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Foreign Investment in Agriculture in MERCOSUR Member Countries

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Executive Summary

Foreign investors have taken a keen interest in the agricultural sector in recent years, for a number of reasons. These include sharp spikes and increased volatility in agricultural commodity prices since 2007 caused partly by population growth, urbanization, biofuels and changing diets. Extreme weather events have also led to significant crop failures in important producer countries. Many of these factors are long-term trends that will continue to make agricultural land, and agricultural production more generally, an attractive investment.

This report provides information on foreign investment in agricultural land and production in the member states of the Southern Common Market (MERCOSUR). There is a general lack of solid information on foreign investment in agricultural land and production in MERCOSUR countries, and the figures that do exist should be considered with caution. Nonetheless, the available evidence suggests that foreigners are playing a significant role in the sector. The best available data is in Brazil, which maintains a registry of land-ownership. It is estimated that foreigners own 1.7 per cent of total arable land in Brazil (Wilkinson, Reydon & Di Sabbat, 2010). The Argentinean government does not keep a registry of land ownership; however, a private estimate suggests that foreigners own 3.4 per cent of overall arable land in the country (Pensar Foundation, 2011). Estimates in Paraguay based on 2008 census data indicate that foreigners own an impressive 19.4 per cent of the national territory, more than half of which is owned by Brazilians (Glauser, 2009, based on 2008 CAN data). Uruguay keeps records of land bought by foreign natural persons, but not the area that has been acquired by foreign business corporations, thus preventing a complete estimation of the amount of land owned by foreign investors. There is even less information available on foreign investment in agricultural production. Argentinean firms appear to be the most active in the region, with companies such as El Tejar, Los Grobo and MSU playing a major role in grain cultivation, particularly soy.

The majority of foreign investors in both land and production appear to come from within the region, mainly Argentina and Brazil. While there has been a trend of governments, or state-owned companies, investing in agricultural land beyond their borders to increase their food security, these investments have not materialized in significant numbers in the MERCOSUR countries. In fact, Argentina is the only country that appears to have negotiated agreements of this sort: one signed between Río Negro provincial authorities and the Chinese government-owned Heilongjiang Beldahuang State Farms Business Group and another currently under negotiation between El Chaco provincial government and a company linked to the Government of Saudi Arabia.

Foreign interest in agricultural land in the region has sparked heated public debate on whether restrictions should be put in place. Global concern over so-called land-grabs has also fuelled the public debate in the region, and has led to political parties advocating for a range of responses. Brazil has had various restrictions on foreign ownership of land for more than four decades, and is currently considering placing further limits. Argentina has recently approved its own law to restrict foreign investment in agricultural land, and similar laws are being discussed in Uruguay. The exception, interestingly, is Paraguay: despite indications that a significant area of land is owned for foreigners, there has been little public discussion about imposing restrictions.

A number of practical actions would assist in the development of policies to appropriately address foreign investment in the agricultural land. One is to define "foreign stakeholder" in a clear manner, consistent with the legal and institutional framework in place. While this issue may seem obvious, it has not always been appropriately considered, making it difficult to assess foreign investment in agricultural land. There is also a need for better information on foreign investment in agricultural land in the region. Countries in the region have so far done a poor job of keeping track of land ownership. Indeed, Brazil is currently the only country in the region to establish a national land property registration mechanism. Other countries in the region should do so as well.

In terms of further research, there is a need to better understand the impacts of foreign investment in the agricultural sector. This includes investigating the relative importance of foreign investments in agricultural land in MERCOSUR member countries vis-à-vis concentration of land ownership and use. There is also a lack of analysis on the relationship between investments in agricultural land by foreign investors, the expulsion of household farmers, and the effects on food security and rural poverty.

1.0 Introduction

In the last few decades the involvement of foreign investors in agriculture has grown globally. Multinational corporations and large national firms have become major suppliers of foodstuffs, biofuels, mineral ores, timber and other commodities. More recently, spikes in international food prices, and concerns over population growth, depletion of natural resources, climate change, and water shortages have attracted new breeds of investors to the sector. This includes governments, either directly or through state-owned companies, that have started to play an important part in food production and farmland use (High Level Panel of Experts on food security and nutrition [HLPE], 2011). Since the 2008 financial crisis, the financial sector has also become a larger player in the sector, setting up agricultural investment funds to diversify their portfolios.

Foreign investors have long featured in the development of the agricultural sector of member states in the Southern Common Market (MERCOSUR). This involvement has included occupying land, modernizing agricultural production activities and, consequently, increasing the value of land. Recently, however, interest by foreign investors in natural resources has been the focus of public debate in Latin America. This is in large part due to recent concern over long-term agricultural land deals in Africa (Von Braun & Meinzen-Dick, 2009; HLPE, 2011; Grain, 2008; Grain 2010; Deininger & Byerlee, 2011), which has raised fears of similar trends arising in MERCOSUR countries.

Against this background, the main purpose of this report is to provide information on foreign investment in agricultural land in MERCOSUR member countries. The report also takes into account foreign investments in agricultural production, which is also extensive in the region.

The report is divided into five sections. Section 1 introduces the issues. Section 2 identifies recent trends in foreign investment in agricultural land at a global level. Section 3 discusses the features of foreign investment in the agriculture sector of MERCOSUR member countries. We examine three types of foreign investment models: (i) investment cooperation agreements between states, or between states and state-owned companies; (ii) direct land purchases by private investors; and (iii) foreign direct investment in agricultural production by private investors. For each of these modes of investment, information has been gathered from government bodies (if available), secondary sources (studies by national and international agencies, etc.) and some non-official sources like newspapers. Section 4 focuses on how governments have responded to foreign investment in agriculture in the region. This section discusses policy measures that have either been enacted or are under consideration. Section 5 focuses on Argentina, and discusses the debate among government and stakeholders on legal frameworks to regulate investments in agricultural land by foreign investors. Finally, Section 6 includes a discussion of the main issues, policy options and questions for future research.

2.0 Foreign Investment in Agricultural Land: A Global Context

The natural resources required for agricultural production, particularly land and water, have become increasingly valuable. This has sparked interest by various public and private investors, who are aware of growing scarcity of these resources and their increasing market value. This phenomenon has led to purchases or long-term leases of agricultural land by private investors, state-owned companies and even governments. The top four targets have been Sudan (4 million hectares), Mozambique (2.7 million hectares), Liberia (1.6 million hectares) and Ethiopia (1.3 million hectares) (World Bank, 2010).

The global food price crisis of 2007–2008 was a key trigger to this trend. Net importing countries were threatened by food insecurity and lost confidence in international markets as a secure and stable source of food supply. Meanwhile, private investors, including the financial sector, became increasingly interested in agriculture.[1]

There are polarized views on the recent investor interest in agricultural land. On the one hand, some believe that it provides an opportunity to redress low investment levels in developing countries. On the other, there are concerns when these investments take place in situations where states are fragile, property rights are not well defined and regulatory institutions lack resources. Under these conditions, investments in agricultural land may result in conflicts over access to land, environmental deterioration and inappropriate use of natural resources. A World Bank report found that investors targeted countries with weak land governance, resulting in land transfers that often neglected existing land rights. The report points to a culture of secrecy in which communities were not consulted or informed about land deals until after they had been signed. It also found that investment projects failed to generate employment (World Bank, 2010).

Until recently, information on land acquisition by foreign investors has been scarce. However, a series of studies over the last few years have shed light on the scale and nature of these investments.[2] Available information usually focuses on specific cases that include bids, tracts of land acquired or leased, and amounts of money paid by international companies (Von Braun & Meinzen-Dick, 2009). However, there is a general lack of transparency on foreign land purchases in many countries, due to weak registration and monitoring mechanisms in the host countries.

Globally, agricultural land investments are predominantly in countries with large tracts of land, abundant water resources and weak regulatory frameworks. According to Deininger and Byerlee (2011), investors showed interest in acquiring 42 million hectares of farmland in a period of less than one year in 2009. Out of this total area, over 32 million hectares (75 per cent) were situated in sub-Saharan Africa. In 2012 the International Land Coalition revised those figures and it now estimates that, over the past 10 years, investors are reported to have acquired, or are negotiating, a total of 203 million hectares of land, with a 134 million hectares in Africa.[3] This situation has sparked concern over the institutional capacity of certain countries to protect vulnerable groups from losing land they claim as their own, though is not formally recognized. However, there is a risk that the concern by non-governmental organizations (NGOs) and international organizations has been over exaggerated. Only 20 per cent of the companies interested in land purchases have realized those plans (World Bank, 2010). In other words, there is a significant gap between plans to acquire agriculture land and actual implementation.

[1] Widely disseminated figures show that 50 to 80 million hectares of arable land have been under negotiation with international investors, mostly in low-income countries. Around two thirds are estimated to have been acquired for investment; they are located in sub-Saharan Africa. The lack of information on the magnitude of land acquisition and relevant terms and conditions is partly due to confidentiality requirements by foreign investors and recipient governments (HLPE, 2011).

[2] Studies were undertaken by the Food and Agricultural Organization, Foodfirst Information and Action Network, German Agency for International Cooperation, Grain, International Food Policy Research Institute, International Fund for Agricultural Development, International Institute for Environment and Development, International Institute for Sustainable Development, International Land Coalition, Land Deals Politics Initiative, Oakland Institute, Oxfam International, UN Conference on Trade and Development and the World Bank.

