



## **(BIO)FUELING INJUSTICE?**

**Europe's responsibility to counter climate change without provoking land grabbing and compounding food insecurity in Africa**

*The EuropAfrica 2011 Monitoring Report  
on EU Policy Coherence for Food Security*

**EuropAfrica – Towards Food Sovereignty** is a campaign that connects African farmers' platforms and European civil society organizations to reflect and act together on major current issues concerning food and agricultural policies, trade and development cooperation. EuropAfrica aims to raise awareness and advocate on shared issues and to promote sustainable small-scale family farming and local agri-food systems that bring consumers and producers closer together. The campaign supports the attainment of food sovereignty, i.e. the right for people and communities to define their own food and agricultural policies, both in Africa and in Europe, without impeding the food sovereignty of others.



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# Executive summary

## *Adding value to the reflection on land grabbing and biofuels*

The present report builds on the findings presented in the 2009-2010 EuropAfrica study on land-grabbing prepared by FIAN International (the “Monitoring” report )<sup>1</sup> and on documentation of new cases and relevant reports on issues of commercial investments in land in Africa and the role of biofuels released since. It focuses on the **impacts of the EU biofuel policy regarding food security, sustainable small-scale agricultural production and other related social, economic and environmental aspects**, with special attention to Africa. It concludes that, as it stands, this policy is not coherent with EU development objectives and that, in applying it, the EU and its Member States are violating human rights standards.

This contradiction, however, can be corrected. The report is framed in the spirit of the shared aim that no harm and suffering should result from EU policies. It seeks to constructively **suggest ways to improve the existing policies and to create a space for dialogue** between EU actors, civil society and affected people to this effect.

## *Land grabbing: a growing phenomenon*

Based on the latest scientific research, the term “**land grabbing**” is used to refer to **the phenomenon of concentration of land and associated natural resources, particularly water, due to domestic or foreign investments, with implications for human rights, food security and the environment**. Land concentration tends to involve concentration of decision-making about how land is to be used in the hands of a few. Without overemphasizing quantitative approaches, given the methodological caveats in quantifying the phenomenon, estimates of the scale of the rush for land, released since 2010, by organisations such as the World Bank, the Committee on World Food Security’s High Level Panel of Experts on Food Security and Nutrition (HLPE) and the International Land Coalition, indicate that investors have acquired amounts of land ranging from 50 to 80 million hectares (ha) in the past few years. Between one-half and two-thirds of these land transfers relate to Africa **and, according to an analysis of media reports by the World Bank, the biggest flow of investments is from investors based in Europe and Central Asia**, thus confirming the importance of monitoring land-grabbing on the African continent and assessing the involvement of the EU.

More importantly, these recent studies also reconfirm **the devastating impacts these deals have on the local populations**. Developing country governments, under pressure, are often led to negotiate deals that are not in the interests of their countries, and a large number of commercial land investments in Africa feature unbalanced contracts that protect and benefit investors to the detriment of the local population.

In a context of high and volatile food prices, and with close to 1 billion people suffering from hunger, these deals generally threaten present and future food security and local livelihoods by imposing an export model on food insecure countries; jeopardising local

people's land tenure and access to land; damaging biodiversity and the environment; and pushing rural people deeper into poverty; **thus generating human rights violations**. Affected people most often have no effective means of redress, injustice being commonplace in the realm of land grabbing.

### ***Some response from the international community, but prospects are still gloomy***

Faced with these challenges, farmers' groups and civil society have started to organise and react. Farmers' organisations, religious organisations, non-governmental organisations, unions and other social movements gathered in 2011 in Dakar for the World Social Forum and adopted the **Dakar Appeal against the land grab**, which has been signed by more than 900 organisations worldwide.

**Relevant policy discussions regarding investments in land are currently underway**. Some of these seek to move beyond the formerly prevalent and facile "win-win" discourse. A Set of Minimum Principles for Land Investments was presented by the UN Special Rapporteur on the Right to Food in 2010. The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security are currently being negotiated in the context of the UN Committee on World Food Security (CFS). Following the adoption of these Guidelines, the CFS will start a process of broad consultation to develop principles guiding investment in agriculture from the perspective of enhancing food security and the right to food.

However, the trend of large investments in land does not seem to have been curbed, and experts anticipate that **the rapid expansion of cultivated area is unlikely to slow down**. The triple crisis (food crisis, financial crisis and oil peak) that created the conditions for the rush for land in 2008-2009 is still with us. Food and energy needs, together with flawed distribution and overconsumption patterns, make land an ever more valuable asset. Amongst these factors, **biofuel production has been identified as an important driver of land grabbing**. This directly concerns the EU, which has recently developed an ambitious biofuel strategy.

### ***A comprehensive EU biofuel policy***

Biofuels are fuels made from agricultural commodities such as maize, oilseed or palm oil. Large-scale industrial products are usually called **agrofuels**, whereas fuels produced from biomass on a small scale are called biofuels. Both terms are used in this report. Blended with normal fossil fuel, biofuels can provide energy for transport. Their main advantage is thought to be their environmental impact due to reduction of greenhouse gas emissions, which is a factor of global warming.

The **Renewable Energy Directive (RED)** adopted by the EU in 2009 sets an objective that in practice demands 10% biofuels in road transport by 2020. This biofuel policy is supported by various other EU instruments, including in the areas of trade, development cooperation and diplomacy.

The EU has various strategic interests in promoting biofuels. These include diversifying its energy supply and supporting its biofuel industry, which is the biggest in the world. Nevertheless, it is important to acknowledge that **the EU biofuel policy has a well-intentioned and praiseworthy purpose**: improving the environment and addressing climate change. This is an important goal, and it must be kept in mind that climate change also has significant social repercussions. Should biofuels be able to help reach this objective in an environmentally and socially sustainable way, they merit support. If not, other ways of promoting renewable energy use need to be sought.

### ***Linking EU policies and impacts in Africa: nothing to stop the EU biofuel policy from driving land grabbing***

The cultivation of feedstocks (i.e. agricultural raw material such as maize, palm oil, or sugar cane) to produce biofuels requires large tracts of land, thereby creating incentives for land grabbing. Although the RED includes sustainability criteria, which are minimum standards intending to ensure that biofuels consumed in the EU have a positive environmental impact, **negative social impacts are not prevented**. The RED merely foresees that the social and developmental impacts of the development of biofuels should be monitored.

The impact of the EU biofuel policy in Africa is still **difficult to monitor** and to anticipate. Data is patchy. Many investments took place recently and, therefore, may take a few years to engender exports to the EU. For this reason, only a method that crosses different sources of qualitative and quantitative data can give a realistic picture of the situation.

Adopting such a multi-source approach, evidence reviewed for this report shows that **the EU biofuel policy drives the rush for land in Africa in at least three ways**.

First, an **increasing amount of African land is being acquired by foreign investors** to produce agrofuels for export to the EU. Cheap African land with purportedly large potential to grow biofuels is considered by experts and by international investors to be highly attractive for biofuel production. Many studies, including from the World Bank, confirm this trend and reliable data shows that between 3 and 5 million ha have already been directly or indirectly secured by EU companies to grow biofuel feedstock in Africa.

For various technical reasons, it is very difficult to arrive at a precise figure regarding **biofuel and biofuel feedstock imports to the EU from Africa**. Nevertheless, even if these imports were to be relatively low at the moment, they **are growing**. It is anticipated by various sources that the EU could need to rely on over 50% imports to meet its biofuel needs in the coming years. And as there is no safeguard to ensure that the EU does not import from Africa, there is no reason to think that the EU will miraculously escape the general trend of investments in African land for biofuel exports. The full effect of the current surge of agrofuel investments in Africa will be felt in several years – if social unrest does not interrupt the projects prematurely.

Second, as a result of the increased demand for biofuels in the EU, some of the land formerly used to grow food or animal feed in EU Member States is being turned over to

growing agrofuel feedstocks, and thus **more food has to be produced outside of the EU and imported**. Lessons in this regard can be learned from the experience of the US, where such a phenomenon has occurred. This is an unaccounted way for the EU to outsource part of its food production as a result of its biofuel demand. By using African land to help meet its food needs, the EU puts additional pressure on land in other countries and contributes to land grabbing.

Third, the EU biofuel policy **artificially boosts the economic value of land** and generates additional interest on the part of speculators. This is the so-called phenomenon of “land banking,” whereby investments in land are made not to produce crops, but to speculate with the prospect of a juicy future added value. The EU biofuel policy gives a signal and the necessary confidence to investors to grab African land.

Importantly, because it is focused on quantitative objectives, placing priority on technological and market-based solutions, the **EU biofuel policy tends to encourage large-scale industrial agricultural production**. It thereby helps to transform land into a commodity, ignoring its social and cultural values, and promotes the very model of agriculture which has been demonstrated to contribute heavily to climate change and food insecurity.

The land acquisitions related to agrofuels constitute **one of the most clear-cut forms of land grabbing**, since they involve the concentration of land for export commercial purposes.

### ***The EU biofuel policy has negative effects on food security, governance and human rights***

In addition to the usual impacts of land-grabbing, large-scale land acquisitions for agrofuels have specific negative consequences. Agrofuel projects **violate a range of human rights**. In particular, the food security and the right to food of African people are affected because of reduced and insecure access to land for small-scale farmers to produce locally consumed food, and because agrofuels stimulate high and volatile food prices at the global level. There are different views as to the exact extent to which agrofuels contribute to raising food prices but, without entering into a battle of figures, most studies tend to find that they play a significant role.

Most deals in Africa take place in countries where governance is already weak, and the amount of money involved in agrofuel-related projects engender **further governance issues**. Biofuel land deals often tear local communities apart and provoke social conflicts.

Some investors take advantage of the lack of regulation in host countries to maximise their benefits and exploit natural resources to their profit. **The added value of agrofuel projects is captured mainly by international investors and local elites**, whereas the local economy is disrupted and the population gets little economic benefit, contradicting the argument that additional income can compensate for the export of commodities needed locally.

Finally, the impact of biofuels on the environment is disputed. Recent controversy about **indirect land-use change (ILUC) –when land previously used to grow food**



or animal feed is turned over to growing agrofuels which displaces the original land use into new areas- caused by biofuels questions their environmental benefits, and thus the main rationale for supporting them.

### ***The EU and EU Member States' incoherence with their development policies and disregard for their human rights obligations***

The EU has advanced a number of arguments to defend its biofuel policy. However, none of them withstand confrontation with the evidence presented above. The monitoring and bi-annual reporting on social issues proposed in the RED is a useful tool, but it is only reactive and cannot prevent violations. Moreover, it is not acceptable for **the EU to adopt an essentially technical approach to assessing the impacts of the RED, ignoring all reports from affected people and civil society, to justify not taking action.** Instead of reviewing the facts with a highly optimistic perspective and placing the burden of proof on civil society organisations, the EU ought to undertake a comprehensive and objective analysis of the effects of its policies in terms of the environment, food security, development and human rights. And **WTO rules cannot constitute an excuse to precipitate thousands of people into hunger.**

Although the FAO, the World Bank and a number of other international organisations, in a joint report to the G20, have recommended removing provisions of current policies that subsidize or mandate biofuel production or consumption because of their impact on food price volatility, the EU still seems to deny any negative impact. There is no doubt that the biofuel issue requires a cautious approach, given the difficulties in assessing their impacts and their theoretical benefits. It is also clear that their negative social impacts are largely unintended and unwanted effects of an otherwise valuable policy. **However, the EU has failed thus far to respond to the rising evidence of the problematic impacts of its biofuel policy on African societies.**

This lack of adequate response has led **the EU and its member states to infringe two principles they are bound to respect: policy coherence for development (PCD) and human rights.**

In terms of PCD, **the social effects of the EU biofuel policy in Africa contradict the objectives of EU development cooperation**, breaching article 208 of the Treaty on the Functioning of the European Union. In its 2010 policy framework to assist developing countries in addressing food security challenges, the EU recognised the crucial role of smallholders to achieve this aim. Acknowledging that secure access to land is a prerequisite for higher productivity of smallholder farmers, the EU and its Member States were enjoined to help ensure that policies on agriculture, land and biofuels address this concern, including through support to the implementation of the African Union land policy guidelines.

Yet, whereas the EU aims at encouraging sustainable small-scale family farming to enhance food security and at improving democratic governance of natural resources, its biofuel policy promotes large-scale industrial farming that threatens the right to food. The EU is therefore jeopardizing, on the one hand, what it supports through its

development policy, on the other hand. This, apart from being a legal issue, is **also a waste of resources.**

Regarding human rights, the main applicable conventions considered are the International Covenant on Economic, Social and Cultural Rights (ICESCR), which applies to EU Member States, and the Charter of Fundamental Rights, which applies to EU related initiatives. These norms are interpreted in the light of the recently adopted **Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (ETO Principles)**, which is an authoritative analysis of existing international law to clarify the content of States' obligations to realise human rights beyond their border.

From this analysis, it appears that **the EU and EU member states violate human rights** first, by not having conducted an adequate assessment of the impact of the EU biofuel policy on human rights; second, by directly harming people's rights in Africa through this policy; and third, by not regulating, sufficiently, agro-industrial companies based in the EU that can harm human rights in Africa without being brought to justice. Furthermore, victims of human rights violations in Africa should have access to remedies in the EU if the violations were committed with involvement of European actors, but there does not seem to be any efficient avenue for them at the moment.

### ***It is time to act***

The EU biofuel policy should be assessed in the broader context in which land-grabbing has become an uncontrolled phenomenon, one billion people suffer from hunger, and land is needed to feed a growing world population. The impact of the EU biofuel policy on societies in Africa is direct and shattering. And there are good chances that it will worsen in the coming years as the full effect of the investments that are being made now is felt, and as investors become increasingly interested in cheap African land. It is urgent that the EU and its Member States stop what the former UN Special Rapporteur on the Right to Food, referring to the expansion of biofuels in food insecure countries, called "**a crime against humanity,**" and step up their efforts to fulfil their praiseworthy commitments to support smallholders, guarantee their land tenure security and ensure they have a fair share of natural resources, so as to enhance food security.

**There is still time to act.** There is no need to wait until the situation has become inextricable and the access to land and food security of hundreds of thousands of small-scale family farmers has been jeopardised before starting to change policies. **Decisions made now about the allocation of land in Africa will have long-lasting effects,** and the EU and its Member States can help to shape a more sustainable, more stable and fairer use of the land in Africa. This is a moral and legal obligation of the EU, but it is also in its interest, just as it is in its interest to promote democracy and human rights.



## ***Methodology: combining authoritative sources for an objective assessment based on international standards***

This report is intended as a research study. It strives to document its statements by compiling and cross-checking a wide range of the most recent sources, including from international organisations, civil society (e.g. The Oakland Institute), national authorities (e.g. the French “Cour des comptes”), academics and the private sector. **The bulk of the facts presented here are taken from authoritative international sources**, such as the World Bank (in particular “Rising Global Interest in Farmland. Can it Yield Sustainable and Equitable Benefits?,” 2011), the Food and Agriculture Organisation (FAO) and other United Nations (UN) agencies – including multiagency reports written for the G20 and reports from the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security (HLPE).

The findings of the reports prepared for the European Commission, in particular the “Biofuels baseline 2008” study that was published in January 2012, are reviewed, and all the recent relevant communications and other documents published by the EU are analysed. Other studies which echo the voices of affected people are also considered, notably studies from the African regional farmers’ networks that are partners of EuropAfrica (ROPPA, EAFF, PROPAC), FIAN International and the EU-funded International Land Coalition. A full bibliography and detailed references are available in the full report.

A number of **interviews with staff members of the European Commission** have been conducted in an effort to understand and take into consideration the various approaches to the issue. The European Commission has generally responded in an open and constructive manner, and the authors of this report are grateful to the people interviewed for their time and support.

The assessment of the respective impacts and the responsibilities is based on the **international legal framework** applicable to the EU and EU Member States, on EU law, and on the actors’ own commitments.

**This report therefore combines both quantitative and qualitative data from a wide and diverse range of sources**, seeking to be as impartial and constructive as possible and to take into account various points of view.

## Recommendations

These recommendations are based on the principle that there is no reason, *a priori*, to oppose biofuels. If it were possible to ensure that they do not endanger food security and that they contribute to strengthening sustainable small-scale agricultural production and the realisation of human rights, they would merit support.

### **Key recommendations**

In light of the available evidence on land grabbing, in view of the obligations of the EU and EU Member States under international human rights law and EU law, and following up on the recommendations made in the 2010 Monitoring report, the EU and its Member States are called upon to:

1. **Fulfil their respective obligations** under international human rights law and the Lisbon Treaty (in particular the Policy Coherence for Development obligation) by reviewing and addressing the impact of the EU biofuel policy on developing countries.
2. **Drop the energy based target for agrofuels** and freeze all policies which encourage the use of agrofuels for the transport sector until the impacts of agrofuels on food security, governance, the environment and human rights have been fully and objectively assessed, and until adequate measures have been taken to revise the EU biofuel policy so as to ensure that it does no harm to people in developing countries.
3. **Fulfil the EU development commitments related to food security and to strengthening sustainable small-scale agricultural production.** Adopt as soon as possible an implementation plan for the policy framework on food security (COM(2010)127 final), in collaboration with affected people and interested actors, with particular reference to supporting sustainable food production by small holders and ensuring secure access to land and secure land tenure including by supporting human rights based land policies (e.g. under the AU Land Policy Guidelines).
4. **Go beyond the voluntary responsible investment paradigm** and put in place legally binding measures to regulate financial and other actors active in agricultural investment with a view to preventing land-grabbing.

## ***Detailed recommendations***

### ***To the EU and its Member States:***

#### **1. Fulfil their obligations**

- a. Respect their legal obligations with regards to human rights and policy coherence for development and mainstream human rights and extra territorial obligations (ETOs) in the work on biofuels and land. Advice should be sought from DG Justice or from outside experts to ensure that, as a minimum, the policies related to land and biofuels fully respect the Charter of Fundamental Rights, the Treaty on European Union (in particular articles 2, 3 and 21), the Treaty on the Functioning of the European Union (in particular article 208; Policy Coherence for Development - PCD) and general international law, and do not contradict EU Member States' obligations under UN human rights conventions. Mainstreaming of PCD and human rights issues should be extended to the EEAS and all relevant Directorate Generals of the European Commission, including DG Trade, Energy, Agriculture and others. It should not be relegated to a single body.
- b. Fully review the impact of the EU biofuel policy against the policy objectives for development, in particular the food security development objectives set out in the 2010 framework communication (COM(2010) 127 Final), in cooperation with the relevant DGs.
- c. Practice systematic coordination in carrying out the assessment of the respect of EU policies in relation to PCD and to respect for human rights. These assessments should be carried out with the involvement of the EEAS and all concerned DGs, including DG DEVCO and DG Justice.
- d. Considerably increase their efforts to actively support, notably through the work of the European Commission Delegations and Offices, access to justice for victims of human rights violations related to the EU biofuel policy, as relevant in the national, regional and international systems, and/or at the EU level. Political, technical and/or financial support should be envisaged, and DG Justice may need to be involved.
- e. Set up a temporary or permanent body able to review complaints from victims of EU policies in developing countries.

#### **2. Drop the target for agrofuels and revise the EU biofuels policy**

- a. Drop the energy based target for agrofuels and freeze all policies which encourage the use of agrofuels for the transport sector until the impacts of agrofuels on food security, governance, the environment and human rights have been fully and objectively assessed, and until adequate measures have been taken to revise the EU biofuel policy so as to

ensure that it does no harm to people in developing countries. Such measures should include a high feedstock-specific indirect land change use (ILUC) factor guaranteeing firm environmental benefits.

- b. Seek guidance on addressing the negative impacts of agrofuels in the suggestions and recommendations provided by international organisations and experts, including the FAO and the UN Special Rapporteur on the Right to Food. Any solution adopted must ensure, as a minimum, that the policy does not directly (by fostering land-grabbing) or indirectly (by contributing to food price volatility and raising prices) affect people and harm human rights in developing countries.
- c. Seek to actively involve all relevant EU actors to discuss the EU biofuel policy, including DG Energy, but also DG Transport, DG Trade, DG Agriculture, DG Environment, DG Development, the European Parliament and the EEAS, and objectively review the benefits and of the EU biofuel policy. Also involve European civil society organisations and organisations representing those most affected by this policy in developing countries.
- d. Invert the burden of the proof: given the breadth of the evidence showing the negative impact of the EU policy, it is up to the EU to demonstrate that its biofuel policy does no harm or has a positive effect, and, where fundamental principles are not involved, that the positive effects are able to compensate for their negative effects. Human rights violations may never be justified.
- e. Develop policies that curb energy overconsumption.

### **3. Fulfil their commitments to address food security and support small-scale farmers in developing countries**

- a. Adopt as soon as possible an implementation plan for the policy framework on food security (COM(2010)127 final), in collaboration with affected people and interested stakeholders, which supports the progressive realisation of the right to food.
- b. Continue the political dialogue with African farmers' organisations, European civil society and African States to strengthen food security in Africa. In particular, issues such as the right to food, fair access to land and access to justice should be considered as priorities in high-level dialogue.
- c. Fully and transparently support the African Union Land Policy Guidelines by helping to involve African farmers' and pastoralists' organisations in the design and implementation of these policies at regional and national levels. EU support to the African Union Land Policy Guidelines should under no circumstance be used to promote large scale investment in land.

- d. Support sustainable small-scale biofuel farming, prioritising the fulfilment of local energy needs, to the extent that it does not endanger food security and the control of small food producers over their natural resources and local livelihoods. A reflection should be conducted on how to set up mechanisms capable of ensuring globally that small-scale biofuel production for local use does not threaten food security.

#### **4. Regulate and hold private actors to account**

- a. Go beyond the voluntary responsible investment paradigm and put in place legally binding measures to regulate financial and other actors active in agricultural investment with a view to preventing, and, if it takes place, remedying land-grabbing. These efforts should be conducted at both the international and the EU levels simultaneously. In particular, the EU and its Member States should regulate EU-based companies to hold them to account with regard to their impacts on human rights, in line with international human rights standards.
- b. Pursue all avenues to hold to account European corporations and investors which have infringed upon human rights in Africa by investment in land, including by supporting victims seeking remedies with all reasonable means.
- c. Apply the other recommendations on trade that were made in the 2010 Monitoring Report, *inter alia* by including clauses with a clear reference to international human rights law in the current process of adopting a new investment framework at EU level and by fostering human rights law expertise in the arbitration mechanisms.
- d. Continue and strengthen efforts to support the regulation of private actors in third countries, in particular in countries with weak governance where vulnerable people can be harmed.

#### **5. Monitor and assess adequately**

- a. Without prejudice to any of the points made above, in particular without prejudice to the necessity to immediately eliminate the biofuel mandates and subsidies, ensure that the impact of the EU biofuel policy on human rights, food security, sustainable small-scale agricultural production and other related social, economic and environmental aspects are adequately assessed and monitored at all stages of the discussion on the issue. As a minimum:
  - i. Sufficient efforts and resources should be devoted to the monitoring process so that enough data is reviewed and collected to make the exercise meaningful.
  - ii. The monitoring of the social impacts of the biofuel policy must include a careful examination of its impacts on international human rights standards, including by using the ETO Principles

to analyse EU and EU Member States' obligations. The European Commission could use the EU Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments as a reference point to its monitoring exercise, which would also add consistency to its work. All relevant Directorate Generals in the Commission should be involved, including DG Devco and DG Justice.

- iii. Both current and foreseeable future impacts must be assessed.
- iv. The assessors must include individuals equipped with the necessary development and human rights expertise. Civil society, affected people and other actors should be fully consulted and their views taken into account in the assessment and monitoring process.
- v. The assessment should carefully consider both quantitative and qualitative data, including interviews and case-studies. Information from all stakeholders should be considered, including data from relevant international organisations and civil society.

### ***To the European Parliament***

#### **1. Take a stand**

- a. Actively participate in monitoring the EU biofuel policy, and fully play its role in reviewing its impacts.
- b. Seek to ensure that the recommendations above are respected, and, if necessary, hold the relevant actors to account.

#### **2. Regulate companies**

- b. Take the occasion of the review of the Brussels I regulation to regulate companies and, in particular, to ensure that victims of land-grabbing by EU-based companies have access to adequate and effective remedies, including when necessary in the EU.

### ***To Member States***

1. **Ratify** the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.
2. **Apply** the EU policy framework on addressing food security challenges to national development cooperation programmes and, as soon as they have been adopted, the Voluntary Guidelines on Responsible Governance of Tenure to Land, Forest and Fisheries.
3. **Immediately modify their application of** the Renewable Energy Directive, including, when possible, by changing the national renewable energy action



plans, so that biofuels mandates and subsidies are removed until a common framework is adopted at the EU level following the criteria set out above.

***To European civil society***

1. **Undertake inclusive and vigilant action** to monitor and participate in the assessment and revision of the present EU biofuel policy. This action could build on the multi-actor platform being constructed in Western and Eastern Europe in the context of the Committee on World Food Security Civil Society Mechanism.
2. **Ensure that advocacy** on land grabbing and biofuels undertaken by European civil society organisations supports the objectives defined by those most affected by these policies and practices. The Global Alliance against Land Grabbing launched at the International Conference against Land Grabbing in Mali in November 2011 provides a framework to ensure this.

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## List of acronyms

2008 baseline study	Ecofys, Agra CEAS, Chalmers University, IIASA and Winrock, “Biofuels Baseline 2008” Report to the EU in response to Tender No. TREN/D1/458/2009 (January 2012)
MONITORING Report	A. Graham, S. Aubry, R. Künnemann and S. Monsalve Suárez, “Land Grab Study” FIAN International (2010).
AU	African Union
DG	Directorate General
EAFF	Eastern Africa Farmers Federation
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EEAS	European External Action Service
ESCR	Economic, social and cultural rights
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
Ha	Hectare
HLPE	Committee on World Food Security High Level Panel of Experts on Food Security and Nutrition
HRIA	Human rights impact assessment
IA	Impact assessment
ICESCR	International Covenant on Economic, Social and Cultural Rights
IEEP	Institute for European Environmental Policy
IFAD	International Fund for Agricultural Development
IFPRI	International Food Policy Research Institute
IIED	International Institute for Environment and Development
ILC	International Land Coalition
ILUC	Indirect land use change
IMF	International Monetary Fund
MtoE	Million Tonnes of Oil Equivalent
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OI	Oakland Institute
ON	Office du Niger
PCD	Policy Coherence for Development



RAI	Principles for responsible agricultural investment that respects rights, livelihoods and resources
RED	Renewable Energy Directive
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development.
UNEP	United Nations Environment Programme

# 1. Introduction: adding value to the reflection on land grabbing and biofuels

The present report builds on the findings presented in the 2009-2010 EuroAfrica study entitled “Civil Society Monitoring Report for 2009-2010 on the Impact of Europe’s Policies and Practices on African Agriculture and Food Security: Land Grab Study” (the “Monitoring” report)<sup>2</sup> prepared by FIAN International. The report aims furthermore to compile the latest available insights on issues of commercial investments in land in Africa. **Biofuels were identified in the Monitoring report as a key driver of land grabbing, and the present report examines this assertion in more detail.** Indeed, the European Union (EU) and its Member States have developed, in the last decade, a comprehensive and ambitious policy to promote biofuels. Biofuels are liquid fuels made from biomass which, blended with normal fossil fuel, can act as a source of energy for transport. Their main advantage is thought to be their environmental impact, as they can reduce greenhouse gas emissions – which is a factor of global warming.

This report focuses on the human rights, social and environmental impacts of the EU biofuel policy. The main objective is, based on various cross-checked authoritative data, **to assess the respect by the EU and EU Member States of their strong commitment to assist developing countries in addressing food security challenges through support to poor and smallholder producers.**<sup>3</sup> To do so, this report examines the coherence of the EU biofuel policy with its development objectives, and the respect by the EU and EU Member States of their obligations with regards to human rights. It is framed in the spirit of the shared aim that no harm and suffering should result from EU policies, and it seeks to constructively suggest ways to improve the existing policies and to create a space for dialogue between EU actors, civil society and affected people to this effect. **It is also hoped that it can usefully contribute to the monitoring of the human rights, social and developmental impacts of biofuels that the European Commission is currently undertaking** and should release at the end of 2012.

The report is structured around 9 chapters. The first two introduce the issues, and sum up the findings on land grabbing since the Monitoring report was published. Chapter 3 presents the EU biofuel policy. Chapters 4 to 6 review the impact of agrofuels on local populations in Africa, through three cases studies, an analysis of the role of the EU biofuel policy in driving land grabbing and an assessment of the consequences involved in terms of human rights, food security, governance and the environment. Chapters 7 and 8 detail the response made by the EU and its Member States to the challenges exposed in the previous sections, and examine to which extent these entities have respected their commitments and legal obligations. Finally, a conclusion and some recommendations are given in Chapter 9.

## 1.1. Methodology

This report starts from the premises that EU policies are not intended to create harm. It thus strives to document its statements by **compiling and cross-checking a wide**

**range of recent sources**, including from international organisations, civil society and the private sector. The bulk of the facts presented here are taken from authoritative international sources, such as the World Bank, the Food and Agriculture Organization (FAO), and other United Nations (UN) agencies. They are introduced along other studies which echo the voices of affected people. Some case studies are based on the research of African farmer's networks members of EuropAfrica and on the cross-checked research of other non-governmental organisations. The assessment of the respective impacts and the responsibilities is based on the international legal framework applicable to the EU and EU Member States, on EU law, and on the actors' own commitments.

A number of interviews with staff members of the European Commission have been conducted in an effort to understand and take into consideration the various approaches to the issue. **It must be acknowledged that the European Commission has generally responded in an open and constructive manner**, and the authors of this report are extremely grateful to the people interviewed for their time and support.

This report therefore combines **both quantitative and qualitative data, seeking to be as impartial and constructive as possible** and to take into account various points of view. It is the analysis of these various types of information together that allows making conclusions on the role of European Union policies regarding land grabbing in Africa.

It is important to note that, while this report, as the Monitoring report did, concentrates on the role and responsibilities of the EU and EU Member States, **it does not mean that other actors in particular the African states, the African Union, other rich countries and private investors do not have responsibilities and obligations, or that the EU is the most responsible.** In fact, there is growing evidence that many (and even often most) of the investors in Africa are actually domestic elites, who then have tie-ups with foreign companies and capital.<sup>4</sup> The various levels of responsibilities are not mutually exclusive, and they can be examined separately as we intend to do now for the EU and its Member States.

## **1.2. Definitions**

### **1.2.1. Land grabbing**

Land grabbing has been defined with various nuances, but in all definitions, land grabbing designates land deals that *inherently* have a negative social and/or environmental effect and harm individual and/or peoples' rights. The Monitoring report defined land grabbing as **"taking possession and/or controlling a scale of land which is disproportionate in size in comparison to average land holdings in the region."** This definition focuses on the changes in land property relations, on the impact of land transfer on national and local populations' rights. It brings a slightly different approach from other definitions which, though also valid, emphasise more the *process* of acquisition of the land,<sup>5</sup> or the *transnational dimension* of land-use change.<sup>6</sup>

This definition used in 2010 is still valid for the purpose of the present report. Recent scientific research supports the importance to analyse the impact of land deals on the non-(re)distribution or the (re)concentration of land wealth and power. The key is to

assess the direction of the ownership and/or control over land resources (e.g. transfer from poor people to social dominant classes, or vice-versa), and how it impacts poor people, in particular poor peasants and rural labourers.<sup>7</sup> Furthermore, **not all deals have the same effects**. Certain deals, in addition to lead to the non-(re)distribution or the (re) concentration of land wealth and power, are particularly problematic because of their specific impact on food security and on the environment. The character, direction and orientation of land-use change is another important parameter to analyse land deals. Certain types of land use changes, for instance converting land used for the production of food for consumption to the production of agrofuels, have extremely negative effects, and constitute the core of the phenomenon of land grabbing.

As a result, for the purpose of the present report, land grabbing is used to refer to **the phenomenon of concentration of land and associated natural resources, particularly water, wealth and power due to domestic or foreign investments, with implications for human rights, food security and the environment**.

### 1.2.2. Biofuels and agrofuels

There are uncertainties as to how to use the term “biofuels,” and what the difference is from “agrofuels,” As ActionAid and Friends of the Earth explain:

*The term biofuel, by itself, should only refer to fuel produced from waste processes such as landfill off-gassing, recycled vegetable oil or small scale sustainable production for local use. Agrofuels are also biofuels but refer to the fact that the biological material is an agricultural crop, produced intensively by agribusiness, in large-scale monoculture plantations and which compete, directly or indirectly, with food. These are agrofuels produced on an industrial scale.*<sup>8</sup>

However, under the pressure of the industry, the term “biofuel” is more commonly used to refer to all types of liquid fuels made from biomass, as the term “bio” also implies some sort of environmental benefit (for example the French word for organic is *biologique*).<sup>9</sup> This is the definition the EU chose:

*‘biofuels’ means liquid or gaseous fuel for transport produced from biomass*<sup>10</sup>

For the purpose of this report, **biofuels and agrofuels will be used interchangeably, but agrofuels will generally designate biofuels that are produced in an industrial way**. The former UN Special Rapporteur on the right to food, Jean Ziegler, took a similar approach:

*The Special Rapporteur uses the term “agrofuels” interchangeably with the more commonly used expression of “biofuels”. Using the term “agrofuels” highlights how the interests of the agro-industrial monopolies will dominate over the interests of the world’s poor and hungry, especially in the developing world.*<sup>11</sup>

## 2. The evolution since 2010: the rising phenomenon of land grabbing and its negative impact

### 2.1. New evidence confirms the scale of the phenomenon

The Monitoring report already showed that land grabbing is a wide scale phenomenon in Africa. Without overemphasising quantitative approaches, since 2010 research has produced new estimates on the scale of the rush for land. It seems that it is greater than originally expected, especially in Africa. A 2011 analysis from the **World Bank** analysing media reports estimates that investors expressed interest in **56.6 million hectares** (ha) of land globally between October 2008 and August 2009. Of these projects, two thirds of them, or nearly 40 million hectares, involves Sub-Saharan Africa.<sup>12</sup> Still in the same report, a country-specific inventory of official data on actual and pending land transfers in 2004-09 shows that investors acquired or expressed interest in **10.2 million ha in five African countries** during the period (Ethiopia, Liberia, Mozambique, Nigeria, and Sudan).<sup>13</sup> A finer analysis of these results by the authors shows that the biggest flow of investments is between investors based in Europe and Central Asia for acquisitions in Africa, thus confirming the importance to monitor land grabbing on the continent.<sup>14</sup> These figures also demonstrate **a sudden and huge demand** for African land, as the annual rate of area expansion in Africa was only of some 1.8 million ha in 1961-2007 – compared to 39.7 million ha in 2009 alone.<sup>15</sup>

The **International Land Coalition** set up the Land Matrix project to monitor large-scale land transactions from 2000-2010. In this period, the project finds a total of 203 million ha of large-scale (more than 200 ha) land acquisitions. Of these, **71 million ha** had been cross-checked from multiple sources and confirmed as of December 2011. Africa again appears to be the most impacted region, with almost half of the cross-checked deals (34 million ha) taking place in the continent.

