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SUDAN RURAL LAND GOVERNANCE (SRLG) PROJECT

INVESTMENT LEGAL BRIEF

MARCH 2013

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ACRONYMS AND ABBREVIATIONS

| | |
|-------|--|
| FAO | Food and Agriculture Organization |
| GOSS | Government of South Sudan |
| NPA | Norwegian People's Aid |
| SRLG | South Sudan Rural Land Governance |
| USAID | United States Agency for International Development |

EXECUTIVE SUMMARY

The Draft Land Policy (Land Policy) recognizes that acquisition and allocation of land helps promote private investment. At the same time it recognizes community rights to land have in the past been regarded as informal and provided a lower legal status than statutory rights making communities vulnerable to taking of its land rights without due process and just compensation. The Policy provides that compensation according to law should be provided to holders of community land rights for loss of pre-existing and future community benefits to land used for large-scale development projects.

The First Schedule of the Investment and Promotion Act, 2009 lists the Government of South Sudan's (GoSS) priority sectors for investment. At the top of the list is agriculture, including food and cash crops, agricultural inputs, livestock and dairy, fisheries and apiculture. Such investments typically require extensive areas of rural land. Norwegian People's Aid (NPA) produced a baseline study of large scale land investment in South Sudan. It found that "in general, the larger deals tend to be located on community land. The average size of foreign investments on community owned land is 271,000 hectares, whereas the corresponding average for projects on government-owned land is 8,250 hectares. This is consistent with the fact that communities own most of the land in Southern Sudan."¹

Findings from the NPA report indicate that the overwhelming majority of future investment projects in the country will require investor access to community land. The purpose of this brief is to discuss the extent to which existing legal and institutional framework regulating investment creates an enabling environment to acquire community land for investment while at the same time provides procedural safeguards to ensure communities are not unjustly deprived of their land rights.

¹ The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan". Deng, David K. Researched by GADET-Pentagon and the South Sudan Law Society. March 2011. P. 21 http://www.npaid.org/filestore/NPA_New_Frontier.pdf

I.0 ANALYSIS

I.1 ACQUISITION OF COMMUNITY LAND FOR INVESTMENT PURPOSES

Two entities have an interest to acquire land for investment purposes in South Sudan. The government may wish to acquire community land for allocation to an investor to promote private investment. Investors also may wish to lease land directly from communities.

The Land Policy, Investment Act, Land Act and Local Government Act all recognize the power of government to acquire land to promote investment but none define the term “acquisition” or discuss the circumstances in which it is to occur.² According to the FAO, government acquisition of land takes only two forms; either it purchases land through the land market or it compels owners to sell their land to be used for specific purposes. The power of compulsory acquisition is also referred to as expropriation, eminent domain, and land acquisition.³

It makes little sense, however, for government to purchase or otherwise acquire land from a community through the land market for allocation to an investor. The land market provides an investor the same opportunity to acquire land. The logical presumption is, therefore, that government acquisition of land for investment will be compulsory and should be regulated under the expropriation law.

Nonetheless, the Land Act addresses the issue separately from expropriation in Chapter IX “Acquisition of Land for Investment Purposes.” The title of the chapter is confusing because the term “acquisition” appears only in its title and “expropriation” does not appear at all. The Land Act provides that national and state ministries and the Investment Authority “shall consult with the Community concerned on any decision related to the land that the investor intends to acquire and the view of the Community shall be taken into consideration.”⁴ It appears the provision does not refer to government expropriation because it contains language about community consultation and due consideration of its views indicating some degree of community consent for the acquisition. Additionally, it is the investor, not the government, which intends to acquire land.

At the same time, the Act recognizes that the acquisition may not constitute a freely negotiated transfer of land rights through the land market. It provides that “any community or persons affected by such activities in the area of investment shall be compensated in accordance with the provisions of section 75 of this Act...”⁵ Section 75 regulates payment of compensation in cases of expropriation.

The Land Act does not provide or reference procedures to acquire land. It provides that “any citizen and non-citizen may have access to land in Southern Sudan for investment purposes.”⁶ The government body

² Draft Land Policy Statement 13: On Promoting Private Investment, p. 20; Investment Promotion Act, 2009, Section 6 (2) (b); Land Act, 2009, Chapter IX Acquisition of Land for Investment Purposes; Local Government Act, 2009, Section 89.

