

FINAL REPORT

**Biofuel, land and environmental issues – the case of
SEKAB's biofuel plans in Tanzania**

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Kjell Havnevik, Hanne Haaland and Jumanne Abdallah¹

Introduction

Since investments in biofuel expansion in most sub-Saharan countries are rather recent, empirical investigations of the implications for land outsourcing, environmental aspects and food security are still in their infancy. Access to data about establishment processes and how concessions are gained is difficult and methodologies are mostly unproven. To address this gap, this chapter investigates the plans for and implementation of biofuel production in Tanzania by a Swedish municipal company, SEKAB International AB (hereinafter SEKAB) and its subsidiaries, with the aim of attaining a more empirically based knowledge on the ground. The findings from this research may complement other findings presented in this book

¹ The authors are grateful to the Sida/Nordic Africa Institute programme on “Inequalities and poverty in Africa” for funding of this research. . Our institutions, the Nordic Africa Institute, the Center for Development Studies, the University of Agder, Norway and the Faculty of Forestry, Sokoine University of Agriculture, Tanzania, have supported the study throughout. We are also grateful to all the stakeholders who have given their time to assist us and to be interviewed or who provided relevant information to the project, both in Tanzania and Sweden. Longer interviews in Sweden were conducted with Melinda Fones-Sundell, SEI; Linda Engström, Sida Helpdesk, SLU; and Per Giertz, ORGUT. The former CEO of SEKAB, Sweden and Björn Edström were interviewed by e-mail. In Tanzania, interviews were conducted with, among others, Anders Bergfors, SEKAB T, Dr. Mato, Ardhi University and Mr. Ruriga, National Environmental Management Council, NEMC as well as villagers living on and adjacent to the Razaba farm in Bagamoyo district. Parts of the information presented in this chapter are also based on presentations and discussions at a number of seminars and workshops conducted between 2006 and 2010

and elsewhere and help us reflect about the realism of the recommendations for large-scale land acquisitions and leasing of African land for biofuel and food production. Concerns have been raised by international research institutions and the UN special rapporteur on the right to food and other UN organisations on the implications of such acquisitions on the livelihoods of African people. The recommendations proposed by the institutions around which there seemed to be agreement included that:

- (i) There shall be transparency in the negotiations;
- (ii) The rights of local communities, including customary land rights, should be protected;
- (iii) There shall be a sharing of benefits between local communities and investors;
- (iv) Environmental sustainability shall be ensured; and
- (v) Food security in the African countries and communities shall not be compromised.²

In the following text, we present the two interlinked projects that SEKAB initiated in Tanzania in 2005, focusing particularly on the Environmental and Social Impact Assessment (ESIA) process of the Bagamoyo project. We carried out investigations, including interviews with various stakeholders involved in the ESIA process or with knowledge of it, in Tanzania and Sweden in the period 2008 to 2010. This chapter is part of a broader research project that will

² For more insights refer to chapter 2 in P. Matondi, Kjell Havnevik and Atakilte Beyene (eds), *Biofuels, land grabbing and food security in Africa*, ZED Books, London and New York. 2011.

also focus on suggestions as to how to improve ESIA processes and procedures in relation to biofuel projects.

The choice of a case study of a Swedish municipally owned company, SEKAB (70% municipally owned and 30% privately owned by EcoDevelopment in Europe), with long experience in the energy sector, is made on the basis that the company has a reputation to uphold since it is directly accountable to Swedish tax payers. SEKAB is also strongly involved in the promotion of certification processes for biofuels globally and in developing second generation technologies for bioenergy production.³ SEKAB was founded in 1906 and the core business of the present company (established in 1985) is to develop second generation ethanol and green chemicals from lingo-cellulose biomass. However, it has taken more time than expected to achieve commercially feasible production of these technologies and SEKAB, therefore, decided to venture into first generation ethanol production globally where ‘land is available’. SEKAB’s vision, formulated by its previous Chief Executive Officer (CEO), Per Carstedt, was based on the idea that the production and use of non-fossil fuels in the transport sector has to increase in order to address climate change until second generation ethanol becomes commercially available.⁴ SEKAB subsequently decided to internationalise its production and trade in first generation biofuels with Brazil, Ghana, Poland, Hungary,

³ According to a SEKAB press release on March 18, 2009, titled “Sustainability Award for SEKAB”, SEKAB was awarded a “Sustainability Bioethanol Award”. This prize was given to SEKAB for its contribution to “develop verifiable sustainable ethanol and second generation ethanol based on cellulose”. SEKAB is hence seen to be in the forefront in these areas and considered an attractive partner for countries and businesses aiming at developing clean and alternative vehicle fuels.

