



Oxford
Analytica

Agribusiness in Sub-Saharan Africa

Political, Economic, Financial and Regulatory Risks

A report produced for



EXECUTIVE SUMMARY
3 November 2011

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This Executive Summary compiles the key findings from a report produced by Oxford Analytica for the Norwegian Investment Fund for Developing Countries in September 2011, entitled 'Agribusiness in Sub-Saharan Africa – Political, Economic, Financial and Regulatory Risks'. The analysis builds on the insights and views of in-country experts and practitioners.

* Maps source: African Development Bank

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Angola

Political, Economic and Financial Assessment

In recent years, the Angolan government has shifted focus from providing humanitarian relief after years of civil war, to fostering economic development. The government remains dominated by the MPLA, which faces no significant political opponents. In recent years, ethnic tensions have been kept subdued but inequalities based on class and entrenched ethnic and racial hierarchies remain a potential source of instability.

Angola recorded six years of double-digit growth in the run-up to the 2008-2009 financial crisis, which dealt the economy a severe blow. The economy remains highly dependent on oil, which accounts for 60% of GDP and 97% of exports, making it particularly vulnerable to shifts in the global economy. Agricultural production remains far below 1974 peaks and Angola continues to import over 50% of the food it consumes. Inflation, which reached 14.7% in 2010, continues to be a serious challenge.

During the transition from a one-party Marxist-Leninist state to a nominal multi-party democracy from 1992, Angola has adopted a new development model based on encouraging private sector investment and reducing central planning. Foreign investment is encouraged and courted, but the business environment has been judged as one of the world's most difficult as a result of pervasive corruption, weak institutions and bureaucratic inefficiencies.

Regulatory Assessment

LAND

Angola's considerable advantages in terms of low population density, fertile soils and abundance of water have been offset by the chaotic nature of its land registry and the potential for conflict between customary and statutory title to land. Despite the introduction of reform legislation, Angola continues to face problems of land registry and security, which has constrained productivity and investment in the agricultural sector.

LABOUR

While the country's General Labour Law provides significant protection and benefits to workers, the legislation excludes domestic and casual workers and women continue to be discriminated against. Union rights are severely restricted and labour inspectorates are known to be understaffed and inefficient. Foreign work permits can be obtained but the government encourages the "Angolanisation" of companies' work forces.

RESETTLEMENT

There is ample precedent for people being summarily evicted from their homes without compensation to make way for mining concessions; however, the generally lower stakes and longer cycle of investment and return in agribusiness mean it is unlikely that officials would intervene to evict locals on behalf of foreign investors in commercial agriculture.



Burundi

Political, Economic and Financial Assessment

Burundi's political landscape has been dominated by the legacy of a twelve-year civil war, which was finally brought to an end in 2005 after claiming 300,000 lives. Since then, national politics have been rife with conflict and incidents of violence have increased between opposition groups and the government, especially since the controversial 2010 presidential elections. Large commercial operations on disputed lands may also be vulnerable to violence as the political situation deteriorates.

Burundi is one of the poorest countries in the world and remains highly dependent on foreign aid. Unemployment is extremely high and remains one of the biggest threats to long-term peace and development. Agriculture is the main source of livelihood for 90% of the population and accounts for up to 45% of GDP but most farmers remain focused on subsistence production.

The government is generally committed to investor-friendly and liberal economic practice and there is currently no explicit discrimination against foreign investors. However, in practice, red tape and corruption hamper virtually all business activities.

Regulatory Assessment

LAND

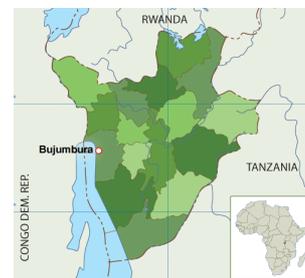
Land ownership and regulation in Burundi face multiple challenges: a legacy of internal displacement and refugee return; very high population density and land fragmentation; and an outdated land law. In addition, land registration remains notoriously complex and corrupt and less than 5% of all land is officially registered, making overlapping land claims common. Meanwhile, the system of land acquisition is slow, cumbersome, costly and riddled with corrupt practices. Burundi's judiciary is thought to be both politically partial and susceptible to bribery.

