Community-investor partnerships: lessons from Pro Parcerias in Mozambique

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Abstract

The renewed interest in farmland from transnational investors raises challenges at different levels, such as food security and protection of local livelihoods and land rights. Embedded in many of these challenges is the relationship between communities and investors. At the international level, codes of conduct and principles of responsible investment have been proposed to regulate this relationship and favor beneficial outcomes. However, ways to establish community-investor initiatives at the grassroots level are less acquainted. This study looks at a program, Pro Parcerias, attempting to develop methodologies to promote and implement active economic community investor partnerships in Mozambique, using progressive legal instruments embedded in the country’s land reform. An analysis of the Pro-Parcerias reveals the difficulties related to the establishment of constructive relationships between partners with different needs and characterized by extreme imbalances in resources, capacity, and knowledge. The analysis underlines the need for carefully preparing the communities to engage in this process, and providing skilled mediation to facilitate the consequent negotiations and agreement. While facing difficulties, the project underlines the potential value of this approach aiming at facilitating investment on underused land, leading to prospect of enhancing local incomes through participation in the new enterprises, without undermining local rights.
Introduction

Land tenure security and its link to poverty alleviation has been one of the main research questions in development economics (Deininger, 2003). However, researchers and development practitioners have not yet found clear answers to questions such as the best way to achieve land tenure security, how to deal with customary rights within a larger formal framework and how to avoid inadequacy between formal and informal rules of land tenure (Platteau, 1996).

These debates are still very much alive and back on top of research and development planning agendas, in a context of rising demand for commercial farmland and the consequent allocation to investors of very large areas by many governments, especially in sub-Saharan Africa (Anseeuw et al., 2012). An immediate concern is the impact of these ‘large scale acquisitions’ (LSAs) on the food security of households losing their land. Apart from this however, LSAs raise serious questions about the land and democratic rights of local people, and broader issues of national sovereignty and the nature of development cooperation. The core challenge is to protect livelihoods, prevent dispossession and develop inclusive of the investment models (Anseeuw and Boche 2012).

A large part of the literature on LSAs looks at the political and ideological acceptance of such projects in order to achieve development goals. A recent review for DFID also notes the almost ideological opposition of civil society groups to LSAs, when in fact there is little evidence allowing to assess the causal relationship between LSAs and negative (or positive) impacts on food security and nutrition (Tanner 2013). What is clear is that whatever position one takes, investor demand for land and a willingness by many governments to give it to them is not going to go away and is likely to keep growing in the medium term. It is also undeniable that there is a problem of access to financial market and resources for smallholder farmers and communities leading to a pattern of under investments in sub-Saharan agriculture. Leaving aside other concerns about the ecological and environmental implications of LSAs, it is then clear that other approaches need to be found to ensure that food security and livelihoods are enhanced by LSAs and not undermined by them.

Thus for example the DFID review goes on to recommend that governments should be encouraged to pay far more attention to the design and regulation of LSA-based projects, ensuring that decent working conditions and salaries are offered to offset any loss of farm-based income and home produced food. It is also essential however to look in far more detail at the nature of the relationship with the local communities whose land and resources investors want to use. Indeed it is this relationship – set against a backdrop of communities losing significant parts or even all their land - that will determine how local rights and livelihoods emerge from the process.
The literature shows clearly that this relationship is nearly always difficult and rarely beneficial, for communities and investor alike. This difficulty could be related to inadequate community-investor consultations which result in poor agreements or a failure on one or both sides to understand the agreed terms (Tanner 2009), an asymmetry of information (Daniel 2012) and bargaining power, the absence of adequate dialogue and engagement with the local community in the implementation phases of the project (Cotula et al., 2009; Akesson et al., 2009) or from the investors simply not sticking to the promises they make (Anseeuw et al. 2012). Whatever the specific reason, the result is nearly always an investment process that is far from equitable, non-transparent, and likely to generate endless land related conflicts. Such conflicts then threaten to undermine not only the investment but also any mitigating measures such as job creation that are meant to take care of livelihoods and food security concerns.

To address these concerns there have recently been several initiatives to develop codes of conduct to guide governments and stakeholders when they consider an agricultural development strategy built around LSAs. These include recommendations for the more effective regulation of land investments, and designing more inclusive projects (De Schutter 2010; Von Braun and Meinzen-Dick 2009; Cotula et al., 2009; World Bank 2011; Deininger 2011; FAO 2012). The relevance of such approaches has also been questioned however, with the major challenges still being implementation at grassroots level and securing real commitments by governments to bringing local people on board as stakeholders and active players in the planning, design and implementation of LSA-based projects.

