

Regulating Rural Land Markets in West Africa

Issues and Priorities
for Fair and Efficient Land Policies

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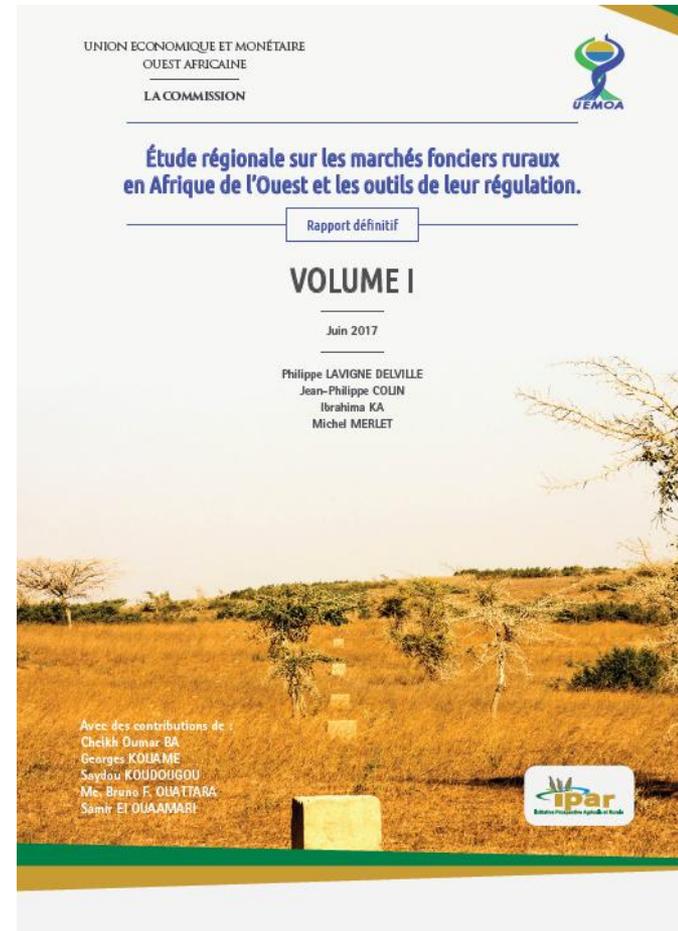
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- A communication based on previous research and on an UEMOA (West African Economic and Monetary Union) commissioned study
- **« Rural land markets in West Africa and the tools of their regulation » (2016-2017)**



Introduction

- Rural land markets are expanding in West Africa
- Land reforms promote land rights formalization and land markets
- Few or no questions on the economic and social impact of such expansion
 - Land sales are more or less legitimate in rural areas
 - Frequent strong asymmetries between givers and takers
 - Frequent conflicts on sales
 - Risks of exclusion for rural people (farmers and herders) and of social conflicts
- An issue for research and policy

- *"In the absence of effective regulatory mechanisms developed by the state aimed at ensuring market transparency and the protection of small landowners against land grabbing at ridiculous prices, the risk is very high that a real land reform, as silent as inequitable, takes place through the land market.*
- *It would lead to a massive transfer of ownership of rural land from the hands of the current poor rural lineages to those of wealthy urban operators.*
- *The social costs and political implications of such an evolution in the Union area are unpredictable if they are poorly managed, as similar processes in other parts of the world indicate".*

• (The Land Question and the challenges of regional integration in the UEMOA 2009 area, Ouagadougou, UEMOA, p.42)

I. Unbalances, inefficiencies and risks in current land market expansion

- (sales and rental) land markets may offer opportunities and facilitate the transfer of rights to efficient farmers but...