⁴ Havnevik personal communication with Carstedt at SEKAB T’s office, Dar es Salaam, October 2007.

Tanzania and Mozambique. During the first years of the 2000s, SEKAB had become the largest importer of biofuel to the EU market.⁵

SEKAB should hence be expected to stand out as a “good case” in addressing the recommendations proposed by research institutions and UN agencies in its biofuel promotion in Tanzania.⁶ To implement its vision, SEKAB established the subsidiary companies, SEKAB Bioenergy Tanzania Ltd (hereinafter SEKAB T) and Ecoenergia Mocambique. SEKAB T was 98.5% owned by SEKAB, Sweden, and 1.5% by the Tanzanian “Community Finance Company”. The total investment of SEKAB in the two companies from 2005 to October 2009 was SEK 170 million, about USD 25 million.

Another reason for focussing on SEKAB’s project was that the discussions and debate about SEKAB T’s Bagamoyo project and the process around its ESIA, have been particularly heated.

⁵ P. Roberntz, T. Edman and A. Carlson, 2009 (June 19), “The Rufiji Landscape. The sweet and bitter taste of sugarcane grown for biofuel.” Draft report prepared for WWF, Sweden. SEKAB originally, however, had planned to build three large ethanol factories in northern Sweden, but due to lack of raw materials, the decision was made to start production in Africa (Information provided by Eva Fridman, CEO for Biofuel region to SVT’s Västerbottensnytt, printed in DN, Stockholm, internet edition, September 10, 2007).

⁶ SEKAB’s work in Sweden to develop alternative vehicle fuels has also been noted by the United States of America (USA) Embassy in Stockholm, which included the company on its list of, “Partners for Cleaner Energy - Alternative energy opportunities in Sweden” (US Embassy, June 30 2009). Here (p. 44) it is stated that SEKAB’s main mission is “to create the conditions for actively promoting sustainable transport for the future with the help of long-term sustainable biofuels”, and further that SEKAB’s ethanol produced in Sweden is biological and the raw materials for production consist, among other things, of sugar solution obtained from paper pulp production and oxygen from the air.

The polarised discussions about environmental and social impacts of the planned SEKAB T's projects relate to the potential competition between food and fuel, and reports about increased insecurity for smallholders' land rights due to large scale investments. Against this background, there is thus a need to investigate the current procedures and standards for ESIA connected with applications for investment licenses for large scale investment projects with potential environmental and social impacts. There is reason to ask whether such projects are radically different from other large scale land demanding projects and whether they, therefore, require different preparatory and planning procedures. What can be learnt from a more empirically oriented study and interviews with the major stakeholders? How could this generate proposals for improvement of the ESIA process in general? Another important objective of this research was to gain insights into the role of the state, donors and investors, including SEKAB, in promoting a broader framework, i.e. policy and guidelines for the sector, that go beyond Strategic Environmental Analysis (SEA) and ESIA. The Tanzanian government was unprepared for the rapid influx of international investors/companies in this sector.

Background and key developments

SEKAB's choice of Tanzania as a production country was based on the assumed existence of available and suitable land for large scale biofuel production. Tanzania has as well a strong Swedish and Nordic aid relationship dating back to the 1960s. During the last decade, Swedish development assistance has widened its perspective through the Policy for Global Development (PGU, abbreviation in Swedish for 'Politik för Global Utveckling') and made commercial and business relations between Sweden and developing countries a more integral

part of it.⁷ To this effect, a new department was established in Sida dealing with tripartite initiatives between governments, development assistance and commercial companies (Department of Partnership Development, Aktörssamverkan, or AKTSAM). This approach can be seen as a response to the PGU and it also makes it possible for Sweden to continue cooperation with countries where development assistance has been phased out, such as Vietnam, India and Namibia, on more commercial terms.