LABOUR

Workers' rights are generally not well protected. Almost no informal sector workers have employment contracts, while most labour laws are not enforced due to the lack of funds and low priority assigned to these issues. Although minimum wage legislation exists, it is outdated and wages remain chronically low, at only 160 Burundian francs (0.13 dollars) per day for unskilled workers -- though some employers do pay more. Rates of unionisation are low.

RESETTLEMENT

The Land Act states that private land may only be expropriated for reasons of "public utility". However, in general, Burundian laws do not provide adequate protection for those with informal (customary) rights to land. Local administrators may intervene to negotiate some compensation for informal rights holders, but often expect payments from the claimant.



Kenya

Political, Economic and Financial Assessment

Kenyan politics have been tense in recent years. Ethnic violence following the disputed presidential elections of December 2007 led to the deaths of 1,500 people and the displacement of a further 500,000. Long-festering issues such as inequality, colonial land distribution and land grabs, highly tribalised politics and entrenched corruption remain key challenges for the government.

Kenya is East Africa's largest and most diversified economy. While GDP growth slowed dramatically in 2008 and 2009 following post-election violence, it has begun to recover. Although inflation dramatically decreased in late 2010 from a high of 19.5% in 2008, it remains a concern. Unemployment has been estimated at close to 40% by some sources. An estimated 80% of Kenyans are employed in agriculture.

The government encourages foreign investment and multinational companies are represented across all sectors of the economy. In recent years, Kenya has enacted reforms to liberalise and privatise public sector enterprise and attract more foreign investment. Thus far, investment promotion agencies and EPZs have been successful in attracting foreign business.

Regulatory Assessment

LAND

In Kenya, land is a highly sensitive and politicised issue and the sector remains imbued with a deeply ingrained climate of corruption that limits land security. Land is held publically, privately or communally. Under current law, foreign individuals and companies may acquire land as renewable leasehold from the government or landowners for investment. However, there have been concerns over recent reforms that bar foreigners from owning freehold land.

LABOUR

Legislation passed in 2007 has affected labour relations and led to significant changes intended to improve workers' rights. However, the impact has been limited by high rates of unemployment, underemployment and informal sector workers. Labour inspectorates play a role but lack of capacity renders them inefficient and bribery is an issue. Work permits have become increasingly difficult to obtain due to local pressures to alleviate unemployment.

RESETTLEMENT

Early resettlement programmes and their misuse have laid the foundation for much of the contemporary land-related conflicts in Kenya. Foreign investors will need to consider resettlement issues carefully and will need to invest in sound community relations. Problems are exacerbated by corruption and by Kenya's unreliable land titling system, which means that ownership of land is often disputed.



Lesotho

Political, Economic and Financial Assessment

Post-independence politics in Lesotho have been turbulent with a dictatorship ruling from 1970 to 1986 and military coups in 1986 and 1991. However, since the holding of fair elections in 2002, relative stability has returned, although the opposition politics remain heated and political violence continues to be a risk. Ethnic violence, however, is not a concern.

The government has developed policies to facilitate the gradual evolution of commercial farming through market-led mechanisms and land reforms. However, with only 10% of the country's total land area suitable for farming, Lesotho produces less than a third of its food requirements and most land is exploited as fragmented smallholdings only suitable for small-scale farming. Government expenditure accounts for 50% of GDP, which grew at a modest rate of 3.8% in 2010. Unemployment remains dangerously high at 45%.

Agriculture plays a significant, but dwindling role in the economy. However, the government welcomes foreign direct investment, seeing it as a means to improve the economy and relieve unemployment. With a few exceptions, there are no restrictions to foreign investment. The financial risks of investing in Lesotho are reasonably low.

Regulatory Assessment

LAND

There is an acute shortage of arable land in Lesotho. All land is owned by the state under traditional communal ownership or leasehold (mainly urban areas). Local land administration works fairly well and the 2010 Land Act has significantly improved the security and registration of land. The Act provides for land ownership to be granted to foreigners as long as 20% of shares are owned by locals.

