

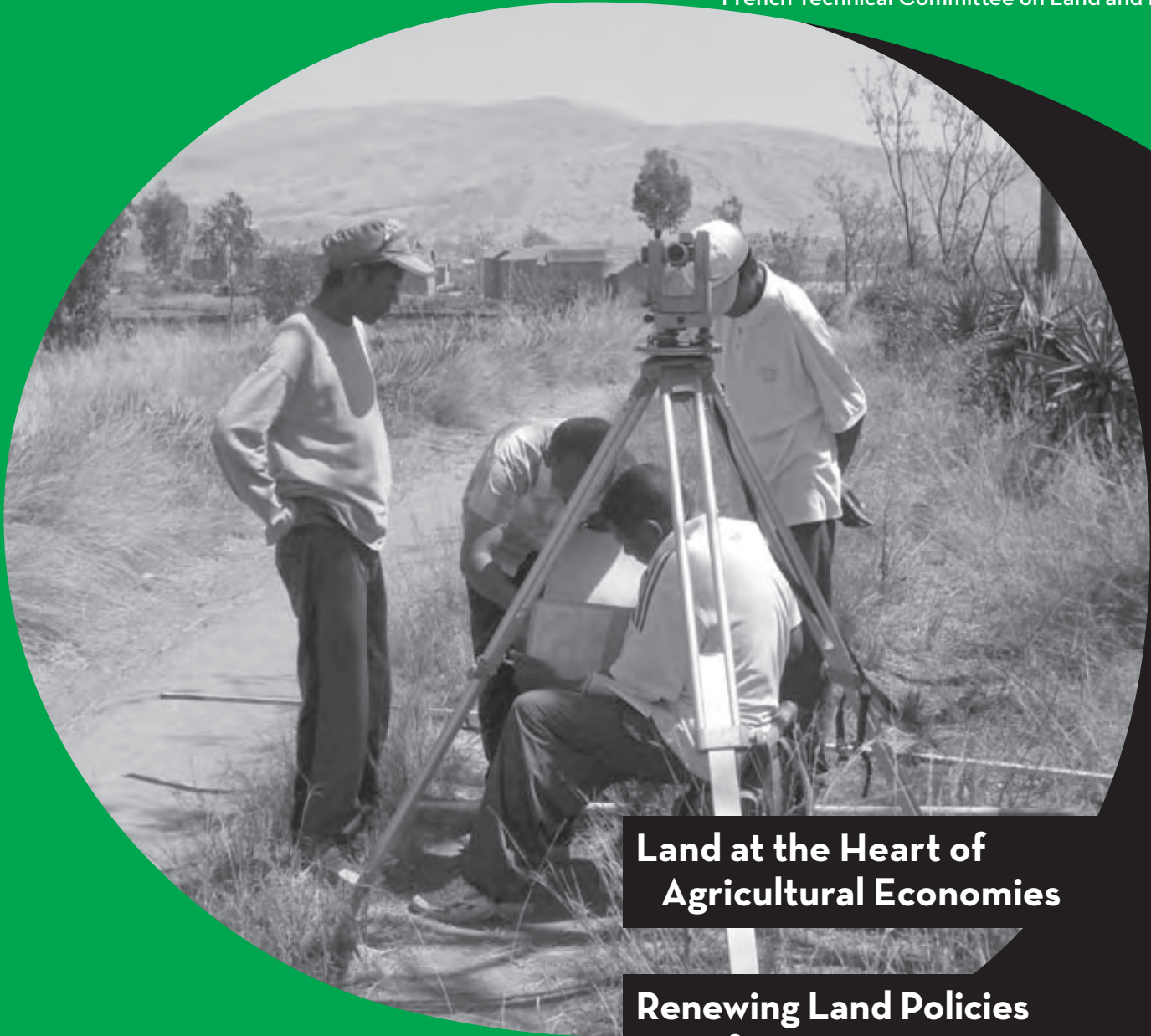
Grain de sel

JANUARY-MARCH 2012

JOURNAL OF **Inter-Réseaux**
Développement rural

57

Issue produced in partnership with The Rural Hub and the French Technical Committee on Land and Development



**Land at the Heart of
Agricultural Economies**

**Renewing Land Policies
in Africa**

Land Tenure: Innovating Together



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The Executive Secretariat of Inter-Réseaux Développement Rural is made up in Paris of Fanny Grandval (Network Facilitator), Christophe Jacqmin (Director), Sylvie Lopy (Executive Assistant), Vital Pelon (Network Facilitator) and Joël Teyssier (Network Facilitator); and in Ouagadougou of Souleymane Traoré (Network Facilitator), Salimata Diasso (Assistant) and Minata Coulibali (Organiser).

Special Land Glossary

Acquisitive prescription: principle according to which the continuous and peaceful possession of land, if not contested for a specific number of years, confers a real right on the holder.

