



Soil as a Resource
National Research Programme NRP 68

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Executive Stakeholder Summary

Project number	406840-143136
Project title:	Sustainable Soil Governance and Large-Scale Land Acquisitions originating in Switzerland
Project leader	Stephan Rist
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Contribution(s) to thematic synthesis:

<input checked="" type="checkbox"/> Soil and food production	<input type="checkbox"/> Soil and environment	<input checked="" type="checkbox"/> Spatial development	<input type="checkbox"/> Soil data, methods and instruments	<input checked="" type="checkbox"/> Soil governance
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Place and date: Bern, 23 April 2016

Background

The “Land Grabbing” research project studied a large-scale land acquisition by Addax Bioenergy (ABSL), a subsidiary of Swiss oil company Addax Oryx Group (AOG) Energy, which is active in Sierra Leone. In 2008, ABSL took out a 50-year lease on 54,000 hectares of agricultural land in the Makeni region, with an option to extend for a further 25 years. The project costing EUR 267 million was funded largely by private investors plus nine national and international public international development organisations.

ABSL operated a monoculture farming activity raising 10,000 hectares of sugar cane and using 4,300 hectares for ecological compensation and rice cultivation. The 85,000 m³ of bioethanol produced each year were exported to the EU. The remaining plant matter was used as a source of energy for an electricity generator that in theory could cover up to 20 percent of the nation’s electricity consumption. The bioethanol production process met the requirements of the Roundtable on Sustainable Biofuels (RSB) and therefore complied with the EU criteria relating to land use and greenhouse gas emissions for biofuels.

A number of prior assessments were conducted to ensure that the project would meet the RSB minimum requirements for sustainability indicators. In addition, surveys of local households were carried out at the start and during the project implementation phase to evaluate the impact of the project. However, the research team was provided with only very little data, which was not appropriate for further analysis. For this reason, it was impossible to carry out an independent assessment.

To recompense for the loss of large areas of cultivated land, ABSL agreed a range of contracts with the land owners and various government authorities. These contracts were negotiated in the scope of discussions with the individual entities and also in meetings with the population as a whole. The meetings were normally conducted informally, sometimes with the support of the head of the village and other village representatives. The relationships formed between local elites, land owners, the government and the company meant that tenants, migrants, women and children hardly dared to contribute their own perspective to the negotiation process in any firm way.

Due to the Ebola epidemic, the factory scaled back production to a minimum for several months in autumn 2014. As socio-economic activities in both private and public spheres also came to an almost complete stop, the population had nothing else to do but to remain at home. Probably owing to the pressure of the drastic collapse in energy prices, ABSL stopped production again in July 2015, and since then has produced neither ethanol nor electricity. Temporary workers have been laid off, while others were told not to come to work but continued to be paid. The aim was to find a new investor. At the beginning of 2016 there were unconfirmed negotiations, allegedly with a British company.

Aim

The main aim of the “Land Grabbing” project was to determine how to assess the sustainability impact of a Swiss company’s investment comprising a large-scale acquisition of agricultural land in Sierra Leone for the purpose of cultivating sugar cane. The question was answered through the following sub-aims:

- 1) Development of a specific conceptual framework with corresponding indicators that is tailored to the investigation of the sustainability of large-scale land acquisitions.
- 2) Investigation of the effects of the Swiss project comprising the large-scale land acquisitions from the perspective of the sustainability indicators that have been developed.

- 3) Formulation of policy and regulatory measures and basic conditions that can ensure in the investment home country (e.g. Switzerland, the EU), on the international stage (e.g. UN, bilateral) and in the target countries that large-scale land acquisitions are in line with the fundamentals of a sustainable land use.

Results

Importance for research

- A comprehensive conceptual framework for assessing the sustainability of large-scale land acquisitions has been established and applied.
- The result has been the production of one of the very rare independent and comprehensive analyses that provides information on the positive and negative aspects inside and outside a region in which large-scale land acquisition has been made.
- Using this specific example it has been possible to define ethical and legal questions that can be used to assess such large-scale land acquisitions in clear terms and thus open up discussion.
- The case study provided indicators to show what legal changes are required at an international level as well as in the home and target countries of the investment. It also revealed the obligations that Switzerland would have to meet as the home country of the principal investor in the project in Sierra Leone in order to ensure that the project would comply with national and international best practices and contribute to sustainable development locally.
- In addition, the study demonstrated how the advantages and disadvantages of a corresponding project might be weighed up when a utility approach is enhanced by addition of a human-rights approach.

