

ZIMBABWE LAND GOVERNANCE COUNTRY ASSESSMENT FOR NAIP

Established in 2003, the **Comprehensive Africa Agriculture Development Programme (CAADP)** is the African Union's policy framework for agricultural transformation of the continent. It aims to contribute to a significant increase in agricultural productivity in Africa's mostly agriculture-based economies. With the adoption by the AU General Assembly in June 2014 of the **Malabo Declaration on Accelerated Agricultural Growth and Transformation**, CAADP has gained renewed political momentum. At the heart of the implementation process are country-specific strategies, the **National Agriculture Investment Plans (NAIPs)**, that aim to increase investment and productivity in agriculture. This Policy Brief is the result of an in-depth country level **Land Policy and Land Governance Assessments** undertaken by NELGA experts with the objective to strengthen and mainstream **land issues in the successor (or 2nd generation) NAIP and to contribute towards achieving the Malabo targets.**

BACKGROUND

The land policy provides an entry point in land governance in Zimbabwe. The policy creates a platform where stakeholders with an interest in land collectively make decisions to achieve socially desirable outcomes. Expected land governance outcomes are land access equity, gender equity, land use efficiency and environmental management.

Each of the three outcomes above has a potential to contribute to investor confidence for fixed capital investment on land. Land equity promotes investor confidence by enhancing social harmony as poor people are enabled to access land, minimizing political tensions. Environmental management and conservation enhance land use on a sustainable basis, enabling continuous production and the achievement of Malabo targets. Land tenure security promotes land use efficiency as it provides incentives for capital investments (dams, bridges, water infrastructure, orchards) on land.

Tenure security is realized under two conditions:

- Tenure duration is adequate to enable the recovery of fixed investment costs;
- Landholder eviction risks are zero during the tenure period.

The biggest threat to tenure security and hence investor confidence is the risk of eviction before investment costs are recovered.

Zimbabwe, similar to other countries, has accordingly instituted long tenure duration in the form of 99-year leaseholds, freehold tenure (title deeds) and customary tenure systems. Resettled A2 farmers are entitled to lease state land for a 99-year period, renewable on condition the lease terms and conditions are fulfilled. Large scale commercial farmers operate under freehold tenure, enabling landholders to access land on an indefinite basis, considered to be adequate for investment cost recovery. Communal area communities operate under customary tenure systems that entitle them to access land on a permanent basis, also with potential to enable investment cost recovery and investor confidence. Communal land under customary tenure is accessed/owned on group basis, in contrast to land under leasehold and freehold tenure systems that is accessed/owned on an individual basis.

Investment potential is high on all the three tenure systems. The Constitution however, divides rural land into agricultural and non-agricultural land. In this regard, all state land and land accessed by large scale commercial farmers is treated as agricultural land. Commercial agricultural activities are expected to be done on agricultural land. The remaining land is treated as communal land, owned by traditional customary communities in line with their traditional norms and values for land ownership. State agricultural land is administered by state institutions. Freehold land is administered through market and public institutions. Communal land is owned by the President- in- Trust for communal communities and is accordingly managed by state institutions. Legal provisions (statutory and customary) exist that support the tenure systems and the administrative arrangements.

The Constitution accordingly provides for secure and business-oriented tenure systems to agricultural land, with a vision to promote investor confidence, consolidate on farm investment and achieve efficient production and productivity as envisaged in the Malabo Declaration targets.

The study reviewed tenure systems on agricultural land, with a focus on state owned agricultural land. The key research questions focused on the extent to which the policy preparation processes are participatory; the extent to which the land policy is accountable and transparent; the frequency of land evictions, land grabs, land corruption and the extent to which government has domesticated internationally accepted instruments that improve policy transparency and accountability. In short, the research was designed to assess the nature of threats to tenure security and investor confidence.

STUDY FINDINGS

The study reviewed and analysed key land governance elements including the 2013 Constitution, the land policy, land tenure systems, land administration and gender and made a number of findings, in particular that:

The Constitution provides for a business-oriented land tenure system that promotes investment and productivity on agricultural land. Government adopted business tenure arrangements for privately-owned agricultural land under freehold tenure. In contrast, non-tradable 99-year leasehold tenure was adopted on leased state agricultural land. 99-year leaseholds as currently designed are not business oriented, contradicting Constitutional provisions and not conducive for investor confidence.

