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# The Land Grab in Africa: Extensive Acquisitions of Land by Foreign Investors

## 非洲的土地掠夺：外国投资者在非洲的大 规模土地征用

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# Objectives 目标

- Understand the polarized discussion of the current wave of large-scale outsider acquisitions of land in rural Africa 了解对于大规模获取非洲农村土地的外来投资热的激烈讨论
  - Understand the motivations of investors, governments and existing land users 了解投资者、政府以及当前土地使用者在其中的动机
  - Assess the extent and mechanics of such acquisitions 评估这类土地征用的范围和方式
  - Examine the experience to date with their impacts 考察时至今日土地征用产生的影响
  - Consider measures by both the international community and national governments that could improve that experience 思考国际社会及各国政府能够对此做出改进的可能措施
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# What is the “Land Grab”? 什么是“土地掠夺”？

- “Land Grab”: a pejorative term for large-scale land acquisitions by “outside” interests which displace existing land users.

“土地掠夺”：一个含有贬义的词汇，指“外来者”出于自身利益大规模征用当前土地使用者的土地，迫使土地使用者离开自己的土地

- How extensive are the acquisitions? Figures vary!

土地征用的范围有多大？数据各异！

- Friis & Reensburg (2010): 51-63 million ha in 27 countries in Africa 非洲27国，共 5100-6300万公顷（一公顷=15亩）
  - Deininger et al.(2011): 56.6 million ha global 全球5660万公顷
  - Oxfam (2011): 67 million ha global 全球6700万公顷
  - Land Matrix (ILC)(2015): 38.2 million ha global 全球3820万公顷
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## Drivers of land acquisitions 征用土地的原因

- Demand for land for food crops and edible oils 需要土地生产粮食作物和食用油
  - Global Food Crisis from 2005 自2005年以来的全球粮食危机
- Demand for land for ag products for industrial use 需要土地生产农产品供工业使用
  - Rubber, other 橡胶及其他产品
- Demand for land for bio-fuel production 需要土地生产生物燃料
  - Public policy: the drive to diversify fuel sources 公共政策：推动燃料来源的多样化

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## Drivers of land acquisitions 征用土地的原因

- Demand for land for forests and bio-diversity 需要土地维持森林面积、保持生物多样性
    - Conservation, enhanced by REDD incentives 设立保护区, 减少因破坏森林产生的二氧化碳的排放
  - Demand for land for oil and mineral exploration and exploitation 需要土地用于石油与矿产的开发和勘探
    - Surface implications: security zones 地表影响: 保障区
  - Increased availability of financing 增加融资的可得性
    - Growing role of investment funds 风投资金的重要性上升
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# Ghana - Peasant farm to maize monoculture

## 加纳 —— 单一种植玉米的农民农场



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## Who is Acquiring Land? 谁在征用土地?

- Private firms predominate, but government agencies are very significant (state enterprises, sovereign wealth funds) 主要是私人公司，但政府机构也很重要（国企，主权财富基金）
- Nationality of major acquirers includes US, Europe, India and the Arab States. China is 10<sup>th</sup> on the Land Matrix list of ten largest land acquirers globally. 主要的土地征用国家包括美国、欧洲、印度和阿拉伯国家，中国名列全球土地征用国的第十名
- Rumors of vast (10 m. ha) Chinese acquisitions in Africa, but actual is probably under 2 m. ha. 谣传中国在非洲买下了1千万公顷的土地，但实际上可能不足200万公顷

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## Who is Acquiring Land? 谁在征用土地?

