Brussels 2 June 2010

To the members of the DEVE Committee of the European Parliament:

Dear Madame, Dear Sir,

Over the past two years, European civil society organizations have taken the initiative, backed by CONCORD's European Food Security Group (EFSG) and in partnership with African farmers' regional platforms, to monitor the extent to which European policies have been in line with the approaches agreed in the EC's 2007 Communication "Advancing African Agriculture" (AAA). In early 2009, in consultation with regional networks of African farmer organisations, the issue of land grabbing was identified as a highly relevant and pressing issue that needed to be tracked because of its impact on smallholder agriculture and food security. As a result, monitoring activities on land grabbing in Africa and the role of the EU and its member states were undertaken. A report has been prepared, based on an overall analysis of the impact of land grabbing on the rural population and on three case studies from African countries (Uganda, Mozambique and Ethiopia), which analyses the relevance of policies and practices of the EU and its member states. It further assesses the role of the European private sector and its linkages with state activities. A strong emphasis is put on the relationship between development assistance, trade and investment policies and their impact on land grabbing. This work was coordinated by FIAN and some of the findings will be presented at the hearing today by Roman Herre from FIAN

In the attached document you will find:

- a letter introducing the overall 2009-2010 CSO monitoring report on Advancing African Agriculture: the Impact of European Policies and Practices on African Agriculture;
- the 2009-2010 CSO monitoring report, covering the three issues targeted in this edition: land grabbing, the EU Food Facility, and EU diary policies
- the full background paper on land grabbing, which was the basis for the recommendations presented in the monitoring report – the paper contains a 4 page summary in English and French

The monitoring report has been endorsed by the Concord European Food Security Group.By the end of the month, the full list of organisations supporting the recommendations will be published at www.europafrica.info

We hope you will be able to consider the recommendations of the monitoring report.

Thank you for your interest

The steering group for the monitoring report for Advancing African Agriculture

Nora McKeon, Terra Nuova
Patrick Mulvany, Practical Action/UK Food Group
Gert Engelen, Vredeseilanden/VECO

Brussels, 1 June 2010

Dear Madame, Sir

CSO Monitoring 2009-2010 "Advancing African Agriculture" (AAA): The Impact of Europe's Policies and Practices on African Agriculture and Food Security

You may be aware that, over the past two years, CSOs have taken the initiative, backed by CONCORD's European Food Security Group (EFSG) and in partnership with African farmers' regional platforms, to monitor the extent to which European policies have been in line with the approaches agreed in the EC's 2007 Communication "Advancing African Agriculture" (AAA). The current review is highly topical as it is being released just at the time the new EC Food Security Communication (an EU policy framework to assist developing countries in addressing food security challenges - COM(2010)127 final) is being launched. The lessons learned from this review are very relevant to the roll-out of the new Communication.

In the first assessment of the CSO monitoring exercise in 2008, the range of issues covered was deliberately broad in order to highlight the dangers of incoherence among policies/practices in areas ranging from aid to trade, agriculture, investment and agribusiness. The findings were presented at a seminar in the Commission attended by representatives of several directorates and departments as well as government representatives and civil society. (For details, see www.europafrica.info). The assessment was welcomed and CSOs were encouraged to follow up with further, more focused work.

After consultation with the African farmers' regional platforms, three studies that relate to AAA were commissioned - priority policy areas which impact African agriculture directly or indirectly:

- The 1 billion Euro 'Food Facility' (with country studies in Burkina Faso, Burundi and Mali),
- The milk sector of the Common Agriculture Policy (with special emphasis on impacts in Senegal, Burkina Faso and Kenya), and
- European involvement in 'Land grabbing' (with a particular look at Uganda, Mozambique and Ethiopia).

The conclusions of the studies (see below) are a sharp reminder that the impacts of policies, often made for a different set of reasons, can further burden African farmers who are struggling to feed their communities and countries in increasingly harsh environments.

The full studies are available online at www.europafrica.info. A meeting with the Commission and members of the Parliament to discuss the implications of these studies is planned.

The EC's Communication "Advancing African Agriculture" (AAA) was published, as you may know, in July 2007 after significant input from civil society. It was a proposal for continental and regional level cooperation on agricultural development in Africa. It had an emphasis on promoting smallholder family-based farming, production for local and regional markets, and participation by social actors in decision-making on relevant policies and programmes. What has been found through this CSO monitoring exercise, is a strong degree of policy incoherence with negative effects on African farmers who should have benefited from EC policy, had AAA been fully implemented. We are determined to do what we can to help ensure that the new EC Food Security Communication is applied with rigor across the range of European policies and practices.

It is hoped you will find this review a useful contribution to the debate around the EC's impacts on Africa and especially its small-scale food providers who feed the continent, provide livelihoods for the majority and sustain the biosphere.

Looking forward to your considered reply and hope this review will strengthen policy coherence at this critical time for securing future food.

Yours sincerely

Nora McKeon Terra Nuova,
Patrick Mulvany Practical Action/UK Food Group
Gert Engelen, Vredeseilanden/VECO

Endorsed by Concord European Food Security Group
The complete list of supporting organisations will be published second half of June 2010 at www.europafrica.info

1. Food Facility

The "Food Facility" regulation was the European Commission's first reaction to the food price crisis which erupted in late 2007/2008, revealing the weaknesses of the free trade-based industrial food system. It established a 1 billion euros fund for projects intended to alleviate the impacts of the crisis through short to medium term projects carried out by International and Regional Organizations as well as non state actors and budget support programmes.[1] The primary objectives set by the regulation were to:

1. boost agricultural production in target countries and regions,
2. support safety nets to mitigate the negative effects of volatile food prices on local populations, and
3. strengthen the productive capacities and the governance of the agricultural sector to enhance the sustainability of interventions*.* This third important objective was added by the EP thanks to testimony by African farmers' organizations..

This study provides a critical analysis of the regulation itself and of the political and administrative process that led to its approval. The desk study, based on a number of interviews with the major actors involved in the initiative, is complemented by three case studies carried out in Burkina Faso, Burundi and Mali with leadership by the national small farmers' platforms.

A number of recommendations for policy makers are derived from the analysis.

1. Build coherence between short-term and medium/long term initiatives. Addressing medium term processes with a short term tool risks jeopardizing the sustainability of aid and the inclusion of all stakeholders. EU action should guarantee coherence between the duration and the objectives of projects. At the same time, attention to production and the provision of safety nets is insufficient unless it is situated in the context of food security policies addressing the root causes of hunger and price volatility.

2. Priority to smallholder/family famers and their organizations, not just in rhetoric but in practice. Inclusion of smallholder/family farmers' organizations in the definition, the implementation and the evaluation of the programs at national level should not be an optional. Indicators for measuring meaningful involvement should be developed and applied. Particular attention should be given to women farmers, who face disadvantages in terms of access to land and other productive resources, agricultural inputs, services and financing and because of their role in enabling households to cope with food insecurity..

3. Promote agro ecological models of production recognizing the multifunctional role of agriculture and ensuring a positive impact on the environment. In this context, take into account the findings of the IAASTD reports, which should strongly inform European food and farming policy and development assistance.

4. Address climate change challenges. The EC should ensure that development planning and food security assessments incorporate climate risk information, and that analysis of vulnerabilities and capacities are collated for

---

[1] On 12 March 2010; the European Commission adopted the Food Facility Interim Report: http://ec.europa.eu/development/policies/9interventionareas/ruraldev/food_intro_en.cfm#interimreport
Report at:http://ec.europa.eu/development/icenter/repository/1_EN_ACT_part1_v1%5B1%5D.pdf.

all sectors and made available and widely accessible at regional, national, sub-national and local levels.

5. Privilege domestic markets. EU activities should emphasize domestic food production for local, national and regional markets rather than i international markets, and should help African countries to build and protect their regional markets.

6. National food security policies. The EC should promote the establishment of food security policy spaces at national and regional levels with participation by stakeholders – small food producers' organizations in particular – connected to the reformed Committee on World Food Security as the foremost global policy forum for food security based on the Right to Food.

2. CAP – impact of milk market regulations

This report examines the situation in three countries: Senegal, Burkina Faso and Kenya. The first two countries on the list have a great potential for the development of their national dairy-production. However, this development is constrained for many reasons, both internal and external. Among the internal constraints, the most pronounced are lack of feed for animals, weak breed productivity, difficult access to land and water, lack of available credit, difficulties in the milk collection system including transport, and finally problems in assuring product quality. Some measures have been put into place but these are incomplete or unadapted to the actual situation. The principal external constraint is competition from imported milk.

Through the questionnaire, three major areas of interest for African and European farmers can be identified:

-*the desire to gain a proper living from farming*: all respondents, both European and African, replied that the principal interest of farmers is to be able to earn a proper living from farming activities by receiving a fair price for production. Many African respondents also used the term "survival" to describe their difficult situation;

-*the necessity to find ways to defend small family-based farming organizations*: small farmers, in the north and in the south, must work to protect their livelihood from deregulation. In Africa, family-based farming plays an essential role in assuring food security and does not receive the necessary support for its development. Small European producers are also facing a difficult situation, similar to the problems facing African farmers. They consider themselves victims of recent agricultural policies that favour large-scale producers and distributors to the detriment of small producers. They should therefore unite to be stronger and have a greater impact on the future development of policies;

-*to increase food sovereignty* : each country must have the freedom to define their own agriculture policy to defend family based farming, in the north and in the south.

In term of specific strategies that should be encouraged, the idea that keeps coming to the forefront is market regulation in Africa and in Europe. Production limitations in Europe seem to be an option that pleases small dairy producers in both Europe and the South. Both farmer groups emphasise the need to maintain production quotas in order to manage the supply side of the market. Most respondents to the survey in Senegal and Burkina Faso are aware that setting up protection measures clearly appears to be a necessary step towards the development of local production and the strengthening of self-sufficiency. But protectionism alone cannot suffice. Protectionism has the greatest effect on local production when it is implemented with governmental support and production assistance. Protection in the form of tariffs should not be seen as a complete solution, nor should it be considered an end in itself. Instead, it is a tool that can be used and play an important role in the development of agricultural policies. Therefore, it appears necessary to allow African countries to protect their borders in order to limit food imports that compete with local production.

3. Landgrabbing

The study focused on 3 countries in Sub-Saharan Africa, Mozambique, Uganda, working closely with the national farmers platforms as well an analysis of Ethiopia. In general terms, land has been extensively made available to foreign investors, mostly without necessary safeguards and with a high degree of social, economic and environmental disruption.

As noted by the UN Special Rapporteur on the human right to food, Mr. Olivier de Schutter, foreign land investment is only permissible under certain conditions and has formulated a number of criteria which have to be met in this context. The needed regulation to meet these criteria is quite complex since land grabbing interacts with a series of other policies fields like international investment protections, international capital flows, agriculture, trade and Official Development Assistance. Effective national and international regulation would thus take considerable time. Even when these regulations will be in place, it is not guaranteed that all host governments will be able to enforce them. In the light of these caveats to regulation and given the plausible concerns identified in this study, it is more appropriate to apply the precautionary principle and better prevent large-scale land acquisition in order to safeguard the human rights of the rural population.

Common issues identified in the study have lead to the following conclusions for the attention of the EC and its Member States:

In light of the available evidence on the current land grabbing trend, and in view of the precautionary principle and their due diligence obligation under international human rights law, the EU and its member countries are called upon to:

1. Prevent large scale land acquisitions. Initiate as soon as possible the needed international regulation to prevent such land acquisitions, including a legally binding agreement related the proper regulation of financial and other actors active in agricultural investment. At international level, discussions about how to develop such an initiative could be conducted in the FAO Committee on World Food Security with the participation of peasant farmers' organizations.

2. Make sure that in the current process of adopting a **new investment framework at EU level**, clauses are included with a clear reference to international human rights law and its supremacy to the effect that nothing in the agreements can be understood as preventing States/the EU from addressing possible human rights abuses by investors or human rights violations by states as a matter of priority. Moreover, the regulatory space of sovereign states should be safeguarded in regard to non-discriminatory regulatory measures for public interest purposes and for affirmative action policies and measures in favor of discriminated sectors of society.

3. Scrap the energy based target for renewables (agrofuels) and freeze all policies which encourage the use of agrofuels for the transport sector until and unless the regulations in (1) and (2) are in place. The indicated policies otherwise serve as a major incentive for land grabbing. Develop policies that limit the use of energy and promote non agrofuel renewable energy in the transport sector.

4. Strengthen the implementation of human rights based land policies in ODA, particularly when supporting the implementation of the AU Land Policy Guidelines. Involve African farmers and pastoralists organizations in the design of these policies. EU support to the AU Land Policy Guidelines should under no circumstance be used to promote large scale investment in farm land.

5. Support the upcoming process of FAO voluntary guidelines on responsible governance of land and natural resources tenure which are supposed to guide implementation of the principles contained in the final declaration of the International Declaration on Agrarian Reform and Rural Development (ICARRD) and of the provisions of international human rights law which protect the rights to land and natural resources of all rural communities.

Résumé

1 Accaparement de terres par les étrangers en Afrique

La FAO estime que 25 millions d'hectares ont été acquis par des intérêts étrangers au cours des 3 dernières années en Afrique[2]. Les locations de terres, plutôt que les achats, sont les plus fréquentes, pour des durées allant du court terme à 90 ans. Les gouvernements hôtes jouent généralement un rôle clé dans l'attribution des baux fonciers, parce qu'ils sont officiellement propriétaires d'une grande part des terres dans les pays africains.
Le présent rapport se penche sur le rôle de l'UE et des États-Membres dans les accaparements de terres en Afrique. Bien que l'on rapporte que les principaux investisseurs internationaux actuels sont les états du Golfe, la Chine et la Corée du Sud, ce rapport éclaire l'implication de l'UE dans l'acquisition de terres en Afrique et la responsabilité des États-Membres dans la mise en oeuvre de politiques qui ont accru les demandes d'acquisition de terres. Compte tenu du fait que six pays européens (dans l'ordre descendant, l'Italie, la Norvège, l'Allemagne, le Danemark, le Royaume-Uni et la France) sont les plus gros investisseurs en termes d'investissement étranger direct en actifs agricoles, leur rôle ne peut être ignoré et appelle un examen plus attentif. Le présent rapport se base sur les travaux préliminaires d'ONG et d'organisations et agences internationales. Il identifie et dresse la carte de l'impact potentiel et réel de la spoliation des terres sur les populations rurales africaines en mettant en lumière les problèmes de droits de l'homme ainsi que les inquiétudes liées à ces accaparements. Il formule en outre quelques recommandations de politique à l'intention des États-Membres de l'UE, qui ont le devoir individuel et collectif de coopérer pour faire progresser l'agriculture paysanne africaine et traiter des problèmes posés par les accaparements de terres, dans le cadre du droit à une alimentation adéquate.

Implication européenne directe ou indirecte dans la spoliation de terres

Plusieurs facteurs différents ont accru la demande de terres (biocarburants, crise alimentaire, crise financière). L'implication européenne dans les accaparements de terres est d'abord imputable aux politiques de l'UE ainsi que des États-Membres individuellement, qui aggravent directement ou indirectement le poids de ces facteurs, et donc l'augmentation des demandes de terres. En outre, dans certains cas, les états sont directement impliqués avec les sociétés qui acquièrent des terres.

Les politiques énergétiques nourrissent dans les pays de l'Union comme à l'extérieur de celle-ci les demandes d'investissement outremer en biocarburants. Les cibles de consommation gouvernementales suscitent une demande artificielle de cultures de rente sans précédent qui persistera vraisemblablement au-delà de la durée habituelle d'un cycle de « commodity boom ». La coopération

---

[2] Dans bien des cas, plus de 10.000 hectares étaient en cause et plusieurs fois plus de 500.000 hectares.

européenne pour le développement encourage activement l'introduction de politiques de biocarburants dans les pays africains. Les banques européennes sont aussi associées à la promotion de la production de biocarburants en Afrique. Les gouvernements européens sont, dans certains cas, directement propriétaires d'entreprises qui investissent dans des terres destinées à la production de biocarburants.

La crise des prix alimentaires de 2007-2008 a conduit à la prolifération d'acquisitions de terres agricoles dans les pays en voie de développement par d'autres pays cherchant à assurer la sécurité de leurs approvisionnements alimentaires. La crise alimentaire, associée à la crise financière, est considérée comme seconde en importance dans la genèse de cette demande mondiale de terres dans les pays en voie de développement. Pour garantir la sécurité alimentaire de leurs propres populations, plusieurs pays importateurs d'aliments ont entrepris d'acheter ou de louer des terres dans les pays en développement, parfois par l'intermédiaire de fonds souverains, ce qui revient en fait à externaliser leur propre production alimentaire. La plupart des rapports ont souligné qu'une « chasse au trésor » a été entreprise par des pays tels que l'Arabie Saoudite, le Japon, la Chine, l'Inde, la Corée, la Lybie et l'Égypte, pour acquérir des terres agricoles fertiles. Toutefois, des pays de l'UE et des sociétés européennes sont également en cause, comme le montre le présent rapport.
Dans le sillage de la crise financière, des acteurs du secteur financier se tournent vers la terre comme source de rendements financiers assurés. Si les acquisitions de terres n'ont pas été jusqu'à présent un investissement habituel pour les fonds financiers en raison de l'instabilité politique et du manque de rendements à court-terme, la crise alimentaire et la demande de biocarburants ont fait de la terre un nouvel actif stratégique. En accroissant la demande de production de biocarburants, de récentes directives de l'UE ont indirectement nourri la demande de terres de la part d’institutions financières privées. Au cours de l’année 2008, nombre de sociétés d'investissement privées, de fonds d'actions, de fonds spéculatifs et similaires ont commencé à happer des terres agricoles dans le monde entier. Des acteurs européens financiers privés investissent aussi en terres en Afrique.

Pour déterminer correctement les politiques qui encouragent volontairement ou involontairement les accaparements de terres, il faut considérer d'autres domaines de politique qui interagissent avec les accaparements de terres, tels que les politiques foncières, les systèmes de protection des investissements et les politiques commerciales. L'UE a activement soutenu certaines de ces réformes politiques. Des recherches empiriques complémentaires sont nécessaires pour évaluer le poids de ces réformes dans l'incitation aux accaparements de terres.

Certains gouvernements et organisations intergouvernementales pressent les pays les plus pauvres pour réduire les risques perçus et instaurer des conditions favorables pour l'intervention d’investisseurs privés. Les réformes de politique foncière en offrent un exemple. Les États-Membres de l'UE ont soutenu différentes politiques foncières dans le cadre de l'aide officielle au développement, en mettant diversement l'accent sur la réforme foncière inspirée par le marché. Alors que, dans le sillage des institutions financières internationales, la réforme foncière inspirée par le marché a tenu un rôle de premier plan dans les années quatre-vingt et au début des années quatre-vingtdix, elle continue encore aujourd'hui d'influencer les politiques de développement.

Pour encourager encore davantage les IED et protéger les investisseurs, une série d'accords d'investissement et de commerce ont été conclus entre pays d'origines et pays hôtes. Les accords ont pour but de protéger les investisseurs étrangers (sociétés et individus) contre un traitement arbitraire par le gouvernement du pays hôte, comme l'expropriation ou la nationalisation des investissements. Ils renforcent le poids juridique de chaque contrat en faisant de sa violation une infraction de droit international et en assurant aux investisseurs un accès direct à l'arbitrage international en cas de conflit avec le gouvernement du pays hôte. Les deux dernières décennies ont connu un boom du nombre de traités bilatéraux d'investissement (TBI). Rien qu'en 2008, les pays africains ont signé 12 nouveaux TIB, dont 8 avec des pays européens. Les TIB incluent habituellement des dispositions qui renforcent les pouvoirs juridiques des investisseurs. Toutefois, ils débouchent sur un rétrécissement de la marge de manœuvre politique des états nationaux et du pouvoir des communautés locales hôtes. Les Accords de partenariats économiques (APE), fortement encouragés par l'UE, comportent des incitations supplémentaires à la spoliation de terres car ils réduisent la marge de manœuvre politique des pays concernés dans la protection de l'utilisation de leurs ressources et de leurs marchés pour leurs besoins internes.

Bien que L'UE n'ait pas adopté une position commune sur cette question, les représentants de l'UE et les États-Membres reconnaissent de plus en plus que l'investissement en terres étrangères n'est pas nécessairement une formule « gagnant-gagnant ». L'UE a réactivé en janvier 2009 son Groupe de travail sur les questions foncières. Ce Groupe de travail clé est actuellement composé de représentants de la Commission Européenne (DG DEV) et d'États-Membres (Danemark, France, GTZ/Allemagne, Grande Bretagne, Pays-Bas et Suède). Les pays européens extérieurs à l'UE peuvent participer aux réunions (p. ex., la Suisse, la Norvège), ainsi que les agences de développement, les organisations internationales et les institutions financières qui interviennent sur les questions foncières dans les pays en voie de développement. Le Groupe de travail de l'UE ainsi reconstitué partagera des informations et expériences pertinentes, observera, suivra et analysera les initiatives locales, régionales, continentales et mondiales relatives aux questions foncières, coordonnera les efforts actuels de la Commission (CE) et des États-Membres (EM) et développera des positions et recommandations communes de l'UE sur la politique foncière et les initiatives de réforme dans les pays en développement. Le Groupe de travail a jusqu'à présent surtout discuté des accaparements de terres avec l'intention de développer une position commune. En outre, L'UE projette actuellement de soutenir la mise en œuvre des directives de politique foncière de l'Union Africaine.

Impacts des accaparements de terres

Des organisations africaines d'agriculteurs, telles que le Réseau des organisations paysannes et des producteurs de l'Afrique de l'Ouest (ROPPA), ainsi que d'autres acteurs de la société civile africaine, ont déjà exprimé leur forte opposition aux cessions massives de terres africaines. La Fédération des agriculteurs d'Afrique orientale (EAFF) a averti que la location de terres agricoles à des multinationales pourrait stimuler l'apparition d'une crise alimentaire dans la région.

Les accaparements de terres affectent directement le droit à l'alimentation. Les accaparements de terres rendent celles-ci inaccessibles aux communautés sans terres ou dont les terres sont rares, qui pourraient en faire une utilisation différente et meilleure. Les futures décisions de politique nationale visant à rendre ces terres disponibles pour des politiques de soutien aux productions alimentaires locales pour et par les communautés locales et pour les zones urbaines voisines seront confrontées aux difficultés bien connues de l'expropriation de vastes étendues de terres au profit de communautés sans terres - même lorsque ces terres ne sont pas utilisées pour la production. En outre, les traités bilatéraux d'investissement ou les règles du commerce posent des difficultés aux gouvernements qui souhaitent faire face à leurs obligations liées au droit à l'alimentation pour faciliter l'accès des populations aux ressources et donner un coup d'arrêt aux accaparements de terres. Beaucoup de pays africains ont de fortes populations de jeunes ruraux et urbains sans emplois, avec une forte croissance de la population. Les terres sont une ressource nécessaire pour offrir des opportunités de production alimentaire à forte intensité de travail. Le droit à l'alimentation est en fait affecté même lorsque des entreprises étrangères acquièrent des terres sans les utiliser complètement dans l'immédiat. Le fait est que des gens peuvent être privés de leurs futurs moyens de subsistance en violation flagrante de l'article 1 des deux Pactes sur les droits de l'homme.

Dans la mesure où l'acquisition de terres vise la rentabilité et principalement les exportations, elle encouragera l'introduction ou le renforcement d'un mode de production industriel dans l'agriculture des pays hôtes. Il existe une documentation abondante qui établit que ce mode de production est destructeur de l'écologie et n'est pas durable. Il conduit à une perte massive de terre végétale, détruit la biodiversité et dégage de grandes quantités de CO_2. Il déplace les producteurs locaux qui savent souvent comment produire de manière durable et seraient en mesure de le faire, avec même des rendements supérieurs, s'ils bénéficiaient d'un environnement politique favorable et de réseaux convenables de formation et de communication.

L'augmentation de la production agricole ne signifie pas que les communautés locales auront un accès amélioré à l'alimentation – même si la production d'aliments est en hausse. En fait, l'expansion des monocultures de rente a des conséquences graves sur la disponibilité locale d'aliments, puisqu'elle détourne les ressources et la main d'oeuvre productives d'aliments en faveur de cultures de rente, en affectant notamment les femmes. Les communautés sont de ce fait contraintes de dépendre du marché et des réseaux commerciaux extérieurs à la région pour leurs approvisionnements de base, ce qui les met à la merci de la volatilité des prix des aliments. L'absence d'aliments disponibles localement, et la forte dépendance envers des aliments venus d'ailleurs, diminuent aussi la qualité et la variété du régime alimentaire des communautés, en modifiant leurs traditions alimentaires. Il y a là une menace supplémentaire pour leur exercice du droit à l'alimentation. Le droit à l'alimentation stipule que la nourriture doit être adéquate et culturellement appropriée.

Le Rapporteur Spécial des NU sur le droit de l'homme à l'alimentation, M. Olivier de Schutter, a déclaré que l'investissement en terres étrangères n'est acceptable que sous certaines conditions, et il a formulé plusieurs critères à respecter dans ce contexte. Les règles requises pour satisfaire à ces critères sont très complexes, parce que les accaparements de terres interagissent avec toute une série d'autres domaines de politique, comme les protections de l'investissement international, les flux internationaux de capitaux et l'Aide officielle au développement La formulation de règles nationales et internationales prendrait donc un temps considérable. Ces règlements une fois en place, il n'est cependant pas assuré que tous les gouvernements de pays hôtes seront en mesure de les appliquer. Compte tenu de ces avertissements au sujet des règlements et des inquiétudes plausibles mis en lumière par la présente étude, il est préférable d'appliquer le principe de précaution et de mieux agir pour prévenir les acquisitions de terres à grande échelle et garantir les droits de l'homme de la population rurale .

Les états africains comme ceux de l'UE ont tous l'obligation de respecter le droit de l'homme à l'alimentation en Afrique. Ainsi, l'UE ne doit pas faciliter la réduction des terres des pays africains utilisables pour la production de nourriture et au bénéfice de populations souffrant de sous-alimentation, ni aujourd'hui, ni à l'avenir. En vertu du Protocole international sur les droits économiques, sociaux et culturels (PIDESC), tous les états signataires doivent respecter, sauvegarder et réaliser, individuellement et en coopération internationale, le droit à l'alimentation, avec le maximum de ressources disponibles. Le respect du droit à l'alimentation signifie aussi que les États-Membres de l'UE ne doivent pas encourager (ni faciliter) la location de terres par des entreprises étrangères dans des pays souffrant déjà d'insécurité alimentaire, dans le but de produire des aliments ou autres produits agricoles destinés à des marchés étrangers et en concurrence avec la production locale d'aliments. Selon la FAO, 43 des 53 pays africains ne produisent pas une alimentation suffisante pour leur propre population.

