

**Private Sector Agricultural Land Investments:
Impacts on Small Men and Women Farmers and on Food Security**

**by Riza Bernabe
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For Oxfam Great Britain

List of Abbreviations

ARB	Agrarian reform beneficiaries
AFMA	Agriculture and Fisheries Modernization Act
AVA	Agribusiness Venture Agreements
AREDP	Agribusiness Entrepreneurship Development Program
ACFTA	ASEAN China Free Trade Agreement
BAS	Bureau of Agricultural Statistics
CLOA	Collective land ownership agreement
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DAR AO 9	Department of Agrarian Reform Administrative Order No. 9
DENR	Department of Environment and Natural Resources
DOE	Department of Energy
DoF	Department of Finance
DOLE	Department of Labor and Employment
DTI	Department of Trade and Industry
DOST	Department of Science and Technology
ERFC	Eastern Renewable Fuels Corporation
ECC	Environmental Compliance Certificate
ECOF	Ecoland Fund Development
FARM Coop	First Agrarian Reform Multi-Purpose Cooperative
FAO	Food and Agriculture Organization of the United Nations
GHG	Green House Gas
IFPRI	International Food Policy Research Institute
IEE	Initial Environmental Examination certificate
JAO-1	Joint Administrative Order No. 2008-1 Series of 2008
JVC	Joint Venture Corporations
LGU	Local government units
MTDP	Medium Term Development Plan (MTDP)
MOA	Memorandums of Agreement
MOU	Memorandum of Understanding
NBB	National Biofuels Board
NCIP	National Commission on Indigenous People
NIA	National Irrigation Agency
OECD	Organization for Economic Co-operation and Development
PADCC	Philippine Agricultural Development and Commercial Corporation
PCA	Philippine Coconut Authority
PhP	PHILIPPINE PESO
RA	Republic Act
REDD	Reduction of emission from deforestation and denudation
SMC	San Miguel Corporation
RP	Republic of the Philippines
SRA	Sugar Regulatory Authority (SRA)
USD	United States Dollar

Executive Summary

All over the world, there is renewed interest in agricultural land investments, as private and public corporations, driven by the rising global demand for food, resource materials and agrofuels, increasingly venture into developing countries where there are still plenty of available land and water resources for agricultural production.

The nature of agricultural land investments vary, covering a whole spectrum of land arrangements, from outright land purchases to long term leases, to innovative investor-landowner/farmer ventures and agreements. The common denominator among these various investment arrangements is that they influence the way agriculture lands are used and the way agricultural output is produced.

Agricultural land investments evoke mixed reactions from different sectors of society. On one hand, its promise of available capital, inputs and production-increasing technology is welcomed by: (1) cash strapped states that have limited resources to provide even the most basic agricultural support services to small farmers, (2) local business and landowners looking for foreign partners, and (3) in many cases, even by small farmers-landowners, most of whom have very limited access to production capital and markets for their products.

On the other, there are also many farmers' groups and civil society organizations that have raised concerns over the potential impact of agricultural land investments on food security, poverty alleviation, land rights, rural livelihoods and welfare of men and women farmers, and on sustainable agricultural development

This paper aims to contribute to current global and national discourse on agricultural land investments by evaluating the positive and negative, actual and potential impacts of agricultural land investments on small men and women farmers, on rural communities as well as on the country's capability to meet its avowed objectives, foremost of which are food security, poverty alleviation and sustainable agricultural development.

There are various factors, most of them inter-related, driving the current global demand for land. In the main, the recent global economic crisis, the rise in food prices which peaked in 2008, the growing and mandated market for biofuels in many countries, including the Philippines, and the effects of climate change have contributed to the scramble for lands for agricultural production for food, energy and increasingly, for carbon credits.

At the same time, there are also various supply drivers creating incentives for landowners to enter into agricultural land investments. These drivers are: (1) limited public investments in agriculture (2) the availability of idle lands (3) low agricultural incomes and (4) government policy.

For government, enticing private sector investments in agriculture is a vital development strategy – one that encourages private entities to provide resources for basic agricultural support services that the state could not otherwise provide to small

farmers. This includes the provision of credit for production capital, technology extension and/or marketing support. Accordingly, government has endeavored to create a policy environment that attracts private sector investments in agricultural lands. This is clearly manifested in, among other things, (1) the provisions of the Philippine Medium Term Development Plan, which calls for the development of 2 million hectares of land for agribusiness, (2) the creation of the Philippine Agriculture Development and Commercial Corporation, which facilitates match-ups between investor and farmer/landowner, and (3) the country's commitment to various bilateral and regional trade and investment agreements.

Within this general policy environment, the Philippines have a host of laws, rules and policies, which provide the over-all regulatory framework for private sector investments in agricultural lands. Some of these rules are intended to help create safeguards for small men and women farmers who have decided to enter into agricultural land investments agreements, and to ensure that important socio-economic objectives, such as food security, environmental sustainability, are met. However, an analysis of some of these rules shows that these are ridden with loopholes that undermine their regulatory nature.

The need for an appropriate and effective regulatory framework for agricultural land investments becomes highly important given the current influx investment projects into the country. The total area of lands currently under negotiation for possible private sector agricultural land investments through PADCC is 1.37 million hectares.¹ Most of these planned investments are for the production of biofuel feedstock: coconut, jatropha and oil palm for biodiesel, and sugar, sweet sorghum, cassava and molasses for bioethanol. Other investment inquiries are for the production of food crops, namely corn, banana, rice and palm oil, the setting up of mariculture investment parks and livestock raising. The estimated aggregate value of all these agricultural land investments amounts to Php 72.4 billion.

Prospective investors include both foreign and domestic companies, some of which have tie-ups with local government units. Among the companies listed in PADCC, the one with the broadest geographical presence is the Philippine National Oil Company-Alternative Fuels Corporation, which have venture arrangements with several local government units, namely Zambales, Quezon, Palawan, Cebu, Bohol, Bukidnon and General Santos, and even with tribal groups in Lanao del Norte. The company's over-all land requirement for the cultivation of jatropha for biodiesel production totals to 192,500 hectares. The estimated value of its aggregate investments is Php 4.5 billion.

Among the regions, those with the highest hectarage needed for agricultural land investments are Region 4 in Southern Luzon and Regions 10 and 12 in Mindanao. In Region 12, investments are not only earmarked for biofuel production but also for the cultivation of a relatively broader range of food commodities such as rice, banana, corn, pineapple and oil palm.

Apart from the potential as well as the actual impact of these private sector agricultural land investments on small men and women farmers, on food security and

¹ Based on the report "Agribusiness Account per Region", from PADCC

on sustainable development, two of the core findings of this research on the nature of these investments stand out. First, the information flow between some national and local government agencies is very limited, to say the least. For instance, some of the agricultural investment projects reported by government, particularly by Philippine Agriculture Development and Commercial Corporation as still under different stages of negotiations and not yet fully operational have actually broken ground and have already begun cultivation.

Second, agricultural land investments can generally be classified into those that fall within and outside the national government's radar. Many investment are directly negotiated and directly implemented on the ground in coordination with local partners or with local government units. Some of these investment arrangements are practically invisible to national government agencies and are, therefore, not subject to their monitoring function.

This paper looked into six case studies from Luzon and Mindanao. These investment projects include:

1. Philippine Fuhua Sterling Agricultural Technology Development Corporation: Corn Production in Delfin Albano, Isabela
2. Green Future Innovations, Inc. and EcoFund Land Development Inc. Sugarcane Production for Agrofuel Feedstock in San Mariano and Santa Filomena, Isabela
3. Eastern Renewables Fuels Corporation: Cassava Production for Biofuel Feedstock in Isabela
4. DOLE: Banana Production for Export Markets in Bukidnon
5. Del Monte Philippines, Inc: Pineapple production for export in Bukidnon
6. PNOC/Elsia Corporation: Jatropha production for Agrofuel production in General Santos

Previous studies have noted both the positive and negative impacts of agricultural land investments, including the establishment of plantation farms, on farmers and on agriculture (Santoalla, 2008; Montemayor, 2010). This paper distinguishes the short term impact of agricultural land investments on small men and women farmers and rural communities, and their long term implications on rural livelihoods, food security and environmental sustainability

The short term impacts of agricultural land investment are:

1. It creates opportunities for additional income for small men and women farmers, either from lease rentals or from the employment generated through the investment arrangement;
2. It facilitates the influx of production capital and resources to generate agricultural activity
3. It creates opportunities to optimize use of and generate income from previously idle lands;
4. It leads to land reconsolidation
5. It locks-up land over a long period for a specific use thereby limiting farmers' flexibility and control in using the lands;

6. It eases pressure on government to provide essential support services to small farmers;
7. Some investment arrangements increases the risk of indebtedness for small farmers;

The long-term impacts are:

1. Agricultural land investments, which are mostly for biofuel feedstock, diminishes the potential expansion area for food production;
2. The technology package used by most investors invariably involves extensive and intensive use of chemical inputs and undermines the long term viability of the soil and, consequently, of future agricultural production.

The study puts forward four key recommendations for government to address the actual and potential impacts of agricultural land investments. These are:

1. Improve existing investment regulatory framework by plugging loopholes in investment related administrative orders and government issuances'
2. Develop, in consultation with stakeholders, a binding code of conduct for investors ;
3. Improve government's capability to monitor agricultural land investments, including those facilitated directly on the ground with local government units or with private consolidators;
4. Increase public investment as a strategy to empower farmers and promote food security

Private Sector Agricultural Land Investments: Impacts on Small Men and Women Farmers and on Food Security

The Philippine government is facilitating private sector investments in agricultural lands. As of 2010, at total of at least 1.3 million hectares of lands are being consolidated under various investment projects.² Some of these investment arrangements include lease agreements where farmers lease out their lands for as low as Php 2,500 (USD 53) per hectare per year.³

Bulk of the investment projects is for the cultivation of feedstock for agrofuel production. This has the effect of limiting the country's potential expansion area for food production. Indeed, if the lands currently being consolidated for agrofuel feedstock were developed to produce rice, it would have yielded at least 2.4 million metric tons of the staple grain, enough to help make the Philippines, the world's biggest rice importer, self-sufficient in rice production.⁴

Part 1 Introduction

All over the world, there is renewed interest in agricultural land investments, as private and public corporations, driven by the rising global demand for food, resource materials and agrofuels, increasingly venture into developing countries where there are still plenty of available land and water resources for agricultural production. According to the International Food Policy Research Institute (IFPRI), some 15 to 20 million hectares of farmlands worldwide have been under negotiations for foreign investments. (Kugelman, 2009).

The nature of agricultural land investments vary, covering a whole spectrum of land arrangements, from outright land purchases to long term leases, to innovative investor-landowner/farmer ventures and agreements. The common denominator among these various investment arrangements is that they influence the way agriculture lands are used and the way agricultural output is produced.

In the Philippines, foreign and private sector investments is not an entirely new phenomenon as multinational companies such as Del Monte Philippines, Incorporated (DMPI) and Dole, among others, have been operating in the southern part of the Philippines, particularly in Mindanao for decades. At the same time, the Philippine government's drive to attract private sector to invest in agricultural lands

² Data from the Philippine Agricultural Development and Commercial Corporation

³ The lease rental for the for the first three years in the lease agreement between the Philippine Sterling Fuhua Corporation and the Villa Pereda Cooperative is Php 2,500 per hectare per year.

⁴ Approximation based on average rice yield of 1.8 to 2.2 metric tons of rice in lands with no irrigation

has long been observed even prior to the current flurry of cross border agricultural land ventures. In fact, one of the main goals of the Philippine Medium Term Development Plan (MTDP) for 2004-2010 is to “develop at least two million hectares of idle lands for agribusiness in order to create 10 million jobs” in the agricultural sector by 2010.⁵ Consistent with this goal, President Arroyo’s numerous trips and missions abroad served as roadshows to entice foreign investors into the country.