Cadastre: official documentation, in map and in narrative form, providing information on the human occupation of land, its precise location and its limits. This may also designate the administration in charge of establishing these documents and keeping them up to date.

Customary law: the body of legal rules arising from practice in a region or country and set by custom.

Inviolable and inalienable ownership: ownership arising from the land-registration procedure; it is definitive, can be enforced against third parties and cannot be revoked.

Land registration: the administrative registration procedure by which the state recognises and guarantees the existence of an individual private-property right. It revokes all previous rights.

Land registry: document, which may be computerised or in paper format, responsible for recording the status of rights to land and resources.

Land title: document delivered by the administrative authority that officialises the existence of a right or rights to land. For some, land titles

are the documents arising from land registration and therefore correspond to a right of individual private ownership.

Lease: contract by which one party authorises another party to use a portion of land or its resources for a specific period of time in exchange for payment of rent.

Public property: all the property and land owned by the state and earmarked for public use and public services.

State ownership: designates the regime for property that belongs to public bodies (Gérard Chouquer).

State property: encompasses all property owned by the state and held and managed by the state under the same conditions as property owned by individuals (Gérard Chouquer).

Statutory (or written) law: the body of legal rules set by the legislative or regulatory authorities and established by official legal texts.

Use right: under civil law, an aspect of property rights that gives the holder the ability to make use of something and benefit from its proceeds within the limits of the holder and his or her family's needs.

Glossary terms are signalled by an asterisk (*) when they occur in the text.

News from Inter-Réseaux

The start of the year featured several important events for Inter-Réseaux. First, a **General Assembly** was held for the first time in Africa, in Ouagadougou. It was an opportunity to welcome 12 new members into the organisation, 11 of which were institutional: FO networks (ROPPA, Billital Maroobé), support structures and NGOs (SAILD, JADE, IED Afrique, IRAM, SNV, Afrique verte international), and consultancy firms and think tanks (IPAR, Larès, GRAF). The members discussed the Strategic Policy Plan for 2012-16. Small group meetings also made it possible to reflect on the content of three lines of work: information, working groups and inter-member pooling.

In January, IR also held a two-day **workshop** in Ouagadougou with ROPPA on the subject of 'FO participation in policymaking' (considerable information is available on this subject on the IR Web site). The discussions were based on the results of experience analysis conducted as part of the Réseau PAAR project (see previous issues) and, in line with ROPPA's five-year plan, helped nourish the work plan for ROPPA and its members (12 of the 13 member platforms were present).

For lack of space in this issue, we plan to provide a detailed update on the organisation's news in our next issue.

Land Is More than Ever the Focus of Concerns

LAND AND NATURAL RESOURCES constitute the main wealth of peasant farmers and herders in many African countries. Land fulfils functions that are so crucial to the survival of rural populations that it can lead to serious conflicts that will divide families, communities and countries. Many wars in Africa are partially, when not completely, land-related, such as in the Great Lakes region where land has been a critical factor in the violent conflicts that have marked the region for nearly 20 years.

In 2012, four years after a major global food crisis that was hoped would raise awareness of the need to support family farming, what do we observe? Pressure on land is increasing, notably in Africa, through massive land grabbing movements that favour domestic and international economic actors to the detriment of rural farmers' rights. The land reforms initiated at the end of the 1990s in many African countries

have enabled real progress towards greater recognition and consideration of local populations' land rights. The processes underway are, however, still fragile and are set in a context of rapidly growing population where fertile land is in limited supply or may have been degraded and where outside demand for land is growing.

Given the major stakes involved, this issue of *Grain de sel* seeks to dispel a number of preconceptions and reaffirm a number of truths. To mention just a few: Africa is not a reserve of land without rights; some forms of appropriation and exploitation are in no way agricultural investments; delivering private land titles to all peasant farmers is not necessarily a solution to secure their access to land; conducting land reforms does not only mean working on technical and legal tools, it requires, first and foremost, holding discussions with all segments of society, etc.

Six years after the publication of an issue of *Grain de sel* devoted to land tenure, Inter-Réseaux, the French Technical Committee on Land and Development and The Rural Hub, all partners in the production of this issue, have chosen a central theme: renewing land policies in response to the major evolutions and development challenges at the start of this century. The need to regulate access to land and secure the land rights of peasant farmers in West Africa has been largely accepted; now land reforms remain to be developed with the involvement of peasant farmers and herders, and the means to implement these reforms with their participation over the long term remain to be mobilised.