Les obligations de protection et de conformité aux droits de l'homme à l'alimentation liés au PIDESC en Afrique incombent en particulier aux états africains - mais pas seulement à eux. Les pays de l'UE assument des obligations complémentaires extraterritoriales envers les personnes souffrant de faim et de sous-alimentation en Afrique et ailleurs. Les États-Membres de l'UE sont dans l'obligation de sauvegarder le droit à l'alimentation dans ces pays au moyen de mesures actives (parmi lesquelles la réglementation, le suivi et le contrôle préalable dans leurs sphères d'influence) pour y prévenir les accaparements de terres.

Recommandations politiques à l'intention de l'Union Européenne et de ses États-Membres

À la lumière de la tendance actuelle à la spoliation de terres et compte tenu du principe de précaution et de leur obligation de contrôle préalable en vertu de la législation internationale sur les droits de l'homme, l'UE et ses membres doivent:

1. Empêcher les acquisitions de terres à grande échelle. Mettre en place dès que possible la réglementation internationale requise pour interdire de telles acquisitions de terres, avec un accord juridiquement contraignant pour la réglementation appropriée des acteurs financiers et autres de l'investissement en agriculture. Les discussions internationales sur le mode de développement de cette initiative pourraient relever du Comité de la sécurité alimentaire mondiale de la FAO avec la participation des organisations paysannes.
2. S'assurer que, dans le processus actuel d'adoption d'un nouveau cadre pour l'investissement au niveau de l'UE, figure une référence claire aux droits de l'homme internationaux et à leur suprématie de sorte que rien, dans ces accords, ne puisse être interprété comme empêchant les Etats-Membres/l'UE de se pencher prioritairement sur les abus éventuels en matière de droits de l'homme commis par des investisseurs ou des états. En outre, les états souverains doivent avoir la possibilité d’imposer des mesures légales de non discrimination justifiées par des besoins d'intérêt public et de politiques de discrimination positive ainsi que par des mesures en faveur de secteurs de la société victimes de discriminations.
3. Abandonner la cible d'énergies renouvelables (biocarburants) et geler toutes les politiques qui encouragent l'utilisation de biocarburants pour le secteur des transports jusqu'à ce que, et à moins que, les règles en (1) et (2) soient en vigueur. Faute de quoi, les politiques en question constituent une puissante incitation à la spoliation des terres. Développer des politiques qui limitent l'utilisation d'énergie et encouragent les énergies renouvelables autres que les biocarburants dans le secteur des transports.
4. Renforcer la mise en application de politiques foncières respectant les droits de l'homme en AOD, en particulier pour soutenir l'application des directives de politique foncière de l'UA. Associer les organisations d'agriculteurs et pastorales à la définition de ces politiques. Le soutien de l'UE aux directives de politique foncière de l'UA ne devrait en aucun cas être utilisé pour encourager des investissements fonciers à grande échelle.
5. Soutenir le processus prochain de la FAO pour des lignes directrices volontaires sur la gouvernance responsable de l'utilisation des terres et des ressources naturelles, qui sont supposées orienter la mise en œuvre des principes contenus dans la déclaration finale de la Conférence internationale pour la réforme agraire et le développement rural (CIRADR) et des dispositions de législation internationale sur les droits de l'homme protégeant les droits à la terre et aux ressources naturelles de toutes les communautés rurales.

Synthesis

Foreign land grabbing in Africa

The FAO estimates that in the last three years 20 million hectares have been acquired by foreign interests in Africa[3]. Land leases, rather than purchases, predominate, with durations ranging from short term to 99 years. Host governments tend to play a key role in allocating land leases, not least because they formally own all or much of the land in many African countries.

This report focuses on the role of the EU and its member states in land grabbing in Africa. Even though it is reported that the major current international investors are the Gulf States, China and South Korea, this reports sheds light on the EU's involvement land acquisition in Africa and on the EU members States' responsibility in implementing policies that have increased demand for land acquistion. Given the fact that six European countries are among the biggest investors in terms of outwards Foreign Direct Investment stock in agriculture (in descendent order Italy, Norway, Germany, Denmark, the United Kingdom, and France), their role cannot be neglected and deserves closer examination. The report is based on the preliminary work done by NGOs and international organizations and agencies. It identifies and maps land grabbing's potential and actual impacts on African rural population and human rights issues and concerns surrounding land grabbing. Furthermore, it formulates some policy recommendations to the EU member States, which are both individually and collectively, duty-bound to cooperate in advancing peasant farming in Africa within the framework of the right to adequate food in order to address the problems posed by land grabbing.

European direct or indirect involvement in land grabbing

A number of different factors have increased demand for land (agrofuels, food crisis, financial crisis). European involvement in land grabbing is first due to the policies of both the EU and individual member States, which are directly and indirectly stimulating these factors, and hence this increased demand for land. Moreover, in some cases, there is a direct State involvement in the corporations acquiring the land.

EU energy policies are fuelling amongst EU countries and elsewhere the demand for overseas agrofuels investment. **G**overnment consumption targets are creating an artificial demand unprecedented among cash crops, which is likely to persist beyond the usual length of a "commodity boom" cycle. European development cooperation is actively supporting the introduction of agrofuel policies in African countries. European banks are also involved in promoting agrofuel production in Africa. European governments in some cases directly own enterprises that are investing in land for agrofuels production.

[3] Many involving more than 10,000 hectares and several more than 500,000 hectares.

The food price crisis of 2007-2008 led to the proliferating acquisition of farmland in developing countries by other countries attempting to boost the security of their food supply. The food crisis, combined with the financial crisis, is considered to be the second main driver of this global demand for land in developing countries. To guarantee the food security of their own populations, a number of food-importing nations have started to purchase or lease land in developing countries, sometimes through sovereign wealth funds, to actually outsource their own food production. Most reports have highlighted that the 'treasure hunt' countries such as Saudi Arabia, Japan, China, India, Korea, Libya and Egypt amongst others are conducting for fertile farmland. However, EU countries and European private corporations are also involved as this report documented.
Following the recent financial crisis, actors within the finance sector are turning towards land as a source of solid financial returns. While traditionally land acquisition has not been a typical investment for investment funds due to political instability and the lack of short-term returns, the food crisis and the demand for agrofuels has turned land into a new strategic asset. Indirectly, by increasing demand for agrofuels production, recent EU directives have increased demand for land by private finance institutions. Throughout 2008 many investment houses, private equity funds, hedge funds and the like have been snapping up farmlands throughout the world. European private finance actors are also investing in land in Africa.

In order to properly assess what policies are intentionally or unintentionally fostering land grabbing, it is necessary to look into other policy fields interacting with land grabbing such as land policies, investment protection regimes, and trade policies. The EU has been actively promoting some of these policy reforms. To what extent these reforms have indeed promoted land grabbing is something which needs further empirical research.

Some governments and intergovernmental organizations have been pushing poorer countries to reduce the perceived risks and create favorable conditions for private investors to step in**.** Land policy reforms is a case in point. EU member states have been promoting different land policies in Official Development Aid with varying emphasis on market led land reform. While, following the lead of the international financial institutions, market led land-reform was most prominent in the 1980s and early 90s, it continues even nowadays to shape development policies.

To further encourage FDI and protect investors, an array of investment and trade agreements have been developed between home and host countries. The agreements aim at protecting foreign investors (both corporations and individuals) from arbitrary treatment by the host government, such as expropriation or nationalization of investments They strengthen the legal value of individual contracts by making their violation a breach of international law, and give investors direct access to international arbitration in case of disputes with the host government. The past two decades have witnessed a boom in the number of Bilateral Investment Treaties (BIT). In 2008 only, African countries signed 12 new BITs, 8 of them were concluded with European countries. BITs usually include provisions that strengthen the legal power of the investors. However, they subsequently weaken the policy space for national states and the power of host local communities. The Economic Partnership Agreements (EPAs), heavily promoted by the EU, provide further incentives for land grabbing by curtailing the respective States' policy space to protect their resources and markets for domestic use.

Although the EU has not reached a common position on the issue, EU officials and member States are increasingly recognizing that foreign land investment is not necessarily a 'win-win' situation. In January 2009, the EU re-activated the EU Working Group on Land Issues. The core Working Group is currently composed of representatives from the European Commission (DG DEV) and Member States (Denmark, France, GTZ/Germany, Great Britain, Netherlands and Sweden). Meetings are open to non EU European countries (e.g. Switzerland, Norway) development agencies, international organizations and financial institutions that are active in land-related interventions in developing countries. The reinstated EU Working Group will share relevant information and experiences, observe, monitor and analyse local, regional, continental and global initiatives on land issues; coordinate current efforts of the Commission (EC) and Member States (MS);and develop common EU positions and recommendations on land policy and reform initiatives in developing countries. So far the Working Group has been discussing land grabbing mainly with the intention of developing a common position. Moreover, the EU is currently planning to support the implementation of the African Union land policy guidelines.

Impacts of land grabbing

African farmers organizations, like the West African network of peasants and producers, ROPPA, and other African civil society actors have already expressed strong opposition to the massive sell out of African lands. The Eastern African Farmers Federation (EAFF) has cautioned that leasing farmland to multinationals could precipitate food crisis in the region.

Land grabbing directly interferes with the right to feed oneself. Land grabbing forecloses the lands taken for landless or land-scarce communities who can make alternative and better use of the resources. Future national policy decisions to make this land available for policies aiming at local food production by and for the local communities and for the nearby urban areas will have to face the well-known difficulties of expropriating large scale lands for the benefit of landless communities – even where these lands are not used productively. Moreover bilateral investment treaties or trade regulations can make it difficult for a national government to implement its obligations under the right to food to facilitate people's access to resources and put a stop to foreign land grabbing. Many African countries have a large population of unemployed rural and urban youth and a high rate of population growth. Land resources are necessary to offer opportunities for labour intensive food production. For this matter, even where foreign companies acquire lands that are not fully utilized now, the human right to feed oneself is affected. In fact – peoples may be deprived of their future means of subsistence in an open violation of both Human Rights' Covenants article 1.

Since foreign land acquisition is profit-oriented and largely for exports, it will foster the introduction/deepening of an industrial agricultural mode of production in the host countries. There is abundant literature that this mode of production is ecologically destructive and not sustainable. It implies massive loss of topsoils, destroys biodiversity and releases large amounts of CO_2. It displaces local producers who often have the knowledge of producing sustainably, and would be in a position to do so with even higher yields if they were provided with an enabling agricultural policy environment and with proper learning and communication networks.

Increased agricultural production does not mean that local communities will have better access to food – even if more food was produced. In fact, the expansion of cash crop monocultures has a severe impact on local availability of food as it diverts food producing resources and labour to cash crop production affecting particularly women. As a result, communities are forced to depend on the market and on commercialization networks from outside the region for their basic provisions, putting them at the mercy of volatile food prices. The lack of local food availability and the high level of dependence on food from elsewhere also reduce the quality and variety of the diet of communities and alter their food customs. This constitutes yet another threat to their enjoyment of the right to food: the right to food implies that food must be adequate and culturally appropriate.

The UN Special Rapporteur on the human right to food, Mr. Olivier de Schutter, has stated that foreign land investment is only permissible under certain conditions and has formulated a number of criteria which have to be met in this context. The needed regulation to meet these criteria is quite complex since land grabbing interacts with a series of other policies fields like international investment protections, international capital flows, agriculture, trade and Official Development Aid. Proper national and international regulation would thus take considerable time. Even when these regulations will be in place, it is not guaranteed that all host governments will be able to enforce them. In the light of these to caveats to regulation and given the plausible concerns identified in this study, it is more appropriate to apply the precautionary principle and better prevent large-scale land acquisition in order to safeguard the human rights of the rural population.

Both the African States and the EU member States are duty-bound to respect the human right to food in Africa. Therefore, the EU must not facilitate any reduction in the use of African country’s lands used for food production by and for their local malnourished populations, now and in future. Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), all states parties ’individually and through international cooperation’ must respect, protect and fulfil the right to food to the maximum of their available resources. Respecting the right to food also means that EU member states must not encourage (and facilitate) foreign companies to lease land from already food insecure countries to produce food stuffs or other agricultural products intended for foreign markets in competition with local food production. According to FAO, 43 of the 53 African countries do not produce enough food for their own population.

The obligations to protect and fulfil the human right to food and related economic, social and cultural rights in Africa are incumbent in particular on the African states - but not only. EU countries carry complementary extraterritorial obligations towards the hungry and malnourished in Africa and elsewhere. EU member states are duty-bound to protect the right to food in these countries by active measures (including regulation, monitoring and due diligence in their sphere of influence) to prevent land grabbing in those countries.

Policy recommendation to the European Union and its member states

In light of the available evidence on the current land grabbing trend, and in view of the precautionary principle and their due diligence obligation under international human rights law, the EU and its member countries are called upon to:

6. Prevent large scale land acquisitions. Initiate as soon as possible the needed international regulation to prevent such land acquisitions, including a legally binding agreement related the proper regulation of financial and other actors active in agricultural investment. At international level, discussions about how to develop such an initiative could be conducted in the FAO Committee on World Food Security with the participation of peasant farmers' organizations.
7. Make sure that in the current process of adopting a new investment framework at EU level, clauses are included with a clear reference to international human rights law and its supremacy to the effect that nothing in the agreements can be understood as preventing States/the EU from addressing possible human rights abuses by investors or human rights violations by states as a matter of priority. Moreover, the regulatory space of sovereign states should be safeguarded in regard to non-discriminatory regulatory measures for public interest purposes and for affirmative action policies and measures in favor of discriminated sectors of society.
8. Scrap the energy based target for renewables (agrofuels) and freeze all policies which encourage the use of agrofuels for the transport sector until and unless the regulations in (1) and (2) are in place. The indicated policies otherwise serve as a major incentive for land grabbing. Develop policies that limit the use of energy and promote non agrofuel renewable energy in the transport sector.
9. Strengthen the implementation of human rights based land policies in ODA, particularly when supporting the implementation of the AU Land Policy Guidelines. Involve African farmers and pastoralists organizations in the design of these policies. EU support to the AU Land Policy Guidelines should under no circumstance be used to promote large scale investment in farm land.
10. Support the upcoming process of FAO voluntary guidelines on responsible governance of land and natural resources tenure which are supposed to guide implementation of the principles contained in the final declaration of the International Declaration on Agrarian Reform and Rural Development (ICARRD) and of the provisions of international human rights law which protect the rights to land and natural resources of all rural communities.

Foreign land grabbing in Africa

2009-2010 Monitoring report by European Civil Society Organizations of European Commission's proposal for Advancing African Agriculture (AAA)

Abstract

This report examines the role of European Union (EU) member States, both collectively and individually, in the current reported wave of foreign land investment in Africa that has led to the current use of the term 'land grabbing'.[4] It discusses whether this role is consistent with the EU's commitment to advance agriculture in Africa in order to help achieve the Millennium Development Goals and member states' obligations under international human rights law.

Table of contents

[4] While the scope of this report is Africa-wide it primarily focuses on Sub Sahara Africa.

-

- 1. Introduction

The most common definition of the global land grab refers to large scale land acquisition – be it purchase or lease – [5] for agricultural production by foreign investors. [6] Other authors prefer the term '(trans)national commercial land transactions' as it pertains to both transnational and domestic deals, and underscores the commercial nature of the transactions regardless of scale and output markets. [7] For the purpose of our analysis land grabbing means taking possession of and/or controlling a scale of land which is disproportionate in size in comparison to average land holdings in the region. This definition does not focus on abusive practices in the process of acquiring the land but rather its impact on the local and national populations' right to resources – both today and in future. Over the past two years, the phenomenon of land grabbing has been increasingly described by the media as a growing trend across the world, most notably in Africa.

Although it is difficult to precisely quantify the phenomenon, the *World Investment Report 2009* of the United Nations Conference on Trade and Development (UNCTAD) highlights a certain number of facts about foreign direct investment in agriculture. It notes a 'significant growth' of the world inward foreign direct investments (FDI) stock in agriculture since 2000, 'particularly in developing countries'.[8] The total flows went from less than USD 1 billion per annum between 1989 and 1991, to more than USD 3 billion per annum by 2005-2007.[9] And Africa is at the top of the investors' agenda. The share of agriculture in FDI can now reach between 6 and 9%, for countries like Tanzania, Mozambique or Ethiopia.[10] The UNCTAD also reports that transnational corporations have gained considerable influence in some African countries' agricultures. It indicates for example that 'in certain developing countries where floriculture is a major export industry – such as Ethiopia, Kenya and Uganda – the participation of foreign firms in cut flowers farming has been significant'.[11] While Asia and Latin America 'restrict foreign investment in the production of food crops', African countries on the other hand 'actively encourage foreign private investors participation, even in staple food crops.[12]

This report focuses on the role of the EU and its member states in land grabbing in Africa. Even though it is reported that the major current international investors are the Gulf States, China and South Korea[13], this reports sheds light on the EU's involvement land acquisition in Africa and on the EU members States' responsibility in implementing policies that have

---

[5] Many involving more than 10,000 hectares and several more than 500,000 hectares.

[6] See, for instance, *Seized: the 2008 land grab for food and financial security*, GRAIN Briefings, October 2008. Available at http://www.grain.org/briefings/?id=212. *The Great Land Grab*, the Oakland Institute (http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf) .

[7] See *Towards a Broader View of the Politics of Global Land Grab.* S. Borras and J. Franco. Paper prepared for the Agrarian Studies Colloquium Series, Yale University, 30 October 2009.

[8] United nations conference on Trade and Development, *World Investment Report 2009*, Geneva, July 2009, p. 111.

[9] Ibid.

[10] Ibid, p. 113.

[11] Ibid, p. 114.

[12] Ibid, p. 98.

[13] See, for instance, Dossier Terres accaparées, paysans exclus: « Bénin : la terre expose les paysans à la précarité », Michel Gletton-Quenum,N° 89- Bimestriel - juin, juillet 2009 défis sud . "T. Michael Johnny, China earmarks US$5 billion for food production on continent", *The News*, Monrovia, 23 avril 2008. http://allafrica.com/stories/200804230844.html.

increased demand for land acquistion. Given the fact that six European countries are among the biggest investors in terms of outwards FDI stock in agriculture (in descendent order Italy, Norway, Germany, Denmark, the United Kingdom, and France), their role cannot be neglected and deserves closer examination.14 The focus on the role of European investors is a choice made for the purpose of this paper, but it should not exonerate other actors from their responsibilities. Indeed, in some African countries, influential officials, domestic companies can also play a predominant role in land grabbing, although this aspect is 'virtually absent in much media reporting'.[15]

The report is based on the preliminary work done by NGOs and international organizations and agencies. It identifies and maps land grabbing's potential and actual impacts on African rural population and human rights issues and concerns surrounding land grabbing. It is not clear whether all recent land deals reported in the media will materialize or not. In fact, some of them remained announcements only, whereas others were cancelled after first implementation steps as the case study in Mozambique shows (see chapter 3.2). In this sense, the actual impacts on the ground of many of the recent projects still remain to be seen. Nevertheless, there is solid case-based evidence about the impacts of land grabbing in the region that allow major issues to be identified and are a cause for great concern.

This report should thus be understood as an intial contribution to a dialogue process between African and European civil society organizations and the EU aimed at achieving a common understanding about what needs to be done vis à vis the intensification of foreign land grabbing – much of it in countries with a rural population suffering from or vulnerable to hunger and undernutrition.

o 1.1 Foreign land acquisition

Media are reporting large scale land acquisition by foreigners in Africa and other continents on an almost daily basis. More reliable information however is lacking with 'quantifications of the phenomenon, such as its scale and whether it is in fact on the rise still thin on the ground'[16]. This could be in part due to the noted unwillingness of both governments and business interests to fully disclose information on negotiations and deals made.[17]

Within the last year several organizations including the United Nations' specialized agencies and NGOs, have started to document and quantify the problem. A 2009 study titled "Land grab or development opportunity?" jointly produced by the Food and Agriculture Organization of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the International Institute for Environment and Development (IIED), analyzed land acquisitions of 1000 hectares or more between 2004 and 2009 from four countries: Ethiopia, Ghana, Madagascar and Mali. According to the study, about two

---

14 Ibid, p. 118.

15 IIED, FAO and IFAD, *Land grab or development opportunity? Agricultural investment and international land deals in Africa*, 2009, by Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley,, available at http://www.ifad.org/pub/land/land_grab.pdf, p. 49.

16 See *Land grabs' in Africa: can the deals work for development,* IIED briefing, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

17 See *The Growing Demand for Land – risks and opportunities for smallholder farmers*, Discussion Paper and Proceeding Report of the Governing Council Round Table held in conjunction with the Thirty-second Session of IFAD's Governing Council, IFAD, May 2009. Available at: http://www.un.org/esa/dsd/resources/res_pdfs/csd-17/csd17_crp_land.pdf

million hectares of land across the four countries have been signed over to foreign interests, including a 10,000-hectare project in Mali and a 450,000-hectare plantation for agrofuels in Madagascar. IIED[18] identified a cumulative increase in land acquisition in the four countries with the past five years seeing an upward trend in both project numbers and allocated land areas. It also identifies further growth of these activities. In July 2009 for example the Government of Ethiopia marked out 1.6 million ha of land, extendable to 2.7 million, for investors willing to develop commercial farms. The size of single acquisitions can be very large. Allocations include a 452,500ha agrofuels project in Madagascar, a 150,000ha livestock project in Ethiopia and a 100,000ha irrigation project in Mali. Investors include private sector (banks, agribusiness, investment companies, institutional investors, trading companies, mining companies), and in some cases Governments (directly or indirectly), through sovereign funds and domestic investors.

David Hallam, Deputy Director at the Trade and Markets Division of FAO estimates that in the last three years 20 million hectares have been acquired by foreign interests in Africa specifying that the proportion of land under foreign control remains a relatively small proportion of total land areas- for instance around one percent in Ethiopia or Sudan. [19]

In Africa[20]. Malagasy Law No 2007-036 for instance stipulates that 'foreign natural or legal entities cannot directly have land access'. However they are free, without any prior authorization, to agree to a renewable perpetual lease which duration cannot exceed ninety nine years'. Equally, in Ethiopia, for example, the Government owns all the land, which is leased for periods from 20 to 45 years.[21] Such leases vary in price depending on land use etc.[22]

A number of different factors have prompted this growing trend of land acquisitions. The increasing pressure to produce agrofuels as an alternative to fossil fuels[23] is reported as creating an 'artificial demand (for agrofuels) that is unprecedented among cash crops, and which is likely to persist beyond the usual length of a "commodity boom" cycle'.[24] Other contributing factors are the global food crisis and the financial crisis. Wealthy but resource-poor countries have turned to large-scale acquisitions of land to outsource food production and achieve food security. This in turn has also led private investors, including large investment funds, to acquire land for merely speculative motives, convinced that the price of arable land will continue to rise in the future. In its World Investment Report, UNCTAD also notes that commitment to meet the MDG-1 target has encouraged countries to step up or

---

[18] See *Land grabs' in Africa: can the deals work for development*? IIED briefing note September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

[19] See *Foreign Investment in Developing Country Agriculture – Issues, Policy Implications and International Response*. David Hallam. Paper presented at the Global Forum on International Investment, OECD, 7-8 December 2009.

[20] See '*Land grabs' in Africa: can the deals work for development*? IIED briefing note September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

[21] See *Foreign Direct Investment in the Agricultural Sector in Ethiopia*, EcoFair Trade Dialogue: Discussion paper No 12 by Lucie Weissleder, University of Bonn, Heinrich Boll Stiftung, Misereor, October 2009. Available at http://www.ecofair-trade.org/pics/en/FDIs_Ethiopia_15_10_09_c.pdf

[22] See *Foreign Direct Investment in the Agricultural Sector in Ethiopia*, EcoFair Trade Dialogue: Discussion paper No 12 by Lucie Weissleder, University of Bonn, Heinrich Boll Stiftung, Misereor, October 2009. Available at http://www.ecofair-trade.org/pics/en/FDIs_Ethiopia_15_10_09_c.pdf

[23] Several NGO/IGO publications on this topic recognise the increasing demand for biofuels. In its report *The Great Land Grab*, the Oakland Institute claims the use and production of biofuels is rocketing (http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf) .

[24] See *Fuelling exclusion?The biofuels boom and poor people's access to land*, IIED and FAO, 2008, page 7. Available at http://www.iied.org/pubs/pdfs/12551IIED.pdf

promote agricultural investment, including by the domestic private sector ad transnational corporations (TNCs).[25]

o 1.2 Which kind of investment? For what and whom?

According to the 2008 World Development Report, three out of every four poor people in developing countries live in rural areas, and most of them depend directly or indirectly on agriculture for their livelihoods.[26] In Sub-Sahara the number of rural poor is set to rise and will likely exceed the number of urban poor by 2040. Most of the rural poor will depend on peasant farming for their livelihoods.[27]

The low level of investment in agriculture in developing countries has become a cause of concern, and some even perceive it as a direct cause of the recent food crisis.[28] States often regard FDI as a source of economic development and modernization, income growth and employment and claim that such FDI alleviates poverty: The World Development Report 2008 explicitly notes the need for more investment in agriculture in Africa, asserting that agriculture is a vital development tool for achieving the Millennium Development Goals.[29] UNCTAD contends that despite the importance of agriculture as a motor of development, it has been neglected in many developing countries.[30] It argues that 'effective agricultural growth could therefore contribute to employment creation and reduce poverty in developing countries'.[31] The World Bank argues that in poor countries 'under the right conditions, agriculture is at least twice as effective in reducing poverty as compared to GDP growth originating outside agriculture.[32]

Merely pointing at a need for increased agricultural production, however, is misleading. For decades development cooperation in the field of agriculture has been decreasing. Moreover the allocation of national budgets in Africa dedicated to food production for domestic consumption has been kept very low: States in Africa were strongly advised under structural adjustment to dismantle support structures for peasant farming, which is the main source of domestic food production in Africa. The same institutions which were largely responsible for these policies now claim that there is "not enough investment in agriculture". The World Bank still regrets that 'the green revolution breakthrough in cereal yields that jump-started Asia's agricultural and overall economic growth in the 1960s and 1970s has not reached Sub-Saharan Africa…'.[33] Amongst other things, the World Bank attributes the failure of a Green Revolution in Africa to low levels of investment.[34]

---

25 See *World Investment Report, Transnational Corporations, Agricultural Production and Development,* UNCTAD, 2009, page 103. Available at: http://www.unctad.org/en/docs/wir2009_en.pdf

26 See *Agriculture for Development, World Development Report 2008* World Bank Page xiii. Available at http://siteresources.worldbank.org/INTWDR2008/Resources/WDR_00_book.pdf

27 Ibid

28 See *International Investments in Agricultural Production*, Paper presented at the Expert Meeting on 'How to Feed the World in 2050' FAO, Rome 24-26 June 2009 by David Hallum (Deputy Director, Trade and Markets Division, FAO). Available at http://www.fao.org/fileadmin/templates/em2009/docs/Hallam.pdf

29 See *Agriculture for Development,, World Development Report 2008,* World Bank, page xiii Available at http://siteresources.worldbank.org/INTWDR2008/Resources/WDR_00_book.pdf

30 See *World Investment Report, Transnational Corporations, Agricultural Production and Development,* UNCTAD, 2009, page 103. Available at: http://www.unctad.org/en/docs/wir2009_en.pdf

31 Ibid

32 See *Agriculture for Development, World Development Report 2008* World Bank, page 6. Available at http://siteresources.worldbank.org/INTWDR2008/Resources/WDR_00_book.pdf

33 Ibid, page 54.

34 Ibid, page 54

NGOs working on the issue point out that not all 'investment in agriculture' can be regarded as development opportunities. GRAIN notes '…'investment in agriculture' has become the rallying cry of virtually all authorities and experts charged with solving the global food crisis that this, perhaps unintended, land grab boom fits in well. It should be abundantly clear that behind the rhetoric of win-win deals, the real aim of these contracts is not agricultural development, much less rural development but simply agribusiness development.'[35] A report from the Oakland Institute similarly argues that 'there is a dangerous disconnect between increasing investment in agriculture through rich countries taking over land in poor countries and the goal of securing food supplies for poor and vulnerable populations.'[36] These views are corroborated by the fact that the renewed interest in agricultural investment by the World Bank and others was not expressed in 2004 when it had become clear that the MDG on hunger will not be achieved, but in 2008, at the time of the agrofuels boom and the boom of the food prices on the international markets. The issue is producing cash crops for the world market with prospects of high returns for rich investors; and not investment in sustainable peasant-based agriculture producing food for the food insecure as recommended by International Assessment of Agricultural Science and Technology for Development (IAASTD).