[3] The International Land Coalition has been able to verify and crosscheck a total of 71 million hectares, 34 million in Africa (Anseeuw, Wily, Cotula & Taylor, 2012).

3.0 Foreign Investment in Agriculture in MERCOSUR Countries

An evaluation of foreign investment in agriculture in the MERCOSUR countries suggests that there have been three main models for foreign investment projects:

- *Investment cooperation agreements between states or between states and state-owned companies:* These are agreements that provide the legal framework required for land acquisition and/or use. There are two major types:
    a. Agreements that involve the explicit participation of public companies in land leases
    b. Agreements that involve the explicit participation of public companies, in land use, but not acquiring title to the land
- *Direct land purchases or long-term leases by the private sector,* including investment funds, multinational corporations, and foreign individuals. This type of investment in agriculture[4] has taken place in the Southern Cone for more than 200 years.[5] At the turn of the century, however, the number of foreign land acquisitions decreased, as agricultural land was mostly occupied and farming was not a very profitable activity. This trend was reversed in 2007, however, when it was given a new boost as a result of the world financial and food crises, and the entry of new financial actors into the agriculture sector.
- *Foreign direct investment in agricultural production:* These investments usually involve various types of contract-farming arrangements, which have become increasingly popular in MERCOSUR countries in recent years.[6]

3.1 Argentina

Argentina covers an overall area of 273 million hectares. Out of this total, 32 million are farmland, one million are planted to permanent crops, 100 million are pastureland, 1.5 million are under irrigation and 34.2 million are forestland.

3.1.1 Agrarian Structure and Agricultural Expansion

According to the latest national agricultural censuses (1988 and 2002) the number of agricultural and livestock production companies in Argentina dropped by 20.9 per cent, decreasing from 421,000 to 333,000. Average farm size, however, grew from 421.1 to 524.1 hectares. These trends are likely to have continued during the last decade. Notably, the inter-annual variation rate has remained almost constant since the late 1960s, a phenomenon in line with the type of agriculture that has been developed ever since. These trends are also seen in Australia, Canada and the United States, which have followed the same agricultural technology innovation path as Argentina (Trigo & Cap, 2006).

[4] This mechanism also includes foreign investments in conservation and recreation. As this work focuses on farmland acquisition and use, this specific type of mechanism is not reviewed.

[5] It should be noted that these countries have ethnic groups of European descent (immigrants during the 19th and 20th centuries, especially over the first and second World Wars).

[6] The characteristics of stakeholders involved in this mechanism are discussed in Section 3.1.2. For further information, see Manciana,Trucco & Piñeiro (2009).

The area planted to grains has significantly grown since 1960, moving from 9.5 million hectares in 1961 to 16 million in 1994 and around 30 million in 2010. Reca (2010) indicated that this increase has been mainly due to the following factors:

- Higher agricultural income, with former livestock production areas now being devoted to agriculture
- Around 25 per cent of overall soy cultivation consisting of "second harvest soy," which is planted right after winter cereals (wheat and barley). This way the same plot of land produces two harvests a year.
- Extended agricultural frontiers:
    a. "Inward" in the Pampas, with areas previously used for livestock production (1 million hectares) turned into farmland
    b. "Outward" in the Pampas, mostly associated with the availability of more resistant soy varieties (an additional 3 million hectares between 1996 and 2010)

Other important factors that have generated this change in the Pampas include the way agricultural production has been organized and the rush of new stakeholders into the sector. Agricultural production volumes under contract farming in Argentina have steadily increased since the 1990s, marked by a number of small-sized companies that have a significant impact on local and regional production. These companies have focused on investing in agricultural production, rather than land ownership, and are integrated into the new annual agricultural production system in the region. This issue is further discussed in Section 6.

Special mention should be made of forest products in Argentina. Natural forests cover some 33 million hectares and 1.2 million forest plantations. The latter include mostly pine and eucalyptus trees. A large portion of these plantations have been established in the last few decades in provinces such as Misiones, Corrientes and Entre Ríos (Mesopotamia, in the northeastern part of the country). In this context, the Government of Argentina has developed an incentive program to support the expansion of forest plantations. It is currently focusing on small and medium-sized properties.

Forest plantations now have sustainable wood production capacities ranging from 20 to 25 million cubic metres a year, while current annual consumption volumes stand at 8 million cubic metres (90 per cent of national industrial consumption). This shows that capacity at these plantations exceeds annual consumption by over 10 million cubic metres. Additional wood results from high yields and relatively low industrial demand (slack investment in industrial capacity). As forest product imports outgrow exports, there is a forest product deficit in the balance of trade. Finally, it should be stressed that there is a need for foreign investments in local forestry. Local and foreign investments, however, are limited by political instability and the long periods required for forest development (over 20 years).

3.1.2 Foreign Investment in Agriculture

Investment cooperation agreements between states, or between states and state-owned companies

Only two cooperation agreements between states or state-owned companies have been negotiated in Argentina: one signed between Río Negro provincial authorities and the Chinese government-owned Heilongjiang Beldahuang State Farms Business Group and another currently under negotiation between El Chaco provincial government and a company linked to the Government of Saudi Arabia.

Agreement between the Río Negro government and China's Heilongjiang Beldahuang[7]

In 2010 the Río Negro provincial government signed two cooperation agreements with Heilongjiang Beldahuang State Farms Business Group: one on an agri-food project and the other on a proposed investment at a new port facility in Eastern San Antonio.

The Río Negro government has undertaken to:

- Provide 254,000 hectares of farmland, including 20,000 hectares under irrigation (a 20-year lease) and 234,000 hectares that will start producing after new irrigation systems are installed[8]
- Grant provincial tax exemptions for the investment and subsequent business activities
- Provide all available information and technical services for smooth project implementation
- Offer a temporary port facility for trade activities by Heilongjiang until the Eastern Santa Fe installation starts operating
- Provide, at no additional cost, office space and equipment, a house and means of transportation
- Cover all expenses incurred during the feasibility study period
- Allocate, at no additional cost, 3,000 hectares for a pilot high-yield crop field to develop long-term varieties and promote the introduction of advanced technology

Heilongjiang has undertaken to:

- Open a company office in Río Negro
- Formulate an investment proposal for a port facility in Eastern San Antonio, to be assessed and approved by the Río Negro government
- Send specialists for investment analysis and feasibility
- Invest US$20 million on irrigation equipment and production[9]

Civil society organizations (student movements, universities, native population groups, environmentalist associations, etc.) have come out against the agreement. They argue that the provincial government has provided this venture with resources that should have come from the national government. The Chinese government, however, has indicated interest in signing similar investment agreements with other provinces (Grain, 2010; Infobae, 2010).[10]

[7] The agreement is available in Mandarin and Spanish here: http://farmlandgrab.org/wp-content/uploads/2010/12/acuerdo.pdf.
[8] The areas under irrigation are located in the Idevi Valley and the areas awaiting irrigation include: Colonia Josefa Valley (50,000 hectares), Negro Muerto Valley (74,000 hectares), Guardia Mitre Valley (38,000 hectares), Margen Norte Valley (31,500 hectares), and La Japonesa Valley in Río Colorado (41,000 hectares).
[9] Unofficial documents indicated that the plan is to invest over $1.4 billion at 320,000 hectares to secure food supply for 20 years.
[10] Pensar Foundation has developed a document on the estimation methodology under use, indicating that it is a minimum benchmark resulting from the sum of all property owned by foreigners, according to press reports and/or Internet data.

Agreement between El Chaco government and Al-Khorayef Group

In 2008, the Saudi Arabian government announced its decision to reduce its cereal production volume by nearly 12 per cent a year in an effort to protect the country's water reserves. It also established a US$5 billion fund to grant loans under preferential conditions to local companies investing in foreign countries with a high agricultural potential.

Under this policy, the Al-Khorayef Group, which had been selected by the provincial government as a preferred partner, signed a cooperation agreement with El Chaco provincial government in February 2011. It established a concession on agricultural production under irrigation systems using Bermejo River water and covering 30,000 hectares in a first stage, 60,000 hectares in a second phase, and up to 200,000 hectares at a later date. They are all located in El Impenetrable, a native forest region in the provincial plain that is owned by the local state. Its governor announced that the land will remain under government control. The Al-Khorayef Group has undertaken to equip the local production infrastructure with state-of-the-art technology, including an irrigation system for all land under the agreement. It will invest $400 million, to be paid back within 10 years, including a three-year grace period (daily Iprofesional.com, 2011b). Most of this production will be bought by Saudi businessmen. The Europe president and international operations director of Al-Khorayef, F. Tomás, said that the production would be bought under the Saudi Arabian National Food Security Plan, at the initiative of King Abdullah. He announced in early 2011 that this was the first agreement signed by his country in the region.

Local NGOs have voiced their opposition to the agreement, but have not organized public demonstrations. They argue that around 60,000 indigenous people have been demanding the right to this land since 2008.

Direct land purchases by foreign investors

There are practically no legal restrictions on foreign investment in land. The only requirement under the 2005 legislation is that buyers should have legal residence in the country (further information is provided in Section 5).