- Role of China State Farm Agri-Business Corporation 中国国有农场和农业企业所扮演的角色
  - Most Chinese investments in Africa are in minerals/ infrastructure, so not much land acquired. 绝大多数中国在非洲的投资是矿产和基础设施，没有涉及太多的土地征用
  - Chinese investments in ag and biofuels are in south/south-east Asia, rather than Africa 中国在农业和生物燃料的投资集中于南亚和东南亚，不在非洲
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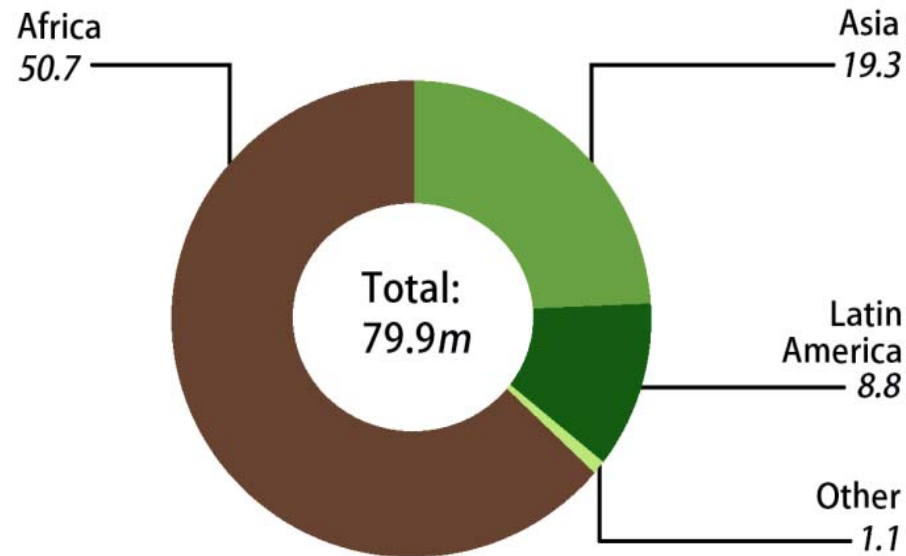
# Incentives for Receiving Countries 接受土地 投资国的动力

- Reviving an often stagnant commercial agriculture 重振停滞不前的商业农业
  - Access to international capital for capital-starved economies 为资金匮乏的经济注入国际资金
  - Access to technical & management expertise 获取技术及管理技能
  - Development impacts: infrastructure, incomes, livelihoods 发展的效应：基础设施，收入，生计
  - Greater foreign exchange earnings from exports 通过出口赚取更多外汇
  - Growth in state revenue from fees, rents, taxes 通过交费、租金、税收获取更多财政收入
  - Under the table: opportunities for corruption 暗中交易：腐败的良机
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# Africa: the Lion's Share 非洲“大狮子”的份额

## Go Africa

Total area of reported land deals\*, 2001-11  
Hectares, m



Source: Oxfam, CIRAD, CDE at University of Bern, International Land Coalition

\*Preliminary estimates

去非洲!

已知的土地交易的全部面积（初步估计）：2001-2011年，百万公顷

资料来源：乐施会，法国国际农业研究中心，瑞士伯尔尼大学发展与环境研究中心，国际土地联盟

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## Why Africa? 为何是非洲?

- Climate, soils, and proximity to European markets 气候，土壤，靠近欧洲市场
- Large areas with relatively low person/land ratios. 土地辽阔，人地比率相对较低
- *Apparently* unused land. The commons, large tracts of land in extensive, intermittent use, are often targeted. Examples: 显然有未利用土地：征用通常瞄准的是公地，大片粗放式、交替式耕作的土地，例如：
  - areas under forest fallow agriculture (shifting cultivation) 林间弃耕的农地（用于轮垦）
  - pastures and other grazing areas 草原和牧区