It is well-known that increasing food production does not necessarily lead to increased individual food security – nor does it implement the right to food – unless it takes place on the fields of the vulnerable communities (and in an ecologically and socially sustainable way). There is ample evidence that African peasant farmers have the potential to double and triple the yields on their fields, and to do so in a sustainable way.[37] For this to happen, they need special attention and support – as will be explained below – but they need first of all to be able to securely access food generating resources. These resources include land and/or water for cultivating and harvesting food. Moreover if they are to feed their populations with their surplus produce they need access to markets in which to sell their produce. Yet, typically, in the agribusiness type of "productivity increase" peasant farmers are particularly vulnerable to having that access undermined or removed.

The Special Rapporteur on the right to food cautioned that 'raising production is not all that matters. There is also an urgent need to focus on the most vulnerable and to search for solutions which are both socially and environmentally sustainable.'[38] In his open letter to the African Union,[39] the Special Rapporteur on the right to food cautions that large scale investments could negatively affect the right to food as well as other human rights through the forcible eviction of land users which have no formal security of tenure over the land they have been cultivating for decades; the loss of access to land for indigenous peoples and pastoral populations; competition for water resources; and decreased food security if local populations are deprived of access to productive resources or if, as a result of this development, a country increases further its dependency on food aid or imports for its national food security. Furthermore, the Special Rapporteur recalls that the rush towards farmland in developing

35 See *Seized: the 2008 land grab for food and financial security*, GRAIN Briefings, October 2008. Available at http://www.grain.org/briefings/?id=212

36 See *The Great Land Grab*, the Oakland Institute 2009, page 4. Available at http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf

37 UNCTAD,UNEP (ed), Organic Agriculture and Food Security in Africa, 2008, see also www.agassessment.org.

38 Open letter addressed by the Special Rapporteur to African Heads of State and Governments in advance of the 13th ordinary assembly of the African Union Summit, Syrter**,** 1-3 July 2009. Available at http://www2.ohchr.org/english/issues/food/docs/Open_letter_AU_july09.pdf

39 Ibid

countries is the result of past failures to adequately invest in agriculture and rural development in developing countries, particularly sub-Saharan Africa. "It would be unjustifiable to seek to better regulate agreements on large-scale land acquisitions or leases, without addressing also, as a matter of urgency, these circumstances which make such agreements look like a desirable option."[40]

As the report of the IAASTD[41] acknowledges, the public policies of the past 60 years have discriminated against traditional indigenous and peasant agricultural farming systems, as well as agroecological systems. Industrial agriculture, in spite of being ecologically destructive, enjoys subsidies and broad public and corporate support, controls the best lands, and has access to abundant water as well as road and energy infrastructure. Peasant farming, however, in spite of its great potential for producing high yields in a sustainable way, does not even get secure or sufficient access to quality lands, or sufficient water for irrigation. Peasant farmers are relegated to remote and marginalized areas, and generally work under extremely precarious conditions. Family agriculture was severely affected by the implementation of structural adjustment programs during the 1980s, which led to the deregulation of agricultural trade and the dismantling of public systems of agricultural extension services, credit, supply, distribution, and trade, as well as price stabilization mechanisms. Substantially investment in agroecological peasant farming, combining modern and traditional knowledge on sustainable agricultural systems is urgently required. The would require very little inputs in terms of capital, but demands a lot of input in knowledge, skills and social infrastructur. There is a need for capacity-building and training to introduce resource conserving and production enhancing technologies. It is necessary to build the respective enabling institutional environment for the peasant communities and their production.

- 2. The impacts of foreign land acquisition on the rural population and on the promotion of peasant agriculture

o

o 2.1 Access to lands and livelihoods[42]

Foreign land grabbing particularly undermines access and control of resources of the local population now and/or in future and thereby harms public interest and the common good. The majority of people in Sub-Saharan Africa are peasant farmers. They rely heavily on access to natural resources (particularly land/water) to feed themselves and their families both through directly consuming the food produced and/or through income generating activities that allow the purchasing of food. Thus, losing access to land and related resources in the course of land grabbing amounts for the great majority of these communities to a reduced access to the resources and means to feed themselves and severely affects their right to an adequate

[40] Report of the Special Rapporteur on the right to food, Olivier De Schutter. Addendum: Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge. Human Rights Council, Thirteenth session. A/HRC/13/33/Add.2. Para 7.

[41] See UNCTAD,UNEP (ed), Organic Agriculture and Food Security in Africa, 2008, see also www.agassessment.org.

[42] Livelihood can be defined as the capabilities, assets and activities through which households make a living including with regard to accessing food. See *The Right to Food and Access to Natural Resources*, IIED, FAO, page 22. Available at http://www.fao.org/righttofood/publi09/natural_resources_en.pdf

standard of living including food and housing, even if some compensation and rehabilitation is provided. [43]
Access to and/or rights over land in Africa are predominantly based on tradition, custom, or culture, and are not necessarily backed by domestic legislation. Often they lack legally enforceable status and/or the land is State owned with rights of access never properly defined. In many countries there is a plurality of norms and legal regimes governing land issues which are not necessarily coherent and tend to lead to conflic[44] But even in countries and cases where communities have clearly enforceable rights to their lands, rural communities are facing expropriation and forced evictions without proper compensation when foreign investors target their lands (see case studies in chapter 3). This illustrates that clear, formal land rights – individual or collective/communal - do not protect against dispossession in all cases. Thus focusing primarily on formal aspects of tenure security as a response to land grabbing is not sufficient. [45]

In awarding contracts to foreign business interests, host governments often allocate lands they claim are marginal, "underutilized" or "unused".[46] Such lands are also important for the livelihoods of poor rural communities, as they are used for grazing; livestock transit routes; collection of fuel wood, biomass, wild fruits and nuts, medicinal plants and natural products; and access to water sources. Such lands can contribute significantly to the income of poor households, with the poorest households being most dependent on them. In Ethiopia for instance, according to the IIED, all land allocations recorded at the national investment promotion agency are classed as involving 'wastelands' with no pre-existing users; but evidence suggests that some of these lands were used for shifting cultivation and dry-season grazing'.[47]

The shift in the terms of access to land to becoming market-based is having a disproportionate effect on the rural poor including peasant farmers. Increased numbers of farmers, common property users, forest dwellers, range land users and men and women who rely on land are facing direct competition for such resources. With often no legal tenure over their land, they are unable to compete with interests that may include national and international investors, governments, and transnational companies. In September/October 2009 for instance, media including the New York Times warned that Tanzanian farmers in key arable areas face eviction by multinational corporations which want to cultivate agrofuels projects.[48] By eroding their already precarious access to land, outside demand can undermine the ability of peasant farmers to feed themselves, their families and populations.

- **2.2 Biodiversity, water, and environment**

[43] Borras and Franco note that in land abundant settings in most countries in Africa, perhaps the more common consequences to date are peasants' 'displacement' or 'dislocation' – not complete dispossession. See *Towards a Broader View of the Politics of Global Land Grab.* S. Borras and J. Franco. Paper prepared for the Agrarian Studies Colloquium Series, Yale University, 30 October 2009.

[44] See GRET - Groupe de Recherche et d'Echanges Technologiques. La question foncière en Afrique de l'Ouest rurale, 2006.

[45] For a discussion on the limits of the "land governance" approach, see *Towards a Broader View of the Politics of Global Land Grab.* S. Borras and J. Franco. Paper prepared for the Agrarian Studies Colloquium Series, Yale University, 30 October 2009.

[46] See *The Growing Demand for Land: Risks and Opportunities for Smallholder Farmers,* IFAD, 18 February 2009. Available at http://www.ifad.org/events/gc/32/roundtables/2.pdf

[47] See '*Land grabs' in Africa: can the deals work for development?* IIED briefing note, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

[48] See *Tanzania: Rice Farmers May Be Evicted By New Biofuel Companies,* East African, 28 September 2009. Available at http://www.theeastafrican.co.ke/news/-/2558/663988/-/qyclh8z/-/index.html

Large-scale commercial agriculture (including agrofuels production) can impact the biodiversity of an area because it tends to heavily rely on industrial modes of agricultural production. The Special Rapporteur on the right to food recently expressed concern about 'the spread of uniform varieties accelerat(ing) the loss of agrobiodiversity'.[49] As early as 1998, the FAO noted that 'some 75% of plant genetic diversity has been lost since the 1990s as farmers worldwide have left their multiple local varieties and "landraces" for genetically uniform, high yielding varieties'.[50] According to UNEP[51], since large scale industrial agriculture characterized by single-crop farming, could replace wide areas of peasant farming characterized by a high biodiversity value, the biodiversity of some areas could highly decrease. The establishment of large-scale plantations for the production of liquid agrofuels on fallow fields and wildlands for instance may threaten the wild edible plant species that grow on these lands. The Commission on Genetic Resources for Food and Agriculture of the FAO[52] equally indicates in its *Draft Second Report on the State of the World's Plant Genetic Resources for Food and Agriculture* that 'consensus exists on the occurrence of genetic erosion as a result of the total shift from traditional production systems depending on farmer varieties to modern production systems depending on released varieties'.[53] Yet, the FAO has repeatedly underlined the high risks in terms of food production, and thus hunger, associated to the loss of biodiversity.[54] It has for instance explained how 'the consequences of neglecting or abusing soil life will weaken soil functions, and contribute to greater loss of fertile lands and an over-reliance on chemical means for maintaining agricultural production'.[55] And more specifically, 'intensive cropping, monocropping and the over-use of agro-chemicals often increases the build up of soil-borne pathogens (disease-carrying organisms), pests and weeds'.[56]

This could negatively affect poor rural households that are often dependent on natural resources and biodiversity to feed themselves and their families.[57] This is particularly true in areas prone to food shortages.[58] On the other hand, precisely supporting these households farming could help to strengthen biodiversity and hence to fight against hunger. There is a growing acknowledgment 'of the range of custodians, the role of traditional knowledge and the needs and choices farmers have within their livelihood systems', and of 'the importance of traditional knowledge' to protect biodiversity, and thus access to food.[39] In a 2006 study, Alvaro Toledo (Secretariat of the Commission on Genetic Resources for Food and

---

49 See Statement by Mr Olivier De Schutter, Special Rapporteur on the right to food on the report *Seed policies and the right to food: Enhancing agrodiversity, encouraging innovation* (A/64/170) to the 64th session of the General Assembly (21 October 2009). Available at http://www2.ohchr.org/english/issues/food/docs/GA_Statement210909.pdf

50 See *Women: Users, Preservers and Managers of Agro-Biodiversity* prepared by the Women in Development Service (SDWW), FAO Women and Population Division, 1998. Available at http://www.fao.org/sd/wpdirect/wpan0025.htm

51 See *Global Environment Outlook*, UNEP, 2007.

52 See http://www.fao.org/nr/cgrfa/cgrfa-about/cgrfa-sector/en/#c28750

53 FAO, Commission on Genetic Resources for Food and Agriculture, *Draft Second Report on the State of the World's Plant Genetic Resources for Food and Agriculture*m, CGRFA-12/09/Inf.7 Rev.1, Rome October 2009, accessible at ftp://ftp.fao.org/docrep/fao/meeting/017/ak528e.pdf, p.14.

54 See for instance FAO, *Agricultural Biodiversity in FAO*, Rome, 2008, accessible at http://www.fao.org/docrep/010/i0112e/i0112e00.htm

55 FAO, *Soil biodiversity and sustainable agriculture: paper submitted by the Food and Agriculture Organization of the United Nations*, UNEP/CBD/SBSTTA/7/INF/11, 5 November 200, para. 83

56 Ibid, para. 57.

57 See *Women – users, preservers and managers of agrobiodiversity*. FAO**.** 1999.

58 See *Gender and Equity Issues in Liquid Biofuels Production: minimizing the risks to maximize the opportunities*, FAO, 2008. Available at ftp://ftp.fao.org/docrep/fao/010/ai503e/ai503e00.pdf

Agriculture) and Barbara Burlingame (Senior Nutrition Officer at the FAO) for instance affirmed that 'the integration of biodiversity into food security and anti-hunger policies is likely to generate more socio-economic benefits, including supporting poverty alleviation efforts, than in any other sector'.[59]

The promotion of and investment in commercial agriculture could also jeopardize communities' access to water, in particular regarding agrofuels production, given the high input requirement of energy crop plantations (see case study in 3.2). The production of agroethanol but also jathropha for agrodiesel requires considerable amounts of water.[60] Some observers point out that in fact the global land grab is rather a water land grab due to the fact that agricultural investment is pointless without water and therefore only lands with abundant water supply have been targeted by investors.[61] In addition, large-scale plantations for agrofuels production may be associated with increased soil and water pollution (from fertilizer and pesticide use), soil erosion and water run-off, with subsequent loss of biodiversity.[62]

The acquisition of vast areas of lands by foreign investors is also often made possible by converting forests into arable land. As recalled by a Greenpeace study, agriculture was the most important contributor to deforestation in the 1990s.[63] Over the last four decades, 'agricultural land increased by about 10% (4.43 M km2), which was achieved at the expense of forest land and other land mainly in the developing world'.[64] Thus, in addition to destroying wild food sources, land grabbing tends to increase global emissions of CO2. Monocultures also demand intensive use of chemical fertilizers and pesticides that destroy biodiversity, pollute soils, rivers, subterranean water sources and springs, and gravely affect the health of plantation workers and communities. Assuring stable and long-term food supply is part of States' obligations in relation to the right to food. Failure to protect and guarantee the sustainable use of the natural resources necessary for food production, especially for marginalized groups, constitutes a violation of the right to food of affected communities.

Introducing industrial agriculture in fragile African ecosystems could destroy the habitat of millions of persons who are already suffering deteriorating conditions due to climate change. The Greenpeace report also recalls that smallholder farms is less detrimental for the environment, and that traditional small scale farming systems are more energy efficient.[65] So, by replacing traditional small-scale farms and wild areas with large intensive agriculture, foreign investors doubly participate to the destruction of the environment and jeopardise future generations' enjoyment of human rights.

---

59 See *Biodiversity and nutrition: A common path toward global food security and sustainable development,* lvaro Toledoa and Barbara Burlingame, '' Journal of Food Composition and Analysis 19 (2006) 477–483, p. 478.

60 See *Gender and Equity Issues in Liquid Biofuels Production: minimizing the risks to maximize the opportunities,* FAO, 2008. Available at ftp://ftp.fao.org/docrep/fao/010/ai503e/ai503e00.pdf

61 See A *Thirst for Distant Lands: Foreign Investment in Agricultural Water. Carin Smaller and Howard Mann, International Institute for Sustainable Development, 2009.*

62 See *Global Environment Outlook*, UNEP, 2007.

63 *Cool Farming: Climate impacts of agriculture and mitigation potential, Greenpeace,* January 2008, available at http://www.greenpeace.org/raw/content/international/press/reports/cool-farming-full-report.pdf, p.20.

64 Ibid, p.23.

65 Ibid, p.28.

o 2.3 Employment opportunities

Governments, IFIs and private investors argue that land commercialization/investment can create new employment opportunities in rural areas. They believe increased access to the job market can compensate for the loss of land in terms of securing people's livelihoods.

Many observe however that a large share of these jobs are of poor quality and conditions, badly paid and targeted mainly to low-skilled seasonal agricultural workers.[66] The Special Rapporteur on the right to food recognizes that 'those working in agriculture are a large part of the hungry' and calls for protecting agricultural worker rights: 'Farm workers must earn a living wage to get access to food.'[67] According to ILO, the number of people working in agriculture in Africa is increasing, even though its share in total employment has declined in recent years. In general, "difficult working conditions, low pay, violence and harassment, including sexual harassment, are all too common in agricultural work. Despite some instances of improved income brought by export opportunities, the expansion of world trade in agricultural products has failed to translate into better living conditions for most of those working in farming in the developing world." [68]

Moreover, some fear that due to increasing mechanization in agrofuels production, there is a risk that the number of agricultural jobs would decrease over time. [69] The International Food Policy Research Institute (IFPRI) observes that depending on how they are managed 'the conversion of land to large-scale farms or plantations… generates little employment for local skilled or unskilled labour'[70]

The case of the workers in the flower plantation Rosebud in Uganda demonstrates this point. Rosebud belongs to the Ruparelia Group, one of the biggest flower exporting companies. Last November Safari Mazirani, member of the Uganda Horticultural and Allied Workers' Union (UHAWU died as a consequence of a pesticide accident on January 8, 2010. The company had not provided Mr Mazirani with proper medical treatment at the time of being exposed to the pesticide. It also did not compensate him for the accident nor his family for his death. Two days before Mr Mazirani died, UHAWU protested about the working conditions at Rosebud, in particular low payment, insufficient protective clothing, sexual harassment and insufficient maternity protection. The trade union demanded immediate improvement of their working

---

66 See *Biofuels, Opportunity or Threat to the Poor*, Swiss Agency for Development and Cooperation, Issue Paper, 2007. Available at http://www.coet.udsm.ac.tz/biofuel%20documents/Mayte07%20-%20Issue%20Paper%20Biofuels_SDC%20NRU.pdf

67 See *Political will needed to tackle food crisis and restructure agriculture* UN Press Release on the Special Rapporteur on the Right to Food presentation of his second report to the Human Rights Council, 18 September 2009. Available at http://www.unhchr.ch/huricane/huricane.nsf/view01/3CC7EDFFEE12CD0AC12576350035B11A?opendocument

68 *Organizing for Social Justice*. *Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.* International Labour Conference, 92nd Session. ILO, Geneva 2004. Para 117. Available at: . For the problems agricultural workers face in the realization of their right to food, see *Agribusiness and the right to food*. Report of the Special Rapporteur on the right to food, Olivier de Schutter. Human Rights Council. Thirteenth session. A/HRC/13/33.

69 See *Impact of an increased biomass use on agricultural markets, prices and food security: A longer term perspective,* Josef Schmidhumer, FAO 2007. Available at http://www.fao.org/es/ESD/BiomassNotreEurope.pdf

70 See '*Land Grabbing' by Foreign Investors in Developing Countries: Risks and Opportunities* by Joachim von Braun and Ruth Meinzen-Dick, IFPRI Policy Brief, April 09**.** Available at http://www.landcoalition.org/pdf/ifpri_land_grabbing_apr_09.pdf

conditions. Since the company did not address these complaints, the workers went on sit-down strike in 26, January 2010. The strike however was disbanded after the company called in the police.[71]

National and international actors should rather not assume that land commercialization/investment will lead to sustainable and long term employment opportunities for those affected.

o 2.4 Conflict/Political instability

By putting unprecedented pressures on land resources, the global trends described above are placing new tensions on access to land. Potential for conflict is further exacerbated by the ambiguity surrounding land rights. A company's legal rights over land may not be perceived as legitimate by the local populations and vice versa. In a presentation to a round table at the General Assembly, the World Bank recognized the potential for conflict given the lack of clear demarcation of communities' land rights, inadequate data, failure to consult effectively with the affected communities and a lack of transparency.[72]

Conflict over access to natural resources is nothing new as evidenced by the ongoing conflict in the Democratic Republic of the Congo for instance. Such conflicts often lead to widespread displacement. Given the predominance of agriculture and sustainable land access as a means of livelihood in Africa, displacements often lead to hunger and in some cases famine. In 2000, FIAN for instance documented how conflict over natural resources in Sudan and the response of the State led to the rural poor being unable to feed themselves, and to widespread famine.[73]

In May 2007 in Kampala, in Uganda, two protestors were killed and an Asian stoned to death during massive demonstrations against Government plans to convert thousands of hectares of rainforest on an island in Lake Victoria into an oil-palm plantation. The demonstrations developed into an ugly race riot and clearly 'brought into the open the simmering conflict' over the use of Uganda's natural resources.[74] In Cameroon in January 2003, a violent confrontation between guards and villagers/indigenous populations erupted when a number of guards prevented villagers/indigenous populations from using SOCOPALM's plantation resources.[75] The public outcry in Madagascar over the proposed land deal with South Korea's

---

[71] See letter campaign *Tödlicher Pestizidunfall in Uganda – Briefaktion Rosebud*. Available at: http://www.fian.de/online/index.php?option=com_content&view=article&id=271:toedlicher-pestizidunfall-in-uganda-briefaktion-qrosebudq&catid=1:aktuelle-nachrichten&Itemid=620

[72] See *Securing Land Tenure and Improving Livelihoods: Towards a Set of Principles for Responsible Agro-investment* World Bank Presentation to the Roundtable "Promoting Responsible International Investment in Agriculture" held concurrently with The 64th United Nations General Assembly New York City, 23 September 2009. Available at http://www.mofa.go.jp/policy/economy/fishery/agriculture/presentation0909-3.pdf

[73] See *The Right to Adequate Food in Sudan* (2000), Parallel Report to the Committee on Economic, Social and Cultural Rights, FIAN International. Available at http://www.fian.org/resources/documents/others/the-right-to-adequate-food-in-sudan/

[74] See *The New Scramble for Africa*, Seedling, GRAIN, July 2007. Available at http://www.grain.org/seedling/?id=481#

[75] See *World Rainforest Bulletin No 134*, September 2008. By Julien-François Gerber. This article is based on the author's field observation and on the following publications: M.A., Monfort 2005, "Filières oléagineuses africaines", Notes et études économiques, n°23, p. 55-85; Agir ICI & Survie, 2000, "Le silence de la forêt: réseaux, mafias et filière bois au Cameroun", Dossiers Noirs n°14, and "Bolloré: monopoles, services compris. Tentacules africaines", Dossiers Noirs n°15, Paris, L'Harmattan. Available at http://www.wrm.org.uy/bulletin/134/viewpoint.html#-%20Cameroon:%20Bagyeli%20severely%20impacted%20by%20the%20establishment%20of%20industrial%20plantations.

Daewoo Corporation equally illustrates the depth of emotions attached to land issues and the potential for violence and political conflict.

o 2.5 Increased dependency on food aid or imports for national food security.

Despite receiving aid relief from the World Food Programme, Sudan and Madagascar have leased considerable amounts of land to foreign investors. Tanzania has for instance, despite needing more food aid because of increasing droughts due to climate change, allowed several different transnational corporations to obtain large quantities of land for the production of agrofuels.[76] German NGO Welt Hunger Hilfe observes "States that are dependent on food imports, in particular, are surrendering more and more land to foreign investors while failing to ensure that conditions improve income and food security for their own population."[77] The Oaklands Institute notes that this 'shift from domestic to foreign control over food resources and food production' means that large corporate deals 'reduce the poor nations' likelihood of reaching food self sufficiency'.[78]

Often host governments claim that the land being leased to foreign investors is not being used. Even where this may currently be the case[79], because of increasing populations and urbanization, and decreasing availability of fertile land due to climate change, the seemingly abundance of land will eventually/shortly be reduced.

o 2.6 African countries as agrofuel republics? Impacts on the political economy

The medium and long term consequences of land grabbing on the political economy and on the human rights situation of the host countries is another cause for concern. The scale of the restructuring of the land tenure structure, of the agricultural sector, and of the social relationships in the countryside, linked to land grabbing can be quite significant as the case of Ethiopia shows (see chapter 3.3) The experience of the Central American and Caribbean republics in the first part of the twentieth century is particularly instructive. The multilateral companies that invested in countries like Honduras, Guatemala and other places initially produced and exported bananas, pineapples, coffee and other commodities. Over a period of time, through their control of the large plantations, they managed also to control the rich land holding families, which depended almost entirely on the cash flow provided by the multinational agri-businesses. As history shows, it did not take long for the foreign "investors" to own and operate the rail, trucking, ports and banking systems in those countries. History also shows that the social upheavals in these republics which occurred in reaction to the oppressive alliance of the landlords and the multinationals resulted in atrocities that lasted for decades in those countries.[80]

---

[76] See *Agrofuels in Africa – The Impacts on Land, Food and Forests with case studies from Benin, Tanzania, Uganda and Zambia,* African Biodiversity Network, July 2007.

[77] See *Land grabbing – poor people are losing the ground beneath their feet*, Welt Hunger Hilfe, In Brief, 8 April 2009. Available at *http://www.welthungerhilfe.de/fileadmin/media/pdf/Englische_Seite/Themes/IN_BRIEFNo.8_LandGrabbing.pdf*

[78] See *The Great Land Grab*, the Oakland Institute 2009, page 4. Available at http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf

[79] As documented earlier, this is rarely the case. Poor families are often depended on 'marginalised' or 'unused' land for grazing; livestock transit routes; collection of fuel wood, biomass, wild fruits and nuts, medicinal plants and natural products; and access to water sources.

[80] See *The Cambridge History of Latin America*. Volume 6, 1930 to the Present. Part 1, Economy and Society. Edited by Leslie Bethell. *University of Oxford.* For a comparison with contemporary Ethiopia, see Alemayehu.G.Mariam, *Inside the barley republic*, June 8,2009, www.ethiopianreview.com/content/9992

2.7 Most affected groups

As already highlighted, peasant farmers, especially those who lack formal tenure over the land they use are at risk of losing their access to natural resources they rely on for livelihood. Amongst these, minorities and traditionally marginalized groups such as indigenous populations and pastoralists, and women/female headed households are particularly at risk.