³ FAO Land Tenure Studies 10: Compulsory Acquisition of Land and Compensation, 2008. P.1.
<ftp://ftp.fao.org/docrep/fao/011/i0506e/i0506e00.pdf>

⁴ Section 63 (3) of the Land Act, 2009

⁵ Ibid. Section 64

⁶ Ibid. Section 61

responsible to grant access to land is not mentioned. Instead, the Act references as general principles that the Government of South Sudan (GoSS) and states may adopt a land zoning system in consultation with communities to guide delineation of land into zones according to a comprehensive land use plan and provisions of the Investment Act. The land delineated is to be vested in the Investment Authority to encourage private investment.⁷ It is not clear how delineating land according to a land use plan will effectuate acquisition of community land. Moreover, there is not yet in place a comprehensive land use plan at the national or state levels to guide the process. No other mechanisms to acquire land are discussed or referenced.

The Investment Act provides no additional procedural guidance. It makes no reference to the zoning process described in the Land Act. Although it empowers the South Sudan Investment Authority (Investment Authority) to acquire and dispose of immovable property, the circumstances under which it is to acquire land are not described and no procedures regulating acquisition are provided.⁸

This lack of procedural guidance has had detrimental effect. According to the NPA report “due to the legal ambiguity of the transitional context, there is currently no uniform procedure for managing large scale land acquisitions. Applications for land are managed through ad hoc procedures at various levels of government, contributing to a lack of transparency and accountability with regard to many deals.”⁹

Opinions shared by the Minister for Agriculture, Forestry, Cooperatives and Rural Development, Chairperson of the South Sudan Land Commission and the Secretary General for the Chamber of Commerce, Industry and Agriculture during a recent panel discussion help further shed light on the challenges to promoting investment in the transitional contest of South Sudan.¹⁰ The panel noted the following as impediments to investment:

- A lack of clarity in regards the meaning and implications of the principle that “land belongs to the community”
- Lack of well-defined procedures for acquiring land for investment. This has created persistent “confusion regarding acquisition of land...communities do not understand the rights of the government to control land and its powers to allocate land for investment purposes” and discourages investment
- Legal ambiguity “is encouraging illegal deals on land by different institutions at the state and local levels”

The discussion identifies potential sources of tension between government policies to make land available to investors to promote investment and the rights and expectations of communities that own or occupy land targeted for investment. Both the Constitution and Land Act proclaim “all land in Southern Sudan is owned by the people of Southern Sudan and its usage shall be regulated by the Government.”¹¹ Aside from the debate whether the Constitution should have substituted the word “communities” for “people”, data presented in the NPA report appears to confirm that the principle stated in the Constitution reflects the factual situation on the ground and there is little rural land not owned or possessed by communities. As such, the power of the government to allocate land to investors is significantly constrained. It does not have access

⁷ Ibid. Section 62 (2) and (3)

⁸ Section 6 (2) (b) of the Investment Promotion Act, 2009

⁹The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan. P. 20

¹⁰ Second Agricultural Trade Fair and Conference, Juba, South Sudan, 28-30 November, 2012.
<http://www.agfairsouthsudan.org/wp-content/uploads/2012/11/Synopsis-Agric-Conference-Nov-2012.pdf>

¹¹ Section 170(1), Transitional Constitution of the Republic of Southern Sudan, 2011 and Section 7 (1) of the Land Act, 2009

to significant areas of public land vested in the State that it can allocate to investors through streamlined administrative procedures.

Instead, it appears that nearly every investment project will require either government expropriation of community land for subsequent allocation to an investor or the investor and community to fully negotiate terms and conditions of a lease agreement for community land. The implications of both options for acquiring land in the transitional context and nascent land market of South Sudan are discussed below.

