

Land Grab or land acquisitions: lessons from Latin America and Brazil

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1. INTRODUCTION

The set of problems involving land property in Latin America has been the subject of controversy, legislation and political struggle ever since the occupation of its territory by the European colonizers in the post-Mercantilism era. In recent years, however, the need for food and energy production, the need for environmental preservation and the speculative use of land, has aroused a new wave of debate over land acquisition. Indeed this debate has coined the new expression “*land grab*”, which has produced a good deal of controversy and which was characterized clearly by Borras and Franco (2012) in the following manner:

“‘Land grab’ has become a catch-all phrase to refer to the current explosion of (trans)national commercial land transactions mainly revolving around the production and export of food, animal feed, biofuels, timber and minerals.”

The controversy is not, however, restricted to semantics. It has been the stage for reviving old political debates, mainly between those who believe that this is a process to be opposed on account of its harmful social and environmental effects, and those who believe the process is part of the dynamics of the development of capitalism and needs to be controlled and regulated, but which is not in itself necessarily harmful. It is true that the phenomenon of “*land-grabbing*” comes to the fore in the academic domain with the hike in agricultural commodity prices between 2007 and 2008 and the subsequent, accentuated tendency of companies and governments in the developed world to take control of large agricultural expanses, particularly in underdeveloped countries. As Cochet and Merlet (2011) demonstrate, public and private investors have been acquiring or expropriating land with an alarming intensity and there seems to be no effective mechanism to check this movement.

In terms of land acquisition by other countries, for Von Braun and Meinzein-Dick (2009), there is a prominence of two groups of countries with regard to the recent acquisition of land: food-importing countries suffering from a scarcity of water and land, though rich in capital (Gulf states) and populous countries concerned about the security of food supply (China, South Korea, India). Both groups have gone in search of foreign land in underdeveloped countries as the costs of production are lower and there is a plenty of land and water. To this add the production of biofuels as another reason for the purchase of foreign lands. There is, however, across the planet, a general move towards land acquisition by investment funds, families and large corporations. Indeed, in the period preceding the crisis of 2008/9 and during the crisis itself, large volumes of capital have demanded land and commodities as a means to hedge against the crisis.

The aim of this article is to analyze the processes of land acquisition by foreigners in Latin America in general and Brazil in particular. This approach attempts, on the one

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hand, to show that land, under capitalism or in business-driven economies, is always acquired taking into account its dual character: it is, at one and the same time, a productive asset and a liquid asset, and is therefore the subject of speculation. Additionally, it will use the Brazilian case to show that the attempts at regulating the entry of foreigners, by way of prohibitions, do not work satisfactorily, since the country, by not having a legal/institutional framework for agrarian administration (not even a register of public and private land), has no effective control over it³.

The Brazilian case is quite useful for this purpose, since Brazil, as well as having a fairly well structured land property market, is a country with one of the largest inflows of international capital acquiring land and is one of the last frontiers with lands being expropriated for the purposes of agriculture and livestock.

The article begins by going more deeply into the theoretical review of the determining factors in land acquisitions, putting into opposition analysts of acquisitions and the critics of “land grab”. In this piece, the main contribution derives from the absence of an integrated, theoretical view on the topic which is filled by the proposition put forward by REYDON (1992). The latter proposes a solution by showing that the price of land is, at one and the same time, determined by both productive and speculative expectations, based on a theoretical Post-Keynesian view.

Item three is a brief analysis of the acquisition of land in Latin America as a whole and shows that capital has been more intensely channeled into the acquisition of land in Brazil. Item four consists of a study of foreign direct investment in Brazil and its agriculture & livestock sector in particular. It begins with a comparison of data from UNCTAD, the Brazilian Central Bank and INCRA, that finds that there has been growing investment in agribusiness and that land has been acquired in great quantities. These comparisons also enable us to see that there is no control whatsoever over the processes and that the funds for the purchase of many of the acquisitions have not entered the country officially. A brief analysis is then performed of the evolution of the price of land in Brazil, noting that there has been a large increase in the price of land which began in the middle of the 2000s, in which foreign acquisition has been one of the determining factors.

Item five concentrates on legal and regulatory measures aimed at controlling access to land by foreigners. However the evidence shows that this body of regulations, by virtue of the absence of regulation of land property and inadequate land registration, does not manage to achieve its objective of controlling land acquisition by foreigners, a discussion broached in the conclusion.

2. LAND SPECULATION AND LAND GRABBING: a theoretical contribution

Recent literature concerning the process of land acquisition by large corporate groups, investment funds and the like, has received a variety of types of interpretation and analysis. The main focus revolves around those who simply attack the process and argue that the World Bank, the IFPRI, in particular the studies by Doelinger (2003 and 2011) and von Braun and Meinzen-Dick (2009), do not adequately refute the so-called

³ For further detail on the subject of the country’s need to build agrarian governance, see Reydon (2011).

land grabbing, mainly because these studies lean towards land acquisitions as not necessarily being harmful from an economic, social and environmental point of view.

According to Doelinger (2003 and 2011), acquisitions can generate agricultural production, jobs and income for the local populations in impoverished regions, while von Braun and Meinzen-Dick (2009) argue that foreign acquisitions can, in addition to bringing agricultural gains, make significant investment in infrastructure a viability. For them, an adequate code of conduct, shared by business, nation states and the local population, could produce an environment where everyone is a winner (win-win). Besides the critics of the process of land acquisition, there are some authors who seek to understand and find solutions to the process, which is where the present study, in theory, sits. Next, the land grab critics will be presented. In item 2.2., we shall present those authors who interpret, analyze and quantify the land acquisition process as investments that make up portfolios. What none of the literature addresses, however, in any of the interpretations, is a more refined understanding of how and why agricultural land speculation exists, whether nationally or internationally. The Post-Keynesian interpretation, based on Reydon (1992, 1994 and 2006), which will be presented at the end of this item, aims to plug this gap.

2.1. The land grab critics

These authors have already identified the processes of acquisition as being “land grab”, insofar as they believe that their only purpose is speculation and the appreciation of the capital invested. All critics of the land grab process are as one in their criticism of the World Bank analyses which give to understand that acquisitions cannot generate local development and, therefore, they already begin their analysis of the land acquisition process from a preconceived position and they often lack viable propositions for dealing with the problem.

Amongst these we may quote Daniel and Mittal (2009), who were amongst the first to denounce the recent land grab process, basically on account of the risk it presents to the hegemony of the respective countries and they cast doubt on the real interests of private enterprise in resolving the problem of agricultural production. In their words:

“(...) there is a dangerous disconnect between increasing agricultural investment through rich countries amassing land in poor countries and the goal of secure and adequate food supplies for poor and vulnerable populations”.