Mozambique is an interesting case in this context, and can provide a relevant contribution to the current theoretical and methodological debate about how to implement more responsible and inclusive procedures of investment. Firstly, it is presented as one of the countries most targeted by transnational investors looking for farmland (World Bank 2011; Oakland Institute 2012; Anseeuw et al. 2012). Secondly, the country is recognized as having one of the best, progressive political and legal frameworks for land in Africa (DfID 2008), with a policy and legal framework for land and natural resources which calls for the “sustainable and equitable use of these resources” and includes mechanisms for facilitating access to local land and resources through mandatory negotiations between local communities and investors which should generate tangible local benefits from the former (GoM 1995, Tanner 2002). Thirdly, it is currently engaged in activities to improve the institutional structures for land management and administration with agro-ecological zoning, the development of new LIMS systems and new land tenure regularization procedures. Fourthly, a range of national NGOs and donor-funded programs have

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1 For a detailed critique of these codes of conduct, guidelines and responsible principles see Borras and Franco (2010)

2 These are being developed with support from the Millenium Challenge Account land programme.
also been supporting the delimitation of local communities following legally prescribed procedures, and developing approaches to include local land use plans and community projects that might also include private sector partners. Fifthly, according to its Strategic Agriculture Plan 2011 – 2020 the GoM is betting on the more effective incorporation of small and medium farmers in profitable value chains via contract farming and clusters to contribute to national economic growth and poverty alleviation.

Mozambique is also a good case study in a more negative sense however, for in spite of having all the advantages mentioned above, it is also the focus of concerns about how not to implement large scale land acquisitions. Indeed it is apparent that implementing its inclusive policy and legal model in practice has not been easy (Tanner and Norfolk, 2009; Akesson et al., 2009). The government is also sensitive to accusations that it does not take local needs into account, and in an attempt to address criticisms of investor impact on food security and livelihoods, it is evidently more open than in the past to the idea of some form of partnership between investors and local communities\(^3\). As part of this new openness to community involvement, new regulations have been approved requiring investors to provide ‘partnership terms’ with the original title holders of the land they want to use. As part of this strategy, the PRO-Parcerias project aims to use the available legal and policy instruments more effectively to create fair and fully inclusive community partnerships with investors.

This paper therefore sets aside the issue of the political dimension of LSAs, and focuses instead on the key question of the community-investor relationship, using the Pro-Parcerias project as case study. By analyzing the objectives, rationale and implementation of the project, the paper will answer the closely related questions of how private investment in agriculture can be achieved without undermining or usurping local land rights, and how it can be achieved in a way that brings positive social and economic benefits to local people. The analysis of the Pro-Parcerias project will also allow us to shed light on the potential changes to local land tenure security induced by the investor-lead projects, and to propose recommendations.

The paper begins in Section Two with a brief outline of the issues underlying the land reform process in Mozambique, the key features of the 1995 National Land Policy and the current 1997 Land Law and regulations. It also assesses land management and administration issues in the context of rising transnational investor demand for farmland. Section 3 presents the objectives, rationale and implementation of the Pro-Parceria program. Section 4 is devoted to a discussion and critical assessment of the ongoing strategy and challenges of implementing such program in the Mozambican context.

\(^3\) One of the authors has been present at national meetings of the Consultative Forum on Land where the working committee of the Forum has been asked to develop proposals to facilitate such partnerships.
Finally, section 5 concludes with policy implications and recommendations for the future of this and similar initiatives.

Section 2: Local land rights, land law implementation and questions arising from the increased interest in land in Mozambique

2.1 Local land rights and the 'local community'

The present, 1997 Land Law in Mozambique was developed through an exemplary process of dialogue and public participation, beginning with the development of a new National Land Policy (NLP) in September 1995 (Tanner 2002). It is useful to highlight the features of the policy and legal framework, including its implementing regulations⁴, which together provide the basis for investors being able to access local land through a negotiated agreements and partnerships. A useful starting point is the mission statement of the NLP, which lays out the key objectives and underlying principles:

‘Safeguard the diverse rights of the Mozambican people over the land and other natural resources, while promoting new investment and the sustainable and equitable use of these resources' (Serra 2012:xx)

This statement provides a simple blueprint for a land management and administration system that balances the interests of different land users within a clear understanding of investment as the driver of economic and social development. While the 'safeguarding' of local rights is given priority, investment is also important, provided that it is “sustainable and equitable” (emphasis added). The policy lists several principles, starting with the bedrock of State ownership but also including practical objectives which include developing beneficial relationships between investors and local people:

- Guarantee access to and use of land for the population as well as investors
- Recognise the customary rights of access to and management of land of the rural resident populations, ‘promoting social and economic justice in the countryside
- Promote national and foreign private investment without prejudicing the resident population and ensuring that benefits accrue to both this population and to the national treasury
- Active participation of nationals as partners in private enterprises (Serra 2012:xx)

⁴ Law 19/97 of 19 October, the 'Land Law'; Decree No xx/1998; and the Ministerial Decree A-xx/2000, Technical Annex
Most importantly for the discussion below, the NLP adds that local communities, once recognized and registered, can enter into contracts with investors who are interested in using their land (paragraph 25).

The regulations to implement this vision of equitable land access and use include the 2000 Technical Annex to the Regulations which lays out the main features of the process of 'delimitation' which is identifies local rights acquired by occupation and establishes their boundaries. The starting point for this process is however the law itself, which begins with the legal definition of the “local community” around which much of the subsequent regulatory framework is constructed:

“A grouping of families and individuals, living in a circumscribed territorial area at the level of a locality [the lowest official unit of local government in Mozambique] or below, which has as its objective the safeguarding of common interests through the protection of areas of habitation, agricultural areas, whether cultivated or in fallow, forests, sites of socio-cultural importance, grazing lands, water sources and areas for expansion” (Chapter One, Article 1(1))

The “local community” is recognized as a collective entity which can be the title holder of a State-allocated Land Use and Benefit Right (or DUAT, its Portuguese acronym). This collective DUAT is held on a 'co-title' basis, regulated by provisions governing co-ownership that are found in the Mozambican Civil Code. This has important implications for later discussions with outsiders wanting local land, for it means that all co-title holders, i.e. all community members, should participate in defining any agreement to release local land to investors.