2.7.1 Indigenous peoples and pastoralists

Indigenous peoples' insecure access to land has been well documented. The Chairperson[81] of the United Nations Permanent Forum on Indigenous Issues estimates that large-scale agrofuels expansion could jeopardize the land rights of 60 million indigenous people.[82] In 2007, the UN Special Rapporteur on the rights of indigenous peoples noted that in recent years, Kenya's *Masai* herdsmen have been dispossessed of much of their vast nomadic and semi-nomadic grazing areas.[83] Often, under pressure from the international financial institutions, many of their communal grazing areas have been transformed into private agricultural estates. Consequently, the *Masai* and other pastoral peoples, such as the Somalis and the Turkana, have suffered reduction of their herds, gradual deterioration of their standard of living, and increased poverty and insecurity associated with periodic droughts in the arid zones where they eke out a living. The Special Rapporteur similarly blames the high level of poverty amongst *Maasai*, *Tatota*, *Barabaig* and other nomadic herdsmen, as well as the *Hadza* and *Akie* hunter-gatherers on the progressive depletion of their land by *inter alia* promoting private land ownership for agricultural ventures, many of them by foreign commercial companies.

In its September 2008 Bulletin[84], the World Rainforest Movement (WRM) highlights how in Cameroon the *Bagyeli* (Pygmy), *Bulu* and *Fang* communities had been removed from their land by the rapidly expanding SOCAPALM oil palm plantation without adequate compensation. SOCAPALM (owned by the French group Bolloré) is the largest oil palm plantation in Cameroon. These communities depend strongly on forest resources to feed themselves and their families. SOCOPALM reportedly does not offer these communities jobs in its plantations. WRM also recognizes that the oil palm agro-industry will benefit from the

---

81 Victoria Tauli-Corpuz,

82 See *The Growing Demand for Land: Risks and Opportunities for Smallholder Farmers*, IFAD, 18 February 2009. Available at http://www.ifad.org/events/gc/32/roundtables/2.pdf

83 See *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people*, (A/HRC/4/32). Available at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/119/39/PDF/G0711939.pdf?OpenElement

84 See *World Rainforest Bulletin No 134*, September 2008. By Julien-François Gerber. This article is based on the author's field observation and on the following publications: M.A., Monfort 2005, "Filières oléagineuses africaines", Notes et études économiques, n°23, p. 55-85; Agir ICI & Survie, 2000, "Le silence de la forêt: réseaux, mafias et filière bois au Cameroun", Dossiers Noirs n°14, and "Bolloré: monopoles, services compris. Tentacules africaines", Dossiers Noirs n°15, Paris, L'Harmattan. Available at http://www.wrm.org.uy/bulletin/134/viewpoint.html#-%20Cameroon:%20Bagyeli%20severely%20impacted%20by%20the%20establishment%20of%20industrial%20plantations.

predicted boom of agrofuels, a new market in which the French group *Bolloré*, for a long time present in Cameroon, is expected to play a key role.

- ### *2.7.2 Women/female headed households*

Women, and subsequently particularly women headed households, are particularly affected by foreign land investment and commercialized agriculture. A 2008 study by the FAO found that changes in land use towards commercialized farming often exclude women disproportionately.[85]

This is all the more crucial as the family's welfare is primarily dependent upon the woman. In Sub-Saharan Africa women are typically the primary food providers with the sole responsibility for producing the family's basic food stuffs, while men are basically involved in cash cropping. This is illustrated by the lack of correlation between men's income and the household's level of nutrition, whereas higher women's income is positively correlated with a high level of nutrition.[86]

Access to land: Women in Africa continue to lack secure access to and rights over land compared to men. In Burkina Faso for instance there are statutory laws preventing women from holding rights to land independently of their husbands or male relatives.[87] In Zambia[88] and Cameroon[89], when national legislations do provide for women's independent land rights, mechanisms to implement and enforce them are often absent and customary norms tend to prevail. In several Sub-Saharan African countries, (Côte d'Ivoire and in the northern part of Ghana[90], Burkina Faso[91]) women are often allocated low quality lands by their husbands.

As bottom in the land access hierarchy, the increasing demand for and commercialization of land affects women's access to land disproportionately compared to that of men. As communities are moved from their land and access to resource becomes scarce, the men are increasingly likely to allocate women the least fertile land. This clearly negatively affects women's ability to meet habitual household obligations, including traditional food provision and food security. As early as in 1999, FIAN documented how increasing demand and the resulting monetary value attached to land affected women's usufructory[92] rights over land

---

85 See *Gender and Equity Issues in Liquid Biofuels Production: minimizing the risks to maximize the opportunities,* FAO, 2008. Available at ftp://ftp.fao.org/docrep/fao/010/ai503e/ai503e00.pdf

86 See *Men Own the Fields, Women Own the Crops* Goheen, M. (1996) The University of Wisconsin Press, Madison. U.S.A. p91

87 See *Gender and Equity Issues in Liquid Biofuels Production: minimizing the risks to maximize the opportunities,* FAO, 2008. Available at ftp://ftp.fao.org/docrep/fao/010/ai503e/ai503e00.pdf

88 Ibid

89 See *The Right to Adequate Food in Cameroon'* (1999), Parallel Report to the Committee on Economic, Social and Cultural Rights, FIAN International. Available at http://www.fian.org/resources/documents/others/the-right-to-adequate-food-in-cameroon/pdf

90 See *Côte d'Ivoire: Securite Alimentaire et problematique Hommes/Femmes dans La regione de Nord-Est*, Lubbock A, FAO 1998.

91 See *Raising the Productivity of Women Farmers in Sub-Saharan Africa: A Review of the Evidence,* World Bank Discussion Paper 230, World Bank 1994.

92 Usufruct is the legal right to use and derive profit or benefit from property that belongs to another person, as long as the property is not damaged.

within the Nso tribe, Cameroon.[93] At least 10 women in Nsa reportedly complained that a landlord had reclaimed the land they were farming.[94]

Employment: Landowners tend to prefer women workers as they are able to pay them less than male counterparts. According to the ILO, the gender gap in earnings is particularly high in informal employment such as casual and subcontracted labor;[95] the typical labor used on plantations. By employing more women at a lower wage than their male counterparts, the plantations are threatening the household food security in both female-headed and traditional households.

- 3. Case studies

The following case studies provide an in-depth inside into the background, implementation and short term impact of land grabbing.

o 3.1 Uganda: Small farmers lose land to Neumann Kaffee Group in Mubende[96]

For 9 years[97], FIAN has investigated and documented a case involving the forced eviction of 401 families (approximately 2041 individuals) in August 2001 following the Government leasing the land to a German coffee trader to establish a plantation under its local subsidiary *Kaweri* Coffee Plantation Ltd. The families affected were not adequately consulted during the land allocation process. Moreover during the eviction, the army demolished houses, destroyed property, and confiscated staple crops such as cassava and potatoes. Since the eviction, only 2% of the evictees have been compensated but not adequately.

▪ *3.1.1 Background information*

Since the early 1990s, the Ugandan Government has pursued a strategy of neoliberal economic restructuring and privatization according to the tenets of the 'Washington Consensus'[98] and in close cooperation with IMF and WB. In 1991 the Investment Code was adopted and the Uganda Investment Authority (UIA) was founded to attract direct foreign investors.

In 2000 the 'Plan for Modernisation of Agriculture' (PMA) was established as part of the 'Poverty Eradication Plan" forming the basis of the State's agricultural policy. The aim of the PMA is 'poverty eradication through a profitable, competitive, sustainable and dynamic

---

93 See *The Right to Adequate Food in Cameroon* (1999), Parallel Report to the Committee on Economic, Social and Cultural Rights, FIAN International. Available at http://www.fian.org/resources/documents/others/the-right-to-adequate-food-in-cameroon/pdf

94 Ibid

95 See *Women and Men in the Informal Economy: A Statistical Picture*, ILO 2002.

96 Information about this case can be found at: *http://face-it-act-now.org/m1/documents/dossier-the-case-mubende/document*

97 The last visit to the community by a FIAN representative was in July 2009, and regular communication is maintained.

98 The term 'Washington Consensus' was initially used in 1989 by John Williamson to describe a set of ten specific economic policy prescriptions that he considered should constitute the "standard" reform package promoted for crisis-wracked developing countries by Washington, D.C.-based institutions such as the International Monetary Fund (IMF), World Bank, and the US Treasury Department

agricultural and agro-industrial sector'[99], to be primarily achieved by converting subsistence into commercial agriculture. The Government considers the *Kaweri* plantation to be one of the exemplary initiatives under this plan. Amongst the partners to this plan and members of the steering group are Danish International Development Agency (DANIDA), UK Department for International Development (DFID), Swedish International Development Cooperation Agency (SIDA), and Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ).

Although the Land Act 1998 prohibits the sale of land to non-Ugandan enterprises, foreign companies are still able to obtain land. The Government can for instance buy it via the UIA from private owners or village communities and then lease it to the investors.

- *3.1.2 Impacts*

Access to land access/livelihood: As of 2009 most of those evicted are still living on the border of the plantation and it remains uncertain whether they will be allowed to stay there. They only have small plots of land for farming that are insufficient to provide their families with food for the whole year. One of the evictees notes 'having no land for us means to have no food'.

So far those evicted have not been adequately compensated for their loss of livelihoods. In addition to the lack of clarity concerning the plots on which Kaweri pretends to have a claim, the government does not recognize and protect the right of the occupants over their traditional land. This is despite the provisions of Ugandan law on this, which recognizes both the *bonafide* and lawful occupants. Under the Land Act of 1998 dispossessions can only be carried out in exchange for compensation, and even illegal occupants may not be displaced against their will after a period of 12 years if within this time the proprietor has not told them to leave the land (*bonafide* occupants). Moreover the two percent that were compensated with new land, were allocated less land than they held previously and in some instances plots were allocated twice. Most of the community had to rely on the solidarity of other villages to resettle. There is no adequate access to clean water and local infrastructure.

In August 2008, a new report about the living conditions of the evictees was published. This follow up survey, conducted by *ActionAid*, has found that the situation of the affected communities is further deteriorating, particularly with regard to the housing conditions[100].

Employment: Following their eviction some farmers/peasants were employed as casual labourers/day labourers by the coffee plantation. They receive 2000USH (about 1 USD) per day for a fixed amount of work. If the work has not been completed, they do not receive the money. Often therefore the labourers receive 1USD for two days work. Some workers reported waiting weeks before being paid. The management claims that the workers are employed by subcontractors. They also maintain that the wages are adequate using the wages in the tea and sugar section as a defence. Wages are a problem in Uganda. Trade unions are weak and there is no minimum wage. On 1 March 2004 the workers went on strike to protest

---

99 See *Plan for Modernisation of Agriculture: Eradicating poverty in Uganda*, The Republic of Uganda, 2000, page vi. Available at http://www.pma.go.ug/pdfs/Plan%20for%20Modernisation%20of%20Agriculture.pdf

100 *Effects of MNCs on Food Security. The Case of Neumann Kaffee Group in Mubende District, Uganda* Action Aid (2008)

at the bad working conditions at the plantation. The plantation's management called in riot police who used massive violence to break up the strike.

The *Kaweri* Plantation made the affected families dependent on wages by taking their land. Prior to the eviction they were able to work independently and earned significantly more that the wages they currently receive. A study commissioned by Action Aid determines that there has been a significant reduction in most people's income.[101]

Access to water: Before the displacement nearly two thirds of the people could get their water from boreholes. Now only a fifth has access to the boreholes while half of them have to rely on unprotected wells. While *Kaweri* have created a new water pump, when FIAN visited the area in August 2003 the water was found to be contaminated with potentially dangerous concentration of iron. Despite protests the matter remains unresolved. Since the eviction there have been increased rates of diarrhea and similar diseases.[102]

Access to health care: Prior to the eviction the families could access relatively well-stocked private pharmacies, now most of them depend on the public dispensary which is 10 miles away. As a consequent of the hygiene situation, death rates have increased significantly.[103]

Access to education: The eviction led to the closure of the high quality primary school in the area, which implied a disruption of educational services for the affected families. The new school constructed later does not have the same quality of infrastructure than the lost one. In addition to this immediate impact, school dropouts have increased. This is due to several factors that include the inability of the affected families to pay the fees and the distance to the new school.[104]

o 3.2 Mozambique: Agrofuels production in Gaza province

Mozambique has been reporting high rates of economic growth and attracting a significant flow of FDI, particularly for the mining and agricultural sectors. In order to examine the impacts of mining and agrofuel projects on the local rural population, FIAN International conducted a research visit to Mozambique from 26 August till 2 September 2009. The visit was carried out following the invitation of the National Organization of Mozambican Peasants (UNAC). [105] The research team visited the Massingir district in the Gaza province to look into the impacts of the sugarcane ethanol project ProCana on the social rights of the local communities. According to our information, the ProCana project was supposed to invest approx. US$510 million in 30,000 hectares of land and, if carried out as planned, would be the largest of its kind in Mozambique.[106] The British company BioEnergy Africa bought from the Central African Mining and Exploration Company (CAMEC) and another unknown

---

101 See *The impact of foreign direct investment on the local economy : the case of Kaweri Coffee and Kalangala Palm Oil investments, Kampala, Uganda,* Banga Margaret and Nuwagaba, Augustus for Action Aid, 2002.

102 See Businge, Charles 2001: Report on the Conditions of Life of the People Displaced by Kaweri Coffee Plantation Ltd from Naluwondwa in Madudu, Mubende District, Uganda.

103 Ibid

104 *Effects of MNCs on Food Security. The Case of Neumann Kaffee Group in Mubende District, Uganda.* Action Aid (2008)

105 See *Impact of development projects on the social rights of the Mozambican rural population*. Field research visit to Mozambique. FIAN International, Heidelberg, forthcoming.

106 See http://www.biofuelsdigest.com/blog2/2008/01/29/mozambique-president-sets-biofuels-objectives-no-diversion-of-food-production-all-refining-in-mozambique/, accessed on 27 November 2009.

investor 94 percent of the project in 2008/2009,[107] forming a joint venture with national investors as well. However, in late 2009, it announced suspension of investment in ProCana, in order to preserve cash and focus on mining exploration and development in sub-Saharan Africa.[108]

According to the most recent information 22 December 2009, the government has cancelled the ProCana project, and it has no legal existence in Mozambique anymore. The Government claims that the company did not fulfil the original intentions submitted and approved by the Government in 2007. For the Mozambican Government, the ProCana land can now be considered available for further development by any company who wishes to invest in agriculture under government-approved terms. While it appears that the CAMEC-controlled Procana project is officially closed now, the key insights that can be drawn from this experience remain critical and relevant not only for the fate of this 30,000 hectares and the people who live there, but for the broader issue of global land grab and agrofuels development more generally.

- *3.2.1 Background information*

During the visit to the country, the research team interviewed Mr. Izak Holtzhausen, CAMEC's country manager in Mozambique and manager of ProCana,[109] who explained the main features of the project as follows: ProCana started identifying suitable lands for sugar cane production in 2006, and successfully applied before the Mozambican government for land allocation of 30,000 ha under a long-term lease of 50 years, renewable. ProCana heavily invested in drip irrigation and intended to use 108 billion gallons of water per year taken from the nearby Massingir Dam[110]. At the time of our visit, ProCana had already cleared 830 ha of land and had already planted 25 ha with 6 varieties of sugar cane as nursery. The idea was to plant up to 800 ha in the first phase and subsequently scale up to 5,000 so that it will be in full operation by 2011. The ethanol plant was supposed to be ready at the end of 2010 so that the ethanol production at commercial scale would start in 2012. ProCana planned to produce 300,000 m³ of ethanol a year and was convinced that it would be able to compete with Brazilian ethanol. According to the plans, 80 percent of ProCana's ethanol would be marketed across the border to Southern Africa Development Community (SADC) countries, but mainly to South Africa. The main line of product was not to be agrofuel for the transport sector, but ethanol-based plastics for South Africa.

- *3.2.2. Potential impacts on local communities' access to land and their livelihoods*

During the launch of the ProCana project, the Mozambican President, Armando Guebuza, said that "biofuels development will not dislodge Mozambican farmers from their lands." According to the Mozambican leader, currently underutilized or empty lands would be utilized for biofuels are, and it would "avoid using lands used for food production."[111] Mr Mauricio Huo, director of the district service for economic activities in Massingir, was also interviewed by the research team[112]. He explained that the area granted to ProCana was almost non-inhabited and was not being used for agricultural production, but rather for charcoal production by squatters who are destroying the few trees left. When the research

[107] See *Ethanol's African Land Grab - Mozambique has survived colonialism and civil war. But can it survive the ethanol industry*? By Adam Welz . Available at http://www.motherjones.com/environment/2009/03/ethanols-african-landgrab?page=2

[108] See *Programme for **B**asic **E**nergy and **C**onservation - Saving energy for a better future*, ProBEC Biofuel newsletter # 20, September 2009, www.proBEC.org

[109] Interview held on the 26th of August, 2009 in Massingir.

[110] See *Ethanol's African Land Grab - Mozambique has survived colonialism and civil war. But can it survive the ethanol industry*?By Adam Welz, available at http://www.motherjones.com/environment/2009/03/ethanols-african-landgrab?page=2

[111] See http://www.biofuelsdigest.com/blog2/2008/01/29/mozambique-president-sets-biofuels-objectives-no-diversion-of-food-production-all-refining-in-mozambique/, accessed on 27 November 2009.

[112] Interview held on the 25th of August, 2009 in Massingir.

team visited the area, however, it encountered several villages (Chinbangane, Chitar, Zulu, Mahiza and Mocatini), some of which with even health centres and schools. In Chinbangane, the research team got the following testimony:

> "There are 61 families in this village. We were born in this village, and so as our parents who were buried in our community cemetery. We produce maize, sweet potato, peanuts, beans and we have quite some cattle… Yes, we were consulted by ProCana and the local government about the relocation site and the new grazing area last May. But we were not convinced. We did not agree. As far as I know other villages also did not agree. We are trying to gather other villages to come together and discuss the matter. We are worried that we will be forcibly evicted from our land despite our opposition. The local government and ProCana people told us there is no irrigation in our land, and that we will be relocated to a place where there are irrigation facilities. Why not put those irrigation facilities here, in our land, if they really wanted to help us? We can even grow sugarcane for ProCana, but we have to stay in our land… We have what we need. This land is ours. We will not leave."[113]

According to the information provided by ProCana's manager, five local communities were consulted: Zulu, Chitar, Banga, Mahiza and Mocatini. Considering the lack of available statistics and information about the area the research team was not able to find out the exact number of people currently living on the land allotted to the ProCana project who would be affected by reallocation. If we take the number of Chinbangane's families (61) as average, at least 360 families will be affected. The actual figure should be indeed much higher given the fact that Chinbangane was referred to as one of the smallest villages in the area.

Pro Cana's project presented additional complexities, since part of the land requested was also claimed by the Limpopo National Park, that intended to use the area for the resettlement of families still living inside this natural reserve. Reverend Dinis Matsolo, General Secretary of the Christian Council of Mozambique that have actively assisted displaced communities in the park, explained to the research team that nine communities (Mavoze, Massingir Velho, Bingo, Makavene, Chibatana, Matinga, Machaule, Machamba, Ximange) were still living inside the park and that only one had been already resettled. He indicated the Lutheran and the Catholic Church have been supporting these communities since 1994, and groups settled in the national reserve had been war refugees who were repatriated and resettled in the area which later became the Limpopo National Park. Now they would have to be resettled once again. The Ministry of Tourism, the authority in charge of the park, negotiated with the Ministry of Agriculture land for this resettlement. It seems that the Ministry of Agriculture promised to the Ministry of Tourism to get the lands in Massingir district. Nevertheless, the allocation was apparently not formalized and ProCana appeared later on applying for a land-lease in this area and outbidding the Ministry of Tourism.

The possible consequences the ProCana project would have on the livelihood of this community was very uncertain, and until the project was cancelled, it was not clear at all what would happen with the communities currently living on the different lands. There had been, indeed, some kind of community consultation about the ProCana project, as mandated by the Mozambican Land Law, but the complaints presented by the communities interviewed indicated that only the local elites and elders were actually consulted, some of whom have personally endorsed the mega-project in their communities despite apparent widespread objection amongst them.[114] Moreover, interviewed persons ndicated that the consultation in Chinbangane had been flawed, considering the information was not sufficiently clear and was presented in a partial manner. Instead of including in the agenda the fundamental issue of whether or not the local communities accept the ethanol project and under what terms they

113 Interview held on the 25th of August, 2009 in Chinbangane.

114 See Vermeulen, Sonja and Lorenzo Cotula. 'Over the heads of local people: consultation, consent and recompense in large-scale land deals for biofuels projects in Africa'. Paper under review, *Journal of Peasant Studies*. 2009.

would do so, the consultation processes were generally limited to the question of the terms on how the resettlement from the ProCana project allocated lands would take place. Furthermore, even this issue appeared not to have been properly tackled since neither the company nor the local authorities mentioned the existence of any concrete and mandatory resettlement plan for these communities, disregarding the need to present clear commitments, such as a time schedule, to undertake the resettlement. Representatives from other affected communities, namely Banga, Tihovene, Condzwane and Cubo, have expressed similar complaints and highlighted particularly that ProCana was expanding the boundaries of the lands it wanted to control, disregarding original agreements with the communities.[115] All these elements call into question the entire consultation process, clouding the requirement for accountability.[116]

These lands are the main source of livelihood of the Massingir communities. The communities living in this area undertake three key agricultural economic activities, namely, livestock raising, charcoal production, and subsistence farming. The land is traditionally utilized, in this sense, in a very extensive way. The ProCana project would profoundly change the pastoralist lifestyle of these communities, by disrupting spaces for livestock grazing and pastoralists routes, while some of their traditional livestock raising practices will have to be changed to a 'semi-sedentary' regime. Ultimately, a substantial part of the land that would have been allocated to ProCana are, historically, areas and routes for livestock grazing by the dominantly pastoralist communities, and would have been deeply affected if the project would have been fully executed. Failing to protect the communities from losing their lands and thus their livelihoods without being properly reallocated and compensated for all losses incurred, would seriously violate their right to an adequate standard of living, including their rights to food and housing.

The ProCana project claimed to be a developmental project for the local communities as well, which would create employment. There were however no binding commitments in terms of the number of jobs. The actual number would have depended on what form of regulations the national government would have put in place regarding environmental, labour and social safety standards. For example, if the government bans cane burning and imposes strict labour standards, then ProCana would have opted for a mechanized plantation set-up. It would have been technically feasible partly because the lands are quite flat. But if the national government did not impose a ban on cane burning and is flexible about labour standards, then they would have opted for a non-mechanized plantation set-up. The latter would potentially hire more workers, estimated by ProCana at 5,000 to 6,000 workers, while the former would accommodate less at around 3,000 to 4,000 workers. More to the point, an older man who lives inside the land allocated to ProCana and is among those being asked to leave the community where he was born, and where his ancestors had lived, expressed doubts about the potential benefit of being employed by the plantation. He thinks that only the younger, mostly skilled, men would be hired.

- *3.2.3 Potential impacts on local communities' access to water*

One other major issue concerning the cancelled project referred to the use of water resources. The land allocated to ProCana, as mentioned above, is located adjacent to the Massingir dam and the Elephants river. When the research group asked ProCana's manager about any major risk in their investment, he quickly and explicitly mentioned a possible conflict around the issue of what volume of water from the Massingir dam could be released to be used as irrigation for Procana, as against the main allocation to produce electricity. In its full capacity, the dam has the potential to irrigate 90,000 hectares of land, while the total arable land in

[115] See Manuel, Lino and Alda Salomão. „Biofuels and land rights in Mozambique – the ProCana case". Haramata 54. March 2009, p. 17-19.

[116] For other problems with community consultation and impacts of agrofuel projects, see Salé, Nurdine. Estudo e Advocacia sobre Biocombustíveis e Segurança Alimentar em Moçambique. Action Aid Moçambique. 2008.

Massingir District is more than 70,000 hectares.[117] The actual releasing of water for irrigation was a contested issue as generating electricity for export would remain the main priority. After all, the loans for the dam construction have to be paid. In times of drought, the dam has to honour its commitment to deliver a minimum quantity of electricity (for export to South Africa) – leaving dry the agricultural lands.[118] Therefore, the full potential of 90,000 hectares was unlikely to be realized anyway.

In situations where there would be drought (and it is likely in this semi-arid region), the government would first honour its commitment to generate electricity for export to South Africa and for the domestic industrial sector. Any remaining water from the dam would have been committed to ProCana – as Procana claimed that they got the assurance from the national government that their irrigation need were going to be protected at all times. Bioenergy Africa claims, that "To ensure that cane production is not compromised by other potential users, ProCana had obtained a guarantee from the Mozambican government to enable it to use up to 750 million cubic metres a year with a water licence being granted once the final design for the extraction of the water has been submitted."119 ProCana was going to need 407 million cubic metres of water to irrigate its sugarcane plantation. This means, that it was very likely that the least priority would have been the small farmers in the adjacent districts of Massingir and Chokwe, the latter being the heart of the Limpopo Valley irrigated agriculture. Hence, if this plan on water (re)allocation would have been carried out, in all probability it would have caused negative consequences to the farming activities, existing and future, by peasant households in the area. Such (re)allocation of water resources, especially in relatively dry places like Mozambique, would have undermined the autonomy and capacity of local communities to produce their own food for their consumption. In this case, the right to water and food of these communities would be endangered.

As mentioned above, the ProCana project has been cancelled, but this does not stop the government from authorizing a similar intiative with different parties involved. If the same disregard in promoting broad and effective consultation is kept, most likely these communities will be exposed to violation of their human rights again.

o 3.3 A statistical analysis: How Foreign Direct Investment will restructure the Agricultural Sector in Ethiopia[120]

Ethiopia has aroused the attention of foreign investors as it has large areas of fertile land and has developed a very investor-friendly environment over the last 10 years through strong changes to its national policy framework. In Ethiopia, investments in the agricultural sector, where regulations have been significantly reduced, have increased from USD135 million in 2000 to USD3500 million in 2008. The Government, amongst other things, requires no minimum capital, and has exempted foreign agricultural activities from paying custom duties and taxes on imports of capital goods. There are also no employment limits on foreign staff.