Inter-Réseaux, The Rural Hub and the Technical Committee on Land and Development



UNMATCHED IN AFRICA, The Rural Hub is a shared tool at the service of development, rural and food security actors in West and Central Africa, primarily national and regional public institutions, professional agricultural organisations and civil society. One of The Rural Hub's major specificities is that it is governed by these different categories of actors, which have entrusted it with a general interest mission able to provide individual benefits for each category of actors and collective benefits for regional communities by improving dialog on policies and programmes and contributing to their consistency, relevance and effective implementation in a deeply changing context. For further information, go to: www.hubrural.org/?lang=en



BRINGING TOGETHER EXPERTS, researchers and French development aid executives, the Technical Committee on Land and Development is a think tank that has provided French development aid with support for land-related strategies and action supervision since 1996 in a network with many international actors. It currently has approximately 30 members with very diverse approaches in terms of disciplines and skills, working in the main research, education, expertise and development aid institutions on land tenure and related issues in a variety of countries and continents. Under

the auspices of the French Ministry of Foreign and European Affairs (MAEE) and the Agence française de développement (AFD), this group monitors developments and helps land policy actors in their diversity maintain the course of the reforms underway. It provides new analyses, references and useful guidelines for reforms. It supports the promotion and defence of approaches based on the recognition of local rights in international debates. A large body of written literature on these subjects is available at www.foncier-developpement.org.

We wish to thank Aurore Mansion (GRET) for her assistance to the Technical Committee on Land and Development and Vincent Basserie (The Rural Hub, WAEMU) for coordinating this issue alongside Vital Pelon (Inter-Réseaux).

Investment: A Magic Word and a Trap

Michel Merlet (miche1.merlet@agter.org)

EVERYONE SEEMS TO ACCEPT THAT ‘INVESTMENT’ in agriculture is needed to fight hunger and speed up rural development, but there is only talk about investment funds and large entrepreneurs, and very little about peasant farmers. Is this word simply being used to hide a disinformation campaign intended to serve the interests of the few?

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IT WAS NOT UNTIL around 1920 that the French word *investissement* took on the meaning we are looking at here, borrowed from the English word *investment* meaning the placement of capital in a company for its equipment or the acquisition of production means. This meaning is directly linked to profit seeking. Today, the word is used in a broader sense: there is investment for farmers without capital or public investment where profit is not necessarily the main goal.

Investment and speculation are increasingly intertwined. An investment aims for a result at a later date. It therefore always implies some level of risk and of ‘speculation’—in the most basic sense of the word (without the negative connotation usually associated with it), which is anticipation based on observation. We are betting today in the hope of getting greater profits tomorrow.

The large-scale speculation that we are seeing today is not of the same nature. It goes well beyond the risks taken in any investment. With the development of financial capital, the link to production is becoming less and less direct. People can turn a profit by buying and selling shares, betting not on the material counterpart of the shares but on the idea that other actors have of their future evolution. They can buy and sell goods that have not yet been produced (futures markets) and invest with borrowed capital. They can turn bank loans into marketable securities (‘securitisation’) and invent ‘financial derivatives’ of very diverse natures, which are constantly growing in importance in the world of trade. Originally supposed to limit company risks by transferring them

to entities specialised in managing them, these changes have led to an increased intertwining of investment and speculation; these evolutions have also considerably increased the virtual nature of the economy. The appearance of ‘bubbles’ that end up bursting with a bang and the recent financial crises have shown the dangers involved in such a situation.

An investment, even a private one, is never isolated from the society in which it is made.

The interest of an investment for a private entrepreneur is evaluated through financial analysis, which only takes into account data that have an impact on the profitability of an operation. All the immediate consequences, both upstream and downstream, and the impact on jobs generated or eliminated, waste released into the environment, and resources taken from the environment are of no interest to investors if they do not interfere with costs and profits during the lifespan of the project. It follows that the implications for future generations are not taken into account. A financial analysis only reflects the investor’s point of view.

To take into account the impact of an investment on society as a whole, other, totally different tools need to be used. These are grouped together under the heading of economic analysis. Not making this distinction amounts to implying that maximising the investor’s profit is always the most interesting solution for the general interest. This is a massive error with serious consequences. There are two major methods of economic analysis. The ‘effects method’ seeks to measure all the ripple effects from each component of a project. The ‘reference-price method’ is based on fictitious prices

calculated to correct the many market imperfections and is ‘supposed to be a better representation of the economic and social costs of the resources engaged in projects and the satisfaction that goods and services provide to society’ (Dufumier, 1996, *Les projets de développement agricole*). These methods are, however, still insufficient to address environmental issues and all the things and services that do not have a price at a given moment but whose destruction could have considerable consequences.

Investing or capturing wealth? ‘Private’ comes from the Latin *privare*, which means ‘deprive’ (of a good, a right, etc.). Privatness is created by taking something out of the sphere of shared goods or services so that others no longer have access to it. That private investment sometimes leads to depriving certain users of access to previously partially or completely shared resources is therefore not surprising in the least!