According to the Philippine Agricultural Development and Commercial Corporation (PADCC), the government body created to match investors with farmers and landowners, much of the agribusiness land investments currently being negotiated under their watch were generated from the president’s travels as well as from inquiries forwarded to them by the Bureau of Investments. At the moment, some 1.37 million hectares – expected to generate some Php 72 billion worth of agricultural investments - are being negotiated under the said office.⁶

PADCC’s list of potential investment projects, does not include accounts of investments generated under bilateral and regional trade talks such as on the RP China Agreement. There were media reports that some government agencies have signed several memorandum of understanding (MOUs) with various Chinese investors for a host of agricultural investment projects, including the production of rice for possible re-export to China.⁷ The Department of Agriculture (DA), the Department of Agrarian Reform (DAR) and the Department of Environment and Natural Resources (DENR) were reported have signed as Second Party to a Memorandum of Understanding (MOU) with Fu Hua Corporation to lease 1 million hectares of land for agricultural production for 25 years, with the option to renew for another 25 years. The MOU form part of the 31 agreements comprising the RP China agreements (IDEALS, 2007).

Additionally, there are numerous accounts of foreign investments negotiated directly on the ground. Many of these arrangements are outside government’s radar, and are practically invisible as they are undertaken by dummy corporations with local partners acting as frontmen.

However, invisible or not, agricultural investments evoke mixed reactions from different sectors of society. On one hand, its promise of available capital, inputs

⁵ See Chapter 2: Agribusiness of the Medium Term Development Plan

⁶ Computed based on data from PADCC

⁷ For instance, see Newsbreak report entitled, “Government leases 1 million hectares to China Firm in Vague Contracts” by Gemma Bagayaua on October 17, 2007 available at http://www.newsbreak.com.ph/index.php?option=com_content&task=view&id=3855&Itemid=88889066/

and production-increasing technology is welcomed by: (1) cash strapped states that have limited resources to provide even the most basic agricultural support services to small farmers, (2) local business and landowners looking for foreign partners, and (3) in many cases, even by small farmers and landowners, most of whom have very limited access to production capital and markets for their products.

On the other, there are also many farmers' groups and civil society organizations that have raised concerns over the potential impact of agricultural land investments on food security, poverty alleviation, land rights, rural livelihoods and welfare of men and women farmers, and on sustainable agricultural development. As mentioned earlier, if the land promised to foreign investors as part of the RP China agreements, or those currently being negotiated under PADCC were used for rice production, it would have yielded rice output of 2.2 million metric tons to 3.3 million metric tons – more than enough to approximate the amount of the staple grain the Philippines imports during years of extreme shortage. The country's maximum volume of rice imports in recent years was at 2.4 million metric tons, in 2008.

This paper aims to contribute to current global and national discourse on agricultural land investments by evaluating the positive and negative, actual and potential impacts of agricultural land investments on small men and women farmers, on rural communities as well as on the country's capability to meet its avowed objectives, foremost of which are food security, poverty alleviation and sustainable agricultural development.

The paper is divided into five parts. Part 1 examines the different demand and supply drivers of agricultural land investments while Part 2 discusses the regulatory and policy framework guiding agricultural land investments in the country. Part 3 presents the status of these type of ventures in the Philippines. Part 4 evaluates the impact of agricultural land investment while Part 5 presents the paper's specific policy recommendations on agricultural land investments.

Objectives of the research

The research is designed to fulfill three objectives. These are:

1. To document the impact of private sector land investment arrangements on small men and women farmers and agricultural producers, on rural communities and on food security;
2. To identify the factors and conditions that influence the environment in which these impacts are made possible, particularly (a) the drivers of

agribusiness land investments, (b) the current level of preparedness of farmers and landowners to enter into these land investment arrangements and (3) and domestic regulations and institutions that guide agribusiness land investments in the Philippines;

3. To recommend specific policies and regulations to support the creation of a national agricultural lands investments policy that is sustainable, beneficial to men and women farmers and rural communities, and facilitative of the country's food security objectives.

Methodology

Records review and secondary data gathering. The paper includes information based on previous studies conducted on agricultural land investments and on related issues. It also presents data on new and existing agribusiness land investment in the Philippines from relevant government agencies, particularly the Philippine Agribusiness Development and Commercial Corporation under the Department of Agriculture and the Department of Agrarian Reform, and from other sources. It must be noted though that the data gathered for this study is nowhere near exhaustive, since, as mentioned earlier, there are many agricultural land investments that fall outside government's radar and are practically invisible.

Interviews. The researcher interviewed three sets of respondents. These are (1) small men and women farmers that are/were directly and indirectly involved in agribusiness land investments (2) government officials engaged in the formulation and implementation of agribusiness land investment arrangements and (3) civil society groups and networks that are doing national and/or local work on this issue

Case Studies. The researcher prepared six case studies on agribusiness land investments. The selection of areas for the case studies was determined upon an initial survey of the list of agribusiness land investments under PADCC and under the AREDP unit of the Department of Agrarian, and/or upon the recommendations of Oxfam's partners.

Part 2

Supply and Demand Drivers of Agricultural Land Investments

2.1 Drivers of demand for land investments

There are various factors, most of them interrelated, driving the current global demand for land. In the main, the recent global economic crisis, the rise in food prices which peaked in 2008, the growing and mandated market for biofuels in many countries, and the effects of climate change have contributed to the scramble for lands for agricultural production for food, energy and increasingly, for carbon credits.

2.1.1 Demand for food

The rise in food prices in 2008 triggered an avalanche of investments in agricultural food production, with some countries like China, Bahrain and South Korea undertaking or exploring overseas agricultural investments to produce staple crops such as rice and corn to meet their respective country's food requirements.⁸ Though food prices have gone down since 2008, the FAO-OECD 2009 Outlook reports that these are still higher by 10-30 per cent from the previous decade, and as such, still provides incentives for agricultural land investments for the cultivation of food crops.⁹

The rising demand for land to produce food is expected to continue as the world looks forward to increases in income and population. FAO, in particular, predicts that food production needs to increase by 40 % by 2030, and by 70 % by 2050, based on the average 2005-2007 levels, in order to cope with the increased demand resulting from higher incomes and bigger populations¹⁰. Responding to the future world's food requirements will entail allocation of land specifically for producing food, amidst other competing demand for scarce land resources.

2.1.2 Demand for Biofuels

Compounding the food price crisis, as well as the scarcity of land for food production is the surge in the demand for biofuels. The OECD-FAO 2009 Outlook further observes that "energy and agricultural prices have become much more interdependent with industrialized farming, more processing and increased transport, as well as the emergence of the biofuels industry (particularly for maize, oilseeds and sugar feedstocks)."

⁸ See article "Foreign land purchases for agriculture: what impact on sustainable development?" Howard Mann published in Innovation Briefs, United Nations Department of Economic and Social Affairs, , 2010

⁹ From OECD-FAO Agricultural Outlook 2009-2018

¹⁰ Information from FAO-OECD Outlook, citing data from FAO (2006): World Agriculture: Towards 2030/2050 - Interim report. Rome; and Bruinsma, J. (2009, forthcoming):

Much of the demand for biofuels are mandated, as governments across various countries adopt and implement policies aimed at increasing agrofuel consumption, either by imposing blending requirements or establishing targets for agrofuel use in certain sectors, particularly in transport. For instance, legislation such as the Energy Independence and Security Act, as well as the Renewable Fuels Standard Act in the United States created a demand for agrofuels in this country. In the European Union, the Renewable Energy Directive mandated that renewable energy should account for 10% of members' fuel mix by 2020, thereby contributing to the expansion to of the global agrofuels market.

In the Philippines, the passage of the Biofuels Act of 2006, which established very clear targets for agrofuel use created domestic demand for bioethanol and biodiesel. The demand for agrofuels generated by the Philippine Biofuels Act is not only guaranteed but also programmed to grow through the years.

The foregoing served to create interest in agrofuel feedstock production. Indeed, many overseas agricultural investments, in various stages of progress, are related to feedstock production for biofuels arising from these mandates.

2.1.3 Demand for climate change mitigation

Climate change mitigation activities is also expected to impact on land use allocation in a big way given the presence of various incentives for utilizing land for this purpose. First, there are resources that are clearly earmarked for climate change mitigation. The proposed Copenhagen Accord calls for a "collective commitment by developed countries to provide new and additional resources, including forestry and investments through international institutions, approaching USD 30 billion for the period of 2010-2012" for climate change mitigation and adaptation.¹¹ The proposed Accord also instructs developed countries to commit to the goal of jointly mobilizing USD 100 billion dollars a year by 2020 to address the needs of developing countries" in the context of meaningful mitigation actions.¹²

Of course there is much debate on whether or not these resources are sufficient to substantially achieve the goal of climate change mitigation and adaptation. What is clear, however, is that there will definitely be available resources as well as investments aimed at reducing green house gas emissions, most of which will entail changes in land use.

¹¹ From the Copenhagen Accord

¹² Ibid

Second, many experts have noted the important role that agriculture can play in climate change mitigation and adaptation. For developed countries this can mean locating agricultural production involving high green house gas GHG emission, such as rice farming and livestock production, in developing and least developed countries. This will enable the former to contribute to their GHG reduction targets without having to sacrifice their access to food, raw materials and agrofuel feedstock.

Third, the presence of a carbon market, which provides developed countries with flexibility in meeting their GHG emission reduction targets, creates and exacerbates competing demands for agricultural lands. For instance, allowing countries to reduce emission from deforestation and denudation (REDD) can be expected to increase the demand for land for purposes of reforestation, as this will enable them to earn and trade carbon credits. Similarly, the growing emphasis on the use of renewable energy, as an alternative to fossil fuels, has, as discussed earlier, shown to be one of the main drivers of overseas agricultural land investments. In the Philippines, much of the inquiries on land investments are largely related to the production of feedstock for agrofuels.

2.2 Drivers of Supply of land for agricultural investments

What are the supply drivers of agricultural lands for investments in the Philippines? There are many factors and conditions that make private sector agricultural land investments enticing to governments, especially in developing countries, to local business and landowners and even to small farmers. In the Philippines, there are various factors that create incentives for agricultural land investments and provides private sector sufficient supply of farmlands for investment arrangements and agreements.

These factors include (1) limited public investments in agriculture (2) the availability of idle lands (3) low agricultural incomes and (4) government policy.

2.2.1 Limited public investment in agriculture

Lack of irrigation

If one asks a farmer in the Philippines why he or she agreed to a land investment arrangement, be it a lease rental of contract growership agreement, the answer will almost invariably be because he or she does not have the resources to make the lands productive, and as such have very little option but to enter into these arrangements. Indeed, limited public investment in agriculture – manifested mainly in government’s failure to deliver essential agricultural support services such as irrigation, credit, farm to market roads as well as farm trainings and technology extension – is, perhaps, one of the most important supply drivers of agricultural lands for investments.

To wit, irrigation, which has the potential to increase agricultural output by at least 20 per cent remains highly inaccessible to many small men and women farmers. In 2006, only 1.4 million hectares of the country's 3.1 million hectares of agricultural lands have irrigation facilities. This means that only 45 % or less than half of the country's agricultural land resource have yet to maximize its full production potential. Unfortunately, many of the existing irrigation facilities are no longer fully functional or operating at optimum capacity, having fallen into a state of disrepair over the last few decades. Bulk of the country's irrigation facilities were established during the 1970s to the mid 1980 under the Marcos administration.

The rehabilitation of irrigation facilities, more than the irrigation of new areas has been the focus of the National Irrigation Agency (NIA). Accordingly, there has been very little progress in the expansion of irrigated agricultural lands, from 1,338,815 million hectares in 1999 to 1,427,924 million hectares in 2006. For the past ten years, government has only been able to irrigate an average of 11,137 hectares per year. At this rate, it will take government at least 157 years to fully irrigate all agricultural lands!

The biggest balance, in terms of absolute area of lands for irrigation, are in Cagayan Valley and Central Luzon, mainly because these regions have the highest total land area in the Philippines. However, the lowest area of irrigated lands as a percentage to total irrigable lands are in Mindanao, specifically in SOCCSKSARGEN (28%), ARMM (14%) and CARAGA (29%).