A group of experts set up by the UN Committee on World Food Security, the **High Level Panel of Experts (HLPE)** endorsed similar figures in July 2011 (50-80 million ha globally), noting that “all sources agree that the trend is markedly upward and is likely to continue.”

The **drivers** of this rush for land are known. The triple crisis (food, financial, oil) played a key role, as analysed in the Monitoring report. The food crisis incentivised rich food-importing countries to invest in land to ensure their own food security and the limitations of oil production motivated the development of agrofuels. These two phenomena together contributed to raise the value of land, which has by consequence driven speculative investment in land, in the context of the global financial crisis where investors seek new reliable sources for financial returns. Taking a different typology, the HLPE highlights three drivers to the rush for land:<sup>16</sup> public policies on food and biofuels – including the African Union (AU) Comprehensive African Agricultural Development Programme (CAADP) of 2003 which committed member state governments to invest 10% of government expenditure in the agricultural sector;

international private investor investments in food and feed production, biofuel production and from the finance sector; and ecological drivers.

Indeed, the necessity to protect forests and other carbon rich areas to counter climate change and the scarcity of water limit the potential cultivable land.<sup>17</sup> In any case, there is no doubt that, for “essential”<sup>18</sup> human needs only, **there will be a considerable need for land in the next decades.** The FAO projects that “for an estimated population of about 9 billion people in 2050 agricultural production has to increase over 2000 levels by 70 percent globally and 100 percent in developing countries.”<sup>19</sup> The amount of additional cultivated land needed to achieve this production growth is disputed, and can vary significantly depending on the assumptions taken; however, it is clear that most of it will be met by developing countries, and that the amount of land needed by 2050 for food only should be counted in hundreds of millions of hectares.<sup>20</sup> Africa and South America together could account for 85 %t of the expansion of cultivated land.<sup>21</sup> Land will also be needed for other uses, such as plantation forestry<sup>22</sup> or the expansion of urbanisation, which could itself demand 100 million hectares of land by 2050, 90% of which in developing countries.<sup>23</sup> In this context, a World Bank report concludes that in a context where crop yields are stagnating and where resource constraint (in particular for water) is greater, **the land rush will carry on.**<sup>24</sup>

Confirming what was found in the Monitoring report, these recent studies show **the devastating impacts these deals often have on the local population.** Developing countries under pressure commonly negotiate deals that do not benefit their country, and a large number of commercial land investments in Africa feature unbalanced contract protecting and benefiting investors to the detriment of the local population.<sup>25</sup> Creating few jobs, often with poor labour conditions, these investments are not a solution for the otherwise important needs for agricultural development in Africa.

As was detailed in the Monitoring report,<sup>26</sup> in a context of high and volatile food prices, and whereas close to 1 billion people suffer from hunger, these deals generally threaten food security and local livelihood by imposing an export model to food insecure countries; jeopardise land tenure and access to land; damage biodiversity and the environment; and push deeper into poverty thousands of rural poor; **thus generating human rights violations.**<sup>27</sup> The most affected people include vulnerable groups, in particular women, children, indigenous peoples and poor rural farmers. They see their rights violated, which can comprise the rights to food, housing, natural resources, water and sanitation, health, and education. But they often have no means of redress, injustice being a common place in the realm of land grabbing.

A study by the International Land Coalition on the impact of large-scale land acquisitions specifically in Africa similarly notes that these investments have failed to show positive impacts, or when they exist, they are at the macro level, whereas the poor are the most affected by the deals.<sup>28</sup> Oxfam also points out that there are few cases which have resulted in positive impacts whereas there are many examples of land deals which destroyed livelihoods and undermined human rights.<sup>29</sup>

As will be argued later in this report with regards to biofuels, it is **important to shift the burden of the proof to policy makers.** While civil society organisations have long been requested to demonstrate the negative impact of commercial pressure on land, now “the burden of evidence has shifted and it is up to the proponents of land deals to show that they work.”<sup>30</sup>



## 2.2. A growing opposition

Faced with these challenges, farmers' groups and civil society have started to react and organise themselves, particularly in Africa.<sup>31</sup> Farmers' organisations, religious organisations, non-governmental organisations, unions and other social movements gathered in 2011 in Dakar for the World Social Forum and adopted the **Dakar Appeal against the land grab** which has been signed by more than 900 organisations worldwide.<sup>32</sup> It calls on parliaments and national governments to immediately cease all land grabs current or planned for future and to return the plundered land, and it demands that that states, regional organisations and international institutions guarantee people's right to land and support family farming and agro-ecology. Regionally, the Pan African Parliament (the legislative body of the African Union), at a meeting held in June 2011 in South Africa, expressed concern and alarm about land grabbing and its impact and called for a moratorium on new large-scale land acquisitions.<sup>33</sup> The Land Policy Initiative, a joint initiative of the African Union, the UN Economic Commission for Africa and the African Development Bank have started to discuss how to implement the AU land policy framework. It also organised in October 2011 in Kenya a High Level Forum on Foreign Direct Investments in Land in Africa, where representatives from African governments, Members of Parliament, traditional leaders, private sector, civil society and other stakeholders, agreed on the **Nairobi Action Plan on Large scale land-based investments in Africa**. In this plan, they undertake, amongst other things, to establish, within 12 months, a monitoring and reporting mechanism for tracking large-scale land based investments with a view to ensuring that these ventures are beneficial to national economic development and local communities, including women.<sup>34</sup>

At the international level, relevant policy discussions regarding investments in land are currently underway that **move away from the formerly prevalent "win-win" discourse and seek to** protect the local control over natural resources. A Set of Minimum Principles for Land Investments was presented by the UN Special Rapporteur on the right to food in 2010. The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security are currently being negotiated in the context of the UN Committee on World Food Security (CFS). Following the adoption of these Guidelines, the CFS will start a process of broad consultation to develop principles guiding investment in agriculture.

Some government have also expressed concerns about this phenomenon. A number of countries (Brazil, Argentina and Ukraine) have legislated or called for limits on land purchases by foreigners.<sup>35</sup> In December 2011, at a side event at the UN climate talks in Durban, South Africa Agriculture, Forestry and Fisheries Minister explained that the AU was taking action "because people are realising that we are losing security of tenure and we are losing control over our own natural resources." She even declared that foreign countries which buy African farmland in order to gain food security are guilty of a "**new form of colonisation.**" She gave the example of the new country of South Sudan, where she said "close to 40% of its land surface has already been sold" to foreign interests.<sup>36</sup>

### **2.3. The role of European policies**

A number of recent reports have pointed out that **the role of domestic actors** in land grabbing might be more important than was what initially suggested.<sup>37</sup> However, in Africa, the situation can greatly vary from a country to another.<sup>38</sup> And as the World Bank highlights, “as local businesses may act as fronts for foreigners, the share of land acquired by foreigners may be larger than reported.”<sup>39</sup>

The EU and its Members States **have an influence in driving land grabbing in several respects**. The Monitoring report identified several ways in which European authorities are involved in land grabbing. It underlined how EU policies directly and indirectly stimulate the factors that increase demand for land (food crisis, financial crisis, energy demand). Indeed, a number of European companies are involved in acquiring land for food, agrofuels or speculation in Africa, sometimes with the support of EU governments which may provide diplomatic, financial or other support to private deals. The report also analysed the relationship between foreign aid and development assistance, and between trade and land grabbing, showing how the EU has been promoting policy reforms such as land privatisation or international investment protection regimes, which facilitate land grabbing.

The large majority of these findings are still valid, and little had been done since the publication of the Monitoring report to address these concerns. Recent evidence confirm that the EU and EU Member States are still involved in land grabbing, either indirectly by creating the conditions for or not regulating EU-based companies investing in land, or directly by encouraging large land deals.

With regards to the first type of involvement, a January 2012 report by Friends of the Earth demonstrates how European companies, investment funds and sovereign wealth funds are increasingly investing in land to hedge their price risks, driving land grabs.<sup>40</sup> This report reviewed 29 institutions from 9 European countries, and concludes that a significant number of financial institutions across Europe appear to be involved in financing land grabs directly or indirectly, sometimes with explicit links to human rights abuses. This is notably the case of HSBC, which invested in a company linked to forced evictions in Uganda.<sup>41</sup> The Oakland Institute (OI) has also reviewed in detail the impacts of the investments of some EU funds, such as the UK based company Emergent Asset Management, which has acquired over 100,000 ha of arable land in over a dozen Sub-Saharan countries, where it controls all aspects of food production and distribution for global markets, including unlimited water rights.<sup>42</sup> The Oakland Institute even found that several Scandinavian churches made land investments in countries like Mozambique, in schemes that involved thousands of hectares of illegally acquired land.<sup>43</sup>

Regarding the direct involvement, it is clear that European policies have large implications beyond EU borders. The independent Research Centre OPERA for instance presented in May 2010 a report titled “EU Agricultural Production and Trade: Can More Efficiency Prevent Increasing 'Land-Grabbing' Outside Of Europe?” which shows that in 2007/2008 almost 35 million hectares of land beyond European borders was used for the benefit of Europeans, with the EU evolving into the single most important importer of agricultural commodities and food,<sup>44</sup> and this trend is likely to continue.<sup>45</sup> The Oakland Institute, for example, studied the involvement of the

Commonwealth Development Corporation (CDC) –the UK government’s development finance institution – and the Finnish Fund for Development Cooperation (Finnfund) which were involved in two projects covering 20,450 ha in South Sudan.<sup>46</sup> The European Investment Bank (EIB), the EU’s financing institution, has also been identified as being involved in large land acquisitions with negative impacts, for instance in Uganda.<sup>47</sup>

Throughout all of these studies, **one of the clearest dimensions of the involvement of the EU and its Member States in land grabbing is through their biofuel policies.** The rest of this report will therefore focus on this aspect, which allows to touch upon the links between various EU policies and land grabbing, and to analyse precisely EU and EU Member States’ responsibilities. As was mentioned above, this focus is also motivated by the fact that the EU is currently undertaking an assessment of the social impact of its biofuel policy, and this report aims at making a useful contribution in this analysis.

## 3. The EU and EU Member States' biofuel policies

### 3.1. Biofuels: what and why?

Most or perhaps even all of the biofuels produced at the moment are the so-called “**first generation**” biofuels.<sup>48</sup> First generation biofuels refer to “biofuels that are produced using conventional technology, that are currently in commercial production and compete with food such as maize, palm oil and rapeseed oil.”<sup>49</sup> Such biofuels include straight vegetable oil, biodiesel and bioethanol. A second generation of biofuels is being developed, which uses non-food crops, including “biofuels from forestry and agricultural by-products such as stalks from wheat/maize, from wood waste or specifically grown crops such as poplars and miscanthus”.<sup>50</sup> It is what the European Commission calls “advanced biofuels.” However according to EuropeAid, they are not expected to be commercially available before 2020,<sup>51</sup> if ever – though the European Commission tends to make rather optimistic assumptions in this regard.

Biofuels are not new; they have been produced for decades. What is new though is the scale of the biofuel boom.<sup>52</sup> Interest for biofuels across the world has been mounting since the 2000s, and between 2000 and 2009, global output of bio-ethanol quadrupled and production of biodiesel increased tenfold.<sup>53</sup> In this growth, Brazil and the United States jointly produce more than 75% of the world's ethanol supply and the European Union produces almost 80% of global biodiesel.<sup>54</sup>

According to a multi-agency report ordered by the G20, the biofuel boom in OECD countries has been largely driven by **government support policies**.<sup>55</sup> More than 50 countries have adopted blending targets or mandates and several more have announced biofuel quotas for future years (see Table 11),<sup>56</sup> and the growth of biodiesels has further been encouraged by fiscal incentives, import tariffs or some combination thereof.<sup>57</sup> These incentives are necessary as biofuels are thought to not be economically viable, though it can depend on the price of fossil fuel.<sup>58</sup>

**TABLE 1 EXAMPLES OF BIOFUEL TARGETS**<sup>59</sup>

Country	Biofuel Target
Australia	350 million litres of biofuels by 2010
Bolivia	20% biodiesel by 2020
Brazil	5% biodiesel by 2010; 25% ethanol blend in petrol
Canada	5% renewable content in petrol by 2010 and 2% in diesel by 2012
China	12 million metric tons of biodiesel by the year 2020
India	20% biofuels by 2017 (national policy)
Indonesia	5% biofuels by 2015; 15% ethanol and 20% biodiesel by 2025
Jamaica	20% biofuels by 2030
Japan	800 million litres by 2018
Malaysia	5% in the near future

Mozambique	10% ethanol and 5% biodiesel by 2015
New Zealand	3.4 % total biofuels by 2012
Philippines	5% biodiesel by 2011 and 10% ethanol by February 2012
South Africa	4.5% biofuels by 2013 (national strategy)
Thailand	3% biodiesel share by 2011; 8.5 million litres of biodiesel production by 2012
United States	130 billion litres/year of biofuels nationally by 2022; 3.4 billion litres/year by 2017
Zambia	5% ethanol and 10% biodiesel by 2011

This development of the interest in biofuels is generally considered to be due to at least three main problems, for which biofuels are deemed to be a partial solution: peak oil, i.e. the rise of price of fossil fuels; the necessity to fight against climate change; and the growth of global transport.<sup>60</sup>

Biofuels are thus often thought to have several advantages, which are important to mention, as their merit will have to be carefully assessed. These potential benefits can be grouped into three arguments that are all used by the EU: greenhouse gas (GHG) savings; energy security; and rural development.<sup>61</sup>

### ***3.2. EU and EU Member States' policies involved in promoting agrofuels***

In this context, the EU and its Member States have developed since 2001 a comprehensive and ambitious biofuel policy. For the purpose of this report, the **EU biofuel policy** refers not only to the EU energy policy directly related to biofuels, but also of all the EU policies that influence the production of agrofuels.

The European Commission identified, for the first time, biofuels as a key source of energy for the future in a 2001 White Paper, and it subsequently set a non-mandatory target of 5.75% of renewable energy in transport by 2010 in the 2003 biofuels directive.<sup>62</sup> But few Member States actually respected this target.<sup>63</sup> In April 2009, after a heated debate, the European Parliament and the Council of the EU adopted the **Renewable Energy Directive 2009/28/EC (RED)**<sup>64</sup>, which:

- Sets a mandatory overall target of a 20% share of energy from renewable sources of the EU's gross final consumption;
- Sets a mandatory share of energy from renewable sources in **all forms of transport** to be at least **10%** of the final consumption of energy by 2020;
- Defines **environmental sustainability criteria** for biofuels which have to be taken into account for calculating the shares of renewable sources, measuring compliance with the targets set the Directives, and defining the eligibility for financial support for biofuels. In particular, the greenhouse gas emission saving from the use of biofuels must be of at least 35% in comparison to fossil fuels, 50% from 2017, and 60% from 2018 for biofuels produced in installations in which production started after 2017. The criteria also lay out types of lands from which biofuels cannot be produced to be considered for the purpose of the

RED, including land with high biodiversity value, land that was peatland in 2008 and land with high carbon stock.

While the transport target could theoretically be met by using various technologies which do not have to be biofuels (for example electricity), the analysis of States' renewable national action plans show that it will in practice be fulfilled almost exclusively through first generation biofuels.<sup>65</sup> To complement this legislation, the EU also decided to repeal a previous directive that limited the share of biofuels in blended fossil fuels to 5%, and to set a new limit of 10% in the 2009/30/EC Fuel Quality Directive.

In addition to fixing energy mix targets, the EU and EU Member States encourage biofuels through a **number of other measures**, whether agricultural subsidies or tax exemptions. At the EU level, a number of policy areas are involved, creating a complex net of policies. Biofuels are for instance encouraged by the **Common Agricultural Policy (CAP)**, through agricultural subsidies.<sup>66</sup> Equally, the **European Commissioner on Enterprise and Industry** promotes business opportunities for bio-based products through the so-called Lead Market Initiative for Europe<sup>67</sup> and the **Innovation Commissioner** encourages the development of a bio-based economy,<sup>68</sup> which both support biofuels.<sup>69</sup>

Moreover, each **EU member state** is in charge to design policies so as to ensure that it meets the RED targets.<sup>70</sup> Member States have had to prepare national renewable energy action plans, in which they indicate the measures taken to achieve the targets.<sup>71</sup> Measures taken vary from support for consumption to tax exemptions, the latter representing by far the largest element of financial support to biofuels.<sup>72</sup>

**FIGURE 1 OVERVIEW OF MAIN BIOFUELS SUPPORT INSTRUMENTS IN THE EU-27<sup>73</sup>**

	AT	BE	BG	CY	CZ	DE	DK	EE	ES	FI	FR	GR	HU	IE
Quota obligation	X		X	X	X	X	X		X	X	X			X
Tax exemptions	X	X		X	X	X	X	X	X		X	X	X	X

	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
Quota obligation		X	X	X		X	X	X	X		X	X	X
Tax exemptions	X	X	X	X	X		X	X	X	X	X	X	X

In 2006, the European Commission indicated that the main measures that Member States used to promote biofuels at the time were:

- subsidies for energy crop growth;
- investment support;
- contributions to the capital cost of biofuel production facilities, often with support from the European Regional Development Fund and Rural Development Programme;
- loans and subsidies for biofuel production facilities and for filling stations;

- standards for distribution of biofuels;
- tax reductions or exemptions that are generally available;
- tax reductions or exemptions under quota systems (allowing selected companies to put a certain amount of biofuel on the market under reduced tax)
- biofuels obligations (under which fuel suppliers are required to include a given percentage of biofuels in the total amount of fuel they place on the national market);
- requirements for filling stations to sell biofuels (in high blends [or pure]);
- green public procurement of vehicles capable of running on high-blend or pure biofuels;
- demonstration projects and marketing;
- consumer incentives including free parking, no congestion charge.<sup>74</sup>

The **EU trade policy** (which is a full competency of the EU – not of Member States) is an important instrument to influence the price and production of biofuels globally.<sup>75</sup> High import tariffs can favour local production, while free trade agreements encourage production abroad.<sup>76</sup> The European Commission noted for instance in 2011, referring in particular to the reduction in imports from the US after some measures were taken: “Imported biofuels in the EU come from a range of countries, and the last two years have seen considerable changes in the list of countries from which the EU imported biofuels, thus reflecting the impact that EU tariff preferences can have on such imports.”<sup>77</sup> The European Commission indicated that it would use the trade instrument for biofuels: “Trade policy measures to facilitate access to a growing EU biofuels market could contribute to finding a successful conclusion to on-going free trade negotiations.”<sup>78</sup>

Trade measures **favour imports from developing countries**, notably in Africa. Many African countries have preferential access to the EU under the Everything but Arms (EBA)<sup>79</sup> initiative and other measures, which give them an advantage over existing large biofuel producers such as Brazil, Indonesia, and Malaysia.<sup>80</sup> The EBA regime applies to 34 African countries. It grants duty-free access to imports of all products from least developed countries, except arms and ammunitions, without any quantitative restrictions (with the exception of bananas, sugar and rice for a limited period). A number of other preferential arrangements between the EU and developing countries applicable to African countries, such as the Economic Partnership Agreements under the Cotonou Agreement,<sup>81</sup> the Generalised System of Preferences and the bilateral free trade agreements allow preferential access to EU markets for the member countries.<sup>82</sup> As a result, in 2010 7.1% of EU total imports of primary products (agricultural and fuels and mining products) came from African, Caribbean and Pacific States, excluding South Africa.<sup>83</sup>

**Diplomacy** and multilateral dialogue can lay the ground for biofuel investments in Africa. As part of the dialogue between the African Union and the European Union, the Africa-Europe Energy Partnership (AEEP) is a long-term framework for structured political dialogue and co-operation between Africa and the EU on energy issues of strategic importance. The Africa-EU Renewable Energy Cooperation Programme (RECP) which was launched in September 2010 seeks to prepare renewable energy

investments by improving the policy frameworks in African regions and countries and building capacity in the African banking sector, so as to “to help make Africa a prime destination for renewable energy investments.”<sup>84</sup>

**Development cooperation, both at the national and at the EU’s level**, also plays an important role in promoting biofuel production outside of the EU, in particular in Africa.<sup>85</sup> The current main EU financing instrument that could be utilised to develop biofuel projects in African countries is the ACP-EU Energy Facility. According to the Commission:

*The main objective of the Energy Facility is to increase access to energy services in rural and peri-urban areas in a perspective of poverty eradication while fighting against climate change. Grants are mainly provided through calls for proposals and biofuel projects are eligible as far as they respect some minimum criteria. [...] Ten projects with biofuel production for local use were co-financed in 2006-07 and six other projects are about to start. One of these projects proposes the set up of a biofuel network for several countries in West Africa, including Senegal.*<sup>86</sup>

Overall, according to the International Institute for Sustainable Development, the **total annual support in 2008** in the EU (EU and its Member States) for biofuels amounted to at least **3 billion euros**.<sup>87</sup> However, as the authors note, this is likely to be a large underestimate, as data was missing in many instances. ActionAid has made a relatively close estimate for the year 2006, assessing that cost of biofuels for the EU taxpayer on that year was of **4 billion euros**. High costs have been denounced by national authorities. In a 2012 annual report, the French “Cour des comptes” (the national auditor) showed that between 2005 and 2010, biofuels support from the government cost 0.8 billion euros to the French State and 3 billion euros directly to the French tax payers. Tax payers additionally spend 0.5 million euros per year because of the increase of the prices of petrol due to biofuels. In total, biofuels cause a rise of **2.3 euros for 50 litres petrol**.<sup>88</sup> This calculation is corroborated by other recent findings according to which the total extra costs due to biofuels to vehicle owners across the EU 27 Member States could be €10 – 18 billion in 2020.<sup>89</sup>

Finally, EU and EU Member States can finance biofuels in several ways. The CIFOR identified several other ways in which governments can be involved in **financing** the production of feedstocks and biofuels in developing countries. It can be through multilateral development banks (loans, private equity investments and technical assistance); bilateral development financing and foreign investment loans; export credit loans and guarantees; and foreign investments by state-owned companies.<sup>90</sup>

The **European Investment Bank**, the European Union's financing institution, is currently involved in financing or a number of biofuel projects in Poland<sup>91</sup> in the UK<sup>92</sup>, and in Spain,<sup>93</sup> and it has financed a number of other ones in the past thanks to an active policy in the areas of renewable energy, energy efficiency and greenhouse gas emissions reduction.<sup>94</sup>



To summarise, the EU and its Member States are strongly influencing the global development of biofuels not only with the RED, but also through a broad range of instruments, which support a comprehensive biofuel strategy.

### ***3.3. Other actors involved in promoting agrofuels in the EU or for the EU***

In addition to the EU and EU Member States, a number of other actors are shaping the production of agrofuels in connexion with the EU. **International institutions** can play an important role in supporting agrofuels' production in the EU or for the EU market. The European Bank for Reconstruction and Development for instance supports a number of biofuels projects in Eastern and Central Europe.<sup>95</sup> Bilateral and multilateral development institutions, including the World Bank and the Food and Agriculture Organization (FAO) to which the EU or its Member States are parties (and have substantial voting shares), and national development agencies, are further paving the way for biofuel investments by promoting a formalisation, privatisation, and liberalisation of land property systems, as well as by directly financing biofuels.<sup>96</sup>

**European businesses** are instrumental to the promotion of agrofuels, in at least two ways. First, business interests have participated to orientate the EU's biofuels policy, in particular through the European Biofuel Technology Platform (EBFTP). This entity, which succeeded in 2006 to a biofuel research council created by the European Commission, is composed essentially of big businesses (such as Neste Oil, Airbus, Total, Volkswagen), and lobbies to influence European policies to promote biofuels, as it notably did for the RED.<sup>97</sup> Second, the EU is the world's biggest producer and consumer of biodiesel, and some of the biggest agrofuel companies in the world are based in the EU.<sup>98</sup>

Furthermore, many **European financial institutions** substantially finance agrofuel projects and companies worldwide. For example, the Deutsche Bank finances Cresud, Sao Martinho SA and Brasil Ecodiesel, some of the world's largest agrofuel companies.<sup>99</sup> Multiple reports highlight how investments in land and biofuels are increasingly managed by a wide variety of financial structures like private equity funds, hedge funds, REIT's (Real Estate Investment Trusts) or mutual funds.<sup>100</sup> Apart from European banks, other European actors like pension funds and insurance companies are emerging as key financiers, including Rabobank, WestLB, Banco Popular, HSBC, and RBS.<sup>101</sup>

Finally, developing countries, and in particular **African countries** themselves largely participate to encourage investments in agrofuels. The possibility to easily attract investment thanks to the biofuel boom has appealed to many African governments, which have created specific policies aimed at promoting biofuels.<sup>102</sup> The Ethiopian government for instance prepared in 2007 a "Biofuel Development and Utilisation Strategy" in which it identified 23.3 million hectares of land that could be used for biofuel development (about 20% of the country), and aimed at increasing its production, including for export.<sup>103</sup> And even though some countries like Tanzania or Swaziland have partly renounced to their biofuel policies, it would be more than thirty African countries that remain committed to promote biofuels.<sup>104</sup> Thus, in 2006, under

the initiative of Senegal, fifteen countries signed the founding treaty of the association of African countries that do not produce petrol, the *Pays Africains Non-Producteurs de Pétrole (PANPP)* association, sometimes be labelled as the “Green OPEC”,<sup>105</sup> which, amongst other things, aim sat the development of biofuels in Africa.

In addition, the Economic Community of West African States (ECOWAS) which comprises fifteen West African countries, created in November 2009 an investment fund called the African Biofuel & Renewable Energy Company (**ABREC**).<sup>106</sup> Its aim is to “facilitate an increased flow of investments in biofuel projects and renewable energy in Africa.”<sup>107</sup> It was created with the support of the United Nations Conference on Trade and Development (UNCTAD) and the ECOWAS Bank of Investment and Development, and it would have a capital of 200 million euros.<sup>108</sup>

## 4. Case studies

Three case studies are presented below, to give a concrete idea of the reality of agrofuel production in Africa. A first case shows the impact of agrofuels in a specific small project – SBE in Senegal, a second case sums up findings about the role of agrofuels in a region, the Office du Niger area in Mali, and a third case moves to an analysis at the country level, by presenting the findings of a recent inquiry on agrofuels in Kenya.

### 4.1. A project: SBE in Senegal

The Senegalese government has been actively promoting the development of biofuels in the country, including for exports, in the last years. A table of the main projects agreed in 2010, shows that a substantive part of the investments in biofuel in the country are coming from Europe (eg. Italy, Spain, Germany). According to a report:

*In Senegal, the promotion of bio fuel was based on the conviction that “[biofuel will help us diversify our energy sources and reduce the increasing oil bill while protecting the environment from pollution.” But even ordinary people seem to see through the rhetoric about using bio fuel investments for domestic energy needs. A grassroots supervisor of cooperatives of banana producers in the Tambacounda region has expressed his concerns that: “It is clear that, given the size of the land surfaces required by the private developers coming from Europe and elsewhere, the objective is mass production for export ... I was very surprised by this rush, by the surface areas required, and by the lack of information given to small producers ....”*

*Indeed, foreign companies are reported to have committed to install bio fuel plants in Senegal with the aim of exporting the fuels.<sup>109</sup>*

A field study conducted in December 2011 and January 2012 by the national peasant platform, the Conseil National de Concertation et de Coopération des Ruraux (CNCR) – which is strongly mobilising to defend stable access to land by small producers/rural communities – assessed the impact of a biofuel plantation.<sup>110</sup> The research focused on the investment by SBE Senegal. Information collected indicated that the capital of this company is fully Italian. The company aims at planting jatropha in Senegal over a 5 years pilot phase (2008-2012). It envisages to eventually cover 10 000 ha in Senegal, to produce 500 tons of seeds the first year, and 550 tons the second year, for a total of 2000 to 2 500 litres of vegetable oil annually.

SBE's initial plans were to start by exploiting 800 ha in 16 villages. A plantation in the village of Beude-Dieng (120 km north of Dakar, in the Rural Community of Merina Dakar) served as a pilot project, which, if successful, should be expanded and replicated in other areas of the country. In 2007, SBE requested the Rural Community

of Merina Dakar, which is a decentralized elected authority in charge of assigning land, to obtain a concession of 200 ha for jatropha plantation. However, the local population was divided on the project, between those who were attracted by the promises made by the company, and others, including the chief of Beude-Dieng, who were more sceptical. The issue was eventually sorted by creating an association named *Cooperative Agricole of Beude Dieng* (CABD) for the development of jatropha which were granted 60 ha. This association was joined by 216 members of the village and entered into a contractual agreement with SBE to cede the land to the company in exchange of wells, an irrigation system, jatropha plants, technical support, diesel for the water pumping, fertilizers and pesticides. This means that each small-holder in this association would keep on working on his plot of land, but would give the control over production.

SBE also committed to buy the fruit of the jatropha at a fixed price (100 Euros/ton for the dry seed and 67 Euros/tonne for the dry fruit inclusive of the external wrapping) for 15 years. In exchange, members of the association made their workforce available for work on the plantation such as maintenance of the irrigation system, planting of seedlings, cultivating and harvesting. The plantation was designed to ensure intercropping (peanuts, millet and market gardening); additionally, a 4 ha garden space for the cultivation of food crops was put aside within the 60 ha area to produce surplus for the local food market.

The contract was supposedly signed for a test phase of 5 years (2009/2014) on 60 ha. However, not all members of the association know exactly when it started nor are able to explain its clauses. Details of the contract ceding the land to the company and regulating the relationship between the company and the association are not clear to many farmers. Throughout this process, as far as it was possible to investigate, no impact assessment was realised.

Those who rejected the project were pressured and intimidated, and were called by the local authorities, such as the sub-prefecture and the Rural Community, which tried to convince them of the benefits of the project. A woman received a fine because she did not agree with her husband's choice and dared to remove plants and the irrigation scheme.

According to the villagers, since the program has started, the jatropha production was purchased only once: about 6 tons of dried fruit that for a total amount of 250000 FCFA (€ 381). The project is facing several problems according to the information provided by the villagers interviewed. Jatropha and food crops yields have fallen sharply. Jatropha has grown but seeds don't produce the 30% of oil required for the investment to be economically viable. Jatropha is thus not producing enough to generate revenue. At the same time, jatropha plants hamper peanuts and millet intercropping to develop and grow because of the shadow. According to a farmer, it was possible to get 320 kg of peanuts per hectare before the introduction of jatropha and it is only possible to produce 50 kg on the same area today; watermelon does not work anymore. For another villager, where he could produce on his 5 hectares plot 3.5 to 4 tons of peanuts and 2.8 tons of millet, he now only gets 800 kg of peanuts and 200 kg of millet. These production losses are also related to the fact that the irrigation system does not work properly. The new plantation has problems with invasive animals such as termites, nematodes, lepidopteron larvae, the worst being ground

squirrels which damaged between 60% and 80% of the drip irrigation system. Unlike what it is said about jatropha and its compatibility with arid land, plants need plenty of water to produce seeds whose yield is economically acceptable. Another problem relates to lack of unclear commitments of the company in terms of supporting production. According to the contract between SBE and CABD, the free supply of seeds, fertilizers and pesticides is guaranteed the first year for the jatropha plantation and only the first six months for the association's garden. That is to say that the association was given only 1 year to make the plantation efficient even though SBE was perfectly aware that longer time was needed.

Four years after the start of the project, the villagers are disillusioned. Some people claim that they have been cheated. Women complain that they were promised a specific fund to support their activities but it never materialized and the contract with the company does not mention this. Most of the infrastructures or services promised were not satisfactory when they were provided. For instance, it seems that the car that was normally bought for the association was assigned to one particular person. With regard to employment, few stable jobs were created. In February 2010, four young men from the village were hired to work on the association's garden. SBE provided them with seeds, water, fertilizers and necessary equipment. The payment scheme was based on deducing the production costs from the crop sales and dividing the rest into two equal parts: 50% for SBE and 50% for farmers. Young laborers reported that after having worked for four months, they were fired, apparently due to lack of funds, but, after a few days, people from other villages were hired to do the same job, arousing the understandable anger of the community.

The project has not expanded beyond the 60ha of the village, and is thus far from the 10000 ha initially anticipated. The villagers, disappointed and discouraged by the poor performance of the project, have decided to wait for the end of the pilot phase and hope to get their land back afterwards. However, it appears that the contract signed by the cooperative president and SBE in May 2009 concedes the land for 20 years instead of the 5 years the villagers believe, which is until 2029. SBE retains ownership of all equipment provided and is entitled to recover its properties (well, generator and plants).

This case shows how local villagers lose control over their lands and livelihoods in detriment of their welfare due to an ill-conceived investment deal. This impacts particularly women since they are not involved in decision-making about ceding the lands they have access to. Intra-family conflicts and gender disparities are fueled. On the other hand, the sharp reduction of food crops yields due to the conversion of the lands to jatropha diminishes the direct availability of food and puts at risk the enjoyment of the right to food of the villagers. Moreover, the promises in terms of employment creation and improved incomes did not materialize while the food production losses are quite tangible.

#### ***4.2. A region: the Office du Niger in Mali***

Mali, and especially the Office du Niger region, is currently facing a number of large-scale investment projects, many of them linked to agrofuel production. These projects and their impacts have been – and continue to be – documented by the National

Coordination of Peasants' Organizations (Coordination Nationale des Organisations Paysannes – CNOP). In addition to this, field research on large-scale investments in Mali has been conducted by the Oakland Institute,<sup>111</sup> the Institute for Research and Promotion of Alternatives in Development,<sup>112</sup> and by a group of academics.<sup>113</sup>

#### 4.2.1. Background

Mali is one of the poorest and least economically developed countries in the world.