Article 12 of the Land Law then lays out the three ways in which a DUAT can be acquired:

- occupation according to customary norms and practices so long as they do not conflict with the Constitution
- occupation in 'good faith' (uncontested squatting/use over ten years)
- formal request to the State for a new DUAT (the only route open to foreigners and nationals without cultural/kinship based claims to rights within the communities in question)

The rights allocated to individuals and families inside the community using 'customary norms and practices are also legally equivalent to DUATs. More importantly however, it is essential to understand what 'occupation' means, as this then determines whether or not a given area of land is freely available for the State to allocate to an investor. The regulations go on to state that if the land is not 'free from
occupation’, the investor must negotiate with the community and establish the terms by which he or she can gain access to the land and request a new DUAT over it.

The local community definition is essentially a description of the integrated land and resource system through which any group of households uses their surrounding territory. Each system required access to a range of resources, and includes a web of horizontal relationships that link households together for the purposes of “safeguarding common interests” and carrying out key tasks as a group, such as clearing land or harvesting. The area covered by this system incorporates both currently used land (farm plots, plantations, active grazing areas etc), and land that might seem unused (long cycle fallow land, long distance grazing, forests, reserves for future generations, and water sources) but is essential for maintaining the overall system through time. All the land covered by this system, whether currently used or not, is deemed to be ‘occupied’ in legal terms.

This approach to defining the 'local community' is often criticized for being vague and impractical, but is in fact both flexible and precise enough to incorporate the wide variations in 'local communities' that exist in a diverse cultural entity like Mozambique, including peri-urban and urban⁵. Thus the 'local community' can look very different and be spatially small or large, in each specific geographical and cultural context. What is most important however is that it includes areas which may in fact be under-utilized, and could later be the subject of land requests by investors. Because they are legally 'occupied', the investor must negotiate with the community to get access to them. This is a critical point, for such land is very often perceived by outsiders - including the government - as being 'free and therefore available for an LSA, for example. This perception has led to an increasing number of conflicts over land (Baleira et al 2006, CFJJ; Norfolk and Hanlon, 2012) and raise serious questions about the real availability of 'free land' for investors in Mozambique. Moreover it is not necessary for local communities to register this apparently unused land in order to legally protect it. Both the Mozambican Constitution and the 1997 Land Law provide guarantees for protecting 'acquired rights' when new DUATs are being allocated, and the law clearly states that a lack of registration does not prejudice a right acquired by occupation.

2.2 Delimitation

⁵ This has rarely been attempted however. There have been innovative experiments to use the methodology in some provincial cities, such as Chimoio where the University of Eduardo Mondlane Faculty of Architecture and Urban Planning developed a participatory approach to regularizing tenure in crowded urban districts. A 'Land Tenure Regularization' programme is currently being conducted in the northern provinces under the MCA Land Component, to also develop practical approaches to proving existing acquired rights and issuing their holders with formal title.
It follows from all of this that both local people and outside interests - public land managers and investors - must understand what occupation is and how it determines where local DUATs already exist. It is also evidently more sensible to identify the borders of these DUATs on the ground, and record them in official cadastral records - once registered they are formally proven and everyone knows they exist and where their boundaries are.

Community rights delimitation was specifically developed to do this through a process that a) proves a DUAT acquired by occupation, and b) identifies its limits. This participatory rural diagnosis and mapping methodology enables communities to essentially define themselves with reference to historical facts, traditional markers between communities, and the over-riding feature of the way they collectively use the territories in which they live. The resulting map and supporting evidence are then formally recorded in official cadastral databases in each province. It is set out in the Technical Annex to the Regulations, and is implemented with the support of a specially trained team.

The local communities delimited in this way can be very large, especially where they rely on long cycle fallow systems and the extensive use of communally managed resources. Indeed one issue that has been highlighted in this context is the excessive size of some communities. Åkesson et al for example found that in the northern province of Niassa, communities delimited before a large forestry plantation was established ranged between 12,000 and 600,000 hectares (2009:39). This because many delimitations pay too much attention to the over-arching vertical structure of customary governance which usually covers very large areas, and do not focus on the immediate local production system and the notion of 'common interests' that binds people into smaller 'local communities'. The larger units - Regulados, or chiefdoms - are important as administrative and and quasi-judicial mechanisms, but should not in themselves determine 'occupation' and thus the presence or not of local DUATs.

Nevertheless, as Akesson et al go onto observe, even at the lower level of analysis, the resulting communities are still going to be large, and 'there would be no “free space” (not occupied) among them' (2009:40). In other words, practically all land is already covered by a DUAT, and all investors will be obliged to negotiate some form of agreement with local people, especially where LSAs are concerned.