Table 1
Irrigated Lands in the Philippines, 2006

Region	Estimated Potentially Irrigable Areas (hectares)	Total Irrigated Areas (hectares)	Balance (hectares)	Percentage of Irrigated lands to total irrigable areas (%)
Philippines	3,126,340	1,427,924	1,698,416	45.67
CAR	99,650	80,165	19,485	80.44
Ilocos	277,180	179,384	97,796	64.71
Cagayan Valley	472,640	198,901	273,739	42.08
Central Luzon	498,860	269,136	229,724	53.95
Southern Tagalog	246,960	123,235	123,725	49.90
Bicol	239,660	118,975	120,685	49.64
Western Visayas	197,250	77,806	119,444	39.44
Central Visayas	50,740	28,928	21,812	57.01
Eastern Visayas	84,380	53,016	31,364	62.83
Zamboanga Peninsula	76,080	36,843	39,237	48.42

Northern Mindanao	120,700	52,463	68,237	43.46
Davao Region	149,610	54,327	95,283	36.31
SOCCKSARGEN	293,610	84,062	209,548	28.63
ARMM	156,720	23,269	133,451	14.84
CARAGA	162,300	47,414	114,886	29.21

Source: Bureau of Agricultural Statistics based on NIA data

Limited credit for agricultural production capital

Government intervention in credit delivery for small farmers is also practically non-existent. The accessibility of credit for agricultural production capital has worsened over the last two decades. Although the absolute value of credit extended to agriculture has increased over the years, the ratio of agricultural production loans to total loans has declined from 6.99% in the 1990s to only 0.94% in 2006 (BAS, 2008).

A survey conducted by Centro Saka covering 1816 respondent across six commodity sectors (rice, corn, coconut, sugar, rubber and banana) validates this data. (Centro Saka, 2008). The results of the Centro Saka survey show that “government and formal banking institutions are nearly invisible in the rural areas as less than 4 per cent of respondents indicated that they were able to source loans through banks”. The study also shows that relatives, followed by traders and financiers are the most common sources of loans for farmers across all six sectors.

Additionally, the study confirmed the prevalence of exploitative credit-market tie-ups in which traders, who supply credit for production - either in cash or in the form of inputs such as seeds, fertilizers or pesticides - are also the main buyers of farmers’ produce. This limits small men and women farmers’ option to choose better prices for their output, and earn higher incomes from their agricultural endeavors.

The lack of irrigation and credit facilities, coupled with the absence of basic rural infrastructure and support services such as farm to market roads can mainly be traced to the low level of prioritization of agriculture in government’s over-all development paradigm. National budget allocation for the sector has always been low. During the Arroyo administration, expenditures on agriculture account for only 3.62 per cent of the total budget.¹³

Earlier initiatives to modernize the sector by increasing appropriation for essential agricultural support services have failed. In 1997, Congress passed Republic Act 8435 of the Agriculture and Fisheries Modernization Act (AFMA). Under AFMA, agriculture should receive for Php 20 billion, and a succeeding PHP 17 billion per year for the following six years to fund support services, over and above the existing budget of the Department of Agriculture. However, funds for AFMA implementation were not fully delivered and were considered subsumed under the DA’s regular budget (Musngi, 2008)

¹³ Based on authors computation, using data from the Bureau of Agricultural Statistics

In the main, limited public investments in agriculture, owing to limited government resources and low level of prioritization for the sector, provides the rationale for governments' increased efforts to entice private sector agricultural land investments. For farmers these also serve as primary motivation to enter into agricultural land investment arrangements with the private sector.

2.2.2 Availability of idle lands

Hayami et al notes that the abundance of idle agricultural lands in Mindanao was one of the reasons why the region was the logical choice to host plantation farms many decades ago. The establishment of these plantations helped carve out productive farms from previously unproductive lands.

The possibility of transforming idle and marginal lands into productive farms and, in the process, generate incomes and employment for rural communities has also been cited by the Arroyo administration as one of the rationale's for its drive to generate private sector agricultural land investments. Concerns regarding the possible impact of these investments of food production were dismissed on the ground that the lands that will be tapped for agricultural investments are idle and marginal and, hence, will only serve to add value to current agricultural output. Canlas notes that the Philippines has 30 million hectares composed of forest lands, and alienable and disposable lands.¹⁴ Of these, 8.8 million hectares are idle and can be tapped for the cultivation of biofuel feedstock and other crops.¹⁵

Under the MTADP, bulk of government's original target area for agribusiness expansion refers in non-food crops, namely abaca, rubber, coconut and tobacco. In particular, some 1.4 million hectares of idle lands were earmarked for non-food production while the rest were targeted for high value crops, such as pineapple, pili, sugar, coffee, mango durian, banana, vegetables, onion and garlic, among others, as well as major agricultural outputs, namely rice, corn, livestock and fisheries.

However, the biofuels market has yet to make its presence felt in the Philippines at the time that the MTADP was being formulated. Hence, this was not yet configured into the plan. At the same time, trends in agricultural land investments, which, as mentioned earlier, was driven to a large extent by the emerging biofuels market as well as by speculations and uncertainties revolving around food production and supply have not yet been duly observed and were also not factored into the process of drawing up the target areas for the development of idle lands.

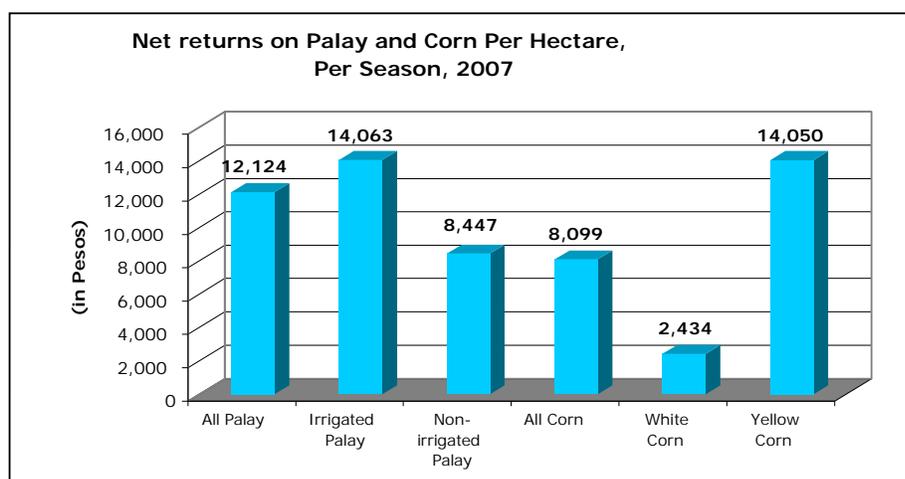
2.2.3 Low agricultural incomes

Agricultural incomes, especially from the production of traditional food crops like rice and corn are very low due to limited support services as well as low land and labor productivity. Data from the Bureau of Agricultural Statistics show that the average net return on rice production per season is only Php 8,447 for every hectare of non-irrigated lands, and Php 14,063 for every hectare of irrigated lands. For yellow

¹⁴ From the paper "Increasing private sector investment in the Philippines: The case for inclusion of agriculture and fisheries smallholder farmers producers" written by Ruben J. Pascual for Oxfam

¹⁵ Ibid

corn, the average net return on production per season is Php 14,050 per hectare while that of white is corn much lower at only Php 2,434 per season per hectare. Figure 1 below shows details.¹⁶



Source: Bureau of Agricultural Statistics

Agricultural incomes are relatively higher for producers of cash and export crops such as mango and pineapple, which generate net returns of Php 70,062 and Php 121,006, respectively.

The introduction of input and technology from private investors is expected to help boost productivity and incomes in the sector. Under the different modes of agribusiness venture arrangements, private sector is expected to bring in resources for input and technology as counterpart to farmers' land resource.

2.2.4 Government Policy

For government, private sector investments in agriculture is a vital development strategy – one that encourages private entities to provide resources for basic agricultural support services that the state could not provide to small farmers. This includes the provision of credit for production capital, technology extension and/or marketing support. Accordingly, government has endeavored to create a policy environment that entices private sector investments in agricultural lands. Indeed, the current regulatory and institutional framework is generally designed to attract and support agribusiness land investments.

The Medium Term Agricultural Development Plan

The Medium Term Development Plan provides for the development of 2 million hectares of idle lands for agribusiness as a way of increasing rural employment and incomes. The MTADP acknowledges that whatever growth was achieved in the agricultural sector was “not enough to improve international

¹⁶ From Bas at 45: Promoting Food Security Through Quality Statistics, Selected Statistics in Agriculture, 2008

competitive position, not enough to ensure long-term sustainability and not enough to improve rural welfare.” It further acknowledges government’s limitation in promoting sustainable growth in agriculture as a result of “lingering absorptive capacity constraints, governance and institutional weaknesses and apparent lack of strategic focus of programs and projects.”¹⁷

The MTADP asserts that “the development of two million hectares of new agribusiness lands means that the country will not merely improve but also substantially expand existing agri-based production systems”. It identifies the following lands for agribusiness:

- Underutilized farm lands which can be made more productive through increased cropping intensity, intercropping and diversification;
- Idle and marginal lands, including denuded upland areas; and
- Idle off-shore and inland bodies of water for aquaculture

As mentioned earlier a large segment of the targeted new lands for agribusiness were intended for non-food production, while the remaining target areas were earmarked for high value food crops as well as for major agricultural products, such as rice and corn. However, the current global and national demand for biofuels and food, including staple grains and crops have clearly changed this product mix. Government now prioritizes consolidating lands for the cultivation of crops for food as well as for biofuels feedstock, especially in light of the increasing number of investors expressing interests in these commodities.

Creation of the Philippine Agricultural Development Commercial Corporation

Another indicator of government’s intent to attract private sector investments is the creation of Philippine Agricultural Development and Commercial Corporation (PADCC). The PADCC enumerates its functions, below:

1. Identify and promote agribusiness market prospects;
2. Identify and evaluate suitable agribusiness lands for biofuel feedstock, high value commercial crops and other crops;
3. Endorse, consolidate, package and contract negotiations with interested and qualified landowners;
4. Provide complete data and information on agribusiness opportunities and current market trends;
5. Facilitate endorsements, accreditation, licenses and permits from concerned government agencies and provide linkage to financing facilities;
6. Promote and facilitate investments on exportable agricultural products produced in the Philippines;

¹⁷ See Chapter 2 of the Philippine Medium Term Development Plan

7. Facilitate special services such as environmental impact assessment studies, feasibility studies, hydrology/ground water resources study, georesistivity, perimeter/boundary survey and topographic mapping.

In line with these functions, PADCC manages various DA programs aimed at promoting private sector investments in agricultural lands. These programs include the following:

1. ***The Philippine Agribusiness Land Investments*** Center inventories new agricultural lands across the country for agribusiness opportunities;
2. ***DA-DAR-DENR Convergence Secretariat*** consolidates, identifies and develops two million idle lands for agribusiness.
3. ***DA Biofuels Feedstock Program*** takes charge of ensuring the availability of locally produced biofuel crops by promoting and facilitating investments in the biofuel industry.
4. ***Philippine Food Security Program*** facilitates the identification, consolidation and the development of idle lands for food crop production
5. ***Corporate Rice Farming*** aims to attract companies to fund rice production

The Powers of the Local Government Unit

The passage of the Local Government Code of the Philippines made it easier for private investors, be it foreign or domestic, to approach local government units (LGUs) for agricultural land investment projects. Local government units have the power to formulate and implement local development and land use plans, reclassify lands subject to certain conditions, enter into contracts and even negotiate and secure financial grants, among other functions.

While the Local Government Code aims to decentralize governance and promote a bottom approach to development planning, its implementation also resulted to some excesses. Many civil society organizations and farmers' groups have observed, for example, that the trend of massive conversion of agricultural lands to other uses were made possible through the local government units' power to reclassify lands based on local land use plans.