In addition the UN initiative to engage the business world in global development (the Global Compact) has been concretised in the guidelines for Social Responsibility (CSR) that emphasise ethical, environmental and social responsibilities of business companies and investors. SEKAB has made elements of the CSR guidelines central to its activities and, in particular, sustainability issues. According to the CEO of SEKAB Biofuels and Chemicals, part of the SEKAB Group, Anders Fredriksson, and SEKAB “works actively towards promoting sustainability criteria in a globally accepted system.” The “Sustainable Bioethanol Award,” bestowed on SEKAB in March 2009 by Green Power Conferences, a British company, is seen as recognition by SEKAB that its work in this direction has given results.⁸

As to developments in Tanzania, SEKAB T’s objective was to set up office in Dar es Salaam, to recruit competent personnel to plan the projects, start land acquisitions and conduct an initial risk assessment and ESIA. SEKAB T gained access to land after discussions with the Revolutionary Government of Zanzibar to lease part of its Razaba cattle ranch in Bagamoyo

⁷ Odén, Bertil, 2006. *Biståndets Idéhistoria. Från Marshallhjälpen till milleniemål*. Studentlitteratur. Pp- 189-190.

⁸ SEKAB, 2009, “Hållbarhetspris till SEKAB”. Press information, March 18 2009.

district, Coast Region, which had not been operational since 1994. The ranch is located adjacent to the Wami River from which it was planned to draw water for sugar cane cultivation. SEKAB T requested to lease 24 200 hectares of the ranch. 22 000 hectares were granted to SEKAB T by the Tanzania Investment Centre, TIC, and derivative rights were being processed during 2009.⁹

An ESIA can be defined as a systematic process that examines the environmental consequences of development action, in advance. Normally, project ESIA's have to be based on a project investment feasibility study in order to identify potential impacts and how they can be mitigated. A fundamental problem that affected the planning of the Bagamoyo project was that SEKAB T did not develop an investment feasibility study as an input to the ESIA. The lead consultant for the Bagamoyo ESIA was the Swedish consultant company, ORGUT, in cooperation with Ardhi University, Dar es Salaam, contracted directly by SEKAB T. The process of the Environmental and Social Impact Study of the project was conducted during 2008 and resulted in an investment license from the Tanzanian National Environmental Management Council (NEMC) in April 2009. As for the Rufiji project, the Stockholm Environment Institute (SEI) and the Institute of Resource Assessment (IRA) at the University of Dar es Salaam conducted a risk assessment study of the planned project.¹⁰ This study was

⁹ Sulle and Nelson, 2009:56.

¹⁰ Stockholm Environment Institute and Institute of Resource Assessment, University of Dar es Salaam and Zoology Department, 2009, "Initial Assessment of Socioeconomic and Environmental Risks and Opportunities of Large-Scale Biofuels Production in Rufiji District", Stockholm and Dar es Salaam.

strongly criticised for various weaknesses.¹¹ In addition, the land acquisition process from villages in Rufiji district turned out to be much more complex than anticipated by SEKAB T.

The Bagamoyo project was seen as a forerunner and pilot project (gaining experience and producing seedlings) to the much larger biofuel project in Rufiji district which was originally planned for 400 000 ha. Rufiji district is located to the south in Coast Region, and its nature, ecology and its flood plain agricultural production are intimately tied to the variable flow of the Rufiji River whose catchment area covers about 30% of Tanzania's land area.¹² The analysis of the planned Rufiji project will put emphasis on the land acquisition process and environmental and climate issues related to the plans for the project. SEKAB's planned sugar cane production was not to be located in the flood plain itself, but on higher ground to the north and south of it. Hence, water for sugar cane cultivation needed to be drawn from the Rufiji River.

¹¹ See Marie Widengård, 2009, "Seminar notes (May 25) – Aspects of SEKAB's plans for large scale biofuel production in Tanzania." Based on presentations and discussions in a seminar organised by the Nordic Africa Institute, Uppsala; WWF, Sweden; Department of Physical Geography and Quaternary Geology, Stockholm University and the Swedish Interdisciplinary Research Network on Livelihoods and Natural Resource Governance, at Stockholm University, May 20, 2009.

¹² Havnevik, Kjell, 1993, *Tanzania – Limits to Development from Above*. Nordic Africa Institute, Uppsala, chapters 3 and 4; Hoag, Heather, 2003, *Designing the Delta: A History of Water and Development in the Lower Rufiji Basin, Tanzania, 1945-1985*. Boston University, Graduate School of Arts and Sciences. Phd dissertation; Öhman, May-Britt, 2007, *Taming Exotic Beauties. Swedish Hydropower Construction in Tanzania in the Era of Development Assistance, 1960s – 1990s*. Doctoral Thesis in History of Science, KTH, Stockholm; and Duvail, Stéphanie and Olivier Hamerlynck, 2007, "The Rufiji River flood: Plague or blessing? In *J. Biometeorology* (2007), 52:33-42.