Delimitation is therefore a powerful and essential tool for facilitating any future dialogue between these often opposing interests. Not only does it establish where local rights exist, it also informs local

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6 See Tanner et al (2009) for a detailed account of how this process works and what its implications are.
people of their rights, strengthens their organization and ability to negotiate, and creates the conditions for a more open and productive discussion around how to share or otherwise cede local rights to outsiders.

Some initiatives try to go even beyond this process of delimitation and help the delimited communities to develop economic activities on their land. For example, the ITC project states that as part of the process, the delimitation should include a land use survey and the development of a land use plan which can pre-identify areas that are not currently used by the community or are not essential to its production strategy. These areas can then be pre-identified as potential areas for allocating to investors through the mandatory 'community consultation' process which is also a requirement of the Land Law.

2.3 Community consultations

The mandatory 'community consultation' results from the de facto recognition by policy makers and legislators that DUATs are likely to exist nearly everywhere. In the first instance the incoming investor must discuss with local rights holders to see if the land being requested is 'free from occupation'. If local people fully know how the idea of 'occupation' works in practice, they can quickly assert that the land is not free, but they may be open to discussing its possible ceding to the investor. In this case, the process goes to a second stage, namely agreeing terms between the community and the investor. He or she, then, applies to the State through the public land administration for a new DUAT over the area in question.

There is ample evidence showing that consultations are nearly always poorly carried out (Tanner and Baleira, 2009). In most cases they are rushed through to simply tick them off the list of formal requirements that make up the official 'Simplified Procedures' for getting a new DUAT. The result is what Tanner (2009) has called 'enclosures with a human face', where in fact the consultation process is used as to provide a cosmetic veneer of participation and local consent to processes that are more like land grabbing than negotiated and agreed access.

This is however a question of implementation and effective government commitment and oversight, and not a problem with the underlying principle of consultation per se. The 1997 Land Law and its regulatory instruments do indeed provide a solid basis for the kind of process that is under investigation in this paper - the establishment of active and mutually beneficial partnerships between local rights holders and those seeking large scale land acquisitions for commercial projects. This has always been an objective of the overall policy and legal framework. The issues addressed by the PRO-Parcerias project are how to do this in practice, and how to ensure that the nature of the partnership that is established addresses underlying concerns about impacts on livelihoods and food security by putting in place an
adequate and preferably far better strategy built around enhanced local production, shares in the returns generated by the investment, and new incomes from project-generated employment.

2.1.3 Negotiation and Compensation

Negotiating access to land covered by acquired DUATs implies some form of compensation or de facto payment. It is therefore important to understand the legal provisions for so-called compensation and other forms of benefit accruing to local communities as part of the consultation process.

The Land Law itself contains only a brief reference to 'receiving just compensation' when a DUAT is revoked or taken away, and it is this phrase that appears to be the basis for consultations as well. Legally, land (and DUATs) cannot be the subject of any kind of transaction, but as consultations are about taking over local DUATs, then, this idea of compensation is a useful alternative. In this context the provisions for community consultations and negotiating agreements should result in such 'just compensation', but it is clear that the law does not go far enough to protect local people.

The problem is not only that consultations are badly carried out, but also that the negotiated 'compensation' outlined in most consultation records (the 'Acta') rarely reflects either the real value of what they are giving up, or the value of what is being proposed on their land. Moreover many investors fail to abide by even the modest terms of the agreements they make with local people (Baleira and Tanner, 2009). In other cases, corruption of local elites and opportunistic behavior of community leader entail even more the level of compensations promised to local households (Fairbairn, 2012)

A number of approaches have been developed to address this weakness. These include the provision of basic legal support to communities, through the paralegal training program run by the Centre for Juridical and Judicial Training (CFJJ) of the Ministry of Justice7; and the PRO Parcerias project which is the subject of this paper, which aims to establish best practice guidelines for establishing and implementing active economic partnerships between communities with land and the investors who want to use it.

To its credit, the GoM has also become more aware of and sensitive to the food security and other implications for local people of very large land acquisitions. Thus in 2008 it passed Resolution 70/2008 which reinforces the consultation provisions in the legal framework by requiring all investors wanting

7 Funded by the Kingdoms of the Netherlands and Norway, with FAO technical assistance
more than 10,000 hectares to include in their proposals, 'the terms of the partnership between them and the holders of the rights acquired by occupation' over the land in question.  

These provisions are fully in line with the NLP principle of promoting the 'active participation of nationals as partners in private enterprises', and of local communities entering into contracts with investors. It is essential in this context to move away from seeing the consulta as a mechanism for agreeing 'just compensation' (which is then assessed merely in terms of lost crops and existing, usually rudimentary infrastructure and homes), and see it as the start of a process that can bring real and continuous benefits to communities whose land is being used for new projects. Even if this is a State responsibility, it is important to hugely widen the notion of “corporate responsibility” whereby investors are encouraged to offer to build basic social services and infrastructure as a form of compensation for taking over local land. However, such agreements can never substitute for the loss of livelihoods. The Pro Parcerias sets out to turn this vision into one of “active participation as partners” in return for ceding land for the new investment.