Some companies seeking to establish agribusiness and agricultural land investment ventures have found it easier to approach local government units directly rather than be hampered by regulations imposed by national government agencies. Some regulations, such as, for instance, the prescription of limitations on the areas that can be used for biofuel feedstock production can be circumvented by local government units' power to formulate and implement agro-development plans for their respective areas.

At the moment, there is no comprehensive inventory of all private sector agricultural land investment arrangements forged and implemented in coordination with local government units. As mentioned before, some of these investment arrangements are virtually invisible, having been undertaken with the support of local partners acting as frontmen.

Philippine commitment to bilateral and regional trade agreements

The Philippines has committed to various bilateral and regional free trade and investment agreements with provisions aimed at eventually facilitating the influx of foreign investments into the country. Negotiations on these agreements also serve as venues to discuss investment arrangement opportunities. For instance, the RP-China trade agreements was reported to have given way to the signing of memorandums of agreement or understanding (MOAs/MOUs) between Chinese companies and entities and local government agencies. Among the reported ventures include:¹⁸

- MOA between Fujua, DA, DENR and DA covering the lease of 1 million hectares of land for the cultivation of hybrid corn, hybrid rice and hybrid sorghum;
- Lease arrangement with Beidahung over the lease of agricultural lands for the cultivation of rice and corn;
- MOA between DA, DENR and DAR and the Agricultural Department of Guanxi Zhuang Autonomous Region for the development of 40,000 hectares of land for bioethanol production
- Other private sector MOAs for the establishment of bioethanol plants, and fish processing plants, among others.

Unfortunately, negotiations on these investments arrangements are largely non-transparent and non-participative.

Part 3 Regulatory Framework Governing Agricultural Land Investments in the Philippines

Compared to other countries in Southeast Asia, the Philippines already have a host of laws, rules and policies, which provide the over-all regulatory framework for private sector investments in agricultural lands. The presence of these policies can be attributed to several factors.

First, the implementation of CARP warranted the need for government to impose certain disciplines on agribusiness venture agreements between private sector and small farmers. For many small men and women farmers, their previous landowners were their main source of credit, farm tools, seeds and other agricultural inputs necessary for production, albeit under highly inequitable terms and

¹⁸ See IDEALS paper entitled "Analysis of the RP China Memorandum of Understanding (MOU) on the Development of 1 million hectares of land for Hybrid Corn, Hybrid rice, and hybrid sorghum farming" in AR Dialogues NO. 3-07, 24 July 2007

conditions. The distribution of lands under CARP had the effect of creating a void in terms of the delivery of these essential support services given the change in the relationship and tenurial arrangement between landowners and agrarian reform beneficiaries. Government, on account of limited resources and allocation for agriculture, was not able to fill in this void. As a strategy, it encouraged agrarian reform beneficiaries to enter into agribusiness venture agreements with previous landowners and/or private companies in order to address its limited capability to provide support services to small farmers. However, the need to create and provide regulations for these arrangements became apparent as farmers and farmworkers, with very little training in plantation management and administration, entered into complicated venture agreement negotiations and contract implementation with former landowners.

Second, the Philippines has a very vibrant civil society movement advocating for agrarian reform and the welfare and sustainable livelihoods of agrarian reform beneficiaries. Many civil society groups had been critical of government's programs involving private sector and small farmers, such as the corporative schemes introduced by DAR during the Estrada administration. Their constant engagement with DAR puts a pressure on the agency to maintain a certain level of responsibility in overseeing and regulating agribusiness venture agreements between agrarian reform beneficiaries and previous landowners and entities.

Finally, private sector land investments in agriculture, especially those that touch on land use arrangements are not entirely new to the Philippines. As mentioned earlier, beginning the early 1900s, the Philippines, particularly Mindanao, already has, and continue to host, plantation farms established by big private corporations, even multinational companies such as Del Monte and Dole. Many of these plantation farms produce agricultural products primarily for the export market. The current regulatory framework on agricultural land investments form part of the general policy environment surrounding these land investments.

However, it is important to emphasize that the presence of a regulatory policies on private sector investments does not automatically translate to better safeguards and better terms of agreement for small men and women farmers. As we will see in the case studies, many farmers still get the raw end of the deal in most investment arrangements despite the presence of these policies.

This section of the paper discusses several of the most recent administrative orders and laws relevant to the nature of private sector agricultural land investments in the country.

3.1 DAR AO 9 Series of 2006

Department of Agrarian Reform 9 (DAR AO 9) provides the rules and guidelines governing agribusiness venture agreements (AVAs) between agrarian reform beneficiaries and private sector. The Department of Agrarian Reform sees agribusiness venture agreements as a “means by which investment of financial and other resources by the private sector can be channeled to agrarian reform areas.”. DAR AO 9 lists down its objectives, below:

1. To mobilize private sector investments in developing agrarian reform areas;
2. To provide adequate support services and facilities to agrarian reform beneficiaries;
3. To optimize the operating size of distributed lands for agricultural production;
4. To ensure security of ownership, tenure and income of participating farms;
5. To enhance and sustain the productivity and profitability of commercial farms;
6. To hasten the transformation of ARBs into farmer-entrepreneurs
7. To contribute to the realization of a globally competitive local agricultural sector and the attainment of food security.

The administrative order identifies several types or modes of agribusiness venture agreements, which are described in Box 1. It contains some provisions that are intended to provide checks and balances in the preparation and implementation of the AVAs to support small farmers. For instance, it requires DAR to review, monitor and be a signatory to AVAs.

DAR AO 9 also states that, as a general rule, AVAs shall ensure the participation of agrarian reform beneficiaries ARBS in farm management operation. and that the latter and their dependents shall be given preference in employment in joint ventures. In lease arrangements, it instructs the lessor to give priority to qualified beneficiaries and their families in employment in the enterprise.

Additionally, DAR AO 9 provides the creation of a social fund from the income and proceeds of the joint venture to support ARBs and their dependents' social welfare, livelihood and income generating projects. It also emphasizes that joint venture corporations (JVC) can only have usufructuary and not ownership rights over the land as a way of affirming beneficiaries' ownership over the lands distributed to them.

Finally, DAR AO 0 provides that an AVA may be revoked if this has been proven that it does not benefit small farmers after a period of 5 years, or if any of the parties have violated the contract.

However, notwithstanding these provisions, which are clearly put in place to support agrarian reform beneficiaries, DAR AO 9, in general, provides limited safeguards for small farmers. Many of the AVA schemes are structured in such a way that risks in production are almost entirely borne by small farmers. For instance, in growership contracts, the cost of crop failures is shouldered entirely by agrarian reform beneficiaries. The fact that the Philippines is highly vulnerable to droughts, storms and typhoons – a condition that is expected to worsen as extreme weather events become more prevalent as a result of climate change – can, and have, result to greater indebtedness for small farmers.

Additionally, the administrative order's provisions instructing investors to provide employment to agrarian reform beneficiaries are not binding in the sense that there are no penalties for non-compliance. Consequently, agrarian reform beneficiaries are not always guaranteed of employment in the new enterprise.

Moreover, farmers' power to influence the management of joint venture corporations are limited to their voting share, which is determined by their equity in the said corporation. Farmers' equity is based on the value of the land, which is their main contribution to the enterprise. However, more often than not, the valuation of agricultural lands in the Philippines is very low. Hence, in most cases, farmers' equity, and therefore their voting share and capability to influence the management of agribusiness ventures, is smaller compared to those of their private sector partners.

Box 1

Types of Agribusiness Venture Agreements (AVAs) between Agrarian Reform Beneficiaries (ARBs) and Private Sector under DAR AO 9 Series of 2006

1. Joint Venture Agreements

Agrarian reform beneficiaries and investors form a joint venture corporation (JVC) to manage farm operations. The beneficiaries contribute the use of lands and the facilities and improvements, if any. On the other hand, the investor furnishes capital and technology for production, processing and marketing of agricultural goods, or construction, rehabilitation, upgrading and operation of agricultural capital assets, infrastructure and facilities.

2. Production/Contract Growing/Growership/Marketing contracts

Agrarian reform beneficiaries commit to produce certain crops which the investor buys at pre-arranged terms (e.g. volume, quality standard, selling price).

3. Lease Agreement

Agrarian reform beneficiaries bind themselves to give the former landowner or any other investor general control over the use and management of the land for a certain amount and for a definite period.

4. Management Contract

Agrarian reform beneficiaries hire the services of a contractor who may be an individual, partnership or corporation to assist in the management and operation of the farm for the purpose of producing high value crops or other agricultural crops in exchange for a fixed wage and/or commission.

5. Service Contract

Agrarian reform beneficiaries engage the services of a contractor for mechanized land preparation, cultivation, harvesting, processing, post-harvest operations and/or other farm activities for a fee.

6. Build Operate Transfer

The investor builds, rehabilitates, or upgrades, at his own cost, capital assets, infrastructure and facilities applied to the production, processing, and marketing of agricultural products and operates the same at his expense for an agreed period after which the ownership thereof is conveyed to the ARBs who own the land where such improvements are facilities are located

Source: DAR AO 9 Series of 2006

3.2 Republic Act 9367: The Biofuels Act of 2006

The passage of the Biofuels Act of 2006 laid down the ground for the establishment of the agrofuels industry and market in the Philippines. It phases out of the use of gasoline additives and other oxygenates and replaces these with biofuels, thereby creating a domestic demand for biodiesel and bioethanol, and correspondingly, for biofuel feedstock.

The law states that all liquid fuels for motors and engines sold in the Philippines should contain locally sourced biofuels, according to the following schedules:

Within 3 months – 1 per cent

Within 2 years – 5 per cent

Within 4 years – 10 percent

To meet the demand for biodiesel and bioethanol arising from its implementation, Republic Act 9367 also contains provisions aimed at building the

country's nascent biofuels industry. It mandates the Department of Energy to prepare the Philippine Biofuel Program and to oversee the National Biofuels Board. The NBB is tasked to facilitate biofuel production, use and distribution in the Philippines.

The law likewise instructs the Department of Science and Technology and the Department of Agriculture to coordinate in identifying and developing viable feedstock for the production of biofuels. The DA, in particular is mandated to (1) develop a national program for the production of crops for use as feedstock and (2) to ensure the increased productivity and sustainable supply of biofuel feedstock.

Additionally, the law encourages the use of biofuels by providing various incentives to producers, sellers and distributors of biofuel and biofuel feedstock. These incentives include zero tax on imported biofuels component, value added tax exemption on the sale of raw materials for biofuel production, priority in financial assistance from the Development Bank of the Philippines, the Land Bank of the Philippines and Quedancor, and waiver of wastewater charge, among others.

Since sugar and coconut are the most readily available biofuel feedstock, the law also instructs the Sugar Regulatory Authority and Philippine Coconut Authority and other DA attached agencies to develop and implement policies to support the Philippine Biofuel Program. The SRA is also in charge of ensuring that there is available supply of sugar for the domestic market;

The law implies a general prohibition against importation except when the supply of domestically produced biofuel is low. In particular, it provides that oil companies are allowed to import biofuels, but only at volumes necessary to meet the shortage in domestic production.

In the main, the passage of Republic Act 9367 or the Biofuels Act of 2006 creates incentives for production of agricultural crops as biofuel feedstock, and encourages private sector investments into this field. Indeed, the tremendous package of incentives given to biofuel feedstock and biofuel producers encourages conversion of land, resource, crop and crop utilization - from food to energy. To wit, the directive to government financial institutions to give priority to biofuels producers in extending financial assistance can further marginalize food producers access to scarce credit resources.

Unfortunately RA 9367 does not include measures to anticipate and address the potential implication of the full implementation of the law on food production, and consequently on food security.