Foreign investment in land has been determined mainly by the expected gains that can be obtained from agricultural production (or renting land) and by the expectation of land price increases in dollar terms. In both cases, given that internal prices of agricultural commodities are mainly determined by international prices, they are also heavily affected by the dollar/peso exchange rates. Due to the significant increases in land productivity experienced in the last 10–20 years, compounded by the consistent price increases in the international markets for temperate commodities that peaked during 2007–2008, land prices have increased consistently. By 2008 they were similar to those in Iowa (United States). This trend was hindered, however, by a conflict that emerged between the government and agricultural interests as a consequence of a proposed law that would significantly increase export taxes on all main agricultural commodities. The proposed law was repealed in June 2008.

There is no accurate information, however, on the overall area acquired by foreigners because there are no registration mechanisms in place. For this reason, a recently approved law that regulates land purchases by foreigners includes registering land owners and establishing a single national registration system. (Further information is provided in Sections 5 and 6.) According to one estimate, over 5.8 million hectares of farmland are owned by foreign investors. This accounts for 3.4 per cent of overall arable land in the country (Pensar Foundation, 2011).

Social movements have been established in the last few years to curb "land grabbing" by foreign investors. A main concern is the eviction of native people and small farmers from public land. In regions other than the Pampas, these people had traditionally occupied public or private land that was not being used by their owners for production. As land and property have been revalued and concentrated, conflicts between landowners and squatters have arisen. Supported by national organizations like the Argentine Agrarian Federation (FAA), small farmers have filed lawsuits to stop investments in agricultural land by foreign investors. (Additional information is supplied in Section 6.)[11]

Foreign direct investment in agricultural production[12]

Foreign direct investment in agricultural production in Argentina, as is also the case in other countries, is based primarily on various forms of contract-farming. Argentina pioneered this production arrangement and today has the largest number of firms, large and small, operating under it in the region. The general characteristics of contract farming in Argentina are described below.

Contract Farming in Argentina: Evolution and Stakeholders

Argentina's farming sector experienced profound changes in the 1980s. These involved new cropping practices, contractual modalities and business structures that paved the way for a dramatic increase in domestic production. At the same time, larger and better organized outfits have replaced traditional farmers that previously managed all resources (land, cash expenditures, labour and technology) under the umbrella of single production units. There has also been a process of rapid land concentration.

Contract farming is based on the partnership of various stakeholders who play an active role in production (such as contractors, business people and technical advisors) and of others who play a rather passive role (like landowners who engage in leasing and financiers). The business is organized by combining land leases, service contracts (with contractors) and financial resources (by investment funds). The advantages of contract farming include flexibility, outsourcing ability, and technological and financial management capacity.

The five major stakeholders involved in contract farming are:

- ***Business organizers***, including natural persons (producers) and organizations. They usually take the highest risks and mobilize other partners.
- ***Landowners***, who sign a lease for the land for which they receive cash and, in some cases, a percentage of the produce
- ***Contractors***, often former traditional tenants and sharecroppers, who contribute agricultural machinery and inputs (plow, seeds, crops, etc.) and apply herbicides, insecticides, etc.
- ***Financiers***, including natural and legal persons who supply capital. Various contractual modalities apply when the capital required comes from outsourcers. It is important to note that a large amount of resources have been channelled from other economic sectors (including international) under different more or less formal mechanisms.
- ***Technical advisors***, including both independent and in-house agronomists

[11] For additional information on farmland concentration and "grabbing" by foreign investors, please see: Noticias Congreso Nacional (2011, July 5), Campesinos norteños reclamaron el cese de la venta de tierras. Retrieved from: http://farmlandgrab.org/post/view/18897. For more information on the relationship between farmland concentration and "grabbing," as approached by FAA, please see: P. Eleisegui (2011, July 30), Mitad de la riqueza agraria va camino a ser extranjera y hasta se venden campos con pueblos dentro. Retrieved from: http://negocios.iprofesional.com/notas/112473-Mitad-de-la-riqueza-

[12] This section of the document has been paraphrased from Manciana, Trucco & Piñeiro (2009), unless otherwise indicated. See also C. Eaton & A.W. Shepherd (2011), *Contract farming: Partnerships for growth*. FAO Agricultural Services Bulletin 145. Retrieved from: http://www.fao.org/docrep/014/y0937e/y0937e00.pdf

In practice, the nature and characteristics of these structures are usually influenced by the peculiarities of the lead organizer, which may be landowners leasing additional land, contractors seeking to expand business operations, business management companies, integration companies, agricultural corporations or real estate companies.

A good example of contract farming involves so-called "seeding pools." These are large-scale operations (over 20,000 hectares each) with formalized and complex management mechanisms. A seeding pool generally has three main components: a) a firm that organizes the business and provides the overall management; b) a firm that acts as manager and implementer of the field work (seeding, harvesting, etc.); and c) a financial institution (usually a bank) that creates financial mechanisms, such as trust funds, to attract different types of investors including, in some cases, foreign investors.

Contract farming, concentration of production and the role of foreign investors

Contract farming in Argentina is most common in the grain sector (soybean, maize, wheat, sunflower and some barley). Informal figures based on data provided by the most recent National Agrarian Census (CAN) (see Table 1) suggest that about 50 per cent of total grain production is produced under contract farming arrangements.

As can be seen in Table 1, the area under cultivation by farmers that only cultivate their own land—that is, who do not lease additional land—dropped by 4.5 million hectares between 1998 and 2002 to 34.5 million hectares, while landowners who have had land under cultivation by third parties have significantly grown by around 5 million hectares to 59 million hectares. The latter have become the largest "land users" in the Pampas, outnumbering the former land tenants and the seeding pools. In fact, a comparison between the area leased by owners and non-owners shows the significance of the former over the latter (20 million hectares versus 9 million).

It is also important to note that the area under cultivation by non-owners has grown by some 50 per cent between the latest censuses (3.6 per cent a year). This trend has been gaining momentum since 2002, with a 21 per cent increase in the number of owners who lease additional land and of areas under cultivation by non-owners. In keeping with CAN figures in 2002, out of the 25 million hectares to be planted with wheat, soy, sunflower and corn in the Pampas:

- 10 million hectares (40 per cent) were to be cultivated only by landowners
- 11 million hectares (43 per cent) were to be cultivated by owners who lease additional land.
- Four million hectares (16 per cent) were to be cultivated by persons or firms that do not own land

The last couple of items include seeding pools, tenants, managers, integration companies and other corporations, with around 50 per cent of total production in the Pampas consisting of companies that lease land under different types of arrangements.

Foreign investors participate in several different ways in contract farming. A few large corporations that have made significant investments in buying land and putting them in production also rent land under contract farming arrangements to expand their operations. This group, however, is small. Other subgroups, including the big "seeding pools" and management companies of different sizes and legal structures lease most of the land that is available for lease. Foreigners participate in these firms, providing financial resources for operating costs for an agreed interest rate or a percentage of the profits. Contract farming has significantly grown in the last 10 years, and has expanded in terms of number of firms and area under cultivation applying this production modality.[13] However, from a quantitative point of view, foreign capital participating in these ventures is small and no public estimates on their actual magnitude exist.

TABLE 1: AREA UNDER CULTIVATION APPLYING VARIOUS LAND TENURE MODALITIES IN THE PAMPAS (1988–2002 PERIOD)

	1988		2002		CHANGE	
	HECTARES	PER CENT	HECTARES	PER CENT	HECTARES	PER CENT
Total in the Pampas	**70,749,256**	**100.0**	**68,245,542**	**100.0**	**-2,503,714**	**-3.5**
Area under cultivation by landowners	63,589,989	89.9	59,009,761	86.5	-4,580,228	-7.2
Owners not leasing additional land	44,051,073	62.3	34,520,100	50.6	-9,530,973	-21.6
Owners leasing additional land	19,538,916	27.6	24,489,661	35.9	4,950,745	25.3
Lease	11,566,816	16.3	17,333,123	25.4	5,766,307	49.9
Contracts de facto	4,249,416	6.0	2,953,074	4.3	-1,296,342	-30.5
Others	3,722,684	5.3	4,105,244	6.0	382,560	10.3
Farmland under cultivation by non-owners	7,159,267	10.1	9,235,781	13.5	2,076,514	29.0
Lease	3,591,452	5.1	5,474,838	8.0	1,883,386	52.4
Contracts de facto	1,124,639	1.6	901,670	1.3	-222,969	-19.8
Others	2,443,176	3.5	2,859,273	4.2	416,097	17.0

Source: Instituto Nacional de Estadísticas y Censos (1988, 2002); Basualdo (2006)

The evidence that has so far been presented needs some additional analytical considerations. Firstly, lease values significantly grew because production benefits were high. As a result, many owners stopped producing and started leasing land. Secondly, this process led to production and decision-making "concentration" in the hands of the "managers" and away from the landowners. This has sparked debate over the sustainability of the system, as it could lead to a lack of interest and control in relation to the environmental and natural resources conservation (rotation, chemicals use, etc.).

Murmis and Murmis (2011) and Manciana, Trucco and Piñeiro (2009) note that foreign agricultural investors usually buy land rather than invest in contract agricultural. However, some of the most important national firms that participate in contract farming as organizers and mangers of the operations (i.e., Cazenave, Los Grobo, MSU, Cresud and El Tejar) have received foreign funds (Murmis & Murmis, 2011).

[13] It should be stressed that this group has managed to introduce extremely important scale economies. Because of its input purchase volumes, for example, it is given prices 15 to 20 per cent lower than average. And due to its direct access to exporters, it is able to fix prices around 10 per cent higher than those of small and medium-sized local producers.

