# The Role of the EU in Land Grabbing in Africa - CSO Monitoring 2009-2010 "Advancing African Agriculture" (AAA): The Impact of Europe's Policies and Practices on African Agriculture and Food Security

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# The Role of the EU in Land Grabbing in Africa - CSO Monitoring 2009-2010 "Advancing African Agriculture" (AAA): The Impact of Europe's Policies and Practices on African Agriculture and Food Security

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**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'. 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.

## 1. Introduction

The most common definition of the global land grab refers to large scale land acquisition – be it purchase or lease –for agricultural production by foreign investors (GRAIN 2008, Cotula et al. 2009, Daniel and Mittal 2009). 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 (Borras and Franco 2009). For the purpose of this analysis, land grabbing is defined as taking possession of and/or controlling a scale of land for commercial/industrial agricultural production which is disproportionate[1] in size in comparison to the average land holding in the region. This definition does not focus on abusive practices in the process of acquiring the land but rather on the distributional aspects of the phenomenon and its impact on the political economy and the local and national populations' right to resources for both today and the future. This definition includes both national and foreign investors.

The FAO estimates that in the last three years 20 million hectares have been acquired by foreign interests in Africa (Hallam 2009). Many land deals involve more than 10,000 hectares and several more than 500,000 hectares. 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(Hallam 2009), 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 acquisition. 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) (UNCTAD 2009), 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. It is not clear whether all recent land deals reported in the media will materialize or not. In fact, some

[1] What can be considered "disproportionate" needs to be discussed in each particular context.

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. 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.

This report should thus be understood as an initial 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.

# 2. 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.[2]

## 2.1 European agrofuels policies

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 (Cotula et al. 2008). Similarly, government consumption targets (in the European Union, for instance) and financial incentives have been a key driving force for demand for investment in agrofuels (Cotula et al. 2009).

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 (USDA 2009). To meet their consumption targets, member states at their discretion are introducing a process of support

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[2] 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

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). 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. 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 (Ibid.)

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 (GRAIN 2007).

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. 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 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. [3]

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 (Ecoenergy 2008). Largely based on this study, the Mozambican government adopted its new "Policy and Strategy for Biofuels".4

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.[5]

According to Reuters' media reports dated 20 March 2009[6], 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

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[3] 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

[4] See Resolution 22/2009, from May 21, 2009.

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

[6] 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

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[7]. This project encountered a strong opposition from social movements, which denounce the use of their 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 (Bird Life et al.2009).

## 2.2 The food crisis

The food price crisis of 2007-2008 is considered to have led to "the proliferating acquisition of farmland in developing countries by other countries" attempting to boost the security of their food supply (Braun and Meinzen-Dick 2009) and to be the second main driver of the global demand for land in developing countries, combined with the financial crisis (IFAD 2009). 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 (GRAIN 2008). However, EU countries and European private corporations are also involved. According to media reports, in December 2008 the Nigeria's Niger Delta Development Commission[8] and UK based TRANS4mation Agritech (T4M) signed a 305million USD 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'.[9] 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.

## 2.3 The financial crisis

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

8 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.

9 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

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 an army of investment houses, private equity funds, hedge funds and the like have been snapping up farmlands throughout the world (GRAIN 2008). UNCTAD 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' (UNCTAD 2009: 103). Western investors, including investment banks and wealthy individuals, have started to acquire farmland. 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 (Daniel and Mittal 2009).

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.[10] UK based Cru Investment Management, an 'ethical fund', facilitates private investment in African agriculture for guaranteed returns of 30-40% (GRAIN 2008). These are just two of many examples. 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.[11] 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. In a word, the business community in Europe is increasingly realizing the apparent value of acquiring agricultural land in Africa.[12]

In the case of Germany, 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 (FIAN and Profundo 2010).

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

11 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

12 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

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 (ETUC 2009). They have not yet taken into account the impact foreign investments in developing countries can have on the local populations.

### 4.4 Other State involvement

While private sector deals account for about 90% of land investments, the home country governments of investors may play a major supportive role by providing diplomatic, financial and other support to private deals (IIED 2009). 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 (High Commissioner for Human Rights 2003). Equity participations in investment projects by home country governments, through state-owned enterprises, development funds or sovereign wealth funds may also be growing (IIED 2009).

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.[13] 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 (GRAIN 2009). 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.[14]

## 3. Case studies

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

### 3.1 Uganda: Small farmers lose land to Neumann Kaffee Group in Mubende[15]

For 9 years[16], 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.

13 See http://www.cdcgroup.com

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

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

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

### *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'[17] 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 agricultural and agro-industrial sector' (Republic of Uganda 2000), 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/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 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 (Action Aid 2008).

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[17] 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

**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 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 (Banga and Nuwagaba 2002) .

**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 (Businge 2001).

**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 (Ibid.).

**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 (Action Aid 2008).

### 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). 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 (FIAN 2010). 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.[18] The British company BioEnergy Africa bought from the [Central African Mining and Exploration Company](#) (CAMEC) and another unknown investor 94 percent of the project in 2008/2009 (Welz 2009), forming a joint

[18] 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.

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.[19]

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, 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 (Welz 2009). 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."[20] Mr Mauricio Huo, director of the district service for economic activities in Massingir, was also interviewed by the research team. 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 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:

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[19] 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

[20] 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.

> "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." (FIAN 2010).