*There is limited access to basic health care and very little access, especially in rural areas, to safe water. More than 70% of the people live in rural communities, and more than two-thirds of them fall below the poverty line.*<sup>114</sup>

At least up to 819,567 hectares of fertile land have been leased or were under negotiation for lease in Mali by the end of 2010,<sup>115</sup> which represents between a third and 85% of the arable land in the area.<sup>116</sup> Most of the investments are concentrated along the Niger River because of the important potential of irrigable soils and the promotion policy led by the State. The area is managed by the Office du Niger (ON), a semi-autonomous government agency which is sometimes described as a State within the State. The main stated purpose of this authority is to contribute to food security in Mali.<sup>117</sup>

About 70% of Malians work in agriculture and the country relies heavily on small-scale farming that produces most of Mali's food.<sup>118</sup> In the ON area, small holder production (less than 3 hectares) represents 56% of the area cultivated.<sup>119</sup>

In the ON area, investors sought to lease 870 000 hectares between 2004 and 2009, which is 10 times the surface officially under cultivation.<sup>120</sup> By October 2010:

- *At least 544,567 ha of land had either been leased or allocated (letters of provisional agreement accepted) in the Office du Niger.*
- *This does not include unofficial expansion plans as given by investors on their websites and collected from other sources, which would inflate this figure of 544,567 ha by 275,000 ha, for a total of 819,567 ha.*
- *Out of 544,567 ha, at least 372,167 concern allocations to foreign investors (as major shareholders), a dramatic increase in just one year; in 2009 only 130,105 ha were foreign investors.*<sup>121</sup>

The academic study gives similar figures, with 55% of the surface that was being acquired by foreign investors (18 projects on 470,000 ha).<sup>122</sup> Many of the land leases are for the production of agrofuels (for details see Annex II): "At least 9 of 22 investors with large land holdings in the Office du Niger intend to grow plants used to produce agrofuels, such as sugarcane, jatropha or other oleaginous crops."<sup>123</sup>

All reports agree that there is a lack of regulation regarding access to land in Mali, or, when laws exist, they are not applied. As in many African countries, the Malian State plays an important role in the management and the allocation of land and actively promotes large-scale investments by facilitating access to land for investors through a dedicated agency. However, Malian authorities lack transparency and keep the impact assessments and the lease documents out of the public domain. Customary rights of the people living on the land are not protected, and the local population is generally

not, or not adequately, consulted, amounting in some cases to human rights violations.<sup>124</sup> According to the studies, foreign investments are often realised to the detriment of the realisation of local needs.<sup>125</sup>

These investments in Mali affect in particular women, “who are systematically overlooked in consultation and compensation processes by authorities and investors,”<sup>126</sup> and they have been reported to threaten the familial model.<sup>127</sup> Agrofuel investments specifically jeopardise food security in a country where 1.5 million people (12% of the population) are undernourished,<sup>128</sup> and has little arable land:

*The Permanent Secretary of the Executive Committee of the Superior Council on Agriculture argues that letting investors pursue their financial (ROI) goals will help “diversify food production.” However, he also recognizes that Mali should be giving preference to food over agrofuels production, and that the question of producing agrofuels on fertile and well-watered land is one that “needs to be debated by the authorities responsible for this.” Yet, so far, calls from civil society to open up a debate on such issues remain unanswered.*

#### **4.2.2. The Markala Sugar Project: Description**

One of the projects being currently conducted in the ON is the Markala Sugar Project (MSP). The MSP is an agro-industrial project in the form of a public-private partnership between the Malian government and private investors, including particularly South-African Illovo Groups Holding Ltd., the leading producer of sugar in Africa, as strategic partner. A contract between the Malian State, represented by the Ministry of Industry, Investment and Trade has been signed on September 27, 2007. In December 2010, the Board of Directors of the African Development Bank approved two loans amounting to 65 million Euros to finance the project. Financing will also be provided by the World Bank, the Islamic Development Bank (IsDB), the ECOWAS Bank for Investment and Development (EBID), the West African Development Bank (WADB), the Saudi Fund for Development (SFD), the Kuwait Fund, the OPEC Fund (OFID), the Export-Import Bank of Korea (EXIMBANK) and the project’s strategic partner (Illovo).<sup>129</sup>

The MSP consists of two components: an agricultural component that involves the planting and irrigation of around 14,132 hectares of sugar cane fields, expected to produce an annual yield of 1.48 million tons of sugarcane, as well as an industrial component consisting in the construction of a sugar cane extraction plant to produce sugar and a plant for the production of ethanol. The expected annual output is 190,000 tons of sugar, 15 million litres of ethanol and the cogeneration of 30 megawatts of electricity. The Markala Sugar Company (SoSuMar), whose share capital is held by the private sector (96 %, 70 % Illovo) and the Malian state (4 %), is responsible for the project’s industrial component, whereas the agricultural component will be managed by the Sugarcane Development Corporation (CaneCo). Ninety Percent of CaneCo’s shares are held by the Malian state, the remaining 10 % are held by SoSuMar.<sup>130</sup> In addition to this, a third entity known as CommCo will be created to manage 40 % of the area (i.e. 5,562.8 ha) to be planted with sugar cane that has to be sold to

SoSuMar.<sup>131</sup> This land will be allocated to the communities to be managed independently by them.

According to the project developers, the project aims mainly at achieving self-sufficiency in sugar for Mali, but also to become a sugar exporter. No specifications are made on the purpose of the ethanol production, but it seems likely that it is going to be exported.

The first tests having been initiated in 2004, the MSP is currently being implemented. The first phase of implementation of the agricultural component consists in clearing, site preparation and civil engineering works. This stage will be followed by the development of infrastructure, extension of the irrigation system and expansion of the farmland over a period of three years to reach the target of 14,132 hectares. The construction of the sugar and ethanol plant is foreseen to take a period of 2 years.

#### **4.2.3. The project's impacts**

Overall, the project's impact area comprises a land area of 2,087 km<sup>2</sup> and a population of 155,902 and will thus have considerable impacts on the entire region. The expected impacts are summarized in an Ecological and Social Impacts Assessment (ESIA), conducted as required to Malian regulations and the African Development Bank's procedures.<sup>132</sup>

The project developers put forward a number of potential positive impacts, including the creation of up to 25,000 direct and indirect jobs and a resulting increase in revenue of the population. Furthermore, the project is expected to entail the improvement of economic, health and educational infrastructure for the population and foreign exchange savings and fiscal revenue for the Malian state. Opposed to these expected positive outcomes, the impact assessment draws, however, a long list of negative impacts.

Environmental impacts range from the irreversible loss of natural vegetation and biodiversity and an elevated risk of erosion due to monoculture farming, regarding the agricultural component, to air, soil and water pollution through the industrial component. The impact assessment also clearly states that the cutting down of trees will lead to the destruction of the vegetal and animal ecosystem.

In addition to this, the project entails the risk of insufficient water availability in the ON region. Together with other large-scale projects, the MSP will lead to a massive increase in the amount of water extracted from the Niger River. Given sugarcane cultivation water needs, the size of the farmland and the processing plant, the water intake rate is estimated at 20 m<sup>3</sup>/s. The Government has already signed an agreement to supply water to SoSuMar/CaneCo to cover the project's water needs at all seasons. In addition to this, the management of one of the dams on the Niger River will be modified to ensure an additional flow of water during low-water periods.<sup>133</sup> This is going to be a major concern for the population in the entire ON area that consists mainly of small-scale farmers using water diverted from the Niger River to irrigate their plots.<sup>134</sup> Increased demand of water for the sugarcane plantations, together with the very irregular rainfall in the region, could lead to water shortages and thus pose a threat for the access to water of the local populations.



The Markala Sugar Project will also have major impact on the access to land of the local population that depend almost exclusively on farming, which is practised on 95% of the cultivated land area. According to the ESIA, a population of 155,902 from 1,718 households and 64 localities will be directly affected by the project, as their farmland and pastures will be transformed into sugar cane plantations. One thousand six hundred forty four inhabitants (i.e. 127 households from 23 localities<sup>135</sup>), will have to be replaced and resettled, thus losing their homes and means of subsistence. The remaining population is living in localities adjoining the territory of MSP and will in many cases also lose access to their means of subsistence by losing their land and the forests they depend on.<sup>136</sup> Although compensation of the communities affected by the project in kind and/or cash, and in the form of assistance is foreseen by the Resettlement Action Plan, this poses major threats to the access to food for the concerned communities. The Resettlement Action Plan does not contain details about the compensation for the affected communities which is all the more worrying since Malian law does not regulate compensation processes in detail and there is “a juridical void regarding the dealing with collateral damages of expropriation.”<sup>137</sup>

According to the ESIA, the affected population will suffer from a decline in food production that will strike particularly hard the resettled population. The population in the ON depending almost exclusively on farming and livestock keeping, food insecurity is likely to increase. As the ESIA puts it, “the retreat of the lands will have a negative impact on the ability of the affected population to provide for their alimentation needs, because the lands that constitute their principal source of production will be transformed into sugar cane plantations.”<sup>138</sup> This applies to farmland but also to land that is used as pasture for livestock keeping. The cutting down of the trees in the area will also have major impacts on the food security and livelihoods of the local communities as they utilise products from the trees as food, animal feed, construction material and source of energy or as an additional source of income.

Although the project developers stress the possible creation of jobs that might eventually provide sufficient income for households to buy food and alleviate poverty, the monoculture sugar project as it is conceived will very likely weaken overall food security in the long term as it leads to the destruction of diversity and the self-sufficiency of the local population. This makes them vulnerable when food prices increase and in times of food shortages. The loss of the local population’s traditional livelihood and their independence is even more severe as population will entirely depend on one crop (sugar cane) to be sold to one company (SoSuMar). The promises of the project developers to develop and distribute the zones between the irrigated surfaces for the cultivation of foodcrops and vegetables will not be sufficient to alleviate the negative overall impacts on food security.

The ESIA states that the affected population has to be assisted in providing their means of subsistence during the so-called transition period between the beginning of the transformation of the land into sugar cane plantations and the expected outcomes in terms of income generation. However, no information was available on what the assistance will look like.

#### **4.2.4. Lacking consultation of the local population and increased mobilization**

The described impacts of MSP are all the more alarming as local populations were not properly informed about the project and were not consulted on the implementation of the different steps. Although, according to the ESIA, the project was designed “following a participatory approach which involved all stakeholders at various stages of identification, preparation and appraisal,” and that “far-reaching consultations were held with the population affected by the project,”<sup>139</sup> the National Coordination of Peasants’ Organizations (Coordination Nationale des Organisations Paysannes – CNOP) has recorded complaints from local farmers that operations started before they were informed and consulted about the project. Furthermore, according to farmers from the village Sansanding, local and national officials would not provide information on the project’s details. These findings are confirmed by a report based on field work conducted by the German Development Agency GIZ (former GTZ), that states that “no opportunity was given to the local population to participate in the decision-making processes” and that “SoSuMar started the development works on the site before the ESIA was carried out and farmers’ associations were informed.”<sup>140</sup> According to the ESIA, a public consultation process was conducted with several meetings held,<sup>141</sup> but it seems that this was not early enough for them to get involved in basic decisions on the overall project. The ESIA frequently refers to concerns brought forward by the population that refer mainly to the loss of their only sources of income. It is not clear however, if and how these concerns have been incorporated into the project planning.

The main concern of the affected peasant communities is that the Malian Government does not recognize their existing land rights. The peasants have been living on the lands for generations,<sup>142</sup> albeit, in most cases, they do not have legal titles. Although customary land tenure practices are recognized in Mali, all the land in the country that is not privately owned through a title (which has been accorded by the government of Mali) belongs officially to the state.<sup>143</sup> Informal customary rights of the people living on the project area are thus not protected by law, and are not recognized by public officials. Local farmers in the project area do indeed state that they are not properly informed by the authorities who claim that they had no rights to the land as the project area land is part of the public property of the Malian State. According to the ESIA, the Malian State has to compensate the population for the loss of their usufructuary rights. As already mentioned above, it is not clear, however, how this compensation will be measured.

Local farmers have been clearly opposed to the Markala Sugar Project from the beginning and have mobilized to resist against their dispossession. In November 2010, local and national farmers’ organizations have gathered in Kolongotomo for the first national meeting of people affected by land grabbing. In the “Kolongo Appeal”<sup>144</sup> they reminded the government that every Malian citizen has the right to land ownership under the Universal Declaration of Human Rights, and that Mali must respect these rights; they urged the government and the Office du Niger to freeze ongoing work to develop disputed sites, suspend transactions and/or talks until conflicts have been resolved, and to engage in policy dialogue with farmers by organising a national round table to discuss investment policy for the agricultural sector. Information on the situation in the OI and other regions of the world were also exchanged during the First

Peasants' Conference against Land Grabbing in Nyéléni Village, near Selingué, Mali, in November 2011. CNOP and other organizations are currently documenting the case and the violations of the communities' rights in detail.

### **4.3. A country: Kenya**

Land grab in Kenya has also been studied by several organisations, including the Eastern Africa Farmers Federation (EAFF) which has been active in the country.<sup>145</sup> In summer 2011, between the end of July and the beginning of August, four organisations including the Bielefeld University and FIAN Germany, undertook a research mission to Kenya to investigate current and potential impacts of climate change on human rights, as well as human rights violations in the context of agrofuel expansion.<sup>146</sup> The findings below are based on this and EAFF's studies.

#### **4.3.1. Background on Kenya's biofuel strategy**

In 2006 the Kenyan Ministry of Energy established the National Biofuels Committee to coordinate the activities of stakeholders in the agrofuel sector and to facilitate the development of sector strategies. By May 2008, a biodiesel strategy (2008-2012) had been developed and in August 2008 the Kenya Biodiesel Association was established. These efforts are to be followed by a comprehensive national agrofuel strategy, although no such policy (or the other documents) is currently available to the broad public.

Supported by international donors and other actors, several activities have already been carried out or are underway to promote agrofuel production in Kenya. For instance, in 2008, the German Technical Cooperation together with the Kenyan Ministry of Agriculture commissioned a study entitled *A Roadmap For Biofuels in Kenya*, which concludes that "Kenya could become the biofuel powerhouse of East Africa." The European Commission currently supports the expansion of jatropha farming by a Malindi agrofuel cluster on the coast.

Agrofuel is regarded by the Kenyan government and its supporters as a suitable approach for tackling several problems at once, such as reducing the country's dependence on fuel imports and saving expenses, and reducing the national consumption of wood fuel and the widespread practice of charcoal burning, which would decrease deforestation and soil degradation. Moreover, agrofuels would contribute to revenues from carbon trading by cultivating jatropha, because jatropha would be considered as tree cover under the CDM, and to increasing rural employment. It is speculated that this might even contribute to the reduction of HIV, because fewer women would be forced into prostitution thanks to cash crop revenues.

Finally, ethanol production plays a crucial role for the future of the Kenyan sugar sector. The sugar cane industry is currently not competitive and will be less so with the end of the safeguards under the COMESA free trade agreement at the end of 2011. The prices of the European Union for imported sugar are expected to decrease in 2007 due to the EU Sugar Reforms under the EU Common Agricultural Policy. Thus ethanol is an attractive option for diversifying the revenue base of the Kenyan sugar industry and the outgrower farmers and millers depending on it. Today, apart from integrating the sugar sector into the energy sector, the Kenyan government is

moreover keen to increase sugar production as such, because it currently imports about one third of the national sugar demand.

#### 4.3.2. The situation in the Tana Delta

The Tana Delta is a region in Kenya affected by environmental and climate change as well as by plans to boost agrofuel production. In the region, there are various land acquisition deals that are in various stages for investment in agricultural production.<sup>147</sup> The delta is an environmental protected area and local agrofuel production is thus a hotly debated issue in the Kenyan media. One project in the region was put on hold after public outcry and enquiry into the deal. A series of agrofuel plantations have been planned in the Tana Delta. These projects are the MAT sugar and jatropha plantations, the G4 oil seed plantations, the Tana River Integrated Sugar Project (TISP) of the Tana and Athi River Development Authority (TARDA) and the Kenyan Mumias Sugar Company Ltd., and the jatropha project of the Canadian Bedford company. The latter two projects are described and analysed in more detail in the full report.

**MAT International Ltd.**, a Kenyan company and part of the TAL Group, has been investing in sugarcane plantations in the region since 2006.<sup>148</sup> The company now seeks to invest in additional sugar and jatropha plantations comprising 120,000 ha, of which – according to current information – 30,000 ha are within the Tana Delta, north of Garsen, and the remainder in the adjacent neighbourhood in Lamu District (30,000 ha) and Ijara District (60,000 ha). The status of the project is largely obscure. According to TARDA, the agency once sought a public-private partnership with MAT, but the cooperation failed to acquire the required approval by the government. TARDA's company secretary, Andrew M. Nyachio, therefore denies that such a project exists and if so, that TARDA is involved in it. However, MAT states on its website that the company has 'entered into a strategic agreement with Tana Delta and Lamu District communities, with the goal of developing an integrated sugar cane growing industry in the coast region to produce sugar, ethanol and power generation'. Indeed the Tana Delta District development plan 2008-2012 even schedules one million KES (EUR 7,750) for identifying outgrowers for the MAT International Sugar Zone. And the Member of Parliament (MP) representing the constituency, Danson Mungatana, describes MAT International as the investor, who has 'been very consistent in pushing for this sugar project'. It is subject to speculation whether such cooperation can exist without the knowledge of TARDA. The fact is that the land had already been allocated to MAT, but the allocation was nullified again by the Minister of Lands, James Orengo, because of irregularities. The company is said to have allocated itself three times more land than initially agreed upon. MAT is said to have filed a lawsuit against the nullification.

Moreover, the British firm **G4 Industries** planned to invest in 32,000 ha for oil seed production on the Wachu Ranch (irrigated crambe, castor and sun flowers suitable for biodiesel). An environmental and social impact assessment as well as a resettlement action plan was carried out. The project came to a halt due to the burdens of financial recession, costs of installing water capture and irrigation systems, and because of "Kenyan Government corruption issues" in which the company was not prepared to become involved. In principle, the company is convinced that food and fuel production in Africa do not exclude each other, but also considered changing world opinion in its decision. The G4 website, however, still states that the G4 research and development

unit is “currently providing major consultancy to G4 Industries on their Wachu Ranch project in Kenya.” In any case, if the project had been realised, 500 households or around 3,000 people would have been expected to vacate the land and be resettled.

The planned large-scale agricultural investments in the Tana Delta would total 186,000 ha, which is actually considerably more than the already very high estimate of 118,600 ha of arable land available in the delta. But even if only the projects of TISP and Bedford still at stake were realized, those investments (84,000 ha) would still amount to about two thirds of the arable land. The two projects are the focus of this study and are described in more detail below.

In addition, the German company EuroFuelTech and the Belgian HG Consulting are involved in agrofuels projects in Kenya.<sup>149</sup>

### **4.3.3. Impacts of agrofuel production in Kenya**

A recent study,<sup>150</sup> based on field work, on two agrofuel projects in the Tana River Delta – the Tana River Integrated Sugar Project (TISP) and the Bedford Jatropha Plantation – gives a detailed picture of the projects’ impacts on the local populations, especially regarding access to water and land as well as food security.

Regarding access to water, the study clearly indicates that the agrofuels projects lead to severe water shortages. Due to the extraction of large volumes of water from the river for irrigation, the inhabitants of adjacent villages are facing a less reliable water flow. In the case of at least one village, inhabitants are denied to access the water of irrigation channels without an official permission of TARDA.<sup>151</sup> Other communities that rely on boreholes and wells also suffer from receding water levels as a consequence of a reduced flooding scheme due to activities along Tana River, which has impacts on the groundwater level. In addition to this, the water in the area is increasingly polluted due to upstream activities. Given that the Tana River is the only river in the area with water during the whole year, the local population relies entirely on access to water from the river or from boreholes. The projects in the area thus pose serious threats to the access to water of local communities.

The projects the Tana River area also have major impacts on the access to land and the security of tenure of the local population. As several villages are situated within the project areas, they are threatened by eviction. The population of at least one village (Mkoko) has already been forcefully evicted in 2010, without receiving any compensation. Another community (Wema community) filed a case against the allocation of their ancestral lands to TARDA, but the judgement is not yet delivered. In fact, the threats to the communities’ access to land due to the projects in the area and the behaviour of project developers and authorities are “rooted in a long-standing history of insecurity of tenure legitimized by the old national land laws of Kenya that are currently being reformed.”<sup>152</sup> The agrofuels projects in the Tana River region thus aggravate a situation already characterized by a lack of tenure security.

These observations on the threats to the access to water and land also lead to serious threats to food availability for local communities. As seasonal floods have been receding due to increased water retreat, the plots for food crop production of the small-scale farmer communities have started to dry out and communities have thus had to give up certain cultures and have seen their yields decrease. In addition to this, fish

stocks in the region are also sinking, threatening food security of communities relying – at least partly – on fishery. Moreover, the agrofuel projects compete for land that is suitable for agriculture and for livestock keeping, thus increasing food insecurity in an area that already relies heavily on food aid.

The analysis of the situation in Kenya, and more particularly of the case studies in the Tana Delta, thus shows that agrofuel policies have many pitfalls. A “Jatropha Reality Check,” commissioned by the GTZ in 2009 even concludes:

*‘that smallholders in Kenya should not pursue Jatropha as a monoculture or intercrop plantation crop at the present time. It simply makes no economic sense for farmers, especially those that are food insecure, to be investing in a crop that will fail to yield positive returns. Further investments in monoculture and intercrop plantations by smallholders should be delayed until more research leads to yields high enough to justify the investment. The only type of Jatropha plantation that we can recommend for smallholders at this time is the fence.’*

In the case of large-scale investments, the claim of reducing fossil fuel imports and contributing to the reduction of wood fuel use and charcoal burning, thus protecting forests and woodlands and improving Kenya’s CO<sub>2</sub>-emissions is not likely to come true. **Of eight large-scale projects in Kenya, more than half are explicitly designed for export and to satisfy external demand.** And even if a plantation project is not immediately aimed at foreign markets, it is likely to export too, because the terms of trade of the world market are very likely to be better than those of the Kenyan national market. **Only a moratorium on agrofuel exports would effectively prevent such a scenario.**

In addition to the competition for water, the other obvious pitfall is the competition for suitable land. In Kenya **most investments in agrofuels have so far been made in the few regions of “high potential” land**, thus competing with the current production of food and cash crops. Even if only “new land” is set aside, this competes in Kenya with the need to expand food crops in the face of the prevalent dependency on food aid and a still growing population. Even if the focus is put on drought-resistant feedstock such as jatropha, plantations will still compete with pastoralist’s grazing areas in the semi-arid and arid lands and thus with national meat and milk production. Finally, forests also are a source of livelihood, in particular for hunter and gatherer communities (let alone wildlife). Thus the myth of “new land” or “marginal lands” that do not interfere with food security issues of such food-insecure countries as Kenya must be abandoned.

A more specific human rights impact assessment of two case studies in the Tana Delta leads to the conclusion that **the rights to water, housing and food are violated.** Negative impacts on the right to housing and security of tenure were documented in most cases, with communities having been forcefully evicted and many others continuously fearing evictions for large-scale land projects. In all communities, availability of and access to adequate supplies of food proved to be a serious problem, which was often related to the water and tenure issues.

## 5. How European biofuel policies drive land grabbing and encourage large scale farming in Africa

A growing body of evidence shows, first, that there is globally a direct link between agrofuel production and large-scale land acquisitions, and, second, that biofuel policies like those of the EU are a direct cause for this rush for the land in Africa.

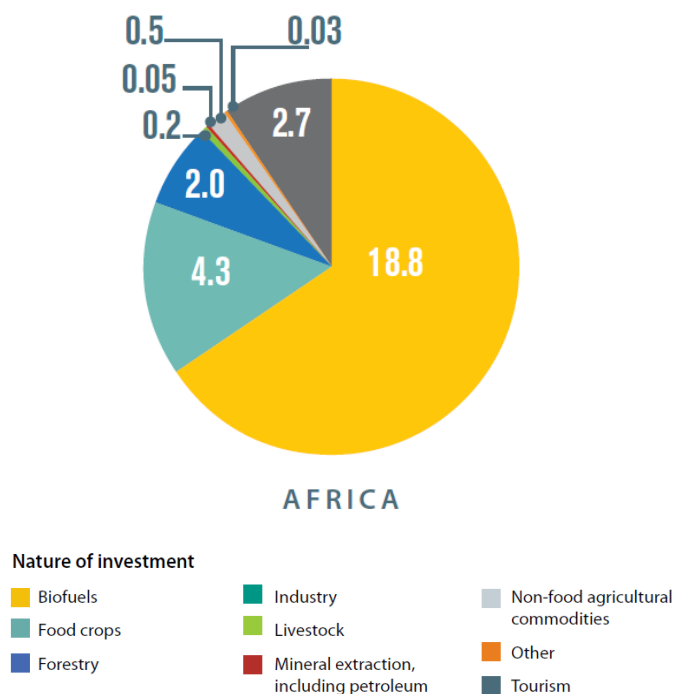
### 5.1. How biofuels drive large-scale land deals and land grabbing globally

In a 2011 study of media reports about large-scale land deals between October 2008 and August 2009, the World Bank concluded that “a focus on investments for biofuels” was evident in Sub-Saharan Africa and Latin America and the Caribbean, with 21% of the land deals projects aimed at biofuel production.<sup>153</sup> Cross-referenced data from the Land Matrix project – data referenced from multiple sources, and which goes beyond media report – shows that the premier motivation for large-scale land investments is biofuel production, with 58% of the area acquired for this purpose.<sup>154</sup> Several case studies of the International Land Coalition further support the idea that biofuel production is one of the key drivers of the rush for land.<sup>155</sup> The High Level Panel of Experts of the Committee on World Food Security equally acknowledges that the biofuel boom is an important international driver in international land investments.<sup>156</sup>

This land rush due to agrofuels is **particularly important in Africa**. The media survey of the World Bank gives an estimate that about 33% of the near 190 projects reviewed in Africa are intended for biofuel production.<sup>157</sup> According to cross-referenced Land Matrix data, it is even 66% of the large-scale land acquisitions in Africa that are intended for biofuel production – some 18.8 million hectares – against only 15% for food crops (see Figure 23).<sup>158</sup> According to Friends of the Earth, by 2010, some 5 million hectares had been sold or acquired in Africa with the aim to produce biofuels.<sup>159</sup> This figure could even be a conservative estimate since it does not take into account that some crops such as corn, palm and soy are designated as forestry or food production although they could be destined towards corn ethanol and biodiesel (the so-called flex crops).<sup>160</sup> As mentioned above, the Oakland Institute found that in Mali only, 9 out of 22 major land leases it identified was allocated to the production of agrofuels,<sup>161</sup> a finding which is corroborated by research from local organisations.<sup>162</sup> Equally, in Mozambique, food crops represented only 32,000 hectares of the 433,000 hectares that were approved for agricultural investments between 2007 and 2009, most of the investments concerning timber industry and agrofuels.<sup>163</sup> Crucially, these figures given might be largely underestimates, since, as the EEAF noticed in its field studies, the opacity of the deals makes it very difficult to get to the real facts of the enormity of the phenomenon.<sup>164</sup>

**FIGURE 2 LAND ACQUISITIONS BY SECTOR IN AFRICA**<sup>165</sup>

*Number of hectares (millions) cross-referenced*



Several case studies also support these quantitative findings. A study ordered by the European Commission and released in January 2012 to give baseline data and method regarding the impact of biofuels as of 2008 (hereafter the “2008 baseline study”), reviews the situation in Ethiopia, Malawi, Mozambique, Nigeria, Sudan, Tanzania and Uganda and equally indicates that African countries with large land areas suitable for cultivation have become increasingly attractive for biofuel investments and several examples of this growing trend are given throughout the study.<sup>166</sup> *Jatropha*book, an online community with more than 2,000 members gathering information about jatropha plantation projects, anticipates more than 1 million hectares of land grown for jatropha only in Africa in the next 3 years, in particular in Ghana, Ethiopia and Uganda.<sup>167</sup> It also counts currently 123 jatropha related projects across the continent (see Annex III).

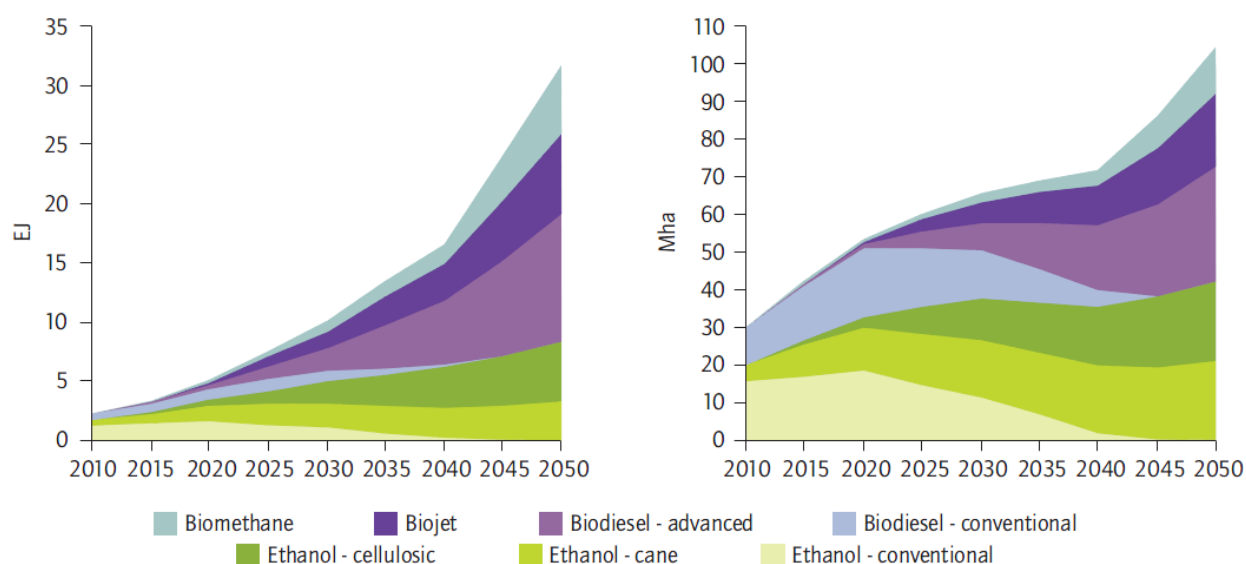
It comes as no surprise that increase in agrofuel demand leads to pressure on land, and land grabbing. The various biofuel policies in the world drive the demand for agrofuels, which in turn require millions of hectares of land to produce the necessary raw material. For instance, the 2008 baseline study concluded that between 2003 and 2008, 6.6 million hectares additional arable land was put into cultivation globally due to biofuels.<sup>168</sup>

It is however extremely difficult to assess what the exact impact of biofuel demand in terms of land demand is (See Box 2). Without entering into a battle of numbers, what is in any case striking is the **pace of the growth of the demand of land for biofuels**. Taking the figure above about additional arable land put into cultivation because of



biofuels between 2003 and 2006 (6.6 million hectares in 4 years), during this period 1.32 million hectares of arable land was put into cultivation each year because of biofuel production – which was before strong biofuel policies enter into force. According to the International Energy Agency (IEA), biofuel production globally has grown from 16 billion litres in 2000 to more than 100 billion litres in 2010 – a rise of more than **625% in 10 years**.<sup>169</sup> And this pace will accelerate. The consumption of biofuels in the EU is required to almost triple between 2009 and 2020 to meet EU targets.<sup>170</sup> At the global level, the EIA gives an estimate of 30 million hectares of land used for biofuels today, and anticipates that biofuels could, based on optimistic assumptions about the availability of advanced biofuels, land-use efficiency and yield improvements, require 100 million hectares of land by 2040.<sup>171</sup> These are much lower figures than those in the Gallagher report, which – though it is not the most pessimistic study and it was piloted by the UK Renewable Fuels Agency<sup>172</sup> – took as a basis between 56 and 166 million hectares of land needed for biofuels by 2020.<sup>173</sup> Even taking the EIA optimistic figures for comparison purposes, it would mean a **333% increase of the land needed to produce biofuels in just 40 years** – or an increase comprised **between 186% and 553% in 10 years**, based on the Gallagher report. The latter report further indicates that “biofuels appear to represent a substantial share of the additional land demand to 2020”, as they may represent between 11% and 83% of the additional global agricultural land requirement forecast.<sup>174</sup> This growth could reach four digits in Africa as biofuel production was extremely low in 2007.<sup>175</sup>

**FIGURE 3 DEMAND FOR BIOFUELS (LEFT) AND RESULTING LAND DEMAND (RIGHT) ACCORDING TO THE EIA<sup>176</sup>**



Note: This is gross land demand excluding land-use reduction potential of biofuel co-products. This assumes 50% of advanced biofuels and biomethane are produced from wastes and residues, requiring 1 Gt of residue biomass. If more residues were used, land demand could be reduced significantly.

From a different perspective, a study ordered by the Organization of the Petroleum Exporting (OPEC) Fund for International Development (OFID) shows a similar fashion.

Without any use of agricultural feedstock for biofuel production, the expansion of arable land to meet growing food and feed requirements during 2000 to 2020 **could amount to about 90 million hectares of additional land put into cultivation**. In a scenario with biofuel targets, the land needed could range between 108 and 136 million hectares. The impact of biofuel targets could thus be **to increase the next expansion of cultivated land of 20 to 40% between 2000 and 2020**.<sup>177</sup>

It is not surprising either that agrofuel expansion takes place in Africa. Arable land expansion by 2050 is anticipated to **take place mainly in developing countries**, particularly in Sub-Saharan Africa and Latin America, while in developed countries, land use is expected to decrease, and the land is almost used to its maximum in Asia.<sup>178</sup> Moreover, Sub-Saharan Africa is particularly attractive for biofuel production as it is generally considered to have, because of its geographical location and long-term under-investment in agriculture, the greatest bioenergy potential.<sup>179</sup> Its relatively cheap land also appears to provide investors with potentially better deals.<sup>180</sup> The World Bank further estimates that Sub-Saharan Africa has the one of the largest potential for production of commodities such as oil palm and sugarcane, which can be processed into biofuels. Some African nations, such as Egypt, Kenya and Sudan have been reported to have high level of sugar cane production with an important potential for biofuel production.<sup>181</sup> Equally, Nigeria cultivated 3.2 million ha of oil palm in 2008, accounting for 20 to 25% of the global area under the crop.<sup>182</sup> In this same logic, the EIA expects that “African countries could play an increasing role in the longer term in exporting feedstocks and/or biofuels to Asian, European and North American markets,”<sup>183</sup> and the production in Africa could be multiplied by 7 in 6 years only between 2009 and 2015.<sup>184</sup> **It can therefore be confidently predicted that the rapid rise of the demand for biofuel will have a considerable impact on African lands.**

#### **BOX 1 THE LIMITS OF THE ASSESSMENTS OF LAND USE CHANGE DUE TO BIOFUEL PRODUCTION**

A number of attempts and estimates have been made to try to assess the land use change related to the predicted growth in the consumption of biofuels. However, the reliability of the results of these calculations is highly uncertain. Land use change depends on the evolution of technologies, on investors' choices, and a range of factors that are hard to predict.<sup>185</sup> It is particularly difficult to assess the ILUC effect (when land previously used to grow food or animal feed is turned over to growing agrofuels which displaces the original land use into new areas – see below section 6.6) in terms of land needed with precision. This uncertainty in the measurement has been **acknowledged by all scientific studies**.