Cochet and Merlet (2011:13), who may be classified in a similar way, although they do at least analyze the land grab process using economic data, show that in the cases of acquisitions which occurred in Ukraine and Ecuador, there is evidence that the returns on capital are far higher than the returns to labor, indicating that these land acquisitions (land grabbing) cannot be justified from an economic standpoint. They are therefore against land acquisition since, based on their studies, they are ethically unacceptable. As Cochet and Merlet (2011:13) put it:

“The word ‘investment’ itself loses its meaning when financial efficiency comes above all from the process of appropriating wealth (not necessarily land, but ground rents), land grabbing and concentration, and privatization of common

goods. The results of this process are largely irreversible. Peasant societies are destroyed and natural resources depleted.”

Along the same lines, MacMichael (2011) aims to interpret recent acquisitions in the context of the current crisis in capitalism. He considers current land acquisitions as Land Grabs, both in South America and Africa, as a result of the three-pronged crisis which is ravaging neoliberal capitalism. This crisis of neoliberal capitalism is threefold as it embodies financial, environmental and food-related dimensions. The economic crisis is supposedly linked to the crisis of 2008 and the subsequent fallout in 2011, while the environmental dimension is associated with the need for land in order to produce fuel and thirdly, the food-related dimension is expressed by scarcity and the hike in the price of food in recent years. For him, it is in this context of a more global crisis that land acquisition is taking place and more than this, according to him, these crises have even justified the actions of multilateral agencies and financing funds in making these investments.

MacMichael (2011) also uses as an argument to explain the recent processes of land acquisition, the so-called financialization of economies. Despite the variety of definitions⁴, the prevailing view is that economies have recently been subject to patterns of accumulation in which gains are more likely to occur in the financial sphere than in production and commerce, and that this would give rise to land being in greater demand in these circumstances. As we shall show in due course, it is our understanding that the economic reality has been financialized since at least the end of World War II, leaving us in business-driven economies in which speculation is ever present and land is one of the assets required to this end.

2.2. Empirical analysis of the process of land acquisition by foreigners

There have been countless studies in recent times that have analyzed the process of land acquisition by foreigners, mainly due to the significant quantities of land negotiated. Here we shall analyze those that attempt to understand and quantify the acquisition processes in various corners of the globe, without prejudging.

Cotula et al. (2009) begin their study by questioning if the land acquisition process in Africa is land grab or a development opportunity. No clear conclusions about the process are arrived at in this study but, given the topic's importance for the future and its sensitivity, they err in the direction of recommending the following actions:

- a) guaranteeing property rights, mainly to those who are least protected;
- b) the greatest possible transparency in land acquisition processes and contracts;
- c) the effective participation of all those involved, mainly governments when establishing conditions for acquisition that ensure local development;

⁴ For further details, see Arrighi (1994) and Krippner (2005).

In Cotula (2011), however, a study consolidating all regions where significant acquisitions have taken place (Asia, Africa and Latin America), the main conclusions are similar to those of before, though with a greater degree of certainty, even with regard to the fact that acquisitions may assist with the process of generating local development if properly managed and regulated by the State, always remembering however that this does not necessarily guarantee a smooth process as governments can be corrupt. In the words of Cotula (2011:26) “The accommodation of the structuring of agricultural investment may mean the loss of some opportunities, but it also means that the benefits from the opportunities implemented can achieve their maximum potential”.

Borras S. et alli (2012) analyze land grabbing in Latin America, criticizing Doelinger (2011) and also von Braun and Meinzen-Dick (2009) only in terms of the viability that the adoption of a code of conduct will be sufficient to guarantee the quality of land acquisition. However, in addition to substantiating foreign acquisitions in Brazil and Latin America, as presented below, Borras et alli (2011) argue the point of view, which we support, that the State has a decisive role to play in the land grabbing issue. Land acquisition is economically, socially and environmentally damaging if it causes problems in the locations where it takes place. If there is regulation/governance over the land, the decision about foreign capitals buying land will be in local and domestic terms. In the words of Borras et alli (2011:30)

“Stepping back, and looking at the bigger picture, there emerge three broadly distinct but interlinked areas of state actions that are relevant in understanding contemporary land grabs, namely, ‘state simplification process’, assertion of sovereignty and authority over territory, coercion through police and (para)military force to enforce compliance, extend territorialisation, and broker for private capital accumulation. First, in order to administer and govern, states engage in simplification process to render complex social processes legible to the state. The creation of cadastres, land records and titles are attempts at simplifying land-based social relations that are otherwise too complex for state administration (Scott 1998).”

Sauer and Leite (2011:31), in a study dealing specifically with the case of land acquisition in Brazil, analyze the growth in agribusiness production in the country (principally sugarcane and soybean), its relationship to land acquisition by foreigners and the hike in land values in the country. They demonstrate quite interesting relationships between the variables and that the value of the land has risen significantly, probably due to foreign acquisitions. They conclude, however, that in the Brazilian case, acquisitions are “a long way off the recommendations for responsible investment per the World Bank study”, as even the professional bodies that protect the agroindustrial groups have played a crucial role in the creation of rules for curbing the acquisition of land by foreigners.

To understand the land acquisition process, in addition to this bibliography that performs analyses from the land grab perspective, there is a wealth of literature that analyzes the land property markets in order to ascertain its relevance and the obstacles to the use of agricultural land as a profitable investment. This literature also sheds a rather interesting light on the understanding of the recent surge of land acquisitions, both in Brazil and the rest of the world.

Howard B. (2005) performs an analysis of the more interesting acquisitions for the Callan Investment Institute, concerning investment in agricultural land given the low

returns of a variety of financial investments. It concludes that to invest in land by diversifying investments provides a hedge against inflation and higher returns than fixed income investments. Investment in agricultural land, however, requires patience during difficult periods, since this type of investment undergoes fluctuations, but in the long run, there will be compensating returns in the portfolio as a whole.

Hoesli, M. et alli (2003), in a study that compares investments in land in various parts of the world (USA, France, Netherlands, Great Britain, Sweden, Switzerland and Australia), find that investment in land in their own countries, where stakes are between 5% and 15% of the asset portfolios, leads to a reduction of 5-10% in the level of portfolio risk. When the investments in land are international, the reduction in risk rises to between 10% and 20% and the optimal allocation is a stake of approximately 15% of the agent's total portfolio. This study, therefore, demonstrates the positive role of investing in land on the diversification of the portfolios of economic agents, but they make it clear that the results vary according to the returns of competing assets as well as the currency policy of the respective countries.

So there is a need to perform studies of gains by comparing with land acquisition and other assets. REYDON, ANAÑA et alli (2006) sought to achieve this in the case of Brazil, by performing a comparative analysis of gains from land acquisition through the comparative performance of the evolution of land values in São Paulo and the evolution of shares on the stock exchange (BOVESPA index) and the evolution of Savings Accounts, in the period between 1980 and 2000. This analysis, covering a period of more than twenty years, revealed that the diversification between these assets was beneficial to the portfolio as a whole. This finding shows that the inclusion of a plot of land together with a savings account in an investment portfolio can help to reduce investor losses during times of crisis on the stock markets. As well as being a hedge against inflation, therefore, land is an asset that generates significant returns for those acquiring it. Moreover, it showed that during this period of time, land suffered price fluctuations even greater than those of the Bovespa index, showing that it is not a realty whose valuation drops very much.