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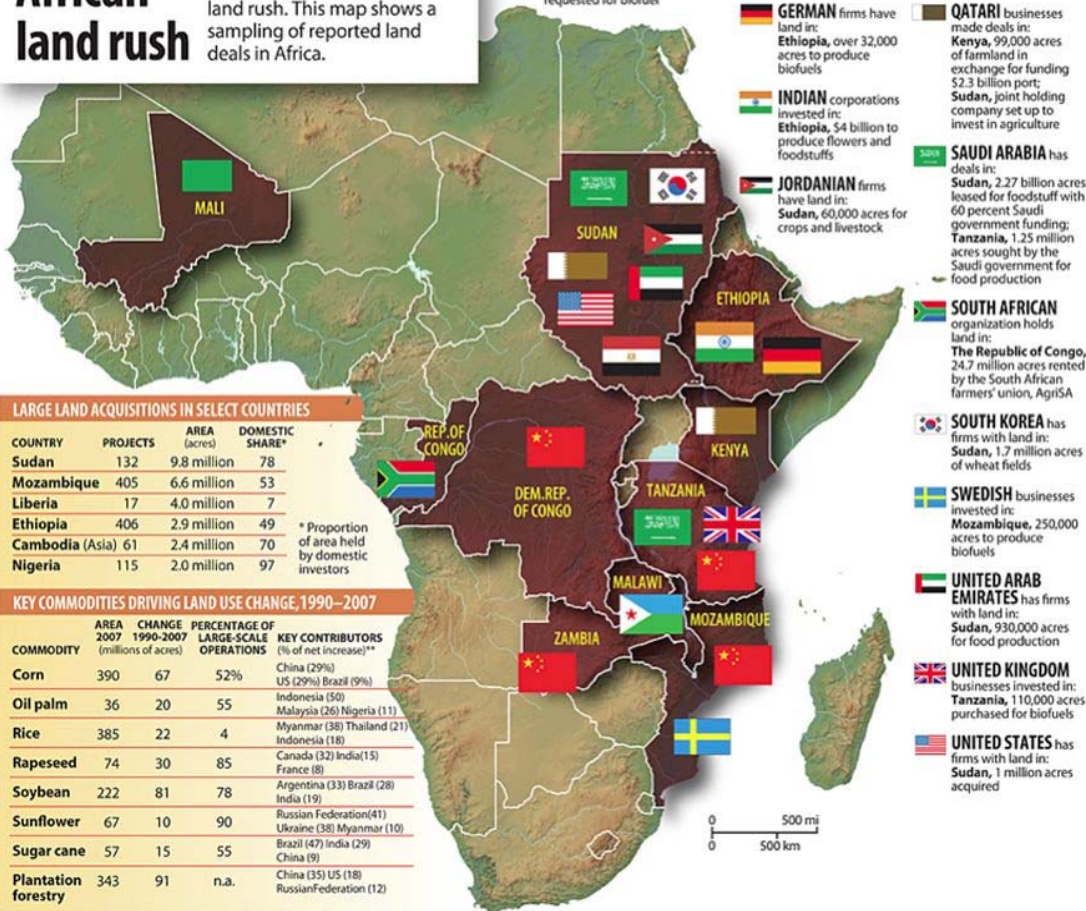
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## Why Africa? 为何是非洲?

- Weak, fragmented land governance institutions, and governments desperate for revenue, especially in post-conflict contexts.
  - 脆弱零散的土地管理制度，渴求财政收入的政府，尤其是在战乱刚平息的国度
  - Extensive state land ownership and easy displacement of existing land users.
  - 土地大多归国家所有，容易驱赶目前的土地使用者
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# The 21<sup>st</sup>-Century African Land Rush 21世纪非洲土地投资热潮

**The 21st-century African land rush** Worldwide, up to 115 million acres of farmland are leased to foreign investors, and the bulk of that is in Africa. Food security and the push to produce biofuels drive the land rush. This map shows a sampling of reported land deals in Africa.



**LARGE LAND ACQUISITIONS IN SELECT COUNTRIES**

COUNTRY	PROJECTS	AREA (acres)	DOMESTIC SHARE*
Sudan	132	9.8 million	78
Mozambique	405	6.6 million	53
Liberia	17	4.0 million	7
Ethiopia	406	2.9 million	49
Cambodia (Asia)	61	2.4 million	70
Nigeria	115	2.0 million	97

\* Proportion of area held by domestic investors

**KEY COMMODITIES DRIVING LAND USE CHANGE, 1990-2007**

COMMODITY	AREA 2007 (millions of acres)	CHANGE 1990-2007	PERCENTAGE OF LARGE-SCALE OPERATIONS	KEY CONTRIBUTORS (% of net increase)**
Corn	390	67	52%	China (29%), US (29%), Brazil (9%), Indonesia (50)
Oil palm	36	20	55	Malaysia (26), Nigeria (11), Myanmar (38), Thailand (21), Indonesia (18)
Rice	385	22	4	Canada (32), India (15), France (8)
Rapeseed	74	30	85	Argentina (33), Brazil (28), India (19)
Soybean	222	81	78	Russian Federation (41), Ukraine (38), Myanmar (10), Brazil (47), India (29), China (9)
Sunflower	67	10	90	Russian Federation (41), Ukraine (38), Myanmar (10), Brazil (47), India (29), China (9)
Sugar cane	57	15	55	China (35), US (18), Russian Federation (12)
Plantation forestry	343	91	n.a.	China (35), US (18), Russian Federation (12)