While efforts to assess land use change have some value in giving an order of magnitude of the land use changes at stake, they should be carefully reflected upon. The studies undertaken are not yet able to fully anticipate massive investments in land that are being made worldwide, and the changes in terms of places and conditions of production these land transfers will prompt.

Overall, in order to have an accurate and objective overview of the current and future impact on land use of biofuel policies, estimates about land use change through

biofuels production should thus always:

- 1) Be considered in the light of other sources of empirical data, e.g. data on the trends and direction of investments in land;
- 2) Be taken together with smaller-scale or qualitative studies which describe more specific and easily measurable situations.

## **5.2. Linking Europe biofuel policies and land grabbing in Africa**

There is thus little doubt that, globally, the large scale expansion of agrofuels drives, and will drive, land grabbing. In this context, **there is no reason to think that EU policies escape this global trend**. Up to now, the EU has often argued that its biofuel policy is not responsible for land grabbing in Africa as the EU would not import biofuels from African countries. This is, however, highly contestable. Even if it were valid, there is no mechanism in place to ensure that it is, or will remain the case, and it can be shown that the EU and its Member States in fact drive land grabbing in Africa through their biofuel policies in several ways.

### **5.2.1. Driving the demand for land to grow biofuel feedstocks...**

“The incentives provided for in this Directive will encourage increased production of biofuels and bioliquids worldwide.” This point of view is not expressed in an anti-biofuels brief, but comes from the RED itself.<sup>186</sup> So it was well anticipated by the EU that its biofuel policy – as any other such policies – **would stimulate the demand for land**. As was mentioned previously, it is extremely difficult to estimate how much additional land will be needed to meet EU biofuel targets, but it seems clear that it will be counted in millions of hectares. Before the RED was adopted, between 2004 and 2008, biofuel production only (excluding imports) was estimated to have required globally about one million hectares additional arable land.<sup>187</sup> As of 2008, the total land use associated with EU biofuel consumption amounted to 7 million hectares, almost half of which in third countries. This land use was for the production of 11.9 Million Tonnes of Oil Equivalent (Mtoe) biofuels, which represents 0.59 million hectares of land per Mtoe of biofuels.<sup>188</sup> As Member States plan on increasing their consumption of biofuels to 17.196 Mtoe by 2020,<sup>189</sup> it means, keeping the same pace, that **10 million of hectares of additional land could be needed by 2020, including 5 million hectares additional land outside the EU**. Overall, the Gallagher Review considers that between 22 million hectares and 31.5 million hectares of land could be needed in total by 2020 to reach the EU target.<sup>190</sup>

While yield increase could lessen the demand on land, this will not automatically happen as investors move to “cheaper” developing countries’ land where the infrastructures do not allow them to easily and rapidly practice such intensive farming. It is also sometimes considered that the amount of land strictly needed for biofuels is lower than these figures since feedstocks used for biofuels, such as maize, produce co-products which can be used for animal feed, thus allowing for fewer crops to be grown specifically for animal feed.<sup>191</sup> However, this does not make a difference in terms of land grabbing – as the land is still taken away. Even taking more optimistic

assumptions, lower estimates still anticipate that the additional demand for land by 2020 due to EU biofuel policies could be around 2 million hectares,<sup>192</sup> or that indirect change in land use alone could range between 4.7 and 7.9 million hectares.<sup>193</sup> In any case, it makes no doubt to analysts that **expanded biofuel production at the scale necessary to meet US and EU biofuel mandates will have significant impacts on land use around the world.**<sup>194</sup>

As a response, the European Commission argues that “most of the crops used for biofuel production in the EU are produced in the EU”, apparently assuming that it would not change in a near future, thus denying an impact on land in Africa.<sup>195</sup> However, still, as of 2008, at least around 20% of EU consumed biofuels were imported (probably substantially more as Eurostat data does not allow counting all types of biofuel blends<sup>196</sup>), and the OECD predicts, at best, and in a scenario where the RED target is not reached, that imports will remain stable.<sup>197</sup> In addition, biofuels produced in the EU may be made from feedstock (maize, sugar cane, rapeseed...) grown outside the EU. Taking that into account, it is **at least about 40% of EU consumed biofuels that were originating from abroad in 2008**; keeping in mind that, again, this figure might be substantially higher due to calculation and data limitations.<sup>198</sup>

And several studies conclude that there are good reasons to think that **these imports will increase in the future** in order to meet the EU targets.<sup>199</sup> A World Bank author qualified the EU assumptions about low imports as “optimistic”, and it was estimated that the EU could import 53% of its biofuels by 2020.<sup>200</sup> Biofuel production growth in the EU has already started to slow because of the increased competition with cheap imports, as recognised by the biofuel industry.<sup>201</sup> Due to the competitive costs of imported biofuels, even though the EU has an important biofuel production capacity, it has been considered unrealistic it will fully utilise it.<sup>202</sup> In its analysis of the 27 EU Member States’ National Renewable Energy Action Plans, the Institute for European Environmental Policy notes that many states are anticipating to rely on a high proportion of imports to secure biofuel supplies.<sup>203</sup> The Biofuels Research Advisory Council – a group of high level experts, mainly from private businesses, set up by the European Commission to provide input in its biofuel strategy – estimated in 2006 that half of the EU biofuel supply in 2030 could be covered by imports.<sup>204</sup> A number of studies ordered by the European Commission, such as the IFPRI modelling, anticipate that **imports will grow strongly.**<sup>205</sup> A report for the US Department of Agriculture equally notes that imports may be underestimated because of data gaps, and anticipates that imports will grow in the following year –highlighting the only reason imports might have gone slightly down in 2010-2011 is mainly because of the lack of supply.<sup>206</sup>

**Qualitative analyses** also concur in this direction. In some countries, like in Germany, limited land availability has already led to pressures to import biofuels, and the German government acknowledged that biomass imports will gain importance partly for competitive purposes because domestic sources are more expensive.<sup>207</sup> A German government advisory body took the view that “bioenergy usage is currently increasing food supply shortages and is increasing food and land prices, which can lead to political instability in the developing and newly developing countries” and that “[Germany’s] bioenergy imports may not be allowed to create negative economic,

ecological and social impacts in producing countries”.<sup>208</sup> Another sign, in the port of Rotterdam, which represents a useful indicator as it is the largest trading hub and production site in Europe,<sup>209</sup> biofuel trade flow from outside the EU are expected to increase.<sup>210</sup>

The fact that biofuel imports are important to achieve the EU biofuel strategy has been **recognised by the European Commission itself**, which affirmed in a 2011 Communication that “trade among Member States and imports from outside the EU could reduce costs in the medium to long-run”.<sup>211</sup> In 2010, the Commission announced that the RED and the revision of the Fuel Directive “will increase imports of biofuels from developing countries”.<sup>212</sup> In 2007, an EU study event estimated that between 22% and 54% of EU biofuel needs by 2020 would be met by import.<sup>213</sup> In a paper on food security, the Commission also acknowledged the direct link between its biofuel policies and consequences in developing countries:

*Incentives for bioenergy production in developing countries are created by policies in developing and developed countries and are likely to lead to an increase of international trade in biomass.*<sup>214</sup>

Remarkably, the latest provisions of the EU Directorate General for Agriculture and Rural Development indicates that **EU biofuel feedstock production cannot keep pace with the expected growth in EU demand** and net-imports of biofuel feedstocks will continue to play an important role in the future, particularly for ethanol.<sup>215</sup> For instance:

*The EU is an important net importer of oilseeds, oilseed meals and vegetable oils. This trade balance is not expected to improve over the outlook as additional imports are required to meet biofuel targets.*<sup>216</sup>

This recognition reflects a broader shift in EU’s policies. The EU indeed originally intended to produce biomass from “indigenous” sources, but later turned to imports from developing countries, faced with projections that they EU would have to import large amount of biofuels by 2030.<sup>217</sup>

### **5.2.2. ... in Africa**

The question is then to know **from where the EU will source its biofuel imports**. It will without a doubt come from a variety of origins.<sup>218</sup> However, African lands will very likely be particularly impacted. As discussed in part 5.1, evidence indicates that, globally, land expansion for biofuel production will largely take place in Africa in the future, and feedstock production for EU imports is likely to follow the same global direction. The IFPRI estimates, for instance, that Sub Saharan Africa will be amongst “the most affected” regions by the increase in cropland area due to the biofuels EU mandate.<sup>219</sup> An authoritative World Bank author equally notes that the EU is expected to become large biofuel importers in the 2010s because of consumption mandates, and “African biofuel producers are expected to supply a portion of these imports and have the advantage of duty-free and quota-free market access.”<sup>220</sup> Due to the nature of the physical environment and the type of production in Asia, the sustainability criteria also hinder the potential of Southeast Asian palm oil or biodiesel made from palm oil to

be imported to the EU to meet the mandate's targets, which in turn favours a development of African exports.<sup>221</sup>

One of the reasons biofuel feedstocks will growingly originate from Africa is that it would allow **cheaper production**, which is, from the perspective of the investors, necessary to make biofuels viable due to the "low" economic margin under existing EU policy schemes.<sup>222</sup> The trade agreements mentioned above, which allow free entrance of products from several African countries, further encourage production in Africa. A report by the UN Economic Commission for Africa notes that meeting the biofuels needs of, amongst others, Europe, will require "much farm land which all the countries do not have in sufficient quantity", and that, keeping in mind the high cost of biofuels produced in the European Union, Western African countries "have a real comparative advantage" and could become "some of the largest biofuels producers/exporters" thanks to Europe's demand.<sup>223</sup>

Moreover, it has been shown above that there are **massive investments in large-scale biofuel production in Africa**, whose scale may not be fully anticipated by predictive models. It was explained in the chapter on land grabbing that a large amount of these investments are made by EU investors in Africa. Combined with the fact that European investors specifically invest in agrofuels while investments coming from the Middle East are mainly for food production,<sup>224</sup> it appears that there is a large flow of investments in agrofuels in Africa by European investors. See Annex IV for a compilation of data from different sources on agrofuel projects in Africa with European involvement. Surely, a number of these investments are intended for domestic production, and, in some cases, it might be done in a sustainable way that does not constitute land grabbing. But there is a strong presumption that **most of these investments are made for exports to Europe**, a presumption which is shared by several authors.<sup>225</sup> The World Bank thus noted in 2009 that Africa has already begun to attract investments for export production specifically because of the "demand pull", and estimated that that Africa could account for about one-third of future ethanol trade with net-importing regions.<sup>226</sup> Equally, the fact that most investments are made near big towns or trade centres suggests that the production is intended for export.<sup>227</sup> A 2012 report written for the European Commission considers that Ethiopia, Malawi, Mozambique, Nigeria, Sudan, Tanzania, and Uganda, could become important for the supply of biofuels to the EU.<sup>228</sup> It further explains that the biofuel market in many of these countries is driven by foreign demand, and that, while jatropha and sugar cane are the most efficient crops for biofuel, Africa and Latin America are the largest producers of these biofuel feedstocks.<sup>229</sup>

This finding is corroborated by a study by the NGO CIFOR, which reviewed 20 investments in biofuels, and concludes that most of them are export driven, and that, particularly in Africa, there is a much higher number of foreign investors than in other regions.<sup>230</sup> Research conducted for Oxfam in Ethiopia, Ghana, Mali, Mozambique, Senegal, and Tanzania also revealed that the majority of agriculture-based land deals in Africa are for export commodities, including biofuels.<sup>231</sup>

As a response, the European Commission argues that when it imports biofuels, it only does so from a few countries which are the USA, Indonesia, Malaysia, Argentina and Brazil, but no country in Africa. It thus takes the view that "most of the impacts...would

occur in these regions.”<sup>232</sup> However, it is in fact very difficult to know with precision where biofuel and biofuel feedstocks are imported from, and it is **very likely that the quantity and origin of biofuel imports will sensibly change over the coming months and years** to reflect new investments – especially in Africa – motivated by the RED. As highlighted in the cases above (section 4), the *current* actual agrofuels production in Africa (and its related export to Europe) cannot be used as a realistic measure of the role of biofuels in land grabbing. In fact, the situation evolves rapidly, and between January and December 2010, **Egypt and Sudan were among the top ten ethanol importers of ethanol in the EU.**<sup>233</sup>

Moreover, and this is a central point, **it is extremely difficult if not impossible to assess what is the exact impact of the EU biofuel consumption on imports from Africa because the trade chains can be very complex.** Biofuel feedstock may for instance be imported already processed in liquid fuel, or in the state of raw material. Decisions about the final use of a commodity can be made at the last moment, often making it almost impossible to differentiate between investments going to fuel and food markets.<sup>234</sup> The French Cour des comptes equally notes that because of customs’ rules and EU state practices, there is in fact a limited controls of biofuel or biofuel feedstocks imports from third countries, and it is difficult to track those imports.<sup>235</sup> The EU assessment of the prospects for agricultural markets indicates 1) that growing demand for maize will be partially due to the expanding use for ethanol production, and 2) that the EU will remain a considerable importer of maize over the period until 2020 because of this demand.<sup>236</sup> It appears therefore that a significant part of the maize that is imported is likely to be used to meet the growing EU ethanol consumption. Moreover, some biofuels are sometimes formally imported from one country, like the USA, but in fact produced in another one.<sup>237</sup> And even more complex to evaluate, biofuels imported to the EU may be made out of feedstocks that come from third countries. Additional trade combinations can be made. In a report to the European Commission, the authors admit for example that, in cases of sugar cane produced using child and forced labour, they are not sure whether this sugar cane is used for EU biofuels.<sup>238</sup> Thus, even when biofuel and biofuel feedstocks trade statistics exist, they are very difficult to analyse precisely, and they need to be combined with other sources of data and qualitative analysis.

In any case, **the EU has not set up any mechanism to ensure that it does not import biofuels or biofuel feedstock from Africa**, or even that its policy does not generate land grabbing. Faced with the growing evidence of land grabbing cases linked to its biofuel policy, argumentation based on data about current imports does not hold.

### **5.2.3. Affecting the land rush for other commodities, including food**

In any case, would the EU only produce biofuels on its own territory, it would still have an effect on land grabbing in Africa. This point is often forgotten, though it is fundamental: **even agrofuels produced in the EU affect land grabbing in Africa**, through the so-called Indirect Land Use Change (ILUC) effect (see 6.6 below). It takes place when food crops in the EU are converted to biofuel feedstock production; the food that used to be grown then has to be produced somewhere else. This effect is sometimes broken down into:

- “*Export diversion* where products were previously used for exports but are retained within the EU for domestic biofuels production, which must then be replaced by production elsewhere; and
- *Diversion of domestic use* where products that were previously used for other domestic purposes such as food and feed are diverted to biofuels, ultimately resulting in additional imports to meet EU food and feed demands.”<sup>239</sup>

This phenomenon has not been quantified precisely yet, but it can be significant, especially as most of EU demand growth for arable crops is expected to be driven by biofuels.<sup>240</sup> The rapid expansion in the US of the use of maize to produce ethanol is for instance known to have caused a surge in demand for soybean. Similarly, in Europe the rising use of land for oilseeds created a demand for wheat<sup>241</sup> and oil palm for food.<sup>242</sup> A report mentions for example:

*EU rapeseed oil has traditionally been used in the food industry as a vegetable oil, but increasingly large amounts are now being used as a feedstock for industrial biofuels. The food industry has had to turn to a different source, and invariably this is oil palm from Southeast Asia. If 22% of biodiesel in 2020 comes from domestically produced edible oils, this suggests a shortfall – which will be filled by palm oil – of about six billion litres of edible oil requiring another 1-2 million hectares of land in developing countries.*<sup>243</sup>

The EU Directorate General for Agriculture itself anticipates for the next decade that EU agricultural commodities will be increasingly used for biofuel production, and that there will be an area shift between crops to produce biofuels (and thus less food).<sup>244</sup> It has been estimated that 37% of future land use change for biofuels in the EU could be due to this indirect effect.<sup>245</sup>

A very recent example from Germany highlights the complexity as well as the potentially important effects on land use changes in Africa and elsewhere. In January 2011, German newspapers and media highlighted that for the first time in 25 years, Germany had a negative wheat trade balance (it became dependent on wheat imports). It was argued that a main cause for that was the conversion of wheat production to maize production for bioenergy.<sup>246</sup> And the Bio Economic Council, an advisor of the German government, recommended that Germany should not increase imports of food to produce biofuels.<sup>247</sup>

It will be important to check in future if European investments in land for food production in Africa are motivated by the EU’s need to replace the land it is using for biofuels. As the UN Special rapporteur on the right to food argued, “the more biofuels the EU produces, the more it will be forced to import vegetable oils from the rest of the world.”<sup>248</sup> This would be an unaccounted way for the EU to outsource part of its food production because of its biofuel demand, and to use African’s soils for its food needs, thus putting additional pressure on land in other countries and contributing to land grabbing.



#### 5.2.4. Making land a bankable investment

The EU biofuel policy also drives land grabbing in a more indirect but still pernicious way by **pulling up the value of the land and making it a bankable investment**. It has been pointed out in many reports that a significant part of land grabbing is due to “land banking” – whereby investments in land are made not to produce crops but to speculate with the prospect of a juicy future added value. As a French government advisory body put it, “policies promoting agrofuels in developed or emerging countries, with a mandatory percentage of these new fuels going to distributors, led to the appearance of rents.”<sup>249</sup> Some investors have acquired land in quantities much larger than they could use with a view of locking favourable terms and eliminating future competition.<sup>250</sup> By setting mandatory targets and massively subsidising biofuels, the EU creates a “heavily distorted biofuel market” and thereby an artificial land market.<sup>251</sup> The EU thus incentivises biofuel development *both* in the EU and in the global South.<sup>252</sup> While giving predictability to investors, it artificially drives up the price of the commodities (land and feedstock) necessary to produce biofuels and it gives confidence for investments in land, including for purely speculative purposes.<sup>253</sup>

In this context several companies based in the EU have **found the necessary confidence and support to grab hundreds of thousands of hectares of African land**. A report commissioned by Committee on Development of the European Parliament finds that as a consequence of the ambitious EU biofuel target, securing land for the production of energy crops in countries where land prices are low has become an attractive business investment.<sup>254</sup> And whether it is to export to EU Member States or to other countries does not matter, it is still a consequence of the momentum generated by the EU policies, and, the EU and EU Member States are responsible for the way their companies act abroad (see section 8.2.2).

### ***5.3. Imposing an export industrial farming model on the pressure of the agroindustry***

The EU biofuel policy thus clearly drives land grabbing, using all the components of its policy related to biofuels approach. Doing so, it imposes an export industrial farming model which creates one of the worst forms of land grabbing.

Notably because it is focused on quantitative objectives, placing priority on technological and market-based solutions, the EU biofuel policy tends to promote **large scale industrial exploitations**.<sup>255</sup> In the words of the former UN Special Rapporteur on the right to food, “the greatest risk is that dependence on the agro-industrial model of production will fail to benefit poor peasant farmers and will generate violations of the right to food”.<sup>256</sup> Evidence indicates that agrofuel production in particular requires more capital intensive farming, which favours large agricultural producers who are better connected to the markets.<sup>257</sup> The HLPE notes that “the bio-energy market tends to promote large industrial plantations with efficient crop handling and processing”.<sup>258</sup> This is also because economy of scale is key to profitable biofuel production, and biofuel production involving smallholders does not seem to be, at least for the moment, economically viable,<sup>259</sup> an analysis that is supported by pro-biofuel studies.<sup>260</sup> In a book published by the World Bank in 2011, the author concludes a review of three biofuel case studies in Africa by affirming that investors need to reach

sufficient size of production to achieve economy of scale. He further notes that it is difficult to involve outgrowers (small-scale farmers) in biofuel projects because of the costs, and thus “scale is likely to remain a challenge because a large scale is required to reduce costs, but financing and implementing large projects are difficult, and concern over the impacts will likely emerge.”<sup>261</sup> It also reflects a recent trend for the promotion of large-scale monoculture farming in Africa, including for biofuels.<sup>262</sup>

Whether it is intended or not, biofuel policies, as they are currently designed, **promote a particular relation to the land where it becomes a commodity like any other one**, ignoring the social impacts.<sup>263</sup> In a period where the transition from subsistence farming into sustainable, agro-ecological agriculture is a key objective for both food security and environmental reasons, large-scale investments are accelerating unsustainable commercial farming.<sup>264</sup> This comes as a direct consequence of the EU and other states’ biofuel policies as they create an artificial market in this direction. As an expert in a report commissioned by the FAO explains: “foreign investors see a profit in biofuel as long as their markets are guaranteed, but they see no profit in investing in cassava and other traditional food in Africa.”<sup>265</sup>

An analysis of the history of the negotiations of the RED reveals that the directive has been pushed for and **defended by large industrial groups**.<sup>266</sup> The RED even specifies that “the main purpose of mandatory national targets is to provide certainty for investors”, in addition to encourage development of technologies.<sup>267</sup> Globally, pressure from the agro-industrial interests has been identified as one of the reasons for the rapid recent growth of agrofuel policies.<sup>268</sup> Logically, the EU biofuel policy reflects these particular business interests. Even in developed countries such as Germany, case studies show how, for the production of biofuel, small-scale farmers have been marginalised and agro-business interests have prevailed instead.<sup>269</sup> The intensity and gravity of this movement is unsurprisingly multiplied in African countries. Empirical data and qualitative studies show a very clear trend: by driving imports for cheap biofuels produced in developing countries, transferring part of its food production to Africa, and creating the enabling conditions for private companies and investors to invest in land, **the EU biofuel policy has a direct consequence on land grabbing in Africa.**

## 6. The social, human rights and environmental impacts of land grabbing as a consequence of the EU biofuel policy

Generally, it has been discussed how land grabbing in itself impacts negatively on a number of aspects, including food security and local people's enjoyment of the right to food, democracy and governance, or human rights (see chapter 2 above). Without coming back on these general effects, biofuel policies have specific consequences that can be highlighted. With respect of European companies, a number of these effects are summarised and examples are given in the table of the Africa Europe Faith and Justice Network (Annex IV).

### 6.1. Food security and the right to food

The most widely accepted and authoritative definition of food security is the one agreed upon during the World Food Summit in 1996: "**Food security** exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life."<sup>270</sup> The concept of food security overlaps with the concept of the **right to adequate food**. The latter is a universal human right which was made legally binding in the 1966 International Covenant on Economic, Social and Cultural rights (ICESCR). The right to adequate food "is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement."<sup>271</sup> The main difference is that the right to food clarifies that enjoying food security is a right for everyone, that it builds upon internationally agreed standards clearly defining duty bearers (the states) and right holders, with a focus on the most vulnerable people; and the State obligations.<sup>272</sup>

The importance of the right to food was also recalled by the EU in its strategy to realise food security.<sup>273</sup> The right to food stresses the following dimensions: the availability of food to the people needing it, the economic and physical accessibility as well as its stable access and availability.<sup>274</sup> These dimensions are the most affected by the EU biofuel policy.

The impact of the EU biofuel policy will be assessed here from the point of view of the quantity of food available, and the ability to buy food. This analysis will be based on the understanding that **biofuels play an important role in driving food prices up**. This analysis is made by respected institutes such as the International Food Policy Research Institute, which considers in the Global Hunger Index 2011 that the increase in food prices and price volatility is due to three main factors: 1) an increase in biofuel production through fixed mandates that made demand unresponsive to prices, even with volatile oil prices; 2) an increase in financial activity through commodity futures markets; and 3) the medium- and long-term effects of climate change.<sup>275</sup>

The Institute affirms that the United States and EU's subsidies and mandates for biofuel production, created a new demand for crops for fuel which

*places new pressures on agricultural markets, which are characterized by temporal restrictions (the time it takes to increase production), limited resources (land, water, and nutrients), and growing demand driven by demographic and income increases. In addition to magnifying the tensions between supply and demand, the rigidity of biofuel mandates exacerbates price fluctuations and magnifies global price volatility. Last but not least, biofuels gradually increase the link between energy markets (which are highly volatile) and food markets (also volatile), further increasing the volatility of the latter.*<sup>276</sup>

### 6.1.1. Less food available

The impact of agrofuels on food prices tends to show that biofuel production reduces the amount of food available. The fact that the EU biofuel policy makes food less available can be explained with different arguments.

The impact of agrofuel production on the availability of food is the most obvious when food crops – in particular crops for local consumptions – are replaced by biofuel crops, or other food crops for export (see the case studies in part 4, especially the Markala Sugar Project in the Office du Niger in Mali or the agrofuels projects in the Tana River area in Kenya). In this case, the region where it takes place mechanically has less food available, unless it imports more from abroad the region. The problem with moving from short-circuits of self-reliance to dependence on distant market distribution systems in the current context of food price volatility will be explained later. Agrofuels can also directly impact the availability of food in a country that is not food self-sufficient by encouraging the development of export or biofuel crops on free fertile land, instead of food crops.

These effects are worsened by two factors. First, biofuel policies promote an industrial farming model, whereas it has been proven and emphasised many times that the most efficient and most sustainable way to address food insecurity in Africa is to promote small-scale farming, which tends to be more productive, more redistributive, and more sustainable.<sup>277</sup> It is for this reason for instance that the EU considers that “sustainable small-scale food production should be the focus of EU assistance to increase availability of food in developing countries.”<sup>278</sup>

Yet, it is striking to note that **agrofuels are produced and/or planned to be produced in some of the most food insecure countries** in Africa. For instance, in Mozambique, where approximately 35% of households are chronically food insecure, a mere 32,000 hectares out of the 433,000 approved for agriculture investment between 2007 and 2009 were for food crops, reflecting a lack of strategies to ensure that energy and food investments by other countries do not override agricultural interests of grassroots communities.<sup>279</sup> The case studies presented in this report suggest the same. And the contracts signed by the investors generally do not provide any protection of the right to food. Amongst the twelve large-scale land deals reviewed by the IIED, most of them appear to not create any safeguard to ensure that local food security needs are met, allowing unlimited and unrestricted exports when food is produced.<sup>280</sup>

While agrofuel related crops are grown in countries where the population already suffers from undernourishment, it is **not even entirely sure whether there would be enough land available in Africa to fulfil the world's biofuel needs in addition to human livelihood needs**. Indeed, the estimated figures about the amount of land needed for biofuel production presented above have to be taken together with the projected demand of land for food, housing and other essential needs, in a context where technological progress is unsure and climate change limits the arable land available (see chapter 2). The UN Special Rapporteur on the Right to Food, Olivier de Schutter, already estimates that it would be difficult to expand the areas under cultivation to the degree required to accommodate the growth of rural populations.<sup>281</sup> It might thus be that the expansion of agrofuel related crops in Africa could have for consequence that the continent would not have enough land available to fulfil its own food needs. Although figures about the amount of land necessary for agrofuel production and the amount of arable land available are contested, and while this issue still needs to be further researched, as scientific knowledge stands, **the idea of an Africa that cannot become food self-sufficient if agrofuels keep on expanding as planned cannot be excluded**.

#### **BOX 2 THE DIFFICULTY TO ASSESS HOW MUCH ARABLE LAND IS "AVAILABLE" AND THE CLAIM ON "MARGINAL" LAND**

As the **International Energy Agency** explains: *"There may be potential to use currently unused land, but it is difficult to identify "unused" land, since reliable field data is lacking on current land-use through smallholders and rural communities. Complex land tenure structures and lack of infrastructure in rural areas are additional challenges for the expansion of biofuel production in many African countries."*<sup>282</sup>

The **HLPE** equally indicated: *"[I]t must be recognised that expansion of the agricultural land area will be at the expense of grazed or forest land, with both social and environmental impacts."*

*"Satellite and aerial photos cannot show the invisible elements that are essential for understanding how land is actually used, the rights of different users of the land, and existing land-based social relations. And in many countries, cadastral systems showing registered land claims are extremely problematical, so that official state records and actual reality do not match. In addition, a large number of smallholder farmers may have no registered rights to the farmland and commons on which their incomes and livelihoods depend."*

*It is often asserted that there is much 'available' land in Africa and Latin America. This suggests abundant unused land. However, there is rarely any valuable land that is neither already being used in some way, nor providing an important environmental service. Hence, any taking of land deemed to be —available will impose some cost, either on the existing land user, or in environmental services forgone."*<sup>283</sup>

In addition, agrofuel investors usually a single large piece of land, while, if there are tracks of unused land, these are often multiple small pieces within a dynamic and clustered populated area.

The EU, in response, has constructed a narrative according to which agrofuels are produced on so-called “**marginal**” or “**degraded**” land, rather than good quality land.<sup>284</sup> However, it has been demonstrated several times that much of the land considered as “idle” frequently constitutes a vital source of food and livelihood for poor people by providing fruits, herbs, wood for example for heating or grazing area.<sup>285</sup> In addition, agricultural producers often choose better quality lands, as recognised by some EU staff members,<sup>286</sup> since production on marginal land has proven to not be economically viable.<sup>287</sup> Additionally, considering that the EU biofuel policy only or mainly affects “marginal” lands would be ignoring the “ILUC effect” of agrofuels, whereby biofuel production on food crops in rich countries leads, to compensate, to food production for export in developing countries. Such export food crops do need, without a doubt, good quality fertile land. In addition to this, case studies – including the ones presented in part 4 – provide evidence that all too often large-scale agrofuel projects are not carried out on “marginal” or “degraded lands”, but rather in the most fertile areas. Take, as an example, the Markala Sugar Project in Mali that is being carried out in an area – namely the Office du Niger – whose irrigated lands were supposed to contribute to the country’s food security and self-sufficiency.

Some policy makers have argued that if African countries are not able to produce the food they need to feed their population, they can **import** it. Firstly, it should be noted that so far, the trade system has not been able to provide for enough food for countries that need it. Thus, while approximately 9% of cultivated land is associated with net exports of agricultural commodities from developed to developing countries; the latter are still food insecure.<sup>288</sup> Secondly, in addition to not working, growing dependency on food imports, in particular for African countries which have enough resources to sustain themselves, raises important issues in terms of food sovereignty such as the right of people to define their own food and agricultural policies, putting at the core of the discussion who produces food, for whom and how. Thirdly, trade and food imports are simply not a solution because poor people cannot afford it, as it will be seen.

### **6.1.2. Not able to buy food**

Agrofuels affect the economic accessibility of food, and many poor people in African countries could be unable to adequately feed themselves as a consequence of the EU biofuel policy. This is, in the first place, a **direct consequence of the increase in food prices** generated by biofuel policies. A number of studies show that developing countries, particularly in Africa, were the most affected by this price rise.<sup>289</sup> And it also affects the poorest people in Africa. While at first sight one might assume that higher food prices are beneficial to small farmers, poor rural household usually are in fact net food buyers and high and volatile food prices often has a devastating effect on them.<sup>290</sup> In addition, food prices tend to be “stickier” than global commodity agricultural prices: food prices go up on local markets when global commodity prices rise, but they do not decrease when the global prices go back down.<sup>291</sup> As a result, studies claim that, due to agrofuels, calories consumed in Sub-Saharan Africa could decrease by 4% by 2020, and between 5 and 20 million people could suffer from food insecurity in Africa.<sup>292</sup> Again, it is not only the production of agrofuels in Africa that has negative effects, but its uncontrolled and unplanned development worldwide. Hence, “the impacts on food prices as a result of bioenergy developments elsewhere may be much more important and potentially harmful, especially to the many food-deficit countries in Africa”.<sup>293</sup> It

should be remarked however that the negative impacts of high food prices are on the short or middle term, and that in the long term, some studies do not exclude a positive effects of high food prices, but under certain circumstances.<sup>294</sup>

As we will see below, employment opportunities and the level of incomes created by the investment in biofuels do not allow to have a safe access to food via the market especially in the context of food price volatility.

## **6.2. Access to land and water**

In most African countries, the land formally belongs to the state, which plays a key role in land allocation.<sup>295</sup> The State is thus a central actor to deal with the recent investments in land. However, **land ownership is in practice very complex** in Africa, as land rights are often customary, or the management of the land is delegated to a village or a community.<sup>296</sup> In addition, in many of these countries, land policies – i.e. policies defining how people use and interact with the land<sup>297</sup> – are weak and do not efficiently protect customary land rights.<sup>298</sup> Formalised land tenure rights would exist for at most 10% of the land, and mostly in urban areas.<sup>299</sup> In many African countries, there are little requirements in terms of environmental and social impact assessments prior to commercial or development projects, and they are often poorly enforced when they exist.<sup>300</sup>

As the case of Mali illustrates (part 4.2), due to the lack of appropriate recognition and effective protection of customary land rights and systems, States are abusing the fact that they are formal owners of all lands to arbitrarily dispossess local communities of their use rights in order to allocate the lands to investors. This practice amounts in Mali and other countries to violations of the rights to housing and food of the affected population.

The promotion of large scale production leads to the concentration of land ownership, rather than a fair land distribution that allows the local population to benefit from it.<sup>301</sup> Large scale investments stimulated by the EU biofuel policy create uncertainty and instability regarding the status and the use of the land. This has important negative consequences on poverty alleviation, as it has been shown that security of tenure is a key dimension to reduce hunger and poverty, and it encourages farmers to better maintain and develop the land.<sup>302</sup>

Agrofuel crops rely heavily on water for their production.<sup>303</sup> Agrofuel and food export feedstock thus necessarily enters into competition with water needed for food production for local consumption, leading the World Bank to state that the effect of biofuels on the availability and quality of water for agriculture is “a major concern,”<sup>304</sup> while the OECD and the FAO came to similar conclusions.<sup>305</sup> In a conference organised by the German government at Bonn in November 2011, a wide range of actors equally acknowledged “the water, energy and food Security Nexus,” including with agrofuels.<sup>306</sup> Access to water, more than land, was at the core of the problem in several cases (see Box 4), so that some talk of a “**water grab**.”<sup>307</sup> In most cases, it seems that the contracts between the investors and the host states do not regulate access to water appropriately.<sup>308</sup> In other cases, such as the Malian project presented in 4.2, contracts contain provisions on access to water. However, if states guarantee



water allocation to the investors, this happens to the detriment of local communities as they are facing decreasing water availability. And while some agrofuel crops may grow without much water– as they may theoretically grow on “degraded lands” –, the World Bank notes that “because production may be optimized by irrigation, there is a possibility that these crops will use scarce water resources in the already arid countries where they are planted.”<sup>309</sup> A recent report written for the European Commission notes that today’s investments in biofuel production may influence the development of water demand, and “substantially expanded biofuel production may impose water related food security challenges in low income countries”.<sup>310</sup>

**The right to water** of local communities is also particularly impacted by agrofuel projects. Similarly to the right to food, the right to water implies that there should be enough water available, including for drinking; personal sanitation and household hygiene, and that it should be physically and economically accessible.<sup>311</sup> Yet, as discussed above, agrofuel related projects are very demanding in water, potentially impacting the availability of water. As shown in the example of agrofuel projects in Kenya’s Tana River region in 4.3, there is already evidence that local communities are facing decreased water availability due to decreasing water levels of the river or of groundwater levels. Furthermore, the Kenyan case shows that the available water is increasingly polluted.