The project results are based on the following three analysis categories:

- A) Socio-economic analysis of local impact
- B) Analysis of the legal situation in the target and home countries and at international level
- C) Analysis of ethical assessment

A) Socio-economic analysis of local impact

Key issues in the sustainability assessment of large-scale land acquisitions

On the basis of broad research of the literature and discussion with the people concerned and parties involved in Africa and in Switzerland, the following *Key issues in the sustainability assessment of large-scale land acquisitions* were identified:

- In addition to the direct effects of projects, the analysis must include both the implementation process and the feedback mechanisms between the investors, the governments that normally support them and the affected local population and critical civil organisations (NGOs, social movements). **Process indicators** must be taken into account alongside the traditional **status indicators** (e.g. poverty distribution, income growth, creation of jobs and training, food security, work and land productivity, environmental impact, biodiversity reduction). Key examples were identified in the form of the following basic questions: To what extent do the processes of negotiating leasing, rental or purchase agreements meet national and international standards of transparency, fairness and democratic participation and corresponding human rights? This includes, in particular, the principle of *Free prior and informed consent*, according to which governments and investors are obliged to inform indigenous and traditional communities transparently, in full and

comprehensibility of the extent of possible consequences and measures to compensate for negative effects of large-scale land acquisitions, and only to carry out projects after obtaining those communities' express consent.

- Investments in large-scale land acquisitions normally mean the irreversible conversion of diverse cultivation landscapes into large-scale monocultures. They not only lead to a drastic reduction in local biodiversity and crop diversity, but also mean that the diverse use of land is dependent on the markets for labour, land and money that are associated with the monocultures.

The sustainability analysis must also take account of the extent to which ***large-scale land acquisitions impact social-ecological vulnerability and resilience***.

Resilience represents the speed at which local communities can recover following shock events such as violent conflict, large-scale health incidents (Ebola), natural disasters, sudden price collapses for cultivated products, sold workforce or a strong increase in the price of food or fuel.

- In addition to resilience, status and process indicators, a comprehensive sustainability analysis must **take account of the systemic effects** such as the changes to rules that govern the relationships between people and work and people and nature. They must therefore consider the extent to which reciprocal, organised and cooperative relationships involving work, society and nature of traditional, local communities can be shaped so that work, nature and monetary exchange (using money as a means of payment) become actual "goods". The risks and opportunities for the affected local communities of new markets for labour, money and land that are organised along capitalist lines must also be included in the sustainability assessment.

Systematic comparative study of the local impact of large-scale land acquisitions

The transdisciplinary approach of the research work involved intense and sometimes controversial communication with the representatives of the affected local population, the NGOs supporting them and representatives of the investors. A general pattern emerged whereby both advocates and opponents of the large-scale land acquisition often focused on individual facts that flowed into the research work as individual aspects or at least one perspective of those involved. Both "camps" found it difficult to relate the positive and negative consequences clearly and factually to the consequences of the project. It was also evident that the options for analysis and documentation of the effects of the large-scale sugar cane cultivation differed greatly. Apart from participation in discussions within their own organisational structure and at the "Information Events" organised by the company, the local population had barely any opportunity to contribute their perspective to the intense social debate. This disadvantage was mitigated somewhat by the local NGOs, which supported the local population in articulating its concerns.

The company implementing the project had commissioned an impressive number of studies before and after the project implementation. It had clarified a broad range of economic, social, demographic, health and ecological parameters. However, in communicating this data, it only focused on the general conclusions of the studies, reporting that the food security of the local population had improved, for example. The research team was unable to learn anything about the data on which such statements were based. The reasons for this were the high legal barriers and restrictive conditions that the company imposed on the research team in return for its cooperation. Therefore, the abundant information provided by the company was little more valuable in assessing the impacts than the comparably small amount of information that the "other camp" was able to provide.

To bring in an additional perspective to the discussion on behalf of the research, we added a broad-based household survey to complement the originally planned individual case studies on key but as yet insufficiently researched topics. Working closely with the local Makeni University, a total of 882 households were surveyed, of which 592 were located within the sugar cane project area and 290 in a neighbouring area that was unaffected by the project. Prior to the project implementation, the areas had practically identical land usage systems and a very similar social structure. The comparison of the two areas provides better evidence for the changes that have occurred and for which changes are caused by the effects of land investment. In addition, this broad-based household survey provides information on the percentage distribution of individual features that were previously identified in qualitative studies.