In order to fund its development costs in Bagamoyo and Rufiji, SEKAB T on July 28, 2009, applied to Sida, Stockholm for a Credit Enhancement Guarantee that would allow the company to borrow money from Tanzanian banks.¹³ This move was necessary because the Board of SEKAB had refused to inject more money into SEKAB T. The processes around the Tanzanian projects were, in addition, becoming increasingly contested by many stakeholders and concerned observers, including NGOs and researchers, both in Sweden and Tanzania.¹⁴ “Development Today”, a weekly development assistance oriented journal published in Oslo, that followed SEKAB T’s engagements in Tanzania closely, published an article reporting that SEKAB T had tampered with the conclusions of the Bagamoyo project’s ESIA carried out by ORGUT and Ardhi University. The journalist’s conclusion was that SEKAB T had received permission from the Tanzanian agency, the NEMC, to proceed with the Bagamoyo investment on false grounds.¹⁵ This threatened the reputation of SEKAB, which in addition had been hit

¹³ SEKAB Bioenergy Tanzania,”SEKAB Bioenergy Tanzania Ltd – Application for Credit Enhancement Guarantee.” July 28, 2009. Dar es Salaam, Tanzania.

¹⁴ Roberntz, P. et al., 2009,”The Rufiji Landscape. The sweet and bitter taste of sugar cane grown for bio-fuel.” Report presented to WWF, Sweden. Draft of June 19, 2009; Article in Dagens Nyheter, Stockholm, April 14, 2009, “Svenskt bistånd ska rädda miljöfarligt etanolprojekt” by Tor Arve Benjaminsen, Ian Bryceson, Annika Dahlberg, Karin Holmgren, Lars Johansson, Mats Widgren and Wilhelm Östberg; Article in Dagbladet (Norway) on January 28, 2009, ‘Klimakolonialismen’ by Tor Arve Benjaminsen and Ian Bryceson; and ActionAid, October 2009, “SEKAB – Etanol till varje pris? Hur SEKABs biobränsleprojekt i Tanzania drabbar lokalbefolkningen”, Stockholm. See also Marie Widengård 2009.

¹⁵ Development Today, Oslo, 4/09.

hard by the financial crisis and had accumulated losses amounting to SEK 317 million during 2008.¹⁶

On October 29 2009, Sida decided, on the basis of thorough analysis, to reject SEKAB T's application for a Credit Enhancement Guarantee on several grounds (to be taken up later). A week earlier, however, on October 21, SEKAB International AB (SEKAB) and EcoDevelopment in Europe AB had entered into an agreement in which EcoDevelopment took over 100% of the shares in the two subsidiaries in Tanzania and Mozambique at practically no cost, SEK 400. Three of the owners of EcoDevelopment were also on the board of SEKAB, but were said to have not "taken part in the board's decision on this issue." With this agreement, SEKAB "extracted itself from its African projects except for the four potential off-take contracts, one for its Ghana efforts and three for EcoDevelopment in Tanzania and Mozambique respectively". The agreement between SEKAB and EcoDevelopment also states that in the case that EcoDevelopment "is able to find financial backers for the African ethanol projects and is able to implement its plans, the contract includes a pledge for an off-take contract and a repayment clause, with which SEKAB can regain the entire amount it invested in Africa between 2005 and 2008, approximately SEK 170 million."¹⁷

Hence, over a period of four years, a highly reputed energy company, SEKAB, had acquired a loss of SEK 170 million, of which 70% had come from Swedish taxpayers' pockets, in its

¹⁶ SVT (Swedish Television), Stockholm, June 11, 2009. Based on information provided by SEKAB's CEO Björn Edström to "Mittnytt".

¹⁷ SEKAB, "SEKAB sells subsidiaries in Tanzania and Mozambique to EcoDevelopment in Europe AB". Press Release, October 23, 2009.

attempt to develop biofuel production based on sugar cane production in Tanzania and Mozambique. How could this be possible and why did the processes related to the development of these projects become so contested?¹⁸ These are questions we will return to throughout this chapter.