The EU[121] is the second largest investor in Ethiopia from 2000 to 2008, averaging 21.22% of the total foreign investment sum. EU countries focus on meat[122], agrofuels production, and horticulture. Bilateral investment treaties exist between Ethiopia, and Italy, Denmark, and the Netherlands amongst others. The agreement signed with the Netherlands on the encouragement and reciprocal protection of investment offers considerable incentives to the private corporations wishing to invest. It guarantees transfers such as profits, interest, or dividends in freely convertible currency of payments related to investments. This means that a Dutch company investing in Ethiopia would not have to pay tax and that profits can flow back to the Netherlands without any restrictions. The Ethiopian Government also offers investors protection by being a member of the Multilateral Investment Guarantee Agency, ICSID and

---

117 Interview with the Director of Massingir's district service for economic activities.
118 Interview with ProCana's General Manager.
119 See http://allafrica.com/stories/200811280929.html, accessed 27 November 2009.
120 See *Foreign Direct Investment in the Agricultural Sector in Ethiopia,* EcoFair Trade Dialogue: Discussion paper No 12 by Lucie Weissleder, University of Bonn, Heinrich Boll Stiftung, Misereor, October 2009. Available at http://www.ecofair-trade.org/pics/en/FDIs_Ethiopia_15_10_09_c.pdf
121 Only investing EU countries are considered as part of the EU aggregate: Austria, Belgium, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Finland, Ireland, Italy, Netherlands, Sweden, UK, Ukraine
122 Meat production sector refers to the raising and slaughtering of animals such as bulls, pigs etc

WIPO. However, the latter only cover investors' rights. They do not provide opportunities for those affected by land investments to challenge it and to call for adequate compensation.

The following statistical analysis, based on public data, aimed at looking into how FDI is restructuring the agricultural sector, particularly the land tenure structure in a country which has a large proportion of undernourished population and is significantly dependent on international food assistance.

- ### *3.3.1 Food security and economic structure*

Ethiopia: socio-economic facts (2008)

Population, total (millions)	80.7
Population growth (annual %))	2.6
Life expectancy at birth, total (years))	55.4
Mortality rate, infant (per 1,000 live births))	75.2
Literacy rate, youth female (% of females ages 15-24))	38.5
GNI (current US$) (billions)	26.5
GNI per capita, Atlas method (current US$))	280.0
Human Development Index (The Human Development Index combines three basic aspects of human development: health, knowledge, and standard of living. Data on each country's progress in each area is collected and released annually by United Nations Development Programme)	0.414; Rank: 171 (source: UNDP)

Sources: World Bank unless specified http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/ETHIOPIAEXTN/0,,menuPK:295955~pagePK:141132~piPK:141109~theSitePK:295930,00.html

Ethiopia: food security statistics

Agricultural production (% of GDP)	50
Children under weight for age (% of children under 5)	38
Population undernourished (% of total pop.)	46
Global hunger index The Global Hunger Index ranks countries on the basis of a figure arrived at by combining three indicators: level of child malnutrition, rates of child mortality, and the proportion of people who are calorie deficient. The ranking is updated annually by IFPRI.	31: extremely alarming

Source: World Food Programme http://www.wfp.org/node/3449

▪

▪ *3.3.2 Land deals*

According to different sources (see annex), land deals adding up to 528 000ha have been recorded. According to other sources, at least **1311** projects would have been received, for a total of land promised to foreign investors by the government comprised between **2.7 million**[123] and **3 million** hectares. [124] Furthermore, more than **9,200** investors have received licenses for commercial farms in Ethiopia since 1996, of which about **1,300 are foreign**. The majority of investor enquiries are from India but there are also Chinese, **European** and Middle Eastern firms operating in Ethiopia. **India** has invested nearly **$4 billion** in Ethiopia, including in agriculture, flower growing and sugar estates.[125]

▪

▪ *3.3.3 Land structure of the country*

Ethiopia FAO stats 2007 (in hectares)

Country area	110 430 000
Land area	100 000 000
Arable land[126]	14 038 000
Permanent crops[127]	1 039 000
Arable land and Permanent crops	15 077 000
Permanent meadows and pastures	20 000 000
Agricultural area[128]	35 077 000

Source: FAO statistics – land: http://faostat.fao.org/site/377/default.aspx#ancor

According to statements of Ethiopian officials in the press, the cultivable area in the country is 74.5 million hectares. [129]

---

123 See Abera Deressa, ministry of agriculture, *L'Hebdo*, 03/09/2009, p. 50.

124 See Esayas Kebede, director of the government's Agricultural Investment Agency, Reuters, 05/11/2009.

125 Ibidem.

126 FAO defines arable land as the land under temporary agricultural crops (multiple-cropped areas are counted only once), temporary meadows for mowing or pasture, land under market and kitchen gardens and land temporarily fallow (less than five years). The abandoned land resulting from shifting cultivation is not included in this category. Data for "Arable land" are not meant to indicate the amount of land that is potentially cultivable.

127 FAO defines permanent crops as crops which are sown or planted once, and then occupy the land for some years and need not be replanted after each annual harvest, such as cocoa, coffee and rubber. This category includes flowering shrubs, fruit trees, nut trees and vines, but excludes trees grown for wood or timber.

128 For FAO agricultural area is the sum of areas under a) arable land - land under temporary agricultural crops (multiple-cropped areas are counted only once), temporary meadows for mowing or pasture, land under market and kitchen gardens and land temporarily fallow (less than five years). The abandoned land resulting from shifting cultivation is not included in this category. Data for "Arable land" are not meant to indicate the amount of land that is potentially cultivable; (b) permanent crops - land cultivated with long-term crops which do not have to be replanted for several years (such as cocoa and coffee); land under trees and shrubs producing flowers, such as roses and jasmine; and nurseries (except those for forest trees, which should be classified under "forest"); and (c) permanent meadows and pastures - land used permanently (five years or more) to grow herbaceous forage crops, either cultivated or growing wild (wild prairie or grazing land).

129 See Esayas Kebede, director of the government's Agricultural Investment Agency, Reuters, 05/11/2009.

3.3.4 Land ownership structure

Number and area of holdings by size (agricultural census 2001-2002)

	Number of holdings (% of the total)	Area (ha) (% of the total)
Total	**10 758 597**	**11 047 249**
< 0.1 ha	819 394 (7.6%)	38 418 (3.5%)
0.1 - 0.5	3 175 027 (29.5%)	933 428 (8.4%)
0.5 - 1	2 767 746 (25.7%)	2 021 798 (18.3%)
1 - 2	2 612 288 (24.3%)	3 682 947 (33.3%)
2 - 5	1 276 773 (11.9%)	3 605 515 (32.6%)
5 - 10	97 037 (0.9%)	612 070 (5.5%)
10 > (wide-scale)	**10 333 (0.1%)**	**153 072 (1.4%)**

Source: FAO Ethiopia agricultural census 2001/2002
http://www.fao.org/fileadmin/templates/ess/documents/world_census_of_agriculture/main_results_by_country/ethiopia_2000.pdf

According to statements of Ethiopian officials in the press, 95% of the land is exploited by small-scale farmers [130] which adds up to about 15 million hectares. [131]

3.3.5 Analysis

Ethiopia is a very poor country, with extremely important problems of hunger and food aid dependency. Agriculture is a key sector for the economy of the country, as it represents half of its gross domestic production.

While the data from the land grabbing case table explicitly mentions 528,000 ha of land that are being bought or leased by foreign investors in Ethiopia, the figures given by the government itself seem to be much higher. Although it is true that this difference can partly be explained by not all the land being made available by the Ethiopian government finding an investor, it also indicates that **the estimates given by the table are probably largely underestimated**.

In any case, whatever the figures chosen, these statistics reveal the relative importance of foreign investments, as up to **4% of the fertile land** (according to the government's estimation of fertile lands) in Ethiopia could become exploited by foreign entities. This would represent the equivalent of up to **8.5% of the total current agricultural area** (including permanent meadows and pastures), and the equivalent of up to **20% of the current arable land and permanent crops area**.

However, estimating the impact foreign land acquisition has had on the land ownership structure is difficult to make. The figures given can cover different realities. The government indicates that, in 2009, '14 to 18 million hectares' of land are currently being exploited for agriculture, while the FAO evaluated in 2007 at 35 million hectares the 'agricultural land'. The difference largely comes from the fact that the government does not take into account the permanent meadows and pastures. The ministry of agriculture thus declared that when a land used for pasture would be given to foreign investors, the pastoralists who used this land would

[130] See Abera Deressa, Ministry of agriculture, *L'Hebdo*, 03/09/2009, p. 50.
[131] See Esayas Kebede, director of the government's Agricultural Investment Agency, Reuters, 05/11/2009.

not be compensated, as ‘they should go somewhere else’.[132] Equally, it is not sure what the figure of 74.5 million hectares of fertile land in Ethiopia covers: it could include large areas of forest, and damages to the environment have already been reported.[133]

The land is, up to recently and traditionally, in its great majority exploited by small-scale farmers (95 to 98%). The massive foreign investments are made on huge areas, and they are thus substantially modifying the land ownership structure and the correlated social structure and cultural practices.

There is little information about which kind of land is given to the investors, whether it is vacant land or whether the land is currently being used by peasant farmers or pastoralists. The reality is probably both, but whether we choose one approximation or the other, and still assuming that foreign investments are all made on wide-scale areas, **the proportion of wide-scale exploitations (>10ha) in Ethiopia could move from 1.4 % (census 2001-2002) to a figure comprised between 17% and 20% in the next years if the Ethiopian government’s plan were to be completed.**

Yet, as described previously, the move towards wide-scale agriculture is empirically hardly synonym of better access to food for the local population. This is all the more true as foreign companies usually invest in such lands either for profit (and thus selling to countries that pay the most), or to export to high income countries that are having growing demands in terms of foods. Figures in points 3 to 6 above thus strongly contrast with point 1 regarding the poverty and the difficulties of Ethiopia to satisfy its right to food legal obligations.[134]

This is only one example amongst many others. Other countries, like Zambia, are in a similar situation. According to the organisation AGTER[135], the Zambian government is seeking to transfer 30 million hectares to foreign investors, in a country of only 70 million hectares. It is equally evaluated that only 14% of the arable land is currently being cultivated, which probably again ignores traditional pastures and other small-scale farming.[136]

- 4. European direct or indirect involvement in land grabbing.

A number of different factors have increased demand for land (agrofuels, food crisis, financial crisis). European involvement in land grabbing is first due to the policies of both the EU and individual member States, which are directly and indirectly stimulating these factors, and hence this increased demand for land. Moreover, in some cases, there is a direct State involvement in the corporations acquiring the land. The Italian Government for instance owns 30% of ENI which is reported to be undertaking a new multi-billion dollar land acquisition project in the Republic of the Congo to develop, amongst other things, oil palm for bio-diesel.[137]

o 4.1 European agrofuels policies

EU energy policies are fuelling amongst EU countries and elsewhere the demand for overseas agrofuels investment. As noted earlier, the IIED reports that government consumption targets

132 See Abera Deressa, Ministry of agriculture, *L’Hebdo*, 03/09/2009, p. 50.
133 Ibid
134 Ethiopia is a party to the International covenant on Economic, Social and Cultural Rights since its accession to the treaty on 11th June 1993.
135 See http://www.agter.asso.fr/article385_fr.html.
136 According to the FAO, the agricultural area of Zambia in 2007 was already 2 558 9000 hectares, about 35% oft he 74 339 000 hectares land area.
137 See *Energy Futures? Eni’s investment in tar sands and palm oil in the Congo Basin*, November 2009. Available at http://www.oilwatchafrica.org/sites/all/files/enicongoreport.pdf

are creating an artificial demand unprecedented among cash crops, which is likely to persist beyond the usual length of a “commodity boom” cycle.[138] Similarly, a joint report by IIED, FAO and the IFAD observes that government consumption targets (in the European Union, for instance) and financial incentives have been a key driving force for demand for investment in agrofuels.[139]

EU *Directive* 2009/28EC (April 2009) sets new mandatory targets for member states: a minimum 10% share of renewable energies which in the end will be supply mainly by agrofuels within the total consumption of fuel for transport in every member state by 2020. This Directive replaced *Directive 2003/30/EC*, which established the goal of reaching a 5.75% share of renewable energy in the transport sector by 2010. Under *Directive 2009/28EC* each Member State is obligated to adopt a national renewable energy action plan establishing Member States’ national targets for the share of energy from renewable sources consumed in transport, electricity and heating and cooling. Since production costs are not yet in line with those of crude oil, the EU market for agrofuels depends principally on consumption mandates and incentives with direct production incentives in the minority.[140] To meet their consumption targets, member states at their discretion are introducing a process of support measures, including consumption incentives (fuel-tax reductions), production incentives (tax incentives, loan guarantees, direct subsidy payments) and mandatory consumption requirements. These include reduced tax on limited quantities of biodiesel and bioethanol (France, Germany, and UK).[141] In Slovenia, in accordance with the Excise Act, distributors of fuel for motor transport vehicles qualify for an exemption from excise duties, provided that the fuel is blended with agrofuels.[142] Other incentives cover use such as the British Government's Renewable Transport Fuel Obligation requires UK fuel suppliers to ensure that a certain percentage of their aggregate sales are made up of agrofuels or they face a 15 pence per liter penalty.[143]

As part of their reporting on land grabbing, several media outlets as well as NGOs have highlighted the relationship between the EU directives, state policy and the increasing land acquisition by European companies for agrofuels production. African Biodiversity Network has for instance heavily criticized the UK for setting targets for agrofuels that will sacrifice Africa’s land, forests and food to satisfy the UK’s huge energy requirements.[144]

According to media reports, Sweden has set a 40 per cent target for 2020 and a new government bill requires its transport sector to be fossil-free by 2030.[145] The article states that Sweden is investing heavily in research and influencing EU-wide policy that provides financial incentives for companies to buy up land in Africa for agrofuels production. Two

---

138 See *Fuelling exclusion?The biofuels boom and poor people’s access to land*, 2008,IIED and FAO. Available at http://www.iied.org/pubs/pdfs/12551IIED.pdf

139 See *Land grab or development opportunity? Agricultural investment and international land deals in Africa*, 2009, by Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley, IIED, FAO and IFAD. Available at http://www.ifad.org/pub/land/land_grab.pdf

140 See *USDA GAIN (Global Agricultural Information Network) Report NL9014*, 15 June 2009. Available at: http://gain.fas.usda.gov/Recent%20GAIN%20Publications/General%20Report_The%20Hague_Netherlands-Germany%20EU-27_6-15-2009.pdf

141 See *USDA GAIN (Global Agricultural Information Network) Report NL9014*, 15 June 2009. Available at: http://gain.fas.usda.gov/Recent%20GAIN%20Publications/General%20Report_The%20Hague_Netherlands-Germany%20EU-27_6-15-2009.pdf

142 Ibid

143 Ibid

144 See *The New Scramble for Africa*, Seedling, GRAIN, July 2007. Available at http://www.grain.org/seedling/?id=481#

145 See *Land-grabbing in Africa: The why and the how*, Pan-African Voices for Freedom and Justice, October 2009. Available at http://current.com/1abji4c

Swedish agrofuels companies, SweTree Technologies and SEKAB, allegedly, currently sit on the industry-dominated board of the European Biofuels Technology Platform (EBTP), which has privileged access to European Commission (EC) decision-making and helps shaping the research direction and spending of public money.[146]

Equally, as evoked above, Congolese human rights organizations and their international partners report that, in part encouraged by targets introduced by national governments and the EU, the Italian company ENI[147] is undertaking a new multi-billion dollar investment in the Republic of the Congo to develop amongst other things oil palm for bio-diesel.[148] This will be one the continent's largest agrofuels project, reportedly using 70,000 hectares of 'unfarmed' land.[149]

European development cooperation is actively supporting the introduction of agrofuel policies in African countries. In Mozambique, for instance, the embassy of Italy in cooperation with the World Bank sponsored a study on the agrofuels potential in this country. [150] Largely based on this study, the Mozambican government adopted its new "Policy and Strategy for Biofuels".151

European banks are also involved in promoting agrofuel production in Africa. The German Deutsche Investitions- und Entwicklungsgesellschaft (DEG) together with other international development banks are negotiating to fund a project of the Addax Bioenergy company (a subsidiary of the Addax & Oryx Group with headquarters in Geneva) to plant 20,000 hectares with sugar cane and maniok for ethanol production in the north of Sierra Leone.[152]

According to Reuters' media reports dated 20 March 2009[153], British energy firm CAMS Group last year bought 45,000 hectares in Tanzania to produce 240 million liters of ethanol a year from sweet sorghum. Another British company (Sun Biofuels) allegedly plans to grow about 5,500 hectares of jatropha in Tanzania. The company also grows jatropha in Ethiopia and has similar projects in Mozambique. Germany's Flora EcoPower is investing $77 million in Ethiopia's Oromia State as part of a purchase of over 13,000 hectares for biofuels production. Swedish firm Sekab, one of Europe's biggest biofuels producers, is reported as planning to establish several plantations in Tanzania in the next 10-15 years, and is apparently negotiating with Mozambique over 100,000 hectares.

Finally, it is noteworthy that the policy of the EU can also push domestic investors to grab land. In South-Africa, the AGTER reports a 500,000 hectares project, led by *Eastern Cape Development Corporation*, to product agrofuels explicitly destined to the EU[154]. This project encountered a strong opposition from social movements, which denounce the use of their

---

146 Ibid

147 ENI is one of the top ten energy companies in the world. Thirty percent of ENI is owned by the Italian State.

148 See *Energy Futures? Eni's investment in tar sands and palm oil in the Congo Basin*, November 2009. Available at http://www.oilwatchafrica.org/sites/all/files/enicongoreport.pdf

149 Ibid

150 See World Bank and Embassy of Italy, Maputo. 'Mozambique Biofuels Assessment: Final Report'. A Report prepared for the Ministry of Agriculture and the Ministry of Energy of Mozambique. Maputo: World Bank and Embassy of Italy. 2008. p. ES-1.

151 See Resolution 22/2009, from May 21, 2009.

152 See Aktion: Kein Zuckerrohr für deutsche Autos! Rettet den Regenwald https://www.regenwald.org/protestaktion.php?id=521

153 See *FACTBOX-Foreign forays into African farming*, Reuters, 20 March 2009. Available at: http://www.reuters.com/article/marketsNews/idUSLK10422520090320?sp=true 20 March 09

154 See http://www.agter.asso.fr/article371_fr.html.

traditional lands without prior consultation, lands which used to allow them to feed themselves.

Following the concerns expressed about agrofuels production and the impact on the environment and rural poor, the EU Directive for renewable energy adopted sustainability criteria to ensure that agrofuels are produced in a sustainable way and can be counted towards the target or eligible for support. However, these criteria have been heavily contested by environmental and human rights organizations due to the fact that they are insufficient to to protect forests, petlands and biodiversity, that the social criteria are very weak, and that the verification of compliance is unclear. [155]

o 4.2 The food crisis

A 2009 report by the IFPRI argues that the food price crisis of 2007-2008 led to "the proliferating acquisition of farmland in developing countries by other countries" attempting to boost the security of their food supply.[156] The IFAD similarly noted that the second main driver of this global demand for land in developing countries is the recent food crisis, combined with the financial crisis.[157] It reports that to guarantee the food security of their own populations, a number of food-importing nations have started to purchase or lease land in developing countries, sometimes through sovereign wealth funds, to actually outsource their own food production.

Most reports have highlighted that the 'treasure hunt' countries such as Saudi Arabia, Japan, China, India, Korea, Libya and Egypt amongst others are conducting for fertile farmland.[158] However, EU countries and European private corporations are also involved. According to media reports, in December 2008 the Nigeria's Niger Delta Development Commission[159] and UK based TRANS4mation Agritech (T4M) signed a 305million USD[160] agreement for the establishment of 30,000 hectares of land for mechanized farming for rice and other agricultural products in the Niger delta. The Agreement apparently 'would see both parties work together for a minimum period of 25 years to provide employment, food security and sustainable development'.[161] UK Actis Africa Agribusiness Fund has a USD100 Million fund (launched in 2006) to invest in agribusiness in Africa including land (primarily Zambia).

With claims of a win-win situation, these corporations appear to be hiding behind the world food crisis and masking their corporate interests. Their main motivation is clearly profit.

155 See Biofuels. Handle with care. An analysis of EU biofuel policy with recommendations for action. A joint publication by Bird Life, European Environmental Bureau, FERN, Friends of the Earth Europe, Oxfam International, Transport and Environment. November 2009.

156 See '*Land Grabbing' by Foreign Investors in Developing Countries: Risks and Opportunities* by Joachim von Braun and Ruth Meinzen-Dick, IFPRI Policy Brief, April 09**.** Available at http://www.landcoalition.org/pdf/ifpri_land_grabbing_apr_09.pdf

157 See *The Growing Demand for Land: Risks and Opportunities for Smallholder Farmers*, IFAD, 18 February 2009. Available at http://www.ifad.org/events/gc/32/roundtables/2.pdf

158 See *Seized: the 2008 land grab for food and financial security*, GRAIN Briefings, October 2008. Available at http://www.grain.org/briefings_files/landgrab-2008-en.pdf

159 The Niger Delta Development Commission Federal Government agency was established by Nigerian president, Olusegun Obasanjo in the year 2000 with the sole mandate of developing the oil-rich Niger Delta region of southern Nigeria.

160 This equates to 46 billion Nigerian Naira.

161 See *NDDC, Agritech Sign Pact to Boost Crop Production*, The Guardian, 21 December 2008. Available at: http://www.ngrguardiannews.com/agro_care/article02/indexn3_html?pdate=211208&ptitle=NDDC,%20Agritech%20Sign%20Pact%20To%20Boost%20Crop%20Production&cpdate=271208

Moreover, the impact intensive agriculture has on soil quality and biodiversity could have a lasting effect on the future capacity to produce crops. The Coordinator of MASIPAG[162] in the Philippines for instance told GRAIN that commercial investors 'are bound to come in, deplete the soils of biological life and nutrients through intensive farming, pull out after a couple of years and leave the local communities with a desert'.[163]

o 4.3 The financial crisis

Following the recent financial crisis, actors within the finance sector are turning towards land as a source of solid financial returns.[164] While traditionally land acquisition has not been a typical investment for investment funds due to political instability and the lack of short-term returns, the food crisis and the demand for agrofuels has turned land into a new strategic asset. Indirectly, by increasing demand for agrofuels production, recent EU directives have increased demand for land by private finance institutions.

Throughout 2008 an army of investment houses, private equity funds, hedge funds and the like have been snapping up farmlands throughout the world.[165] UNCTAD also recognizes the emergence of new actors in agricultural investment/production such as private equity funds but acknowledges that 'it is still too early to present a fully reliable statistical picture'.[166] In its report 'The Great Land Grab', the Oakland Institute highlights how many Western investors, 'including Wall Street banks and wealthy individuals, have turned their attention to agricultural acquisitions over the course of the past two years'.[167] Examples given include Morgan Stanley purchasing 40,000 hectares of farmland in Ukraine, or the Swedish investment groups Black Earth Farming and Alpcot-Agro along with the British investment group Landkom collectively acquiring nearly 600,000 hectares in Russia and Ukraine.[168]

European private finance actors are also investing in land in Africa. In August 2009, the BBC reported that UK based Emergent Asset Management Limited is in the process of buying or leasing a total of 50,000 hectares, equal to roughly 80,000 football pitches, in several African countries including Mozambique, South Africa, Botswana, Zambia, Angola, Swaziland and the Democratic Republic of Congo.[169] UK based Cru Investment Management, an 'ethical fund', facilitates private investment in African agriculture for guaranteed returns of 30-40%.[170] These are just two of many examples. In March 2008 Reuters reported that Barclays

---

162 MASIPAG is a farmer-led network of people's organizations, non-government organizations and scientists working towards the sustainable use and management of biodiversity through farmers' control of genetic and biological resources, agricultural production and associated knowledge. See http://masipag.org/cms/index.php?option=com_content&task=view&id=12&Itemid=27

163 See *The new farm owners: corporate investors lead the rush for control over overseas farmland* GRAIN October 2009. Available at http://www.grain.org/articles/?id=55

164 See *Seized: the 2008 land grab for food and financial security*, GRAIN Briefings, October 2008. Available at http://www.grain.org/briefings_files/landgrab-2008-en.pdf

165 Ibid

166 See *World Investment Report: Transnational Corporations, Agricultural Production and Development*, UNCTAD, 2009, page 103. Available at: http://www.unctad.org/en/docs/wir2009_en.pdf

167 See *The Great Land Grab*, the Oakland Institute 2009, page 4. Available at http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf

168 Ibid

169 See *Africa investment sparks land grab fear*, BBC NEWS, 5 August 2009. Available at http://news.bbc.co.uk/2/hi/business/8150241.stm

170 See *The new farm owners: corporate investors lead the rush for control over overseas farmland* GRAIN October 2009. Available at http://www.grain.org/m/?id=266

Capital is actively seeking to acquire farmland.[171] As of yet however there are no further details. Media reports are also noting that pension funds are seeking out agricultural and commodity-related assets that offer diversification from traditional asset classes and superior returns to listed equities.[172] In particular, the report mentions that Silver Street Capital's Luxembourg-domiciled Silverlands Fund will focus on acquiring and developing agricultural businesses in sub-Saharan Africa.[173] In a word, the business community in Europe is increasingly realizing the apparent value of acquiring agricultural land in Africa.[174]

In the case of Germany[175], however, the financial crisis seems to have somewhat unsettled investors. After the outbreak of the crisis, in September 2008, German land investors like Agrarius AG expressed less interest in land investment. German investors seem to have rushed into land investment after the beginning of the food crisis and during the last phase of the overheated financial markets in 2007/08. Portfolio investment is apparently the most common form of investment in foreign land acquisition. Single funds, like the German DWS Agricultural Land & Opportunities Fund, alone largely exceed all direct German investment in foreign land acquisition. Even though German investors have particularly targeted South America and Eastern Europe, investors like Flora Eco Power Holding AG, Jatro Green, JSL Biofuels and Prokon have invested in countries like Ethiopia, Madagascar and Tanzania mainly in agrofuels production.