A recent right to water impact assessment of the Addax Bioenergy project conducted by Waterlex and Bread for All for instance concludes that there are high risks that the right to water is breached if the deal goes forward as planned (see Box 3). This same analysis also underlines the impact of the project on the quality of water – another component of the right to water – which can be severely affected by the introduction of chemicals and fertilisers necessary to large-scale production, in countries that often do not have the necessary equipment to manage these devastating effects of industrial agriculture.

The case studies in chapter 4 show that agrofuel projects directly affect the access to water of local communities.

### **BOX 3 AN EXAMPLE OF THE IMPACT OF AGROFUELS ON THE RIGHT TO WATER: ADDAX BIOENERGY**

As mentioned above, the investment of Addax Bioenergy in Sierra Leone also raises issues of access to natural resources (see below Box 4). One development bank (the European Investment Bank) refused to support the project due to non-compliance with its environmental standards, and there are particular concerns as to its impact on the right to water.

**Waterlex and Bread for All** have assessed based on publicly available documents and direct communications with the company, the extent to which the project complies with the right to water.<sup>312</sup> While the report acknowledges “*the positive action taken by the company*” which “*clearly set this project as a positive example for biofuel production projects in Sierra Leone*”, it indicates that “*several aspects of the project present potential risks and exposures which could to complicity, or the suggestion of complicity, in Human Rights violations during implementation and completion of the*



*project*”.

In particular, the report identifies risks regarding the quality of the water: “*the lack of formal guarantees to ensure access to safe drinking water for the local population given that groundwater contamination from Nitrates and Phosphates are likely to occur*”. Related to these pollution risks, the company established water treatment systems for the local staff of the plantation, but not for the rest of the local population, and as they will not be able to afford water purification mechanisms, the authors to consider that “*not all the guarantees are provided to ensure that the project will not impact negatively the local population’s capacity to afford safe drinking water*”. The report also underlines threats to physical access to water, highlighting “*the risk of insufficient access to water downstream from the project location during the dry season, for which the company could be potentially seen as a contributing cause.*”

The report finally regrets the non-disclosure of the water agreements signed between the company and the State, and questions “*the validity of the prior informed consent of the local population, based on the fact that the later might have not foreseen the risks presented in this document with regards the enjoyment of their right to water*”.

**Women are overwhelmingly impacted** by the negative effects brought by agrofuel related projects.<sup>313</sup> The FAO or instance presented a study in 2008 which concluded that liquid biofuels production might even exacerbate pre-existing inequalities, contributing to the socio-economic marginalisation of women and female-headed households and threatening their livelihoods, with negative implications in particular for their food security.<sup>314</sup> Women tend to be totally excluded from the negotiations of the deals – when they take place – by local and international actors who do not make efforts to reach them.<sup>315</sup> With regards to access to water, the Oakland Institute notes for example that as a result of the investment of the British agrofuel firm Sun Biofuels in Tanzania, “local residents, especially women, now have to travel much further than before to find water and sometimes have to creep onto the Sun Biofuels plantation to access their old water sources and “steal” the water, or buy it at inflated prices.”<sup>316</sup> The so called marginal lands planted for agrofuels are frequently used as common property resource for women who use it to get wood, building material, medicines or other commodities, and agrofuel projects may cut them from access to crucial resources.<sup>317</sup> The case of Senegal presented in part 4.1 illustrated how men decide over the use of land without taking into account the views of their wives. The ILC conducted a few case studies compiling the particular risks of large-scale land deals on women, including a number of biofuel projects in Africa.<sup>318</sup>

The impact of agrofuel related investments is particularly marking on the right to **sovereignty over natural resources**. Article 21 of the African Charter on Human and Peoples' Rights states:

1. *All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.*
2. *In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.*

According to this provision of the African Charter, African resources should be exploited in the interest of the African peoples. Such resources include the land. Yet, the facts exposed show that, at the moment, the use of the land for biofuel related production is rarely done in the interests of African people; and more often to the exclusive benefit of a small elite, foreign companies, or EU Member States.

### **6.3. Employment**

It could also be thought that by promoting investments in the land in Africa, the EU biofuel policy encourages rural development, leading to an increase in employment opportunities and incomes in poor countries. This could benefit poor people and make them better off by proportionally raising their income more than food prices. This is the scenario that the European Commission anticipates.<sup>319</sup> In fact, this is a condition for investments in commodities for export to be of interest for the local population, as explains the UN Special Rapporteur on the right to food: "It should be ensured that the revenues accruing from the investment will be at least sufficient to procure food in volumes equivalent to those which are produced for exports."<sup>320</sup> However, this is not the case.

While employment is a key factor for making a deal positive, and it is one of the most important benefits identified by the local population,<sup>321</sup> **few jobs are created by agrofuel related investments relatively to other sectors.**<sup>322</sup> In particular, agrofuel plantations are not labour intensive. It is for instance known that the labour intensity of the sugar industry is rather low. In Zambia, 7,500 people would be employed in the sugar industry, when 200,000 people work in the similar size cotton industry.<sup>323</sup> When an area where small scale farming was practiced is replaced by large scale agricultural, many of the farmers thus end up jobless and landless.<sup>324</sup> This can be called labour expelling investments rather than job creation. When a new area is cultivated, it creates much less jobs and development opportunities than if small-scale farming had been developed. The Oakland Institutes found that on a recently leased land in Mali which could conservatively sustain 112,537 farm families, the land is concentrated in the hands of 22 investors who plan to employ a few thousand plantation workers.<sup>325</sup> Often, companies promise jobs to the local population which they never deliver, and available data suggests that investments create far fewer jobs than are expected or promised.<sup>326</sup>

Furthermore, when agrofuel investments create jobs, **they do not benefit much the local poor.**<sup>327</sup> The World Bank for instance highlights large-scale land deal cases where vulnerable groups lost access to some livelihood resources but did not benefit in terms of jobs.<sup>328</sup> The Oakland Institute similarly reports that many governments have relaxed requirements for local employment and allow companies to hire unlimited numbers of expatriate employees.<sup>329</sup> Skills demanded are sometimes too high, or foreign companies prefer to use workers from their own country.<sup>330</sup> This is not to mention that the labour conditions can be appalling and that the jobs provided in mechanised agrofuel plantations are also often short-term and seasonal.<sup>331</sup>

While this deficiency could theoretically be compensated by income from the lease or selling of the land, provision of services from the company, or other sorts of transfers,

it has nevertheless been shown above that the added value of the deals go essentially to the investors, rather than the local population. The Oakland Institute affirms that in many large-scale land deal cases, the benefits of new employment are negligible in comparison to the costs for the host governments in terms of the infrastructures it has to furnish and the loss of income it incurs to be able to attract the investor.<sup>332</sup> The discourse about job creation further masks the fact that, even if land deals did create some salaried employment, the eventual benefits accruing from these jobs could in no way compare with the multiple benefits to all family members and to the community as a whole generated by family-based agriculture rooted in the local economy, including but not limited to food production for domestic consumption.

In addition, **the labour conditions** practiced by these large investors are often below international standards. This is generally true for large-scale farming driven by agribusiness. Bad labour conditions can happen as a result of the imbalance of power between investors and hosts states, the latter sometimes including restrictions on labour rights and exemptions from labour laws to attract investments. Several countries have for instance withdrawn union recognition.<sup>333</sup> The Swiss Agency for Development and Cooperation concludes its analysis of biofuels by stating that given the high risk of forced labour, child labour and dangerous working conditions in agrofuel plantation, social criteria including better working conditions should be a component of the standards for biofuel production and trade.<sup>334</sup> The EU policy however does not have any such safeguards. Yet, these poor working conditions in agrofuel plantations have been amply documented in Africa, whether in a sugar cane plantation in Rwanda,<sup>335</sup> or in agrofuel production in Tanzania and Mozambique.<sup>336</sup>

#### **6.4. Distribution of income and revenues**

Particularly shocking is **the repartition of the added value of the land deals between the different actors**. It is known that investments in the land are not beneficial to local people particularly in Africa, where most investments are export driven, with limited opportunities for developing countries to benefit from added value.<sup>337</sup> The case of Addax Bioenergy, a Swiss company producing agrofuels for export to the EU is one striking example (see Box 4). Of course, not all deals are similar. In its study of 12 large scale land deal contracts, including for agrofuel production, the IIED highlights two agrofuel contracts with better terms. However, most of the deals reviewed “may not be fit for purpose”, and there is “a substantial risk that local people may internalise costs without adequately participating in the benefits”.<sup>338</sup>

#### **BOX 4 THE ADDAX BIOENERGY PROJECT, OR HOW THE “BEST” DEALS CAN HAPPEN TO NOT DISTRIBUTE ADDED VALUE FAIRLY**

Addax Bioenergy is a Swiss company developing a sugarcane plantation and production of bioethanol and renewable electricity at Makeni, in Sierra Leone. According to the company, “*The project works started in 2010 and production will commence in 2013. It is financed by African and European Development Finance Institutions.*”<sup>339</sup> Addax Bioenergy wants this project to be an ethical model, as it ambitions that it could become “*a benchmark in responsible investing.*”<sup>340</sup> It claims that

it “strictly complies with the investment standards of the World Bank and the African Development Bank, the European Union criteria and the principles of the Roundtable on Sustainable Biofuels of the Swiss Polytechnic Institute”. The project should “create over 2000 permanent jobs, and procure professional training, food security and infrastructure development in one of the poorest regions of Sierra Leone. The project already employs more than 700 people.”<sup>341</sup>

Yet, as the project itself states, it will supply the European and domestic markets with bioethanol, the export dimension being in itself problematic. A report by Bread for All “raises the issue of producing biofuels for export in a country which is not food self-sufficient and where malnutrition affects one third of the population and is responsible for one of the world’s highest child and mother mortality.”<sup>342</sup> This risk of seeing all biofuel produced being export is real, as confirmed by another report by the Oakland Institute, which states Addax’s Managing Director, Nikolai Germann, according to whom there is no market for ethanol in Sierra Leone and that less than 10% of ethanol will stay for local use in plants.<sup>343</sup>

Other aspects of the projects questioned by the Bread for All report include the environmental impact of the project (see Box 3), and several legal matters: “A Human Rights Impact Assessment of the Land Lease Agreement (LLA) highlights that all disputes have to be referred to London. This amounts to a denial of justice given the financial impossibility for landowners to fund their travel and legal representatives. Another clause of the Land Lease Agreement (LLA) is controversial as it might be used as a basis to deny compensation to landowners. Further, one clause of the LLA may be used so as to prevent pastoral communities from accessing land without remedy or compensation. In other words, there is a gap between the IFC Performance standards, which the project is applying, and human rights law. This is particularly true regarding due diligence procedures and grievance mechanisms.”<sup>344</sup> The Oakland Institute adds that community consultation was inadequate, based on fieldwork in 2009 which revealed that many impacted people were unaware of the project.<sup>345</sup> Oakland Institute’s fieldwork and interviews with the impacted communities also “did not find measures in place to ensure adequate compensation for affected individuals”.<sup>346</sup> These two organisations also fear a negative impact on the right to housing, due to planned evictions and on the right to food. All these aspects of the project are all the more questionable according to Bread for All as its costs will be financed up to 52% by public development banks.

One of the most striking dimensions of this “model” project however is the unequal sharing of value added of the project, which can be seen in the table below.<sup>347</sup>

“The main beneficiary of this project is the company: Addax will receive an annual return of USD 53 million while the 2,000 low paid workers will receive 2% of value added (7% if one relies on the company’s assertion). Landowners who leased their lands will receive as lease fees 0.2% of value added (this corresponds to less than USD 1 per project affected person and per month). Even the District Councils, Chiefdom Administrators and the Government will get comparatively small amounts (and yet these small amounts are enough to ensure sufficient political support to the project, see Chapter on “Corruption and Collusion”). It is to note that Addax will pay no or little taxes as the Government of Sierra Leone granted several tax exemptions and

deductions to the company.”<sup>348</sup>

Group	Number of people affected	Benefits	Breakdown of added value
<b>Addax Bioenergy</b>	One company with one major shareholder	Return of USD 53 million per year.	<b>93%-98%</b>
<b>Workers</b>	2000 Sierra Leonean workers plus some expatriates	Yearly wages: between USD 1.1 million and USD 4 million (daily wages of USD 2.3)	<b>2%-7%</b>
<b>Land owners</b>	A few hundreds (out of a total of 14'000 project affected persons)	Land lease fees per year of USD 113'000. This corresponds to less than USD 1 per person per month.	<b>0.2%</b>
<b>District Councils and Chiefdom Administrators</b>	2 District Councils and 3 Chiefdom Administrators	Land lease fees per year of USD 50'900.	<b>0.1%</b>
<b>Government</b>	NA	Land lease fees per year of USD 12'700. No corporate income tax in the first 13 years. Water fees of USD 54'000 per year.	<b>0.2%</b>
<b>Local suppliers</b>	Unknown.	Unknown.	<b>NA</b>
<i>Total value added</i>		<i>USD 53.3-57.2 million</i>	<i>100%</i>

This repartition of the added value is made possible thanks to often **poorly paid jobs**, even by local standards. When investors create wage employment, workers' income is 2 times to 10 times lower to what the average smallholder could get.<sup>349</sup> For instance, in the case of Addax Bioenergy, casual labourers are paid only two out of three weeks, they have no job security and no social or other benefit.<sup>350</sup>

This unfairness of the deals affects primarily **the rural poor who are the losers of this “biofuel politics.”**<sup>351</sup> The World Bank for instance concluded that many of the land deals it reviewed “failed to live up to expectations and, instead of generating sustainable benefits, contributed to asset loss and left local people worse off than they would have been without the investment”.<sup>352</sup> The FAO has also shown how focus on investments in high-potential areas and on irrigation, mechanisation and crop specialization (mono-cropping) for marketed commodities and export crops – typically the kind of investments that result from biofuel policies – have largely benefited



resource-rich farmers, largely bypassing the majority of smallholders.<sup>353</sup> In some cases, inequalities are within the country itself, and agrofuel land deals are captured by local elites or better-off local farmers,<sup>354</sup> who are better able to seize the opportunities created by these large investments,<sup>355</sup> as in a case study in Rwanda.<sup>356</sup>

In the Malian case presented in 4.2, 40 % of the surface envisaged by the sugar cane project is supposed to be managed independently by local farmers. Due to their obligation to grow one crop (sugar cane) and to sell it to one company they are likely to becoming entirely dependent on this one company.

In addition to this, and more generally, modelling shows that the contribution of biofuels development to increasing agriculture value added is limited. It could reach only about 3% in developing countries by 2030. Theoretical analyses thus question the potential of biofuels to contribute, in any case, to contribute to rural development.<sup>357</sup>

## **6.5. Governance and stability**

The World Bank has shown that **countries with weak governance of rural land tenure are more attractive for investors**, which was confirmed in a subsequent study involving an author from the International Monetary Fund.<sup>358</sup> Land deals are made in areas with weak governance further stimulate **corruption**, which itself encourages ineffective land governance, thus creating a vicious circle. In a recent working paper based on findings in more than 61 countries, the FAO and Transparency International (TI) demonstrate that initial weak governance increases the likelihood of corruption in land tenure and administration.<sup>359</sup>

The EU biofuel policy, by increasing the attractiveness for large scale, uncontrolled, investments in land in Africa, **fuels and worsens these practices**. The FAO and TI point out that corruption is often common in investments related to environmental initiative – such as agrofuels –, as local actors may seek to secure land that is attractive to investors in these projects. They note that such investments involve large amount of money, thus creating new opportunities for illicit enrichment, and carrying a significant risk of corruption.<sup>360</sup>

Symbolic of this trend, large scale land deals are often **extremely opaque**. Even the World Bank had to cut back the scale of its studies as neither the governments nor the companies would provide it with information.<sup>361</sup> This secrecy over large scale has been very well demonstrated, and case studies show that the lack of transparency is notably true for agrofuel land deals.<sup>362</sup> Given the opacity that surrounds agrofuel deals, the local population affected by the deals are often marginalised in the decision making. This has been acknowledged by the World Bank<sup>363</sup>, or clearly demonstrated in an authoritative study of 12 land deals.<sup>364</sup> And once again, agrofuel deals follow the same trend,<sup>365</sup> particularly in Africa, as UN Special Rapporteur on the right to food for instance underlined for the case of Benin.<sup>366</sup>

These **information and power asymmetries between smallholders and large agribusinesses and domestic elites** fuel unjust governance. Rural poor affected by agrofuel projects have rights, but without power.<sup>367</sup> The HLPE for instance mentions the gap between *de jure* and *de facto* rights, which exist even in places where the legal system is relatively developed.<sup>368</sup> During the negotiations of agrofuel deals,

mechanisms in African countries to protect vulnerable populations and ensure that their rights are respected are weak and largely ineffective.<sup>369</sup> The lack of information and consultation observed in many cases is confirmed by the Malian example in 4.2. And when the law is breached, victims have no real recourse they can turn to.

As a result, agrofuel land deals generally fail to profit to the local population, and in some cases, to the host states' interests.<sup>370</sup> Benefiting from bi-lateral investment treaties or a legal environment that strongly protect them,<sup>371</sup> large investors try to **use the governance gap of the host countries to secure the best possible deals.**<sup>372</sup> Moreover, it has for instance been reported that in Mozambique, national economic priorities give district authorities stronger incentives to promote the interests of investors over local communities.<sup>373</sup> This finding reflects a broader study on agrofuel land deals which concludes that in actual negotiations, host government agencies invariably align with the investor rather than the local people.<sup>374</sup>

The amount of money at stake in agrofuel-related projects and the promises made at to the populations also create **tensions in host countries, at the national and at the local level**, within the communities. Governments are for instance often eager to declare land to be unused or unoccupied to attract foreign investments, although there may be multiple claims on the same land, creating major conflicts for example in Tanzania and Ethiopia.<sup>375</sup> The Senegalese case study presented above demonstrates how glossy infrastructure development and wage promises can lead a peaceful community to tear over the desirability of an investment project. Undelivered services, high level of inequalities, and appropriation of the resources by foreigners or local elites generate additional resentment and lay the ground for conflicts.<sup>376</sup> This can have dramatic consequences, as it was recently the case in Fanaye (northern Senegal), where a disputed biofuels project triggered violent clashes between villagers during which 2 people were been killed and 22 other injured. The residents the village, situated in the Senegal River valley, near the Mauritanian border, one of the country's main areas of agricultural production, attacked each other with sticks and machetes in a dispute over the project which will see 20,000 hectares given to an Italian investor to cultivate sweet potatoes for the production of biofuels. IT was reported that a local organisation defending land rights in the village said the project would lead to "displacement of villages, destruction of cattle and desecration of cemeteries and mosques."<sup>377</sup>

Such potential for conflicts has been anticipated by the World Bank, which warned in 2009 that rising demand for bioenergy may lead to **rapid expansion of large plantations which could, where land rights are not well defined, result in conflict.** Source of conflicts specifically identified include land appropriation by large private entities, forced reallocations by the government in places where the land is owned by the state, or government mandates to plant certain crops.<sup>378</sup> Furthermore, large-scale intensive agrofuel production similar to that in Latin America would, according to the Bank, likely result in some land-use conflicts.<sup>379</sup> These risks outlined by the World Bank exactly correspond to the agrofuel investment situation in Africa, and the example of other continents show what Africa can expect if agrofuels keep on developing.

## **6.6. Environmental protection and sustainable use of natural resources**

Policy makers might argue that these consequences are regrettable but necessary in the light of the pressing need to protect the environment. Yet, **it is highly uncertain** whether biofuels, as the technology stands, are able to cut GHG emissions of 35% when compared to fossil fuel (which is the RED minimum requirement), or even whether they can help to reduce emissions at all. Biofuels, which are made from plants, are often assumed to be inherently “carbon neutral” because they would release when they burn in cars carbon taken from the atmosphere during plant growth.<sup>380</sup> However, such an assumption ignores the energy needed to produce the biofuels, and most importantly, the carbon released from the land turned into the biofuel feedstock production. For example, producing biofuels on a land occupied by a forest would involve to cut trees, and thus to release carbon. This is why the RED stipulates through the sustainability criteria that biofuels for the EU market should not be produced on land with high carbon stock.

While these criteria and the lack of enforcement mechanisms to ensure they are applied may be, itself, problematic,<sup>381</sup> the core of the controversy actually lies in the effect of **Indirect Land Use Change (ILUC)** on the environment. The European Commission describes this effect as follow:

*Biofuel feedstock may be produced on land directly converted from another status to agricultural land. The carbon emissions from such land-use change have to be included in the overall calculation of greenhouse gas emissions of the specific biofuel, in order to determine if it meets the sustainability criteria. However, if it is instead cultivated on existing agricultural land, it may then displace other crop production some of which ultimately may lead to conversion of land into agricultural land. Through this route, the extra biofuel demand can lead indirectly to land-use change, from which the term indirect land-use change is derived.<sup>382</sup>*

Yet, several research institutes have concluded that this **ILUC effect could lead to considerably raise the carbon emissions associated with biofuels**. In a December 2010 Communication, the Commission indicated that it was conducting an impact assessment of four policy options to address ILUC:

1. take no action for the time being, while continuing to monitor,
2. increase the minimum greenhouse gas saving threshold for biofuels,
3. introduce additional sustainability requirements on certain categories of biofuels,
4. attribute a quantity of greenhouse gas emissions to biofuels reflecting the estimated indirect land-use impact.<sup>383</sup>

The results of the impact assessment should have been presented in July 2011 with, if necessary, a legislative proposal to amend the RED, but the decision on this issue has been delayed, and it might not be released until March 2012.<sup>384</sup> This delay might be explained by negative findings: leaked data revealed in January 2012 by a newspaper



specialised in EU affairs suggests that the Commission's study could conclude that Greenhouse gas emissions from biofuels are higher than those for fossil fuels when the effects of ILUC are counted. This data was not commented by the Commission, but it was not denied by industry representatives.<sup>385</sup> It concurs with signs that the European Commission is planning on proposing corrective actions to address ILUC.<sup>386</sup>

In addition to ILUC, **other negative impacts on the environment** of agrofuels could have been under-estimated, including the use of fertilizers, the degradation of the soils and the water caused by intensive farming, the consumption of petrol in mechanised farms, and the negative impact of monoculture on biodiversity. The Environmental and Social Impact Assessment conducted for the Markala Sugar Project in Mali presented in 4.2 clearly states that the project will entail the destruction of the region's ecosystems with unclear consequences for the entire region.

## 7. EU's efforts and limits to address the issue

The EU has made a number of praiseworthy efforts, though insufficient, to address land grabbing issues, as detailed in Annex I. Focusing on agrofuels, since the RED was adopted in 2009 and entered into force in 2010, the EU and EU Member States have taken few measures to ensure that their biofuel policy does not engender negative social, environmental and human rights impacts. In fact, despite many reports about the existing or potential negative impacts of the EU biofuel policy, the EU has not taken any concrete and direct measure to amend its practice.

### 7.1. The European Parliament and EU Member States' reactions

At the **level of Member States**, a number of Government advisory bodies have called for a slow down to biofuels, including France,<sup>387</sup> Germany<sup>388</sup> and the UK.<sup>389</sup> The uncertain impact on the environment has been recognised by some states. France, for instance, has a biofuel policy, but it considers above all that this policy has agricultural objectives (supporting farmers in the country, maintaining employment...) as the French ministry of environment declared that subsidy for biofuels could "be (potentially) harmful for the environment."<sup>390</sup>

As for **the European Parliament**, it has been active in raising the issue. Several MEPs have expressed strong concerns to the Commission in the last two years, including on the use of African land for biofuel crops,<sup>391</sup> on the link between land grabbing in developing countries and biofuels,<sup>392</sup> on the threat to equatorial African forest ecosystems from palm oil production,<sup>393</sup> and on the link between EU incentives for biofuels and the rising price of foodstuffs and increased hunger and malnutrition worldwide.<sup>394</sup> On 29 September 2011, the European Parliament voted a resolution on the Rio+20 earth summit which underlines in the context of biofuels that human rights and environmental protection must be fully respected and which expresses the agreement of the Parliament with the suggestion that states should remove provisions in current national policies that subsidise or mandate biofuels production or consumption, at least until guarantees for removing the competition with food production, biodiversity and climate protection are in place.<sup>395</sup> In September 2011, the Development Committee of European Parliament asked an oral question to the Commission on biofuels,<sup>396</sup> and it is preparing a resolution calling to amend the RED to take into account the social impacts.<sup>397</sup>

In addition, in a November 2010 resolution on international trade policy in the context of climate change imperatives, the Parliament demanded the Commission to address the ILUC effect and stressed that "safeguarding food supplies must take priority over the production of biofuels" and that "sustainability of land use policy and practice needs to be tackled urgently using a more holistic approach."<sup>398</sup> In February 2011, it published a study on indirect land use change and biofuels which critically reviewed the approach of the European Commission on ILUC,<sup>399</sup> and in a September 2011 resolution on food security it highlighted that agrofuels negatively impacts food security.<sup>400</sup> The European Parliament will also publish a study on human rights and

climate change in June or July 2012, which will touch upon the impact of agrofuels in third countries.

## ***7.2. European Commission's institutional response to the social impact of the RED***

The European Commission mostly relies on three types of measures to justify that it avoids negative side effects of increased production of biofuels.<sup>401</sup> First, the Commission argues that, following the RED, all EU Member States have to apply a **common sustainability scheme** which would be “the most comprehensive and advanced binding sustainability scheme of its kind in the world”.<sup>402</sup> Companies indeed have to show that they respect the sustainability criteria laid out in the RED so that the biofuels they produce are counted towards the CHG emission reduction targets and can receive financial support. Nevertheless, the sustainability criteria are purely environmental and do not address the social impact. Though a Parliamentary committee had proposed adding social aspects to these criteria, such as land rights, the proposal was ultimately refused.<sup>403</sup>

The Commission argues that the use of voluntary certification schemes may cover sustainability issues that are not covered by the EU sustainability criteria.<sup>404</sup> The sustainability of biofuels can indeed be checked by Member States or through **voluntary schemes** which have been approved by the European Commission – which is for the moment the most pertinent way for companies to get their production approved.<sup>405</sup> On 19 July 2011, the Commission recognised seven voluntary schemes which companies can use,<sup>406</sup> and it currently assesses 20 further applications. Biofuel companies are encouraged to follow these recognised schemes, and when they do so, the biofuels they produce are considered as sustainable for the purpose of the RED. Yet, these schemes are not a solution to ensure that biofuels used in the EU do not have a negative social impact. A recent systematic evaluation of the requirements in terms of social sustainability (limited to labour rights, land and resource rights, food security and rural development) of the voluntary schemes reveals that most of the schemes have weak social criteria and poor coverage of some key social sustainability components.<sup>407</sup> This is particularly true for land and natural resources rights, food security and rural development, for which biofuel companies are not expected to do much to respect the schemes' criteria. As two of the approved schemes almost do not require any commitment to social sustainability, it makes it possible in theory at least that no biofuel supplied in the EU is checked on its social impact prior to its commercialisation.<sup>408</sup> In addition, it has been pointed out that gaps in procedural rules may limit the efficiency of these schemes.<sup>409</sup>

The European Commission indicated in June 2010 that it would develop “as soon as possible” an assessment framework to evaluate the social criteria that voluntary schemes have included themselves and assess whether the schemes can serve as a source of accurate data on social sustainability issues,<sup>410</sup> but it has not been done until now, apparently because of the high number of pending applications for recognition of voluntary schemes. Voluntary schemes are thus, for the moment, not a solution to address the social impact of agrofuels, all the more as companies wishing to avoid a control can use other ways to certify their biofuels – such as independent audit – and

the Commission made clear that Member States may not use the inclusion of social sustainability issues in a voluntary scheme as grounds for a refusal to take into account biofuels/bioliquids that are not covered by the scheme.<sup>411</sup>

The EU relies, secondly, on a system of **monitoring** to prevent negative social impact of its biofuel policy. According to the RED, the Commission must, every two years, report to the European Parliament and the Council on a number of consequences of the EU biofuel policy, including:

- 1) the impact on social sustainability in the Community and in third countries of increased demand for biofuel;
- 2) the impact of Community biofuel policy on the availability of foodstuffs at affordable prices, in particular for people living in developing countries;
- 3) wider development issues; and
- 4) the respect of land-use rights.<sup>412</sup>

The Commission must also report both for third countries and Member States that are a significant source of raw material for biofuel consumed within the Community, about whether the country has ratified and implemented the core International Labour Organisations conventions. The first such report should be released at the end of 2012. The RED includes the possibility that corrective action is taken, “in particular if evidence shows that biofuel production has a significant impact on food prices”.<sup>413</sup>

**This monitoring exercise is absolutely crucial, as it is the central argument of the EU to defend that it controls the negative social impacts of its biofuel policy.**<sup>414</sup> The European Commission has affirmed:

*“The continued monitoring and reporting of impacts of the biofuel policy will ensure that unsustainable practices will be detected and corrective action will be taken if appropriate. This relates to food prices as well as to environmental and broader economic impacts.”*<sup>415</sup>

The report published in 2012 will therefore be fundamental for the European Commission to assess properly and act upon the social impact of biofuels, and its quality will give a good indication on the efforts the EU is ready to make in this regard.

To be useful, the report will need to be strictly impartial and rigorous. An initial study recently published by the Commission (January 2012) to provide baseline data and methodology regarding the impacts of biofuels as of 2008 (before the RED applied) can give a sense of the future content of the coming bi-annual report. This study is purportedly significant as it aims at providing the Commission with a methodology for its monitoring under the RED and it will bring “important inputs in the Commission’s bi-annual renewable energy progress reports.”<sup>416</sup> However, there are **key issues present in the baseline study will need to be addressed in the bi-annual report to make it credible.** The baseline study sometimes avoids reviewing specific countries, without any apparent reason.<sup>417</sup> It only does a very superficial analysis of the social impacts of the EU biofuel policy, focusing on job creation, gender issues, the involvement of small farmers in producing biofuel feedstocks, and compliance with International Labour Organisation Conventions. It thus takes a very narrow understanding of the obligation to report on “wider development issues” present in the RED. Data about social impacts, in particular in Africa, is often lacking, and is

sometimes partial.<sup>418</sup> The findings are exaggeratedly positive, with even some examples taken from countries outside of the scope of the study to demonstrate that biofuels can create local opportunities.<sup>419</sup> Despite multitudes of reports describing in detail certain clear negative social and human rights impact of biofuel projects in Africa, none of them is mentioned.

These shortcomings might come from the fact that, as the authors admit, the level of efforts put into data collection about socio-economic aspects “was limited” and they had only “a short period of time” to do so.<sup>420</sup> But, more preoccupying, it may also come from the fact that the expert consultants working on the socio-economic impact have a background “on the bioenergy field”<sup>421</sup> and might not have the necessary expertise to appreciate social issues. This lack of expertise clearly appears from mistakes in the baseline study on what seems to be a fundamental misunderstanding about basic international labour law regarding “signature” and “ratification,” which cast doubts as to the understanding of human rights by the authors of the report.<sup>422</sup> It will be of the utmost importance that these weaknesses are corrected in the coming bi-annual report.

In additions to these words of caution, it should be noted that this active monitoring, though useful, cannot be the only mechanism to address the social impacts of biofuels. Surely, if the EU waits for bi-annual reports to take action when food prices peak due to biofuels, given the delays in reporting and decision-making, it would be too late. Reporting, because it is done a posteriori, can thus not constitute, by itself, an adequate way **to prevent land grabbing** and negative human rights impact in Africa.

Thirdly, on the environmental side, the EU has been promising for several months that it would address the specific issue of **indirect-land use change**. As discussed previously, the European Commission has not taken a decision yet on ILUC, though it announced it would do it by mid-2011. The Commission’s argument for not acting until now has been that the “deficiencies” and “uncertainties” associated with the modelling of the ILUC effect make the results unsure. This delay probably reflects the hesitations of the Commission which is, on one hand, faced with growing opposition towards biofuels from the general public, and on the other hand, is under pressure of an agrofuel industry which would generate up to 300,000 direct and indirect jobs,<sup>423</sup> and is generally against the direct regulation of the ILUC effect.<sup>424</sup>

### ***7.3. EU’s justification in favour of its biofuel policy and methodological flaws***

The European Commission thus has not yet adequately tackled the negative socio-economic impact of its biofuel policy. The Commission has used various arguments to defend that it should or could not do more, which eventually fall back on a similar methodological flaw.

The general argument of the European Commission is that its energy and in particular its biofuel strategy can be beneficial both to the EU and developing countries. It has built a “**win-win**” **narrative** whereby the EU policy would benefit poor people in developing countries.<sup>425</sup> The EU wants to “maximise the opportunities offered by bioenergy production while limiting negative disturbances” by encouraging business

models that maximise benefits for rural populations or by strengthening farmer associations, cooperatives and other interest groups “to defend small producers’ interests over access to natural resources to improve their bargaining power vis-à-vis processing companies and to build networks of knowledge exchange”. Despite the good intentions, as discussed previously, facts however show that it does not work and these laudable objectives are not realised but rather jeopardised by the EU biofuel policy.<sup>426</sup>

In a similar reasoning as for land grabbing, the European Commission considers that **the affected countries where biofuel projects are developed should themselves take ‘effective (and inclusive) national land policies and laws’**.<sup>427</sup> The only role for EU and its Member States is to “advocate that these policies address concerns over availability and access to food and stimulate the integration of smallholder farmers in production chains” and to encourage concerned governments “to make informed choices that ensure sustainability of foreign investments so as to maximise the social, economic and environmental benefits for the country”.<sup>428</sup> The European Commission also counts on voluntary investments principles to ensure that biofuels do not create negative social impacts.

The Commission argues that **technological solutions** can be found to the concerns expressed, through the next generations of biofuels which would be less harmful, and that it is necessary to encourage biofuels now in order to be able to develop advanced biofuels later. However, ActionAid has pointed out that this argument is misleading because second generation biofuels require a new technology and an entirely different structure.<sup>429</sup> The EU and its Member States could for instance use all the money they are investing in subsidising first generation biofuels to support research for more advanced technologies with no such harmful consequences.