3.2 Brazil

Brazil covers an overall area of 851 million hectares. Out of this total, 77 million are farmland, 172 million are pastureland, two million are under irrigation, and 519.5 million are forestland.

3.2.1 Agricultural Progress in Temperate Zones

Brazil consists of five large ecological areas: the Amazon rainforest to the north (49 per cent of the territory), the Cerrado rainforest in the central region (24 per cent of the territory), a semi-arid area known as Caatinga to the northeast (10 per cent of the territory), a narrow belt of forest (Mata) along the Atlantic coast (13 per cent of the territory), a subtropical savannah known as the "Pampas to the south" (2 per cent of the territory), and a marshy area (Pantanal) in the central region (2 per cent of the territory).

Land use expanded in Brazil in the 1970s under the Green Revolution. Public policies seeking to boost soy production made the farming sector much more important for the national economy. Soy cultivation was originally developed in the South and later expanded northward through Cerrado (Merten, Minella, Moro & Maier, 2009). This first expansion of rain-fed farming was marked by accelerated growth and significant land degradation. In the late 1980s management techniques incorporated crop rotation, plant cover and minimum tillage systems. The massive implementation of zero tillage played a critical role in dealing with degradation processes in the South and Cerrado.

Table 2 shows the changes seen in arable and pastureland between 1970 and 2006. The former has grown by around 80 per cent in the last 10 years, especially in the northeast, where it is good to grow soy (Martinelli, Rosamond, Vitousek & Moutinho, 2010). Pastureland has remained at 170 million hectares since the early 1980s, growing by 34 per cent in the North and dropping in other regions.

TABLE 2: LAND USE IN BRAZIL BETWEEN 1970 AND 2006

LAND USE	1970	1975	1980	1985	1995	2006
	HECTARES					
Crops	33,983,796	40,001,358	49,104,263	52,147,708	41,794,455	76,697,324
Pasture	154,138,529	165,652,250	174,499,641	179,188,431	177,700,472	172,333,073
Total	188,122,325	205,653,608	223,603,904	231,336,139	219,494,927	249,030,397

Source: IGBE Agricultural Census (2006).

3.2.2 Foreign Investment in Agriculture

Unlike other countries in the region, Brazil produces official data on agricultural land purchases by foreign investors in the country. It is widely accepted that the Brazilian arable land owned by foreigners covers around 4.3 million hectares (1.7 per cent of the total) (Wilkinson, Reydon & Di Sabbat, 2010).

Brazil was first among Southern Cone countries to enact a law limiting foreign land purchases, with restrictions introduced in 1971. For the law to be effectively enforced, it was necessary to establish a centralized national agency in charge of registering property transactions in rural areas and considering buyer nationalities. All cases now under review include the establishment of a property office (or registry).

The first land survey in rural areas was conducted by the Brazilian Institute of Agrarian Reform in 1967. Its results were later updated by the National Institute of Colonization and Agrarian Reform (INCRA) in 1972, 1978 and 1992 (Hoffmann, 2007). Under the National Rural Land Survey System (SNCR), INCRA accounts for rural property, regardless of its use. However, the relevance of its data to the review of investments in agricultural land by foreign investors has been questioned, on the grounds that: (i) buyer nationality was established only after 2006 and (ii) there is poor data control and updating mechanisms in place (Vital, 2010). Finally, it should be stressed that data collection and processing for land acts are extremely complex all over the country. Since 2001, when Law No. 10,261, known as the "Land Survey Act," was enacted, INCRA has been homogenizing and geo-referencing land deeds in Brazil. INCRA has been involved in this process for more than 10 years, but has not completed it yet. It has made much progress in the surveying and updating of infrastructure, measuring mechanisms, software programs, etc. (Tenorio & Flávia, 2010).

Investment cooperation agreements between states, or between states and state-owned companies

Brazil and Argentina have attracted the most interest from foreign investors in the farming sector. At the time this document was prepared, there was no information available on cooperation agreements between a state, or state-owned company, with Brazil. This is very much in line with the policies that the country has implemented in the agricultural sector in general, and in foreign land purchases in particular, in response to local peasants who have traditionally struggled for land, and social movements have been very active in this regard.

Direct land purchases and national debate

A survey conducted in 2008 under the SNCR revealed that there were 34,632 properties owned by foreigners at the time. Land demand has been significantly growing since 2008 when the financial crisis prompted investors to view agricultural land as a potentially profitable and safer investment opportunity. Sauer and Pereira (2011) used SNCR data on foreign land purchases between 2008 and mid-2010 and found that property demand was highest in the states of Minas Gerais, Roraima and Rio Grande do Norte, mainly in the Amazon (with a 120 per cent increase in registered property), Piaui (77.7 per cent) and Minas Gerais (57.4 per cent). This expansion is associated with agricultural and agro-industrial activities, including grain and sugarcane cultivation, as well as forestry. As indicated above, these data should be considered with caution, particularly due to the lack of reliable information on the origin of the capital used to buy land assets.

According to Oliveira (2011), most of the land owned by foreigners is situated in Cerrado and the southeastern sugarcane-producing states. As shown in Figure 4, the state of Mato Gross has 19.9 per cent of its overall area owned by foreigners. It is followed by Sao Paulo (13.4 per cent), Mato Grosso do Sul (11.7 per cent), Bahia (9.4 per cent), Minas Gerais (7.7 per cent), Parana (7.5 per cent), Goias (6.2 per cent) and Para (5.8 per cent). Arable land owned by foreigners in other states barely covers 3 per cent. Oliveira concluded that most land owned by expatriates is located in sugar-producing areas of Sao Paulo, Parana and parts of Mato Grosso do Sul, Goias and Minas Gerais).

TABLE 3: ABSOLUTE AND RELATIVE VARIATIONS IN THE NUMBER OF AND THE AREA COVERED BY RURAL PROPERTY OWNED BY FOREIGNERS BETWEEN 2008 AND 2010.

STATE	NUMBER OF PROPERTIES	PER CENT	AREA (HECTARES)	PER CENT
Sao Paulo	89	1	-53,485	-10
Bahia	95	5	-12,357	-3
Goias	14	2	-11,628	-5
Parana	-218	-4	-7,855	-3
Rondonia	-4	-3	-5,145	-15
Mato Grosso do Sul	4	1	-1,842	0
Para	5	0	-1,062	0
Paraiba	-1	0	-658	-9
Rio Grande do Sul	-117	-6	-516	0
Federal District	14	7	-240	-5
Amapa	-1	-6	-200	-3
Alagoas	2	2	-47	0
Sergipe	2	3	126	4
Pernambuco	28	8	1,210	14
Santa Catarina	8	1	2,463	5
Ceara	23	6	3,211	10
Roraima	8	14	4,069	17
Rio Grande do Norte	14	12	4,428	27
Maranhao	8	5	5,035	8
Tocantins	8	5	5,042	5
Espirito Santo	-1	0	6,033	44
Rio de Janeiro	-13	-1	9,623	13
Piaui	6	8	25,690	78
Mato Grosso	-154	11	34,165	4
Amazon	5	2	126,726	120
Minas Gerais	329	14	179,167	57
Acre	0	0		0
Total Brazil	153	0	311,950	8

Source: Sauer & Pereira (2011)

Foreign direct investment in agricultural production

The concentration of production processes in Brazil is similar to that in Argentina. In fact, a dramatic increase in arable land (mainly for soy and sugarcane growing) has been recorded in the two countries.[14] Unlike Argentina, Brazil has expanded the area under cultivation to the detriment of forestland, sparking controversy over the environmental impact.

[14] It should be stressed that sugarcane expansion has been promoted by the national State through the Ministry of Agriculture, Livestock Production and Supply (MAPA) under the National Agri-Energy Program.

Meanwhile, contract farming has expanded in Brazil. Leading Argentinean agriculture companies have broken into the Brazilian soy and sugarcane production sectors. Among them are El Tejar, Los Grobo and MSU.

Press reports indicate that Argentinean business groups had over 700,000 hectares planted in Brazil during the 2010–2011 harvest and the number is expected to grow in the next few years (Infobae, 2011). El Tejar, which has been doing business in Brazil for only eight years, surpassed traditional soy producers in 2010–2011. An aggressive lease strategy has led to strong competition between companies of the two countries. Los Grobo has around 60,000 hectares under cultivation, and announced the establishment of a venture in Brazil to obtain 300 to 400 million dollars from the local stock exchange. Cresud, the agricultural group of Elzstain Co, owns around 40 per cent of Brazil Agro shares. This company has 200,000 hectares under cultivation in the country (Infobae, 2011).

The lack of information on contract farming in Brazil makes it difficult to assess its importance in overall national production. Local media, however, have highlighted the key role played by Argentinean companies in domestic grain (specifically soy) cultivation. Against this background, there are plans not only to further control foreign land purchases but also to regulate participation in agricultural production.

3.3 Paraguay

Paraguay covers an overall area of 39.7 million hectares. Out of this total, 4.2 million are farmland, 0.1 million are planted to permanent crops, 16.1 million are pastureland, 0.7 million are under irrigation, and 17.5 million are forestland.

3.3.1 Land Concentration and Agriculture in Temperate Zones

Arable land in the eastern region changed between 1991 and 2008, with a drop in the number of farms and an increase in the area planted to temperate crops (particularly soy). The latest National Agricultural Census (CAN) revealed that the number of farms in the country dropped by 17,572 in that period (mostly small units). In turn, the number of large farms grew by 70 and 30 per cent in these two respective censuses. The number and share of medium-sized farms (covering 100 hectares or more each) also significantly grew.