Section 3: The Pro-Parceria, implementation and challenges

The PRO-PARCERIAS project is being implemented by the National Directorate for Promoting Rural Development (DNPDR), which is part of the Ministry of State Administration (MAE in Portuguese). The project is part of the wider Land and Natural Resources Development Programme, which began in 2009 through a Netherlands-funded FAO project, designed to train staff working in rural development in the main elements of the land and natural resources framework. The key starting point was to promote a participatory, multi-stakeholder approach to local development with the local community and its land rights. This approach fits well with objectives Two and Five of the Rural Development Strategy (RDS), which focus on promoting community development “using the land law and the DUAT”, and measures to improve governance and local planning processes (DNPDR 2007).

Within this wider context, the idea of promoting active economic partnerships has always been a central feature of a development strategy that has its roots in the mission statement of the 1995 NLP cited above and in the subsequent legal innovations such as the ‘local community’ and the community consultation process. Since then it has been a considerable challenge to generate official support for the idea of community-investor partnerships (Tanner 2010), but more recently there has been something of an  

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8 Resolution 70/2008 of XXXember, Article XX (g)
opening by government, partly driven by concerns being raised by civil society and cooperation partners about the social and food security impacts of the rising demand for LSAs by private investors.

DNPDR has always promoted a participatory model where other key concerns, such as gender equality, also feature. In addition, and most importantly for the context in which PRO Parcerias was conceived, DNPDR is also responsible for district development support including the development of district development plans. The links between community delimitation, land use planning, and a bottom-up planning process that reflects local as well as other more policy-driven needs, have always been underlined by the territorial based methodology using land law instruments promoted by the FAO-supported capacity building.

Thus the PRO Parcerias project was conceived to a specific element of this wider rural development and planning vision, namely the establishment of active partnerships between communities with extensive but under-used land rights; and investors wanting larger areas for commercial projects. Given the still relatively untested nature of this kind activity, a project was designed to:

“promote the establishment of sustainable community/investor partnerships in rural areas in Mozambique by supporting: (i) research into national, regional and international requirements for the establishment of partnerships and practices and experiences of ongoing partnerships in rural areas in Mozambique; (ii) facilitating private sector and government interest in such partnerships within the overall context of Rural Development Strategy implementation; (iii) the piloting of a small number of community – investor partnerships in the agriculture sector; and (iv) the production of guidelines, policy recommendations and publications on the establishment of sustainable community – investor partnerships” (DNPDR 2009).

The implementation of the project involves several different stakeholders, the communities selected to take part, private sector investors, NGO’s and Government agencies at central, provincial and district level. Collaboration with other sectors and government departments is a central feature and indeed objective of the project. Most notable in this context are the Centre for Investment Promotion (CPI) of the Ministry of Planning and Development, and the Centre for Commercial Agriculture (CEPAGRI) and National Directorate for Land and Forests (DNTF), both part of the Ministry of Agriculture. Within DNPDR itself, the project also has links with the IFAD/AGRA rural markets programme (PROMER),
Two key elements of the project are central to its implementation strategy. The first of these is the contracting in of service providers – ‘brokers’ - to undertake the complex task of preparing communities to engage with investors and then mediating between them to produce a workable contract and implementation plan. The project has also contracted a research team to track the process and produce material for the Guidelines document which is one of its key outputs.

Secondly, the project has depended heavily on working with the Community Land Initiative (iTC) and national NGOs that work at community level doing community rights delimitation and local development initiatives. The expectation was that these partners would provide PRO-Parcerias with short lists of appropriate communities which had been delimited, and had indicated in a pre-project context areas of land that they were prepared to allocate to investors on the basis of negotiated partnership agreements.

After some administrative delays, the project has now been operating for nearly three years. The workplan envisaged the following series of steps that would in principle result in the setting up of some 5 pilot community-investor partnerships:

- Establish a working committee with collaborating partners (sectors, the iTC project etc)
- Establish supporting multisectoral support units in target province governments
- With the iTC and NGOs, identify a short list of 10-12 local communities to take part
- Identify and contract the facilitating ‘brokers’ who would carry out the core activity of community preparation and mediation to produced contracts and workplans
- Find investors using a series of alternatives approaches
- Support implementation
- Produce the Guidelines document

This is a challenging set of activities which requires both a long term framework, and considerable technical capacity and support to undertaking an innovating project. In particular, finding and working with investors was always going to be a key challenge, and in this context the presence of technical assistance with experience in a similar process in the eco-tourism sector was a critical element of the initial strategy.

Establishing the working relationships with ”contributing programmes” such as iTC was not as straightforward as planned, with expectations about what these programmes would produce perhaps being over-ambitious. In the end however, a list of potential communities was drawn up (Table 1, in Annex).
On the investor side, the project also established an agreement with the investment-promotion philanthropic and donor fund, AgDevCo, which works to initiate agricultural projects with significant community involvement. The understanding with AgDevCo was that it would carry out soil surveys and feasibility studies of the shortlisted communities, to identify 2-3 that offered the correct mix of conditions – principally decent soils and water availability – for establishing commercial agricultural production. AgDevCo would then find the investors to back the project and oversee the critical first phase of implementation, working closely with the broker entities to establish the contracts with the communities and to facilitate and support the development of an effective working relationship once things were underway.