In a more recent study on the same topic, HIGHQUEST PARTNERS (2010) showed, based on real cases of investment funds in various parts of the world (Europe, North America, South America, Asia and Pacific, Africa and the Middle East) that there has, in recent times, been a change in the profile of land purchasers, with a higher participation by investment funds, pension funds and large institutions and that the types of transaction have also increased, not just acquisitions but also leasing and other arrangements. According to the study, Brazil receives around $\frac{1}{3}$ of global investment in land, the remainder being distributed across the other countries, although the biggest growth has been seen in Africa. HIGHQUEST PARTNERS (2010:3) conclude that "All those surveyed indicated that local and central governments were in favor of the influx of private capital into their markets in order to develop and transform agricultural land and to invest in agricultural infrastructure".

2.3. A Post-Keynesian interpretation on the acquisition of land by foreigners

None of the studies presented, however, possesses a theoretical interpretation that articulately explains the logic of land acquisition, whether it be national or international.

Those studies that manage to come closest to understanding the problems of land acquisition are those related to the determinants of land prices. Ortega (1986), in a study which summarized the literature on the determinants of land prices, with the aim of understanding the “land price paradox”, is one of those that most clearly frames the question, stating that there is no theory that adequately explains the determinants of land price, particularly its use for speculative purposes. In truth, the central issue that the theory did not resolve is to identify, in the formation of land price, its potential use for speculative motives.

Ortega (1986:245) states that “it cannot be said that there exists in the specialist literature a sufficiently solid theoretical pillar to suggest the most appropriate structure for a land property market model”. This means that there is no theoretical foundation that explains the logic or the reason for making land acquisitions in the countries of origin or internationally.

REYDON (1992 and 1994) attempted to plug this gap by using the Post-Keynesian theoretical system of reference on the formation of asset prices in order to interpret the formation of land prices. It begins by putting into context the type of economy in which it is currently residing, that is to say, in business-driven economies⁵, where decisions are governed by monetary values and the quest for profit maximization is paramount. This definition, found in Keynes and Minsky apud Reydon (1992 and 1994) already goes beyond the discussion held in the literature which puts the cause of today’s land purchases as being the result of the financialization of the economy and the speculative use of land. In the understanding of Reydon (1992), with economies being business-driven, they have already been financialized since the end of World War II, i.e. the acquisition of assets is always a speculative investment seeking the highest financial return and not necessarily the highest productive returns.

Thus land, as it generates productive incomes and possesses liquidity, becomes an asset of sufficient quality for the necessary speculations. This occurs because in this type of economy, the price of land is determined by three expectational characteristics: (q) the quasi-incomes resulting from its productive use, (l) liquidity, a product of its speculative use while a liquid asset, and (c) cost of maintenance arising from it remaining in the portfolio of the economic agents, all of which are capitalized via a subjective rate of interest.

It is these income streams, resulting from the ownership of land, that the agents evaluate and compare to those of other assets when deciding on the acquisition of a piece of agricultural land⁶. This leads to there being demand for land in the most diverse segments of the owners of wealth, from farmers to industry and banks. This demand, however, and also supply, fluctuates, causing both local and national prices to vary. This means that both private acquisition and public intervention in the land property markets require a detailed monitoring of their dynamics. Therefore, the analysis of land acquisition by foreigners has to take into account this dual character of land: that makes it possible to have productive and speculative gains that generate productive incomes and that possess liquidity, thus being an important refuge for those investing in capital. In this sense, to do away with international speculation in land is somewhat impossible, though it is possible to have regulation over its use and expropriation that takes these

⁵ Vide Minski and Keynes apud Reydon (1992, 1994).

⁶ In Reydon, Ananã, (2006) we showed that land in Brazil, in an asset portfolio such as shares, gold, cattle, was one of the assets that made possible the growth in its owner’s wealth.

characteristics into consideration, through state regulation of land and the participatory governance of the management of land.

3. Foreign Direct Investment (FDI) in the agriculture & livestock sector in Latin America

In this section, it is proposed to present the land acquisition situation in Latin America, based on a varied array of studies. In Latin America, according to HighQuest (2010), the acquisition of land has mainly occurred through private agricultural land management companies which garner funds and administer land for investors that include wealthy family groups and financial institutions based in the region, or in North America or Europe. There is a tendency for a separation between land management and land property, which indicates greater (financial) efficiency through the administration and scale of large tracts of land, both through their ownership and through leasing or their administration by third parties. Brazil stands out as the biggest frontier for new agricultural investments due to its greater supply of land, despite new legislative changes related to the purchase of land by foreigners curbing the supposed ease of access to land by foreigners indicated by the same study.

HighQuest (2010) collected data indicating that 24% of companies and investment funds contacted have their headquarters in South America⁷. The geographical focus of land investment by the companies and funds analyzed in the study, has converged notably on South America (spearheaded by Brazil) in recent years. Still on the subject of South America, Brazil appears to be the main center of attention in the question of lands under administration by the funds and companies interviewed, followed by Argentina and with Uruguay and Paraguay having a certain level of interest for investors, and it is estimated that one third of the value of global capital allocated to the sector is currently being invested in Brazil (idem).

The International Land Coalition report (2011) illustrates the importance of Brazil and Argentina with regard to land acquisition, but shares the view that despite their importance, the investments in these countries are concentrated on the purchase of shares in companies that hold land as opposed to the direct acquisition of land, in contrast to the way direct land acquisition occurs in Africa and Southeast Asia. This reductionist view, however, may have adverse effects on the direction of the analysis of the phenomenon of the accentuation of land acquisition by foreigners in Latin America over recent years, as it presupposes the existence of a regulatory, political and economic context identical to the cases in Africa and Southeast Asia, without taking into consideration the peculiarities of Latin America.

Another study, Borras Jr. et al (2011:6) demonstrates the existence of the “land grabbing” phenomenon in Latin America and is of the opinion that it is on the rise. On a comparative plane, it describes the situation of Latin America compared to other regions:

⁷ In the Highquest study (2010), 54 companies and funds were contacted and 25 were interviewed. As for the location of their offices, the headquarters of the 54 contacted are geographically distributed as follows: 32% were based in Europe, 28% in North America, 24% in South America, 12% in Asia & Pacific and 4% in the Middle East & North Africa.

