graham et al. 2010), weakening the policy space for national states and the power of host local communities. Bergeret (2008, p. 24) has analyzed the EU land policy guidelines in connections with the *right to food*, and offers a less critical vision, by stating that the document [...] although non-prescriptive, provides a good yardstick to evaluate the intervention of the Commission and EU member states in developing countries' [...] [i]n developing countries, advocacy groups wishing to promote sound land policy reform in an attempt to enhance the realization of the right to food could make use of the EU guidelines'.

WBG

The WBG RAI Principles for agricultural investments focus on respecting rights, livelihoods, and resources. All the four 'social & environment' criteria are theoretically incorporated in three of the seven RAI principles: 'ensuring food security', 'social sustainability', and 'environmental sustainability'.

The main critique on the WBG RAI principles in practice is that they have been developed, without the consultation of stakeholders, mostly affected by these agricultural investments (Monsalve Suárez 2010; CFS 2011a). This has led to the adoption of the 'Dakar Appeal against land grab'¹⁴ (Table 1) in 2011 by social movements, faith-based groups, environmental, development, and human rights organizations worldwide, advocating for a definite rejection of the RAI Principles by the Commission on Food Security, and restitution of lands that have been taken away from local communities illegally.

FAO-CFS

The FAO VG specifically focuses on worldwide *food security*. This concept is currently highly contested by civil society organizations because issues of 'who produces the food and how it is produced' are largely neglected. They therefore advocate for the implementation of the *food sovereignty* concept. Another critique is the rights of indigenous people not being taken into account in the principles (Monsalve Suárez 2012).

¹³ http://europa.eu/legislation_summaries/development/sectoral_development_policies/r13014_en.htm, accessed 20 March 2013

¹⁴ <http://www.petitiononline.com/dakar/petition.html>, accessed 9 March 2013

The conjunction of the FAO VG with the WBG RAI principles has however been subject of debate. According to Cotula (2012, p. 674) ‘[...] a more strategic approach to regulating the increased competition for natural resources’ is necessary. International guidance on the governance of natural resources, for example through the FAO VG ‘[...] can help governments sharpen national regulatory frameworks’.

AU

The AU framework and guidelines specifically focus on strengthening land rights, enhance productivity, and secure livelihoods. The AU has developed a comprehensive framework in the context of the land question, embedded in a detailed historical, social, political, cultural, economic, and environment analysis, forming a solid basis for the further development of the guidelines. Cotula (2012, p. 674) states that ‘Regional organizations can also play an important role, not only by developing and supporting the implementation of policy guidance (e.g. the Africa Union’s Framework and Guidelines on Land Policy), but also by providing arrangements for the joint management of shared resources’. Next to the EU, the LPI is assisting member states in implementing the AU guidelines, ‘in order to achieve socio-economic development, peace and security, and environmental sustainability’ (LPI 2012), hereby enhancing the likelihood of successful implementation of the framework and guidelines. The AU framework and guidelines on land policy in Africa can help strengthening the position of national, as well as local governments, and local communities. They can bridge the gap between investor and host countries, by ‘improving the capacity of those negotiating on behalf of the host country or representing local communities’ (De Schutter 2011b, p. 557).

8. Conclusion

The Land Matrix database is to date the most comprehensive data source on large-scale land transactions worldwide, although its legitimacy can be questioned due to the usage of crowdsourcing data. The database reveals that Regional Eastern Africa and South-East Asia are mainly targeted. Emerging and developing economies dominate the top-10 investment country list (Table 3a). Indonesia, Malaysia, and India are representing in the top-3 list. Agriculture as an investment sector dominates with *Jatropha* and Oil Palm as the most targeted biofuel crops.

This study has focused on the effectiveness of and the conditions for effective global land policies (GLP), as established by the WBG, FAO, EU, and AU, in the context of current land policy debate and large-scale land transaction discourse. The conditions for effective GLP have been constituted through an extensive institutional framework with underlying political theories. Criteria for effectiveness have been defined based on theories of *transparency*, *legitimacy*, and *accountability*, taken into account that it is likely to assume that each governance mechanism or system requires a different design: (1) proper disclosure of information in the global land policy process is leading to more transparency and behavioural changes; (2) institutions being held accountable for their actions by civil society organizations and NGO’s, thus seen as more successful (i.e. legitimate); (3) these normative claims subsequently lead to more *legitimacy* and *transparency* in institutional policies and processes.

It is however usually only possible to make a statement on the actual change of behaviour and (environmental) impact ‘after several years of operation’ (Miles et al. 2001, p. 6). Since the GLP of the four institutions have not been operationalized yet, it is difficult to make a statement on all three proposed conditions.