2.2 EXPROPRIATION OF COMMUNITY LAND

The Land Policy recognizes that the power of “government to take or allocate land from private owners as well as regulate land-use in the public’s interest is a common tool of governance worldwide.” The power is not unlimited and is “subject to the test of whether or not there is compelling public health, economic growth, or environmental protection objectives at stake in which the public has an interest.” In addition to ensuring that the taking of land from communities and individuals is done to serve a compelling public need and with timely payment of fair and adequate compensation, “the law of eminent domain shall provide affected stakeholders, including individuals and organizations, with a legitimate interest to seek an injunction from the judiciary against the exercise of this authority.” The Policy provides that “government’s power of eminent domain is restricted to securing land for public use only, and not for subsequent transfer or sale to private individuals.”¹²

South Sudan’s Constitution provides that “communities and persons enjoying rights in land shall be entitled to prompt and equitable compensation on just terms arising from acquisition or development of land in their areas in the public interest.”¹³ Similarly, the Land Act provides “no right in land shall be expropriated or confiscated save by law in the public interest and in consideration for a prompt and fair compensation.”¹⁴

Therefore, to be lawful, any expropriation in South Sudan must serve the public interest. Investors are required to demonstrate a project is beneficial to obtain an investment certificate under the Investment Act.¹⁵ The burden and time required to demonstrate an investment will serve a public purpose as required under the Land Act’s expropriation procedures will likely be much higher.¹⁶ For example, a beneficial agricultural project might employ community members and involve the transfer of land to an individual or company to ensure its investment is profitable. Such a project would not serve the same level of public purpose and provide a public benefit on the scale of an investment project that builds a highway for the benefit of the nation. As cautioned by the Land Policy, expropriation should not be used to secure land for subsequent transfer to private individuals. Many investors seek 99 year leases on land required for investment and it is not clear if allocation of expropriated community land to an investor is compliant with the Land Policy.

Additionally, expropriation proceedings require much more stringent due process safeguards to comply with the rule of law. Open, public hearings should be held to ensure transparency and government accountability and provide all concerned persons with a meaningful opportunity to be heard. Concerned persons must also be provided with the right to appeal against a government decision to expropriate and have the appeal decided through independent judicial review. Such hearings and appeals can delay projects and discourage investors.

Due process and South Sudan’s laws require that persons from whom land is expropriated are paid “just and equitable” compensation calculated according to the purpose for which the land will be used, the land’s

¹² Draft Land Policy Statement 4: On the Right of Eminent Domain

¹³ Section 171 (10) of the Transitional Constitution of the Republic of South Sudan

¹⁴ Section 8 (2) of the Land Act, 2009

¹⁵ Section 22 (3) of the Investment Promotion Act, 2009

¹⁶ Section 73 (5) of the Land Act, 2009

market value and value of any existing investment on it. The terms and conditions for payment of compensation shall be agreed upon prior to expropriation.¹⁷ In the absence of uniform valuation procedures and a developed land market in the country, calculation of compensation will likely be a difficult and contentious process. If the parties are unable to agree on compensation, the matter may be referred to the Land Commission, further delaying the project.

The investment report produced by the NPA presents baseline data on 28 large-scale land investments that are either planned or under way across the ten states of South Sudan. The data indicates that 20 of these projects are located on land described as either fully or partially owned by communities. Of these, it appears only five projects involved expropriation of community land. It also appears that none of the communities were compensated according to law.¹⁸

Details of the expropriation proceedings are not available and it is beyond the scope of this brief to fully discuss the relevant legal issues at play. Nonetheless, it would appear that current expropriation practice may not provide adequate due process safeguards to ensure the constitutional rights of communities are protected. Conversely, if such due process protections were in place, expropriation proceedings would not likely serve as a streamlined mechanism through which investors could acquire land.

The FAO reports that “many recent policy dialogues on land have highlighted compulsory acquisition as an area filled with tension. From the perspective of government and other economic actors, the often conflicting and inefficient aspects of the process are seen as a constraint to economic growth and rational development.”¹⁹ Perhaps for some or all these reasons it appears lease agreements with communities is a more frequently used mechanism to acquire community land for investment in South Sudan.

2.3 LEASE OF COMMUNITY LAND

The conflicting and inefficient aspects of expropriation can be avoided if communities lease land directly to investors through the land market. The Land Act expressly provides that communities can lease land to foreign investors.²⁰

In theory, freely negotiated lease agreements between communities and investors would ensure a fair market price has been paid for the use of community land and appropriate benefits will accrue to the community as a whole. Numerous provisions in the legal framework call for community consultation and consensus about the terms and conditions of investment projects to ensure community land rights and interests are protected.²¹

Normative best practice for community consultation and consent is provided through the FAO’s Voluntary Guidelines. They provide that States and other parties should “hold good faith consultation with indigenous peoples before initiating any investment project affecting the resources for which the communities hold

¹⁷ Section 75 (1) and (5) of the Land Act, 2009

¹⁸ The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan”. Table presented on pp. 16-18 notes that Eastern Equatoria Ministry of Wildlife permanently expropriated 313,200 hectares of community land in two locations. The Upper Nile Ministry of Agriculture and Forestry “acquired” 470,400 hectares of community land in three locations to be leased to private persons. According to the table on p. 33 of the report, no compensation has been paid to communities for the land taken.