The European Commission also often claims that **the direct link between the EU biofuel policy and the harm suffered in developing country has not been proven**. Yet it has been shown in this report that this is not valid. A vast amount of empirical and theoretical evidence shows an indisputable link between EU policies and human rights and social issues in Africa. The problem is that the European Commission would only accept to consider the negative social impacts in developing countries if it were 1) shown that there are many agrofuels cases with a highly negative impact, i.e. the impact is on a wide scale, 2) as a consequence of a foreign investment made for the purpose of exporting agrofuels for the EU market and 3) that agrofuel production has already started being exported to the EU. Though this report does demonstrate such dramatic and widespread consequences, it remains that this is an extremely high burden of proof, and one can wonder whether the EU should wait for dozens of thousands of people to get evicted or die from hunger before seriously considering policy options. Especially as there are many examples of the negative impacts of uncontrolled agrofuel policies in the past, notably in Latin America, from which lessons can be drawn,<sup>430</sup> and as it has been shown that projects do not need to be fully implemented to already be harmful.<sup>431</sup> Such narrow approach from the Commission also ignores the indirect consequences of EU production, including the rise in food commodities import to replace what is not produced on the EU any more, the global effect of turning land into a bankable investments, etc.

Another argument of the EU for its inaction is that it **cannot do anything because of WTO trade rules**. Under the GATT, it is indeed not possible to restrict international trade by discriminating between products based on their origin, technique of production, or other reason, except for a few exceptions, including measures necessary to protect public morals, to protect human, animal or plant life or health and measures relating to the conservation of exhaustible natural resources.<sup>432</sup> The question is to know whether restrictions to trade for human rights or environmental arguments – i.e. not allowing imports from certain African countries or when biofuel or biofuel feedstocks are produced in a way that harms human rights – would comply with the GATT. It is generally thought that it is already difficult to justify environmental sustainability criteria, and countries including Brazil, Indonesia, Malaysia and the United States are reportedly considering to challenge the EU biofuel policy at the WTO (though only on the specific point of “fault value” calculation).<sup>433</sup> Additional social criteria would probably lead other countries to file a complaint before the WTO dispute settlement panel. It remains questionable however whether the EU pushes to its maximum the potential of justifying social policies under the exceptions acceptable under the GATT. It is also unclear whether the EU has explored all possibilities to avoid negative social impacts, for instance by selecting only those sustainability scheme that have strong social components. In any case, the GATT is a treaty that has been negotiated and accepted by EU Member States, and they need to take responsibility for it. Should the rules of the GATT be inappropriate to avoid land grabbing, social troubles and human rights violations, either the rules or the EU biofuel policy should be changed. The European Commission regularly regrets that Member States takes the EU as a pretext for their own domestic issues; the EU should not do the same at the international level and hide itself behind WTO rules to not act about the disastrous impact of its policies.

The Commission has also put forward a number of other arguments to convince that its biofuel policy is socially sustainable. For example, it promised that it would “assess how it can best help strengthen smallholder involvement in biofuel production.”<sup>434</sup> It also avoids responsibility by taking the view that land grabbing “is an issue that is generally linked to weak governance in the countries concerned and an issue which is much broader than EU biofuel policy.”<sup>435</sup> And it tends to assume that biofuels that meet the EU environmental sustainability criteria would usually meet social criteria.<sup>436</sup>

These three arguments all come down to similar **methodological issues** in the way the EU approaches the question of the impact of biofuel policies. The European Commission usually takes an overly optimistic perspective on the facts, and it uses scientific knowledge from this optimistic point of view, as mentioned before for instance with regards the impact of biofuels on food prices.<sup>437</sup> Its research on the social impact is essentially looking back at what happened in the past, rather than trying to anticipate potential shortcomings.<sup>438</sup>

Moreover, the Commission is often sceptical towards civil society’s studies and generally, external data.<sup>439</sup> While the EU must of course be cautious and cross check different sources, this scepticism is complicated by the fact that it generally puts the burden of the proof on civil society and affected individuals and groups to demonstrate that what the EU does negatively impacts them. Surely, it should be on the EU to ensure that it does not harm human rights, and should there be a risk that a the EU

biofuel policy leads to thousands of people to suffer, measures should be taken, without using the WTO as an excuse.

This methodology reflects the “market-oriented environmentalism” of the EU, which “assumes that the environmental and social impacts can be fully known and understood before any intervention, and that problems can be avoided or mitigated through technological innovations and proper management measures”.<sup>440</sup> But this position of the Commission seems to be debated internally, as a recent interview of the European Union's climate commissioner suggests. She declared: “**Personally, I've always been very cautious on biofuels.**”<sup>441</sup> She added “it's great to see the potential in new technologies, but we should take very much care in Europe that we are now not establishing a new big industry that we then - after some time - say, wow, that was not so good.” On ILUC, she said “the knowledge and the science were not that well developed at that time, so now we have been struggling to try to get a defined indirect land use factor in.” She thus confirmed that doubts existed within the European Commission as to the benefits of biofuels. She specified that the Commission “has no problems with sustainable biofuels – and there are sustainable biofuels – but there are also biofuels where you could say what it takes away from CO<sub>2</sub> is not less than fossil fuels, in some instances it's even more. [...] And that's of course not a clever strategy if we ask Member States to replace fossil fuels with something that is not better than fossil fuels”. The European Commissioner for energy, Guenther Oettinger, equally told a conference: “If I had to decide today, I would reject a proposal to go beyond 10 percent (on biofuels). The whole question of sustainability has to be addressed.”<sup>442</sup>



## 8. The EU and EU Member States' violations of EU and international law

### 8.1. The EU facing its own contradictions: the EU must fulfil its commitments and make its policies coherent

Following the entry into force of the Lisbon Treaty in 2009, which has become the EU legal basis, the EU has to ensure that all its policies are coherent with its development objectives. According to article 208 of the new Treaty on the Functioning of the European Union:

*Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.*

This provision refers to the so-called **policy coherence for development (PCD)**. It is enshrined in numerous legal instruments besides the Lisbon Treaty.<sup>443</sup> It has been on the European agenda for decades, and in addition to being a legal obligation, it is underpinned by a strong political commitment and it has been supported by the various institutions of the EU.<sup>444</sup> Most recently, the European Commission unveiled its future strategy for development cooperation, where it asserted that the PCD agenda will be promoted and reinforced.<sup>445</sup>

PCD implies taking into account the needs and interest of developing countries in non-aid policies. It recognises that development cooperation alone cannot meet the needs of developing countries, and that EU policies in areas other than development should not contradict development policies. The "D" of PCD is therefore crucial. EU policies do not only have to be only coherent amongst themselves, which is an obvious standard of good governance, but also specifically need to be coherent with EU development objectives.<sup>446</sup>

The implementation and mainstreaming of PCD is coordinated by the Directorate General for Development and Cooperation of the European Commission. Coherence is assessed at the stage of the discussion of EU's initiatives, before their adoption by the College of commissioners, and later through reporting. The European Parliament also has a Standing Rapporteur on PCD, and an EU Ombudsman set up in 2001 acts in instances of maladministration of the EU's institutions, which can include PCD.<sup>447</sup>

The European Commission has recognised the growing impact of internal policies in external relations, stating that "the concept of PCD needs to be taken into account more systematically." In 2009, the EU defined 5 priority areas in which to enhance PCD, which include climate change and global food security, with the aim to achieve the UN Millennium Development Goals.<sup>448</sup> The Commission further indicated that the policies related to climate change comprise "transport, energy and trade but also biofuels production, thus linking the challenge to the area of agriculture."<sup>449</sup>

In its 2006 biofuel strategy already, the European Commission committed that “the EU will ensure that measures proposed for biofuel development are fully coherent with its development policy”.<sup>450</sup> It further declared that governance, land ownership, transparency, participation of local communities to decision-making as well as corporate social responsibility are particularly important elements for PCD and they were taken into account in the biofuel policy.<sup>451</sup> **It is therefore relevant and legitimate to review the policy coherence for development of the EU biofuel policy.**

While it might be difficult that all EU policies be immediately fully coherent with development objectives, and while it could be challenging to assess to which extent each EU policy respects development objectives (for instance by giving a “percentage of coherence”), it can be considered that **PCD entails, as a very minimum, that EU policies do not blatantly contradict EU development objectives and directly jeopardise economic and human development in poor countries.** This is similar to the “do not harm” approach, defended by organisations such as Concord, which suggests that PCD means that EU policies cannot harm developing countries.<sup>452</sup> Though, for various political reasons, the EU considers that PCD also involves to “highlight the possible benefits of increased coherence, in terms of development,”<sup>453</sup> and although there are without a doubt a number examples of successful coherence, it is not in the scope of this report to address these cases. Furthermore, the EU itself essentially intends to take the same “do not harm” approach as it plans to monitor the social impacts of the EU biofuel policy to correct it if necessary – and not to improve it so as to maximise the social benefits. With this background, the impact of the EU biofuel policy can be reviewed against the a few relevant EU development objectives as set by the European Commission in its official documents.

### **8.1.1. Food security, sustainable agriculture and small scale farmers**

The EU is “strongly committed, both politically and financially, to enhance investment in sustainable agriculture and food security, particularly in developing countries.”<sup>454</sup> The development of agriculture and the improvement of food security in developing countries is a key priority of the current Commissioner for development.<sup>455</sup>

The EU development policy insists on **supporting vulnerable people in a sustainable way**, to “tackle inequalities, in particular to give poor people better access to land, food, water and energy without harming the environment”. The priority should go to “locally-developed practices and to “smallholder agriculture and rural livelihoods.”<sup>456</sup> As part of its strategy on food security, the EU puts the improvement of **smallholder resilience and livelihoods** as a priority, and these priorities “should act as priority benchmarks / indicators for PCD actions on food security.”<sup>457</sup> “Ecologically efficient agricultural intensification for smallholder farmers, in particular women” following the findings of the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) should be promoted, and vulnerable population groups should be particularly supported.<sup>458</sup> The Council of the EU specifically emphasised “the potential of poor and smallholder producers to sustainably contribute to meeting future food demand”.<sup>459</sup> The European Commission also recognises that “food security strategies need be country-owned and country-specific, elaborating an appropriate balance between support to national production and covering food needs through trade.”<sup>460</sup>

However, whereas the Commission specifically announced that PCD on food security “will be promoted through a range of policy instruments, including agriculture, trade, fisheries, climate change, environment and research,”<sup>461</sup> it appears that the EU biofuel policy leads to the opposite effect of the Union’s development objectives. It endangers small-scale farmers and encourages large farms, which primarily affects vulnerable people. It creates dependency on international markets of food insecure countries and investments through imports, rather than supporting them to reach food autonomy.

The European Commission also considers that “a key challenge for agriculture is to be able to feed 9 billion people by 2050 without further degrading and polluting land.” It further assesses that “land degradation has a direct link to agriculture, and has a direct effect on some 1.5 billion people, including 42 % of the world’s poor.”<sup>462</sup> Nevertheless, the EU has created an important pressure on land through its biofuel policy. Despite the challenge to have enough arable good quality land to feed the world, the EU has created the need to use millions of hectares to grow biofuel feedstock.

Moreover, the European Commission aims at supporting developing countries’ agriculture so as to “help insulat[ing] them from shocks (such as scarcity of resources and supply price volatility) and thus help provide the foundations for sustainable growth.”<sup>463</sup> The European Commission has set up several financial instruments to support agriculture and rural development. Notably, the EU established the so called ‘Food Facility’ which provided for € 1 billion funding in 2008-2011 to respond rapidly to the 2008 food price crisis.<sup>464</sup> Its aims include increasing supply and dealing directly with the effects of volatile food prices on local populations. The preliminary results of the Food Facility results have been praised, and it has been announced that the Commission would build on it to reinforce its efforts towards the prevention of food crisis in its forthcoming development policy.<sup>465</sup>

Yet, agrofuels play – though, together with other factors – a non-negligible role in high price volatility. Remarkably, the European Commission indicates itself in its development documents that high food price levels and related volatility are the result of many interrelated factors including the “sharp increases in consumption of certain feedstocks (like maize) for the production of biofuels due to high oil prices”.<sup>466</sup> While noting that biofuels can offer opportunities for rural development, the Commission further underlined the risks of agrofuels:

*At the local level a problem of access of smallholder farmers, pastoralist or forest-dependent people to land and other natural resources may arise. [...]. Large-scale production can affect farming communities by the excessive use of water, fertilisers and pesticides. Environmental degradation, and shortages and contamination of water have the potential to seriously affect a community's food security, with possible negative impacts on livelihoods.*<sup>467</sup>

The Commission is therefore jeopardising on one hand what it supports via its development policy on the other hand. Beyond the policy incoherence legal issue, this is also a waste of resources. The EU for instance spent 1 billion euros in the Food Facility to address a food crisis that its own biofuel policy has participated to create, and which it may trigger again.

### 8.1.2. Natural resources management, access to land, governance and rural development

In all its development policies, the EU recognises the importance of access to land and secure land tenure and use rights. These are, according to the European Commission, “**prerequisites for higher productivity of small holder farmers.**”<sup>468</sup> To progress towards greater security of access to land and of land tenure to protect vulnerable groups is an explicit objective of the European Commission in its PCD work programme.<sup>469</sup> It is also admitted that natural resources (though the EU does not clearly land as a natural resources in its typology) can be a source of conflict, and avoiding it is a PCD objective.<sup>470</sup> Biodiversity should also be preserved as it has a strong link with development and poverty.<sup>471</sup>

The European Commission has linked these issues to **democratic governance and responsible investments**, which constitute key instruments to ensure sustainable and fair use of land.<sup>472</sup> According to its development policy, “good governance, in its political, economic, social and environmental terms, is vital for inclusive and sustainable development.”<sup>473</sup> As part of this effort, corruption should be tackled as a matter of priority.<sup>474</sup> Additionally, the Commission has put corporate social responsibility as an objective of its PCD programme, and the EU intends to require its trading partners not to lower or reduce the enforcement of social and environmental standards in order to attract investment.<sup>475</sup>

As mentioned previously, the result of the current biofuel policy is however to lead to a race to the bottom regarding social standards to attract investments. It has fuelled corruption, created local conflicts over land and encouraged miss-management in African countries. Land tenure for smallholders has become highly insecure in a number of countries in Africa as a result of the rush for land due to agrofuels – also making them less productive. And monoculture is encouraged, harming biodiversity.

Moreover, agrofuel-related land deals benefit mainly to local elite and international investors. Rather than being “responsible...in all stages of the agricultural value chain,”<sup>476</sup> uncontrolled private investments generally seek to maximise their profits often at the expense of poor rural population. Whereas the eradication of poverty is the overreaching objective of EU development policies, as enshrined in the Treaty on the Functioning of the EU, evidence so far show that the EU biofuel policy rather tend to push deeper into poverty thousands of African people. If governance reforms to promote the sustainable and transparent management of natural resources should be done “with particular attention to the dependence of the poor of them, especially smallholder farms,”<sup>477</sup> agrofuels encourage governance changes that on the contrary particularly affect the poor.

### 8.1.3. Other dimensions

A number of **other cooperation development objectives** of the EU conflict with the effects and/or the potential consequences of its biofuel policy. Typically, the European Commission very recently recognised that access to energy is “also an important contributor to development policy due to its multiplier impact on developing countries’ economies; continued work for universal access to energy is needed worldwide.”<sup>478</sup> The EU aims at facilitating access of developing countries to low-carbon and climate-resilient technologies – which is a PCD priority – and spends a considerable amount of

resources towards this goal.<sup>479</sup> Yet, the efficiency of these valuable efforts is challenged by the support to agrofuels in its current form, which encourages investments for export to the EU.

The EU took particularly clear **development commitments towards Africa**. The Union has developed a number of partnerships and programmes with African countries and the African Union. The EU for example finances an Energy Facility which aims amongst other things at improving access to energy services, in particular for the poor.<sup>480</sup> With respect to agriculture, the European Union wants to give priority “to intensification approaches for small-scale farmers that are sustainable, ecologically efficient and respect the diverse functions of agriculture” and it wants to encourage investments that “maximise the social, economic and environmental benefits for the country.”<sup>481</sup> Besides its incoherence with general objectives of the EU development cooperation, the EU biofuel policy’s coherence with its development efforts specifically in Africa is therefore questionable.

These incoherencies may reflect **oppositions of views within the European Commission** itself. As shown throughout this report, the potentially negative social impacts of agrofuels development have often been highlighted by the European Commission. For instance, the concern that biofuel production in third countries may not respect minimum environmental and social requirements was anticipated by European Parliament and the Council in the recital of the RED.<sup>482</sup> Yet, the EU biofuel policy was still adopted, generating, as academics analysed, a basic tension between the energy security, environmental protection and rural development objectives of this policy.<sup>483</sup> It has been reported that these tensions were known in the European Commission, and provoked much dissent amongst staff across several Directorates-General. It seems that DG Development finally did not gain a significant role in shaping the EU biofuel policy, and development objectives (and thus PCD) have probably been the losers.<sup>484</sup>

## ***8.2. A violation of the EU and EU Member States’ extra-territorial obligations***

It has been seen in section 6 that the human rights of African individuals, groups and peoples can be harmed as a result of agrofuel-related production. This does not automatically mean that the countries and entities that promote biofuels, like the EU and its Member States, are, or are the only ones, responsible. Various actors, from the African States to international financial organisations, might bear some responsibility, to varying degrees. The aim of this part is to clarify whether, and to which extent, the EU and EU Member States violate international human rights law through their biofuel policy.

### **8.2.1. Extra-territorial obligations of the EU and EU Member States**

The responsibility of the EU and EU Member States for the impacts of the biofuel policy in Africa also arises from their human rights obligations under international law. EU Member States have clear human rights obligations emanating from the treaties they have ratified. In particular, as mentioned earlier, all EU Member States have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR)

and other key human rights conventions which protect economic, social and cultural rights (ESCR), and which are especially relevant for the analysis of agrofuel impacts. A question is to know whether and how these obligations apply when a policy in an EU Member State has an impact on the enjoyment of ESCR in third countries: What are – for instance - the obligations of EU Member States for the impact of their biofuel policy in Africa?

International monitoring bodies such as the UN Committee on Economic, Social and Cultural Rights and UN Special Rapporteurs have repeatedly stressed that States' obligations with regards to ESCR apply towards people affected by them within and outside their territorial boundaries. In September 2011, a group of experts in international law gathered in Maastricht, under the auspices of the International Commission of Jurists and Maastricht University, to discuss the extent and the scope of obligations under the ICESCR, and they adopted the **Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights** (ETO Principles).<sup>485</sup> This gathering built upon two previous Maastricht documents that were influential in the field of ESCR.<sup>486</sup> The ETO Principles are drawn from international law, and they aim at clarifying the content of States' obligations to realise ESCR beyond their borders. According to the ETO Principles, States have to respect, protect and fulfil ESCR both within their territories and extra-territorially (Principle 3). The scope of a state's extraterritorial obligations is specified according to situations where its jurisdiction applies (Principle 9). ETOs do not limit or undermine the obligations of a state towards people on its territory. For instance, if EU Member States breach extraterritorial obligations with effects in an African country this does not waive the local (African) country's responsibility.

Specifically in the EU context, the **EU Member States recently indicated that their national policies should not harm human rights abroad**. In a text on Export Credit Agencies – which are usually state-owned financing institutions that provide credits for investments in politically unstable countries –, the Council and the European Parliament indicated in the Preamble that

*The Member States should comply with the Union's general provisions on External Action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change, when establishing, developing and implementing their national export credit systems and when carrying out their supervision of officially supported export credit activities.*<sup>487</sup>

The European Commission has also indicated that “certain human rights standards of the United Nations have an internal and external dimension for the Union.”<sup>488</sup>

Applied to the EU Member States, the ETO Principles offer a guidance to analyse their obligations with regards to their biofuel policy. Another question is then **to define which institution is responsible for the impact of the EU biofuel policy**. As it is a policy with a strong component at the Union level, it might be argued that the EU itself must comply with international human rights law and bears responsibility for the impact of its biofuel policy. This is a controversial area, as the EU has not ratified the ICESCR. As it currently stands, the relationship of the EU to the international law of human rights remains “largely ad hoc and unsystematic”,<sup>489</sup> and it is difficult to

conclude with absolute certitude what are the EU's exact international obligations. Various arguments with different conclusions have been made.<sup>490</sup>

It is not in the scope of this report to enter into a legal discussion about the EU human rights obligations. However, **it will be considered for the purpose of this report that it cannot be excluded that the EU can violate human rights.** Based on this reasoning, and without entering into the discussion about EU's legal obligations, **it appears relevant to check EU policies against the extra-territorial obligation to respect, protect and fulfil ESCR.** To some extent, defining whether it is the EU or Member States that are responsible is an important but essentially technical question. In any case, Member States cannot be in a situation where the transfer of power to the European Union becomes a vehicle for avoiding their international situations.<sup>491</sup> EU Member States can indeed very well be held responsible for the impact of an EU policy, depending on a variety of conditions such as their influence in the decision-making process of the considered policy.<sup>492</sup> The UN Committee on ESCR has indicated for example that State Parties to the ICESCR should ensure that their actions as members of international organizations take due account of the ESCR.<sup>493</sup> Failure to do so constitutes a violation of the ICESCR.<sup>494</sup>

Based on this analysis, this report will **consider EU and EU Member States' obligations together**, without specifying which one of the EU or EU Member States is formally legally responsible. More detailed and lengthy analysis would permit to allocate responsibilities more specifically. In most cases, probably both entities bear some responsibility, and in case of uncertainty, the responsibility would generally fall back on the Member States. It should nevertheless be emphasised that **whatever its formal legal responsibility is, the EU, and in particular the European Commission, has an important role to play and a clear moral obligation to act.** In a case where the EU cannot be held internationally responsible for certain actions it took which violate Member States' human rights obligations, and thus it is strictly speaking the Member States which are considered to violate international human rights law, the fact that there is violation or risk of violation of international human rights law should, in itself, be a politically decisive enough argument to convince all institutions involved – Member States, European Parliament, Council of the EU and European Commission – to act to the best of their capacities to address the issue.

### **8.2.2. EU's biofuels policy as a violation of international law**

The ETO Principles, as a codification of general international law, constitute the basis to review the impact of the EU biofuel policy and EU and its Member States' respect responsibilities. Based on these Principles, it can be concluded that the EU its Member States violate or could violate human rights law in at least four respects.

#### ***Policy planning and impact assessment***

Principle 14 of the ETO Principles reads:

*States must conduct prior assessment, with public participation, of the risks and potential extraterritorial impacts of their laws, policies and practices on the enjoyment of economic, social and cultural rights. The results of the assessment must be made*

*public. The assessment must also be undertaken to inform the measures that States must adopt to prevent violations or ensure their cessation as well as to ensure effective remedies.*

Human rights impact assessment (HRIA) for States has been a topic of growing importance, and it is now considered to be a key tool to comply with human rights obligations. The rationale behind it is that **a State or an institution cannot claim that one of its policies will not violate human rights if it did not make all reasonable efforts to assess its likely impact on human rights.** There is still little guidance on what policy human rights impact assessment exactly entails.<sup>495</sup> Lessons can be drawn from the draft Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements<sup>496</sup> which is currently being developed by the UN Special Rapporteur on the right to food and which has principles which can be applied to general policy impact assessment, and from the FAO Guide to Conducting a Right to Food Assessment.<sup>497</sup>

Human rights impact assessments are different from social or sustainability impact assessments. They are based on different norms (human rights), and they seek to assess whether policies follow the human rights principles: Participation, Accountability, Non-discrimination, Transparency, Human dignity, Empowerment, Rule of law (also known as the PANTHER framework). They are based not only on a conceptual analysis, but also on a sociological examination of the impacts, both intended and unintended.<sup>498</sup>

The European Commission has made much progress in the recent years in assessing the impact of its policies on human rights,<sup>499</sup> and it is still reflecting on how to improve it. The Commission aims at making the Union exemplary by checking proposals' impact on fundamental rights through preparatory consultations, impact assessments (IA), and compatibility checks of initiatives with the Charter on Fundamental Rights.<sup>500</sup> Since 2009, impact assessments should include an assessment of fundamental rights, which has been specified in two staff working papers.<sup>501</sup> The European Parliament also intends to check for the compatibility of the legislative acts it works on with the Charter on Fundamental Rights.<sup>502</sup> However, it should be noted that compatibility check are different from and cannot replace HRIAs.<sup>503</sup> HRIAs are more empirical and participatory, and they allow considering different policy options.<sup>504</sup>

Despite this positive policy framework, a study by Concord of 164 impact assessments, including 77 which are relevant for developing countries, found that only 7 IAs were looking at the impact on developing countries. And none of them tries to assess how developing countries are affected; they only take note of an impact.<sup>505</sup>

The EU biofuel policy has followed this pattern. Various impact assessments have been conducted at the different stages of the policy making process since 2006.<sup>506</sup> Though it must be admitted that these IAs were conducted prior to the reform of the system to better include fundamental rights in 2009, **there are still largely inadequate from a human rights perspective.** Revealing fact, none of the public documents mentions the term "rights". The IAs essentially assess the economic interest for the Union, in terms of cost, competitiveness, effect on trade, job creation in the EU, etc. Social impacts are overlooked, impacts on developing countries are rarely invoked, and the assessment is over optimistic without any justification.<sup>507</sup>



When potential negative impacts are identified, such as the rise of food prices, **no solution is proposed** apart from suggesting that developing countries should adopt appropriate policies to maximise positive impacts and minimise the risks.<sup>508</sup> The Impact Assessment Board, which controls the quality of EU impact assessments, expressed its disappointment towards the IA of the RED because of the lack of evidence substantiating claims on biofuels, and recommended that the impact of biofuels on food prices outside the EU be analysed.<sup>509</sup> Such an analysis however still seems to be lacking in the final IA.<sup>510</sup>

It is unknown whether the staff conducting the assessments had the necessary technical knowledge, and whether the IAs were conducted with the participation of civil society organisations. In any case, even taking into account that the European Commission has improved its IA methodology and noting that some EU Member States may have conducted their own IA, the facts described above lead to conclude that **the EU and its Member States have violated human rights by not conducting adequate HRIAs**. It is acknowledged here that the continuous monitoring of the social impact contained in the RED is a valuable tool, and its quality will be crucial to assess further the EU and Member States' responsibilities. But this monitoring mechanism cannot replace an adequate IA: the EU and its Member States cannot claim that the EU biofuel policy does not violate human rights in developing countries if it did not seriously try to assess whether it would, or, when it concluded that there could be a risk, it did not take appropriate steps to avoid them.

### ***Obligation to respect – to avoid causing harm***

Human rights norms, and in particular the ICESCR, require concerned parties to *respect* human rights, by not taking any measures that carry a real risk for the enjoyment of the rights. As a general principle, the ETO Principles stipulate (Principle 13):

*States must desist from acts and omissions that create a real risk of nullifying or impairing the enjoyment of economic, social and cultural rights extraterritorially. The responsibility of States is engaged where such nullification or impairment is a foreseeable result of their conduct. Uncertainty about potential impacts does not constitute justification for such conduct.*

They key criterion to define whether an extraterritorial impact of a policy constitutes a violation of ESCR is that this impact was “**foreseeable**.” Whatever standard for foreseeable is chosen, it is clear that the EU and EU Member States could anticipate the negative impact of their biofuel policy on human rights – as they repeatedly identified these risks (see above).

This principle involves to not pursue policies that have a negative impact on the right to adequate food in third countries. The UN Special Rapporteur on the right to food has indicated that potential impacts of agrofuels such as the increase in the price of agricultural commodities without adequate mitigating measure – whose empirical reality has been demonstrated in this report – could constitute a violation of the right to adequate food.<sup>511</sup> The negative impact of a biofuel policy on food prices “could only be

justified under international law if very strong arguments are offered, showing that the benefits from agrofuels outweigh the negative impacts”, otherwise it could be considered as a retrogressive measure,<sup>512</sup> which is generally prohibited under the ICESCR.<sup>513</sup>

The ETO Principles specify that both direct and indirect interferences with the enjoyment of ESCR are prohibited. This includes refraining from any conduct which “impairs the ability of another State or international organisation to comply with that State’s or that international organisation’s obligations as regards economic, social and cultural rights.” Arguably, the EU biofuel policy has pushed several African states to not comply with their human rights obligations, sometimes to the extent where their ability to comply was impaired.

Based on the above, it can be concluded that **the EU and its Member States have violated human rights by impairing the enjoyment of human rights in third countries.**

### ***Obligation to protect***

Human rights norms also require taking measures to ensure that enterprises or individuals do not harm human rights. ETO Principle 24 stipulates

*All States must take necessary measures to ensure that non-State actors which they are in a position to regulate, as set out in Principle 25, such as private individuals and organisations, and transnational corporations and other business enterprises, do not nullify or impair the enjoyment of economic, social and cultural rights. These include administrative, legislative, investigative, adjudicatory and other measures.*

Principle 25 specifies the cases in which regulation measures must be taken. It includes situations where a non-State actor has the nationality of the State concerned, where a corporation is domiciled in the State concerned, and where there is a reasonable link between the State concerned and the wrongful conduct. States should also make all efforts to influence non-State actors which they regulate (Principle 26).

As was mentioned above, many EU-based companies invest in land in Africa. In many cases, these investments do not respect any legal standard, and investors directly abuse human rights.<sup>514</sup> Despite the progress shown in its November 2011 Communication, and in particular the intention to legislate to impose companies to disclose their social and other impacts,<sup>515</sup> the European Union has taken a weak position on regulation of companies by adopting the concept of “Corporate Social Responsibility,” whereby companies are merely encouraged to prevent and mitigate adverse impacts.

Human rights standards require more than encouraging voluntary commitments. They require effectively regulate so as to avoid harm. As a result, **the EU and EU Member States have violated human rights by not taking the necessary measures to protect human rights extraterritorially.**

### **Access to remedies**

ETO Principle 37 defines the obligation to provide effective remedy:

*States must ensure the enjoyment of the right to a prompt, accessible and effective remedy before an independent authority, including, where necessary, recourse to a judicial authority, for violations of economic, social and cultural rights. Where the harm resulting from an alleged violation has occurred on the territory of a State other than a State in which the harmful conduct took place, any State concerned must provide remedies to the victim.*

Principle 38 details that effective remedies “must be capable of leading to a prompt, thorough and impartial investigation; cessation of the violation if it is ongoing; and adequate reparation, including, as necessary, restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.” When necessary, interim measure should also be taken.

However, most if not all victims of human rights violations in Africa have not had access to an effective remedy. The EU does not seem to offer any avenue, whether legal or administrative, to efficiently handle complaint and provide redress. At the exception of Spain, no EU Member State has ratified the Optional Protocol to the Covenant on Economic, Social and Cultural Rights which allows individual complaints for violations of the ICESCR.

On the other hand, it must be acknowledged that the EU and its Member States have undertaken promising efforts to monitor the impact of their biofuel policy, potentially complying with ETO Principle 36. It also still has the opportunity to create efficient redress mechanisms, or render its current redress mechanisms available to African victims. **Failure to do so, and an inadequate MONITORING report under the RED would probably cause the EU and its Members States to violated human rights for their failure to provide effective remedy.**

## 9. Conclusion: the way forward

### 9.1. The wrong model

It has been shown how agrofuels have direct and multi-faceted impacts on local populations in Africa. It can be put back in the context of the definition of land grabbing given in section 1.2. Two essential dimensions that define when a land deal is considered as “land grab” were identified: 1) the effect of a land deal on the nonredistribution/(re)concentration of land, and 2) its effect on the character, direction and orientation of land-use change, i.e. its effect on food security and the environment. Based on this definition, agrofuel land deals for export appear to constitute **the most clear-cut and some of the worst cases of land grabbing**. Indeed, land grabbing for agrofuels not only leads to the concentration of the land away from small-scale farmers, but it also involves the production of non-food crops for exports on unused or food producing land, which is one of the typical negative cases.

Coming back to what were identified as the main arguments in favour of biofuels (greenhouse gas savings, energy security, and rural development), it is clear that these objectives are not realised. This is in substance what the French national auditor concludes, noting that the only real positive effect of the 15 years of biofuel policies in France are on the domestic agriculture and that these biofuel policies have had little effect on other areas such as energy independence and GHG savings.<sup>516</sup> Thus, even by calculating the costs and benefits of biofuel policies, as suggested by a human rights expert, the dramatic social impact cannot be decently compensated by a more than uncertain putative environmental benefit.<sup>517</sup> In fact, as “the industrialized countries of the North are very interested in the production of the countries of the southern hemisphere” to meet their biofuel needs,<sup>518</sup> they use the lands of African and other countries as support to their own interests and demands, rather than to help local people. **In such cases, all happens as if the EU imposed a new “Co2 imperialism” over Africa.**

Said differently, it seems **to make little sense** that up to 10% of the total cultivated land could be used for biofuel production in 2030, whereas 307 million people suffer from hunger in Africa, with Mozambique and Ethiopia leading the way on the development of agrofuels, whereas more than a third of the population of these countries is malnourished.<sup>519</sup> In a world where 1 billion people are hungry, it is expected that between 2011 and 2020, largely driven by biofuel mandates and support policies, 21% of the global coarse grains production’s increase, 29% of the global vegetable oil production’s increase and 68% of the global sugar cane production’s increase by 2020 will be used to fill in our tanks rather than to feed people.<sup>520</sup>

The current support of biofuels also makes little sense, since, if the demand for food is naturally limited by human demand for food, the **demand for biofuels is almost infinite** without a risk of saturation of the markets before long.<sup>521</sup> Thus, unless the technology rapidly makes enormous progress, when policies such as in the EU start encouraging agrofuels, it creates a demand potentially without limits, and it mechanically engenders in the middle or long term an incommensurate pressure on land. This is just not sustainable.