Their key findings of this system-comparative household survey are:

- Overall, on average the amount of land used per family for agriculture in the project area is 73% smaller than outside the project area (2.53 hectares compared with 9.16 hectares). Those with no land of their own are more heavily affected by this reduction (-70%) than land owners (-50%).
- Total monetary income in the project area (USD 1288 per annum) is only 18% higher than outside the project area (USD 1069 per annum). Considering the massive investment, that is a rather disappointing result. The slight positive difference in incomes must also be considered critically when the fact is taken into account that expenditure on food in the investigated area rose by 16% (USD 1244 per annum) compared with the area outside (USD 1045 per annum). This reveals that practically all of the additional income in the project area had to be used to pay for the increased expenditure on buying in food, due to the major reduction in agricultural activity. In terms of income, therefore, this was a zero-sum game in which the farming families additionally lost a good portion of their former subsistence basis and became socially dependent on the commercial cultivation of sugar cane by ABSL.
- Primarily due to work in clearing the cultivated landscape and construction of plantations and the factory, waged income from sources not related to own agricultural production in the project area is USD 655 per annum, compared with USD 535 per annum outside the project area.
- The reduction in the workforce active in agriculture (mainly due to increased work for the company) has led to a shortage of available labour in the fields of the investigated area. Costs for workers in individuals' own fields are almost twice as much in the project area than outside it (USD 64 per hectare compared with USD 34 per hectare).
- The income from the production of charcoal or gathering of oil seed from forest commons now converted into sugar cane plantation is 80% lower (in the case of charcoal) and 25% lower (gathering of oil seed) in the project area compared with outside.
- The rice yield of 170 kg per hectare inside the project area is significantly lower than in the traditional rice fields outside the area under investigation (250 kg per hectare).

Overall, the project allowed the locally affected households to significantly improve their income situation and food security through the strong expansion of waged work in particular. In contrast, however, there has been a significant reduction in the number of sources of agricultural income (total available land, reduction in rice yields, reduction in opportunities for charcoal production, gathering of oil seed). As a consequence, families in the region studied are more susceptible to the effects of fluctuation and crises outside of agriculture. The serious effects of such dependency have already been experienced twice in close succession by the people living in the investigated area: First the Ebola

epidemic, and then the cessation of ethanol production following ABSL's decision to sell the project.

A return to more intensive agricultural production in such extreme situations in the project area is heavily impeded or even irreversible: The available agricultural land and rice yields are sharply reduced. The clearance of woods also blocks most opportunities for income, either from charcoal production or the gathering of oil seeds. The drastic reduction in monetary income also means that food security in the investigated area in a crisis situation falls far below that outside the project area. The increased vulnerability goes hand in hand with a significant reduction in resilience. These systemic effects of the large-scale land acquisition were not investigated in any of the many feasibility studies conducted by the project. The corresponding risks of vulnerability and resilience were therefore not communicated by the government or by the company to the population as potential outcomes. This means that nobody had foreseen *the* big risk that swamped the local population in two successive waves.

These findings show the urgent need to create a vulnerability and resilience analysis before implementation of such projects, and for those who push forward these projects to define an emergency plan with corresponding responsibilities and funding options.

Land leasing agreements give disproportionate advantage to elites

Depending on the overall size of land ownership in a village, the group of land owners and their families receives an annual rent of between USD 2,500 and 11,000 per annum, with an average of USD 5,000 per village. Since the payments started, each village has developed its own system for distributing the payments among the various land-owning families. Typically, the head of the family receives the money and gives a portion of it to his eldest son and wife and their children, in accordance with the family's own rules. In two villages there is a rule that rent is shared with the other village occupants at a rate of at least 1.25 USD per person.

In five villages, the tenants claim never to have received any money. We established that this primarily occurred in the case of descendants of "migrants" or "outsiders", who have limited right to use land, even if they have been residents in the region for several generations. Land has always been plentiful in the Temne region, but there is a lack of workers. This has favoured a system of land granting at fair conditions, for example in exchange for labour or produce. With the introduction of the rent, the situation began to change: The local workforce moved increasingly away from family operations towards short-term waged work in factories or sugar cane plantations. In addition, land ownership is no longer motivated by the need to ensure self-sufficiency for the entire village, but is seen as a monetary asset that allows a limited number of families to live from the rent income. Some families also use the rental income to hire workers to cultivate cash crops. We observed that the amplification of socio-economic inequality among the various families often affected the entire village community too, in particular affecting "guest villagers" comprising migrants and tenants who had barely any access to credit.

B) Analysis of the legal situation in the target and home countries and at international level

Exponents of modern international law studies argue that soil and land resources must be considered as "common concerns", entailing a shared responsibility among the guest nation and country of domicile, the international community and private players. Such a structure of responsibility is already defined in human rights treaties. When it comes to large-scale acquisition in land in the Global South this means that the regulatory effects

of the investment must be taken on board. Questions must be asked regarding the extent to which the investment contributes to an inclusive development of the agricultural sector, to what extent it aids state finances, or how the investment impacts land reforms and shaping of markets. As a prerequisite, therefore, the agreements underlying an investment must be checked for compliance with human rights and environmental aspects.