LABOUR

In general, workers' rights are relatively well protected, although enforcement levels are not always high and working standards can vary considerably, with larger employers tending to maintain better standards. There is also a problem with enforcing minimum wages and many employers in the private sector prefer to hire workers on a temporary basis, which reduces social protection. Unions are fledgling and unorganised. Despite these deficiencies, high unemployment means most locals are desperate to work.

RESETTLEMENT

Resettlement is covered by the 2010 Land Act, which stipulates that land can be expropriated for public purposes and interest so long as persons deprived of property are compensated at market value. Recent instances of resettlement have largely arisen from the construction of large dams; locals have generally been well compensated and few problems have been reported.



Malawi

Political, Economic and Financial Assessment

A one-party state until 1994, Malawi currently faces a period of significant political and economic challenges. The state responded forcefully to protests in July 2011 over growing perceptions of economic mismanagement, rising living costs, corruption and deteriorating respect for human and democratic rights. Fertiliser subsidies and other agricultural issues are likely to remain at the forefront of opposition attacks on the ruling party.

Densely populated Malawi has long been one of the least-developed countries in the world, despite high rates of growth in the mid-2000s due in part to substantial levels of donor aid. Agriculture is central to the economy; it has generally accounted for a third of GDP and 80% of exports. High prices and widespread unemployment have contributed to unrest in recent months.

The government generally encourages foreign investment with no discriminatory regulations for foreigners. Foreign investors can purchase land in Malawi (with some restrictions) and there is no requirement for local partner participation, nor is there popular animosity towards foreign investment. Investment promotion agencies are generally effective, but tend to be politicised and slow.

Regulatory Assessment

LAND

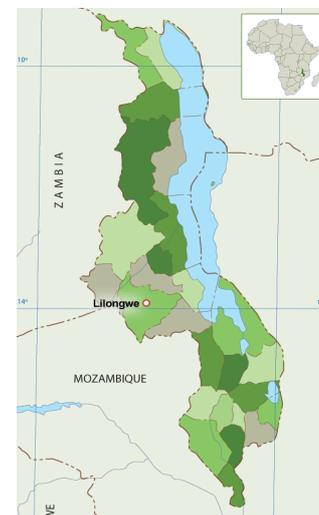
Most land is communally held, with the remainder being owned or leased by the government and some privately owned freehold land. Although reform legislation has attempted to promote the registration of land, the process has been slow. While the system of acquiring land works, it can be frustratingly slow and increasingly corrupt. Since 2003, foreigners are prohibited from owning freehold and restricted to 50-year renewable leases.

LABOUR

While the 2000 Employment Act provides a comprehensive and fairly modern system of legal protection for workers' rights, the application of labour regulations varies considerably. Regulations are closely adhered to in the formal sector and among commercial farmers, but are only weakly enforced in the informal sector. Although the rural minimum wage was raised by 70% in January 2011, wages remain very low and many workers are underpaid. The process of obtaining work permits can be frustratingly slow.

RESETTLEMENT

Legislation prohibits arbitrary deprivation of property and provides for payment on just terms. However, the assessment of value is at ministerial discretion and cannot be reviewed by any court. In practice, resettled people are likely to receive some form of compensation. Today, compulsory land acquisitions are rare and resettlement is no longer perceived to be a significant issue.



Mozambique

Political, Economic and Financial Assessment

Mozambique has been ruled by the Front for the Liberation of Mozambique (FRELIMO) since independence in 1975. While opposition politics remain tense in the aftermath of Mozambique's bloody civil war (1977 – 92) and civil unrest over high food prices and other issues continues, there is little appetite for further violent conflict and FRELIMO's dominance of the political system is likely to continue for some time.

Although the economy experienced significant growth in 2010, the country remains heavily dependent on inflows of foreign direct investment and donor aid, which provides 50% of the government budget. Inflation, which rose sharply to 12% in 2010 driven by high food prices, is also a concern. Agriculture remains central to the economy, although the government has focused on boosting extractive industries and infrastructure in recent years.

Since the onset of a structural adjustment programme in the late 1980s, there have been increasing efforts to privatise Mozambican agricultural production and the government is committed to encouraging foreign investment. However, efforts to privatise land ownership were widely opposed in 2000-2001 and some instances of foreign investment in property development and agriculture have generated public controversy.