## **9.2. The way forward: EU and its Member states have an important role to play**

The effect of agrofuels should be considered in the broader context surrounding access to land,<sup>522</sup> particularly in Africa. There is currently a huge pressure on land, driven notably by the lack of food, climate change and population growth. In this situation more than ever, smallholders play a crucial role in Africa, both because they feed the population and because they maintain a very much needed social and cultural link. It is understood in this context that the former UN Special Rapporteur on the right to food, Jean Ziegler, qualified biofuel policies as “**crimes against humanity.**”

If the UN mandate holder used such a strong wording, it is because agrofuel investments and their related consequences do not come out of a vacuum. The dramatic effects currently witnessed are the direct consequence of the biofuel policies in the world. This is, very probably, unintended, but the lack of intention does not exonerate the EU and its Member States from their responsibilities. Even institutions such as the European Parliament consider that food insecurity is further exacerbated by demands for agro-fuels and energy-related policies.<sup>523</sup> As the HLPE notes:

*Such a spectacular development of the biofuel industry has been made possible only because of massive public support: subsidies, tax exemption and mandatory use in gasoline. [...] This massive public support for biofuels is the glaring exception to the general movement to reduce financial aid to agriculture in OECD countries. In a quite incoherent way, the European Union and United States have boosted demand for agricultural commodities, including food products, by their support for the biofuel industry, at the same time as they have reduced support to agricultural production, at home and in their overseas assistance to poor countries.*<sup>524</sup>

As was demonstrated in this report, this incoherence constitutes a breach of the PCD obligation under the Lisbon treaty, but also a violation by the EU and its Member States of their respective legal obligations regarding human and fundamental rights. Behind the formal legal analysis, there is a reality, people suffering, people fearing of losing their livelihood, and people risking their way of life, at any time. And besides their legal obligations, **EU countries have a moral obligation.** The share of official development assistance of OECD countries going to the agricultural sector has sharply decreased in the last three decades, moving from 17% in the 80s to about 6% today.<sup>525</sup> This is what the UN Special rapporteur on the right to food reminds us:

*To a large extent, the rush towards farmland in developing countries is the results of our own failures [...] to adequately invest in agriculture and rural development in developing countries.*<sup>526</sup>

While acknowledging the difficulty to measure social effects and get precise data, this report presents very clear trends about the negative consequence of the EU biofuel policy. And this not an abstract view made for the purpose of this report; it is an opinion shared by many organisations, including NGOs but also international organisations, states and other actors who oppose biofuel mandates and subsidies. If

nothing is done, this opposition will only grow in the coming years, and civil society organisations and affected people will mobilise to defend their rights.

**It is thus time for the EU and EU Member States to act.** The issues at stake – human rights violations – are grave enough to expect that immediate action be taken. It cannot be waited that a few more thousands of people die of hunger or get evicted. And although action should be taken by several actors, Europe has a leading role to play; in the words of the Commission: “As a frontrunner in policy development, the EU has more scope to influence standard-setting environmental issues.”<sup>527</sup> Alternatives to agrofuels for road transport, such as electric vehicles, already exist or are to be invented, and are being investigated by the European Commission.<sup>528</sup> Without a doubt, the EU will be able to find socially and environmentally sustainable power model – and it will not accept that its energy is made on the back of human rights violations.

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## Annexes

### Annex I. Agreed biofuel projects in Senegal as of 21<sup>st</sup> April 2010

Raison sociale	Année	Produits et services	Origine Capital	Investissements	Emplois permanents locaux prévus	Emplois saisonniers locaux prévus	Site de production	Région	N° Agrément	Date Agrément	Superficie terrain	Nature droit commun	Capacité installée
<b>CARBIOL SENEGAL SARL</b>	2009	Biodiésel conditionné dans cuves et citernes des camions des sociétés spécialisés dans le transport d'hydrocarbures	95% France; 5% Sénégal	1,482,198,617	43	1500	Saly Portudal - Département de Mbour	Thiès	00998/09	29-Jan-09	3000 ha	Bail	14 369 684l biocarburant /an
<b>SOPREEF SARL (SOCIETE POUR LA PROMOTION DE L'ACCES A L'ENERGIE ET A L'EAU DANS LE DEPARTEMENT DE FOUNDIOUGNE)</b>	2008	Huile de jatropha	100% Sénégal	102,819,269	9	0	Sokone / Département de Foundiougne	Fatick	09103/08	20-Aug-08			Traitement de 1000t de graines de jatropha/an



<b>AFRICAN NATIONAL OIL CORPORATION SARL</b>	2009	Graines de jatropha; biocarburant (conditionnés des cuves et citernes des camions de transport d'hydrocarbures)	98% Italie; 2% Sénégal	7,613,798,876	43	4500	Communauté rurale de Ourour - Arrondissement de Ouadiour - Département de Gossas	Kaolack	02893/09	18-Mar-09	358 ha	Délibération communale rurale	47 898 945l biocarburant/an
<b>SBE SENEGAL SARL</b>	2007	Graines de Jatropha Curcas et Huile Végétale Biocombustible	100% Italie	412,755,000	7	0	Région de Thiès - Département de Tivaouane - Communauté rurale de Mérina	Thiès	10981/07	11-Dec-07	10000 m <sup>2</sup>	Mise à disposition d'une parcelle pour l'installation d'une pépinière au niveau du CNRA de Bambey.	500 tonnes de graines la première année et 550 tonnes la deuxième année Entre 2000 et 2500 tonnes d'huile végétale produite chaque année
<b>SOPREEF SARL (SOCIETE POUR LA PROMOTION DE L'ACCES A L'ENERGIE ET A L'EAU</b>	2009	Huile de jatropha	100% Sénégal	277,462,759	9	0	Sokone / Département de Foundiougne	Fatick	01074/09	30-Jan-09			

<b>DANS LE DEPARTEME NT DE FOUNDIoug NE)</b>													
<b>PLANTATIO N VERTE SARL</b>	2009	Biomasse comme combustibl es ds la production d'énergie mondiale (productio n et transforma tion de jatropha et autres biocombus tibles)	50% Angleter re; 25% Espagn e; 25% Allemag ne	3,010,000 ,000	199	1200	Lewa - Ndoumboul ene - Communaut é rurale de Mbane - Dpt de Dagana	Saint-Louis	06187/0 9	28-May- 09	20 000 ha	Affectation communau té rurale de Mbane suivant n°04/ARR MB/CR MB du 24/10/08	800 000t/an
<b>JTF (JATROPHA TECHNOLO GIC FARM SENEGAL) SARL</b>	2009	Jatropha curcas et huile; plantes oléagineus es; biocarbur ant et biodiesel	100 Italie	21,501,00 0,000	55	1667	Neteboulou	Tambacou nda	08093/0 9	25-Aug- 09	50 000 ha	Deliberatio n Communa uté rurale	1000t huile
<b>ITAL SENEGAL SARL</b>	2009	Graines de jatropha; biocarbur ant conditionn é ds cuves et citernes des camions	80% Italie; 20% Sénégal	3,301,238 ,288	39	30	Salguir / Diagnoum - Podor	Saint-Louis	11279/0 9	19-Nov- 09	10 000 ha	Attribution Conseil rural	47 898 945l /an de biocarburant

		de transport d'hydrocarbures											
<b>ITAL SENEGAL SARL</b>	2009	Graines de jatropha; biocarburant conditionné ds cuves et citernes des camions de transport d'hydrocarbures	Sénégal	3,301,238,288	39	30	Salguir / Diagnoum - Podor	Saint-Louis	11279/09	19-Nov-09	10 000 ha	Attribution Conseil rural	47 898 945l /an de biocarburant
<b>BBE SA (BERTOLA BIO ENERGIE)</b>	2010	Jatropha; huile de jatropha; fertilisants	100% Italie	6,000,000,000	100	600	Communauté rurale de Mbadakhoun	Kaolack			1000 ha	Délibération Conseil rural de Mbadakhoune	3000t/an
<b>Total</b>				<b>47,002,511,097 francs CFA</b>	<b>543</b>	<b>9,527</b>					<b>94,359 ha</b>		

**Annex II. Summary of large (2,000 – 100,000 ha) land allocations for agrofuels in the Office du Niger, Mali compiled by the Oakland Institute in 2011**

Source: The Oakland Institute, "Country Report: Mali" *Understanding Land Investment Deals in Africa (2011)*, p. 20-23.

Investor / Leaseholder*	Origin / Shareholders / Financing / Parent Companies	Surface (ha)	Details of the Investments	Stated purposes
Agroenerbio S.A.***	Mali	40,000		Agrofuels
Assil Meroueh	Ivory Coast	5,000		Jatropha
Baba Seid Bally (SBB BIO)	Burkina Faso	10,000		Company activity: "agriculture energy" Agrofuels
HUICOMA (GOUPE TOMOTA)	Mali - Tomota Group is owned by billionaire Alou Tomota - Financial partners have included International Finance Corporation (IFC) and AFD (Agence Française de Développement)	100,000	- In Sept. 2010, the PDG of the Office du Niger told the media no lease had been signed yet; Office du Niger map of Oct. 2010 shows allocation of 100,000 ha - No resettlement plan; Expropriations have been reported - Employment projections:~ 1,000	-Company says it will cultivate oleaginous crops (sunflowers, soya, peanuts, karité, jatropha) and produce comestible oils although jatropha is not edible - it says "surplus" can be sold to those wishing to make agrofuels

LONHRO Agriculture (Subsidiary of LONHRO Plc)	UK (London HQ)	20,000	Plans to develop a total of 100,000 ha.	Sugar / ethanol
SNF (Société N'Diaye et Frères)***	Mali	15,000		Oleaginous plants (probably for agrofuels)
Société Petrotech-ffn Agro Mali s.a 163 (Subsidiary of PetrOtech-ffn, Inc)	USA (Hyannis, MAHQ)	10,000	<ul style="list-style-type: none"> <li>- Ordinary tenancy agreement of 30 years</li> <li>- Can sub-lease</li> <li>- Claims 100 direct jobs to be created</li> </ul>	-Jatropha (9,500 ha) to be sold in Europe or supply the company's agrofuel plant in Egypt
SOCIMEX 164	Mali	10,000	<ul style="list-style-type: none"> <li>-Intends to “mobilise smallholders” on 10,000 ha to produce jatropha</li> <li>-Claims 1,000 jobs will be created</li> </ul>	Jatropha

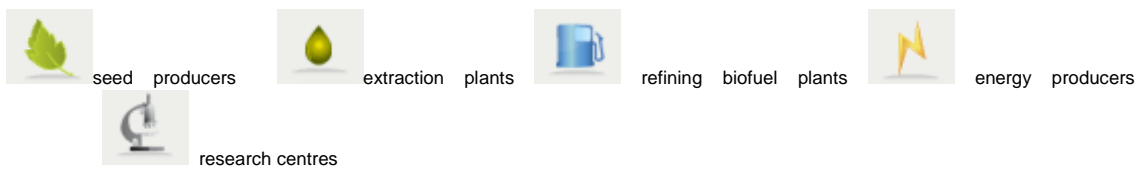
<p>SoSuMar 165</p> <p>Local company CaneCo to be created in Mali by SoSuMar (Société Sucrière de Markala) with Illovo Group Holdings Ltd. (IGHL) as majority shareholder Public-private partnership with Govt of Mali</p>	<p><i>South Africa</i></p> <p>(Illovo Group Holdings Ltd. is also registered in Mauritius &amp; Louisiana, USA) - <i>Shareholders SoSuMar</i> include Govt Mali (6%) &amp; Schaffer &amp; Associates International (SAIL)</p> <p><i>Project developers:</i> Malian Ministry of Industry &amp; Commerce, through SAIL <i>Other Sponsors:</i> USAID co- funding sugarcane trials with Schaffer &amp; Associates and the Govt of Mali</p> <p><i>Lead Commercial Financial Institutions</i> TBD</p> <p><i>Public Sector support:</i> World Bank, ADB, IFAD, Islamic Development Bank, OPEC Fund, Banque Ouest Africaine de Développement</p> <p>Export Credit Agencies: US Ex-Im Bank, US Trade and Development Agency (USTDA) for feasibility study funding, Export Credit Insurance Corporation of South Africa, Bilateral Development Agencies (e.g., OPIC, KfW) Saudi Fund, Kuwaiti Fund, Proparco, IDC</p>	<p>39,538 (total)</p>	<p>- Agreement (long term lease) signed 27 June 2007, between Govt of Mali and ILLOVO Group Holdings Ltd./Schaffer &amp; Associates International LLC -50 years (renewable)</p> <p>-Original lease for 17,000 ha, with right to extend (Oct 2010 Office du Niger map shows total of 39,538 ha)</p> <p>- Must employ 5,000 according to Agreement (“Convention”); SoSuMar foresees 7,200</p> <p>-Project running behind schedule</p>	<p>-Sugar &amp; ethanol</p> <p>Original agreement for 17,000 ha says:</p> <p>-195,000 T sugar/year</p> <p>-15 million litres ethanol/year</p>
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\* Source for investor names and allocated hectares: Office du Niger map of 16 Oct. 2010

\*\* Actual holdings in Office du Niger, shown on Office du Niger map, Oct. 2010, not including expansion plans noted by companies.

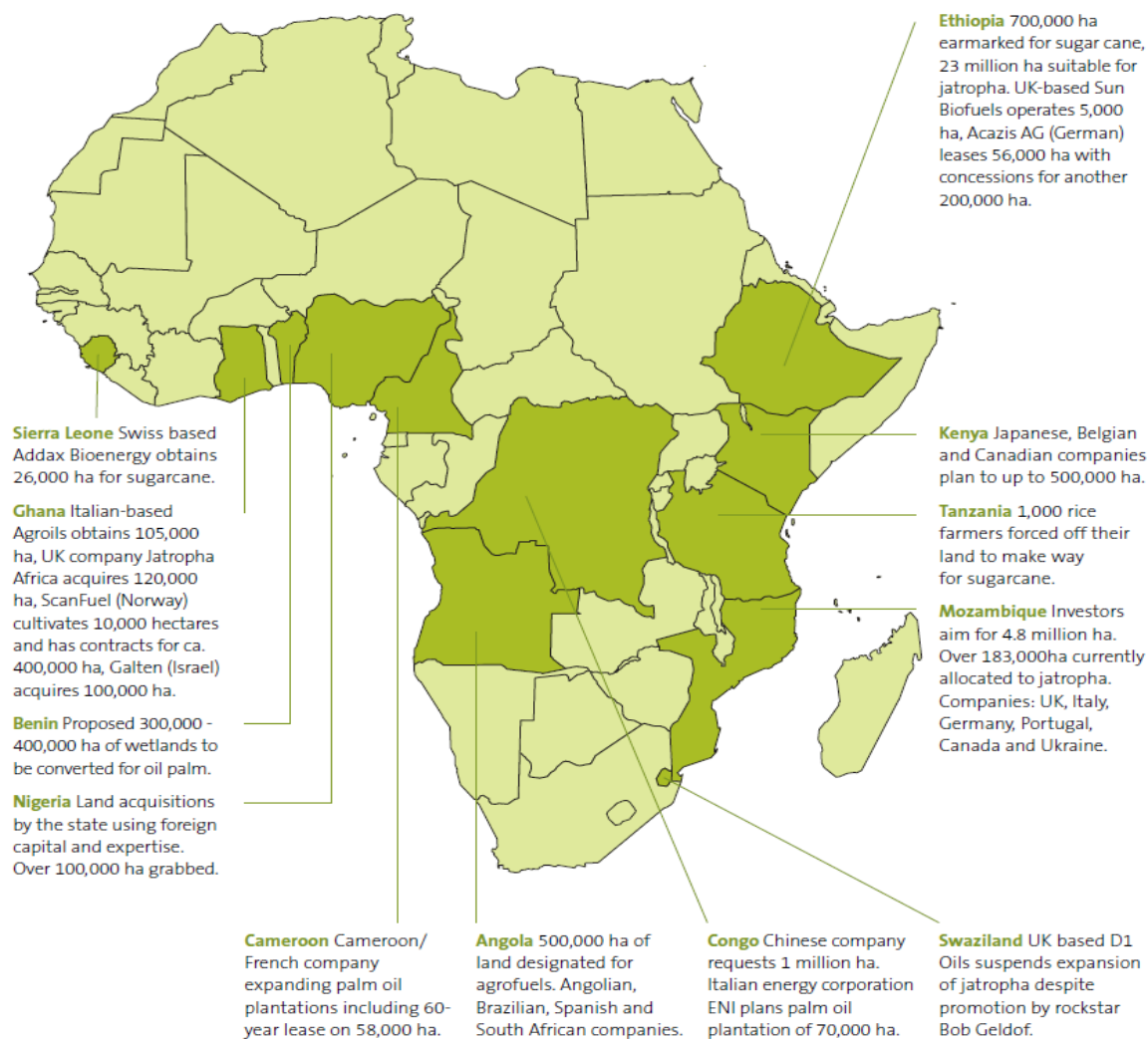
\*\*\* Leases reported resiliated

### Annex III. Jatropha related projects in Africa listed by Jatrophabook



## Annex IV. Agrofuel projects in Africa with European involvement

**FIGURE 4 EXAMPLES OF REPORTED CASES OF LAND GRABBING AND AGROFUEL DEVELOPMENTS ACROSS AFRICA COMPILED BY FRIENDS OF THE EARTH<sup>529</sup>**



In a 2010 report, ActionAid had calculated that EU companies had already secured or requested at least 5 million hectares of land for agrofuels in developing countries – which is it considers is a conservative estimate.<sup>530</sup> The European Commission itself “is aware of increased investor interest in land for food and biofuel production, including in Ethiopia where around 1.2 million hectares of land has been transferred to domestic and foreign investors”.<sup>531</sup>

In his report on his field visit to Benin, the UN Special Rapporteur on the right to food noted:

*The pressure on the land, referred to in the previous section, could become still greater in the future, given the planned expansion of agrofuel production. At the time of the mission, Benin was actively seeking investors for large-scale projects in addition to the energy*



*services delivery project of the Directorate-General for Energy, which seems prompted by a genuine desire for integrated rural development. A plan for the development of the agrofuel industry, still under elaboration during the mission, would provide for the transfer of large areas of arable land to foreign investors for the production of agrofuels. The Italian company Green Waves has reportedly secured the exploitation of 250,000 hectares for sunflower cultivation; the French firm Géocoton (formerly Dagrís) has begun to produce agrofuels from seed cotton; and information has been received on a project to turn over 400,000 hectares to palm oil cultivation in the south of Benin in order to produce biodiesel for export by foreign investors.<sup>532</sup>*

Data coming from companies confirm this trend. The International Sustainability and Carbon Certification – a bioenergy certification agency recognised by the European Commission as a voluntary scheme valid to import biofuels to the EU – confirmed that “at the moment, there are on-going activities with certification for jatropha from Africa, South America and Asia, in different states of development”.<sup>533</sup> The websites of companies explicitly state they have made large-scale biofuel related investments in African land:

- The Italian Nuove Iniziative Industriali Srl acquired 50,000 ha in Senegal.<sup>534</sup> Overall, the company has announced to have acquired 840,000 ha in 4 African countries (including Kenya) to produce biofuels for the European market;<sup>535</sup>
- The British GEM BioFuels “has entered into 18 agreements with Communes in relation to 452,500 hectares of land suitable for the establishment of plantations in Madagascar, which provide it with the exclusive right to establish Jatropha plantations on the land. To date approximately 55,700 hectares have been planted.”<sup>536</sup>
- The Swiss Addax Bioenergy is exploiting 14,300 ha in Sierra Leone to produce ethanol partly for export.<sup>537</sup>
- The French company Tereos has sugar cane plantations in Mozambique,<sup>538</sup> where it would exploit 98,000 ha until 2023.<sup>539</sup>

*The Guardian* also compiled a database of biofuels projects in Africa with the help of the University of California Berkeley's Africa Reporting Project, which shows that European companies are major actors in investing for agrofuels in Africa. The independent research cross-checked projects, and identified 3.2m hectares of land acquired for biofuel production in Africa – in countries from Mozambique to Senegal – half of which is linked to 11 British companies (see Table 2 and Table 3)<sup>540</sup>. This reliable data revealed by *The Guardian* demonstrates the role of European investors in acquiring land for biofuels in Africa.

**TABLE 2 UK COMPANIES INVOLVED IN PRODUCING BIOFUELS IN AFRICAN COUNTRIES ACCORDING TO THE GUARDIAN<sup>541</sup>**

UK Company	Land concession (hectares)	Countries with land concessions
Crest Global Green Energy	900,000	Guinea, Mali, Senegal
Gem Biofuels	452,500	Madagascar
Equatorial Biofuels plc	80,000	Liberia
Kavango Bioenergy Ltd	70,000	Namibia
Jatropha africa	50,000	Ghana
Cams Group	20,000	Tanzania
Principle energy	20,000	Mozambique
Sun Biofuels	13,000	Mozambique, Tanzania
D1 Oils	5000	Malawi, Zambia
Sustainable Agroenergy	n.a.	Senegal

**TABLE 3 ORIGIN OF SOME COMPANIES INVESTING IN BIOFUELS IN AFRICAN COUNTRIES ACCORDING TO THE GUARDIAN<sup>542</sup>**

Country of origin	Number of companies	Countries with land concessions
UK	11	Ghana, Guinea, Liberia, Madagascar, Malawi, Mali, Mozambique, Namibia, Senegal, Tanzania, Zambia.
Italy	7	Congo Brazzaville, Ethiopia, Ghana, Guinea, Kenya, Senegal.
Germany	6	Ethiopia, Ghana, Madagascar, Mali, Kenya, Tanzania, Zambia.
France	6	Benin, Burkina Faso, Cameroon, Guinea, Mali, Mozambique Senegal, Togo
USA	4	Burkina Faso, Ethiopia, Mali, Mozambique, Kenya, Tanzania, Sierra Leone, Togo, Uganda
Canada	4	DR Congo Malawi, Mozambique, Kenya, Zambia
Scandinavian countries	4	Ghana, Tanzania
Belgium	3	Cameroon, Ethiopia, Tanzania
Switzerland	3	Malawi, Kenya, Sierra Leone
Netherlands	2	Tanzania
Cyprus	1	Ghana, Ivory Coast

Further evidence can be found in the following table produced by the Africa Europe Faith and Justice Network, which has collected information about investments of EU companies in agrofuels in African countries.

Source: Africa Europe Faith and Justice Network, "Impacts of some EU companies involved in large piece of land acquisition for biofuels investment in African countries" (March 2011), available at [http://www.aefjn.org/index.php/resources/articles/impacts-of-some-eu-companies-involved-in-large-piece-of-land-acquisition-for-biofuels-investment-in-african-countries.html?file=tl\\_files/aefjn-files/Food%20sovereignty/Biofuels/00%20110301%20Table%20of%20impacts%20of%20EU%20agrofuels%20companies%20in%20Africa%20by%20AEFJN.pdf](http://www.aefjn.org/index.php/resources/articles/impacts-of-some-eu-companies-involved-in-large-piece-of-land-acquisition-for-biofuels-investment-in-african-countries.html?file=tl_files/aefjn-files/Food%20sovereignty/Biofuels/00%20110301%20Table%20of%20impacts%20of%20EU%20agrofuels%20companies%20in%20Africa%20by%20AEFJN.pdf)

(Alphabetically classified by Target country)

Some data are based on the IFPRI study supported by CGIAR: "*Land Grabbing*" by Foreign Investors in Developing Countries: Risks and Opportunities" by Joachim von Braun and Ruth Meinzen-Dick, April 2009, collection IFPRI Policy Brief 13 <http://www.ifpri.org/sites/default/files/bp013Table01.pdf>

Investor country	Investor	Target country	Nature of deal	Status of deal	Date announced /signed	Consequences for people
FRANCE	Total, Suez	BURKINA FASO Comoé, Koumpoungou, Mouhoun	20 500 Ha Jatropha	Pilot project of electricity	2009	Jatropha is an invasive and poisonous plant. No different crop allowed during 10 years after jatropha culture Productivity of Jatropha requires huge amounts of water, a resource that is already in short supply in this region.
FRANCE ~ BELGIUM LUXEMBO URG	Socapalm partner of Groupe Bolloré France & Fabri	CAMEROUN	104 527 ha Oil Palm exploited + 18 265 ha of private planters	subcontractors Privatisation of state company Socapalm	2000	Eviction without compensation Bad working conditions Violence when contestation No respect of social and environmental commitments

Investor country	Investor	Target country	Nature of deal	Status of deal	Date announced /signed	Consequences for people
	BELGIUM & Socfinal LUXEMBOURG					Pollution of water supplies Bolloré doesn't take responsibility for activities of its
ITALY	ENI	REP. POP. CONGO SOUTH-WEST	"Tar sands" and palm oil in Congo Bassin near Pointe- Noire	No prior information and no consultation of people concerned Contract signed between ENI and government	2009	Lack of transparency on evolution and content of the agreement between Government and ENI No information and no consultation of people concerned (governance in Congo BZV is not good and population human rights are not respected) Displacement of people and economic activities Irreversible damage to biodiversity and environment Pollution of soils

GERMANY	Flora EcoPower	ETHIOPIA Oromia Regional State Harar Regional State	13,000 ha secured for biofuels crops: one part is granted to FloraEP (8,000 ha) and one part is under contract farming with more than 80,000 farmers	Arrangement signed for 5-years plan that targets an production of 700,000 ton of oil by 2011 high-	annual 2006/7	Decrease of availability of water in regions where water resource is already scarce. Threat to food by : a. Farmers under pressure dedicated the land used to grow food, to produce oil for FloraEcoPower, but company
<b>Investor country</b>	<b>Investor</b>	<b>Target country</b>	<b>Nature of deal</b>	<b>Status of deal</b>	<b>Date announced /signed</b>	<b>Consequences for people</b>
			Hope to use over 60,000 ha	quality castor oil for the German market		cash shortage prevented them to keep its promises. As consequence in 2009/2010, 40 lawsuits were brought against FEP.  b. Loss of biodiversity by importing hybrid castor seed from China without any regulation (castor seed is used for food)
UNITED KINGDOM	Sun Biofuels	ETHIOPIA	About 23mi. Ha of land secured for jatropha (biofuel) + 85,000 ha to cultivate	Deal implemented	castor seeds  2005	Some of these areas are highly populated and cultivated for food by small-farmers  People are moved away from services (schools, health centre, market) and loose access (road)

NORWAY	BioFuel Africa, subsidiary of Biofuel Norway	GHANA, Northern region	38 000 hectares of land owned by villagers acquired	Contract firstly signed with  without consultation of members of the community	illiterate chief~s thumb print 2007	Loss of land  Loss of incomes and resources from forest  BiofuelNorway started to operate before having got all authorizations required by law in Ghana  Broken promises of employment, income and compensation  More than 50 villagers have been obliged to abandon Kpachaa village to seek for new jobs and livelihoods
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Investor country	Investor	Target country	Nature of deal	Status of deal	Date announced /signed	Consequences for people
						NB: RAINS, local NGO intervened; through legal recourse, RAINS forced BioFuelAfrica to stop its operations and to start again the negotiations legally and with all stake holders concerned
SWEDEN	Sekab  (SWEDEN for 200 10 <sup>6</sup> euros) Government of Ghana and Brazil (for	GHANA  at the northern tip of Volta Lake, about 100 kilometers south of Tamale.	refinery  30 000 ha Sugar Cane	Exportation of ethanol to Sweden by the end of 2010 as  handle the whole produced  volume during a ten-year period, starting 2010	Sekab will  May 2008	Sekab deprived rural population from land and water resources when faced with the food crisis  Shortening and pollution of water because of sugar cane crops
UNITED KINGDOM	Sun Biofuels	MOZAMBI- QUE  Manica province	Land secured for jatropa (biofuel)  40 000 ha of jatropa on agricultural land of great quality	Contract giving right of use for 99 years	2008	Farmers dispossessed of this land for more than two generations  Unequal competition for water in regions where farmers are short of water and people lack clean water

SWEDEN	Sekab Svensk	MOZAMBI- QUE	100,000 ha secured for biofuels crops annual production of		2008	Deforestation => loss of income for people, loss of biodiversity, damage to ecosystem and to
<b>Investor country</b>	<b>Investor</b>	<b>Target country</b>	<b>Nature of deal</b>	<b>Status of deal</b>	<b>Date announced /signed</b>	<b>Consequences for people</b>
	Etanolkemi AB		100,000 cubic meters of ethanol due to go on line between 2010		2012	water cycle and carbon cycle  Sekab finances its biofuels operations in Mozambique with aid funds  Weak consultations with local communities and interests and lack of transparency around contracts in spite of the fact that customary and village land is protected by law
UNITED KINGDOM	T4M (Trans4matio n Agric-tech)	NIGERIA	10 000 ha for biofuels crops		2009	People lost land traditionally used for farming



SWEDISH	<p>SEKAB Bioenergy Tanzania Ltd (a major bioethanol producer)</p>	SWEDISH TANZANIA In coastal forest	roughly 22,000 ha in Bagamoyo District and up to several hundred thousand hectares of village land planned for acquisition in Rufiji District	Seed cane planted and irrigation reservoir built	2009	<p>SEKAB had tampered with the conclusions of an environmental impact study carried out by Orgut. He obtained the TZ government's authorisation of operating by submitting the tampered impact assessment study.</p> <p>Sekab violates the traditional land-rights of poor people. Sekab finances its biofuels operations in Tanzania with aid funds</p> <p>Displacement of villagers in a country where 40 years ago people were concentrated in villages to have access to services:</p>
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Investor country	Investor	Target country	Nature of deal	Status of deal	Date announced /signed	Consequences for people
						<p>- Loss of access to services (school, health center, market) - Loss of access because moved far away from roads</p> <p>Villagers in Rufiji and Kisarawe commented that the promises made to them: social services and employment, were not mentioned in the written contracts with the investor</p> <p>Food security threatened by sugar plantations that consume huge quantities of scarce water and that pollute soil and coral reefs (=&gt; damaged fishery).</p>
UNITED KINGDOM	CAMS Group	TANZANIA	45,000 ha purchased for sweetsorghum (biofuel)	Deal implemented	2007	<p>Loss of land, water and other resources threaten food security for farmers and rural population</p> <p>Loss of access to services (education, health, roads, markets) for people moved from villages</p>

KINGDOM		Kisarawe district	jatropha (biofuel)			(11 villages)
BELGIUM	Felisa (Tanzania-BELGIUM)	TANZANIA	hybrid oil palm in Kigoma Region, and targeting production of 10,000 ha of oil palm in the region	4,258 ha acquired (5000 ha originally requested)	2009	Land dispute in court for extra 350 ha obtained from 2 villages by Felisa in the absence of the legally required "Environment Impact Assessment". (2009)
<b>Investor country</b>	<b>Investor</b>	<b>Target country</b>	<b>Nature of deal</b>	<b>Status of deal</b>	<b>Date announced /signed</b>	<b>Consequences for people</b>
UNITED KINGDOM	Sun Biofuels	TANZANIA	8,211 ha acquired in Kisarawe  District for Jatropha plantation (some 70 kilometers from Dar es Salaam)	8,211 ha acquired (50,000 ha originally requested)	2009  Land status: transferred from village to general land (Feb 2009)	Directly or indirectly affected over 10,000 villagers resident in 12 villages that allocated land  On March 15, 2010, some villagers had not been compensated for their land, while others had received too little money for loss of land and loss of resources from this land.  Loss of access to water sources and lack of a shortcut to neighbouring villages where their family live.  Loss of biodiversity

UNITED KINGDOM	D1 Oils	ZAMBIA 45,000 Ha in Chongwe district. 15,000 Ha, in Northern  600 hectares in North Western and Eastern Provinces	Province Jatropha  for	Biodiesel. Contracts are signed with farmers, as well as working through NGOs in the Southern region of the country	2007	Out grower schemes in Zambia "have a history of keeping farmers at a disadvantage : perpetuated poverty and in some cases even increased the poverty situation » (Catholic Centre for Justice, Development and Peace, 2006)
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Finally, a number of cases studies and media report also confirm that there is a **growing trend of production of biofuels in Africa for the EU market.**<sup>543</sup> Some companies such as Jatropha Africa are specifically focusing on growing biofuel feedstock in Africa, and have stated that they already import to the EU.<sup>544</sup> The biofuel production of Addax Bioenergy in Sierra Leone will, according to the company itself, be partly for export to European markets (see also Box 4).<sup>545</sup> The World Bank noted in 2011 that “recently, a surge in demand for sugar and biofuels sparked great interest in sugarcane, either to supply protected and subsidized European markets, as in Malawi, South Africa, Swaziland, Zambia, and Zimbabwe, or to benefit from domestic subsidies, as in Sudan.”<sup>546</sup>

## Annex V. Efforts regarding land grabbing

### 1. The European Parliament and EU Member States

**The European Parliament** has expressed several times its concerns about the land grabbing phenomenon. MEPs have asked several questions about issues of land grabbing in developing countries, and in particular in Africa, including specific questions about “land grabbing in developing countries”,<sup>547</sup> the “exploitation of farmland in Africa by European companies”<sup>548</sup>

The Directorate-General for External Policies of the parliament released a report in March 2011 which recommends, amongst other things, to include social standards in the sustainability criteria and to strengthen the role of human rights in international agreements and treaties.<sup>549</sup> However, to date, the European Parliament does not seem to have concretely followed up on these topics.

Some **EU Member States** have also taken steps to address land grabbing. France, in particular, has been pro-active. A report led by the Technical Committee on “Land Tenure and development” was released in June 2010<sup>550</sup> together with a position paper of the Ministry of Foreign and European Affairs.<sup>551</sup> This paper outlines the position of France which consists of three themes: 1) develop knowledge and expertise on land issues, 2) reinforce global governance on land issues, including by going beyond voluntary measures, and 3) better integrate land issues in development assistance.

### 2. The European Commission

The European Commission has indicated that it fully and explicitly acknowledges the increasing number of large-scale investments in agricultural land in developing countries and their potential negative impacts.