The agricultural frontier has been expanding from east to west as a result of Brazilian capital investment. The area planted to soy doubled in a seven-year period, moving from 1.35 million hectares in the 2000–2001 harvest to 2.64 million in the 2007–2008 campaign. It should be stressed that 87 per cent of the area planted to soy consists of plots of land covering from 100 to over 1,000 hectares. The area appropriate for soy growing in most cases can be used for sugarcane, a crop that has seen a 72 per cent increase between 1991 and 2008.

3.3.2 Foreign Investment in Agriculture

Investment cooperation agreements between states, or between states and state-owned companies

No cooperation agreements between states, or state-owned companies, have been identified in Paraguay. As will be seen in the next section, most foreign land purchases in the country have been made by Brazilian private investors and, to a lesser extent, by Uruguayans. Contract agriculture projects have been led by Argentinean companies.

Direct land purchases: Brazilians in Paraguay

General estimates based on 2008 census data showed that 7.88 million hectares were foreign-owned at the time. This amounts to 19.4 per cent of the national territory, including 4.79 million owned by Brazilian citizens or companies and 3.10 million by foreigners of other nationalities (Glauser, 2009, based on 2008 CAN data).

According to the Inter-Agency Committee on Border Security, foreign-owned property is located mostly in contiguous areas of Brazil, where there has been an export-oriented agricultural (soy and sugarcane) expansion (Glauser, 2009, p. 162). These areas include Alto Paraná, Canindeyu, Caaguazu and Itapúadepartments. According to secondary information, Uruguayan investors have bought significant tracts of land and have played a major role in local agricultural production. They are based mainly in Itapuã, San Pedro, Caaguazu and Canindeyu departments (see Table 4). There is, however, a lack of accurate data. As Glauser (2009, p. 176) put it:

> There are no official data in Paraguay to really know the percentage of the national territory owned by foreigners. There is no way to find out who actually owns land in the country; not even the General Division of Public Records can provide such data.

Foreign direct investment in agricultural production

Foreign investment in Paraguayan agriculture has not seen the high levels of expansion experienced by other Southern Cone countries. Like Brazil and Uruguay, Paraguay has had Argentinean companies investing in soy production. Among them are Los Grobo and MSU.

BOX 1: LOS GROBO: THE TIERRA ROJA VENTURE

Los Grobo (a major pool in the region) set up the Tierra Roja venture in 2005. Being a land-locked state, Paraguay decided to sell land areas that had not been fully developed, amidst cultural challenges. The illiteracy rate stood at 93 per cent, and the professional middle class was not well established at the time. Gustavo [the venture's general manager] found no local partner willing to share his approach, as [had been the case] in Uruguay. 'Introducing our business model in Paraguay is still a huge challenge to us.' 'It is frustrating.' 'It is difficult not to be there; they have their own ways to do business.' Working on weekends and holidays, for example, (when there was a real need) was not standard practice in Paraguay, as it was in Argentina and Uruguay. Joint business opportunities were very limited because Los Grobo wanted to keep quality control really high.

—Excerpt from Bell & Cintra (2010)

TABLE 4: PRODUCER NATIONALITIES AS PER INTER-CENSUS VARIATIONS (1991–2008), FARM SIZES AND GEOGRAPHICAL LOCATIONS IN PARAGUAY.

	TOTAL NUMBER OF PRODUCERS	PRODUCER NATIONALITIES		
		PARAGUAYAN	BRAZILIAN	OTHERS
Total nationwide 2008	278,967	267,180	8,954	2,833
Total nationwide 1991	304,448	284,671	15,879	3,898
Inter-census variation	-8.4%	-6.1%	-43.6%	-27.3%
Farm size				
No farm at all	650	638	11	1
Less than one hectare	15,298	15,193	65	40
One to five hectares	99,088	98,047	775	266
Five to 10 hectares	64,920	63,829	867	224
10 to 20 hectares	56,512	54,528	1,530	454
20 to 50 hectares	22,091	19,632	1,989	470
50 to 100 hectares	6,453	4,951	1,175	327
100 to 200 hectares	4,722	3,502	853	367
200 to 500 hectares	4,512	3,298	904	310
500 to 1,000 hectares	2,034	1,506	403	125
1,000 to 5,000 hectares	2,169	1,674	306	189
5,000 to 10,000 hectares	311	238	40	33
Over 10,000 hectares	207	144	36	27
Eastern region	***272,515***	***261,088***	***8,871***	***2,556***
Concepción	16,809	16,512	261	36
San Pedro	44,482	43,812	93	577
Cordillera	16,337	16,240	19	78
Guaira	17,037	16,917	23	97
Caaguazu	37,711	36,647	746	318
Caazapa	22,411	21,964	422	25
Itapua	32,883	31,551	717	615
Misiones	9,197	9,081	55	61
Paraguari	23,274	23,197	12	65
Alto Paraná	19,286	15,346	3,705	235
Central	5,910	5,864	2	44
Ñeembucu	7,709	7,636	4	69
Amambay	4,404	4,041	330	33
Canindeyu	15,065	12,280	2,482	303
Western region	***6,452***	***6,092***	***83***	***277***
Presidente Hayes	3,523	3,487	5	31
Alto Paraguay	598	488	73	37
Boquerón	2,331	2,117	5	209

Source: Agricultural Statistics and Census Division (2008).

Only six per cent of overall investments by Los Grobo have been made in Paraguay. It spends 36 per cent in Argentina and Uruguay, and 22 per cent in Brazil. El Tejar (the main company of this type operating in Brazil) does not do business in Paraguay but is heavily involved in Argentina, Brazil, Uruguay and Bolivia.

3.4 Uruguay

Uruguay covers an overall area of 17.5 million hectares. Of this total, 1.6 million are farmland, 13.1 million are pastureland, 0.2 million are under irrigation, and 1.7 million are forestland.

3.4.1 Uruguayan Land Market in the Last Ten Years

Unlike other Southern Cone countries, Uruguay has kept a record of transactions in the real estate sector since 2000. Diego Piñeiro (2011) indicated that an agreement signed between the Ministry of Livestock, Agriculture and Fisheries and the National Division on Public Records in 2006 has made it possible for the National Agricultural Statistics Division (DCEA) to receive all records-related information, which, despite constraints, helps identify the characteristics of foreign land purchases, despite many constraints.

The 2010 DCEA publication on land sale and lease in the 2000–2009 period indicated:

- A total of 24,183 land sales were conducted in the period, involving six million hectares (39 per cent of the national territory).
- Over 80 per cent of these transactions were for areas covering 10 to 200 hectares. The highest average prices were fixed for transactions of less than 500 hectares until 2005 and have been set for operations of more than 2,000 hectares ever since.
- Between 2005 and 2009, however, overall land sales in some departments of the country accounted for more than 40 per cent of the total land area, and only a few departments had no transactions.

The process has been marked by three general factors. First, the land market has become extremely important; indeed, over half of the national territory "has changed hands" in less than a decade. Second, most buyers were interested in relatively small farms until 2005, but have since been looking for large units. Finally, there have been land sales in all areas, but they have reached over 40 per cent of the total land area in jurisdictions with good land capability for agriculture.

Leasing has also taken on special significance in the local land market. The DCEA (2010) indicated:

- A total of 16,704 lease instruments were recorded in the 2000–2009 period, exceeding US$378 million and covering 6.18 million hectares.
- Livestock production contracts cover more than half of the area under lease and are followed by rain-fed agriculture contracts.
- The contracts that cannot reveal tenant nationality cover around 370,000 hectares (51 per cent of the total land area under lease).
- The contracts signed by business corporations as tenants involve an average price of US$135.00/hectare/year. This value exceeds average by almost 34 per cent.

The area that has been leased in the last nine years is very similar to the area that has been included in sale contracts over the same period of time. As the local agricultural market has dramatically grown, it may be useful to look at the importance of foreign capital in this process.

3.4.2 Foreign Investment in Agriculture

Investment cooperation agreements between states, or between states and state-owned companies

There is no evidence that Uruguay has entered into investment cooperation agreements with states or state-owned companies. It is likely that the reasons are: (a) nearly all agricultural areas are in use, and no new major infrastructure work is required and (b) there is virtually no public land available to be incorporated into new agreements. By contrast, there is ample opportunity along these lines in neighboring countries like Argentina and Brazil. Press reports have indicated, however, that China and other countries are interested in investing in Uruguay.

Direct land purchases by foreign investors

DCEA records make it possible to identify the area that has been bought by foreign natural persons, but not the area that has been acquired by foreign business corporations. Thus, available data does not allow a complete estimation of the amount of land owned by foreign investors. As can be seen in Table 5, the "not-applicable" box (which includes corporations) accounts for over 50 per cent of the total number of hectares sold. Informal reports suggest that 1.8 million hectares are currently owned by foreign corporations.[15]

TABLE 5: LAND SALES, OVERALL AREA AND AMOUNTS, ACCORDING TO BUYER AND SELLER NATIONALITY (2000–2009 PERIOD)

NATIONALITY	AREA (THOUSAND HECTARES)		BALANCE (THOUSAND HECTARES) [(A)-(B)]
	Bought (a)	*Sold (b)*	
Total	6,089	6,089	----
Uruguayan	2,333	4,195	-1,862
Argentinean	183	143	40
Brazilian	114	223	-109
Others	97	96	1
Not-applicable	3,362	1,432	1,930

Source: Estadísticas Agropecuarias (2010)
[1] *As they are not natural persons, their nationalities are not known.*

As seen in Table 6, 50 per cent were land purchases were by business corporations and 44 per cent by natural persons, while 76 per cent of sales were made by natural persons and only 20 per cent by business corporations. This indicates that natural persons are "leaving" the business to corporations.