- 1. Is land a commodity like others ?
 - Strong embeddness in society
 - Not produced by human beings : « fictitious commodity » (Polanyi)
 - Power, wealth and meaning (Shipton)
 - Bundles of rights and overlapping rights

- 2. Efficiency and equity are not always there
 - Land rights market more than land markets
 - Land transactions are often asymmetric, particularly when urban buyers are involved
 - Frequent « market imperfections » in related markets
 - -> *The theoretical conditions for efficiency and equity are rarely there, particularly for sales*
 - -> *Land markets (and particularly land sales) often lead to inequity and sometimes also to inefficiencies*
 - -> *The case of unproductive land accumulation by urban elites*
 - -> *Less problems with rental and share contracts (but possible use rights concentration)*

- 4. Social and economic risks linked to an unregulated expansion of rural land markets
 - Risks and conflicts linked to markets transactions
 - » Risks of conflict due to illegitimate sales
 - » Social risks linked to the feeling of marginalization from autochthonous people and to the violent renegotiation of former contacts
 - Risks of exclusion by the market
 - » Distress sales, impoverishment of rural people, multiplication of landless people
 - » Increase in land prices and market exclusion of the poor
 - » Enhanced difficulties for young people for having access to land

- Negative impacts of urban actors' land acquisitions on pastoralism and family farming
 - » Less available space for pastoralism and family farming
 - » Numerous unproductive, speculative, acquisitions
- Risks of economic inefficiencies through land concentration
 - » Agrobusiness may have a low net added value/ha compared with family farming
 - » Few employment in highly mechanized agrobusiness
 - » Risks for food security (local and/or national level) if agrobusiness focuses mainly on export crops

II. Regulating rural land markets:

- issues and priorities**

- Land is not a commodity like others
- Land rights markets are seldom self-regulated
- Numerous societies in the world have created regulatory mechanisms to avoid inefficient land concentration and related exclusion and to (better) ensure that land markets produce a « *socially desirable land use* » (World Bank PRR, 2003)

Regulating land markets: a conceptual framework

- Regulating: for which (economic, political, social) aims?
 - 1. A land distribution serving economic policy and favoring social peace
 - 2. Favoring access to land for specific actors
 - 3. Reducing asymmetries and unbalances between actors in land market transactions
 - 4. Ensuring fluid and secure transactions

- Direct and indirect tools
 - *Direct tools* influence or control land transactions themselves
 - *Indirect tools* focus on other related markets or on non-market mechanisms and change the power balance between actors
 - A table of possible tools
- Choices and mechanisms depend on policy priorities and are deeply embedded in society and politics

Priorities for West Africa

- Regional objectives (UEMOA policy)
 - Food security, rural employment, export income
 - Priority to family farming along with agribusiness development
 - Promoting rural land markets that are transparent and fair
- *-> combining economic efficiency in terms of net added value for society, employment and income distribution, social peace, and food security*
- Diversity between and inside countries
 - Agrarian and land configurations: do not push to market when conditions are not there
 - National land policies regarding land markets
- *-> Which society and policy choices? Which balance between inequalities and inclusion? Between national citizenship and local belongings?*
- *-> How are this choices negotiated?*

Four possible axes of regulation

- Promoting legitimate and secure land transactions
- Differentiating rules depending on areas and type of actors
- Reducing the asymmetry between actors in land markets through direct and indirect measures
- Discourage unproductive and speculative acquisitions and deal with existing cases
- -> *One priority, necessary but non sufficient*
- -> *Three other possible directions*

- First priority: adapted and reliable institutions and procedures for formalizing legitimate land transactions
 - Mandatory formalization for land purchases and long-term leases, on pain of nullity (and encouraged for other contracts)
 - Simple, accessible, operational and reliable procedures for formalizing land transactions
 - For registered as well as unregistered plots
 - Dealing with the issues of the right to sale and the legitimacy of the sale
 - Preserving or renegotiating the rights of other right holders

- The case of large acquisitions and agribusiness
 - Clear mechanisms for negotiating balanced contracts on lineage or village collective land with investors
 - Working seriously on « informed consent »
 - Independant support to local communities
 - Prefer long term rental agreements