*The Commission is aware of increased investor interest in land for food and biofuel production, including in Ethiopia where around 1.2 million hectares of land has been transferred to domestic and foreign investors.*

*The Commission takes very seriously the possible social, economic and environmental impacts of large-scale investments in agricultural land in developing countries.*<sup>552</sup>

As an immediate response, the Commission specified that it uses **high-level dialogue** as one of the tools to address the issue. For instance, land grabbing was discussed with the government of Ethiopia during the visit of the Commissioner responsible for Development in January 2011.<sup>553</sup> The EU also contributes to capacity-building of civil society organisations and networks in Africa through funding, as for example for the International Land Coalition, with the aim of promoting secure access to land and other resources.<sup>554</sup>

In 2010, the EU committed to support the implementation of the **2009 Land Policy Guidelines** in Africa.<sup>555</sup> These guidelines, which were developed during three years by the African Union Commission, the United Nations Economic Commission for Africa and the African Development Bank, were formally adopted by Heads of States and Government of the African Union in July 2009. They give an overview of the historical,

political, economic and social background of the land question in Africa, describe the role of land in attaining economic development and poverty reduction, and outline how the land sector should perform its role in the development process. They represent, according to their authors, “a consensus on land issues; and serve as a basis for commitment of African governments in land policy formulation and implementation and a foundation for popular participation in improved land governance”.<sup>556</sup> The European Commission committed to launch a joint initiative with the African Union to accelerate the implementation of these Guidelines, including a roadmap to implement principles and best practices for sustainable large scale investments in farm land.<sup>557</sup> So far, a 9 million euros contribution from the EU has been made for the implementation of the Africa land policy project, called ‘Capacity building in support of land policy development and implementation in Africa’.<sup>558</sup>

The EU follows and counts on international initiatives, such as the ‘Voluntary guidelines on governance of tenure of land and other natural resources’ which is currently discussed at the FAO, to find solutions to land grabbing.<sup>559</sup> The European Commission announced that it would support the development of **principles for responsible investment in agricultural land**.<sup>560</sup> These principles will build upon the 2004 EU Land policy guidelines, which were drafted in 2004 by an ad-hoc EU Working Group on Land Issues, group which was re-activated in January 2009. They seem to be similar to the Responsible Agro-Investments principles (RAI) defended by the World Bank,<sup>561</sup> which are backed by the European Commission.<sup>562</sup> Yet, the RAI have been strongly opposed by NGOs and farmers’ organisations. In an April 2010 statement, more than 100 organisations denounced the World Bank’s principles for responsible investments as a way to support further land grabbing by trying to reduce the risks of social backlash. These principles create the risk to legitimise land grabbing by creating the illusion that the diversion of small-scale farming into commercial exploitation can proceed without tragic consequences to peoples, communities, eco-systems and the climate.<sup>563</sup> The United Special Rapporteur on the right to food expressed similar concerns, arguing that “it is regrettable that, instead of rising to the challenge of developing agriculture in a way that is more socially and environmentally sustainable, we act as if accelerating the destruction of the global peasantry could be accomplished responsibly”.<sup>564</sup>

The position of the Commission on the RAI reveals more generally its views on land grabbing: it acknowledges the phenomenon, but it believes that large-scale land deals can be beneficial to developing countries, that it is crucial that investments are not discouraged, and that it is up to host countries to make efforts to ensure investments are sustainable.

*The Commission believes that potential problems stemming from foreign investment on local livelihoods, political stability, local food security, equity, good governance and environmental sustainability should be addressed through suitable policy measures that will not discourage investment, but rather enhance its quality. [...]*

*Significant efforts need to be made at national level in host countries to ensure an institutional and legal environment which*

*is conducive to responsible domestic and foreign direct investment in agriculture.*<sup>565</sup>

This approach however ignores the constraints that developing countries have to face, and in particular the pressure from large investors. It is also a middle or long-term approach, which does little to stop the immediate harm.

If noteworthy efforts have been made by the EU and EU Member States to tackle land grabbing, showing that they start taking the issue seriously, it is far from being sufficient to make a difference and stop the phenomenon. This is all the more problematic as the EU has not adequately modified its biofuel policy to avoid the dramatic socio-economic effects it has in developing countries.



## Endnotes

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<sup>2</sup> A. Graham, S. Aubry, R. Künnemann and S. Monsalve Suárez, “Land Grab Study” FIAN International (2010).

<sup>3</sup> European Commission, “An EU policy framework to assist developing countries in addressing food security challenges” COM(2010)127 (31 March 2010); Council of the European Union, “Council conclusions on an EU policy framework to assist developing countries in addressing food security challenges” 3011th foreign affairs council meeting, (10 May 2010).

<sup>4</sup> Hilhorst, T., Nelen, J., and Traoré, N., 2011, Agrarian change below the radar screen: Rising farmland acquisitions by domestic investors in West Africa - Results from a survey in Benin, Burkina Faso and Niger, Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.

<sup>5</sup> E.g. the Tirana Declaration (May 2011) of the International Land Coalition defines land grabbing as “acquisitions or concessions that are one or more of the following: (i) in violation of human rights, particularly the equal rights of women; (ii) not based on free, prior and informed consent of the affected land-users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation.” See <http://www.commercialpressuresonland.org/research-papers/tirana-declaration-declaraci%C3%B3n-de-tirana-d%C3%A9claracion-de-tirana>

<sup>6</sup> This focus is noted for instance in S. M. Borras Jr and J. C. Franco, “Global Land Grabbing and Trajectories of Agrarian Change: A preliminary Analysis” 12 (1) Journal of Agrarian Change (January 2012), p. 48.

<sup>7</sup> S. M. Borras Jr and J. C. Franco, “Global Land Grabbing and Trajectories of Agrarian Change: A preliminary Analysis” 12 (1) Journal of Agrarian Change (January 2012), notably p. 50.

<sup>8</sup> T. Rice, “Meals per gallon: The impact of industrial biofuels on people and global hunger” ActionAid (January 2010), p. 8. See also the difference made by Friends of the Earth: “The term ‘agrofuels’ describes the liquid fuels derived from food and oil crops produced in large-scale plantation-style industrial production systems. These agrofuels are blended with petrol and diesel for use primarily as transport fuel. Biofuels on the other hand, refer to the small-scale use of local biomass for fuel”: Friends of the Earth Europe, “Africa: up for grabs” (June 2010), p. 8.

<sup>9</sup> T. Rice, “Meals per gallon: The impact of industrial biofuels on people and global hunger” ActionAid (January 2010), p. 8.

<sup>10</sup> European Parliament and Council Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, Article 2 (i).

<sup>11</sup> United Nations Special Rapporteur on the right to food, Jean Ziegler, “The impact of biofuels on the right to food. Protection gaps for people fleeing from hunger” A/62/289 (22 August 2007), para. 25.

<sup>12</sup> K. Deininger, D. Byerlee, J. Lindsay, A. Norton, H. Selod, M. Stickler, “Rising Global Interest in Farmland. Can it Yield Sustainable and Equitable Benefits?” World Bank (2011).

<sup>13</sup> K. Deininger, D. Byerlee, J. Lindsay, A. Norton, H. Selod, M. Stickler, “Rising Global Interest in Farmland. Can it Yield Sustainable and Equitable Benefits?” World Bank (2011), p. 62.

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<sup>14</sup> Based on the map in R. Arezki, K. Deiniger, H. Selod “La ‘course aux terres’. Quelques éclairages empiriques” 2011/1(237) *Afriques Contemporaine* (2011), p. 133.

<sup>15</sup> R. Arezki, K. Deiniger, H. Selod “What drives the global land rush?” IMF Working Paper WP/11/251 (2011), p. 13.

<sup>16</sup> HLPE, “Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security” FAO Committee on World Food Security (July 2011), chapter 2.

<sup>17</sup> Deininger, K., Byerlee, D., Lindsay, J., Norton, A., Selod, H., Stickler, M., “Rising Global Interest

in Farmland. Can it Yield Sustainable and Equitable Benefits?” World Bank (2011), p. 15.

<sup>18</sup> It should be noted here that what is essential is debatable: over consumption of food (for instance by eating a lot of meat, or by wasting important quantities) can for instance be criticised, and should, at least, not be considered as an “essential” need.

<sup>19</sup> E.g. G. Fischer, E. Hizznyik, S. Prieler & D. Wiberg, “Scarcity and abundance of land resources: competing uses and the shrinking land resource base” FAO SOLAW Background Thematic Report - TR02 (2011), p. 34.

<sup>20</sup> E.g. G. Fischer, E. Hizznyik, S. Prieler & D. Wiberg, “Scarcity and abundance of land resources: competing uses and the shrinking land resource base” FAO SOLAW Background Thematic Report - TR02 (2011).

<sup>21</sup> G. Fischer, E. Hizznyik, S. Prieler & D. Wiberg, “Scarcity and abundance of land resources: competing uses and the shrinking land resource base” FAO SOLAW Background Thematic Report - TR02 (2011), p. 36.

<sup>22</sup> E.g. HLPE, “Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security” FAO Committee on World Food Security (July 2011), p. 23.

<sup>23</sup> G. Fischer, E. Hizznyik, S. Prieler & D. Wiberg, “Scarcity and abundance of land resources: competing uses and the shrinking land resource base” FAO SOLAW Background Thematic Report - TR02 (2011), p. 39.

<sup>24</sup> Deininger, K., Byerlee, D., Lindsay, J., Norton, A., Selod, H., Stickler, M., “Rising Global Interest

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<sup>25</sup> E.g. L. Cotula, “Land deals in Africa: What is in the contracts” International Institute for Environment and Development (January 2011).

<sup>26</sup> See also W. Anseeuw, L. Alden, L. Cotula, M. Taylor, “Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project” IIED, CIRAD and ILC (January 2012).

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<sup>29</sup> Oxfam, “Land and power: The growing scandal surrounding the new wave of investments in land” Oxfam briefing paper 151 (22 September 2011), p. 6.

<sup>30</sup> Ruth Meinzen Dick, IFPRI, recently said that “in 2009 the balance of costs and benefits was genuinely unclear. Now [...] the burden of evidence has shifted and it is up to the proponents of land deals to show that they work.” Quoted in *The Economist*, “The surge in land deals: when others are grabbing their land” (5 May 2011), <http://www.economist.com/node/18648855> (accessed on 11 February 2012).”

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- <sup>31</sup> For an overview of the instruments relevant to international investments in land, see HLPE, “Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security” FAO Committee on World Food Security (July 2011), chapter 5.
- <sup>32</sup> See <http://www.dakarappeal.org/>.
- <sup>33</sup> Resolution of the members of the Committees on Agriculture, Natural Resources, Rural Economy and Environment of the Pan African Parliament issued in Midrand, South Africa on 22 July 2011 on the occasion of the workshop “*Making investment Work for Africa: a Parliamentarian response to land grabbing*”; organized by the Pan African Parliament.
- <sup>34</sup> Land Policy Initiative, Nairobi Action Plan on Large scale land-based investments in Africa (October 2011).
- <sup>35</sup> R. Arezki, K. Deininger, H. Selod “What drives the global land rush?” IMF Working Paper WP/11/251 (2011), p. 20.
- <sup>36</sup> Interview with Agence France Press reported in News24, “Foreign land buying in Africa slammed” (8 December 2011), <http://www.news24.com/SouthAfrica/Politics/Foreign-land-buying-in-Africa-slammed-20111207> (accessed on 12 February 2012).
- <sup>37</sup> HLPE, “Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security” FAO Committee on World Food Security (July 2011), p. 17.
- <sup>38</sup> E.g. P. Burnod, H. Papazian, A. Adamczewski, P-M. Bosc, J-P. Tonneau, and J-Y. Jamin “Régulations des investissements agricoles à grande échelle : Études de Madagascar et du Mali” 237 *Afrique contemporaine* (2011).
- <sup>39</sup> K. Deininger, D. Byerlee, J. Lindsay, A. Norton, H. Selod, M. Stickler, “Rising Global Interest in Farmland. Can it Yield Sustainable and Equitable Benefits?” World Bank (2011), p. 63.
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- <sup>42</sup> The Oakland Institute, “Deciphering Emergent’s investments in Africa” Land deal brief (June 2011).
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- <sup>47</sup> Oxfam, “Land and power: The growing scandal surrounding the new wave of investments in land” Oxfam briefing paper 151 (22 September 2011), p. 35.
- <sup>48</sup> Thomas Molony and James Smith, “Briefing: Biofuels, Food Security, and Africa” (2010) 109 *African Affairs* 489, p. 489.
- <sup>49</sup> Tim Rice, “Meals per gallon: The impact of industrial biofuels on people and global hunger” ActionAid (January 2010), p. 9.
- <sup>50</sup> Ibid.
- <sup>51</sup> EuropeAid, “Position paper on Biofuels for the ACP-EU Energy Facility” (2009), p. 1.
- <sup>52</sup> Tim Rice, “Meals per gallon: The impact of industrial biofuels on people and global hunger” ActionAid (January 2010), p. 32.

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<sup>54</sup> HLPE, “Price volatility and food security” High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security (Rome, July 2011), p. 32.

<sup>55</sup> FAO, IFAD, IMF,OECD, UNCTAD, WFP, the World Bank, the WTO, IFPRI and the UN HLTF, “Price Volatility in Food and Agricultural Markets: Policy Responses” (June 2011), p. 26.

<sup>56</sup> International Energy Agency, “Technology Roadmap: Biofuels for Transport” (2011), p. 10.

<sup>57</sup> Govinda R. Timilsina and Ashish Shrestha, “Biofuels: Markets, Targets and Impacts” World Bank Policy Research Working Paper Series 5364 (July 2010), p. 11-13; HLPE, “Price volatility and food security” High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security (Rome, July 2011), p. 32; International Food Policy Institute (IFPRI), “Global Trade and Environmental Impact Study of the EU Biofuels Mandate” Study for the Directorate General for Trade of the European Commission (March 2010), p. 107-110.

<sup>58</sup> G. R. Timilsina and A. Shrestha, “Biofuels: Markets, Targets and Impacts” World Bank Policy Research Working Papers WPS5364 (July 2010), p. 38.

<sup>59</sup> Sources: Tim Rice, “Meals per gallon: The impact of industrial biofuels on people and global hunger” ActionAid (January 2010), p. 32; Govinda R. Timilsina and Ashish Shrestha, “Biofuels: Markets, Targets and Impacts” World Bank Policy Research Working Paper Series 5364 (July 2010), p. 12; and International Food Policy Institute (IFPRI), “Global Trade and Environmental Impact Study of the EU Biofuels Mandate” Study for the Directorate General for Trade of the European Commission (March 2010), p. 114; International Energy Agency, “Technology Roadmap: Biofuels for Transport” (2011), p. 10-11.

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<sup>62</sup> Keijen van Eijk and Louise van Schaik, “Towards a comprehensive and innovative EU policy for biofuels” Cligendael Seminar Overview Paper for the Seminar on EU Biofuels Policy and its Contribution to a Bio-based economy (2010), p. 2.

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<sup>64</sup> European Parliament and Council Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

<sup>65</sup> European Commission, “Renewable Energy: Progressing towards the 2020 target” COM(2011), p. 6.

<sup>66</sup> Anna Jung, Philipp Dörrenberg, Anna Rauch, and Michael Thöne, “Biofuels – at what cost? Government support for ethanol and biodiesel in the European Union – 2010 Update” Global Subsidies Initiative (GSI) of the International Institute for Sustainable Development (IISD) (July 2010), p. 50; International Food Policy Institute (IFPRI), “Global Trade and Environmental Impact Study of the EU Biofuels Mandate” Study for the Directorate General for Trade of the European Commission (March 2010), p. 117.

<sup>67</sup> [http://ec.europa.eu/enterprise/policies/innovation/policy/lead-market-initiative/biobased-products/index\\_en.htm](http://ec.europa.eu/enterprise/policies/innovation/policy/lead-market-initiative/biobased-products/index_en.htm).

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<sup>68</sup> The Commission is preparing a "European Strategy and Action Plan towards a sustainable bio based economy by 2020": [http://ec.europa.eu/research/bioeconomy/policy/index\\_en.htm](http://ec.europa.eu/research/bioeconomy/policy/index_en.htm)

<sup>69</sup> The summary of the response to the consultation organised by the European Commission on a for example shows the importance of biofuels for this policy: [http://ec.europa.eu/research/consultations/bioeconomy/consultation\\_en.htm](http://ec.europa.eu/research/consultations/bioeconomy/consultation_en.htm). See also Keijen van Eijk and Louise van Schaik, "Towards a comprehensive and innovative EU policy for biofuels" Cligendael Seminar Overview Paper for the Seminar on EU Biofuels Policy and its Contribution to a Bio-based economy (2010), p. 4-5.

<sup>70</sup> RED, Article 3

<sup>71</sup> RED, Article 4. These action plans can be consulted at [http://ec.europa.eu/energy/renewables/transparency\\_platform/action\\_plan\\_en.htm](http://ec.europa.eu/energy/renewables/transparency_platform/action_plan_en.htm)

<sup>72</sup> For more details and examples of states' policies, see Anna Jung, Philipp Dörrenberg, Anna Rauch, and Michael Thöne, "Biofuels – at what cost? Government support for ethanol and biodiesel in the European Union – 2010 Update" Global Subsidies Initiative (GSI) of the International Institute for Sustainable Development (IISD) (July 2010), p. 53-55 and 60-61; International Food Policy Institute (IFPRI), "Global Trade and Environmental Impact Study of the EU Biofuels Mandate" Study for the Directorate General for Trade of the European Commission (March 2010), p. 110-119.

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<sup>76</sup> G. Fischer, E. Hizsnyik, S. Prieler, M. Shah and H.van Velthuizen, "Biofuels and food security" OPEC Fund for International Development (OFID) prepared the International Institute for Applied Systems Analysis (IIASA) (2009), p. 36.

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<sup>78</sup> European Commission, "Biofuels Progress Report: Report on the progress made in the use of biofuels and other renewable fuels in the Member States of the European Union" COM(2006) 845 final (10 January 2007), p. 10.

<sup>79</sup> <http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/everything-but-arms/>, (visited on 28 January 2012).

<sup>80</sup> D. Mitchell, *Biofuels in Africa: Opportunities, Prospects, and Challenges* (The World Bank, 2011), p. 84. See generally p. 100-101.



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<sup>82</sup> See generally [http://exporthelp.europa.eu/thdapp/display.htm?page=cd%2fcd\\_Introduction.html&docType=main&languageId=en](http://exporthelp.europa.eu/thdapp/display.htm?page=cd%2fcd_Introduction.html&docType=main&languageId=en)

<sup>83</sup> European Commission Directorate General for Trade, EU trade statistics for ACP Countries except South Africa, available at <http://trade.ec.europa.eu/doclib/html/113468.htm> (10 January 2012) (visited on 15 February 2012).

<sup>84</sup> <http://www.africa-eu-partnership.org/articles/recp-strategy-2020> and <http://www.africa-eu-partnership.org/articles/renewable-energy-cooperation-programme-recp>

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<sup>97</sup> It appears from the EBFTP’s website <http://www.biofuelstp.eu/overview.html>. This point is also made in J. Franco, L. Levidow, D. Fig, L. Goldfarb, M. Hönicke & M. L. Mendonça, “Assumptions in the European Union biofuels policy: frictions with experiences in Germany, Brazil and Mozambique” 37(4) Journal of Peasant Studies 661 (2010), p. 663.

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<sup>116</sup> P. Burnod, H. Papazian, A. Adamczewski, P-M. Bosc, J-P. Tonneau, and J-Y. Jamin, op. cit., p. 113 and The Oakland Institute, op. cit., p. 24.

<sup>117</sup> The Oakland Institute, op. cit., p. 15.

<sup>118</sup> The Oakland Institute, op. cit., p. 7-8.

<sup>119</sup> M. Goïta, op. cit.

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- <sup>141</sup> According to the ESIA, the public compensation process was conducted in the months of May 2007, January to April 2009 as well as in August 2009, cf. African Development Bank, op. cit., p. 14.
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<sup>417</sup> Such as Ukraine, in section 3.3.

<sup>418</sup> E.g. on Malawi “No information was found on land rights, gender impacts or small farmer’s biofuels use of biofuels/feedstock”, p. 529, or lack of information about employment, p. 130.



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<sup>475</sup> European Commission, “Policy Coherence for Development Work Programme 2010- 2013” SEC(2010)421 final (21 April 2010), p. 10.

<sup>476</sup> European Commission, “An EU policy framework to assist developing countries in addressing food security challenges” COM(2010)127 (31 March 2010), p. 9.

<sup>477</sup> European Commission, “Increasing the impact of EU Development Policy: and Agenda for Change” COM(2011)637 final (13 October 2011), p. 6.

<sup>478</sup> European Commission, “Energy Roadmap 2050” COM(2011)885/2, p. 18.

<sup>479</sup> European Commission, “Policy Coherence for Development Work Programme 2010- 2013” SEC(2010)421 final (21 April 2010), p. 17; European Commission, “Increasing the impact of EU Development Policy: and Agenda for Change” COM(2011) 637 final (13 October 2011), p. 9;

<sup>480</sup> More information on [http://ec.europa.eu/europeaid/where/acp/regional-cooperation/energy/second-energy-facility\\_en/index\\_en.htm](http://ec.europa.eu/europeaid/where/acp/regional-cooperation/energy/second-energy-facility_en/index_en.htm) (accessed on 30 January 2012).

<sup>481</sup> European Commission, “Communication on the consolidation of EU Africa relations: 1.5 billion people, 80 countries, two continents, one future” COM(2010) 634 final (10 November 2010), para. 20.

<sup>482</sup> European Parliament and Council Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, op. para. 74.

<sup>483</sup> J. Franco, L. Levidow, D. Fig, L. Goldfarb, M. Hönicke & M. L. Mendonça, “Assumptions in the European Union biofuels policy: frictions with experiences in Germany, Brazil and Mozambique” 37(4) *Journal of Peasant Studies* 661 (2010), p. 672.

<sup>484</sup> J. Franco, L. Levidow, D. Fig, L. Goldfarb, M. Hönicke & M. L. Mendonça, “Assumptions in the European Union biofuels policy: frictions with experiences in Germany, Brazil and Mozambique” 37(4) *Journal of Peasant Studies* 661 (2010), p. 667 and 676.

<sup>485</sup> Available at [www.maastrichtuniversity.nl/humanrights](http://www.maastrichtuniversity.nl/humanrights) (September 2011).

<sup>486</sup> The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1986) and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997).

<sup>487</sup> European Parliament and Council Regulation No 1233/2011 on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76/EC and 2001/77/EC (16 November 2011), operative para. 4.

<sup>488</sup> European Commission, “Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union” Communication COM(2010) 573 final (19 October 2010), p. 4.

<sup>489</sup> O. de Schutter, “The new architecture of fundamental rights policy in the EU” 11 *European Yearbook on Human Rights* (2011).

<sup>490</sup> See generally J. Wouters, E. Brems, S. Smis and P. e Schmitt (eds.), *Accountability for Human Rights Violations by International Organisations* (Intersentia, October 2010), part I.

<sup>491</sup> O de Schutter, “Human rights and the rise of international organisations: the logic of sliding scales in the law of international responsibility” in J. Wouters, E. Brems, S. Smis and P. e Schmitt (eds.), *Accountability for Human Rights Violations by International Organisations* (Intersentia, October 2010), p. 53.

<sup>492</sup> O de Schutter, “Human rights and the rise of international organisations: the logic of sliding scales in the law of international responsibility” in J. Wouters, E. Brems, S. Smis and P. e Schmitt (eds.), *Accountability for Human Rights Violations by International Organisations* (Intersentia, October 2010); F. Naert, “Binding international organisations to member state treaties or responsibility of Member States for their own actions in the framework of

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<sup>493</sup> UN Committee on Economic, Social and Cultural Rights General Comment 15 “The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)”, para. 36.

<sup>494</sup> UN Committee on Economic, Social and Cultural Rights General Comment 15 “The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)”, para. 44.

<sup>495</sup> J. Harrison, “Human Rights Impact Assessments of Trade Agreements : Reflection on Practice and Principles for Future Assessments” Background Paper for the Expert Seminar on Human Rights Impact Assessments of Trade and Investment Agreements (June 2010).

<sup>496</sup> Draft version 1<sup>st</sup> July 2011.

<sup>497</sup> FAO, 2009.

<sup>498</sup> O. de Schutter, “The new architecture of fundamental rights policy in the EU” 11 European Yearbook on Human Rights (2011).

<sup>499</sup> O. de Schutter, “The new architecture of fundamental rights policy in the EU” 11 European Yearbook on Human Rights (2011).

<sup>500</sup> European Commission, “Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union” Communication COM(2010) 573 final (19 October 2010).

<sup>501</sup> European Commission, “Impact Assessment Guidelines” Staff Working Document SEC(2009) 92 (15 January 2009); European Commission, “Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments” Staff Working Document SEC(2011) 567 final (6 May 2011).

<sup>502</sup> Rules of Procedure of the European Parliament (7th parliamentary term - January 2012):

“Rule 36: Respect for the Charter of Fundamental Rights of the European Union

1. Parliament shall in all its activities fully respect fundamental rights as laid down in the Charter of Fundamental Rights of the European Union.

Parliament shall also fully respect the rights and principles enshrined in Article 2 and in Article 6(2) and (3) of the Treaty on European Union.

2. Where the committee responsible for the subject matter, a political group or at least 40 Members are of the opinion that a proposal for a legislative act or parts of it do not comply with rights enshrined in the Charter of Fundamental Rights of the European Union, the matter shall, at their request, be referred to the committee responsible for the interpretation of the Charter. The opinion of that committee shall be annexed to the report of the committee responsible for the subject-matter.”

<sup>503</sup> This is also the position of the European Commission: European Commission, “Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments” Staff Working Document SEC(2011) 567 final (6 May 2011), p. 10.

<sup>504</sup> O. de Schutter, “The new architecture of fundamental rights policy in the EU” 11 European Yearbook on Human Rights (2011).

<sup>505</sup> CONCORD, “Spotlight on EU Policy Coherence for Development: A Lisbon Treaty provision. A Human Rights obligation” European NGO confederation for Relief and Development (2011), p. 18.

<sup>506</sup> Looking only at the energy side of the EU biofuel policy: European Commission, “Annex to the Communication from the Commission: An EU Strategy for Biofuels. Impact Assessment”

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Staff Working Document SEC(2006) 142 (8 February 2006); European Commission, "Accompanying document to the Communication from the Commission to the Council and the European Parliament: Renewable Energy Road Map. Impact Assessment" Staff Working Document SEC(2006) 1719/3 (2006); European Commission, "Accompanying document to the Communication from the Commission to the Council and the European Parliament: Biofuels Progress Report. Review of economic and environmental data for the biofuels progress report" Staff Working Document SEC(2006) 1721/3 (2006); European Commission, "Document accompanying the Package of Implementation measures for the EU's objectives on climate change and renewable energy for 2020. Impact Assessment" Staff Working Document SEC(2008) 85/3 (23 January 2008).

<sup>507</sup> European Commission, "Accompanying document to the Communication from the Commission to the Council and the European Parliament: Renewable Energy Road Map. Impact Assessment" Staff Working Document SEC(2006) 1719/3 (2006), p. 23.

<sup>508</sup> European Commission, "Annex to the Communication from the Commission: An EU Strategy for Biofuels. Impact Assessment" Staff Working Document SEC(2006) 142 (8 February 2006), 31; European Commission, "Accompanying document to the Communication from the Commission to the Council and the European Parliament: Biofuels Progress Report. Review of economic and environmental data for the biofuels progress report" Staff Working Document SEC(2006) 1721/3 (2006), p. 19.

<sup>509</sup> European Commission, "Opinion of the Impact Assessment Board on the Impact Assessment on Package of Implementation measures for the EU's objectives on climate change and renewable energy for 2020" SEC(2008) 84 (18 January 2008).

<sup>510</sup> European Commission, "Document accompanying the Package of Implementation measures for the EU's objectives on climate change and renewable energy for 2020. Impact Assessment" Staff Working Document SEC(2008) 85/3 (23 January 2008).

<sup>511</sup> United Nations Special Rapporteur on the right to food, Olivier de Schutter, "Building resilience: a human rights framework for world food and nutrition security" A/HRC/9/23 (8 September 2008), paras. 25-34.

<sup>512</sup> United Nations Special Rapporteur on the right to food, Olivier de Schutter, "Building resilience: a human rights framework for world food and nutrition security" A/HRC/9/23 (8 September 2008), Annex II, para. 5.

<sup>513</sup> UN Committee on Economic, Social and Cultural Rights General Comment 15 "The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)", para. 19.

<sup>514</sup> Thus departing from the latest agreed UN standards: UN Human Rights Council, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" UN doc. A/HRC/17/31 (21 March 2011).

<sup>515</sup> European Commission, "A renewed EU strategy 2011-2014 for Corporate Social Responsibility" Communication COM(2011) 681/2 (November 2011).

<sup>516</sup> Cour des comptes, "La politique d'aide aux biocarburants" Rapport public thématique (January 2012), para. 451.

<sup>517</sup> A. Eide, "The right to food and the impact of liquid biofuels (agrofuels)" FAO (2008), p. 23.

<sup>518</sup> United Nations Special Rapporteur on the right to food, Jean Ziegler, "The impact of biofuels on the right to food. Protection gaps for people fleeing from hunger" A/62/289 (22 August 2007), para. 31.

<sup>519</sup> M-H. Dabat, "Les nouveaux investissements dans les agrocarburants : Quels enjeux pour les agricultures africaines ?" 237 Afrique contemporaine 97 (2011), p. 104-15.

<sup>520</sup> OECD, FAO, "OECD-FAO Agricultural Outlook 2011-2020" (2011), p. 86.

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<sup>521</sup> United Nations Special Rapporteur on the right to food, Olivier de Schutter, “Building resilience: a human rights framework for world food and nutrition security” A/HRC/9/23 (8 September 2008), Annex II, para. 10.

<sup>522</sup> S. Vermeulen and L. Cotula, “Over the heads of local people: consultation, consent and recompense in large-scale land deals for biofuels projects in Africa” 37(4) *Journal of Peasant Studies* (2010), p. 903.

<sup>523</sup> European Parliament, “Assisting developing countries in addressing food security challenges” European Parliament resolution of 27 September 2011 (2010/2100(INI)), op. para. D and para. 58.

<sup>524</sup> HLPE, “Price volatility and food security” High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security (Rome, July 2011), p. 32.

<sup>525</sup> J-J. Gabas, “Les investissements agricoles en Afrique” 237 *Afrique contemporaine* 97 (2011), p. 48.

<sup>526</sup> United Nations Special Rapporteur on the right to food, Olivier de Schutter, “Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge” A/HRC/13/33/Add.2 (28 December 2009), p. 15.

<sup>527</sup> European Commission, “Energy 2020: A strategy for competitive, sustainable and secure energy” COM(2010) 639/3 (31 January 2011), p. 17.

<sup>528</sup> European Commission, “Energy Roadmap 2050” COM(2011) 885/2, p. 13.

<sup>529</sup> Friends of the Earth Europe, “Africa: up for grabs” (June 2010), p. 6.

<sup>530</sup> T. Rice, “Meals per gallon: The impact of industrial biofuels on people and global hunger” ActionAid (January 2010), p. 19.

<sup>531</sup> European Commission, Answer given by Mr Piebalgs to the Parliamentary question E-008192/2011 (21 October 2011).

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<sup>533</sup> Interview of the company with Stefano Valentino.

<sup>534</sup> See [http://www.niisrl.eu/?option=com\\_content&view=article&id=53&Itemid=6](http://www.niisrl.eu/?option=com_content&view=article&id=53&Itemid=6) (accessed on 8 February 2012).

<sup>535</sup> FIAN “Land Grabbing in Kenia. Ausverkauf von Land auf Kosten der Ernährungssicherung” (2010).

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See

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<sup>537</sup> <http://www.addax-oryx.com/uk/index.html> (accessed on 8 February 2012).

<sup>538</sup> <http://www.tereos.com/fr-fr/activites/filieres/cannes.html> (accessed on 8 February 2012).

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<sup>540</sup> Damian Carrington and Stefano Valentino, “Biofuels boom in Africa as British firms lead rush on land for plantations”, *The Guardian* online, <http://www.guardian.co.uk/environment/2011/may/31/biofuel-plantations-africa-british-firms> (31 May 2011).

<sup>541</sup> Source: Damian Carrington and Stefano Valentino, “Biofuels boom in Africa as British firms lead rush on land for plantations”, *The Guardian* online, <http://www.guardian.co.uk/environment/2011/may/31/biofuel-plantations-africa-british-firms> (31 May 2011). Remark: concessions include all negotiated land, whether it is only agreed, formally leased or already used.

<sup>542</sup> Source: Damian Carrington and Stefano Valentino, “Biofuels boom in Africa as British firms lead rush on land for plantations”, *The Guardian* online, <http://www.guardian.co.uk/environment/2011/may/31/biofuel-plantations-africa-british-firms> (31

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May 2011). Remark: concessions include all negotiated land, whether it is only agreed, formally leased or already used.

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<sup>544</sup> Interview of the company with Stefano Valentino. See also <http://www.jatrophaafrica.com/home>. Thank you to Stefano Valentino for the information.

<sup>545</sup> <http://www.addax-oryx.com/uk/index.html> (visited on 8 February 2012).

<sup>546</sup> K. Deininger, D. Byerlee, J. Lindsay, A. Norton, H. Selod, M. Stickler, “Rising Global Interest in Farmland. Can it Yield Sustainable and Equitable Benefits?” World Bank (2011), p. 26.

<sup>547</sup> European Parliament, Parliamentary Question E-6626/2010 by Andreas Mölzer (NI) (20 August 2010).

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<sup>549</sup> C. Gerstter, T. Kaphengst, D. Knoblauch, K. Timeus, Ecologic Institute, Germany, “An assessment of the effects of land ownership and land grab on development – With a particular focus on small holdings and rural areas” European Parliament Directorate-General for External Policies of the Union (31 March 2011).

<sup>550</sup> Technical Committee on “Land tenure and development” “Large-scale land appropriations: Analysis of the phenomenon and proposed guidelines for future action” (June 2010).

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<sup>553</sup> European Commission, Answer given by Mr Piebalgs to the Parliamentary question E-008192/2011 (21 October 2011).

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<sup>556</sup> African Union Commission, Economic Commission for Africa and African Development Bank, “Framework and Guidelines on Land Policy in Africa” AUC-ECA-AfDB Consortium (2010), p. xi.

<sup>557</sup> European Commission, “An EU policy framework to assist developing countries in addressing food security challenges” COM(2010)127 (31 March 2010), p. 9.

<sup>558</sup> European Commission, Answer given by Mr Piebalgs to the Parliamentary question E-6626/2010 (22 June 2011).

<sup>559</sup> European Commission, Answer given by Mr Piebalgs to the Parliamentary question E-6626/2010 (22 June 2011).

<sup>560</sup> European Commission, “EU 2011 Report on Policy Coherence for Development” SEC(2011)1627 final (15 December 2011), p. 69.

<sup>561</sup> And other international organisations. See generally <http://www.responsibleagroinvestment.org/rai/node/232>.

<sup>562</sup> European Commission, Answer given by Mr Piebalgs on behalf of the Commission to the Parliamentary Question E-007895/2011 (18 October 2011).

<sup>563</sup> La Via Campesina, FIAN, Land Research Action Network (LRAN) and GRAIN, “Stop Land Grabbing Now” (22 April 2010), available at

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<sup>564</sup> O. de Schutter, "Responsibly Destroying the World's Peasantry", Op-Ed by the UN Special Rapporteur published by The Project Syndicate [www.project-syndicate.org](http://www.project-syndicate.org) (4 June 2010), available at [http://www.srfood.org/images/stories/pdf/otherdocuments/260410\\_keynote\\_unctad\\_principles\\_responsible\\_investment.pdf](http://www.srfood.org/images/stories/pdf/otherdocuments/260410_keynote_unctad_principles_responsible_investment.pdf)

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