The African Union Framework and Guidelines, and the FAO Voluntary Guidelines, with possibilities for mutual cooperation, are most likely to succeed in effectively regulating large-scale land transactions in the near future.

Both the WBG RAI principles, and EU guidelines are highly criticized for facilitating land grabs by enhancing the investors climate, (1) offering legal protection for investors under international law, for example in the form of investment and trade agreements to secure property rights, and (2) encouraging developing countries in simplifying processes, making it relatively easy for foreign investors to gain access to land, at the expense of local communities, the environment and farm groups. Strengthening and increasing the protection of local rights under for example international law could be a solution. African countries have already taken the initiative to strengthen local and customary rights protection. Securing local land rights can offer farmers a valuable asset for negotiation. Business models can offer opportunities for smallholder farmers (incentives in land policies for businesses to work with local groups is a precondition).

Institutional Analysis

To make a statement on the effectiveness of global land policies, an institutional framework (Table 11) has been developed in where twelve hypotheses, spread over three clusters: (1) 'Content': transparency, legality, specificity, guidelines, issues, and time; (2) 'Participatory': addressee, government, stakeholders, and implementation;(3) 'Measure': monitoring, and sanctioning, have been tested dependently. An independent analysis was performed in order to identify the 'social & environmental' commitment of the GLP toward: (1) support of the poor, (2) ensuring food security, (3) prevent displacement, and (4) environmental sustainability.

Dependent Analysis

The institutional (dependent) analysis implies that the EU, FAO-CFS, and AU guidelines are most effective, basically because the three organizations take the implementation process more seriously, by, inter alia, (1) the involvement of a wide range of stakeholders, which enhances a successful implementation, and (2) the inter linkages with other relevant policy areas like gender issues, poverty reduction and environmental security. No sanctioning mechanisms were found in the principles and guidelines, however all organizations link to some form of compliance with legal systems, like human rights law.

The EU scores particularly very high on specificity of the guidelines and stakeholder involvement. The operational guidelines specifically focus on the role of stakeholders and donors in the implementation process of the guidelines.

Although the WBG principles advocate for 'respecting land and resource rights' (Principle 1), serious improvements can be made in the development of a legislative framework. Other improvements can be made on: the applicability of the principles ('guidelines'), the establishment of an adequate timeframe, and the development of an implementation, monitoring, and sanctioning mechanism. The geographical scope of the principles is furthermore too broad.

The FAO VG have obtained the second highest score, mainly to due to transparency in procedures, a high level of stakeholder involvement, specificity (i.e. narrowness in subject matter) of the guidelines, and a high level of issues addressed; next to fisheries and forests, inter alia, food security, equity & justice, gender, human rights, sustainability. The FAO VG furthermore discusses states' involvement and role in land transaction procedures widely, and focuses on strengthening local governments. The FAO has also developed principles for

implementations, and uses multi-stakeholder platforms at local, national, and regional level to monitor the implementation, and impact of LSLA deals.

The AU framework and guidelines scores highest, mainly due to the clear description of procedures, and a solid historical background and inter linkages with other policy areas. The criteria are more regionally focussed (Northern, Eastern, Southern, Central and West Africa), and more specific in subject matter, which, as theoretical evidence implies, largely benefits the effectiveness.

Independent analysis

The independent analysis shows that most arguments, as derived from a literature review, work in favour of the African Union Framework and Guidelines, and the FAO-CFS Voluntary Guidelines. The WBG RAI principles and the EU land policy guidelines are highly contested.

The EU guidelines are highly criticized for promoting land transactions by enhancing the investors climate, offering legal protection for investors under international law, in the form of investment and trade agreements to secure property rights, hereby weakening the policy space for national states and the power of host local communities.

The WBG RAI principles are highly criticized, particular by civil society, smallholder farmers and NGOs for a lack of transparency in the process, a lack of stakeholder involvement, and a lack of a clear vision for the future. This has led to the adoption of the 'Dakar Appeal against land grab' in 2011 by social movements, faith-based groups, environmental, development, and human rights organizations worldwide, advocating for a definite rejection of the RAI Principles by the Commission on Food Security, and restitution of lands that have been taken away from local communities illegally. The FAO VG specifically focus on worldwide 'food security', currently highly contested by civil society organizations who advocate for 'food sovereignty'. The debate is undergoing. The conjunction of the FAO VG with the WBG RAI principles has been subject of debate.