Regulatory Assessment

LAND

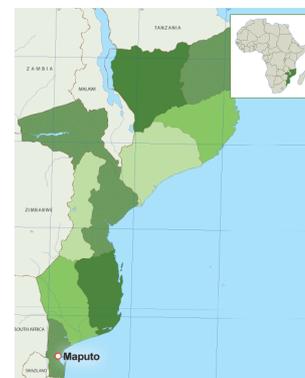
The state formally owns all land and private ownership of land is strictly forbidden. However, the government grants land-use concessions through 50-year leases with the possibility of renewal. Restrictions on land usage are generally related to official designations (reserve areas, etc) and compliance with local consultation requirements and environmental regulations. Land registry practices are poorly organised and outdated and the process of acquiring land can be cumbersome and complicated.

LABOUR

All basic workers' rights are covered by Mozambican legislation and labour laws are very progressive and generally applied very fairly. Inspectorates perform regular checks to ensure safety regulations and workers' rights are being upheld. Over 80% of the workforce is involved in agriculture, but the proportion of formal employment in agriculture remains very low and large commercial farms are very limited. Foreign nationals have complained about the extensive bureaucratic procedures involved in acquiring work permits.

RESETTLEMENT

At present, there is no national legislation on resettlement and, as the state owns all the land, there is no legal requirement for it to compensate people displaced by government actions. Instances of resettlement are currently very limited.



Rwanda

Political, Economic and Financial Assessment

The political landscape in Rwanda and the government's agenda continue to be dominated by the legacy of years of civil war and genocide. Democratisation, judicial reform, and the dealing with genocide victims and perpetrators are concerns. The main opposition parties have come under sustained attack from the government and isolated acts of political violence may increase. The potential for ethnicity-based violence remains high.

Rwanda's GDP growth averaged 7.6% for the period between 2001 and 2010, but the agriculture sector has registered mixed results in the same period. Although agriculture is a government priority, it continues to be stifled by persistent problems such as high population density, land scarcity, poor soil quality and insufficient access to finance and capital.

The Rwandan government has introduced a broad range of reforms in recent years intended to attract foreign investment and the country is currently ranked as the fourth best country to do business in on the African continent. Largely as a result, foreign direct investment has ballooned in the past two to three years, reaching 119 million dollars in 2009.

Regulatory Assessment

LAND

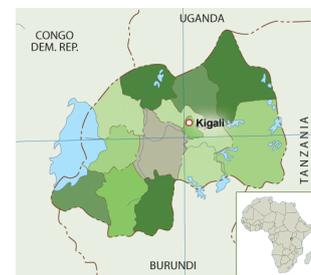
Rwanda's land resources are burdened by high population growth, resulting in increasingly small and fragmented farm holdings. However, a 2005 land reform law has significantly improved land registration and security. Land is classified as individual-owned or state-owned and ownership is evidenced by title deeds that can be mortgaged and freely transferred; long-term leases are also commonly used for agricultural land. Foreign investors can purchase land in Rwanda through the same systems as locals.

LABOUR

National legislation provides workers with a significant degree of legal protection but lack of education about labour laws remains a big problem. In addition, minimum wages are low, but provide a higher standard of living than those relying only on subsistence farming. As elsewhere, foreign work permits can be obtained, but only when there is no local expertise available. Labour inspectorates do not regularly audit but appear when there is a labour dispute.

RESETTLEMENT

The government recognises the right to housing for every citizen and has adopted a national human settlement policy. Citizens are protected and compensated in the event that their land is requested by the government. In the past, the processes for determining compensation have not been transparent or tied to fair market values, but this system has begun to improve.



Swaziland

Political, Economic and Financial Assessment

Swaziland is an absolute monarchy under the rule of King Mswati III. In recent years, the government, which has no provisions for political parties or trade unions, has come under increasing popular pressure for reforms. The main opposition body, which is proscribed, has demanded greater political inclusivity and teachers, nurses, students and other groups have formed illicit unions and associations to stage protests.

Swaziland's recent economic performance has been poor, with GDP growth and inflation standing at 2.0% and 4.4% in August 2011. In recent years, reduced receipts from the regional customs union (SACU) and persistently high government spending (including Mswati extravagance) have prompted an unprecedented budgetary crisis. Unemployment, which stood at 40.6% in 2009, continues to be a serious concern.