SOURCES: Food and Agriculture Organization, International Food Policy Research Institute \*\* Changes in crop area may include substitution for other crops as well as area expansion

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# State Land Ownership and Corruption

## 国有土地所有制和腐败

- Most African countries have large areas of state-owned land, a legacy of colonial and socialist regimes.
- 绝大多数非洲国家拥有大规模的国有土地，这是殖民时期和社会主义时期的遗产
- That extensive state ownership of land, land not in the market and with no clear market value, has led governments to allocate it to users very cheaply.
- 广阔的国有土地，不进入市场，也没有明确的市值，政府能够以极为低廉的价格分配给使用者

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## State Land Ownership and Corruption

### 国有土地所有制和腐败

- When an asset is administratively allocated at less than its real value, there is an opportunity for corruption, and the land will go primarily to those who can afford payoffs. 当以行政的手段、以低于真实价值的价格分配时，腐败的机会就来了。土地首先是流向那些能付得起这些费用的人
  - Corruption has long characterized land allocation in Africa, and corrupt practices in domestic allocations have been scaled up for foreign land acquisitions. 非洲长期在土地分配过程中充斥着腐败，腐败还从国内土地分配蔓延到外来资本对土地的征用交易中
  - The State is the land-grabber, acting for investors. 国家就是土地掠夺者，为投资者作伥
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## Unrecognized Local Land Rights and Vulnerability 不确认地方土地权和由此造成的脆弱性

- Among themselves, traditional land users have relied on customary rules and institutions to provide secure land rights
- 传统的土地使用者依靠习惯法和制度提供地权保障
- However, they often lack secure rights under national law and are thus vulnerable to displacement by the state for outsiders
- 但他们的土地权利通常不在国家的成文法法护之下，因此，国家很容易为外来者操刀，剥夺他们的权利

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## Unrecognized Local Land Rights and Vulnerability 不确认地方土地权和由此造成的脆弱性

- International law protections for indigenous peoples are rarely applied in African situations. 在非洲，保护土著民的国际法很少用于保护他们的土地权利
  - Net result: local users can be displaced relatively easily and with little or no compensation. 最终结果：原先土地使用者能够相对容易、不作补偿或补偿极少就能被驱离
  - World Bank (2010): There is a significant correlation between weak local land rights and levels of agricultural investment. 世行（2010）：在脆弱的本地地权与农业投资规模之间存在很强的相关关系
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## Global Land Market? 全球土地市场?

- The demand is global, with investors shopping across continents for cheap access to land. 对土地的需求是全球性的，投资者在各大洲寻求廉价的土地资源
  - Private acquirers predominate over public acquirers, but the latter are significant (e.g., sovereign wealth funds). 个人投资者远远超过公共投资，但后者也不少（比如主权财富基金）
  - They often prefer acquisitions from governments, as likely to be better protected. 他们通常倾向于从政府手中获得土地，这样可以得到更好的保护
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## Global Land Market? 全球土地市场?