“By international comparison, the region is different from the processes in Africa where transnational (transregional) deals are more prominent and widespread, but the Latin America and the Caribbean is closer to the Southeast Asian case. In the latter, intra-regional land investments by (trans)Southeast Asian companies are substantial, probably more important than investors from outside the region, at least for now. But the critical role played by domestic/national elites in Latin America and the Caribbean is a similar phenomenon in all other regions of the world: Africa, Asia and post-Soviet Eurasia.” (idem, p. 6)

Also according to Borra et alli (2011:7), the specific nature of land acquisition in Latin America is such that this occurs in countries that do not belong to the usual profile of “frail” or “weak” States, going against the conclusions of the predominant line of thinking that claims that “land grabbing” only occurs in countries with “weak” or “frail” governance structures (idem, p. 7). In the same study, Borra et alli (2011:7) also clarify the character of the phenomenon in America Latina:

“In some instances, large-scale lands deals in Latin America and the Caribbean resulted in the dispossession by displacement of the rural poor. But more generally, it has not resulted in mass dispossession – at least not in the scale that we see in many places in Africa and some parts of Asia (Again, of course we see some hotspots where expulsion of population from their lands has occurred, most especially in Colombia). On many occasions, land deals resulted in the incorporation – adversely or otherwise – of smallholder and farm workers into the emerging commercial farm and plantations enclaves. The mixed outcomes in terms of incorporation (adversely or otherwise) are similar to what we see in the emerging land-oriented ventures in Asia and Africa.” (idem, p. 8)

Chart 1, also from the work of Borrás (2011), reveals the character of land acquisitions in Latin America, pointing to the recent increase in foreign investment in land and agriculture and the special case of Brazil and Argentina with regard to the involvement of foreign governments.

Chart 1. Investment in land, “land grabbing” and food security in Latin America and the Caribbean.

Presence of recent large (foreign) investments in land			Presence of foreign 'land grabbing'		Negative impact on food security of investment recipient country	
High	Medium	Low to None	Yes	No	Yes	No
Argentina Bolivia Brazil Chile Colombia Ecuador Paraguay Peru Uruguay Mexico Nicaragua Dominican Republic Guyana	Costa Rica Guatemala Panama	Trinidad & Tobago	Argentina Brazil	Bolivia Chile Colombia Ecuador Paraguay Peru Uruguay Mexico, 'but' Costa Rica Guatemala Nicaragua Panama Dominican Republic Guyana Trinidad & Tobago		Argentina Bolivia Brazil Chile Colombia Ecuador Paraguay Peru Uruguay Mexico Costa Rica Guatemala Nicaragua Panama Dominican Republic Guyana Trinidad & Tobago

Source: Borras Jr. et al (2011), p. 9.

In Latin America at the present time, the countries where land acquisition occurs most are Argentina, Brazil, Chile, Colombia, Ecuador, Guatemala, Paraguay, Peru and Uruguay, and to a lesser extent in Panama, Mexico and Nicaragua. In the latter group, the main purposes of land acquisitions are related to the “flex-crop” complex (principally sugarcane, soybean and palm trees (oil palm))⁸, other food sectors (mainly livestock) and timber, with the highest volume of land acquisition appearing in Brazil. The key agents in Latin America can be classified into four main groups: international investors, (trans)latina investors, national or domestic capital, finance companies and Central Government, as per Chart 2 below:

Chart 2. Investors in land in Latin America and the Caribbean

Countries of origin of foreign investors	Countries active in
International	
Gulf States	Argentina, Brazil
China	Argentina, Brazil
United States	Colombia, Peru, Mexico
European countries	Colombia, Peru, Uruguay, Mexico
South Korea	Argentina, Brazil
Japan	Brazil, Colombia, Ecuador
(Trans-)Latina	
Argentina	Brazil, Uruguay, Paraguay
Brazil	Bolivia, Colombia, Paraguay, Uruguay, Chile
Chile	Argentina, Brazil, Uruguay, Colombia, Ecuador, Peru
Colombia	Bolivia, Peru

Source: Borras Jr. et al (2011).

⁸ Also referred to as “food-feed-fuel crops”.

The large number of land acquisitions in Latin America and the recent tendency towards an acceleration of this trend in the past few years, attest to the importance of analyzing this movement, which has already produced real economic and social effects, particularly in Brazil.

By placing due emphasis on the importance of clarifying the impacts of land acquisition in Latin America, the following section intends to go more deeply into the analysis of land acquisition in Brazil, where volume and intensity has been greatest.

4. Foreign Direct Investment (FDI) in the agriculture & livestock sector in Brazil

The importance of Brazil as a *locus* for directing investment into land is not in question. The central issue is to understand its characteristics, its logic and, as a result, think about the primary mechanisms for its control or extirpation, if needs be. It should be said at the outset that these acquisitions are part of a far broader dynamic dominated by the attractiveness of Brazil as a new global axis for the supply of agricultural commodities. In the words of HIGHQUEST PARTNERS (2010:2)

“Brazil is recognized as the largest frontier for new farmland development. The availability of new land (estimated in 40 to 70 million hectares); a legal system which facilitates foreigner investments in farmland and a relatively clear legal and environmental regulatory system have attracted foreign investment in Brazilian farmland.”

The liquid inflow of capital, by way of foreign direct investment in Brazil, has fluctuated quite significantly, essentially as a result of external accounts and Brazil’s exchange rate situation. In recent times, according to Nascimento (2011:11):

“Starting in 2001, with a world economic slowdown considerably reducing trade and investment flows, FDI inflows to Brazil declined, reaching a low of US\$10.1 billion in 2003. In 2004, the volume of FDI went up again, dipping slightly again in 2005....”

As far as the total volume of foreign direct investment in Brazil is concerned, table 4 of Wilkinson et alli (2011) shows a significant growth, more than doubling between 2002 and 2008. It can be seen that, for the period under review, amongst all the sectors, it is the primary sector, excluding minerals, that boasts the highest average annual growth rates. In this sector, direct investment, which was in the order of US\$ 70.9 million in 2002 climbed to US\$ 796 million by 2007. The international crisis certainly reduced investment in the agriculture sector in 2008. Nascimento (2011:11) also notes that agriculture has been receiving quite significant volumes of direct investment, stating that: “

“Until 2009, Brazil had a total of USD372 billion in inward FDI stock. The distribution of these resources has favored mainly the services sector, followed by investments in non-agriculture related industries, the agriculture related sector, and the mineral extraction (...) Agriculture related sector inward FDI stock until 2009 totaled nearly USD 35 billion”.

Table 1: Foreign Direct Investment (FDI) in Brazil by sector of the economy.

In US\$ million.

Sector	2002	2003	2004	2005	2006	2007	2008	Average Annual Growth Rates
Primary, excepting Mineral Extraction	70.9	181.9	207.0	253.0	213.6	796.0	619.2	0.71
Industry	7,555.3	4,506.0	10,707.8	6,402.8	8,743.8	12,166.1	14,013.0	0.25
Trade and Services	10,585.1	6,909.4	8,484.7	12,924.4	12,124.4	16,556.4	16,877.8	0.12
Total FDI	18,778.3	12,902.4	20,265.3	21,521.6	22,231.3	33,704.6	43,886.3	0.20

Source: Wilkinson et alli (2011)

According to UNCTAD (2009), Brazil has been a significant recipient of FDI flows in the agriculture sector, particularly in recent years. According to UNCTAD (2009), for the period 2005-7, Brazil received US \$421 million, corresponding to the third largest volume of FDI flows in the agriculture sector, losing out only to China and Malaysia (Table 5). The same source notes that Brazil is only in 17th place amongst those countries that have the greatest FDI stock, in the sum of USD 383.6 million.