¹⁹ FAO Land Tenure Studies 10: Compulsory Acquisition of Land and Compensation. P. 1

²⁰ Section 27 of the Land Act, 2009

²¹ See Section 171 (9) of the Constitution; Sections 15, 17, 41(3), 46 (8), 50 (4) and 63 (3) of the Land Act; Sections 12 (10), 52 (i), 88 (2), 89 (b) and (c), 91 (3) (g) of the Local Government Act and Section 42 (a) of the Investment Promotion Act

rights.”²² Good faith requires effective and meaningful consultation with communities “through their own representative institutions in order to obtain their free, prior and informed consent.”²³

The Equator Principles define “free” consultations as those free of external manipulation, interference or coercion; “prior” requires timely disclosure of information and “informed” provides community with understandable and accessible information about the investment project. Such consultations should occur throughout the entire project cycle, not just in the beginning or as a mere formality after the investment has been approved. Consultations should also accommodate local languages, decision-making processes, and the needs of disadvantaged or vulnerable groups.²⁴

The Land Act’s provisions governing community lands to investors permit the Traditional Authority to recommend to the appropriate land administration body a lease of community land to an investor (national or foreign) “subject to consensus between members of the community.”²⁵ In the event the land to be leased is more than 250 feddans (105 hectares), the concerned Ministry in the State in consultation with the Investment Authority is required to approve the lease contract granted by the Traditional Authority.²⁶ In so doing, the concerned Ministry is required to ensure members of the community were duly consulted, the investment activity complies with applicable legislation and “contributes to the social and economic development of the community, the county or/and the state.”²⁷ The Act does not, however, define the requirements for community consultation or provide or reference any procedures to guide the process.

It appears that in practice, such provisions have not ensured community consultation on large-scale investment projects have met international normative standards. The NPA report found “a serious deficiency in the extent to which communities are being consulted regarding land investments.” As explained in the report:

There are several ways in which consultations typically fall short. The government and the company may negotiate agreements among themselves and only inform the community as a formality at the end of the process after the details of the arrangement have already been finalized. For example, the three forest concessions that are currently active undertook stakeholder engagement activities only after their concession agreements had been negotiated with the government. A government official may have a discussion with a local chief and a handful of community leaders and consider that to be sufficient consultation, even if the rest of the community is not involved. There are also reports of agreements that have been entered into without involving the affected communities at all. For example, the county commissioner in Mayom County where the Jarch Capital deal is supposedly located has never even heard of the company.²⁸

It appears that in regards the projects examined by the NPA, government officials did not fully understand their roles; they either did not take adequate measures to ensure community consultations take place or have inserted themselves as parties to the transaction making their approval, rather than free, prior and informed consent of the community, as the essential element in the transaction. The NPA’s findings indicate the need

²² Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, FAO, Rome 2012. Paragraph 12.7 <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

²³ Ibid. Paragraph 9.9

²⁴ Equator Principles: A financial industry benchmark for determining, assessing and managing social and environmental risk in project financing. <http://www.equator-principles.com> P. 4, footnote 5

²⁵ Section 27 (1) of the Land Act, 2009

²⁶ Ibid. Section 27 (3)

²⁷ Section 27 (4)

²⁸ Ibid. P. 30

to clearly define the roles and responsibilities of government in facilitating large-scale investment projects and develop procedures to ensure these responsibilities are met.