The land policy, as currently prepared, has a number of limitations:

- There are no clear criteria to assess the realization of land policy objectives, in particular land equity, gender equity, land use efficiency and environmental management. The risk is high and people could take advantage of this non-clarity and raise land claims in the guise of improving either one or all the three outcomes. Fears for such long run risks could limit investor confidence;
- Land governance decisions are biased against stakeholders with limited real (no ownership) rights to land, in particular lessees on state land, operating as “tenants” on State land. This has undermined the level of effective participation and therefore policy inclusion. Lack of effective policy inclusion leads to land tensions and this undermines investor confidence;
- Some stakeholder institutions have limited organizational capacity for effective policy participation, given that some policy issues are technical in nature (land use efficiency and environmental conservation);
- Non-state stakeholders have limited advocacy and lobbying capacity to enhance policy accountability;
- Government has not adopted internationally recognised accountability instruments such as the “Office of the Ombudsman” and the “Free Informed Prior Consent” (FIPC) values and practices;
- Policy transparency was low as reflected by:
 - Lack of a central data base on land information, limiting prompt information sharing;
 - Lack of information decentralization to district levels;
 - No information (land audits, corruption reports, underutilization reports) translation into vernacular languages.

Limited access to land information creates a “veil” for corrupt activities and other land abuses, further undermining investor confidence.

Tenure security on leased and communal land was low.

This was reflected through:

- Land evictions, land disputes, land grabs, compensation disagreements, land corruption, etc;
- Delays in accessing 99-year leases:
 - Between 2009 to date, an estimated 17% of the total 99-year lease holders have applied for 99-year leases;
 - About 5% of those who have applied got registered leases;
 - About 0.8% of the total A2 farmers have been registered. This raises fundamental limitations to tenure security, investor confidence and banks preparedness to advance loans;
 - Land grabbing cases, including the Mutoko Granite, the Marange Diamond and the Chiredzi Ethanol Fuel, undermining investor confidence;
 - These cases represent some of the many cases where government needs to adopt the “Free Informed Prior Consent” principle.

Land corruption exists, including sales of traditional land by traditional leaders in Seke and Domboshava communal areas.

Land administration on state land is continually undermined by financial shortages and is therefore not timely accessible.

Land administration challenges in communal areas include non-formal transactions that limit land administrative transparency. In particular, communal household land rights are not mapped for recording purposes.

CONCLUSIONS

- Land governance in Zimbabwe has characteristics that denote **bad land governance**;
- These characteristics continue to worsen **tenure insecurity**, mainly in 99-year leasehold tenure;
- Tenure insecurity, particularly eviction risks, **undermines investor confidence**;
- Limited investor confidence continues to **undermine realization of Malabo Declaration targets**;
- **Land governance issues that undermine investor confidence need to be mainstreamed**;
- Key issues undermining investor confidence are:
 - Limited stakeholder participation (effective) in land policy processes;
 - Limited policy accountability and transparency;
 - Tenure insecurity, in particular-99 year leaseholds
 - Non timely land administration on state leased land due to financial limitations.

POLICY RECOMMENDATIONS

The following activities are recommended for the mainstreaming of land governance in the 2nd Zimbabwe Agricultural Investment Programme (ZAIP). Implementing

these activities will enhance stakeholder participation in policy preparation, implementation and monitoring. Such participation is expected to improve policy accountability, transparency and tenure security.

Improved tenure security is expected to improve investor confidence, raising opportunities to achieve the Malabo Declaration Targets.

RESULTS CHAIN	DESCRIPTION
IMPACT	To improve land governance
Outcome 1	Improved policy accountability
Outcome 2	Improved policy transparency
Outcome 3	Improved tenure security
Outcome 4	Improved administrative efficiency
Output 1.1	Institutional framework for policy accountability improved
Output 1.2	Stakeholder knowledge on land policy issues enhanced
Output 2.1	Access to land policy information at district improved
Output 3.1	Conditions for tenure security enhanced
Output 4.1	Stakeholder knowledge on land administration improved
Activities	<ul style="list-style-type: none"> • Establishment of the Ombudsman’s Office for land governance in ten provinces; • Identify appropriate stakeholders (village, national) for land governance participation; • Educate and sensitize various stakeholders on land governance; • Establish land management information systems (land cadastre) appropriate at provincial and district level; • Publish land access terms and conditions by tenure system; • Design integrated land data collection systems at district level for all tenure systems; • Engage communities through sensitization meetings and sharing maps to visualize land use plans; • Undertake meetings to review and finalize A2 tenure systems at national levels. • Translate land tenure documents into vernacular;

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For more information and full references, please consult the Final Report on SLGA Website