[15] In the mid 1990s, Uruguay embarked on major institutional reform to pave the way for future land developments, which authorized land purchases by business corporations. This has stimulated foreign capital flows (mostly, but not only, from Argentina) and has prompted indebted owners to sell their land to these companies (Piñeiro, 2010a).

TABLE 6: SALES, OVERALL AREA AND AMOUNTS, ACCORDING TO THE SELLER AND BUYER STATUS (2000–2009 PERIOD)

STATUS	AREA (THOUSAND HECTARES)		BALANCE (THOUSAND HECTARES [(A)-(B)]
	Bought (a)	*Sold (b)*	
Total	6,089	6,089	---------
Natural person	2,704	4,615	-1,911
Business corporation	3,073	1,249	1,824
Other companies	242	167	75
State	14	16	-2
Others	56	43	13

Source: Estadísticas Agropecuarias (2010)

Although there is no hard data supporting this view, there are grounds to believe that business corporations involve mostly foreign capital. For instance, Stora Enso (a Swedish forest-based enterprise) and Arauco (a Chilean company in the sector) have acquired around 250,000 hectares; Finland's Botnia owns 150,000 hectares; and America's Colonvade and Weyerhausen have bought some 100,000 hectares. Argentinean companies have reportedly bought and leased large tracts of land for soy cultivation, which has exponentially grown in the last few years. They are based mainly in the eastern coastal region because of its fertile soils and proximity to the Uruguay river border. Brazilian investors, on the other hand, prefer to buy land for livestock and rice production on the northern border. It is interesting to note that most land sales and leases have been seen in areas that share a border with Brazil and Argentina (Piñeiro, 2010b). Local farming sector representatives have demanded that the government restrict foreign investment in agricultural land, but no law has so far been enacted.

Foreign direct investment in agricultural production

As mentioned above, DCEA prepares an annual report on agricultural leases signed in the country (different to land purchase). It found that a total of 16,704 lease contracts for over 378 million dollars had been penned in the 2000–2009 period. There was a considerable increase in the number of leases signed in 2007 and 2008, and also an increase in both the size of areas under lease and the prices (DCEA, 2010).

The DCEA (2010) added that 64 per cent of the contracts signed in 2009 had covered areas of less than 250 hectares, which accounted for 18 per cent of total lease; the 39 contracts including areas higher than 2,000 hectares each represented 19 per cent of the total area under lease and for 17 per cent of the total number of instruments signed. The DCEA (2010) also indicated that one- and two-year contracts involved 355,000 hectares, that is, 49 per cent of overall annual lease, and focused mainly on agricultural production. In fact, the area under lease for rain-fed agriculture projects rose from 11 per cent of the total area in the second half of 2008 to 70 per cent in the second semester of 2009.

Finally, the DCEA noted that business corporations, rather than natural persons, became tenants of 370,000 hectares (51 per cent of total leases in 2009). It was thus impossible to establish their nationalities.

As can be seen in Table 7, only Argentinean and Brazilian natural persons appeared on lease documents, with an area much smaller than the ones declared by corporations of both nationalities on their websites and in interviews. Consequently, it can be concluded that most contract agriculture projects and international capital inflows are included in the "non-applicable" category, which includes investments made by corporations.

TABLE 7: LAND LEASE FOR FARMING: NUMBER OF CONTRACTS, AREA UNDER LEASE AND PRICES, BY TENANT NATIONALITY (2009)

TENANT NATIONALITY	NUMBER OF CONTRACTS	AREA UNDER LEASE		PRICE	
		HECTARES	PER CENT	TOTAL (THOUSAND US$)	AVERAGE (PER CENT) (US$/HECTARE/YEAR)
Total	2,091	727,331	100	73,733	100
Uruguayan	1,360	326,415	45	25,054	34
Argentinean	23	11,690	2	2,371	3
Brazilian	26	15,082	2	1,113	2
Others	11	4,808	1	442	1
Not applicable	671	369,336	51	44,753	61

Source: MGAP-DIEA based on DGR information.

4.0 Government Actions to Condition Investments in Agricultural Land by Foreign Investors

Land acquisition by foreign investors is a focus of public debate in Brazil, Argentina and Uruguay. The discussion focuses mainly on the development and implementation of legal frameworks to limit foreign land purchases for farming. In Paraguay, however, this issue has not received much attention by political parties or the general public.

Land purchase regulations in the Southern Cone focus on three main questions:

- **Defining "*foreign stakeholder*," or legal subject**: This is an issue for private companies (because the nationality of a natural person can be easily established) and foreign investors who set up and make decisions in a joint venture. A definition of "foreign stakeholder" is necessary to have an accurate idea of the extent of foreign participation in agricultural land, and to implement policies to restrict that participation.
- **Redefining or establishing *land registration offices***: The objective is to devise a mechanism to standardize land registration and help document foreign land purchases.
- **Setting *limits on foreign land purchases***: The goal is to agree on policy criteria (area to be bought by foreigners), geo-economic criteria (minimum economic units by region), etc.

These issues have all been reviewed by Brazil, Argentina and Uruguay.

4.1 Argentina

In Argentina, the issue of foreign investment in agricultural land has been reviewed by parliament since the 1990s. However, it has been given greater visibility since March, 1, 2011, when President Cristina Fernández announced at the opening of a Congress session that the Executive would submit its own bill on investments in agricultural land by foreign investors. She asked members of parliament to address this problem as a matter of urgency. She said:

The regulation should be intelligently developed so that it is not biased against foreign investors and we do not appear to be xenophobic or chauvinistic. There are examples worth following. We will not invent anything new. We will just develop an instrument to secure that vital land will remain Argentinean in the 21st century.

As a result of the initiative taken by the executive, foreign investment in agricultural land sparked heated debate. A total of 17 bills had been tabled by the end of 2011 by all political forces and the Executive to the House of Representatives, and another two bills, went to the Senate.

The bill presented by the Executive was discussed on April 27, 2011, and finally approved on December 22. In response to proposals by political allies, several changes were introduced.

The approved law No 26.737 has four main elements:

1. The law defines "foreign stakeholder" as (i) a natural person of foreign nationality, with or without legal residence in Argentina; (ii) a legal person constituted under Argentinean or foreign corporate law, with an authorized capital in a proportion higher than fifty-one per cent (51 per cent), owned by natural or legal persons of foreign nationality. It also establishes a number of exceptions related to time of residence and/or relationships by marriage to Argentinians citizens by the foreign person.
2. The law seeks to establish a National Rural Land Registration Office. Previously, administrating land registrations has been done by provincial governments without any national participation and coordination.
3. Three quantitative limits on rural land purchases by foreigners have been established: i) foreigners cannot own more than fifteen per cent (15 per cent) of the total agricultural land in the country, or any province or municipality, ii) of this 15 per cent not more than 30 per cent can be owned by a national of the same country and iii) the same person is not allowed to own more than thirty per cent (30 per cent), and no foreign person or firm can own more than the equivalent in value of 1,000 hectares in the best agricultural region (*zona nucleo*).
4. Foreigners may not own land in frontier areas or bordering permanent water bodies.

4.2 Brazil

Brazil instituted legislation on land purchases by foreigners 40 years ago. It is based on Article 190 of the Constitution, which reads: "This Law shall regulate and limit rural property acquisition or lease by foreign natural or legal persons, and shall establish the cases to be authorized by Congress."

Legal restrictions on foreign land purchases go back to 1971, when Law No. 5,709 was enacted to control land sales under a military government (1964–1985). Its original aim was to regulate "the acquisition of rural property by foreigners resident in the country or legal entity authorized to operate in Brazil." This law established conditions on the purchase of land by foreigners in the country. In a similar vein, Law No. 8,629 of 1993 established foreign land lease restrictions. However, these legal frameworks have not been smoothly implemented because of a lack of effective enforcement mechanisms (Sauer & Pereira, 2011, p. 6).

More recently, under the economic liberalization process that was undertaken in the 1990s, Constitutional Amendment No. 6 of 1995 and Ruling No. CG-181 of 1997 by the Attorney General's Office made it possible for the Law to remove distinctions between national enterprises and foreign companies (Wilkinson, Reydon & Di Sabbat, 2010).

A decision in August 2010 by the Attorney General's Office introduced some amendments, but they have not been passed by Congress yet. The amendments seek to establish four major categories of agri-business under Article 268. They include:

- Brazilian legal persons with Brazilian nationals holding majority capital
- Brazilian legal persons with majority capital held by foreign nationals or legal persons residing or having business companies based in Brazil
- Brazilian legal persons with majority capital held by foreign natural persons residing abroad, or legal persons based abroad
- Foreign legal persons authorized to operate in Brazil

If the proposed amendments are passed and the current regulations remain in force, Law No. 5,709/71 and Law No. 8,629/93 will reach companies under categories C and D in the new categorization. Foreign land acquisition will then be limited to around 50 modules[16] (depending on the areas where they are situated) in each municipality. These purchases will need to be approved by the Ministry of Agricultural Development. No municipality will be allowed to have more than 25 per cent of the land owned by foreigners, and no foreign company will be authorized to buy more than 30 per cent of the relevant quota in a municipality.