One of the key issues affecting implementation was an inability on the part of the cooperating partners to deliver delimited communities with well worked out land use plans that included geo-referenced sub-plans indicating the areas for partnering with investors. This slowed down the process considerably, as AgDevCo needed this information in order to undertake its initial survey work. In the end however several maps were produced and initial survey work using satellite imagery was carried out. The result unfortunately was that AgDevCo found that none of the areas earmarked by the communities as land available for investors included all the necessary conditions, especially access to water.

The DNPDR team and the brokers meanwhile have been working with the target communities to prepare them to engage in the process of negotiations and partnerships. This process has also proved to be far more complex than envisioned, partly because of the number of partners involved, and the need for effective communication and engagement between those working with the communities (the brokers, other NGOs and iTC); and the AgDevCo team.

At the time of writing the DNPDR team is working with the brokers to maintain the process of community engagement, by holding several consultation meeting to present and discuss the projects. The communities in this context are represented by individuals appointed by the communities or who are already on the community Natural Resources Management Committee. The idea is that this committee, already established and trained by other stakeholders during the delimitation process, will sign contracts with the investors and will later be responsible for determining how any profits and future partnership income will be used by the community.
Another element of the strategy has been the establishment of another group of actors who will help to develop sustainable community investor agreements. This group involves local institutions, community leaders and District Technical Team located at provincial level. Their task is to fill in any gaps, support the negotiations process and contractual arrangements for sustainable community investors partnerships, and provide support for the community and the project team as they implement the project.

Finally, the implementation process to date has been tracked by a national research consultancy hired to follow all steps of the project and to document all aspects of the process. This team will then produce a report outlining the strong and weak points, lessons learned, and a series of recommendations for how to conduct this kind of activity in the future. Thus all the experiences of the project will be documented and fed back into the proposed Guidelines which will lay out basic policy and operational principles for establishing community – investor partnerships, and presenting the various alternative models and approaches that can be used.

Section 4: Discussion around the challenges of such approach

The design of partnerships between local communities and investors constitutes a classic example of principals-agents problems (Stiglitz, 1988; Eisenhardt, 1989). The principal-agent theory is concerned with situations in which one actor (the principal, e.g the local community as land right holder) engages into a contractual arrangement with another actor (the agent, e.g the investor) to carry out work on the principal’s behalf (Stiglitz, 1988). In this case, this relationship corresponds to the transfer of land rights from a local community to an investor to achieve a common set goal related to agricultural and land development. In the case of attribution of land lease and rights to investors, all the factors characterizing principal-agent problems can be present. First, the interests and objectives of the different parties conflict or at least are not completely aligned. Second, it is not technically or economically feasible for the principal to verify exactly how well the agent is carrying out the work in question (with respect to time, effort and diligence). Finally, the principal and agent have different attitudes to risk.

The problem can be even more complex in a case of multiple agents (investors, the Pro-Parceria team projects and its service providers) working on behalf of multiple principals (the local community delimited, the Pro-Parceria team). Incomplete and asymmetric information also have to be taken into account because they create space for opportunistic behavior on the part of the agent to exclude local populations and undermine the latter’s rights and livelihoods.
Principal-agent theory is mainly concerned with how to design contractual arrangements that can maximize the returns to the principal, in that case the local communities (Eisenhardt, 1989). To evaluate these arrangements, four criteria are analyzed (Levacic, 2009 in Cramb, 2013):

a) The motivation and possible hidden objectives of the agent. This is related to the degree in which the agent is self-interested. This can be expressed by an opportunistic behavior or by altruistic actions on the other extreme. Mechanisms of incentives, check and balances and safeguards can be implemented to cope with this problem.

b) The nature of the agent’s work. Characteristics of the agent’s work can bring uncertainty in the relationship effort-outcome and then deteriorate the principal-agent relationship. The uncertainty inherent to the agricultural production makes this variable highly important in this case.

c) The degree of asymmetry in the information available to the principal and the agent regarding the activities realized by the agent. For example, an agent can have detailed information on the work is realized, whereas the principal does not have the technical of economical capacities to obtain this information. Bargaining power and authority are two others fields in which the degree of asymmetry between the principal and the agent is important.

d) The multiplicity of the layers and hierarchy of principal-agent relationship. In cases involving several stakeholders, the diversity of relationship as well as their evolution over time add to the complexity of the principal-agent problem.

The Pro-Parceria project constitutes a typical example of institutional arrangements designed to overcome multiple levels of principal-agents problems. The delimited local community members as principal are interested in enhancing their livelihood through the transfer of part of their land use rights to investors. However, problems can arise because the risk neutral community expects that such agreement will bring local employments, economic developments and social benefits, whereas the investor is mainly aiming at maximizing its profit through the project. Moreover, the nature of the investor work, the degree of asymmetry of information power and bargaining relations make it unfeasible for the community to monitor the activities realized by the agent. At this stage of implementation of the Pro-Parceria, our focus is to analyze how the design and strategy of the project aims at creating the conditions of establishment of active partnerships between local communities and investors. The critical assessment of this ongoing strategy should then focus on the four conditions on which depends the setup of an « optimal contract ».