3.3 Joint Administrative Order No. 2008-1 Series of 2008¹⁹

JAO No. 1 details the guidelines for the implementation of the Biofuels Act of 2006. It is a mega administrative order in the sense that it covers a great number of agencies involved in the implementation of the Philippine Biofuel Program. JAO No. 1 is jointly issued by the Department of Agriculture (DA), Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR),

Department of Energy (DOE), Department of Finance, Department of Labor and Employment (DOLE), Department of Science and Technology (DOST), Department of Trade and Industry, DOTC, National Biofuels Board (NBB), National Commission on Indigenous People (NCIP), the Philippine Coconut Authority (PCA) and the Sugar Regulatory Administration (SRA).

In line with the high level of prioritization accorded to the development of the biofuels industry by RA 9367, JAO 1 emphasizes that biofuel production sites are identified as priority development areas for land conversion, provided that they do not exceed the maximum area of 25 hectares per biofuel production facility.

The administrative order contains provisions that attempts to address apprehensions regarding the potential impact of biofuel production on various concerns such as on food security, the environment as well as on the welfare of small farmers, farm workers and indigenous communities.

It requires biofuel feedstock producers to show that their enterprise is safe for the environment and acceptable to indigenous communities. In particular, biofuel feedstock producers engaged in new biofuel production are required to submit the following

- For areas measuring 100-1000 hectares, an Initial Environmental Examination (IEE) certificate prior to the issuance of the Environmental Compliance Certificate by the DENR;
- For areas measuring 1000 hectares and above, an Environmental Impact Statement (EIS);
- For areas outside ancestral domain, ancestral domain certificate of non-overlap issued by the NCIP regional director following a field investigation;
- If within ancestral domain certification, Free and Prior Informed Written Consent, after which the applicant may secure a certificate of compliance from NCIP;
- DA Certification that the feedstock or the area may be used for biofuel feedstock

JAO No.1 also contains provisions that, on first glance, seem to provide safeguards for food security. To wit, it provides that the issuance of certification by the Department of Agriculture that the feedstock or a particular area may be used for biofuel feedstock must be subject to the following considerations:

1. Cereals that may be used as food cannot be used for biofuel production;
2. The lands to be used for biofuel feedstock production must be consistent with local land use plans;

3. The area to be used is not the only remaining food production area in the community;

Additionally, JAO No. 1 identified specific areas that can not be used for biofuel feedstock production. These include:

1. All areas with government funded irrigation facilities;
2. All irrigable lands with firm funding commitment;
3. All privately irrigated alluvial plain lands used for rice and corn production;
4. All agricultural lands that are ecologically fragile;

However, the administrative order also contains loopholes that serve to undermine the provision above. It provides exceptions to the limitations on the prohibition of conversion of the use of lands from food to biofuel feedstock production. In particular, it provides that agricultural lands can be used for agrofuel feedstock production if the following conditions are met:

1. The proposed project is supportive to agro industrial development and will generate additional and alternative livelihood opportunities for the affected area;
2. If independent biofuels feedstock producer has an area of less than 25 hectares, he or she does not have to get certification from DA. Only those with an area higher than 25 hectares are required to get certification;
3. For coconut and sugar, compliance with SRA and PCA policy guidelines;
4. The area targeted for biofuel feedstock production is evaluated by DA to be underutilized and marginal;
5. The biofuel feedstock producer must have a marketing or supply agreement with a biofuel producer that has been certified by the DA;

The conditions of exemptions above are easy to fulfill, and make virtually any agricultural land in the country eligible for biofuel feedstock production.

In general, it is clear the provisions of JAO No. 1 with respect to agricultural land use and investments are riddled with many loopholes. These loopholes undermine provisions aimed at addressing concerns raised by many civil society groups related to agrofuel production, such as its impact on food security, on ecologically fragile land resources and on indigenous communities.

Other provisions of the administrative order include requiring biofuels producers, distributor and sellers to secure certification by the Department of Energy. The latter are required to declare their source of feedstock to enable the DA to see if they are compliant with regulations for biofuels feedstock producers. They are also required to get DA Certification of Eligibility for reclassification if they want to use agricultural

lands as site for biofuels or biofuels blend. Finally, they are required to submit regular reports on their production.

JAO No. 1 also provides that agrofuel exports can only be allowed if there is excess supply of biofuels for domestic consumption. Prospective exporters must submit a written application to export, and should have export clearance from PCA, SRA and other appropriate government agency.

The administrative order also provides for the formulation of policies on social amelioration and welfare of biofuels workers

3.4 Commitment to bilateral and regional trade agreement

The Philippines' commitment in bilateral and regional trade and investment agreements lays down the ground for the increasing liberalization of investments. Regional trade and investment liberalization, such as those fostered by ASEAN China FTA, among others, encourages agricultural land investments by enticing foreign companies to jump borders and maximize the advantages offered by consolidated regional markets.

Additionally, as mentioned earlier, negotiations on free trade agreements provides venues for exploring investment opportunities, arrangements and agreements. For instance negotiations for the RP China agreements as well as the ASEAN China FTA served as venues for China to lobby for greater investment liberalization, and to undertake initial discussion on a host of potential agricultural land investment by Chinese companies and businessmen into the country.

Part 4

Agricultural Land Investments in the Philippines

4.1 Status of Agricultural Land Investments in the Philippines

Where and in what commodity sectors are private sector land investments in the Philippines? In answering this question, it is first important to establish a working definition of agricultural land investments as adopted by this paper. In many international fora, interest on private sector agricultural land investments, particularly those funded by foreign capital and resources, focuses mainly on outright land purchases as well as on long term land leases. However, in the Philippines, the Constitution expressly prohibits foreign ownership of lands, and accordingly, bans outright land purchases by foreign buyers. However, there are many cases when foreigners circumvent this prohibition by setting up dummy corporation with local partners.

It is with this consideration in mind that the paper adopts a broader definition of agricultural land investments to refer to all investments that influence the way agricultural lands are used and/or the manner agricultural goods are produced. This

definition hopes to capture the different modes of private sector land investment arrangements found in the Philippines, which are mostly in the form of lease agreements and/or production, supply and contract growing agreements.

Apart from the potential as well as the actual impact of private sector agricultural land investments on small men and women farmers, on food security and on sustainable development, two of the core findings of this research on the nature of these investments stand out. First, the information flow between some national and local government agencies is very limited, to say the least. For instance, some of the agricultural investment projects reported by government, particularly by Philippine Agriculture Development and Commercial Corporation as still under different stages of negotiations and not yet fully operational have actually broken ground and have already begun cultivation.

Second, agricultural land investments can generally be classified into those that fall within and outside the national government's radar. Many investment are directly negotiated and directly implemented on the ground in coordination with local partners or with local government units. Some of these investment arrangements are practically invisible to national government agencies and are, therefore, not subject to their monitoring function.

This section of the paper will present data on private sector agricultural land investments from PADCC as well as from other sources. These investments include potential foreign and domestic investments, as well as joint venture agreements with local government units. As mentioned in the first part of this paper, the data presented here are nowhere near exhaustive due to limited information sources. Nevertheless, these data provided a glimpse of the state of private sector investments in agricultural lands in the Philippines, and served as one bases of the study's assessment of the potential as well as actual impacts of agricultural land investments in the country.

4.1.1 Monitored and and facilitated through PADCCC

The total area of lands currently under negotiation for possible private sector agricultural land investments through PADCC is 1.37 million hectares.²⁰ Most of these planned investments are for the production of biofuel feedstock: coconut, jatropha and oil palm for biodiesel, and sugar, sweet sorghum, cassava and molasses for bioethanol. Other investment inquiries are for the production of food crops, namely corn, banana, rice and palm oil, the setting up of mariculture

²⁰ Based on the report "Agribusiness Account per Region", from PADCC

investment parks and livestock raising. The estimated aggregate value of all these agricultural land investments amounts to Php 72.4 billion.

Prospective investors include both foreign and domestic companies, some of which have tie-ups with local government units. Among the companies listed in PADCC, the one with the broadest geographical presence is the Philippine National Oil Company-Alternative Fuels Corporation, which have venture arrangements with several local government units, namely Zambales, Quezon, Palawan, Cebu, Bohol, Bukidnon and General Santos, and even with tribal groups in Lanao del Norte. The company's over-all land requirement for the cultivation of jatropha for biodiesel production totals to 192,500 hectares. The estimated value of its aggregate investments is Php 4.5 billion.

Among the regions, those with the highest hectarage needed for agricultural land investments are Region 4 in Southern Luzon and Regions 10 and 12 in Mindanao. In Region 12, investments are not only earmarked for biofuel production but also for the cultivaiton of a relatively broader range of food commodities such as rice, banana, corn, pineapple and oil palm. Table 1 below shows details.

Table 1
Agricultural Land Investments Listed with PADCC, by Region

Region/ (Location)	Companies	Products	Total hectarage requirement
CAR Ifugao	1. Highlands Development Cooperative	Biofuels Feedstock - Jatropha (Biodiesel)	20,000
I - Ilocos Norte and Ilocos Sur	1. BioEnergy North Luzon Inc.	Biofuels Feedstock -Coconut (Biodiesel)	200,000
II – Isabela, Quirino and Nueva Viscaya	1. Green Future Innovation 2. Korea Overseas Grains Investment and Development Co Ltd RP-ROK MIC	Biofuels Feedstock – Sugarcane (Bioethanol) Food Crops Production: Corn Multi-Industry Cluster	45,000
III – Caiao, Pampanga, Tarlac, Nueva Ecija, Zambales	1. Central Luzon Bioenergy Corp. 2. Philippine National Oil Company - Alternative Fuels Corp. 3. Philippine Fresh Fuel Inc. 4. DK Biofuels	Biofuels Feedstock - Sweet Sorghum, Cassava (Bioethanol) Jatropha (Biodiesel)	173,900
IV – Quezon, Laguna, Batangas,	1. Philippine National Oil Company - Alternative Fuels Corp.with LGU	Biofuels Feedstock - Jatropha (Biodiesel) Mariculture Investment-	240,000

Palawan, Mindoro Occidentia, Mindoro Oriental	2. Fresh Wind Biotechnology Corporation 3. Jan Jing Su San 4. Curcas Energy Australia Ltd. 5. Palawan Biodiesel Development Corporation 6. RP-ROK MIC	Parks Multi-Industry Cluster	
V - Camarines Sur	1. Philippine Forest Corporation (PFC)	Biofuels Feedstock - Jatropha (Biodiesel)	7,500
VI – Negros Occidental	1. San Carlos Bioenergy Inc. 2. Negros Biochem Central Azucarera Don Pedro Inc 3. Roxol Bioenergy Corp. 4. JG Summit Holdings Inc. 5. Canlaon Alcogreen Agro Industrial Corporation	Biofuels Feedstock – Sugarcane (Bioethanol) Biofuels distillery – Molasses (Bioethanol)	No data, but so far has consolidated 25,000 hectares for these projects
VII – Negros Oriental, Cebu Bohol	1. Herminio Teves Group Philippine National Oil Company - Alternative Fuels Corp.with LGU 2. RP-ROK MIC 3. Binsabt International Co. 4. Nimmo-Bell	Biofuels Feedstock - Jatropha (Biodiesel) Multi-Industry Cluster Mariculture Investment- Parks Livestock	45,300
VIII – Leyte, Negros Oriental	1. Leyte Agri Corporation 2. KIBIO 2007	Biofuels distillery - Molasses (Bioethanol) Biofuels Feedstock - Sugarcane (Bioethanol)	10,000
IX - Zamboanga del Norte	1. Basic Energy	Biofuels Feedstock - Sugarcane (Bioethanol)	10,000
X – Bukidnon, Misamis Oriental, Misamis Occidental, Lanai del Norte	1. Southern Bukidnon Bioenergy Inc. 2. ALSONS Power Cagayan 3. Isabela Alcogas Corporation 4. Guidance Management Corp 5. Philippine National Oil Company - Alternative Fuels Corp.with LGU 5. Abundant Biofuels Corp. 6. SAVOLA GROUP 7. RP-ROK MIC	Biofuels Feedstock – Sugarcane, Cassava (Bioethanol) Oil Palm, Jatropha (Biodiesel) Food Crops Production: Sugarcane Multi-Industry Cluster	232,000
XI – Davao del Norte, Samal Island, Compostela Vally, davao del Norte	1. RP-Bahrain Harvest Inc. 2. Binsabt International Co. 3. Intishar Holding Company 4. Fresh Fruits Company	Food Crops Production: Banana Mariculture Investment- Parks	20,000

XII – General Santos, Sarangani, South Cotabato, Sultan Kudarat, North Cotabato,	1. Eastern Renewables Fuel Corporation 2. Robson Agro Ventures 3. ALSONS Power Sarangani 4. Philippine National Oil Company - Alternative Fuels Corp.with LGU 5. Eco Global Bio Oils 6. Toyota Tshusho 7. Tabuk Agriculture Development Company	Biofuels Feedstock - Cassava (Bioethanol) Biofuels Feedstock - Jatropha (Biodiesel) Food Crops Production: Rice, corn, banana, pineapple, oil palm	273,000
XIII - Agusan del Norte, Agusan del Sur, Surigao del Sur	1. Wilmar International	Food Crops Production: Oil Palm	100,000

Source PADCC

According to PADCC, most of these investment projects are in their early preparatory stage and that government agencies such as DAR, DENR and DA, with the help of some local government units, are still in the process of identifying and consolidating lands for these projects.