Table 2 FDI flows and stocks in agriculture, selected countries, various years, in millions of dollars

Receiving country	Flows, 2005-2007 average	Receiving country	Stocks, 2007 or latest year available
China	747.0	China	6,156.2
Malaysia	671.2	USA	2,561.0
Brazil	420.9	Vietnam	1,753.1
Russia	187.7	Canada	1,497.8
Indonesia	119.6	Indonesia	1,001.4
Cambodia	87.0	Russia	953.0
UK	84.7	Chile	949.7
Poland	73.9	Italy	624.3
Papua New Guinea	71.1	Australia	624.2
Romania	67.7	France	616.4
France	61.5	Ukraine	557.6
Ukraine	57.3	Hungary	493.9
Vietnam	51.4	UK	490.8
Peru	51.0	Poland	446.3
Chile	49.5	Romania	412.8
Tanzania	40.5	South Korea	400.5
Honduras	36.2	Brazil	383.6

Source: UNCTAD, 2009.

The UNCTAD numbers are surprising, mainly when compared to those obtained from BACEN in the study by Wilkinson et alli (2010). While the UNCTAD data show annual direct investment in agriculture & livestock in the region of US\$ 420.9 million, Wilkinson et alli (2011) report an average annual volume for agriculture & livestock over the same period of around US\$ 178.2, between 2005 and 2007, via the Brazilian Central Bank.

The investments by Soros, the Saudi group Agro Invest and Bunge in agribusiness as reported by the press and drawn together by Wilkinson et alli (2011), have already reached US\$ 1.5 billion. The total of all the investments reported in the study comes to US\$ 3 billion.

HighQuest (2011), which performed research on funds investing in land and the agriculture & livestock sector across the world, found that in Brazil alone there are investments in the order of US\$ 1.35 billion. However for investments that include more than one country, and Brazil is included in this, the amount has reached US\$ 2.7 billion. This is a clear indication that a significant proportion of the funds leaving the countries of origin is not entering Brazil officially through the Central Bank or they have not been identified as such. The study also shows, through the direct investments in activities connected with the agriculture & livestock sector, that the activity with the highest growth in terms of the entry of foreign capital, is that of alcohol manufacture. In other words, official foreign investment in Brazil has been concentrated in the sugar-alcohol agroindustrial sector.

However the information presented in Suer and Leite (2011) which is the most surprising, is the number of rural properties, and the area occupied, officially registered with INCRA⁹ in 2010. According to this information, there are in Brazil 34,371 rural properties in the hands of foreigners, extending over a total area of 4.3 million hectares. And only the more recent acquisitions, between 2008 and 2010, 2,3 million hectares were acquired, as reported by Wilkinson et alli (2011) informed at newspapers. This is therefore another clear demonstration that official information on land acquisition by foreigners in Brazil is well adrift of reality.

4.1. The main types of foreign buyer and their motives

The absence of reliable, consolidated information on the acquisition and existence of foreign landowners in Brazil means that studies have had to conduct primary surveys of acquisition data. While Wilkinson et alli (2010) did this based on information published in newspapers, journals and on websites, HighQuest Partners (2010) performed research with investment funds.

⁹ The Rural Property Register, which comes under the responsibility of the National Institute for Colonization and Agrarian Reform (INCRA), records information provided by all landowners, holders of titles and owners of rural property of any kind which is classified as “rustic building of continuous area, whatever the location, which is designed or may be designed for the following forms of exploitation: agriculture, livestock, vegetal, forestry or agroindustrial extraction (Law 8629 of February 25, 1993, article 4, subparagraph I).

Wilkinson et alli (2010), based on this research, created an investor typology and their motives for investing which, in summarized form, has the following main categories of investor and investment motive:

- a) **Agriculture capital investing in the same sector of activity** – new investment in acquisitions on the part of both domestic and foreign agribusiness companies interested in expanding their activity in the sector;
- b) **Agriculture capital investing in synergetic and/or convergent sectors** - new investment in acquisitions on the part of both domestic and foreign agribusiness companies interested in expanding their activity in the sector;
- c) **Non-traditional agriculture capital responding to new synergies** – new capital entering sectors in which they did not previously participate, e.g. oil companies coming into the alcohol sector;
- d) **Rural property companies that have emerged in response to the appreciation of land values and the prospects for Brazilian agriculture** – various types of company, ranging from international funds to real estate developers specializing in the creation of new properties for subsequent resale, particularly on the agriculture and cattle-raising frontiers.
- e) **Nation states that are rich in capital but poor in natural resources in search of guaranteed food and energy supplies** – despite this type of tendency being more common in Africa and Asia, this type of investment has also been present in Brazil, particularly from Arabic countries, China and India.
- f) **Investment funds attracted by the diverse prospects for agricultural commodity appreciation** – prior to the 2008-09 financial crisis and the legal changes relating to land access in Brazil, this type of investment was commonly seen. They are generally joint ventures of national capital and international enterprise located in Brazil.
- g) **Investments related to environmental services incentives** – the large number of native forests which still exist in the country, linked to the international need for their preservation, has led to some important investments being present in this area, mainly in the second half of the 1990s and the first half of the following decade, when land values in Brazil were quite low. Policies of payments for environmental services of the carbon credit type and REDD will be one more incentive in this direction.
- h) **Mining and oil exploration companies.** The quest for new sources of oil and the heavy demand for a wide range of minerals is significantly increasing investment in land in Brazil. In the Amazon region, these investments are perhaps the main factor in the conflict with indigenous communities. This type of investment results in new uses for land and this often becomes a source of discord in relation to agricultural activity and traditional communities/farmers.

Chart 3 below shows the number of foreign land acquisitions in Brazil, as surveyed by Wilkinson et alli (2010), and the principal associated crops. It can be seen from Chart 3 that news about acquisitions mostly occur with productive activities in agriculture and livestock (a, b and f), despite there being a significant number of acquisitions with companies acting more speculatively such as those in category d), companies operating

in the resale of agricultural plots of land. It can be seen in the same chart 3, that the main crops that have attracted international investors are those that have expanded most in the country, namely sugarcane, pulp, grain and cotton.

The tables of Foreign Direct Investment in Brazilian agriculture & livestock between 2002 and 2008, obtained by Wilkinson et al (2010:67) from the Brazilian Central Bank, show that the largest investments have occurred in the food sector, which is a fairly industrialized sector, meaning therefore that only a part comes in the form of land acquisition. The sector that received the next highest volume of investment was the alcohol production sector, followed by paper and pulp. This once again shows that foreign investment in Brazil is pretty much shaped by the productive agribusiness sectors.

Chart 3. Number of news reports concerning land acquisition, by investor category and motive, between 2008 and 2010.