As indicated in Section 4, Brazil has a single land registry managed by the SNCR, which is under the umbrella of INCRA. It has started to provide foreign land acquisition data after foreign companies were legally recognized.

The proposed amendments to the laws governing foreign investment in agriculture land has sparked much debate. Social organizations that promote small farmer demands have welcomed the move. Other organizations, however, have reported that foreign investors are leaving the country because there is no legal security. Government agencies are, in the meantime, re-assessing such amendments to allow greater flexibility.

Agricultural cooperation agreements have not been mentioned in the local legislation or the documents under review.

4.3 Paraguay

The first land purchase law was enacted in Paraguay in 1940 to ban foreign land acquisition. President Alfredo Stroessner abolished it in 1963. In 2008, the Institute of Rural Development and Land (INDERT) issued Resolution No. 395 to suspend public land sales to foreigners and/or nationals who are not covered by the Agrarian Regulation (small farmers who request land from the government). Furthermore, Law No. 2,532 (2005) banned foreign land purchases in a 50-kilometre strip adjacent to the land and river border. The law refers only to "foreigners who are natives to any contiguous country" and establishes no control mechanism for legal persons or business corporations. It therefore has been ineffective (Glauser, 2009).

[16] A fiscal module is the smallest area considered to be economically viable in each municipality.

There are no restrictions on foreign land acquisition other than the above-mentioned legislation. The border area law leaves out legal persons (who play a key role in foreign land concentration in the Southern Cone) by setting limits only on public land and producers under the Agrarian Regulation. This restriction, however, is often not observed. According to Glauser (2009, p. 34), these transfers are endorsed by judges, notaries, and INDERT officials.

4.4 Uruguay

At the time this document was prepared, Uruguay did not have laws limiting land purchases by foreigners. This issue has been under public debate, but no progress has so far been made. According to Piñeiro (2010b), a number of regulations and institutions have a potential impact on foreign investment in agricultural land. He highlighted the important role played by four of them: the National Colonization Institute (INC), the Forestry Act, the Rural Lease Act and the Titling Program, including the formal registration of rural immovable property.

INC has been promoting the social rather than commercial function of land. Since 1940 it has worked to provide settlers with land in Uruguay. Law No. 18,187 was enacted in November 2007 to establish, inter alia, that any plot of land (covering more than 500 hectares) on sale should first be offered to INC. "It shall be given preference if it agrees to pay the price and meet the payment conditions stipulated." INC's lack of resources, however, has rendered it ineffective. Its importance will grow if a law is enacted to curb foreign land purchases and promote more equitable land distribution models (Piñeiro, 2010b).

Law No. 15,938 of 1987, also known as the Forestry Act, has provided production subsidies and tax benefits in an effort to attract foreign corporations. In fact, foreign companies have bought, developed and now control most of the land devoted to forestry in the country. These planted forests are mainly used for the production of paper (Piñeiro, 2010b).

Law No. 14,384/75 on rural leasing originally established six-year contracts to be renewed for another four years. This came to an end in the 1990s, when land lease was deregulated. An escape clause was incorporated in 2010 to authorize immovable property leases for up to 30 years for a forestation project (Piñeiro, 2010b).

Law No. 13,608/67 established title deeds for rural immovable property in its Article 9, indicating that farms should be owned by natural persons or their associations rather than by business corporations or joint-stock companies.[17] This article was repealed by Law No. 17,124/99 to allow business corporations to buy property in Uruguay without any restrictions. The regulatory framework was changed again in 2007 to establish that these acquisition processes should involve registered rather than bearer shares (unless otherwise provided in the law). This new rule came into force on June 30, 2011. This means that, in the future, foreign land purchases will be identifiable.

Finally, it should be mentioned that the Tabaré Vázquez government (2005–2010) unsuccessfully tried to pass a law limiting investments in agricultural land by foreign investors.[18] The Broad Front,[19] however, plans to get it passed

[17] The text specifies: "It is of general interest that mixed farming and rural immovable property rights shall be exercised by natural persons or partnerships. Business corporations and joint-stock companies shall own, acquire or operate only rural immovable property, regardless of title deeds referred to, when all their share capital consists of registered shares."

[18] The Tabaré Vázquez government submitted a border security bill that has not been passed to date. It establishes a security area covering a 20-kilometre strip along the border, a property registry for all farms within it and special control over foreign owners. The list of owners included state legal persons and domestic natural persons. Foreign natural persons were given the period of time stipulated by the Constitution to make arrangements to obtain Uruguayan nationality. Foreign legal persons were to become owners only if their capital was registered; and in the case of business corporations, their members needed to be properly identified.

[19] The Broad Front is a local left- and centre-left-wing political party founded on February 5, 1971, from the coalition of several parties. Current President José Mujica is a member of this party, which has the majority in the two houses.

this year, taking advantage of an absolute majority in parliament under its second government, now headed by José Mujica. The president has asked the senators of his political group to submit a bill restricting land sales to foreigners. He has also made a distinction between purchases by foreign natural persons and those by foreign states (Pensar Foundation, 2011).

5.0 *Foreign Investment in Agricultural Land: Special Interests in the Case of Argentina*

The debate over foreign investment in agricultural land has been the focus of considerable political attention in Argentina in recent years. There are many different views and economic interests at play that have attempted to influence government policy. These are summarized in this section

5.1 Categories of "Foreign Investors" in the National Debate

Foreign investors can be categorized as follows: (i) governments or state-owned companies; (ii) agribusiness companies and (iii) international investors (natural persons or legal persons, including financial firms).

The first group represents the interest of foreign governments to secure their food supply at reasonable prices. As was shown in Section 3, there are signs of interest in this type of investment developing in Argentina and Brazil. However, only one agreement has been secured in Argentina, which is now under heavy political scrutiny. In contrast, agribusiness companies have been active in Argentina for a long time. They have important investments in land in Argentina as a complement to their main investment in processing and trade. However, there is no evidence that they have expanded in recent years in a significant way. The third group is made up of natural persons and non-agricultural investors like pension funds, investment funds, etc. There is no solid information about their importance but circumstantial evidence suggests that they are not significant investors at present.

5.2 Local Stakeholders: Positions and Interests

Broadly speaking, local stakeholders are divided into two major groups: one that is in favour of liberalizing foreign land purchases and another that is in favour of imposing strict restrictions. The two positions have engaged in debate for many years but the intensity has increased in the last two years, as new legislation to restrict foreign land purchases have been discussed in parliament.

In favour of liberalizing the land market

This group is made up of liberal political parties, union leaders, and other political representatives who highlight the need for foreign investment to boost local production. They argue that restrictions on foreign land purchases can hinder foreign direct investment in general. In addition, large landowners represented by associations like the Societal Rural Argentina favour foreign investment because they value their positive impact on land prices.

The political party Alliance for a Republican Proposal (PRO) is the most visible liberal political group to resist regulations on land purchases by foreigners. It argues that the Constitution and other pieces of legislation consider land purchase to be a foreign investment, just as any other (building and operating an industrial plant, conducting transactions at the local financial market, etc.). It is of the view that making a distinction between domestic and foreign land purchases goes against the legislation in force and violates the constitutional right granted to foreigners to do business in the country.[20] PRO also underlines the need to generate information on the scale and impacts of foreign land purchases before legislating. However, the group does favour limits to foreign land purchases in border areas and the establishment of "national interest zones" that cannot be sold to foreign investors. They seek to preserve natural resources, aquifers, biodiversity, and the like. Christian Gribaudo, a member of parliament for the Alliance in Buenos Aires, stated: "We should regulate foreign immovable property sales in reasonable terms and avoid generalizing the ban" (Colombres, 2011).

Local forestry and timber industry representatives, through the Argentinean Forestry Association (AFoA) and provincial legislative bodies, have rejected any piece of legislation limiting foreign land purchases, regardless of the type of activities and geographical areas. One member of the AFoA said: "This move can have a strong impact on forestry and industrial development, and prevent thousands of jobs from being created in a sector that produces goods using renewable, recyclable, environmentally friendly raw materials" (Colombres, 2011).[21] The source recalled that, out of one million hectares of forestland, 25 per cent are foreign-owned. International investment is considered to be extremely valuable because it provides financing for economic growth and technology transfer, and helps increase economic integration and competitiveness. The move is likely to hinder mortgage-based financial inflows and domestic foreign-capital bank loans (AFoA, 2011).[22] "In Corrientes [a northeastern province], for example, the bill will discourage the construction and operation of new timber industries in an area where forestry is a major economic activity," stated a spokesperson for the AFoA (2011).

The Argentinean Rural Society (SRA) and the Argentinean Rural Confederations (CRA), which represent medium- and large-sized agricultural producers (mostly in the Pampas), have argued that high land prices are a sufficient deterrent for investments in agricultural land by foreign investors.[23] In this regard, SRA president, Hugo Luis Biolcati, said: "We have other strategic activities like mining, oil production, and communications, where there are no foreign investor regulations at all. I am really concerned about the land issue being ideologically motivated" (Colombres, 2011).