The Tanzanian Context

SEKAB T was established at a time when development assistance fatigue had taken hold among many competent Swedish and Nordic development practitioners with long term experience of working in Tanzania. With its vision and dynamic leadership, SEKAB T, promised employment opportunities, increasing investments and incomes and modernisation of agriculture in Tanzania. In large part, development assistance for many years had failed to deliver such modernisation. SEKAB T was, therefore, considered dynamic and development oriented by important sections of the donor community, by many Tanzanian government officials and development practitioners who longed for action and concrete results.

¹⁸ The conflict about SEKAB's international investments was also played out in the local context in the municipalities in northern Sweden, Örnsköldsvik, Skellefteå and Umeå, which were the owners of SEKAB (70%). Municipal politicians from the three areas commissioned a report to investigate SEKAB's international investments that was presented in Umeå on November 4, 2009. The report, compiled by Sweko, criticised the municipal energy companies for not having informed the municipal owners about SEKAB's international investments but apart from that it was claimed that the municipalities had been given reasonable information on which to make decisions and there was no serious breach against the owners' directive for SEKAB. The opposition politician, Dan Olsson, however, was reported to have stated that he found the report below standard and, "it looks as if it was done to protect those responsible" (our translation). Reported by SVT.se, November 5, 2009.

SEKAB T was thus able to recruit competent and committed Nordic project managers and advisors with long Tanzanian experience alongside experienced Tanzanian professionals.¹⁹ SEKAB also organised meetings and seminars in Sweden in order to inform relevant authorities, notably Sida and the Foreign Ministry in Sweden. Professionals with long experience from high positions in Swedish development assistance, including former ambassadors and highly placed government officials, also made their services and competence available to SEKAB and SEKAB T. SEKAB T also put a lot of effort into informing relevant Tanzanian authorities and international agencies and donors, not least the Swedish and Norwegian embassies, in the country.

When SEKAB announced its Tanzania biofuel plans, the ideas found support among many development assistance officials and diplomats. Even the Swedish ambassador to Tanzania in the mid-2000 took a keen interest in it. Tanzania had neither guidelines nor policies that could

¹⁹ SEKAB T had among others recruited several competent aid practitioners from the successful Sida supported, Land Management Programme, LAMP, that was conducted in Babati district during the period 1994 to 2008. See e.g. Havnevik, Kjell, 2006, "Successful community based forest management in northern Tanzania: Reflections and Theoretical Implications", in Kjell Havnevik, Tekeste Negash and Atakilte Beyene (eds) (2006), *Of Global Concern – Rural Livelihood Dynamics and Natural Resource Governance*. Sidastudies no 6, Stockholm, chapter 7. In addition young and competent Tanzanian development practitioners from this project were recruited to implement SEKAB T's activities in Rufiji district. To address rights perspectives in its activities, SEKAB T recruited, among others, a highly competent Sida official with long experience from this area. Based on several meetings in Dar es Salaam by Kjell Havnevik with some of the above mentioned SEKAB T's officials during November 2008, it appeared that a strong commitment and belief in SEKAB's biofuel expansion in Rufiji was emerging.

assist government agencies at all levels to coordinate and guide proposed biofuel projects, some planned to comprise hundreds of thousands of hectares. The Swedish Embassy, with active support from SEKAB T, created a forum for discussion on how a biofuel sector framework could be developed.²⁰ The pressure from potential biofuel investors was enormous and a representative from the Ministry of Agriculture claimed that by mid-2008, 30 foreign investors were preparing the ground for biofuel projects.²¹

The Tanzanian government in March 2006 established a National Biofuel Task Force (NBTF) coordinated by the Ministry of Energy, and based on a recommendation of a GTZ study from

²⁰ Communication between Jan Grafström, Sida, and Havnevik, June 2010. Grafström had been an official at Sida, Dar es Salaam, with responsibility for the energy sector, including biofuels, during the years 2005-2008. To support the knowledge base for development of bioenergy in Tanzania, the Swedish Embassy in Dar es Salaam also, among other things, initiated and funded a major study on the sector; Mwamila, Burton et al., 2009, “Feasibility of Large-Scale Biofuel Production in Tanzania. Study Report.” April 2009.

²¹ Personal communication between Havnevik and a member of the National Biofuel Task Force, Dar es Salaam, November 2008. See also “The East African”, October 5 2009 that reported that more than 40 companies had biofuel investments in Tanzania. Kamanga (2008, p. 19) also provides figures on the number of companies registered with the Ministry of Energy and Minerals for biofuel investments. He reported (in 2008) that a total of 37 companies were registered of which 13 were foreign, 6 were local and 4 were joint between foreign and local interests and that the majority of these companies were planning to grow jatropha. For 14 companies there was no information about origin and organisational structure. Only 2 of the 37 companies had indicated that their intention was to assist smallholders in growing the crops. The total land area requested by 16 of the companies registered totalled 641 170 hectares and 1150 acres while 21 companies had unspecified land needs.