- Suppliers are largely state agencies offering public land, at national and sometimes regional level (Ethiopia). 土地供应方一般是国家机构，提供的是国家公共用地，有时也是地方的公共用地（如埃塞俄比亚）
  - Privatization is not involved, instead an assertion of state ownership against local private customary users. 土地并未因此私有化，尽管有人断言土地掠夺是土地国有制度与传统的土地私有制度之间的对抗
  - State ownership is retained when Investors get access to land on long-term concessions. 当投资者获得土地的长期租用特许权后，土地仍然保持为国有
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## Concessions as the Critical Legal Tool 作为关键法律工具的土地租让特许权

- The primary legal mechanism for land deals is the “concession”, similar to a long-term leasehold of public land by the state to an investor. 土地交易的首要法律机制就是“土地租让特许权”，类似于将政府的公共用地长期出租给投资者
  - It envisages joint pursuit of a common purpose (development). 它畅想的是实现共同目标（发展）的共同努力
  - It stipulates mutual commitments for mutual benefits. 激励双方为彼此的利益相互承诺
  - It envisages major investment over some years, and has a long term (30-99 years is common). 它预计之后的数年，将会有大量的投资进入，这种投资还是长期的（通常租期是30-99年）
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## Concessions as the Critical Legal Tool 作为关键法律工具的土地租让特许权

- There is often not a significant per-hectare rental. Land access is usually inexpensive, reflecting the common purpose and other sorts of state revenue. Implication for concession size. 每公顷的租金并不高。获得土地的代价一般都不大，这反映了共同目标以及政府指望其他形式的税收。对政府来说土地租用的规模在于产生财政收入。
  - Sources of state revenue usually are a share of value of production or revenue (and so conditional on success). 政府财政收入来源通常是生产价值的一部分，或者税收的一部分（因此取决于成功与否）
  - There is usually a “grace period” before the investor begins substantial payments to the state. 在投资者开始大规模投资之前，国家通常会给一个“宽限期”
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# What Should Success Look Like?

## 怎样才算成功？

- Best Practice Process 最佳土地征用过程
    - Existing land rights defined and formalized 现有土地权利有明确界定、正式化
    - Prior meaningful consultation with all affected parties 土地征用之前与利益受影响的各方进行有意义的协商
    - Transparent transactions 交易透明
    - Written and enforceable agreements 书面和有执行力的合约
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# What Should Success Look Like?

## 怎样才算成功?

- Win-win-win outcome 三赢的结果
    - Local communities land rights are respected and members gain access to new techniques, new markets and jobs 当地社区的土地权利得到尊重，社区成员能够获得新技术、新市场和新工作
    - Government benefits from infrastructure construction, employment creation, increased productivity and revenues 政府从基础设施的建设、创造就业、生产率提高以及税收增加中获益
    - The investor gets a secure, profitable long-term investment 投资者获得稳健、有回报的长期投资
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## Actual Outcomes 实际的后果

- Some investments perform well, deliver on potentials. 有些投资运行良好，不负所望
  - But more often, slow rates of investment & land development. 但常常出现的情况是：投资和开发很慢
  - It is often found that cheap land policies have encouraged acquisition of areas beyond far beyond the capacity of investor. 便宜的土地政策常常会鼓励投资者征用超过其开发能力的土地
  - Slower than expected growth of revenue to the state, since payments to state are often a proportion of enterprise revenue. 财政收入的上交速度也比预期的要慢，因为税收毕竟源于企业利润
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## Actual Outcomes 实际的后果

- Negative impacts on local livelihoods due to reduced land access for food crops, fewer jobs created than promised. 当地人因为用于种植粮食作物的土地面积减少，许诺的工作岗位也变少了，生计受到负面影响
  - Early interest in local communities is often succeeded by disillusionment, growing resentment and resistance. 起初当地社区对土地开发的兴趣消失了，幻想破灭，憎恨和抵触滋生蔓延
  - Such grievances can lead to violence, investor withdrawal and even political instability (e.g. Madagascar). 这种伤痛会催生暴力，让投资者退缩，甚至造成政治动荡（如马达加斯加）
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**Tanzania: The new order, and an abandoned compound**  
**坦桑尼亚：新秩序，废弃的场地**



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## Measures – International Community