Motivation and possible hidden objectives of the agent
The success of the project depends, in particular, on the capacity to provide to the agents incentives that will guide their behavior and lead them to align their objectives with those of the principal. The first objective of the agent is to maximize productivity and benefits from the large scale farming activities established. However, in Mozambique this objective has lead to the implementation of land acquisitions models presenting a small degree of inclusiveness of local communities and consequently few benefits on local livelihoods (Anseeuw and Boche, 2012). This strategy developed by investors demonstrates the misalignment of principal and agent’s objectives and the need to create incentives for the success of such initiatives. In the Pro-Parceria framework, this incentive takes the form of a drastic reduction of transaction costs related to the negotiation with the community and the transfer of the DUAT. The realization of a “pre-consultation” work realized by the Pro-Parceria team with the community as well as the involvement of government agencies and officials in the framework of the project reduce the overall transaction costs inherent to the establishment of such large scale projects.

On the other hand, the land delimitation and the collective DUAT resulting from this process gives to all the co-tittle holders grouped in the local community a security for their participation. This legal instrument reduces the risk of dispossession resulting from an opportunistic behavior from the investor. It clearly establishes community’s rights as stakeholders to negotiate with investors and establish an active and beneficial partnership with them. Although, the actual design of the negotiation process seems theoretically solid to protect the community from outside actors, it leaves room for opportunistic behavior from members of the community. Some community leaders may act in their interest instead of representing the community during the negotiations (Fairbairn, 2012). A challenge of the Pro-Parceria project will be to structure the representative group in such a way that every community member approves the transfer of land to the investor. One remaining question is whether or not the Natural Resource Committee constituted during the delimitation process is the relevant organization for this role. The work realized by three key partners of the Pro-Parceria, the Community Land Initiative (ITC), ORAM and LUPA provides an important backdrop on this matter. In this way, a key element of the methodology for promoting effective partnerships between LSA investors and communities is to some extent pre-empted - the identification of available land and some pre-consultation preparation of local communities so that a more effective negotiation can take place.

Nature of the work and uncertainty

As in every agricultural project, uncertainty reduction is a main component of Pro-Parceria. There is uncertainty regarding the results of the agricultural activity and, consequently, regarding the overall success of the project on the short and medium term. The result of the agricultural production depends on
the skills and capacity of the agent to manage the activities. There is however significant uncertainty regarding the effort-output relationship (Cramb, 2013). For example, the crop yield achieved is partly a function of the skills of the agent and partly a function of the weather, the rain and other uncontrollable variables.

The implementation of an “agricultural potential assessment” in collaboration with the members of the communities is a particular strategy of the Pro-Parceria that aims at reducing the risk inherent to the nature of the agricultural activities. This assessment must integrate the elaboration by the community of the type of partnership they want to engage in (level of intervention of the investor in the value chain, type of production, etc) and integrate concerns about impacts on local food security. Detailed analysis of natural resources potential (water, soil, and infrastructure) realized AgDevCo, a key partner of the Pro-Parceria project will also be used to reduce the uncertainty concerning the agricultural potential of community land.

In addition, the Mozambican legal and institutional context constitutes another source of uncertainty impacting on the principal-agent relationship. Investors argue that this uncertainty in increased by the weak quality of institutions resulting in non-transparent practices affecting investment (Anseeuw and Boche, 2012). In the Pro-Parceria framework, the involvement of the different agencies in charge of the promotion of investments (CPI and CEPAGRI) and services of Ministry of Agriculture (MINAG) in charge of attribution of the DUAT guarantee the institutional and legal security for all stakeholders, while the government itself is also securing its objective of promoting investment and putting idle land under production. Although the involvement of GoM institutions provides a legal security for investors, the local community is facing uncertainty concerning the consequences in case of failure of the project. There is an uncertainty regarding the legal status of the land leased by the community to the investor in the framework of the partnership. This particular aspect must be clarified by the project in order to avoid dispossession of the land in case of failure of the project.

The degree of asymmetry of information

Asymmetry of information, technical knowledge and bargaining power act against the local community (i.e. the principal) for whom it is infeasible to obtain information concerning the activities established on the land leased to the investor. The production techniques used by investors (highly mechanized and inputs intensive production systems) as well as some crops (e.g jatropha) are not known by local farmers and members of the community. As a result, they do not have the technical capacities and knowledge to monitor the agent’s activities. This incapacity, result in an important asymmetry of information concerning the management of the operations.
The Pro-Parceria project aims at reducing this asymmetry of information by establishing a group of actors whose role is to monitor the community-investor relationship, empower the local community and produce workable and practical partnership agreements. In order to overcome this problem of asymmetry of information and bargaining power, a multi-party group of actors is established. This group will be composed by the representatives of the community and three set of actors. Firstly, the involvement of a good and experienced broker, in the form of an NGO or other entity which can mediate and assist the negotiations between the community and the investor is a critical element. In the case of the Pro-Parceria project, the implication of ORAM and LUPA, two Mozambican NGOs working on local community land rights delimitation and inclusive business models, should reduce the asymmetry. Second, the group of actors is also composed of various government representatives, from the DNPDR, the CPI (Center of Investment Promotion), and the land administration services. Finally, the investors themselves, whom the DNPDR locates based on their willingness to participate, are also joining. At this stage links have been established with AgDevCo, a philanthropic capital fund with donor and private backing. AgDevCo will assume the costs of analyzing the natural resources potential (soil, water, and infrastructure) of each community engaged in the Pro-Parceria pilote studies. Once these are completed to their satisfaction, AgDevCo will negotiate, in presence of the DNPDR and the NGOs, agreements with the communities represented by their respective Committee of Natural Resource Use. Although coordination problems can occur, the ideal of a close working relationship between all these different actors provides a strong basis for the partnership project to be sustainable and equitable.