	Investor category and reason for acquisition	No. News Reports	Main crops to be developed
a)	Agriculture capital investing in the same sector of activity	11	Sugarcane (ethanol), Pulp, Soybean and corn, cotton
b)	Agriculture capital in synergetic and/or convergent sectors	3	Soybean
c)	Non-traditional agriculture capital responding to new synergies –	1	Soybean
d)	Rural property companies that have emerged in response to the appreciation of land values and the prospects for Brazilian agriculture –	5	Pulp
e)	Nation states that are rich in capital but poor in natural resources in search of guaranteed food and energy supplies –	5	Grain, poultry and soybean
f)	Investment funds attracted by the diverse prospects for agricultural commodity appreciation –	9	Sugarcane (ethanol), Pulp, soybean, milk and grain
g)	Investments related to environmental services incentives	2	Pulp and sugarcane (ethanol)
h)	Mining and oil exploration companies.	0	

SOURCE: data organized by the author based on Wilkinson et alli (2010)

Another piece of information that corroborates the productive direction of land acquisition in Brazil lies in its location: in highly productive regions. Wilkinson et alli (2010:68) show that 82.4% of foreign investment in Brazil's agribusiness, between

2002 and 2008, that went through the Brazilian Central Bank, was concentrated in the Southeast region. Next came the Midwest and the South with 7% and 5.5% of investment, respectively. This information is in part substantiated by Borrás (2011), with information from Sauer and Leite (2011), which shows based on INCRA data, that the majority of foreign properties are located in the Center-South of the country, but in terms of area, the distribution covers a larger area, with a significant share in the Midwest and the state of Bahia, which are grain producing regions in expansion.

4.2. The recent evolution of land values in Brazil and the role played by foreign acquisitions

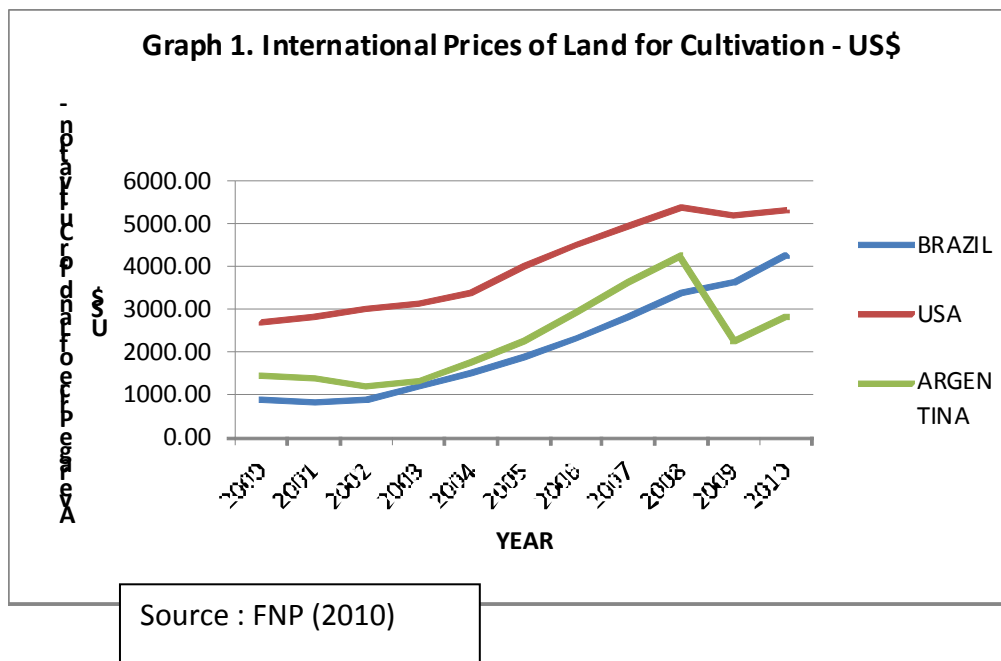
The importance of international land acquisition in Brazil can be seen from the impact on the land property markets and on land values. To understand this better, it is necessary to go back a little in the analysis and see the dynamics of land prices in the most recent period. One of the most significant milestones in the evolution of land values in Brazil was the drop of over 40% in the price of land following the *Plano Real* in 1995. This plan, by stabilizing the value of the local currency, ended a cycle of many years of inflation and also took away from the land some of its speculative use¹⁰. After this drop in 1995, the price of land remained flat for a further 5 years at an average selling price of around US\$ 1,000, as can be seen in graph 1 below.

It was only in the first decade of the new millennium that land prices bounced back. They started to rise again from the end of 2002, mainly as a result of the recovery in commodity prices. The first period of accentuated growth in the price of land is the product of the recovery of international commodity prices and the growth in demand for agricultural produce within the country (graph 1).

For the most recent period, post 2002, figure 1 exhibits the evolution of the selling price of land for cultivation, based on data collected by the agribusiness consultancy group FNP. From this four phases of land price evolution can be detected:

- a. Between 2000 and 2002, stagnation
- b. From 2002 to 2008, accentuated growth
- c. From 2008 to 2009, lower growth
- d. After 2009, return to accentuated growth

¹⁰ For further details, see the study on the Impact of the *Plano Real* in Reydon and Cornélio (2006)



Analysts are unanimous about the accentuated growth in the price of land between 2007 and 2008: it is the product of the combination of a growth in the interest in producing ethanol by both Brazilian and overseas groups. This accentuated growth has an extra stimulating factor, namely the growth in demand for land deriving from speculative movement with commodities, which usually occurs at times preceding a crisis.

The slower growth in the price of land after 2008 is the product of the economic crisis that ravaged the world in September of that year. The interesting point to note is that, in spite of the extent of the crisis, the average selling price of land in Brazil did not fall, it merely suffered slower growth. In other words, the acquisition of land has had a strong impact on the land market over the last decade.

5. Legal and institutional aspects of foreign-owned land in Brazil

Brazil has been burdened from its early days with an inheritance of a lack of governance with regard to land. Since the time it was discovered up until the Land Law (1850), effective regulation over urban and rural soil was determined by the political and physical power of its inhabitants. The Land Law is the first attempt at regulating both rural and urban property, permeated by its character of land access restrictions that hung over the whole colonial world. As magisterially described by Lúgia Osório Silva (1996), in the context of the British pressure to extinguish trafficking and the transition to a free labor, the aforementioned law attempted to restore order to the chaos existing in respect of territorial property, by demarcating the vacant lands in parallel with the solution to the lack of manpower through the financing of immigrants. The practical application of the law, however, proved to be unwieldy and the primary objective of the demarcation of the private vacant lands was not fulfilled, neither was the prohibition of appropriation certified by the law brought into effect (“invasion of the vacant lands” in the terminology of the day). Thus the possibility was maintained of normalizing

appropriations, making it possible to occupy vacant lands and, therefore, rendering the establishment of a register unviable.

Emerging in 1864, a new institutional obligation established a tradition that would last until the present day: the need to register occupancy and properties in registry offices. This had the effect of increasing even more the legal complexity of property regulation, generating an environment of lack of definition and inability to regulate the land market in an effective way and imparting the appearance of legality to property without there being any mechanism in place that could guarantee this¹¹.