Both the royal household and Swazi community have a favourable orientation toward foreign investment. Although highly skewed toward the sugar sector, promoting employment-intensive and foreign-currency-earning agriculture will remain a high priority. The country has liberalised foreign exchange mechanisms and a number of good incentives for foreign investors.

Regulatory Assessment

LAND

Swaziland has a dual land tenure system: 60% of land is Swazi Nation Land (SNL), which is communally owned; and the remaining 32% is Title Deed Land (TDL), which is privately owned. Private investors in SNL are encouraged and a large proportion of this land is farmed commercially. However, obtaining communal lands can be complicated and the lack of transparency when allocating leases for land has resulted in disputes. The process of obtaining TDL is slow and rife with corruption.

LABOUR

Swazi legislation covers most basic workers' rights, but the country is lagging behind in terms of political rights and civil liberties. Labour inspectors are inadequate and there have been a number of cases of trade union rights violations in recent years. Union membership has fallen from a high of 19% in 1995. While foreign work permits can be obtained, the process is cumbersome and foreign investors are required to use domestic labour wherever possible.

RESETTLEMENT

The Constitution prohibits the deprivation of property and there have been no known cases of foreign businesses being expropriated. However, a number of resettlements have occurred, most notably in relation to the construction of dams. Affected households appear to have been compensated for their direct losses and many reported that they felt better off after relocation.



Tanzania

Political, Economic and Financial Assessment

Since the re-introduction of multiparty politics in 1992, Tanzanian politics have been dominated by the CCM, rendering it effectively a one-party state. While the firm majority held by the CCM has created some stability, political opponents have become more vocal and proactive in recent years and the ruling party is currently under threat as it grapples with corruption, economic policy hurdles, and concerns about its increasingly rigid approach to critics.

Tanzania is still a largely agricultural economy, with agriculture accounting for approximately 42% of GDP. However, the government has tended to prioritise other sectors such as infrastructure and energy. Tanzania's monetary policy has been made more challenging by the country's thin capital markets, a weak anti-inflation framework and narrow range of monetary tools.

Foreigners seeking to invest in Tanzania face a number of obstacles. Foreigners are barred from owning land (but can rent) and the government strongly prefers joint ventures with local partners. As elsewhere, land issues are highly emotive and there is a substantial degree of suspicion toward foreigners. Clashes between mining firms and artisanal miners have occurred repeatedly and land grabbing threatens agricultural investors.

Regulatory Assessment

LAND

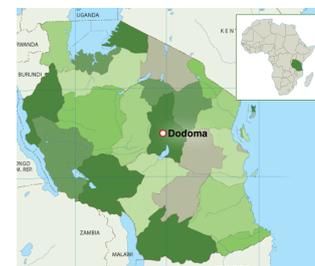
In Tanzania, the issue of land is complicated by the country's socialist legacy, which nationalised land, abrogated traditional land tenure system and forced rural populations to relocate. Today, foreigners can only be allocated land for investment purposes through government-issued rights of occupancy or leases. Obtaining rights to land can be a long and challenging process for both locals and foreigners due to administrative inefficiencies.

LABOUR

Tanzania has fairly comprehensive legislation covering workers' rights. Although enforcement can be limited in the informal sector, the small number of commercial farms in the country are frequently under scrutiny and have to comply closely with labour laws. Foreign investors often face difficulties in obtaining work permits, as there are concerns over better-educated foreigners taking jobs.

RESETTLEMENT

The law makes provisions for resettlement and offers proper compensation to individuals who are forcibly moved off their land. However, agriculture remains dominated by small-scale activities and, as the largest source of employment, there is enormous sensitivity to foreign intervention. Dealing with resettlement via national bureaucracy can be a frustrating process and many investors try to overcome inefficiencies by dealing directly with locals.



Uganda

Political, Economic and Financial Assessment

Despite clearly laid out agricultural policies, progress has been slow in the agricultural sector and is undermined by a bloated, but inefficient, public administration and entrenched corruption. Although opposition parties remain fragmented, the ruling party has faced violent internal opposition in the past and public frustration with President Museveni's growing authoritarianism is on the rise.