### 措施——国际社会

- International standards exist: 国际标准是存在的：
  - OECD Guidelines for Multinational Enterprises 经合组织对跨国企业的指南
  - IFC's Performance Standards, including those on land acquisitions. 国际金融公司的业绩标准，包括土地征用
  - World Bank, FAO, IFAD and UNCTAD: RAI Principles 世行，联合国粮农组织，国际农业发展基金以及联合国贸易和发展会议：负责任的农业投资原则
  - Principles and standards of producer associations (Roundtable on Sustainable Palm Oil, Roundtable on Sustainable Biofuels). 生产者协会的原则和标准（可持续棕榈油圆桌会议标准，可持续生物燃料圆桌会议标准）
  - The Voluntary Guidelines (“the VGs”)(UN (FAO, CFS)), to which China is a party. 自愿原则（简称VGs）（由联合国粮农组织，公民团体制定和推动），中国参与其中

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# Measures – International Community

## 措施——国际社会

- All these stress respect for land rights of existing users. 以上原则均强调尊重当前土地使用者的地权
  - Does this work? Many investors do not want a bad press; others don't care. 这一点有效吗？很多投资者并不想有负面报道，但有些投资者则无所顾忌
  - Lack of transparency makes it difficult to enforce standards. 交易不透明，让这些标准很难执行
  - Strategies: a) mobilize lenders, who want lower risks, to insist on standards; b) provide improved land rights market information; and c) enforce international legal protections of indigenous peoples. 策略：1) 动员意欲规避风险的贷方坚持执行标准；2) 提供更完备的地权市场信息；3) 坚决执行保护土著民的国际法
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## Measures – National governments 措施——本国政府

- Recognize and record customary rights, at group or household level: 确认和登记以小组或家庭为层面的在习惯法管理下的土地权利:
  - Ethiopia's low-tech, community implemented rights certification 埃塞俄比亚实行的社区确权，技术要求不高
  - Mozambique's community demarcation and certification 莫桑比克的社区分界和确权
  - Liberia's pending legal reform and recording of community land rights 利比里亚有待进行的法律改革以及对社区地权的登记
- Reform regulatory framework for investments: 改革投资的制度框架
  - Vest all concession-granting in a single agency 由单一部门进行土地租让许可的发放

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## Measures – National governments 措施——本国政府

- Reform regulatory framework for investments: 改革投资的制度框架
    - Mandate size limits and require significant per ha charges 规定征用面积的上限，大幅提高每公顷土地的租金
    - Improve consultation with affected communities 改进与受影响社区的协商工作
    - Require free, informed consent of affected communities 赋予受影响社区无需费用的知情同意权
    - Require clearer employment commitments and stronger social benefit compacts 要求更为明确的就业承诺与更有力的社会福利合约
  - Implement area reductions and revocations where investor in breach, with reversion to communities. 若投资者违反规定，就减少或收回征用土地，返还给社区
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## Conclusions 结论

- From a land policy and humanitarian standpoint, it is alarming that very large numbers of traditional users are having their customary claims overridden in the land rush, without adequate compensation for their land or compensating benefits. 从土地政策和人道主义的角度而言，众多祖祖辈辈耕种土地的人的地权在土地投资热潮中被践踏，失去的土地和利益没有得到足够的补偿，委实令人震惊。
- The land acquisitions will continue, though hopefully in greater moderation and with more attention to good practice standards by investors. 土地征用的趋势仍会持续，但希望投资者对土地征用的面积更节制和更注重行为准则。
- Because most of these acquisitions are not funded by international development agencies, those agencies have limited leverage to push for compliance with standards.. 因为绝大多数这类土地征用不是国际发展机构资助的，因此国际发展机构在推行标准执行方面能力有限。

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## Conclusions 结论

- Donors can, however, fund countermeasures such as design of legal reforms and registration of traditional user land rights,但援助机构可资助一些缓冲活动，如法律改革，对传统土地使用权的登记和确权。
  - Emphasis must be on convincing investors that compliance with standards is in their own best interest, to ensure sustainability of their investments. 需要强调，我们要说服投资者相信，服从规则也是于己有利的，可以保证投资的可持续性。
  - Renegotiation and restitution to local communities are appropriate where investors have failed to performed as contracted. But is there political will? 若投资者未能达到合同的要求，那么有必要和当地社区重新谈判、赔偿或归还土地。但有这方面的政治意愿吗？
  - The ultimate solution lies with national governments, and improved land governance is critical. 最终的解决之道在于国家政府，关键在于改善土地治理制度。
-