2005.²² This was the first study to address biofuel development in Tanzania. In January 2009, the Norwegian and Swedish development agencies, Norad and Sida, provided USD 3 million to the Tanzanian government to develop guidelines for the biofuel sector. The two donor agencies are currently also contributing financially to the process of establishing biofuel policies (Interview with Sandvand Dahlen, November 3, 2009). Guidelines, not policy, had to come first, due to the urgency of the situation. Various draft guidelines have so far been circulated in the relevant Tanzanian ministries. A problem with the guideline process was that biofuel development was primarily conceived as an energy issue, and not sufficiently connected with agricultural, land and food security aspects. In late 2009, draft guidelines for the biofuel sector had been produced, but had not been officially approved.

Although development of SEKAB T's biofuel projects took place in a context without guidelines and policies for the sector, the Tanzania government and parliament had earlier passed laws and regulations of relevance for its development. This included the Tanzanian Investment Policy of 1997 and the Land Act and the Village Land Acts of 1999 (with subsequent amendments). The Tanzanian Investment Centre (TIC) was established in 2005 to identify suitable land for investors and the creation of a Land Bank that could act as a "one stop agency" in order to attract and serve external investors.

²² GTZ, 2005, "Liquid Biofuels for Transportation in Tanzania: Potentials and Implications for Sustainable Agriculture and Energy in the 21st Century". Dar es Salaam. This was, however, the only recommendation that the Tanzanian government acted on from the GTZ report.

Regarding the land situation in Tanzania,²³ FAO (2006) estimated that 4.5 per cent of the total land area is arable and 1.3 per cent is under permanent crops.²⁴ The World Bank's World Development Indicators Database, on the other hand, states that as much as 10 per cent of Tanzania's land area is arable (about 90 000 km²) while 1 per cent of the land is under permanent crops.²⁵ Thus, there are discrepancies in the land statistics amounting to almost 50 million ha. The situation with arable land availability becomes even more confused when the Tanzania Investment Centre's (TIC) Investors Guide (2008) states that 58.3 million ha of land are available for biofuel development. Other sources mention 55 million ha as being available for such development without, however, any critical reflection on the numbers.²⁶ This amounts to 62 per cent of the total land area of Tanzania. However, we also know that about 70 per cent of the land in Tanzania is under the jurisdiction of 11000 registered villages. In addition, 39.6 per cent of Tanzania's total land area is "protected areas", most of it falling under the IUCN category: 'Managed Resources Protected Area'.²⁷ Hence, land conflicts are bound to occur when TIC tries to earmark land for investment and transfer it via the Commissioner of Land to the TIC according to the 1997 Investment Act. Even the 2 million ha of land that TIC in late

²³ This discussion is based on Hans Morten Haugen, "Biofuel potential and FAO's estimate of available land: The case of Tanzania". Mimeo 2008.

²⁴ FAO, 2006, Compendium on Food and Agricultural Indicators 2006, Rome.

²⁵ www.worldbank.org/data/countrydata/countrydata.html.

²⁶ Sawe, E. N., TaTEDO and WWF Tanzania, "Scoping Exercise on the Biofuels Industry Within and Outside Tanzania (2008); Burton Mwamila et al., "Feasibility of Large-Scale Bio-Fuel Production in Tanzania", August 2008 and; Tor Arve Benjaminsen et al., "Climate Change in Tanzania: Trends, Policies and Initiatives," Norwegian University of Life Sciences, 2008.

²⁷ World Resources Institute, "Biodiversity and Protected Areas – Tanzania (2003)".

2008 claimed to have identified and targeted for biofuel production cannot be offered to investors due to the complex land legislation. One source of the land conflict with villages is that the Land Act and the Village Land Act (both of 1999), define “unused village land” differently, thus opening up for TIC to appropriate ‘unused’ village land.

The idea to establish a Land Bank under the auspices of TIC has not materialised due to lack of funds for land compensation. International donors are reluctant to provide assistance to a TIC administered Land Bank due to the fear of marginalising smallholders with weak land rights (personal communication between representative of TIC and Havnevik, November 2008). Thus, potential foreign investors are recommended by TIC to visit areas where land might be available for biofuel production. Such visits should start with calling on the District Land Officer who would guide the investors to villages for discussion about possible leases of village land and what could be offered by the investor in return.