As highlighted by the recent financial crisis, the different actors within the financial sector are remarkably unregulated. Following the 2008 crisis there have been increasing calls for regulation at the international, regional and State levels. However, while these calls have included the need to regulate hedge funds, private equity firms and other private pools of capital, EU efforts so far remain mild and are limited to the relationship between these entities and the financial crisis.[176] They have not yet taken into account the impact foreign investments in developing countries can have on the local populations.

o 4.4 Other State involvement

While private sector deals account for about 90% of land investments,[177] the home country governments of investors may play a major supportive role by providing diplomatic, financial and other support to private deals.[178] Home countries can promote FDI abroad by providing information and facilitating contacts between potential investors and host countries and providing financial and fiscal incentives to offset investment risks and to promote technology transfer.[179] Equity participations in investment projects by home country governments,

---

171 Ibid

172 See *Pension funds seek out agricultural assets,* Global Pensions, 24 November 2009. Available at http:/ /www.globalpensions.com/global-pensions/news/1563166/pension-funds-seek-agricultural-assets

173 Ibid

174 See *Buy into Africa* Investors' Chronicle, 15 August 2008. Available at http://www.investorschronicle.co.uk/InvestmentGuides/Shares/article/20080815/6503747a-6a00-11dd-83c2-00144f2af8e8

175 See research done by FIAN Germany "Recherche zu deutschem Landinvestment im globalen Süden", November 2009, mimeo.

176 See *EU policy towards financial market regulation,* European Trade Union Confederation 26 October 2009. Available at http://www.etuc.org/a/6614

177 See '*Land grabs' in Africa: can the deals work for development*? IIED Briefing Note, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

178 Ibid

179 See *Human rights, trade and investment* Report of the High Commissioner for Human Rights to the 55th session of the Sub-Commission on the Promotion and Protection of Human Rights, E/CN.4/Sub.2/2003/9.

through state-owned enterprises, development funds or sovereign wealth funds may also be growing.[180]

The UK Government owned Commonwealth Development Company (CDC) has net assets of US$4bn and invests in private equity funds focused on the emerging markets of Asia, Africa and Latin America, with particular emphasis on South Asia and sub-Saharan Africa.[181] It is the sole investor in a private equity firm called Actis, which launched in 2006 an USD100 million Africa Agribusiness Fund to invest in agribusiness in Africa including land.[182] The CDC is also inviting tenders from fund managers for the formation and management of a commercial forestry fund which will invest all of its committed capital in sustainable forestry in Sub-Saharan Africa.[183]

The State may also directly own enterprises that are investing in land. The Italian Government for instance owns 30% of ENI. The company is reportedly investing in 70,000 hectares of 'unfarmed' land in the Republic of the Congo to develop amongst other things oil palm for bio-diesel.[184]

- 5. The relationship between foreign aid and development assistance, trade and land grabbing

In addressing some of the traditional concerns of foreign investors regarding investing in developing countries, EU member states, both individually and through international actors such as the World Bank, have been promoting different policy reforms since the 1990. Traditionally, foreign investors have been unwilling to invest in land. They preferred investments with higher and quicker returns, and they were put off by the difficulties in accessing land, securing property rights and the 'cost for obtaining a myriad of permits to develop land'.[185] Indeed, in many countries, the State prohibits the direct private ownership of land.[186] Moreover, and particularly in Africa, rights over and access to land is communally based, and it is often unclear which entity or group owns or who has access to the land[187]; potential political instability also deterred prospective investors.

Available at http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/9b2b4fed82c88ee2c1256d7b002e47da/$FILE/G0314847.pdf.

180 See '*Land grabs' in Africa: can the deals work for development*? IIED Briefing Note, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

181 See http://www.cdcgroup.com

182 See *The new farm owners: corporate investors lead the rush for control over overseas farmland* GRAIN October 2009. Available at http://www.grain.org/m/?id=266

183 See *Invitation for Submission of Expression of Interests,* available at http://www.cdcgroup.com/files/PressRelease/UploadPDF/Expressions%20of%20Interest%20v2.pdf

184 See *Energy Futures? Eni's investment in tar sands and palm oil in the Congo Basin*, November 2009. Available at http://www.oilwatchafrica.org/sites/all/files/enicongoreport.pdf

185 See *The Great Land Grab*, the Oakland Institute 2009, page 4. Available at http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf

186 See *Land Markets: Promoting the Private Sector by Improving Access to Land*, The World Bank Group, October 2005. Available at http://rru.worldbank.org/documents/publicpolicyjournal/300muir_shen.pdf

187 Ibid

Since land grabbing has not fallen from heaven nor will operate in a vacuum, it is necessary to look into other policy fields interacting with land grabbing such as land policies, investment protection regimes, and trade policies in order to properly assess what policies are intentionally or unintentionally fostering this development. The EU has been actively promoting some of these policy reforms. To what extent these reforms have indeed promoted land grabbing is something which needs further empirical research.

o 5.1 Land privatization

Some governments and intergovernmental organizations have been pushing poorer countries to reduce the perceived risks and create favorable conditions for private investors to step in**.** The International Financial Corporation (IFC), the private sector arm of the World Bank, actively promotes policy reforms that 'cut down on red tape that could inhibit foreign direct investment[188], which includes opening up a country's land markets.

The Mozambican Land Law, for instance, internationally well-known for recognizing customary land rights and for being one of the most advanced laws in protecting the land rights of rural communities, is currently facing strong pressures for reform. This is due to the fact that some influential actors find it insufficient for policies aimed at fostering agricultural investment as laid down in the current poverty reduction strategy PARPA II with the support of the donor community. The reform of the land tenure system and its governance appears in a prominent place in PARPA II with the aim of "rationalizing land use" and finding quick ways to solve conflicts. [189]

EU member states have different land policies with varying emphasis on market led land reform. While, following the lead of the international financial institutions, market led land-reform was most prominent in the 1980s and early 90s, it continues even nowadays to shape development policies. Currently, in Ghana, the activities of Germany's GTZ are embodied in the 'Land Administration Project' (LAP) of the World Bank. The LAP's main goal is to enhance an investment-friendly climate through individual private property rights.[190] After a market-led approach to land distribution in the 1980s, the UK's DfID changed towards a rights-based land policy (1997-2002). Nevertheless, according to the Transnational Institute, from 2002 onwards DfID's reduced central capacity on land policy allowed to some extent the return of the market-based thinking of pre-1997, although now framed in the language of economic growth and good governance.[191]

There is detailed documentation on the impacts of such land policies (promoted by wealthy countries and finance institutions) and of the subsequent increased market pressures on the abilities of peasant farmers to provide for their families and populations. In Egypt, following pressure from the World Bank, the implementation of tenancy law (law 96/1992) jeopardized many small tenant farmers' ability to feed themselves. By effectively privatizing land, the Government actions dramatically increased rents and the small tenant farmers were unable to compete with large agribusiness or real estate speculators in purchasing or renting land. In

---

188 See *The Great Land Grab*, the Oakland Institute 2009, page 6. Available at http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf

189 See República de Moçambique. Plano de Acção para a Redução da Pobreza Absoluta 2006-2009 (PARPA II), Maputo 2 de Maio 2006.

190 See *Germany's Official Development Assistance in Land Policy*, Transnational Institute, 27 September 2009. Available at http://www.tni.org/sites/tniclone.test.koumbit.net/files/download/landpolicy5.pdf

191 See *From rural livelihoods to agricultural growth: The land policies of the UK Department of International Development*, Transnational Institute, 10 February 2009. Available at http://www.tni.org/briefing/rural-livelihoods-agricultural-growth

many instances they were violently evicted off their land without being provided adequate compensation and rehabilitation. Their means of providing for themselves and their families were therefore substantially diminished.[192]

In general, formalization of land rights through titling or registration programmes in Africa have proven to have negative distributive effects and to penalize holders of secondary land rights, such as women and herders. [193]

o 5.2 International investment protection regimes

To further encourage FDI and protect investors, an array of investment and trade agreements (collectively known as the international investment protection regime) have been developed between home and host countries. The agreements aim at protecting foreign investors (both corporations and individuals) from arbitrary treatment by the host government, such as expropriation or nationalization of investments.[194] They strengthen the legal value of individual contracts by making their violation a breach of international law, and give investors direct access to international arbitration in case of disputes with the host government.[195] Although State-to-State agreements, they pave the way to investor-to-state claims. The arbitration mechanisms contained in the agreements allows investors to make a claim without involvement of the home state who may not even espouse their claims.[196] Often enough, the host states enter into such agreements to attract FDI believed necessary to promote their economic development.

International investment law is notably based on a web of bilateral investment treaties (BITs), agreed between two States, usually between an economically strong and an economically weak country, and designed to facilitate investments in the weak country by providing legal guarantees and stability.

The past two decades have witnessed a boom in the number of BITs'.[197] Numbers of BITs signed by African countries moved from 1993 in 1995 to 715 in 2008.[198] In 2008 only,

---

192 See Politics, *Power and Poverty: twenty years of agricultural reform and market liberalisation in Egypt*. Ray Bush, in Market-Led Agrarian Reform: Trajectories and Contestations. Special Issue. Third World Quarterly. Vol. 28, Number 8, 2007. P. 1599-1615. *The Right to Adequate Food in Egypt* (2000), Parallel Report to the Committee on Economic, Social and Cultural Rights, FIAN International. Available at http://www.fian.org/resources/documents/others/the-right-to-adequate-food-in-egypt/pdf

193 See *Policies and Practices for Securing and Improving Access to Land*. Lorenzo Cotula, Camilla Toulmin and Julian Quan. Issue Paper presented to the International Conference on Agrarian Reform and Rural Development (ICARRD), January 2006. See also *De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights.* Celestine Nyamu Musembi, in: Market-Led Agrarian Reform: Trajectories and Contestations. Special Issue. Third World Quarterly. Vol. 28, Number 8, 2007. P. 1457-1478.

194 See *Human Rights and Bilateral Investment Treaties: Mapping the role of human rights law within investor-state arbitration* by Luke Eric Peterson for Rights & Democracy ,2009. Available at http://www.dd-rd.ca/site/_PDF/publications/globalization/HIRA-volume3-ENG.pdf

195 See '*Land grabs' in Africa: can the deals work for development?* IIED briefing note, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

196 See *Human Rights and Bilateral Investment Treaties: Mapping the role of human rights law within investor-state arbitration* by Luke Eric Peterson for Rights & Democracy 2009. Available at http://www.dd-rd.ca/site/_PDF/publications/globalization/HIRA-volume3-ENG.pdf

197 Ibid, p. 81.

198 *World Investment Report: Transnational Corporations, Agricultural Production and Development*, UNCTAD, 2009, page 103. Available at: http://www.unctad.org/en/docs/wir2009_en.pdf, p. 32.

African countries signed 12 new BITs, 8 of them were concluded with European countries. Furthermore, African countries are now party to 27% of all BITs.[199]

BITs usually include provisions that strengthen the legal power of the investors.[200] However, they subsequently weaken the power of host local communities.Certain provisions like the requirement of national treatment (included in all investment treaties) and the prohibition of using ‘performance requirements’ are particularly detrimental. [201]A performance requirement is a policy measure that a host government uses to oblige the investor to have some linkages with the local community (for instance employing local people, using local input, etc.). Most investment agreements implicitly prohibit such requirements (as for instance is the case in the CARIFORUM-EPA). Secondly, BITs often prohibit that a company be expropriated without compensation. (This is included for instance in the Belgian model BIT). A broad understanding of ‘property rights’ or ‘investments’[202],allows many circumstances to be considered as an indirect expropriation. If for instance a host government decides to distribute water in a different way and the amount of water allocation to the investor is reduced, this could be considered an indirect expropriation. The same might happen if the host government decides to adopt a minimum wage for agricultural workers. Thirdly, the investors can be given a right to export the products produced. (Such a clause is also contained in the Belgian model BIT). This type of provisions prohibits the Government from taking measures to limit exports from foreign investors. Many countries nevertheless had to resort to such measures to face the food crisis. Usually, the investment treaties contain safeguard clauses for severe financial, fiscal or national security crises, but there is no such provision for food shortages. Fourthly, the very usual ‘most favoured nation’ requirement obliges the host state of the investment to give the foreign investor the same treatment as it gives to the "most favoured" investor. If Mali for instance has a BIT with Senegal but then negotiates an investment treaty with the EU,it will have to give the EU-investor the same type of treatment as the investor from Senegal.

Investors can be further protected by stabilization clauses. These are clauses in private contracts between investors and host states that address changes in law in the host state.[203] Examples of stabilization clauses include ‘freezing clauses’ that freeze the law of the host state with respect to the investment project over the life of the project; and ‘economic equilibrium clauses’ that requires the investor to comply with new laws but specifies that the investor must be compensated for the cost of complying with them.[204] Use of such clauses is reported as being widespread across all industries and regions of the world.[205]

There is no single international court that can hear disputes. Instead a number of international arbitration mechanisms consider and resolve disputes between foreign investors and host

---

[199] Ibid.

[200] Many thanks to Myriam Gistelinck, Oxfam Solidariteit, who provided us with the information contained in this paragraph.

[201] See *"Investment Provisions in Economic Partnership Agreements"*, Gus van Harten. Osgoode Hall Law School, York University. Report funded by Oxfam International.

[202] See e.g. Lorenzo Cotula, ‘International law and negotiating power in foreign investment projects: Comparing property rights protection under human rights and investment law in Africa’ (2008) 33 SAYIL 62, p. 81-82.

[203] See *Stabilisation Clauses and Human Rights*, a research projected conducted for the IFC and the UN Special Representative of the Secretary-General on Business and Human Rights, March 2008. Available at http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_StabilizationClausesandHumanRights/$FILE/Stabilization+Paper.pdf

[204] Ibid

[205] Ibid

governments on a case by case basis according to a few procedural rules.[206] Most investment treaties make available more than one set of arbitration rules. The investor can thus actively choose which set to use.[207] The most common different arbitration options include the International Centre for Settlement of Investment Disputes (ICSID) (World Bank); United Nations Commission on International Trade Law (UNCITRAL); Stockholm Chamber of Commerce; and the International Chamber of Commerce**.** While their procedural rules differ, over the past decades, these mechanisms have proved effective at holding governments to account for the way they treat investors. International Arbitration Courts such as ICSID and UNCITRAL have the well-founded reputation of being very "strict" in their interpretation in favour of protecting the investor. Rulings issued by international arbitrators have granted investors substantial compensation for host breaches of contracts or treaties; and investors can enforce these rulings internationally, for instance by seizing assets held by the government overseas.[208]

When negotiating investment contracts and agreements the bargaining power is clearly on the side of the foreign investor. GRAIN observes that African (and Asian) governments are readily accepting proposals for land acquisition. For them it means fresh inflows of foreign capital to build rural infrastructure, upgrade storage and shipping facilities, have big farms and industrialize operations.[209] With developing countries competing against each other for much needed foreign direct investment, the requirements and regulation imposed on foreign investors are lowered. Host governments are unlikely to allow communities affected to participate in the land allocation negotiations. Families affected, for instance, by the allocation of land by the Ugandan Government to a German coffee maker were not adequately consulted and were subsequently forcibly evicted (see chapter 3.1). Since the eviction, the corporation has compensated few of the evictees despite being directlyt contradicting with Ugandan domestic law. In 2003, the High Commissioner for Human Rights observes that 'this race to attract investment might lead to a race to the bottom to the severe detriment of human rights.[210]

Madagascar Law No 2007-036 is an example of a piece of legislation that encourages investment while placing no commitments or responsibilities on the investor. It establishes the Economic Development Board of Madagascar to 'act as a mediator during settlement of disputes or between companies and the public service'.[211] The law further clarifies that disputes between investors and the State are to be 'submitted to the competent Malagasy

---

206 See *Human Rights and Bilateral Investment Treaties: Mapping the role of human rights law within investor-state arbitration* by Luke Eric Peterson for Rights & Democracy 2009. Available at http://www.dd-rd.ca/site/_PDF/publications/globalization/HIRA-volume3-ENG.pdf

207 Ibid

208 See '*Land grabs' in Africa: can the deals work for development?* IIED briefing note, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

209 See *Seized: the 2008 land grab for food and financial security*, GRAIN Briefings, October 2008. Available at http://www.grain.org/briefings_files/landgrab-2008-en.pd

210 See *Human rights, trade and investment* Report of the High Commissioner for Human Rights to the 55th session of the Sub-Commission on the Promotion and Protection of Human Rights, E/CN.4/Sub.2/2003/9. Available at http://www.unhchr.ch/Huridocda/Huridoca.nsf/e06a5300f90fa0238025668700518ca4/9b2b4fed82c88ee2c1256d7b002e47da/$FILE/G0314847.pdf.

211 See *Chapter II – the Economic Development Board of Madagascar*, Article 9 - 'conflict resolution', para 3.

jurisdictions unless the parties have agreed or agree to seek a different means of dispute settlement'.[212]

While FDI can have a significant impact on groups' or individuals' enjoyment of human rights, investment agreements rarely refer to human rights protection. As generally single purpose instruments that protect foreigners and their assets, investment agreements rarely 'impose duties or legal responsibilities on foreign investors'.[213] Given the unequal power balance, the agreements typically grant significant rights to investors without creating any responsibilities. Confirming this, a 2001 UN review of investment agreements found few examples of obligations imposed on investors or home States.[214] The stabilization clauses pushed for by TNCs can limit the rights and ability of host states to regulate to protect and guarantee human rights. Stabilization clauses such as 'freezing clauses' can insulate investors from new regulations introduced to protect human rights.

As mandated by the investment agreements, the dispute mechanisms settle disputes between the investor and the host state. It is up to the arbitrators to find whether or not human rights play a role.[215] However, given the increasing recognition that international law is applicable to investment arbitrations, some argue that human rights law can form part of the backdrop against which investment treaty obligations are read and applied.[216] Luke Eric Peterson referred to the *SPP versus Egypt* dispute at the ICSID which acknowledged that a host state may be bound by certain obligations flowing from another treaty the host state has ratified.[217] In this case it was the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage. Arbitrators do not have jurisdiction to rule whether a human rights violation has taken place, merely to decide whether a State's human rights obligations can be used as a defence or justification when the State is accused of reaching foreign investment obligations. [218] Moreover, human rights law referenced in arbitration rulings and awards so far relates primarily to investors rights to property, due process etc.[219]

The dispute case between foreign investors and the Argentinean government related to the termination of a water concession[220] shows that the international investment protection regime imposes on host governments significant limitations of their space to define national public policy. Once powerful investors are active in a host country, any policy changes might

212 See *Chapter VI – Dispute settlement, Article 21 – Dispute settlement.*

213 See *Human Rights and Bilateral Investment Treaties: Mapping the role of human rights law within investor-state arbitration* by Luke Eric Peterson for Rights & Democracy 2009. Available at http://www.dd-rd.ca/site/_PDF/publications/globalization/HIRA-volume3-ENG.pdf

214 See *Social responsibility* UNCTAD Series on Issues in International Investment Agreements 2001, page 17. Available at http://www.unctad.org/en/docs/psiteiitd22.en.pdf

215 See *Human Rights and Bilateral Investment Treaties: Mapping the role of human rights law within investor-state arbitration* by Luke Eric Peterson for Rights & Democracy 2009. Available at http://www.dd-rd.ca/site/_PDF/publications/globalization/HIRA-volume3-ENG.pdf

216 Ibid

217 Ibid

218 Ibid

219 Ibid

220 The government of Argentina terminated in 2006 a water concession granted to Aguas Argentias which is a consortium of foreign investors including Suez, Vivendi, Anglian Water Group and Aguas de Barcelona. The government of Argentina justifies its measure with various failings on the part of the consortium coupled with the obligation of the Argentinean state to protect the right to water of its citizens from third parties. Fore more information, see *Human Rights and Bilateral Investment Treaties: Mapping the role of human rights law within investor-state arbitration* by Luke Eric Peterson for Rights & Democracy 2009. Available at http://www.dd-rd.ca/site/_PDF/publications/globalization/HIRA-volume3-ENG.pdf

provoke claims – and subsequently astronomic compensation – before international dispute settlement mechanisms, in cases in which investors might feel 'expropriated' or 'unfairly' treated by the new regulations. In the case of agriculture, this could mean that policy changes aimed at protecting and supporting peasant farming for instance to support prices, trade tariffs, redistribution of land and water resources and the like might provoke investor claims before international dispute settlement mechanisms.

Peasant farmers being displaced from their land cannot effectively negotiate terms favourable to them when dealing with such powerful national and international actors, nor can they enforce agreements if the foreign investor fails to provide promised jobs or local facilities'.[221] While host States may use human rights obligations to create more space to control the activities of a TNC, if the host State is unwilling, vulnerable groups have few effective options to challenge the investor's action, and seek protection for 'customary' land rights.[222] Those international options available to them are far from being as effective as those available to the investors.

o 5.3 EU Economic Partnership Agreements[223]

The Economic Partnership Agreements (EPAs), heavily promoted by the EU, provide further incentives for land grabbing by curtailing the respective States' policy space to protect their resources and markets for domestic use. A typical EPA requires for example the opening of markets in Africa for essentially all imports from Europe. Only 20% can be excluded and be put on a list of "sensitive products". Moreover, a "standstill clause" requires African states to freeze all their import tariffs immediately at current rates. A third element of EPAs is the "most favoured nations clause" which makes it mandatory for African states to offer to the EU the same tariffs which they offer to other major trading partners. This clause prevents the development of subregional markets for African peasant farmers. A fourth detrimental element are proposals to adopt a treaty (UPOV 1991) which would essentially prevent farmers from saving and exchanging seeds and would thus make them dependent on transnational seed companies and the intellectual property privileges they claim. A fifth element is a freeze on export taxes and duties. These elements will be considered below. The EU, nonetheless, is not content with EPAs which deregulate trade in goods (as requested under the WTO): under the slogan of "full EPA", they include issues such as services, intellectual property privileges, government procurement, all of which essentially pave the way for transnational corporations to access markets – and land - in African countries.

"Free trade" is a euphemism for the ideology underlying such "agreements", because it confuses the absence of state regulation with freedom. The reality, however, is wild trade: Trade which ignores the human rights standards of civilized nations and serves the wild appetites of transnational corporations and investors. EPAs contribute to land grabbing by making corporate production in the South more profitable and thereby increasing pressures on land, which in turn increases the likelihood of the poor to be deprived of their prime lands – and to be left with marginal lands. EPAs aim to make resources like land iin food insecure countries available to the demands of the "global consumers" (including European

---

221 See *FAO Paper On Land Grab Is "Wishy Washy"*, Inter Press Service News Agency, 9 July 2009. Available at http://ipsnews.net/africa/nota.asp?idnews=47599

222 See '*Land grabs' in Africa: can the deals work for development?* IIED briefing note, September 2009. Available at http://www.iied.org/pubs/pdfs/17069IIED.pdf

223 For background information on EPA visit www.europafrica.info

consumers) and their purchasing power. This ‘global consumer’, however, is for all practical purposes a small stratum of people: The rich 1% of the world population has the same purchasing power as 57% of the world population at the other end of the global income distribution.[224] Leaving the decisions on the use of resources to the unregulated markets propagated by the EPAs would therefore make the population in the Global South compete with those whose purchasing power is 60 times their own.[225] Such policies imply that the prime land resources in the areas of hunger and malnutrition will be hijacked for the global 1% instead of being used by and for the basic needs of the hungry in the respective areas. In fact their survival will be made completely dependent on deliberate “aid” policies of the oligarchic 1% controlling those resources.
The first three elements of a typical EPA mentioned above help transnational corporations from the North to control the markets (on goods) in the South. The fourth element is a threat to the peasant farmers in these countries and facilitates the penetration of agribusiness into these countries. Controlling the seeds means controlling agricultural production and – in fact – the global food system. The fifth element prevents that the products of southern agricultural lands can be kept to southern markets (where the poor could produce it and or buy it). Instead of the lands being used to produce food by and for the poor, they would be given away to produce according to the demands (agrofuels, animal feed etc.) of the rich global consumers. In this way the EPAs – together with the unregulated flow of investment capital and the commercialisation of land markets in the South – help to create an additional incentive for land grabbing.

- 6. EU response to land grabbing in general

Although the EU has not reached a common position on the issue, EU officials and member States are increasingly recognizing that foreign land investment is not necessarily a ‘win-win’ situation.

In June 2009, media reported that the Director-General for aid and development at the European Commission was concerned about the trend of foreign investors and countries acquiring large tracts of farmland in developing countries to guarantee their own food security. He believed the trend might pose a risk to developing countries if it was not done properly. He further highlighted that many land deals resulted from ‘untransparent’ negotiations.[226] Further demonstrating that the EU is starting to take the problem seriously, land grabbing was one of the key issues evoked at the European Development Days, which were held in Stockholm under the Swedish presidency of the EU in October 2009.[227] The Technical Centre for Agricultural and Rural Cooperation (CTA) organised a special panel on the topic.[228]

There also have been several voices of concern among EU member states at the domestic level. At the UN World Summit on Food Security held in Rome from 16 – 18 November 2009, the French Farming Minister, M. Le Maire, voiced concerns that millions of hectares of farmland in poor countries had been bought up in 2008 and 2009, after a spike in commodity

224 Branko Milanovic, True world income distribution, 1988 and 1993, Economic Journal 112, p.51-92, 2002.

225 The purchasing power of the “absolute poor” (more than 1 billion persons under 1 $P) is less than 1% of the purchasing power of the average (!) US American citizen.

226 See *Farmland buying may harm poor states -EU official,* Reuteurs/Guardian, 3 June 2009. Available at http://www.landcoalition.org/cpl-blog/?p=2153

227 Many thanks to Renée Vellvé, GRAIN, for this information

228 See http://www.eudevdays.eu/agenda/events/land_grabbing_en.htm

prices last year prompted rich food-importing nations to buy land in the developing world. He described it as "predatory investments in farmland", and worried that their key objective of "countries' food autonomy" was being undermined. France reportedly believes there should be measures against this so that independence of production can be guaranteed".[229] In addition, in November 2009, the French government convened a working group on overseas farmland acquisitions with a view to producing an assessment and set of recommendations.[230] The work is being carried under the office of the Prime Minister. The first meeting was held in December 9, 2009 and the aim is to finalise a document by May 2010. This is a multi-stakeholder group composed mainly of French investors (Crédit Agricole is the chair of the group), some civil society organisations and some UN agencies (FAO).

In Germany on 13 May 2009 the Green Party presented a motion to the German Parliament entitled 'Strengthening land rights – preventing land grabbing in developing countries'. The motion wanted the issue to be put on the international agenda and called for Germany's development cooperation to help countries where hunger is a problem to implement comprehensive policies on land use that protect the land rights of the marginalized rural populations and to implement the right to food. The motion however was defeated. The German Ministry of Development Cooperation published a discussion paper on land grabbing.[231] It states that foreign land investment entails risks but also opportunities for developing countries. In order to benefit from the chances, the paper recommends that the following six basic principles be observed: transparency and participation during negotiations, recognition of existing land rights, compensation for land loss, fair sharing of benefits, sustainability, and primacy of the local populations' right to food.

These principles are quite similar to those proposed by the World Bank during the roundtable "Promoting responsible international investment in agriculture" convened by the government of Japan and concurrent with the 64th United Nations General Assembly last September.[232] The main difference is that the World Bank principles do not refer to any international legally binding obligations, as for instance human rights. According to the Chair's summary of the meeting, which was attended by representatives from the EC and the governments of Denmark, France, Germany, Italy, Luxembourg, Sweden and the UK, participants broadly agreed that these principles could be a basis for the principles around which the international framework could be designed. The overwhelming view was that principles should be legally non-binding but have a flexible mechanism for monitoring, taking into account country-specific circumstances.

---

229 See *UPDATE 1-France urges rules on agri market and "land grab"* , Reuters, Wednesday 18 November 2009. Available at http://www.forexyard.com/en/reuters_inner.tpl?action=2009-11-16T173359Z_01_LG461060_RTRIDST_0_FOOD-SUMMIT-FRANCE-UPDATE-1

230 Many thanks to Renée Vellvé, GRAIN, who provided us with this information.

231 See *Entwicklungspolitische Positionierung zum Thema: Großflächige Landkäufe und -pachten in Entwicklungsländern – „Land Grabbing" Diskussionspapier.* Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ) 2009, Bonn.