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 (Vermeulen and Cotula 2010). Moreover, interviewed persons indicated 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 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 (Manuel and Salomão 2009) . All these elements call into question the entire consultation process, clouding the requirement for accountability (for other problems with community consultation and impacts of agrofuel projects, see Salé 2008).

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 Massingir District is more than 70,000 hectares (FIAN 2010). 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.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."21 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.

### 3.3 A statistical analysis: How Foreign Direct Investment will restructure the Agricultural Sector in Ethiopia

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 (Weissleder 2009).

The EU[22] 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, 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

[21] See http://allafrica.com/stories/200811280929.html, accessed 27 November 2009.

[22] 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

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<br><br>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 | 31: extremely alarming |

| | |
|---|---|
| people who are calorie deficient. The ranking is updated annually by IFPRI. | |

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

### 3.3.2 Land deals

According to different sources (see annex, Graham et al. 2010), land deals adding up to 528,000 ha 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**[23] and **3 million** hectares. [24] 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.[25]

### 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[26] | 14 038 000 |
| Permanent crops[27] | 1 039 000 |
| Arable land and Permanent crops | 15 077 000 |
| Permanent meadows and pastures | 20 000 000 |
| Agricultural area[28] | 35 077 000 |

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

[23] See Abera Deressa, ministry of agriculture, *L'Hebdo*, 03/09/2009, p. 50.
[24] See Esayas Kebede, director of the government's Agricultural Investment Agency, Reuters, 05/11/2009.
[25] Ibidem.
[26] 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.
[27] 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.
[28] 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).

According to statements of Ethiopian officials in the press, the cultivable area in the country is 74.5 million hectares. [29]

### *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 [30] which adds up to about 15 million hectares. [31]

### *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

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

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 not be compensated, as 'they should go somewhere else'.[32] 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.[33]

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.[34]

This is only one example amongst many others. Other countries, like Zambia, are in a similar situation. According to the organisation AGTER[35], the Zambian government is seeking to transfer 30 million hectares to foreign investors, in a country of only 70 million hectares. It is

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

33 Ibid

34 Ethiopia is a party to the International covenant on Economic, Social and Cultural Rights since its accession to the treaty on 11th June 1993.

35 See http://www.agter.asso.fr/article385_fr.html.

equally evaluated that only 14% of the arable land is currently being cultivated, which probably again ignores traditional pastures and other small-scale farming.[36]

# 4. The impacts of foreign land acquisition on the rural population and on the promotion of peasant agriculture

### 4.1 Access to lands and livelihoods

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 standard of living including food and housing, even if some compensation and rehabilitation is provided. [37]

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 (GRET 2006). 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 (Borras and Franco 2009).

In awarding contracts to foreign business interests, host governments often allocate lands they claim are marginal, "underutilized" or "unused". 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 (2009), 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'.

### 4.2 Biodiversity, water, and environment

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[36] 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.

[37] Borras and Franco (2009) 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.

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' (De Schutter 2009b). 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' (FAO 1998). According to UNEP (2007), 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 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' (FAO 2009). Yet, the FAO has repeatedly underlined the high risks in terms of food production, and thus hunger, associated to the loss of biodiversity (FAO 2008).

This could negatively affect poor rural households that are often dependent on natural resources and biodiversity to feed themselves and their families. This is particularly true in areas prone to food shortages. 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.

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 (FAO 2008a). 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 (Smaller and Mann 2009).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 (UNEP 2007).

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 (2008: 20), agriculture was the most important contributor to deforestation in the 1990s. 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'. 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. 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.

### 4.3 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. 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." (ILO 2004: 117).

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 (Schmidhumer 2007). Von Braun and Meinzen-Dick (2009) observe 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'.

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. 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 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.[38]

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

### 4.4 Conflict/Political instability

[38] 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

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 (World Bank 2009).

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 (FIAN 2000).

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 (GRAIN 2007). 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.[39] The public outcry in Madagascar over the proposed land deal with South Korea's Daewoo Corporation equally illustrates the depth of emotions attached to land issues and the potential for violence and political conflict.

### 4.5 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 (African Biodiversity Network 2007). 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." (Welt Hunger Hilfe 2009). Daniel and Mittal (2009: 4) also note 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'.

Often host governments claim that the land being leased to foreign investors is not being used. Even where this may currently be the case[40], because of increasing populations and

[39] See *World Rainforest Bulletin No 134*, September 2008. By Julien-François Gerber. Available at http://www.wrm.org.uy/bulletin/134/viewpoint.html#-%20Cameroon:%20Bagyeli%20severely%20impacted%20by%20the%20establishment%20of%20industrial%20plantations.

[40] 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.

urbanization, and decreasing availability of fertile land due to climate change, the seemingly abundance of land will eventually/shortly be reduced.

### 4.6 African countries as agrofuel republics? Impacts on the political economy of host countries

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 (Bethell XX; Mariam 2009).

## 5. Conclusions

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 (CESCR 1991). 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' (CESCR 1997).

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" (CESCR 1999). 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).[41]

[41] 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

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. 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 (De Schutter 2009a). 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." (Ibid. para 5). 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

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."

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 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 (2009a), 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 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.[42] The Eastern African Farmers Federation (EAFF) has cautioned that leasing farmland to multinationals could precipitate food crisis in the region. [43] Sometimes the impression is

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[42] 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

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

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." [44]

# 6. Recommendations

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:

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 to 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. 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.
3. Drop 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.

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

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.

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