[20] The Constitution gives foreigners the right to buy property in the country. Article 20 establishes: "Foreigners are hereby given the same civil rights as Argentinean nationals; they can engage in industrial and commercial activities; practice their professions; buy, own and dispose of property, sail rivers and seas; enjoy freedom of worship; make their will; and get married under the law" (Pensar Foundation, 2011).

[21] "In forestry, control over raw materials is a sine qua non for industrial investment. Cellulose, paper and board production plants, as well as international-scale sawmills require steady timber supply for their operations. Such supply can be secured by owning and using forests, or signing relevant contracts. Countries that have safe contractual and flexible tax systems tend to separate industry from a forestation for specialization purposes. In Argentina, capital-intensive, industrial and forest-based companies use mostly their own forests to minimize raw-material-supply risks, secure forest management and genetics, and lower associated transaction costs" (AFoA, 2011).

[22] For more information on AFoA's view on the bill seeking to secure national rural land tenure and property control (2011), see: www.afoa.org.ar

[23] It should be stressed that the Argentinean Rural Society (SRA), the Argentinean Rural Confederations (CRAs), the Agricultural Inter-Cooperative Confederation (CONINAGRO) and the Argentinean Agrarian Federation (FAA) make up the Agricultural Liaison Office. It was established on March 12, 2008, at the first emergency meeting held to deal with variable retentions on soy, wheat and sunflower cultivation, by Cristina Fernández's government. The office called on all agricultural blockades in 2008, ordered cargo control and national route cuts, organized mobilizations and became a chief negotiator for the ratification of variable retentions by Congress. In connection with foreign land purchases, SRA and CRAs have favoured the idea of liberalizing the market, while FAA and CONINAGRO have strongly supported restrictions.

In favour of restricting foreign land sales

Various interest groups seek to establish restrictions on foreign investment in agricultural land. They include small- and medium-sized farmer associations, left-wing political parties, NGOs (mostly based in urban areas) defending national sovereignty and the ruling party (through the Executive).

The FAA, a national association representing small farmers, has been highlighting the need to pass a law limiting foreign land purchases since 2002. It has identified foreign investment in land as the main factor stimulating demand, leading to higher prices and hindering land access by small farmers. The FAA also argues that growing demand for agricultural land accelerates the expulsion of these farmers from rural areas. The Civic Coalition, the Radical Civic Union and even the Executive have claimed that their bills have been developed with support from FAA technical experts.

Left-wing parties (the Socialist Party, the Party for Popular Unity, etc.) have traditionally opposed foreign investment, especially in the case of land. They base their opposition on FAA information and a report titled *Argentina for Sale*.[24] Other factors they often mention include national security and sovereignty, and the preservation of natural resources, including water reservoirs.

NGOs in urban areas are very much in line with the stance of left-wing parties. Their public actions include street demonstrations and email manifestos. They have been the only local stakeholder to promote public debate over agricultural cooperation agreements.

Finally, the ruling party (Front for Victory) headed by President Cristina Fernández has been instrumental in securing the approval by Parliament of a restrictive law on foreign investment in agricultural land. Notably, however, the governor offices that have already signed agricultural cooperation agreements (Río Negro and El Chaco) are politically aligned with the national government.

Resulting scenario

The following are a few observations on debate over foreign land acquisitions in Argentina:

- *The enactment of a law restricting foreign land acquisition imposes harsh restrictions on individuals and private companies.* Notably, the law was approved with the support of most political parties and the public.
- *There is not enough reliable information on foreign land purchases.* This weakens and confuses the arguments in favour of and against the process. The new law is an opportunity for organizing a mechanism for systematic data collection.
- *The debate has not included cooperation agreements with states or state-owned companies.* Only NGOs, especially those operating in some provinces, are publicly against the move. The national government and other stakeholders have not taken a position in this regard.

[24] Read *Argentina for Sale* at: http://www.ecoportal.net/Temas_Especiales/Globalizacion/Crece_la_compra_de_tierras_por_extranjeros._La_Argentina_en_venta

6.0 *Summary and Recommendations*

Brazil was the first country in the region to implement a policy of restricting foreign land purchases and has had a single registry in place for over ten years. Argentina has recently approved its own law along these lines; however, it does not deal explicitly with cooperation agreements with states or state-owned companies. Given that, under these agreements land is not bought but leased, under investment cooperation agreements, they are not necessarily regulated by the approved law. Uruguay has collected some information about foreign investment in its agricultural land, but has failed to define "foreign stakeholder" in an appropriate manner. Finally, Paraguay has had little public discussion about foreign investments in agricultural land, but does have a large area (close to the western border) owned by foreigners, mostly Brazilians.

6.1 Issues under Discussion in the Policy Debate

The formulation of policies seeking to restrict foreign land purchases is controversial and covers a wide range of questions. These include:

- *Do foreign land purchases bring any economic benefit to recipient countries?* In other words, can foreign land purchases be considered useful investments, similar to investment in an industrial plant or resources allocated for a specific production (wine, clothing, etc.)? With the available evidence, the answer is uncertain. Direct investment in land purchases does not automatically lead to agrarian development. The real effect will depend on the use of that land, the investment in infrastructure and the technological transfer that is involved. For the time being, the results have not been encouraging. The Committee on World Food Security High-Level Expert Group on Food Security and Nutrition address this question: "Can foreign investment in land increase yields and livelihoods in rural areas? Available data on this 'race for land' show just a few cases where this has actually occurred. Large-scale investment has rather undermined food security, receipts, livelihoods and the environment of the local population" (HLPE, 2011, p. 9).
- *Do direct land purchases by a foreign state or foreign state-owned company pose a threat to national sovereignty?* This question is under public debate in the countries concerned (except in Argentina, as explained in Section 4). The answer may be "yes" when a foreign state or company from a large and/or wealthy country is investing in another country, or a subnational entity like a state, with poor and weak institutions. In these cases, the investor may have overwhelming influence and bargaining capacities. It has been the case in the African experience, and also in Argentina, where negotiations were conducted by weak governments (in Argentina, it was a provincial government) in need of investments.
- *Does the purchase of large tracts of land by transnational corporations pose any threat to the domestic market and the rural economy?* This question has to do with current debates over foreign land acquisition, food security and sovereignty, farm households and rural communities. The answer will depend on the role played by multinational corporations in the domestic market and the way they organize productive activities. Food security is not necessarily affected by the arrival of large foreign firms. However, if the investments are large, they may result in the expulsion of local farmers from the land, which indirectly may create food insecurity situations. In addition, large firms will most likely dedicate the land for export crops, which may affect the supply of local food. On the other hand, productivity and efficiency of production may increase.

- *Should MERCOSUR member countries restrict land purchases by foreign natural persons?* Two countries have already done so: Argentina and Brazil. Uruguay will likely also take measures to restrict foreign investment in agricultural land. The main issue is that legislation should carefully address the real problems. Land concentration, for example, has involved domestic capital, first and foremost. Limiting foreign land purchases therefore is not the most effective way to fight land concentration problems (HLPE, 2011, p. 19).
- *Will limiting foreign participation in domestic agricultural production constrain modernization, technological development and productivity increases?* There is no single answer to this question. Foreign investment in rural areas has traditionally been an agent for modernization, technological development and increased productivity. It has brought both resources and know-how to these areas. Since the 1990s, however, the globalization process, including information flows, human resources, and information and communication technologies, has also assigned local producers an innovative role, disseminating knowledge at the national and regional levels. This is the case, for example, of contract agriculture expansion not only in Argentina, but in the other three countries, which has been the major force behind the very rapid expansion of agricultural production in the region. Therefore, restricting foreign land acquisition should not necessarily be tantamount to technological backwardness in the local farming sector.

This discussion shows that the analysis of these issues should be truly comprehensive. The challenge is to develop policies aimed at addressing the negative impact for land acquisitions by foreigners while promoting transparent, equitable rural development, in line with world trends and needs.

6.2 Needed Actions

Some immediate actions will facilitate further policy options:

- Define "foreign stakeholder" in a clear manner, consistent with the legal and institutional framework in place. This will help identify policy agents and facilitate implementation. While this issue may seem obvious, it has not always been appropriately considered, making it difficult to assess foreign investment in agricultural land.
- Establish a national, formal, single land property registration mechanism. This will, eventually, help collect additional data on other resources like water, mineral ores and biodiversity.
- Obtain information on agro-ecological, production and social conditions in the main production regions. This information will facilitate the incorporation of special clauses into policies that regulate foreign investment in land acquisition.

6.3 Issues for Future Research

Further research on the following questions may be useful to learn more about the impacts of foreign investment in agricultural land and develop appropriate policy responses:

- What is, or should ideally be, the relationship between agricultural cooperation agreements between states, or state-owned companies, and development policies in general, and in rural policies in particular? In other words, what are the provisions that should be introduced into such agreements to ensure that foreign investment will result in an inclusive development process in tune with the national productive potential? Although these agreements have not been important until now, their size and political impact makes it convenient to have a clear legal framework that regulates them.

- What is the relative importance of foreign investments in agricultural land in MERCOSUR member countries vis-à-vis concentration of land ownership and current use in these countries? Who wins and who loses by preventing foreign investment in the rural land market?
- What is the relationship between investments in agricultural land by foreign investors and the expulsion of household farmers? To what extent does this process affect food security and/or rural poverty?
- Who are the foreign investors involved in investments in agricultural land? What characteristics do they have? What interests do they pursue?

Answering these questions from a critical perspective will facilitate development and implementation of more effective land and agricultural development policies.

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