2.4 ROLE OF GOVERNMENT IN LEASES OF COMMUNITY LAND

The Investment Act provides that the South Sudan Investment Authority (Investment Authority) is the government agency responsible to actively promote and facilitate all investment activities in the country.²⁹ Although the Investment Authority has the power to issue Certificates of Investment required for any foreign investment in the country,³⁰ it does not appear to have the power to allocate land or issue a final decision approving large scale investments.³¹

The Investment Act also does not require the Investment Authority to coordinate investment activities with the different levels of government or take the lead to produce national standards to guide investments. The NPA report notes that “under current practice, investment activity is mostly managed at the state-level. GoSS only takes the lead for so-called ‘national projects.’³² The legal framework, however, does not make reference to national or state projects and provides no criteria such as the amount of community land required to distinguish the two. For example, the data presented in the NPA report shows that a number of “state” projects required more land than those approved by national ministries.³³

Overall, the laws governing investment do not provide a comprehensive, national framework to guide all levels of government throughout the country to implement large-scale investment activities on community land. For example, they do not provide uniform criteria for determining the jurisdiction of local, state and national bodies over investments depending on their scale; do not provide minimum standards for lease agreements to ensure community rights and interests are protected; do not prescribe procedures to ensure full and meaningful community consultation; do not require government bodies to monitor investor behavior to ensure they respect the terms of their leases. It appears investment activities are conducted according to local practice where the investment is situated. It was observed in the NPA report that “ad hoc procedures at various levels of government contributed to a lack of transparency and accountability with regard to many deals.”³⁴

2.5 IDENTIFYING COMMUNITY LAND FOR INVESTMENT

Panelists at the Second Agricultural Trade Fair and Conference³⁵ recommended that government must adjudicate, demarcate, map and register land holdings to clearly identify land available for investment. Such activities are necessary to increase transparency and provide stakeholders with information about the boundaries of land used for private investment and the terms of its use.³⁶ The Land Act does not yet, however, provide the legislative framework to carry out these activities.

²⁹ Sections 4 (2) and 7 (2) of the Investment Promotion Act, 2009

³⁰ Ibid. Section 8 and 24

³¹ Section 3 of the Second Schedule of the Investment Promotion Act provides only that the GoSS and local authorities shall provide land for investment; it makes no mention of the Investment Authority. Section 27 (3) of the Land Act provides that the Concerned Ministry approves leases for large areas of community land in consultation with the Investment Authority.

³² The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan”. P. 36

³³ Ibid. Tables presented on pages 16-19

³⁴ Ibid. P. 20

³⁵ Second Agricultural Trade Fair and Conference, Juba, South Sudan, 28-30 November, 2012.
<http://www.agfairsouthsudan.org/wp-content/uploads/2012/11/Synopsis-Agric-Conference-Nov-2012.pdf>

³⁶ Policy Statement 13: On Promoting Private Investment, Draft Land Policy

The Land Act requires that all community land in the country be defined by law and state government is responsible to delimit boundaries between community lands.³⁷ Nonetheless, procedures for adjudicating boundaries of community land have not yet been developed. The Land Act also does not prescribe mapping standards and provide procedures to register boundaries of community land in a cadastral registration system.

Additionally, the legal framework governing community land rights is not yet sufficiently developed to facilitate registration of community land rights. The Land Policy notes that the future community land act will need to address how and under what circumstances community land rights will be recorded and define the statutory authority responsible to maintain the land records.

The lack of adjudication and registration procedures need not block investment where a community has fully consented to lease its land to an investor and the boundaries of its land are not in dispute. Local government officials could facilitate a transparent process where the community, investor and neighboring communities come together in a public meeting to discuss the project. If the neighboring communities confirm the land to be used for the investment is owned by the community leasing it, this could be reflected in a written agreement signed by the parties to the investment and the neighboring community. Local government could then employ participatory community mapping techniques and low cost mapping technologies (hand held GPS) to make point coordinates for the land parcel on which the investment will take place. Copies of the measurements can be held by local government, parties to the investment and neighboring communities and geo-referenced on a cadastral map once mapping standards have been produced by land administration officials.

³⁷ Section 6 (4) and 42 (11) of the Land Act, 2009

2.0 RECOMMENDATIONS

Policies and legislation governing acquisition of land for investment purposes should clearly state that the best and preferred mechanism for acquiring community land is a lease agreement willingly entered into by a community after all its members have been provided a meaningful opportunity to participate in the decision making process and have provided free, prior and informed consent to the lease agreement. Investors and communities require information and an even playing field to negotiate lease agreements that will accommodate investor needs and protect the interests of the community. In the transitional context and nascent land market present in South Sudan, government should play an important role in promoting and facilitating investments and lease agreements that respect market principles and community rights without inserting itself as a party to such agreements. There is a clear need for government to provide accurate and objective information about investments, link investors with communities interested to lease their land, monitor the transaction to ensure full community consultation and approve the lease to ensure its terms and conditions will serve to benefit the community.