In Reydon (2011), it was seen that the institutionalization of the Public Land Registry in 1900 is possibly the main step towards the system of property registration in registry offices that we have today. Under these regulations, everybody must demarcate and register their properties, both rural and urban, but without any enforcement and without any registration. The State, as it would also need to demarcate and register its (vacant) lands, which is not practicable, since these are defined by a process of elimination, is therefore acting illegally. The mandatory nature of this ends up enabling the possibility of fraud in the records of the public registries. The next legislative change, the Civil Code of 1916, for reasons not necessarily tied to the interests of landowners, ended up establishing the great milestones of the institutionalization of access to land in Brazil by determining that it was necessary (and sometimes also sufficient) to register in land registry offices to prove title. In the words of Holston (1993:71) apud Reydon (2011), in an analysis of the present day reality of this legal aberration:

“..all property related transactions should be registered in order for the relevant legal rights to be obtained. These records are currently regulated by the Public Record Law (6015/1973) which determines the formalities that constitute the Brazilian registration system – a system that is private, tortuous and corrupt. Its vast bureaucratic power comes from the Civil Code (art. 533), which states that transactions involving real estate assets do not transfer right of ownership or the rights over it, unless it is after the date on which they are registered in the registry’s books; i.e. as the saying goes, ‘if you don’t register it, you don’t own it’ ”

The next big innovation in the sphere of land legislation takes place with the Land Statute of 1964, whose rules and concepts remain valid to the present day and were called upon when elucidating the creation of a Rural Property Register, where both private and public real estate should be registered – including appropriations. INCRA, created in 1970, became responsible for managing the National Rural Registration System (SNCR), which maintained the Rural Property Registration. Once the property was registered, INCRA would issue a Rural Property Registration Certificate (CCIR) required for all types of land transaction. Tile-holders registered by INCRA also received the CCIR and should pay the Rural Property Tax, although the values of this

¹¹ The most common irregularity in Registry Offices is the overlapping of the various areas, i.e. several owners claim to own the same piece of land. When this happens, it is said that the land has ‘stories’; for each owner with irregular title for that area, one more storey is added on. The federal government is taking a decisive step forward in regulating both the rural and urban land property market by succeeding in passing Law 10267/2001, in which the registry offices are obliged, when there is any change in ownership, to pass it on to INCRA in a plan with borders, in cartographic form (latitude and longitude).

tax have always been maintained at low levels. The Land Statute maintained the legitimacy of the occupancy, thereby permitting the granting of title in respect of public land occupied informally, and it did not have sufficient applicable force for the consolidation of a centralized registration by just one institution, the consequence of which is the impediment of effective agrarian governance and it opens up opportunities for non-productive land speculation.

This regulatory context, added to the large inflow of capital heading in the direction of the countryside to acquire land, demonstrates even more clearly the serious situation with land in Brazil. Recent studies show that there has been an appreciation of land in the region of as much as 600% in some states in the country, primarily at the agricultural frontier.

5.1. Legal-institutional measures to limit foreign access to rural land

In the last forty years, the set of rules, laws and opinions that have sought to limit foreign access, demonstrates two clear phases: between 1969 and 1995, with a clear nationalist spirit, placing strict limitations on the acquisition of land by foreigners; and post-1995 when, in an attempt to facilitate the entry of international capital in the state privatization process, the legislation is modified making it more permissive as far as foreign land acquisition is concerned and, at the same time, less clear, generating diverse opinions and multiple interpretations.

Even in the period when there were greater restrictions on foreigners acquiring land, there was in fact no way of enforcing the laws, in spite of the rules in this former period being quite clear and well defined, there were no clear mechanisms for control of the process, as a result of the country having no agency which effectively has a registration of lands and which is capable of tracking the purchase and sale movements on the land property markets.

According to WILKINSON et alli (2010), the main legal definitions with regard to the acquisition of rural real estate by foreigners (both legal entities and individuals) has its origins in the era of the military dictatorship. In this context, article 3 established that the acquisition of a rural property could only be conducted by Brazilian citizens or by foreigners who were permanent residents in Brazil, a policy that was justified on the basis of the “protection of the integrity of national territory, State security and the fair distribution of property”.

Still in the shadows of the military dictatorship, in 1971, law 5709 was drawn up which brought with it the regulation of the acquisition of rural real estate by foreigners, permeated by the guarantee of national sovereignty and the motive for discussion even today due to the rigid restrictions (at least 23 of them) on foreign individuals resident here and on legal entities authorized to operate in the country:

“It was governed by Decree 74965/74 and both are in force. According to this law the following limits exist in respect of the area of real estate:

- a) Foreign individuals may not exceed the real estate acquisition limit set at 50 modules of undefined exploitation (MEI), in either a continuous or discontinuous area, and in the case of less than 3 modules, acquisition is free, without the need to acquire a license (article 3);

- b) The sum total of rural areas (article 12) belonging to foreigners (individuals or companies), may not exceed 25% of the area of restriction where they are situated, substantiated by a Property Registration certificate. In addition, people of the same nationality may not, in each municipality, be owners of more than 40% of this limit.

The main limitations are as follows:

- a) Foreign companies constituted in the form of a public limited company must hold their shares nominatively when dedicated to rural land subdivision, the exploitation of rural areas or if owners of rural real estate not linked to its articles of incorporation (article 6).
- b) In any real estate transaction involving the conveyance of land to foreigners, the title deeds must be created via public deed.
- c) The property registry offices are obliged to submit to the sector authorities (Ministry of Agriculture and INCRA) on a quarterly basis the listing of deeds drawn up in the name of foreigners.
- d) The notary public may only draw up title deeds with the authorization of INCRA, after certification by this agency.
- e) Any title deeds drawn up that are not in compliance with the legal restrictions will be legally void. In this case, both the notary public which draws up the deeds and the registry that record them, will be civilly and criminally liable for their acts. As for the alienor, he shall be obliged to give back to the purchaser the amount received for the unauthorized sale.” (Wilkinson, Reydon and di Sabbato, 2010)

Law 6634 (1979) pronounces on acts permitted on the country’s borders, forbidding subdivisions and transactions with rural property by foreign individuals or legal entities and defining in article 3 thereof what is deemed to be a foreign company. In order not to be considered foreign, at least 51% of share capital must belong to Brazilian nationals and at least two-thirds of the workforce must be Brazilian.

With the return to democracy, article 171 of the 1988 Constitution establishes the concept of company nationality, differentiating companies as Brazilian, Brazilian with national capital and non-Brazilian (included here are foreign companies and multinational or transnational companies). Article 190 clarifies the dependence of approval by the National Congress in cases of leasing or the acquisition of rural property by foreign individuals or legal entities. So the laws that should govern the subject would be Law 5709 of 1971, discussed earlier, and Law 8629 (article 23) of 1993, which deals with the authorization by National Congress for the acquisition and leasing by foreigners of areas in excess of those established by Law 5709.