**Complexity of the relationships**

Community-investor relationships are complex mainly because of the nature and the diverse set-ups of the investment models. In Southern Africa, and particularly in Mozambique, Anseeuw and Boche (2012) have developed a typology of land acquisitions models grouped under the single term “investors”. These models present complex contractual relationship between different agents aiming at the establishment of agricultural activities. The multiplicity of agents in charge of developing the land adds layers of principal-agents relationships. Not only is there a multiplicity of principals and agents, the evolution of the project opens up an additional layer.

As such, effectively on the ground, two aspects should be highlighted. First, the initial negotiation between the investor and the community representatives can open up a principal-agent dilemma. Some community leaders or members of the Natural Resource Committee may act according to self-interest in identifying land for the project to the detriment of other members of the community. This asymmetry of information and bargaining power can continue once the project is in preparation. Second, once the productive project is started the investor can contract asset management companies or service providers to
realize the activities, adding more arrangements between the principal and its final objective. Those two cases are examples of the problem that can arise along the process of establishing community-investors partnerships for the development of agricultural activities.

The Pro-Parceria framework presents a multiplicity of layers and hierarchies between the different stakeholders involved. Beyond the community-investor relationship, other contractual arrangements occur in the project, which can cause principal-agents relationship problems and impact on the success of such initiative. First, the local community accepts to work with the Pro-Parceria team as their intermediate agent in the development of the land for their benefit. Secondly, the DNPDR can be considered as another principal as it contracts several service providers, the agents, in order to implement the project and select the investor. Although this strategy increases the level of knowledge of the Pro-Parceria partnership, it can raise a problem of motivation and opportunistic behavior from the service providers.

Finally, challenges of alignment of objectives and coordination of the multiplicity of actors involved arise from the complexity of the Pro-Parceria. Once again, this characteristic highlight the difficulty of finding institutional arrangements that can insure fair and inclusive partnerships between local communities and investors.

**Conclusion**

Despite a legal framework conceived with the objective of promoting tools for the set-up of partnerships between investors and local communities, the majority of LSAs in Mozambique does not present such pattern. On the one hand, this situation is a consequence of the implementation process of the Land Law. For example, the interpretation of key concepts such as the “occupation” by a “local community” of a territory, the recognition of the legal validity of DUAT acquired through this framework are major challenge influencing the implementation of private investments. On the other hand, investors have used consultations and negotiation with local communities as a veneer of participation and “compensation” that aims at hiding the law level of inclusiveness of local populations. Even in cases in which the “compensations” promised by the investors are paid to the local community, their value are usually far away from compensating the loss of livelihood they imply on the long term.

Although the actual pattern of private investments in Mozambican agriculture does not bring much positive impacts, initiatives aiming at creating key institutional conditions might have the ability of turning this interest of investors into active economic partnerships with local communities.

Such achievements as well as the redaction of guidelines for the local implementation of partnerships between local communities and investors are the principal objectives of the Pro Parcerias.
The actual situation of community-investors “relationships” in the case of LSAs is characterized by typical principal-agent problems. Consequently, in order to establish successful partnerships the ProParcerias rationale is based on the creation of institutional arrangements that overcome these problems.

In this way, a key element of the methodology for promoting effective partnerships between LSA investors and communities is to some extent preempted the identification of available land and some pre-consultation preparation of local communities so that a more effective negotiation can take place. The implication is that any attempt to allocate land to investors necessarily implies at least an orthodox community consultation process as required by law; and if possible what we might call an ‘enhanced consultation’ where communities are far more informed of their rights and enjoy adequate legal and other support in their negotiations with investors. An agricultural potential assessment should also be used during this community consultation in order to define the type of partnership these communities want to engage in.

Collaboration with local governments and the CPI at provincial level as well as good and experienced brokers, in the form of NGO or other entity which can mediate and assist the negotiations (ORAM, LUPA, ITC) are fundamental. An institution, such as a joint venture, creating a space for collaboration, enforcement of the agreement and joint management of the investment can be a solution for the implementation of these partnerships.

The Mozambican land tenure system constitutes a main advantage for such initiative. The implementation of such project in a country with another land tenure context would certainly enrich the debate on the translation of international voluntary guidelines at the grassroots level.
References


### Annex

**Table 1: Shortlist of potential participating communities, developed in collaboration with the iTC project and the NGO ORAM**

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>COMMUNITY</th>
<th>DISTRICT</th>
<th>AREA (HA)</th>
<th>BROKER SERVICES</th>
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<td>FOR INVEST-MENT</td>
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<td></td>
<td>Underway</td>
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<tr>
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<td>Massingir</td>
<td>Underway</td>
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<td>2. Manica</td>
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<td>Organization</td>
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<td>Malema</td>
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