The AU framework and guidelines on land policy in Africa can help strengthening the position of national, as well as local governments, and local communities. They can bridge the gap between investor and host countries, by capacity improvement in negotiations of those representing the host country or local communities. Next to the EU, the LPI is assisting member states in implementing the AU guidelines, to achieve socio-economic development, peace & security, and environmental sustainability, hereby enhancing the likelihood of successful implementation of the framework and guidelines.

Although not specifically reflected in the outcome of the analysis by any of the institutions, the environment is often at risk when land is being leased or sold. The agricultural impact of LSLA deals therefore needs to be mapped before land deals are being closed. *Environment and social impact assessments* could be a useful tool in measuring the impact of land deals.

In summary can be stated that civil society, NGOs, and scholars strongly oppose the endorsement of the RAI principles. The recently developed FAO-CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, can, together with the AU Framework and Guidelines on Land Policy in Africa, be seen as an important step toward regulating global land transactions, albeit not exclusive.

9. Discussion

According to IFPRI (Von Braun and Meinzen-Dick 2009, p.: 3; Wouterse et al. 2011, p. 9) '[a]n internationally accepted code of conduct should not just consist of general statements without consequences, but should have 'teeth'. The IFPRI (Von Braun and Meinzen-Dick 2009; Wouterse et al. 2011) therefore advocates for a dual approach; first, modeling the institutional arrangements of CoC in line with the 'international business laws', designed in the past ten years to prevent corruption in Foreign Direct Investments (FDI). These international business laws need to be applied not only in the targeted countries, but also in the investor countries. And second as a follow-up, 'strengthening the policy environment and implementation capabilities in the target countries' (Von Braun and Meinzen-Dick 2009, p. 4). This combined approach could lead to 'embedded transfers of knowledge and institutional strengthening into the investment and related trade flows, thereby improving productivity in the target countries of these investments' (Von Braun and Meinzen-Dick 2009, p. 3).

Graham et al. (2010, p. 71-72) therefore advocates for strengthening the FAO and AU guidelines in compliance with human rights based land policies, and supporting the implementation of the FAO VG, in compliance with the ICARRD principles. The EU member states however currently 'both collectively and individually, are still largely ignoring their obligations under international human rights law' (Graham et al. 2010, p. 70).

Borras and Franco (2010) advocate for a multilevel 'sandwich' strategy, consisting of (1) a pro-poor policy framework, and (2) a human rights-based framework. In international human rights law there is no explicit right to land, the right to property is established in human rights law¹⁵ Article 17 of the Universal Declaration of Human Rights.

Strengthening the principles, guidelines and codes of conduct by including the ICARRD principles, combined with legally binding principles that respect human rights law is mentioned by civil society (Dakar Appeal), as well as scholars (Graham et al. 2010; CFS 2011a; De Schutter 2011a). This statement is also reflected in the FAO Voluntary Guidelines (FAO 2012). Additionally coherence with the FAOs 'Right to Food Guidelines', and the Human Rights principles, as developed by UN Special Rapporteur on the Right to Food, Olivier de Schutter, is also mentioned (CFS 2011a).

In reply to the global land grab, governments are increasingly seeking to find alternatives to limit foreign land transactions jeopardizing the country's food, water and energy supply. Restrictions to foreign acquisitions in the form of 'land ceilings', 'bans' and other legal measures are currently being explored. Argentina and Brazil recently introduced land ceilings to limit the amount of land foreign investors can acquire (GRAIN, 2013; Perrone 2013).

Implications for further research

The operationalization processes of both the FAO-CFS Voluntary Guidelines¹⁶, and the AU Framework and Guidelines on Land Policy in Africa, are still undergoing. Investigating whether the FAO, and AU guidelines can work well in coherence with each other or lead to conflicts in certain areas can be an interesting subject of analysis. It is furthermore of great importance that the implementation process is accompanied by an 'assessment

¹⁵ For more detailed information on International Human Rights Law, see Graham et al. 2010, p. 66-67.

¹⁶ See Land Portal (2012) for a discussion on the dissemination and effectiveness of the FAO-CFS VG.

of the current situation'. Only in-dept country analyses can reveal 'if' and 'what' aspects of the guidelines are already embedded in local, national and regional policies.

An fsQCA analysis will benefit the outcome of this research due to the causal interferences that can be drawn. The QCA methodology is characterized by its emphasis on 'relationships that take the special form of causal sufficiency achieved through combinations of factors (configurations)' (Gerring 2012, p. 352). This methodology is in line with current research priorities (i.e. identifying causal complexities) within the study of 'regime effectiveness' (Young 2011, 2013).

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