4.1.2 Monitored and facilitated by the DAR Agribusiness Entrepreneurship Development Program

Apart from the DA-DAR-DENR Convergence headed by PADCC, DAR also help facilitate private sector investments in agricultural lands by matching prospective investors with agrarian reform beneficiaries/landowners. As discussed in Part II of this paper, DAR AO 9 provides the guidelines for the various forms of agribusiness venture agreements facilitated by the agency.

Agribusiness venture agreements are generally monitored by the Office of the Undersecretary for Support Services. However, there is also a special office within the agency – the Agribusiness Entrepreneurship Development Program (AREDP) –that is dedicated to forging venture agreements between private sector and small men and women farmers.

4.2 Case Studies

This paper presents six case studies from Luzon and Mindanao. The case studies cover various mode and types of investment arrangements, from short term and long-term land leases to growership contracts and partnership agreements. They

also cover various products for different markets such as sugarcane, cassava and jatropha for agrofuel production, bananas and pineapples for exports, and corn for the domestic and export market. Some of the investment projects covered by the case studies are in the early stages of implementation, while the others have been in operation for more than a few years.

Each case study contain provide information on the background of the investing company, the terms of the contract or the agreement, the status of the project and the impact on men and women farmers, and on the rural community. The nature, extent and amount of information used in this section vary from one case study to another, depending on the availability of information, the relative openness of respondents, among other factors.

4.2.1 Philippine Fuhua Sterling Agricultural Technology Development Corporation: Investment in Corn Production in Delfin Albano, Isabela

Company Background

Philippine Fuhua Sterling Agricultural Technology Development Corporation is a partnership between a Chinese firm, Jilin Fuhua Agricultural Science and Technology Development Company and SL Agritech Corporation, a local seed company.²¹

As early as 2003, Jilin Fuhua Agricultural Science and Technology Development Company announced that it would invest US \$ 5 billion into the country for the production of hybrid corn and hybrid sorghum. The investment would also cover the cost of building a corn processing plant producing starch, ethanol, fiber feed, corn protein, corn oil and amino acids, an agricultural processing park, a brewery and a food factory.²² The Chinese company also committed to build rural infrastructure such as roads and bridges to help support its operations.

Role of Government

In 2007, local government officials, including the mayor of Delfin Albano, along with mayors from nearby municipalities were invited to visit China on a study tour. There, they they visited corn farms and were introduced to officials of the Jilin Fuhua Agricultural Science and Technology Development Company. They were also informed of the company's desire to invest in corn production in the Philippines, particularly in Isabela.

One of the local government officials who joined the study tour explained that he and the other members of the delegation were informed by their host that although China produces a lot of corn, the country foresees that the volume of corn it currently produces will not be enough to meet the country's growing demand for corn. This is the reason why the company decided to plant corn in other countries, like the Philippines.

²¹ China's aggie group to invest \$5 billion in hybrid corn and sorghum production

²² Ibid

However, the Chinese representative of the company in the production site said that this is not the case. According to him, the corn produced by its Isabela operations is intended for the local market, and not for export to China.

After the study tour, the local government in Delfin Albano facilitated the signing of lease agreements between the Philippine Fuhua Sterling Agricultural Technology Development Corporation and farmers/landowners. It created a Task Force composed of the municipal agriculturist, the municipal agrarian reform officer, a representative from the cooperative development office, the municipal development planning coordinator and the municipal assessor to oversee the signing of the lease agreements.

Terms of the Agreement

The Philippine Fuhua Sterling Agricultural Technology Development Corporation signed a twenty-five year lease agreement with the Countryside Mutli-Purpose Cooperative and the Villa Pereda Corn Growers Cooperative. The former is composed of farmers/landowners in Deflin Albano while the latter is organized by farmers/landowners in Villa Pereda.

The agreement was signed in 2008, and covered 350 hectares of contiguous lands. The annual lease rental for the properties are based on the following schedules:

1. For the 1st to 3rd year – Php 2,500/hectare less the unplanted portion of the lands
2. For the 4th to 5th year – Php 5,000/hectare
3. For the 6th to 10th year – Php 8,000/hectare
4. For the 11th to 15th year – Php 12,000/hectare
5. For the 16th to 20th year – Php 16,000/hectare
6. For the 21st to 25th year – Php 20,000/hectare

The lease rental includes the value added tax, and is subject to withholding tax. The company also promised to pay Php 1,000 per hectare in case it establishes facilities or offices within the area of operation. Additionally, all fixed improvements made by the company on the property shall become the property of the farmers upon the end of the contract.

The agreement stipulates that the first three years of the lease period will be used by the company to determine the viability of the soil for planting, and to construct facilities. The company also has the right to terminate the contract should the results of the evaluation show that the land is not viable for commercial cultivation. The company also has the right to end the contract in cases of fortuitous events, acts of God or acts beyond its control. These provisions essentially give the company the flexibility to terminate the contract anytime.

The agreement also states that the company can assign or give its right to use the land to other parties without consulting the farmers/land owners. This means that it can enter into an agreement with another firm and transfer to it its right over the use of lands in Delfin Albano and Villa Pereda without the knowledge of the

farmers/landowners and without any provisions, safeguards and/or limitations on how the lands should be used.

Status of the Project

After checking and confirming soil productivity and viability for commercial production, the company started planting corn in 100 hectares in 2008. It established three (3) irrigation sites to support its production.

The company has already experienced four crop failures since its started operations, due to droughts and typhoons. Moreover, farmers and local agriculturists observe that the technology the company is using, which is imported from China, is probably not suitable to the soil characteristics and climactic conditions in Isabela.

The company sold whatever little corn it harvested to the domestic market.

Presently, the company has yet to start planting corn although the planting season has already begun. The company has not yet received advise from China and as such could not commence production. The on-site Chinese representative of the company said that they have experienced a lot of crop failures and he does not know if the company will decide to plant corn at all this season.

Impact on men and women farmers and on the local community

The value of the lease offered by the Philippine Fuhua Sterling Agricultural Technology Development Corporation to farmers/landowners for the first three years of operation is lower compared to those offered by other companies engaged in other investments arrangements in Isabela. Nevertheless, farmers in Delfin Albano and Villa Pereda welcome the project as it gives them the opportunity to earn additional income from their idle lands. Most of them depend on rice and corn farming as their main source of livelihood. Previously, they had not been able to use the land that they committed to the investment arrangement due to lack of irrigation facilities and production capital. Moreover, they observe that the fertility of the soil in the said lands is not as high as those they are currently tilling. In this context, many farmers are happy to earn extra money from the lease arrangement though it ties up their land to the company for 25 years.

The fact that the lease agreement provides for a programmatic escalation of the lease rental throughout the 25-year lease period makes the agreement more attractive to farmers/landowners. Moreover, farmers appreciate that they earn lease rental from their lands regardless of the level of harvest of the company. In fact some of them noted that the company would still have pay them the lease rental even if the latter does not plant corn.

Farmers are not very concerned about the provisions of the agreement, which gives the company the flexibility to terminate the lease contract or to transfer it to another party, as most of them have not been able to use or benefit from their lands before, prior to their commitment to the lease agreement.

Local government officials related that when they first entertained the idea of hosting the investment project, they were optimistic that the operations of the company will generate high levels of employment. Under the agreement, farmers/landowners have priority in employment provided that they are qualified to perform the work required.

Unfortunately, the number of jobs generated from the investment is very small since the company's farm operations are fully mechanized. In fact, the company even brought people from China to operate the equipment. Locals were employed mainly as security guards or when the machine breaks down. In almost all cases, the company hires men, instead of women, to fulfill these tasks.

Nevertheless, the local government officials report that though the level of employment generated from the establishment of the corporate farms is not as high as originally expected, the municipality was able to generate additional tax revenue from the establishment and operations of the corporate farms.

4.2.2 Green Future Innovations, Inc. and EcoFund Land Development Inc. Sugarcane Production for Agrofuel Feedstock in San Mariano and Santa Filomena, Isabela

Company Background

Green Future Innovations is a partnership between a Japanese Company, Itochu Corporation, JGC, an international engineering company and local investors. Itochu and JGC have interest in producing renewable energy across Asia.²³ The Philippines' passage of the Biofuels Act in 2006, which created a definite demand and market for agrofuels in the country made it an attractive investment site for investors.

Green Future Innovation is particularly interested in producing bioethanol from sugarcane feedstock. The company plans to establish a 54 million liter ethanol plant in San Mariano in Isabela. It created EcoFund Land Development Inc. (ECOF), to handle the agricultural development aspect of the company's agrofuel production chain.

One of the main tasks of ECOF is to ensure that Isabela, a province known for its rice and corn production, produces sufficient supply of sugarcane feedstock for a bioethanol plant. ECOF is in charge of leasing lands for its corporate farms, and of eventually overseeing the smooth implementation of future supply contracts with local farmers.

The Role of Government

²³ See "Japan's Itochu, partners building ethanol facility in Isabela" by Alena Mae S. Flores, available at <http://www.manilastandardtoday.com/insideBusiness.htm?f=2010/january/13/business4.isx&d=2010/january/13>, January 13, 2010

The local government unit of San Mariano played, and continues to play, an important role in the establishment of the project. It created a task force to help facilitate the project soon after EcoFund/Green Futures approached it regarding the project. The Task Force is composed of the municipal assessor, the local agricultural officer, the municipal planning and development officer, and other relevant local officials. It helps identify and screen farmers/landowners for the lease agreement. The task force also coordinates with local officials of the Department of Agrarian Reform, particularly the municipal agrarian reform officer in bringing in agrarian reform beneficiaries into the project. As part of the screening process, the task force ensures that all interested farmers/landowners have sufficient proof of land ownership or land titles in order to be part of the project.

Status of the Project

Ecoland Fund Development (ECOF) has presently entered into lease agreements with 91 landowners, some of which include agrarian reform beneficiaries. These agreements are short term in nature, covering only two to three years, and only for the production of sugarcane seedling. At present ECOF has 200 hectares for sugarcane nurseries.

ECOF is targeting to develop at least 1000 hectares of lands for the establishment of more nurseries. Its partner, the Green Futures Incorporated has already applied for a land conversion order for the establishment of a bioethanol plant in Santa Filomena. Once operational, the plant will require huge and constant supplies of sugarcane feedstock. According to officials from ECOF some 10,000 hectares of lands will be required to produce sufficient amounts of sugarcane feedstock to supply the plant. Hence, increasing the current number of nurseries is essential to the production of sufficient sugarcane feedstock in order to support the optimal operation of the bioethanol plant.

At present, ECOF merely leases the lands for the nurseries and assumes full management and operation of seedling production, operating these as corporate farms. However, in the future, the company intends to develop supply agreements with farmer/landowners for a period of at least ten years, in order to enable Green Futures to recoup its investments. The investments required for setting up the bioethanol plant is Php 3 billion while investments for the production of sugarcane as agrofuel feedstock is placed at Php 1.5 billion.