Policies and legislation governing acquisition of land should clearly state that any acquisition of community land other than a voluntary lease agreement freely executed by a community constitutes expropriation of community land and such expropriation shall be carried out in accordance with the laws of South Sudan and international rule of law standards that guarantee and provide expropriated subjects with due process and fair and adequate compensation. Legislation should clearly state that community land shall not be expropriated for investment purposes unless it is to serve a vital public purpose and no other alternatives for acquiring land are available.

Polices and legislation governing acquisition of land should be guided by market principles and the presumption that communities are receptive and willing to enter into lease agreements with bona fide investors (rather than speculators) that negotiate in good faith and demonstrate commitment and the wherewithal to implement a project that will provide tangible and measurable benefits to the community. As such, all government investment initiatives should give priority to facilitating viable, market-based investments that provide both investors and communities with opportunities to freely negotiate voluntary agreements defining terms and conditions of the use of community land to benefit investors and communities alike.

Jurisdiction of various levels of government over investment should be clearly defined and linked to the investment's scale. FAO Voluntary Guidelines suggest States introduce ceilings on permissible land transactions and regulate how transfers exceeding a certain scale would be approved, for example those of the largest scale may require parliamentary approval.³⁸ Jurisdiction over investment could also be linked to scale. The NPA suggested investments requiring land up to 100 hectares could be approved at the county level, up to 1,000 hectares by the state and above that by national authorities.

Roles of government agencies also need to be better defined. Policies and legislation should acknowledge that investments in South Sudan will take place in a transitional context and a nascent land market. Communities are not experienced with market transactions. They have little information with which to negotiate informed terms and conditions of lease agreements that protect the interests of the community and are economically viable. Investors, on the other hand, are unfamiliar with customary land laws that vary from community to community. Such an environment is not conducive to transparent negotiations and efficient land transactions. Investors and communities require information and an even playing field to negotiate lease agreements that will accommodate investor needs and protect the interests of the community. Procedures should guide government bodies to effectively link investors with communities interested to lease their land,

³⁸ FAO Voluntary Guidelines, Paragraph 12.6

monitor the transaction to ensure full community consultation and approve the lease to ensure its terms and conditions will serve to benefit the community.

Specifically:

- The Investment Promotion Act should be amended to clearly define the roles and responsibilities of the Investment Authority and state officials to promote and facilitate market-based investment opportunities and informed and transparent negotiations between investors and communities. The Act should also clearly describe the jurisdiction of each level of government to facilitate, approve and monitor investment projects.
- The Investment Promotion Act should be amended to provide national and state guidelines defining and limiting government discretion in approving investments and leases of community land. For example, officials should be provided with clear criteria for what constitutes free, prior and informed consent and required to document that the criteria for each has been met. The NPA report indicates that currently a government “rubber stamp” provides proof of community consultation even if it is clearly insufficient.
- The Investment Promotion Act should be amended to provide minimum national and state standards for investment transparency including requirements for public hearings and disclosure of the terms and conditions of the lease agreement, scope and scale of investment activities, investor’s obligation to improve community conditions, social and environmental impacts of the investment, etc.
- The Investment Promotion Act should be amended to provide national and state guidelines for minimum market-based lease payments for community land and provide guidance on benefits that should accrue to communities.
- The Investment Authority should develop national policies providing guidance for responsible investment including alternative business models to maximize benefits to rural economies.
- The Investment Promotion Act should require government at all levels to actively monitor investor behavior to ensure investors meet all contractual obligations and that activities have no unintended consequences for community land rights and the environment. For example, Investment Authority offices might be opened in each state or specially trained investment monitoring units established in each state with clear monitoring mandates.
- The Investment Promotion Act should be amended to include an investor’s code of conduct that requires investors to comply with all Laws of South Sudan as well as its obligations under international law to give effect to human rights instruments.
- The Land Commission should develop uniform national interim standards and procedures incorporating community mapping techniques and low cost technology such as hand held GPS to guide state initiatives to demarcate, map and notify stakeholders and the public about the boundaries of community land allocated for investment.

U.S. Agency for International Development/South Sudan

Juba, South Sudan

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