The investigated case revealed that an investment cannot be labelled as sustainable unless the underlying contracts are transparent and equal, taxes are being paid locally where the value is created and the questions above have been studied and the answers measured in terms of human rights and international environmental standards. Guest nations and countries of domicile can make a major contribution to the sustainability of land investments, together with the international community and private players, through better alignment of their investment-related policies with sustainability objectives. There is still a great deal to do in this area.

As the investigated case shows, the Roundtable on Sustainable Biofuels (RSB) does not require the contracts that are agreed between investors and governments to be checked for balance. For example, in this case a company was labelled as “sustainable” even though a long-term tax break had been negotiated and the contract contained problematic stability and jurisdiction clauses. This raises human rights issues. The Swiss and EU sustainability standards for agrofuels, which are inspired by the RSB, also have no prior contract audit requirements. As a result, a key lever that could ensure that major investors pay the appropriate tax on their profit in the investment country and that contracts are not disadvantaging further legal developments in any other way remains unused. This situation is linked to the fact that international tax and investment regulation is still far from mature, as is clearly evident from the case at hand. In addition, the investment policies operated by the international development banks are contradictory (simultaneous funding of small-scale agriculture alongside industrial agricultural projects) and are not sufficiently well coordinated. Moreover, it has been shown that the tightening of sustainability standards in EU legislation is leading to an uncertain legal situation and contributing to the current stalling of the project, which can be extremely problematic for the directly affected population. Sustainability standards must therefore be set very carefully, weighing up all advantages and disadvantages. The analysis of the legal situation and political situation has demonstrated, however, that thanks to the unconventional application of informal land rights in Sierra Leone, the investigated major investment has triggered a land rights reform process that has been identified as exemplary by the FAO.

C) Analysis of ethical assessment

Although investigations of large-scale land acquisitions are often based on an explicit or implicit normative evaluation, this evaluation is seldom underpinned by a careful assessment of advantages and disadvantages. This study uses assessment methods from a well-researched land grab project in Sierra Leone in order to demonstrate that a utility-based approach tends to highlight positive effects, while deontological (ethical) approaches rather emphasise the negative aspects. Within the history of the human race, land grabbing represents probably the most radical form of change in land usage. Accordingly, a balanced evaluation of this drastic transformational process represents a challenge. With our research work we have developed an evaluation framework that focuses on the options available to the local population while also revealing the limits of acceptability on the basis of fundamental human rights. Furthermore, the systemic effects of a land grab project must be taken into account.

Practical significance

The investigations undertaken allow a comprehensive assessment to be made of large-scale acquisitions in agricultural land. This will help provide a sound foundation for law and policy-making initiatives regarding the use of products from such projects (biofuels, agricultural commodities, etc.).

The international availability of our findings will also permit decision-makers in affected regions to consider the consequences of planned and existing investment in agricultural land on the basis of solid research.

It has been shown that there is an urgent need to conduct vulnerability analyses and define an emergency plan with corresponding responsibilities and funding options before implementation of such projects.

Where large-scale land acquisitions can be implemented proactively, they can reveal how agricultural transformation must be enhanced beyond the limits of the large-scale land acquisitions by additional policy measures for potential and often desired land reforms.

Recommendations

- In addition to clarifying human, environmental and health factors, large-scale land acquisitions must plan for and implement effective measures to prevent the income from leasing agreements and other outgoings flowing exclusively to a restricted elite (a phenomenon known as elite capture).
- A fair participation by land-owning and non-land-owning families must be incorporated into the state regulation and negotiation process in the case of large-scale land acquisitions. Contracts negotiated exclusively with land owners further reinforce elite capture. They strengthen existing social tensions and economic differences between land owners and land users and create new ones, and they are clearly not sustainable.
- Before the implementation of large-scale land acquisition projects a vulnerability analysis must be prepared and an emergency plan established with the corresponding responsibilities and funding options defined by the entities behind the projects.
- Private sustainability labels should be formulated more comprehensively, in particular:
 - a vulnerability and resilience analysis of the anticipated changes must be drawn up
 - the information that is used to issue such labels must be accessible in full to public scrutiny since otherwise it is not possible to monitor and control the labels and they thereby neglect a core aspect.
 - all aspects of sustainability must be taken into account. In particular, the question of whether contracts agreed between the investor and the government are balanced and fair must be given special attention.
- The regulation of investment, business and tax of the guest nation and country of domicile and the international community must be aligned with the needs of sustainable soil and land management. This requires, inter alia:
 - the agreement of investment protection contracts that not only protect investors but also oblige them to implement the project in a sustainable manner
 - the formulation of commercial agreements in a way that provides sustainable products with market access in the Global North
 - the formulation of sustainability standards that do not exclude but include products from sustainable (and small-scale) production processes
 - a limitation on the international tax competition through global tax regulation so that countries where products are cultivated can benefit from tax income.