Most of the lands leased out to ECOF are idle lands, and can provide yields of 70 metric tons of sugarcane per hectare. ECOF is optimistic that it can produce as much as 120 metric tons of sugarcane per hectare if it taps the province's rich agricultural lands.

Terms of the Agreement

Officials from ECOF reported that they lease the lands for Php 5,000 (USD 106) per hectare per year for a period of three years. Interview with farmers/landowners who have lease agreements with ECOF confirmed that they were promised, and did receive Php 5,000 per hectare per year as rental for their lands. However, a review of the memorandum of agreement provided by both ECOF and a

participating farmer shows that ECOF's commitment in terms of the value of the lease has yet to be reflected in the agreement between these two parties.

In the main, the farmers only had a lock-up memorandum of agreement with ECOF where they committed not to offer their lands to other parties for a period of 1 year while they negotiate the terms and details of a longer lease agreement with the company. The MOA provides for a signing bonus of Php 500 (USD 11) per hectare.

Impacts of the agreement on men and women farmers and on rural communities

Most of the farmers that signed lease agreements with ECOF depend on rice and/or corn production as their main source of income. The lands that they committed to the lease agreements are idle lands, and are not the same lands that they use for corn and rice cultivation. These lands are less fertile and are difficult to till without irrigation. Additionally, most of them have limited resources for production capital, and as such are not able to till all their lands. The lease agreement offers them the additional income of Php 5,000 per hectare per year.

Some of the farmers interviewed for this study are not employed in the sugarcane farms. According to them, they were not able to work at the time ECOF started sugarcane production because they were also busy tilling rice and/or corn. Some farmers reported that, in the future, they intend to enter into a supply arrangement with ECOF in order to earn higher incomes.

The local officials of ECOF reported that the company prioritizes the employment of farmers/landowners in the farm operation. However, according to them, many farmers opt not to get employed in the sugarcane plantations because the planting, maintenance and harvesting of the said crop requires an entirely different set of skills from planting, maintaining and harvesting rice and corn. Hence, ECOF usually experiences labor shortages and has resorted to hiring a labor contractor in order to ensure that there is sufficient human resource to operate the farms.

Many of the farmers/landowners that were in ECOF's list of lessors are men, though there are also a few women. As in other companies engaged in agricultural land investments, ECOF only forges agreements with farmers/landowners that have land titles. Most of the land titles are in the name of men farmers.

The expansion of the cultivation of idle lands for sugarcane production and the establishment and operation of the bioethanol plants are expected to help invigorate the local economy. To wit, ECOF's budget of 1.5 billion for the production of seedlings and feedstock, along with the regular operation of the bioethanol plant, is expected to translate to actual incomes for farmers/landowners in the area, and stimulate economic activity within the municipality. The influx of capital into the municipality and the generation of business and tax revenues, among other factors, are some of the reasons why the local government is keen on facilitating the company's operations in the community.

When queried about the possible effect of sugarcane production for agrofuel feedstock on the province's rice and corn output and on local and national food security, farmers, local government officials as well as representatives of the company

responded that sugarcane production is done in idle lands and, as such, pose no competition to food production. However, this does not discount the fact that the use of these idle lands for agrofuel feedstock production effectively limits the possible expansion areas for food cultivation.

ECOF also claims that Green Futures Inc. will establish a zero waste plant, and as such will pose no danger to Isabela's ecological systems. It will use the baggasse, a sugarcane milling byproduct, as fuel. It will capture the carbon emitted by the plant and sell this to softdrink companies and use the plant's effluents to manufacture farm inputs such as fertilizers.

4.2.3 Eastern Renewables Fuels Corporation: Cassava Production for Biofuel Feedstock in Isabela

Company Background

Eastern Renewables Fuels Corporation (ERFC), a subsidiary of Eastern Petroleum, is engaged in the production of cassava for agrofuel feedstock. In 2008, the company targeted to expand its cassava production area to 4,500 hectares to supply its bioethanol plant.²⁴ The company announced that it would establish the plant in Central Mindanao as part of a joint venture agreement with Junaxi State Farm in Mainland China. ERFC reported that while it still did not have its own bioethanol plant, the cassava it produced would be shipped to China for processing, and could be imported as bioethanol.

Isabela is one of the company's target production areas. Other production areas are in Mindanao, particularly in South Cotabato, Sultan Kudarat, Sarangani and General Santos.

Status of Operations

The company has already started planting in various areas in Isabela. It has a standing agreement with farmers in Quezon covering 1,000 hectares of lands for cassava production. It also conducted a seminar in B.K. Martinez for farmers who are interested to produce cassava and enter into a production agreement with a cooperative that, in turn, will enter into a supply contract agreement with ERFC. Initially, some 33 hectares of lands in B.K. Martinez are already planted to cassava for ERFC. The company is targeting to increase its cassava production area in the said municipality to at least 200 hectares by July.

Terms of the Agreement

The company's mode of operation involves two standard separate agreements. The first is a production agreement between a cooperative or consolidator and the

²⁴ See "Eastern unit to expand cassava plantation" by Abigail Ho for the Philippine Daily Inquirer, available at <http://business.inquirer.net/money/breakingnews/view/20080514-136422/Eastern-unit-to-expand-cassava-plantations>, May 14, 2008

participating farmers/landowners. The second is a supply and purchase contract between the cooperative and Eastern Renewable Fuels Corporation

Under the terms of the first agreement, the cooperative commits to oversee, coordinate and supervise all enrolled farms in order to harmonize operations and ensure that production targets are met. The cooperative is also responsible for making sure that the outputs of enrolled farms are supplied to the company. The cooperative manages the financial aspect of the investment arrangement. It remits to the farmers the proceeds of the sale less production costs and other deductibles.

On other hand, farmers/landowners commit to produce cassava using the inputs provided by the company. He or she is obliged to sell all the cassava he or she produces in the enrolled farm to the company.

The production agreement emphasizes that the landowner/farmer shall remain the owner/legitimate tiller of all enrolled farms. However, it also explicitly provides that in the event the owner fails to perform his obligations under the agreement, the cooperative can take over his farm in order to help ensure that the latter is able to comply with its supply and purchase agreement with ERFC.

Once a member farmer/landowner with existing obligations to the cooperative receives a notice from the latter that it will take over the enrolled farm, he or she, in effect, commits to appoint the cooperative as “its attorney-in-fact with special and full powers to take over control and management of the operations of the enrolled farms to ensure the production, harvesting and delivery of cassava”. In the main, the terms of the production agreement is structured in a way that puts premium on the goal of ensuring that enough cassava is produced to supply Eastern Renewable Cooperation with sufficient supply of agrofuel feedstock.

The second agreement is a supply and purchase agreement. In some cases, the ERFC and the cooperative have a credit arrangement with the Land Bank of the Philippines for the latter to provide credit to support cassava production. In such cases, tripartite agreements are forged, with the parties having the following core commitments:

ERFC

1. Provide technical training on biofuel feedstock production and a one time training on planting and harvesting technology. The cooperative can request for additional trainings provided that the training costs are shared by ERFC and the cooperatives;
2. Deduct all land preparation advances and all payments to the loans form the Land bank. In the draft agreement for ERFC’s project in B.K. Martinez, the cost of land preparation is set at Php 7,700 per hectare;
3. Extend a corporate guarantee equivalent to 10 per cent of the cooperative’s loan from Land Bank for the production of cassava covered by the agreement;

The ERFC has the option to extend harvesting financing of Php 1,500 per hectare to growers.

Land Bank of the Philippines

1. Provide financial assistance to qualified cooperative members for the production of cassava as agrofuel feedstock;
2. Monitor and supervise fund utilization, releases, billing and collections, and prepare quarterly reports;

The Cooperative

1. Supply a minimum guaranteed volume based on the minimum average of 20 metric tons per hectare including all excess production at an agreed upon price;
2. Issue personal commercial checks covering the advances of ERFC for land preparation for the initial stage of the production cycle;

In cases where farmers pole volt or sell their output from enrolled farms to other parties, ERFC will apply a 100 % surcharge on all advances made by the cooperative.

The terms of the agreement enables ERFC to minimize its risks in land investment arrangement, as it was able to source financial resources from the Land Bank to fund the cassava production. It only extends a 10 per cent corporate guarantee on the loans incurred by the cooperative. On the other hand, the cooperative shoulders bulk of the risk in production as it is the one that has a standing loan with the Land Bank, and is required to pay this loan regardless of its level of agricultural output.

Impacts on men and women farmers and on rural communities

Most of the lands tapped for the investment arrangements are idle mainly because of the character of the soil and because farmers lack basic support services, such as irrigation, to make these lands productive. For this reason, many farmers, most of whom are also planting corn in their other landholdings, are enticed to enroll their farms in the production agreement for the simple reason that it gives them the opportunity to earn additional income from previously idle lands. The potential income from these land investments is expected to provide additional resources for the family to buy food and to use for other household expenses.

One of the requirements for farmers who are interested to enroll in the program is the submission of land titles. Most land titles are in the name of men, although there are some that are in the name of women farmers and agrarian reform beneficiaries.

As in the previous cases, the entry of ERFC into the community is expected to help stimulate economic activity in the area. However, it is important to note that the risks associated in generating such economic activity is actually largely shouldered by men and women farmers themselves, as they are producing cassava for ERFC using loans that they themselves accessed from the Land Bank. As mentioned earlier, ERFC only guarantees 10 per cent of the production loan from Land Bank. Hence, the potential for indebtedness in cases of crop failures or, even as a result of a sudden decision by ERFC to close down or transfer operations is borne almost entirely by the farmers.

4.2.4 DOLE: Banana Production for Export Markets in Bukidnon

Background of the Company and the Cooperative

Dole Philippines started operations in the Philippines as early as 1963. The country became host to Dole's pineapple plantations under its subsidiary company, Dolefil.²⁵ Previously, Dole's operations were mostly based in Hawaii. The company's decision to move to the Philippines was in line with its strategy to expand production to supply the rapidly growing global market for pineapple and other tropical products. In 1964, Dole entered the banana business after it acquired a large portion of Standard Fruit and Steamship Company. It also brought its banana plantations to the Philippines, particularly in Mindanao.²⁶

To date, Dole Philippines has already invested in at least 800 hectares of banana plantation in Bukidnon through different investment arrangements. The output of the plantation farms in Bukidnon is exported to Japan, South Korea and Saudi Arabia, among other countries. One of its main partners in the province is the First Agrarian Reform Multi-Purpose Cooperative (FARM Coop).

FARM Coop is one of the most well-known and well managed cooperatives in Bukidnon. It was formed in October 1990 when San Miguel Corporation (SMC) divested its coffee plantation after being covered by agrarian reform. The 430 farm workers in SMCs coffee plantations became the beneficiaries and members of the FARM Coop. In 1998, it started to produce bananas under contract with Dole Philippines, Skyland Zone.

Terms of the Agreement

The FARM Coop and Dole has a partnership agreement. The cooperative brings in land, management and manpower as equity to the enterprise, while Dole provides the technology, inputs and the market for the bananas. The cooperative hires a farm manager who oversees and supervises banana production and ensures that there is sufficient manpower to support farm operations. Dole shoulders the cost of manpower, along with other farm inputs.

The lands under the partnership agreement with Dole are still covered by a collective land ownership agreement (CLOA).

Under the agreement, Dole provides FARM Coop Members, who are agrarian reform beneficiaries, a guaranteed income of Php 15,870 per hectare. Additionally, DOLE provides a production incentive equivalent to USD 0.08 for every per 13 kilogram box produced above the minimum production requirement of 2,700 boxes per year.

The agreement between Dole and the FARM Cooperative is set to expire in 2013. The agreement mandates that negotiations for a new contract should commence by 2012. A recent amendment to the original agreement states that the partnership

²⁵ See "How Dole Became Number 1", available at <http://www.doleeurope.com/OurCompany/AboutUs/History/tabid/254/Default.aspx>

²⁶ Ibid

between the two parties can be extended or renewed for another 15 years, unless the farm cooperative prefers a banana production and purchase agreement with DOLE, using prevailing prices of bananas as the bases for the new contract.