The situation changes in 1995 with the proclamation of Constitutional Amendment no. 6 which revokes article 171 of the Constitution with the aim of preventing any protection, benefit or preferential treatment to “Brazilian companies” or “Brazilian companies with national capital”, thus facilitating the entry of foreign capital into rural real estate through subsidiaries with mixed national/foreign capital, without creating a restriction proviso in the law which had always been imposed on foreigners in so far as

rural properties and communications was concerned. However, despite the revocation of article 171 of the Constitution, it did not change law 5709 and its regulation, which are in full force today.

In 1997, according to Wilkinson, Reydon and di Sabbato (2010):

“...the Opinion of the Attorney General (Opinion AGU GQ – 181, concluded in 1998), was discussed in which the interpretation was adopted that §1 of article 1 of Law 5709/71 would not have been admitted by the Federal Constitution of 1988, thereby lacking validity. Based on this understanding, the AGU opinion confirmed that the same requirements would not be applicable to Brazilian companies that the law applied to foreign individuals and legal entities for the acquisition and leasing of rural property in the country. So he argued that common law could not make a distinction between the so-called ‘Brazilian company’ with foreign capital and the ‘Brazilian company with national capital’ [...] In other words, any company with foreign share participation may acquire land in national territory. The points of view with regard to this Opinion by the AGU vary between accepting the legitimacy of this interpretation in full and criticism that the AGU has gone down a path of legal sophistry to deny the granting of any protection or benefit to domestic companies and to national capital itself, which would consist of a government option that would relinquish sovereignty across national territory.”

In 2007, at a meeting of the Chief Of Staff on the theme of “the acquisition of land by foreigners and the objective of refining national legislation on the subject”, aimed at national interests linked to the “world food crisis and the possibility of adoption of biofuel on a grand scale as an important, alternative source of energy, qualified to diversify the national electricity system to great advantage”. In the understanding of this meeting, these two new phenomena “are the main vectors of this new approach to the question of land property in Brazil, particularly rural property”. Accordingly, it was in the interest of this meeting to request a potential review of AGU Opinion GQ 181 of 1998, with the aim of “imposing limits and restrictions on the acquisition of rural real estate by Brazilian companies whose share capital was predominantly in the hands of foreigners who are non-resident in Brazil or foreign companies not headquartered on national soil”. More specifically, it aimed to remove any doubts about the application of restrictions and limits provided for in Law 5709 of 1971. However, the review of Opinion GQ 181 was not approved at the time due to the possible consequences that approval might bring upon the country in the middle of a global economic crisis, and was postponed until 2010. The new opinion, called Opinion CGU/AGU 01/2008 – RVJ, published in the Federal Official Gazette on August 23rd 2010, states that “Brazilian companies with majority control by foreign individuals or legal entities will have their rural property acquisitions examined as well as the full text of the corresponding ruling”, giving itself the appearance of a strategic character for having, amongst others, and in the absence of any control over these acquisitions, the following effects:

- “expansion of the agricultural frontier with the advance of crop cultivation in areas of environmental protection and in conservation units;

- irrational appreciation of the price of land and the incidence of real estate speculation producing an increase in the process of expropriation directed towards agrarian reform, as well as the reduction in the inventory of land available for this end;
- growth in the illegal sale of public land;
- use of funds arising from money laundering, drug trafficking and prostitution for the acquisition of land;
- increase in land grabbing;
- proliferation of “stooges” in the acquisition of these lands;
- increase in the volume of biopiracy in the Amazon region;
- inadequately regulated expansion of ethanol and biodiesel production;
- acquisition of land on the frontier strips putting national security at risk.”

Accordingly, the revitalization of the constitutionality of Law 5709 of 1971 went ahead, and with it the provisions in respect of the mandatory nature of registering land purchases in special books in Land Registry offices. Moreover, it reestablishes that the records of acquisitions made by Brazilian legal entities that have the majority of their share capital held by foreigners, individuals resident overseas or legal entities with head offices overseas, must be communicated on a quarterly basis to the State Department of Justice and to the Ministry of Agrarian Development. As regards the size of the land, the restrictions revert to those dictated by Law 5709. With regard to frontier areas, the opinion points to Law 6634/79 where it clearly states that legal business transactions that involve obtaining right of possession, domain or any other effective right over rural property in frontier areas, involving foreigners¹² (both individuals and legal entities), shall, after the INCRA process has been started, depend upon the prior authorization of the National Defense Council – this limitation is valid for companies with any foreign share participation of any kind and not just for companies with majority foreign capital.

CONCLUSIONS

Land acquisition in Latin America and Brazil is part of a wider process of seeking areas for investment and capital accumulation, one which has intensified in recent years. What sets Brazil apart from the others is the nature of its agribusiness, which began a process of modernization in the 1970s, consolidating investments, particularly those of the larger companies located both up- and downstream of agricultural activity. What the analysis makes clear, however, is that there are no national or local controls over the processes of land acquisition and there is evidence that a significant proportion of acquisitions takes place with financial resources that are not entering the country officially.

The press tends to associate the landgrab phenomenon with speculative movements by financial capital or with security strategies aimed at agricultural raw materials, by the new, emerging countries. The present analysis of the Brazilian case confirms both of these tendencies as important components of this new wave of land investment. More than this, the theoretical input that is employed, which takes the point of view that land is, at one and the same time, both a speculative asset and a productive asset supports this view. Empirical information from different sources shows that the main sectors and

¹² More specifically those involving foreign individuals who are resident in Brazil, foreign legal entities authorized to operate in the country or a Brazilian legal entity in which a non-resident foreign individual or a foreign legal entity headquartered overseas, has any kind of stake.

regions where land was acquired are those that have potential productive use attached to it. This reinforces the theoretical aspect that speculative gains are linked to productive and supplementary gains.

The question is not, therefore, if land grabbing is speculative or not. It will always have a speculative component. The problem is with regulation and control. The study of the Brazilian case shows that not only does control not exist over foreign-owned land, but over land in general, as there is no land registration and/or land administration along UN lines (vide Reydon 2011). Our analysis identifies the historical roots of the lack of effective land regulation in Brazil, as well as the limitations of the usefulness of the present registration system to identify the processes of concentration and foreignization.

In this sense, land policies should be far more directed towards the regulation of unbridled speculation in this market, than attempts to repress or prevent it. The fundamental understanding is that speculation with assets, which includes land, will always take place in a capitalist system. It is up to the State to regulate it and society to establish governance over it so that other harm does not befall that society.

The Brazilian case is fundamental for the understanding of the global process of land acquisition by foreigners, for three reasons. Firstly, Brazil is becoming the main global player in the production of the big agroforestry commodities. Secondly, Brazil demonstrates the diversity of interests involved in the current wave of land acquisition. Lastly, those companies that are spearheading the process in Brazil, whether they be private national companies, State-controlled or foreign, are also investing heavily in land in the rest of Latin America and in Africa. The limitations currently imposed on land access by foreigners in Brazil are and will be rendered harmless through the use of straw men and other mechanisms. Only if the State assumes its regulatory role and society assumes its land governance role will a process exist in which foreigners will acquire land legitimately and legally, by taking part in the processes of local development, both in Brazil and the rest of the world.

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