What we call ‘investment in land’, but also more generally ‘investment in agriculture’, often amounts to the grabbing of commons or public lands (CTF&D, AGTER 2010, *Les appropriations de terres à grande échelle*). In this situation, but also when land that has already been the object of privative appropriation is concentrated by purchase or long-term rental, the incentive for the investment often comes from the possibility of revealing productive capacities not yet developed. This is the case when investment funds buy extensive grazing fields and turn them into agricultural production units to grow soy, for example. The investor can be the first to profit from the fertile soil, water, wood resources, and/or minerals because he or she has access to capital, technologies and/or markets to which the previous users of the land did not have access.

By doing so, he takes risks and this lends a degree of legitimacy to the prof-

‘As if the investor’s interest always reflected the general interest...’

its he makes from the investment. Stopping at this interpretation, however, is not enough. Behind the investments is hidden the appropriation of a rent that the historical occupants were not able to optimise. What we call a rent, here, is the expression of a natural wealth that existed before the investment and that the investment did not create but rather exploits. Other actors could also have benefited from it if they had had access to the same resources.

Faced with the collapse of certain assets (such as real estate and sub-prime loans), one can understand that investors are looking to place at least some of their profits in goods that are not virtual. This is one of the reasons why demand for agricultural land has skyrocketed in recent years, turning it into just another financial asset. The expected profits must however be of the same order of magnitude as what could be obtained in other sectors. To do this, the share of value added used to remunerate capital must be as large as possible. Consequently, the remuneration of labour, the cost of accessing the land and the various taxes must be minimised (Cochet, Merlet, 2011, Brighton. www.agter.asso.fr/article600_fr.html). These are the conditions that international financial institutions intend to impose by liberalising markets right and left, and by diminishing the role of states.

A higher rate of profit for investors often goes against the general interest. Those who praise the advantages of win-win projects forget to specify that investing is only interesting for investors in specific conditions. This mystifying discourse is relayed by all those who have a personal stake in promoting these practices and in particular by many members of governments in developed and developing countries.

Building other forms of governance of natural resources. To take into account the interests of society as a whole, it is necessary to distinguish what is related to financial speculation and land grabbing or the grabbing of common wealth, and to understand which operations can best guarantee the interests of future generations.

Economic assessments must be used for any ex-ante study of the impact of large-scale investments, completed by ecological and social impact assessments.

The July 2011 report by the United Nations High Level Panel of Experts on Food Security and Nutrition mentioned, for the first time, the establishment of win-win-win projects. The third 'win' refers to society. This is not a detail. It is crucial. A forceful return of the 'public sphere' and 'policy' is unavoidable, and it involves strengthening public policies and arbitration bodies at various levels—local, national and global. The aim is nothing more, nothing less than to build new governance of natural resources progressively.

The link with the different concepts of ownership needs to be emphasised. One absolutist concept of ownership implies that all rights are held by the same owner. Buying land also gives the buyer all the resources it contains, whether or not they are listed, in compliance with the laws in force. This concept facilitates the privative appropriation of natural wealth but not sustainable development. New governance of natural resources and land necessarily implies a new distribution of different types of rights to these resources among individual and collective actors.

The construction of agricultural infrastructures, the protection of biodiversity, the fight against global warming, as well as education, research and the establishment of tax mechanisms that make it possible to re-socialise certain 'established rents' are also areas that need resources today and from which we will benefit tomorrow.

Public investment and non-capitalist investments by small farmers must truly be taken into account. Even if their financial performance is not as strong, their interest for society and future generations can be considerable. For each investment project, it is therefore necessary to examine the different possible options and the societal choices that each implies. ■

Titling, Titration, Securitisation: Jargon Warning!

THE CURRENT LAND POLICY CRAZE in West Africa has come with the emergence of a long series of new concepts borrowed from other fields, which can sometimes be confusing. For example, the notions of 'titration' and 'securitisation' did not initially have anything to do with land; one comes from the sciences and chemistry, and the other from the banking sector. Re-used for the needs of actors seeking to promote new approaches to ensuring land security that are not always new, these two notions are commonly used to designate processes by which land rights are identified and formalised and that result in the delivery of 'papers' with legal or administrative value.

The term 'titling' for its part was recently coined by French notaries to designate 'the materialisation by the government authorities of a right to a tract of land in the name of a person or group with the inclusion of this right in a public registry' (Conseil Supérieur du Notariat Français [high council of French notaries]). Despite appearances, it does not necessarily imply the delivery of a private land title and can cover the delivery of an affidavit, a certificate, and ultimately any piece of paper that attests to the rights guaranteed by the government authorities whatever their nature. We therefore need to be cautious with these notions, take them for what they are (approaches that aim to register rights and issue official documents) and ask the right question: to what right(s) and what title(s) do they refer?