Status of the Project

As mentioned earlier, the parties are in their final years of the implementation of the partnership agreement. The Farm Coop has been highly successful in finding and maximizing income opportunities for its members as it fulfills its role in the partnership agreement. Apart from generating income from producing bananas, it also earns income by renting out to Dole an ELF truck to haul and transport bananas. The cooperative also operates a credit program for its members and undertakes various livelihood projects.

The Board of Directors of the Farm Coop is optimistic that they will be able to extend or renew its contract with Dole. Members of the Board recognize that the cooperative has become highly dependent on contracts with multinational companies (the cooperative also had a contract with del Monte) for its survival and have yet to develop an independent long-term development strategy for the cooperative. Recently, the cooperative began to embark on projects aimed at diversifying production and incomes. It encourages members to engage in hog production and other livelihood projects. However, in the near future, the cooperative still hopes to maintain a partnership agreement or a similar investment arrangement with Dole.

Impact on Men and Women Farmers and on the Rural Community

For members of the cooperative, the biggest advantage in having a partnership agreement with Dole is getting a guaranteed income of Php 15,870 per hectare per year. Farmers receive this income regardless of the plantation's level of production and situation in the global market for bananas. Some of the coop members also work in the farms and as such are also able to earn steady wages from the farm operations.

Additionally, they welcome the fact that Dole provides incentives for increased production. The production incentive, which is divided among the workers, provides the latter with additional income. Last year farm workers were able to take home Php 2,500 as production incentive on top of their regular wages. The lowest wage in the farms corresponds with the legally prescribed minimum wage.

The Farm Coop employs men and women farm workers. Most of the women are involved in the packing, quality inspection and in administrative and office work in the cooperative. However, almost all of the members of the cooperative are men, mainly because most of the agrarian beneficiaries indicated in collective CLOA are males. Women, like other non-ARBs, are classified as associate members. They can participate and benefit from the cooperative's micro credit programs and other livelihood projects, but they do not receive guaranteed incomes.

For a lot of members the income opportunities provided by their partnership with Dole is the main benefit from the agreement. However, it is important to note that many of the income opportunities generated by the cooperative and which accrue to members are direct outcomes of the cooperative's management capability. As

mentioned earlier, the cooperative has been able to identify and maximize income opportunities for its members through various livelihood projects. The cooperative credits this to the trainings and capability support it received from the Philippine Business for Social Progress.

FARM Coop members note that one of the main disadvantages with having a long-term contract with Dole is that it is difficult to change the terms of the contract agreement to respond to changes in situations or conditions. The Board of Director of the cooperative has to go through a long and tedious process of negotiations in order to amend or introduce changes to the contract. The fact that the agreement is long term in nature almost always result to a need to change some provisions to keep the contract updated and current, particularly in terms of prices, terms of production incentives, farm operations requirements, etc.

At the same time, member of the cooperative note that the undertaking a long term contract with Dole or with any other company limits their flexibility to take advantage of new investments opportunities as they are bound by the terms of the agreement.

Beyond the cooperative, there are also important concerns regarding the possible effect of intensive banana production on the long-term sustainability of the soil and of agricultural production. Dole does not use aerial spraying on account of the strict production requirements and health regulations of Japanese importers. Nevertheless there is great pressure even from members and workers to intensify chemical use in order to increase output because of the production incentives. Unfortunately, the extensive and intensive use of chemicals to boost production will eventually damage the nutrients and long-term productivity of the soil. In fact, one government official from Bukidnon noted that a lot of multinational companies are now moving to Bukidnon from Davao, because the lands in the latter are no longer productive having been subjected to decades of intensive and plantation-type chemical farming. According to him one can be sure that once a multinational company uses an agricultural area, it will leave that area arid after some years because the lands will already be poisoned by the repeated use of chemical inputs.

Part 5

Impacts of agricultural land investments

Previous studies have noted both the positive and negative impacts of agricultural land investments, including the establishment of plantation farms, on farmers and on agriculture (Santoalla, 2008; Montemayor, 2010). It is important to distinguish between the short term impact of agricultural land investments on small men and women farmers and rural communities, and their long term implications on rural livelihoods, food security and environmental sustainability. It is only by weighing both short and long term impacts that one can have a more strategic perspective of how to view and manage agricultural land investment in a way that supports rather than undermines sustainable agricultural development.

5.1 Short Term Impacts

Additional income

The most apparent and immediate impact of agricultural land investments is that it creates opportunities for additional income for small men and women farmers, either from lease rentals or from the employment generated through the investment arrangement. The amount of additional income is not high, with some lease agreements offering lease rentals of as low as of Php 2,500 (USD 53) per hectare per year.

The absence of other income opportunities plus the fact that rural incomes are so low serve as powerful incentives for farmers to want to enter into land investment arrangements, no matter how inequitable the terms of some agreements may be, as evidenced by some of the case studies. In this context, calls to ban or severely limit the flow of agricultural land investments can be expected to encounter some degree of resistance from among some of the farmers themselves, unless government and other entities provide them with alternative means to improve their livelihood.

Influx of production capital and resources

Agricultural land investments facilitate the influx of production capital and resources to generate agricultural activity. Many farmers are not able to maximize benefits from their lands because they do not have money to buy seeds and other planting inputs. Private agricultural land investments – in a context where there is very little public investment for vital agricultural support services - creates opportunities for production capital to flow into communities and stimulate agricultural production.

It is interesting to note that in some cases, investors merely facilitate the influx of production capital. For instance, loan agreements with the Land Bank of the Philippines or similar financing arrangements enable them to shift the burden and risks of raising production capital to government and to farmers' cooperatives. The fact that the Biofuels Act of 2006 encourages financial institutions to prioritize lending for agofuel production enables investors to undertake these types of financial arrangements.

Use of idle lands

Many new agricultural investments are in idle lands – a fact cited by government to dismiss claims regarding the possible negative effect of agricultural

land investments, particularly for biofuels, on food security. For many farmers, the chance to earn income from previously idle lands is one of the reasons why they enter into land investment arrangements.

However, that private companies, with sufficient investments, are able to make these lands productive underscore the fact government's lack of basic support services, more than anything else, is the problem behind farmers' failure to benefit and maximize the use of their lands. It also indicates that with proper support, it is possible to help make these lands productive, even for food production. At the same time, it also shows that sufficient public investments in agricultural services can expand farmers' options, and empower them to choose how to best develop their lands. At the moment many farmers have very little or no recourse but to accept whatever investment arrangements are offered to them by investors because they have no other choice and means to improve production and incomes.

Land reconsolidation

Agricultural land investments lead to land reconsolidation and undermine the ideals, principles and objectives of agrarian reform. Indeed, a crucial task of PADCC and the DAR AREDP is the consolidation of farmlands in order to be able to produce the volume requirement of a particular crop for investors. Land reconsolidation is also presently being done by local government units, cooperatives and even by private entities.

Farmers give up control of lands to investors and corporations in the process of land reconsolidation. They either sign their rights to the investing company through lease agreements, or they commit to produce a particular product using a prescribed technology through growership contracts or supply and purchase agreements.

Land lock-up

All investment arrangements, be it lease contracts, or growership or partnership agreements entail locking up land for specific uses. Most of these agreements are long term in nature, covering ten to twenty five years. For many farmers, committing to these agreements essentially means signing away the potential and flexibility to use the lands for purposes other than what is prescribed in the agreement.

Many contracts with private sector are structured in such a way that makes it difficult for farmers to terminate the terms of the agreement, while giving investors

the option to back out of the investment arrangement anytime without any safeguards for farmers/landowners.

Diminished pressure on government for services

The strategy to entice private sector investments eases pressure on government to take the cudgels of providing the necessary support services to small men and women farmers. One of the reasons cited by national and government units for encouraging agricultural land investments is that there is very limited resources to help deliver basic support services for small farmers. Indeed, many of the government officials interviewed for this study are satisfied that they were able to entice private companies to provide the services that government could not otherwise deliver to small men and women farmers because of limited budget allocation.

Risk of indebtedness

As can be gleaned in the case studies, most growership and supply and purchase agreements are structured in such a way that the costs and risks associated with agricultural production are almost entirely born by the farmers. Indeed, in some situations, agricultural land investments have lead to greater indebtedness among small men and women farmers.

Additionally, loopholes in the current regulatory framework on land investments increase farmers' vulnerability to production losses. Under DAO 9, for instance, the risks in production are shouldered only by the farmer, as they are expected to pay for investors' inputs in case of production losses, even if these are caused by force majeure.

5.2 Long term impacts

Impact on food security

Agricultural land investments, which are mostly for biofuel feedstock, diverts agricultural lands from actual and potential food production. The 1.37 million hectares identified by PADCC for agricultural land investments, if tapped to produce rice, could yield, at the very minimum, 2.4 million metric tons of rice, enough to make the Philippines self-sufficient in rice production and insulate it from volatilities in the world food market. These volatilities are expected to increase as rice production in the region becomes increasingly marginalized by climate change.

Impact on ecological sustainability of agricultural production

Companies engaged in large scale agricultural production, whether for exports or for the cultivation of biofuel feedstock, always bring in their own technology package. This technology package invariably involves extensive and intensive use of chemical inputs, such as fertilizers, pesticides and herbicides, among others, in agricultural production.

The use of these chemicals undermines the long term productivity and viability of the soil, and endangers the sustainability of agricultural production. Investors can easily move their operations to more productive agricultural areas. However, for communities affected by soil degradation as a result of intensive chemical use, the effect of diminished productivity will be much more debilitating.

At the moment, government requires environmental clearance certificates from the DENR before allowing the operation of any enterprise or project within a community or area. However, there are also many policies that undermine this regulatory requirement. Indeed, the proliferation of environmentally unsustainable projects warrant the need for stricter application and closer monitoring of laws and policies protecting the environment.

Part 6

Conclusion and Recommendations

6.1 Plug loopholes to improve existing investment regulatory framework

Current national laws and regulations are not sufficient to safeguard food security as well as the welfare of small farmers vis-à-vis the interest of investors because of certain loopholes in the way these rules are structured. In particular, there is a need to amend pertinent provisions of existing laws and administrative orders, such as DAR AO 9 and JAO 1 to plug in these loopholes.

6.2 Develop a binding code of conduct for investors

There is presently no code of conduct for agricultural investors to ensure that their goal of maximizing profit and economic opportunities are not pursued at the expense of the welfare of small holders and in a way prejudicial to the country's attainment of important socio-economic objectives such as food security and environmental sustainability.

The code of conduct should provide the basic foundation of contracts between investors and small farmers/landowners, and its implementation should be closely monitored by pertinent government agencies.

6.3 Improve government's capability to monitor agricultural land investments

Existing state institutions are presently not in a position to monitor the status and activities of agribusiness land investors, as evidenced by reports of agricultural land investments that are not within government's radar. The reportorial requirements contained in JAO 1 as well as the fact that the NBB requires biofuels producers to declare their sources of biofuels feedstock suppliers in order to evaluate if the latter meet the certification requirements of the DA are good starting points to monitor biofuel production in the Philippines. In particular, government should create a central registry of all agricultural land investments, including those forged via local government units.

6.4 Increase public investment as a strategy to empower farmers and promote food security

Government needs to provide sufficient public investment in agriculture as a way of providing farmers the option and capability to develop and optimize the production potential of all their lands. The fact many farmers have no option but to enter into investment agreements if they want to earn additional income from their idle land makes them particularly vulnerable to inequitable investment arrangements. The delivery of basic support services, such as irrigation, credit for production capital and technology extension services will provide them the means to develop their lands, and give them the necessary leverage to demand for better investment arrangements with investors.

Moreover, by investing in the development of idle lands, government has the potential to expand areas for food production and meet its food security objectives, including the attainment of rice self-sufficiency.

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