- Differentiating rules depending on areas and type of actors
 - Define spaces where transactions are limited or impossible
 - Pastoral areas, land reserves for future expansion of family farming
 - Paths, cattle tracks, water access tracks
 - Possibly priorities for family farmers and or young, different rules for local transfers and transfers to external land takers

- Reducing the asymmetry between actors in land markets
 - Fighting market imperfections on related markets
 - Access to credit, balance in value chains, etc.
 - Promoting secure rental/share contracts
 - Secured long term rents on customary land
 - Promote pluri-annual rent with anticipated payment as an alternative to (distress) sales
 - Direct intervention in land transactions?
 - Defining price of sales and rents?
 - Information on prices
 - Maximum area for a transaction
 - Preemption right (for whom? By whom?)

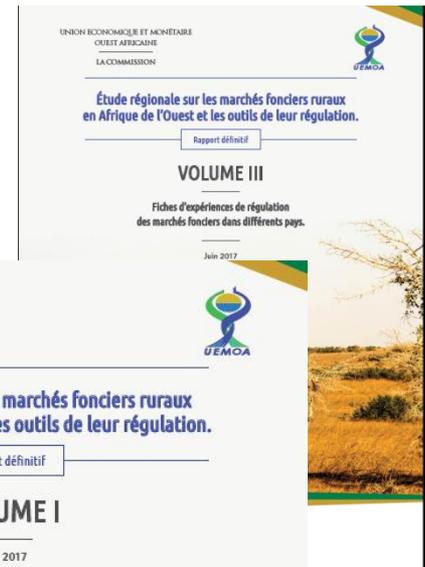
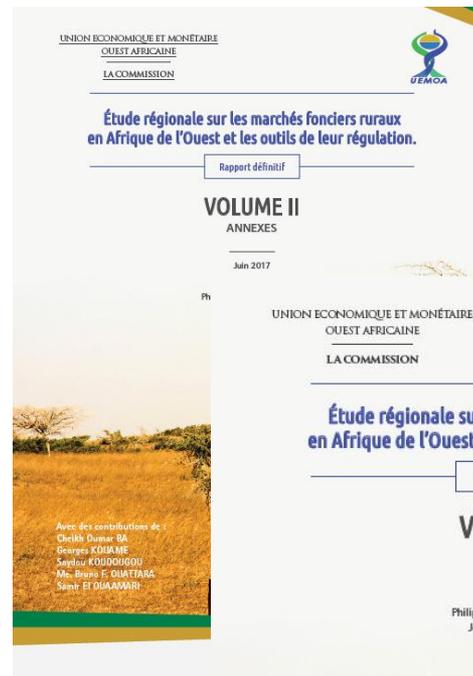
- Discourage unproductive and speculative acquisitions and deal with existing cases
 - For acquisitions of a certain size, prior economic and social and environmental impact studies, support for informed consent and negotiation of the contract
 - An annual land tax, possibly progressive or linked to the legal status of the parcel (full ownership vs land certificate)
 - A tax on uncultivated bought land?
 - Farmers rights maintained on unexploited land?
 - Extinctive prescription (bought land) or abandonment clause (leases) ?

Conditions for effective land market regulation

- Political will and pressure from farmers organizations
 - Regulating land markets goes against interests
- In-depth attention to design and implementation
 - Addressing specific, clearly identified issues
 - Simple, cheap and workable rules, defined with farmers organizations
 - Careful institutional design and capacity building
 - Fight complexification and costly measures
 - Social assessment and control
 - Learning processes for improvement

Conclusion

- Land markets seldom self regulate: regulation policy goes along with market development policy
- Severe asymmetries and market imperfections in current land market development in Africa
- Strong risks of exclusion and conflicts
- Better preventing than trying to cure
- *An urgent issue for farmer organizations and policy makers*



- Thanks for your attention

- <http://www.ipar.sn/Rapport-de-l-Etude-regionale-sur-les-marches-fonciers-ruraux-en-Afrique-de-l.html>