232 The principles are the following: 1) Land and Resource Rights: Existing rights to land and natural resources are recognized and respected. 2) Food Security: Investments do not jeopardize food security, but rather strengthen it. 3) Transparency, Good Governance and Enabling Environment: Processes for accessing land and making associated investments are transparent, monitored, and ensure accountability. 4) Consultation and Participation: Those materially affected are consulted and agreements from consultations are recorded and enforced. 5) Economic viability and responsible agro-enterprise investing: Projects are viable economically, respect the rule of law, reflect industry best practice, and result in durable shared value. 6) Social Sustainability: Investments generate desirable social and distributional impacts and do not increase vulnerability. 7) Environmental Sustainability: Environmental impacts are quantified and measures taken to encourage sustainable resource use, while minimizing and mitigating them negative impact.

In January 2009, the EU re-activated the EU Working Group on Land Issues which had stopped after the EU land policy guidelines were approved in December 2004. The core Working Group is currently composed of representatives from the European Commission (DG DEV) and Member States (Denmark, France, GTZ/Germany, Great Britain, Netherlands and Sweden). Meetings are open to non EU European countries (e.g. Switzerland, Norway) development agencies, international organizations and financial institutions that are active in land-related interventions in developing countries. So far the World Bank, FAO, the International Land Coalition (ILC) and the International Institute for Environment and Development (IIED) have attended these meetings. [233] The reinstated EU Working Group will share relevant information and experiences, observe, monitor and analyse local, regional, continental and global initiatives on land issues; coordinate current efforts of the Commission (EC) and Member States (MS);and develop common EU positions and recommendations on land policy and reform initiatives in developing countries. So far the Working Group has been discussing land grabbing mainly with the intention of developing a common position. Main activities of the EU on land issues include financially supporting the ILC, and supporting the land component of the Rural Hub initiative (an initiative to assist West and Central African stakeholders (States, Inter-governmental Organisations, Civil Society Organisations and Development Partners)[234] and promoting coherence in rural development programmes. Moreover, the EU is currently planning to support the implementation of the African Union land policy guidelines.

- 7. Assessment of whether EU member States' policies, both individually and collectively, are consistent with the EU's commitment to advance agriculture in Africa and their obligations under international human rights law

o 7.1 Advancing African Agriculture

As part of its commitment to advance agriculture, in July 2007 the European Commission presented its Communication "Advancing African Agriculture" (AAA) proposing continental and regional level cooperation on agricultural development in Africa.[235] It aims to create an improved enabling environment for agricultural development on the continent. By focusing on capacity building and institutional strengthening of regional and continental organizations, this cooperation intends to complement and stimulate agricultural development at national level.[236]

The AAA clearly recognizes that agriculture plays a crucial role in promoting development and alleviating poverty, and regards as essential to achieving the Millennium Development Goals (MDGs). However despite acknowledging that agriculture is a means of livelihood for the majority of the poor in Africa, the AAA does not sufficiently emphasize the role of smallholders agriculture for development, food security and poverty reduction in Africa. It

---

233 See http://capacity4dev.jrc.ec.europa.eu/wg/eu-working-group-land-issues. We thank Jozias Block (DG DEV) and Thorben Kruse (GTZ) for the information provided in a phone call, 17 February, 2010.

234 See http://www.hubrural.org

235 See COM(2007)440 final. Available at http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&type_doc=COMfinal&an_doc=2007&nu_doc=440&lg=en

236 See http:// europa.eu/legislation_summaries/development/sectoral_development_policies/r13014_en.htm

further fails to mention the need to prioritize support for strengthening family farming in all aspects of agricultural development and development cooperation strategies.[237]

If the EU is serious about advancing agriculture in Africa as a means of achieving the MDGs, it must work to protect small holder farmers and other vulnerable groups' access to resources. It is not simply a question of increasing agricultural production. The adverse impact foreign land investment can have on the livelihoods of small farmers and other vulnerable groups has already been outlined. Moreover, tensions over access to resources can actively promote conflict and civil unrest. Without protecting small holders' means of livelihoods, the international community's will therefore cannot halve the proportion of people who suffer from hunger by 2015.

7.2 International human rights law

Access to land is an essential element of the right to an adequate standard of living including food and housing (art. 11 of the International Covenant on Economic, Social and Cultural Rights - ICESCR); and it is crucial for the realization of the right to work (art. 6 ICESCR), the right to take part in cultural life (art. 15 ICESCR) and of the rights of Indigenous Peoples (ILO Convention N° 169 and the UN Declaration on the Rights of Indigenous Peoples).

The right to adequate housing is the right to live somewhere in security, peace and dignity.[238] A crucial part of the right to housing is the prohibition of forced evictions. They are defined as permanent removals of individuals, families, and/or communities from their homes and/or lands that they occupy, on either a permanent or temporary basis, without offering them appropriate measures of protection, legal or otherwise, or allowing access to these measures of protection'.[239]

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement".[240] The right to adequate food encompasses the right to feed oneself through cultivating the food directly. In light of peoples' right to self-determination and the right not to be deprived of one's means of subsistence (art.1, ICESCR), the right to feed oneself includes the right to control one's own resources. These rights were deemed so important in the process of decolonization, when the Human Rights Covenants were shaped, that they were put under art.1 in both ICESCR and the International Covenant on Civil and Political Rights (ICCPR).[241] Under the ICESCR each State is obligated to respect, protect and fulfill all rights for its citizens to the maximum of its available resources.[242]

---

237 This has already been raised by civil society organisations. See *Advancing African Agriculture: The Impact of European policies and practices on African Agriculture*, Monitoring Exercise by European Civil Society Organizations 7 October 2008. Available at http://www.europafrica.info/en/documenti/advancing-african-agriculture-2

238 See General Comment N° 4, *The Right to Adequate Housing*, Committee on Economic, Social and Cultural Rights, (E/1992/23), 1991, para. 7. Available at http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?

239 See General Comment N° 7, *The Right to Adequate Housing: Forced Evictions*, Committee on Economic, Social and Cultural Rights,(E/1998/22, annex IV), 1997. Available at http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument

240 See *General Comment No 12*, *The Right to Adequate Food*, Committee on Economic, Social and Cultural Rights (E/C.12/1999/5), May 1999, para. 6. Available at http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3d02758c707031d58025677f003b73b9?Opendocument

241 The African Charter on Human and Peoples' Rights enshrines in its article 21 the duty of the State to protect the natural resources of peoples. In particular art.21.5 stipulates: "States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources."

242 See Article 2.1 'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the

States' obligations under the ICESCR are not just restricted to promoting, protecting and fulfilling human rights at the national level. The UN Committee on Economic, Social and Cultural Rights (CESCR) specifies that States parties should 'respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required'.[243] The UN Special Rapporteur on the right to food further elaborated: 'the obligation to respect requires States to ensure that their policies and practices do not lead to violations of the right to food in other countries; The obligation to protect requires States to ensure that their own citizens and companies, as well as other third parties subject to their jurisdiction, including transnational corporations, do not violate the right to food in other countries; and the obligation to support the fulfillment of the right to food requires States, depending on the availability of resources, to facilitate the realization of the right to food in other countries and to provide the necessary aid when required'.[244]

A State's extraterritorial obligations are therefore not just confined to its actions and the actions of third parties contained in the State. The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights[245] for instance state that 'the obligations of States to protect economic, social and cultural rights extend also to their participation in international organizations, where they act collectively. It is particularly important for States to use their influence to ensure that violations do not result from the programmes and policies of the organizations of which they are members'.[246]As influential members of the World Bank, FAO and other UN agencies, EU member States are duty-bound to ensure that the policies of any of those agencies do not undermine the human rights for vulnerable populations and in fact strengthen their sustainable access to adequate resources.

- **7.3 Conclusions**

Land grabbing directly interferes with the right to feed oneself. Land grabbing forecloses the lands taken for landless or land-scarce communities who can make alternative and better use of the resources. Future national policy decisions to make this land available for policies aiming at local food production by and for the local communities and for the nearby urban areas will have to face the well-known difficulties of expropriating large scale lands for the benefit of landless communities – even where these lands are not used productively. Moreover bilateral investment treaties or trade regulations can make it difficult for a national government to implement its obligations[247] under the right to food to facilitate people's access to resources and put a stop to foreign land grabbing. Many African countries have a large population of unemployed rural and urban youth and a high rate of population growth. Land resources are necessary to offer opportunities for labour intensive food production. For this matter, even where foreign companies acquire lands that are not fully utilized now, the human

present Covenant by all appropriate means, including particularly the adoption of legislative measures.' Available at http://www2.ohchr.org/english/law/cescr.htm

243 See *General Comment No 12, The Right to Adequate Food*, Committee on Economic, Social and Cultural Rights (E/C.12/1999/5), May 1999, para. 6. Available at http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3d02758c707031d58025677f003b73b9?Opendocument

244 See *The right to food*, the report of UN Special Rapporteur on the right to food to the 61st session of the UN Commission on Human Rights, E/CN.4/2005/47, January 2005. Available at http://daccess-dds ny.un.org/doc/UNDOC/GEN/G05/104/24/PDF/G0510424.pdf?OpenElement

245 On the occasion of the 10th anniversary of the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, a group of more than thirty experts met in Maastricht from 22-26 January 1997. The objective of this meeting was to elaborate on the Limburg Principles as regards the nature and scope of violations of economic, social and cultural rights and appropriate responses and remedies. Available at http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html

246 Ibid Para. 19.

247 UN General Comment 12§15 on the Right to Food

right to feed oneself is affected. In fact – peoples may be deprived of their future means of subsistence in an open violation of both Human Rights' Covenants article 1.

Since foreign land acquisition is profit-oriented and largely for exports, it will foster the introduction/deepening of an industrial agricultural mode of production in the host countries. There is abundant literature that this mode of production is ecologically destructive and not sustainable. It implies massive loss of topsoils, destroys biodiversity and releases large amounts of CO_2. It displaces local producers who often have the knowledge of producing sustainably, and would be in a position to do so with even higher yields if they were provided with an enabling agricultural policy environment and with proper learning and communication networks.

Increased agricultural production does not mean that local communities will have better access to food – even if more food was produced. In fact, the expansion of cash crop monocultures has a severe impact on local availability of food as it diverts food producing resources and labour to cash crop production. As a result, communities are forced to depend on the market and on commercialization networks from outside the region for their basic provisions, putting them at the mercy of volatile food prices. The lack of local food availability and the high level of dependence on food from elsewhere also reduce the quality and variety of the diet of communities and alter their food customs. This constitutes yet another threat to their enjoyment of the right to food: the right to food implies that food must be adequate and culturally appropriate.

The UN Special Rapporteur on the human right to food, Mr. Olivier de Schutter, has made the point that foreign land investment is only permissible under certain conditions. He has formulated a number of criteria which have to be met in this context.[248] His concerns are linked to some of those formulated in the human rights analysis given in this study. The effective implementation of these principles, however, requires far reaching measures and substantial policy changes at national and international level. The Special Rapporteur emphasizes the fact that "these principles are not optional; they follow from existing international human rights norms." [249] In this sense, proposals like the World Bank's principles and a possible code of conduct with no legally binding commitments are simply not an option as response to the serious threats that foreign land grabbing poses in hunger affected countries. The needed regulation to meet the criteria proposed by the Special Rapporteur is quite complex since land grabbing interacts with a series of other policies fields like international investment protections, international capital flows, agriculture, trade and Official Development Aid. Proper national and international regulation would thus take considerable time. Even when these regulations will be in place, it is not guaranteed that all host governments will be able to enforce them. In the light of these to caveats to regulation and given the plausible concerns identified in this study, it is more appropriate to apply the precautionary principle and better prevent large-scale land acquisition in order to safeguard the human rights of the rural population. Both the African States and the EU member States are duty-bound to respect the human right to food in Africa. Therefore, the EU must not facilitate any reduction in the use of African country's lands used for food production by and for their local malnourished populations, now and in future. Under the ICESCR, all states parties 'individually and through international cooperation' must respect, protect and fulfil the

[248] Report of the Special Rapporteur on the right to food, Olivier De Schutter. Addendum*: Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge*. Human Rights Council, Thirteenth session. A/HRC/13/33/Add.2.

[249] Ibidem. Para 5.

right to food to the maximum of their available resources.[250] Respecting the right to food also means that EU member states must not encourage (and facilitate) foreign companies to lease land from already food insecure countries to produce food stuffs or other agricultural products intended for foreign markets in competition with local food production. According to FAO, 43 of the 53 African countries do not produce enough food for their own population.[251]

The obligations to protect and fulfil the human right to food and related economic, social and cultural rights in Africa are incumbent in particular on the African states - but not only. EU countries carry complementary extraterritorial obligations towards the hungry and malnourished in Africa and elsewhere. EU member states are duty-bound to protect the right to food in these counties by active measures (including regulation, monitoring and due diligence in their sphere of influence) to prevent land grabbing in those countries.

Given the unequal economic power balance between the EU countries (and their corporations) and African countries, the implementation of the EU member states' extraterritorial obligations is necessary and hence incumbent, in order to protect human rights. The competition of African governments for incoming cash from abroad and the current way in which investment agreements and contracts are negotiated leave African states not much room to protect the rights of the affected communities, even if they wanted to do so (which may not always be the case). EU member States must therefore regulate international land acquisition and related investment activities. This refers first of all to European TNCs and Investment Funds in their activities overseas. Moreover, it requires regulatory measures of the EU at the multilateral level involving other investor countries.

Currently, EU member states, both collectively and individually, are still largely ignoring their obligations under international human rights law. As demonstrated above, the direct and indirect involvement of the EU member states in the current wave of foreign land acquisition in Africa – and therefore the EU's sphere of influence – is significant. In the current context of increasing hunger and under-nutrition, more than ever States are obliged to act with due diligence and to apply the precautionary principle. In fact, African farmers organizations, like the West African network of peasants and producers, ROPPA, and other African civil society actors have already expressed strong opposition to the massive sell out of African lands.[252] The Eastern African Farmers Federation (EAFF) has cautioned that leasing farmland to multinationals could precipitate food crisis in the region. [253] Sometimes the impression is created as if African farmers were not able to cultivate their land themselves, and therefore the need to bring in foreign investors. Philipp Kiriro, president of EAFF said "If we had the basic facilities and better capacity we would cultivate that land." [254]

The time has come for the EU and its member States to intervene:

---

250 See Article 2.1 'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.' Available at http://www2.ohchr.org/english/law/cescr.htm

251 See FAO (2009). Crop Prospects and Food Situation No. 3. Available at http://www.fao.org/docrep/012/ai484e/ai484e00.htm

252 See http://www.afriquejet.com/actualites/agriculture/le-roppa-opposee-a-la-vente-massive-des-terres-agricoles-en-afrique-2009060128788.html. See also Collectif pour la Défense des Terres Malgaches, http://terresmalgaches.info. La société civile met en garde contre l'accaparement des terres en Afrique. The Courier | 2 séptembre 2009. http://www.acp-eucourier.info/La-societe-civile-met-en.784.0.html?&L=2

253 See Multinationals now target land. The Citizen (Dar es Salaam) | 31 July 2009. http://thecitizen.co.tz/newe.php?id=14100

254 See Africa: Could regulation ease fears over land grabs? IPS | 23 October 2009 http://www.ipsnews.net/africa/nota.asp?idnews=48982

The EU member States, both individually and collectively, are duty-bound to cooperate in advancing peasant farming in Africa within the framework of the right to adequate food and the right to feed oneself. They carry extraterritorial obligations to focus on ensuring that all their policies, including foreign investment, ODA, agriculture and trade preserve and strengthen the capacity of African rural communities to produce their own food.

In light of the available evidence on the current land grabbing trend, and in view of the precautionary principle and their due diligence obligation under international human rights law, the EU and its member countries are called upon to:

11. Prevent large scale land acquisitions. Initiate as soon as possible the needed international regulation to prevent such land acquisitions, including a legally binding agreement related the proper regulation of financial and other actors active in agricultural investment. At international level, discussions about how to develop such an initiative could be conducted in the FAO Committee on World Food Security with the participation of peasant farmers' organizations.
12. Make sure that in the current process of adopting a new investment framework at EU level, clauses are included with a clear reference to international human rights law and its supremacy to the effect that nothing in the agreements can be understood as preventing States/the EU from addressing possible human rights abuses by investors or human rights violations by states as a matter of priority. Moreover, the regulatory space of sovereign states should be safeguarded in regard to non-discriminatory regulatory measures for public interest purposes and for affirmative action policies and measures in favor of discriminated sectors of society. Finally, the EU should also foster human rights law expertise in the arbitration mechanisms, including for instance mandatory referral procedures providing for consultation with expert agencies or human rights adjudicative mechanisms on human rights law issues. In general, an investor should have exhausted domestic law before turning to international conflict settlement mechanisms, and those mechanisms should be public as they relate to public interest.
13. Scrap the energy based target for renewables (agrofuels) and freeze all policies which encourage the use of agrofuels for the transport sector until and unless the regulations in (1) and (2) are in place. The indicated policies otherwise serve as a major incentive for land grabbing. Develop policies that limit the use of energy and promote non agrofuel renewable energy in the transport sector.
14. Strengthen the implementation of human rights based land policies in ODA, particularly when supporting the implementation of the AU Land Policy Guidelines. Involve African farmers and pastoralists organizations in the design of these policies. EU support to the AU Land Policy Guidelines should under no circumstance be used to promote large scale investment in farm land.
15. Support the upcoming process of FAO voluntary guidelines on responsible governance of land and natural resources tenure which are supposed to guide implementation of the principles contained in the final declaration of the International Declaration on Agrarian Reform and Rural Development (ICARRD) and of the provisions of international human rights law which protect the rights to land and natural resources of all rural communities.

- Sources and colour code

BLUE

Joachim von Braun and Ruth Meinzen-Dick, '"Land Grabbing" by Foreign Investors in Developing Countries: Risks and Opportunities', IFPRI Policy Brief 13 (April 2009), available at http://www.ifpri.org/sites/default/files/publications/bp013all.pdf.
This publication presents a "Table of media reports on overseas land investments to secure food supplies, 2006-09" IFPRI specified that 'it has compiled this table from media reports. The responsibility for the accuracy of the information presented here, however, lies with the reporting media'. It adds that 'Well-documented examples are scarce, details on the deals are often murky, and some reports are contradictory. IFPRI invites observers to share evidence-based information on the listed and on new land deals by posting a contribution on IFPRI's blog at http://ifpriblog.org/2009/04/24/landgrab.aspx'.

DARK BLUE

Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley, 'Land grab or development opportunity? Agricultural investment and international land deals in Africa', IIED/FAO/IFAD (London/Rome 2009), available at http://www.ifad.org/pub/land/land_grab.pdf, information throughout the report.

BLACK

GRAIN, "Seized: The 2008 land grab for food and financial security", GRAIN briefing (October 2008), available at: http://www.grain.org/go/landgrab

ORANGE

GRAIN, 'The new farm owners: Corporate investors lead the rush for control over overseas farmland' (October 2009), available at http://www.grain.org/articles/?id=55.
GRAIN has compiled a table, 'The new farm owners table' (http://www.grain.org/m/?id=266). It is specified that: 1. The table focuses on investment vehicles that buying up farmland for food production. All of these entitites manage the money of others, whether it be the retirement savings of workers, the spare cash of wealthy individuals or the investment allocations of corporations. 2.The table does not include corporations that are investing directly in farmland through their own structures. 3. Companies like the Noble Group of Singapore, Varun of India, Savola of Saudi Arabia, Marubeni of Japan and Daewoo of Korea are thus not included, even though these are major players from the private sector involved in purchasing farmland abroad who are certainly integrated in their home countries efforts to outsource food production. A list of such companies would be worthy of a whole other table. 4. Sovereign wealth funds are also not included, since they are quasi-public.

GREEN

FIAN information

The investment made from the EU or by a EU-related entity have been underlined in red.

- Notice

1. This table is not exhaustive; several other qualitative studies could complement it. For this reason, it is difficult to make clear statistics out of it. The main (but not exclusive) period of focus is 2006-2009, due to the data available. For more information and recent data, see notably *http://farmlandgrab.org/*; and *http://www.landcoalition.org/cpl-blog/*.
2. It should be underlined that it is sometimes difficult to determine precisely which entity (country or private actor) invests where, or which project is supported by which actor. See e.g. Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley, 'Land grab or development opportunity? Agricultural investment and international land deals in Africa',

IIED/FAO/IFAD (London/Rome 2009), available at http://www.ifad.org/pub/land/land_grab.pdf, p.27-33.
3. This table includes actual cases of land or farming acquisitions where the agreement has been agreed upon, *and* explicit prospective intentions of acquisition that may not have been realised yet.

- Foreign investment in land and farming in Africa

A. FROM GOVERNMENT[1]				
Investor country	**Target country**	**Details of the deal**	**Status of deal**	**Date announced/signed**
Bahrain	Egypt, Iraq, Sudan	The Bahraini government is seeking to lease farmland here and contract out its food production.		
China	Africa, Central Asia, Russia, South America, Southeast Asia	In the first half of 2008, it emerged that China's Ministry of Agriculture was drafting a central government policy to encourage domestic firms to acquire (lease or purchase) land abroad for farming purposes, especially to assure China's long-term soybean supplies. Five state-owned firms were reportedly targeted to implement the plan. By mid-year, the draft policy was reportedly put on hold for the time being. (to produce soybeans)		
China	Mozambique	US$800 million investment to expand rice production from 100,000 to 500,000 metric tons; political opposition to deal COFCO, the stateowned grain and oilseed trading company, was involved in discussions for a major land concession to grow rice and soybeans in Mozambique, though at present this deal has not progressed. According to a study by Loro Horta, the son of Timor L'Este's President Ramos Horta, the Chinese government has been investing in infrastructure development, policy reform, research, extension and training to develop rice production in Mozambique for export to China since 2006. Eximbank has already provided a loan of US$2bn and pledged an additional US$800m for these works, though more is expected. Some 10,000 Chinese settlers will be involved. G2G contracts and land leases are still under negotiation, though. Land cannot be owned by foreigners in Mozambique, so joint partnerships with "sleeping" Mozambican entities may need to be struck.	Discontinued	n.a.
China	Zambia	2 million ha requested for jatropha (biofuel) Wuhan Kaidi, a power company, is currently involved in negotiations over a land concession in Zambia for jatropha cultivation.	Requested	n.a.
China	Zimbabwe	In May 2008 it was reported that China has received rights to farm 250,000 acres (101,171 ha) of maize in southern Zimbabwe.		
China (Chongqing Seed Corp)	Tanzania	300 ha secured for rice In early 2008, China's Chongqing Seed Corp announced that it had selected 300 ha of land for production of its hybrid rice in Tanzania, beginning next year. The company says that it will contract out production to local farmers and export the harvest to China. Chongqing began similar projects in Nigeria and Laos in 2006, but already says that it will shelve the Laos project.	Signed	n.a.
Djibouti	Malawi	Unknown area of farmland leased	Signed	Apr-09
Egypt	Sudan	Land secured to grow 2 million tons of wheat annually Egypt, one of the world's largest importers of wheat, signed a contract with President Omar Al Bashir's government to produce 2m tonnes of wheat a year in the	Signed	n.a.

		north of Sudan for export to Egypt. Egypt is also eager to raise livestock there.			
Egypt	Uganda	The Ugandan government has reportedly leased 2m feddans of land (840,127 ha) – a staggering 2.2% of Uganda's total area – in various parts of the country to Egypt, so that Egypt's private sector may come in and produce wheat and maize for export to Cairo. The deal was apparently struck in late August 2008 and would involve seven Egyptian agribusiness firms, according to Reuters' discussions with Egyptian officials. The details have been denied by Ugandan ministers as well as Egypt's ambassador to Uganda, though he did confirm that: a deal of this nature is under preparation; it will focus on wheat and organic beef for export to Egypt; they hope small farmers, not large, will be contracted for production; the Egyptians may build abattoirs in Uganda for the scheme; and it will be financed by the private sector. A delegation of Egyptian businessmen and scientists is expected to go to Kampala in October to work out details with Ugandan counterparts. Initial activities will include setting up trials to determine which varieties will grow well in Uganda.			
Gulf countries	Somalia	There are reports that some Gulf states have talked with the government of Somalia about allocating land for Gulf food production.			
India	Africa, Australia, Burma	According to the *Economic Times*, Burma, Australia and Africa have been targeted by India's ministry of external affairs as places where Indian agribusiness firms can go and farm for export to India. By September 2008, a G2G deal had been initiated with Burma through which India will have access to Burmese farmland to produce pulses exclusively for export to India.			
India	Ethiopia	US$4 billion invested, including in agriculture, flower growing, and sugar estates	Unknown	n.a.	
Jordan	Sudan	25,000 ha secured for livestock and crops In March 2008, Jordan's prime minister announced that his country would cultivate land allocated to it by the Sudanese government to produce food for Jordanians, and urged the private sector to get involved. Four months later, the agriculture ministry in Amman said that it was appointing a private company to handle the government's overseas agricultural investments in the fight against domestic food insecurity and inflation.	Signed	n.a.	
Kuwait	Egypt, Morocco, Yemen	In 2008, it was reported that the Kuwait Investment Authority, the country's US$265bn sovereign wealth fund, may invest in food production, particularly poultry, in Morocco, Yemen and Egypt for export to Kuwait. The country's trade ministry was also seeking to change the statutes of the Union of Cooperative Societies, the government-run group which dominates food retail in Kuwait, in order to enable the union to invest in overseas farmland, possibly in cooperation with other Arab Cooperative Unions. That move is apparently on hold for now.			
Kuwait	Sudan	"Giant" stategic partnership; no further information On 7 September 2008, Kuwait's Minister of Finance signed what his Sudanese counterpart called a "giant" strategic partnership deal with the government in Khartoum. Under the agreement, the two will invest jointly in food production, presumably in Sudan, including cattle. The deal was to enter into force the following week, with the food security projects to be developed rapidly.	Signed	Sep-08	
Kuwait	Uganda, others	In April 2008, during the World Islamic Economic Forum, the government of Kuwait launched a new US$100m fund called "Dignity Living". The funds will be invested in food production and agribusiness development in Uganda, among other (unreported) countries, to supply the Middle East market. The focus of the fund is staunchly on building food export infrastructure and capacities.			
Libya	Liberia	In December 2007, Libyan African Investment Portfolio, a Switzerland-based subsidiary of Libya's sovereign wealth fund, put US$30m into a massive rice project in Liberia through a tie up with a local NGO, the Foundation	Concession agreement signed, subject to		

		for African Development Aid. The Liberian government has granted the joint company, ADA/LAP Inc, land concessions of over 17,000 ha to produce rice for the local and international markets. Partnership with a local organisation Foundation for Africa Development Aid, Liberia for the production of rice in Liberia.	revision and ratification by parliament	
Libya	Mali	100,000 ha secured for rice Through a subsidiary, to develop 100,000 ha in the Office du Niger, the land area with highest agricultural potential in Mali.	Signed	n.a.
Qatar	Kenya	40,000 ha leased for fruit and vegetable cultivation in exchange for funding US$2.3 billion port	Signed	Nov-08
Qatar	Sudan	Joint holding company set up to invest in agriculture In July 2008, Qatar and Sudan announced the formation of a joint holding company which will invest in food production for export to the Arab markets. Zad Holding Company (previously Qatar Flour Mills), a state-owned firm, and QIA, the emirate's sovereign wealth fund, are both involved.	Signed	Jul-08
Saudi Arabia	Pakistan, Sudan, Turkey	In August 2008, the Saudi Fund for Development announced that it will set up a US$566m special investment vehicle for buying land abroad for domestic food production. Both the government and the private sector will invest in the fund. The priority crops are rice and wheat, and the first investment will be made in Sudan. Following that, Turkey and Pakistan are on the list. According to *Asia Times*, Pakistan has requested US$6m of oil and financial aid in return for access to its farmlands.		
Saudi Arabia	Sudan	In June 2008, the Saudi ministers of trade and agriculture both visited Sudan to survey possible food project investment sites and push for further agriculture investment liberalisation, including for livestock.		
Saudi Arabia	Tanzania	500,000 ha requested for lease	Requested	n.a.
Saudi Arabia (Hail Agricultural Development Co)	Sudan	9,200-10,117 ha leased for wheat, vegetables, and animal feed; 60% paid by Saudi government Hail Agricultural Development Company (HADCO), a Saudi agribusiness firm, has leased 25,000 acres (10,117 ha) for US$95m north of Khartoum to produce food and feed for export to Saudi Arabia.	Signed	Feb-09
South Korea	Sudan	690,000 ha secured for wheat In May 2008, the Sudanese government committed 690,000 ha of land for Koreans to grow wheat to export back home. Production will start later this year – through a joint venture between Korean, Sudanese and Arab firms – on an 84,000-ha farm.	Signed	May-08
Syria	Sudan	Special Agricultural Investment Agreement between the	Signed	22 May 2002

		government of the Arab Republic of Syria and the government of the Republic of Sudan, signed on 22 May 2002 (original in Arabic, contract examined through an English translation undertaken by the study).			
UAE (Abu Dhabi Fund for Development)	Sudan	30,000 ha secured for corn, alfalfa, and possibly wheat, potatoes, and beans The Abu Dhabi Fund for Development is seeking land in countries such as Senegal and Uzbekistan to produce food and feed for the UAE market.	Signed	n.a.	
United Arab Emirates (UAE)	Sudan	378,000 ha total invested in by UAE The UAE government is investing in food production in Sudan to meet its own market needs. As of August 2008, it was reported that the UAE had invested in a total of 900,000 *feddans* (378,000 ha) of farmland in various Sudanese states, including a 16,000-ha plantation for maize and wheat production. According to some sources, Khartoum is providing the land for free. It was also reported that the Abu Dhabi Fund for Development is hoping to set up a joint company with another Arab partner to develop at least 70,000 acres (28,329 ha) in Nile State, northern Sudan, to the tune of "hundreds of millions of *dirhams*", for the production of wheat, maize, alfalfa and possibly potatoes. Initial studies on this will be finalised in November 2008.	Under implementatio n	n.a.	