Agriculture employs over 80% of the workforce, with coffee accounting for the bulk of export revenues. In the past decade, GDP per capita has recovered from the catastrophic declines of the 1970s. Inflation has fallen from 13.4% in 2009 to 7.3% in 2010 and is expected to decline further, but unemployment remains a significant concern, particularly among young people.

Uganda moved to a fully liberalised capital account in 1997 and financial risks remain relatively low. Attitudes toward foreign investors are generally good and a reasonably effective agency is in place to promote foreign investment, but corruption remains a limiting factor.

Regulatory Assessment

LAND

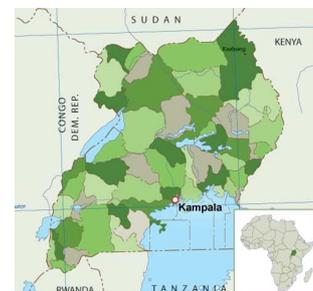
Uganda recognised four types of land tenure: customary, freehold (often in urban areas and only available to Ugandan citizens), mailo and leasehold. Customary land holdings are the dominant form of tenure, representing 75 – 80% of landholdings. Investors often obtain customary land through leases, but such land is rarely surveyed and contracts can be difficult to enforce in courts. Private companies often consider the acquisition of land with a clean title to be one of the biggest challenges.

LABOUR

Most basic labour rights are provided for in the Ugandan Employment Act of 2006. However, in practice, these are often not implemented in the informal sector and there are inadequate provisions for labour inspectorates. There are low levels of unionisation in Uganda, particularly in rural areas. Work permits are required for foreign workers -- and quotas exist -- but are relatively easy to obtain.

RESETTLEMENT

Despite relatively strong legislation protecting the basic rights of private landholders, the government does not always adhere closely to the law when it comes to resettlement and compensation payments are often below market value. In many instances, the rights of individuals with regard to land are ill-defined and their ability to enforce them unclear. As a result, compulsory acquisition has emerged as a significant threat to the security of land tenure in some areas.



Zambia

Political, Economic and Financial Assessment

Since undergoing a peaceful transition from a one-party socialist state to a multi-party democracy in 1991, Zambia's politics have been relatively mild. In September 2011, long-time opposition leader Michael Sata won a tight presidential race, prompting some fears of greater controls over Zambia's natural resources and revenues. There are no notable ethnicity-based or resource-related conflicts in the country.

Zambia continues to recover strongly from the impacts of the global recession and economic policy has been largely sound. The previous administration was chastened by the sharp commodities demand drop-off in 2008-2009 and embraced IMF advice on the need for economic diversification. Commercial farming is currently registering robust growth and the country is awakening to the vision of itself as a regional food exporter.

In recent years, the government has responded to popular demands by taking a more critical attitude toward foreign donors and investors and increasing Zambians' stake in the national economy. However, despite recent public rhetoric, the new government is unlikely to take drastic steps affecting major investors. Foreigners remain free to invest in all sectors of the economy and face no discriminatory regulations.

Regulatory Assessment

LAND

Agricultural land is generally leased for periods of up to 99 years and leasehold rights are extensive. The process of acquiring and transferring land is simple, transparent and fairly quick. Investors face no major challenges. Post-1991 land reform has focused on the regulation and liberalisation of land tenure as well as the promotion of agricultural investments. However, the drive to register customary lands is hampered by a lack of basic data as much as by a lack of social consensus.

LABOUR

Zambia is party to core ILO agreements and there are legislated standards on typical labour rights and health and safety issues. In major sectors like mining, agriculture and industry, an effective labour inspection and regulation system exists, with inspectors making regular visits to commercial farms. However, standards are not always adhered to in the informal sector. Commercial farmers have found few problems in hiring foreign skilled labour.

RESETTLEMENT

Aside from land acquisition laws, there is no specific legal framework for managing or compensating rural resettlement. Although resettlement legislation can be ambiguous, standards for resettling people tend to be high and strictly enforced. Most recent resettlements have arisen out of land concessioner to foreign miners rather than commercial farmers.





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