B. FROM PRIVATE SECTOR				
Country of the Investor: legal basis (and investors' countries if relevant)	**Private Investor / Investment vehicle**	**Target country**	**Details**	**Status of deal**
Bahrain	MAP	Georgia, Egypt, Pakistan	MAP (Market Access Promotion) Services Group, an international investment firm, has joined other Gulf partners to form a Middle East Food Fund that will collectively invest in food production in nearby countries for the Gulf market	
Bahrain	TRAFCO	Australia, India, Pakistan, Philippines, Sudan	General Trading and Food Processing Company, a public trading corporation based in Manama, is studying "food investment projects" in these countries to develop supplies for the Bahraini market. Whether or not this will involve land acquisition in not yet clear. In 2007 TRAFCO set up a US$2.7 million joint-venture food-processing operation in Qatar with the Qatar Company for Meat and Livestock Trading (Mawashi), which is expanding its overseas farm operations.	
Bahrain	Vision 3	Turkey, Sudan, Thailand, Malaysia, Mali and Australia, North Africa.	Vision 3 is a joint venture fund between Gulf Financial House and Ithmaar Bank of Bahrain and the Abu Dhabi Investment House of the UAE. In 2008 it signed an MoU with the Investment Support and Promotion Agency of Turkey, with a potential target of nearly US$9 billion investment in Turkey's agricultural sector, through a specialised investment entity called AgriCap, which will have a capital of US$1 billion. It plans to allocate US$3 billion to the Turkish agricultural sector in 2009. The investment is primarily focused on enhancing the massive agricultural projects like the South East Anatolia Project and the Konya Plains Project. In 2008 it was reported that Gulf Financial House was in talks with the governments of Sudan, Thailand, Malaysia, Mali and Australia for land concessions. "It is not worth us investing in anything that does not generate an IRR of less that 15-20 per cent," says Esam Janahi, chairman of GFH. In June 2009, Vision3 signed an MoU with Morocco's largest bank, Attijariwafa, to establish AgriCap	

			Invest as a specialized food and agriculture focused investment institution which will target investment in the agricultural and agribusiness industry in Morocco and neighboring Maghreb countries.	
Cayman-Islands (Singapur; DWS Fondsgesellschaft (Germany))	Global Agriculture Land&Opportunities	Australia, Zambia		
China	Blackstone	sub-Saharan Africa, UK	According to China's *Economic Observer*, the Blackstone Group, one of the world's largest private equity firms that China recently bought a stake in, has already invested "several hundred million dollars in the agricultural sector, mainly in buying farmland in areas like south of the Sahara and Britain."	
China	Private sector	Uganda	President Yoweri Museveni provided Chinese investors with 10,000 acres (4,046 ha) of land in Uganda, which is being farmed by 400 Chinese farmers using imported Chinese seeds. The project is overseen by Liu Jianjun, a former Chinese government official and now head of the China–Africa Business Council, who also has contracts to build a cornflour-processing factory in Kenya and a farm project in the Ivory Coast (to produce rice and corn).	
China	Unknown company	Cameroon	10,000 ha secured for rice production In May 2008, the French television station TF1 produced a major report on how Chinese businessman Jianjun Wang has acquired rights to 10,000 ha of land in Cameroon to produce rice. The local farmworkers contracted to work the fields believe that the project is meant for rice to export to China.	Deal implemented
Egypt (Beltone Partners (Egypt) - Kenana Sugar (Sudan))	Beltone Private Equity	Sudan	In August 2009, Beltone Private Equity and Kenana Sugar Company established a US$1 billion joint venture to invest in large-scale agriculture projects in Egypt and Sudan. Kenana operates an 84,000 ha sugar cane plantation in Sudan. It is 35.63% owned by the Sudanese government, 30.5% by the Kuwait Investment Authority and 10.92% by the Government of Saudi Arabia. Beltone Private Equity had over US$270 million in assets under management at the end of October 2008, mostly in real estate and retail. The Kenana venture is its first investment in agriculture	
Egypt (leading investors and family offices from Egypt, the Gulf Cooperation Council and North Africa)	Citadel Capital	Middle East and North Africa ; Sudan; Uganda, Kenya and Ethiopia	Citadel Capital makes private equity investments in the Middle East and North Africa and has more than US$ 8.3 billion in investments under its control. In 2008, Citadel set up a fund called Sabina, which holds Citadel Capital's agricultural investment near Kosti, White Nile State, Sudan, where it has obtained a 99-year freehold on a 255,000-feddan (107,000 ha) plot of fertile land, 37 kilometers of which are located directly on the Nile. Part of the land has been designated specifically for the cultivation of sugar cane and the rest will be used for various crops. Some 32,000 feddans (13,440 ha) of the land are already cultivated. The plot is in close proximity to a river port owned by Keer Marine, a Citadel Capital investment. Citadel says it is also considering investments in Uganda, Kenya and Ethiopia. Citadel owns Egypt's largest milk producer, Dina Farms, with a herd of 11,000 cows. It intends to double this herd within 3-5 years. Dina Farms is a subsidiary of the Gozour Holding Company set-up by Citadel with other regional investors.	

Germany	Flora EcoPower	Ethiopia , Madagascar, Thailand, Morocco, Cambodia, Brazil	13,000 ha secured for biofuel crops; contract farming arrangement Ethiopia and Madagascar (15,000 ha, agro oils from Jatropha and Castor). Further investment in Thailand, Morocco, Cambodia and Brazil planned. GTZ Ethiopia calls for agrofuels; agreement on contract farming	Signed
Germany	Deutsche Bank	Brazil, Australia, Africa; worldwide	Deutsche Bank runs two funds devoted to investments in global agriculture. Its DWS Global Equity Agribusiness Fund was launched in 2006 and invests in companies that stand to benefit from increasing demand for food commodities. The US$71.1 million fund invests in food production companies, such as Olam International, Marine Harvest (aquaculture) and SLC Agricola, which produces soy, cotton and maize on 117,00 ha of land in Brazil and which plans to increase its planted area to 223,000 ha in 2009-2010. The other fund is the DWS Global Agricultural Land and Opportunities Fund (GALOF). GALOF is described as "a very niche Fund that enters into joint venture agreements with farmers and supplies them with equity in order to expand their farms. The Fund currently has farms in Australian and Africa, but is looking at opportunities in Argentina, Vietnam and New Zealand." Deutsche Bank is also planning to invest in livestock companies in China. It is pursuing a US$60m investment for a 30% stake in a poultry farm in Shanghai and it is looking at investing in Tianjin Baodi Agriculture and Technology Co Ltd, which plans to build 10 large-scale meat processing parks across the country in an attempt to outdo Yurun and Shuanhhui.	
India	Varun Agriculture SARL	Madagascar	Contract Farming Agreement between Varun Agriculture SARL and Each Association of 13 (Thirteen) Different Plains (Bemanevika, Bekapila, Mahatsinjo, Ambohitoaka, Mahadrodroka, Manandriana, Ankaizina i, Ankazina ii, Bealanana, Maevarano, Amparay, Ankobalava, Ampatsifatsy) in Sofia Region, signed on 26th January 2009 (accessed in English translation only).	
Japan	Kobebussan	Egypt	In 2006, the governorate of Qena, in Egypt, granted 1,600 ha of farmland to Kobebussan, a Japanese agribusiness firm, to produce food for export at a total investment cost of LE1.2bn (US$290m). Food: vegetable oils, sugar, dairy, vegetables, etc.	
Qatar	Qatar Livestock Mawashi	Australia, Pakistan, Tajikistan, Sudan	The Qatar Company for Meat and Livestock Trading (Mawashi) is in advanced high-level talks with Australian officials to establish livestock farms in Australia. It has established a sheep farm in western Sudan and has signed a memorandum of understanding with the country for further expansion in livestock farming. It also has bilateral agreements with two Tajik livestock companies. Qatar Livestock Mawashi has committed US$1bn to develop industrial livestock farms in Pakistan.	
Saudi Arabia	Al-Rajhi International for Investment Co. (RAII) (Sulaiman bin Abdulaziz Al-Rajhi Group (Saudi Arabia)	Sudan, Ethiopia	RAII was formed in 2006 after Saudi Arabia joined the WTO to handle the international investments of the Sulaiman bin Abdulaziz Al-Rajhi Group. It has set up subsidiaries in Sudan and Ethiopia, where it has acquired farmland for crop production and a large-scale poultry farm (Al-Watania Poultry), and it has set up a subsidiary in the Ukraine "for acquiring agricultural projects and trading business." The Sulaiman bin Abdulaziz Al-Rajhi Group is estimated to have invested US$2.5 billion in	

			Saudi Arabia's agriculture and livestock sector. Together with his sons he controls the Al-Rajhi Bank, the world's largest Islamic banking group by assets.	
Saudi Arabia	Foras International Investment Company	Mauritania Mali, Senegal and maybe Sudan and Uganda	Foras was launched in 2008 as a subsidiary of the Islamic Chamber of Commerce and Industry. Its objective is to set up 200 companies in 57 member countries of the Organisation of the Islamic Conference (OIC) over a period of five years. In 2008, Foras purchased a 2,000 ha rice farm in Mauritania where it began a feasibility study for rice production with a Thai team from Kasetsart University. In 2009, Foras launched a project with the Islamic Development Bank and the Islamic Corporation for the Development of the Private Sector that will invest US$1 billion over seven years to produce rice in Africa. This so-called "7X7" project aims at developing and planting 700,000 ha of farm land to produce within seven years no less than seven million tonnes of rice in three to four countries: Mali, Senegal and maybe Sudan and Uganda. The project's political backers are the OIC and the governments of Mali and Senegal. A feasibility study will be completed in August 2009 and the project will start with a pre-execution phase covering 5,000 ha in Mali, close to the Niger River Basin. It will then move to the execution phase covering 50,000-100,000 ha, which will be gradually increased over the seven-year period. Of the 50,000-100,000 ha, 20,000 will be planted with rice at the cost of US$200 million. In addition, in March 2009, Khalid Rabah Al Harbi of Foras was in Davao, the Philippines, as part of a delegation of Saudi officials and investors exploring agriculture investment opportunities.	
Ethiopia (Al-Amoudi Group (Saudi Arabia))	Saudi Star Agricultural Development Plc	Ethiopia	Saudi Star was registered as a company in Ethiopia in 2009 by Sheik Mohamed Al Amoudi with a capital of over US$40 million to grow food in Ethiopia for export to Saudi Arabia. The company plans to acquire 200,000 ha of farm land from various regional states in the country in the near term and eventually expand its holdings to 500,000 ha over the next 10 to 15 years, at an estimated cost of US$3-5 billion. Its initial project is a 10,000 ha rice farm in Gambella State. Al Amoudi is the owner of various conglomerates that stretch across the petroleum industry to real estate to mining and to agriculture. He is considered the world's 97th richest man, with a net worth of $9 billion.	
Saudi Arabia	Jenat	Egypt, Sudan, Ethiopia	10,000 ha secured for barley, wheat, and livestock feed Reports are out that Saudi investors are exploring possibilities for land acquisition to produce food for Saudi Arabia in Egypt, Philippines, Senegal, Turkey, Uganda and Ukraine. There are also reports that Saudi firms are looking for Thai partners to jointly go into rice production in Uganda and Sudan. A consortium of Saudi agricultural firms called Jenat recently announced plans to invest US$ 400 million into food production in Sudan and Ethiopia, following investments in 10,000 ha of barley, wheat and livestock in Egypt according to company sources.	Unknown

Saudi Arabia	Unknown private investors	Ethiopia	Land leased in exchange for US$100 million investment In August 2008, Ethiopia's Prime Minister told the *Financial Times* that he is eager to give Saudi investors access to "hundreds of thousands" of hectares of farmland for investment and development. Another private Saudi consortium recently announced a lease of unspecified size in Ethiopia	Signed
Singapore	Nauvu Investments	Africa, Cote d'Ivoire	In 2007, Olam and Wilmar established a joint venture called Nauvu Investments to invest in African agribusiness, with an initial capital of US$207.5 million. In its initial investment, Nauvu took over the Cote d'Ivoire-based SIFCA Group, giving it control of the company's 36,000 ha of oil palm plantations, 50,000 ha of rubber plantations and 10,000 ha of sugar cane plantations. According to Wilmar and Olam, "Africa is the next frontier for plantation development."	
South Africa	Agriculture South Africa	Democratic Republic of Congo	10 million ha offered to farmers' union	Unknown
South Korea	Daewoo	Madagascar	1.3 million ha secured for maize	Discontinued
Sweden	Skebab	Mozambique	100,000 ha secured for biofuel crops	Unknown
UAE	Al Qudra	Australia, Croatia, Egypt, Eritrea, India, Morocco, Pakistan, Philippines, Sudan, Syria, Thailand, Ukraine, Vietnam	Al-Qudra Holding, an investment firm, plans to acquire 400,000 ha of land by early 2009 to produce wheat, maize, rice, vegetables and livestock in Australia, Croatia, Egypt, Eritrea, India, Morocco, Pakistan, Philippines, Sudan, Syria, Thailand, Ukraine and Vietnam. The land is supposed to be acquired through a mixture of 20–30 year leases, concessions and outright purchases. Al Qudra have reportedly already acquired 1,500 ha in Algeria (cattle and dairy) and Morocco, while discussions are allegedly under way with the Philippines, Thailand and Vietnam for rice. According to CEO Mehmood Ebrahim Al Mehmood, 40% of the total investment will go to maize, although no decision has been taken yet about whether to convert it to ethanol, with the first harvests expected in 2011 or 2012. The investment plan may expand to port operations, breeding and the manufacture of irrigation equipment. Al Qudra Holding is an investment firm based in Abu Dhabi that is heavily engaged in acquiring farmland in Asia, Africa and the Middle East. In August 2008, CEO Mahmoud Ibrahim Al Mahmoud said that Al Qudra had already acquired 1,500 ha in Morocco and Algeria and was "serious studying" major acquisitions in Syria, Egypt, Sudan, Eritrea, Pakistan, Vietnam, Philippines, India and Ukraine, with a target of 400,000 ha. No further details available.	
UAE	Emirates Investment Group	Pakistan; Eastern Europe, Sudan and Egypt	Emirates Investment Group says it is in the process of acquiring farmland in Pakistan to export food to the Gulf region. It plans to produce vegetables including onions, tomatoes and potatoes, as well as citrus fruits and cattle. EIG is also looking at expanding its agriculture business to Eastern Europe, Sudan and Egypt. "You have to keep in mind that this is a business for us, not a charity or a social project, so all we are after at the end like any company is to maximise profits," said Vice Chairman Raza Jafar. EIG is an investment company investing	

			in real estate, the financial sector, aviation, trade and services.	
UAE	Janan	Egypt	Janan is a privately held agricultural investment firm based in Abu Dhabi. It has invested US$320 million to establish an animal feed plant and to acquire and cultivate about 2,520 ha of farm land in Egypt. In August 2009, Janan signed a second deal with Egypt to enable the company to cultivate a further 42,000 ha of land for wheat, maize and feed. The new project, an investment of Dh 925 million (US$252 million), in the south-west agricultural area of East Oweinat, will be carried out in phases until 2015. The project is expected to produce 350,000 tonnes of wheat a year, and it is claimed that all grain produced will be for Egyptian consumption.	
UAE (Pharos Financial Group (Russia) - Miro Holding International (UK))	Pharos Miro Agricultural fund	Africa, Eastern Europe, former Soviet countries.	Pharos Miros Agricultural Fund was launched in October 2009 through Pharos' Dubai offices. It is a US$350 million fund, which will focus initially on rice farming in Africa and cereal cultivation in eastern Europe and former Soviet countries. The Fund has a minimum subscription of US$1million and is actively seeking joint ventures with Gulf family-owned conglomerates and sovereign wealth funds. Pharos hopes the fund will achieve returns of about 25% over five years.	
UAE	Dubai World Trading Company	East Africa Agri-business (Ethiopia)	5,000 ha secured in joint venture for tea	Signed
UK	Actis Africa Agribusiness Fund	Africa	Actis Africa Business Fund is a US$100 million fund launched in 2006 to invest in agribusiness in Africa, including farmland. While the fund is managed by Actis from Nairobi, its sole investor is the Commonwealth Development Company, which is 100% owned by the British government. There is an intention, however, to attract private co-investors. The Fund's direct food farming investments are mainly in Zambia. (It is also active in rubber in CÃ´te d'Ivoire, forestry in Sudan, Tanzania and Uganda, etc.) Actis Capital has made several investments in Asia's dairy sector, including the purchase of a 65% stake in India's Nilgiris Dairy Farm, one of the largest dairy companies in South India, and a US$7.5 million investment in China's Meng Niu dairy company.	
UK (and Bank Sarasin (Switzerland) - Rabobank (Netherlands)	AgriSar Fund	Worldwide	AgriSar was set up in 2008 by Bank Sarasin, one of Switzerland's largest private banks, to capitalise on new opportunities for agricultural investment, with population growth being the main perceived driver. The fund is currently a joint operation, registered in the UK, between Sarasin and its parent Rabobank. AgriSar raised Â£56 million in its first year and charges its clients a performance fee of 15%. It will invest worldwide across the full spectrum of asset classes and equity sectors contributing to agricultural productivity and supply efficiency: from seeds and farmland to what they call "lips and hips" (a sector that includes dialysis machines, expected to be needed by the obese). Farmland investments will be managed via real estate investment trusts (REITs) and other vehicles that are more liquid than physical land itself.	
UK	Agro-Ecological Farmland Fund	New Zealand, America (Uruguay and Paraguay), Eastern Europe and Africa	The Agro-Ecological Farmland Fund is described as the world's first organic farmland fund. Agro-Ecological Investment Management is a	

			farmland asset management business that specialises in identifying and managing farmland investment for pension funds, endowment funds and investment managers. Its focus is on New Zealand, but the company says it "has excellent connections in South America (Uruguay and Paraguay) and is extending its view to Eastern Europe and Africa."	
UK	CAMS Group	Tanzania	45,000 ha purchased for sweet sorghum (biofuel) UK energy company CAMS Group announced in September 2008 that they had acquired a lease over 45,000 hectares of land in Tanzania for investments in sweet sorghum production for biofuels, through equity financing and lending from a commercial bank in London.	Deal implemented
UK	cru Investment Management	Malawi, Africa	cru Investment, an ethical fund, facilitates private investment in African agriculture for guaranteed returns of 30–40%. They already control more than 2,500 ha of farmland in Malawi and operate another 4,000 ha there through outgrower schemes. The produce is exported to the UK. In September 2008, cru announced that in 2009 it will expand its Africa fund to the Middle East. This means teaming up with Gulf investors to capitalise on food security concerns.	
UK (Toronto Dominion Bank (Canada)	Emergent Asset Managagement	Angola, Botswana, Mozambique, South Africa, Swaziland and Zambia.	Emergent operates an Africa Agricultural Land Fund, with offices in Pretoria and London. As of June 2009, Emergent controlled over 150,000 ha in Angola, Botswana, Mozambique, South Africa, Swaziland and Zambia.	
UK	GEM Biofuels plc	Madagascar	GEM Biofuels plc gained exclusive rights for 50 years over 452,500 ha in Southern Madagascar to plant jatropha for biodiesel production	
UK	Lonrho	Angola, Mali, Malawi, rest of Africa	In October 2008, the *Financial Times* reported that Lonrho, a pan-African corporation based in London, is putting together the funds to acquire 20,000 ha of productive farmland in Angola and make money from global food trade in this time of high prices. This is part of a wider "aggressive" strategy to acquire ten times that amount – 200,000 ha – for the same purpose across Africa. The Angolan government is reportedly trying to attract US$6bn worth of new agricultural investments and is engaged in talks with top corporations from Brazil, Spain, Portugal, Argentina, Canada and the US. The pan-African conglomerate Lonrho acquired 25,000 ha of land in Angola, and is negotiating major land deals in Mali and Malawi	
UK	Sun Biofuels	Ethiopia	Land secured for jatropa (biofuel)	Deal implemented
UK	Sun Biofuels	Mozambique	Land secured for jatropa (biofuel)	Deal implemented
UK	Sun Biofuels	Tanzania	5,500 ha secured for jatropa (biofuel)	Unknown
UK	Trans4mation Agric-Tech Ltd	Nigeria	This UK investment house is involved in a joint venture with a Vietnamese company that will bring Vietnamese workers, scientists and technology to villages in the Niger Delta to produce food for the local and world markets. T4M, as it is sometimes called, has reportedly received loan financing from the UK government of US$36m, and the Delta villages are providing infrastructure, including land. A	

			minimum of 10,000 ha of fertile land has been assigned to the project for 25 years by Delta state officials. Stephen Liney, the project director, is in similar discussions with the Rivers, Abia and Ebonyi state governments.	
UK	Trans4mation Agric-tech Ltd	Nigeria	10,000 ha secured	Signed
USA	Jarch Capital	Sudan	400,000 ha in Southern Sudan signed with local army commander	Signed
Virgin Islands (Phillippe Heilberg and other wealthy US individuals)	Jarch Capital	Sudan	In 2009, Jarch took a 70% interest in the Sudanese company Leac for Agriculture and Investment and leased approximately 400,000 hectares of land in southern Sudan claimed by General Paulino Matip of the Sudan People's Liberation Army. Soon after Jarch announced that it aimed to lease another 400,000 hectares of land by the end of 2009 in Africa.	

	C. AGRICULTURAL INVESTMENT FUND					
Country	**Investor**	**Targets**	**Nature**	**Date initiated**	**Source**	**Article date**
	Agri-Vie	Africa	Private equity fund is raising up to US$100 million to invest in agricultural projects in Ghana, Kenya, Nigeria, South Africa, Tanzania, and Uganda	n.a.	http://www.reuters.com/article/marketsNews/idUSLK10422520090320?sp=true	Mar-09
Bahrain	Agricapital	World North Africa, sub-Saharan Africa	$1 billion investment vehicle formed by Abu Dhabi Investment House, Ithmaar Bank, and Gulf Finance House to invest in agriculture In August 2008, three Gulf firms -- Abu Dhabi Investment House, Ithmaar Bank and Gulf Finance House – announced the creation of AgriCapital, a new Islamic investment fund. The US$1bn investment vehicle will engage in land purchases overseas to produce food for the region, through a separate investment bank specially created for this purpose, and to fund biotechnology research.	n.a.	http://www.cpifinancial.net/v2/news.aspx?v=1&aid=1009&sec=Alternative%20Investment	Aug-08
Qatar	Qatar Investment Authority	World	US$60 billion sovereign wealth fund to invest in food and energy	n.a.	http://www.ft.com/cms/s/0/03a97876-0f70-11de-ba10-0000779fd2ac.html	Mar-09
Saudi Arabia	Saudi Company for Agricultural Investment and Animal Production	World	US$800 million company to invest in agricultural projects abroad	n.a.	http://www.ft.com/cms/s/59a9da3a-2920-11de-bc5e-00144feabdc0,Authorised=false.html?_i_location=http%3A%2F%2Fwww.ft.com%2Fcms%2Fs%2F0%2F59a9da3a-2920-11de-bc5e-00144feabdc0.html&_i_referer=http%3A%2F%2Ffarmlandgrab.blogspot.com%2Fsearch%3Fupdated-max%3D2009-04-16T02%253A02%253A00%252B08%253A00%26max-results%3D10	Apr-09

[1] Also deals with some government involvement. It is not always clear to what extent the government is involved on both the investor and target side.