The SEKAB Bagamoyo project

The ESIA – content and process

Environmental Impact Assessments (EIAs) in some form have existed since the 1960’s when the US Environmental Protection Agency developed EIAs for investment projects in the US. The use of EIAs to predict the environmental impacts of investments and as an essential tool in the permit-issuing process for new investments has since spread. It is now a basic requirement for all new large-scale investment projects with a potential for environmental and social impacts in most countries. Impact assessments can be a policy instrument, a tool for planning

or a way to ensure public involvement²⁸ and can treat environmental aspects and social aspects as distinct units. However, according to Graham Smith (1993),²⁹ the social, economic, physical and biological aspects of the environment are so integrated that impact assessments should not treat them as separate units, but rather integrate them. We will return to this, because it provides context and justification for the use of the term ESIA.

In Tanzania, the National Environmental Management Act (NEMA) of 2004 and its associated regulations explicitly prohibits implementation of any projects, “likely to have a negative environmental impact”. However when it comes to micro project activities, the law proscribes the possibility of issuance of a “trading, commercial or development permit or license” in the absence of a “certificate of environmental impact assessment issued by the Minister”.³⁰ Hence an ESIA has to be conducted for medium and large-scale projects whether they are related to biofuel production, the establishment of fish farms or of tourist enterprises.

In the late 1980’s, the EIA requirement for new investments was adopted by many multilateral development agencies (UNEP, 1988; World Bank, 1989) that took on a role of guidance and supervision, while the actual EIA was to be carried out in the country concerned.³¹ In 1991, the OECD recommended that member governments adopt EIA procedures and methods in the

²⁸ Barrow, 1997.

²⁹ Smith, G, 1993.

³⁰ Kamanga, 2008, p.10.

³¹ According to Fones-Sundell (undated), it was not until 2001 that ESIA guidelines were published by the African Development Bank, “Environmental and Social Assessment Procedures for AfDB Public Sector Operations”. As indicated in the title these guidelines were limited to public sector operations.

process of granting aid to developing countries. The 1992 Earth Summit provided additional momentum through Principle 17 of the Rio Declaration, which stated that:

Environmental Impact Assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Generally, EIA procedures adopted in many developing countries are based on international standards and thus build on several years of experience and adjustments. However, a review by Wood (2003)³² of developing country environmental impact assessments (EIAs) found that their quality generally fell **far** below that of EIAs in developed countries. Wood felt that it was crucial that this performance be improved in order to protect or better balance the environmental concerns of three quarters of the world's land area. He reviewed developing country EIAs against the following set of robust evaluation criteria to determine their strengths and weaknesses: legal basis; coverage; consideration of alternatives; screening; scoping; EIA report preparation; EIA report review; decision-making; impact monitoring; mitigation; consultation and participation; system monitoring; costs and benefits; and strategic environmental assessment.

Because developing country EIAs met so few of the 14 evaluation criteria established, several urgent generic issues were identified as needing to be addressed if EIAs were to fulfill their

³² Wood, 2003, Environmental impact assessment in developing countries: An overview.

Conference on New Directions in Impact Assessment for Development: Methods and Practice
24-25 November 2003.

potential. These included legislation, organisational capacity, training, environmental information, participation, and diffusion of experience, donor policy and political will for implementation. Gradually the social impacts of investments also came to be given an important place in the EIA, thus the name was changed to Environmental and Social Impact Assessment (ESIA). General procedures today are that an ESIA is carried out on a geographically limited investment project and is *microeconomic* in nature. It is also carried out after project investment pre-feasibility and feasibility studies are done, so that the nature of the investment project is known in some detail.

After the introduction of ESIA as a tool for analysis and investment clearance, limited research has been conducted on how ESIA have been carried out in practice. The question of whether different types of projects require different ESIA routines or processes has thus not been raised. One possible reason for the limited research and attention by the academic community is that only the final ESIA study is made available to the public. Consultants involved in the process of negotiating terms of reference and actually carrying out the ESIA do not have funding for carrying out methodological reviews or deeper analyses of the process with the aim of generating proposals for their improvement. Another important point is that even when funds have been available for such purposes, ethical questions about the role of academics and their distance to investors, governments and the process would appear.³³ The lack of research

³³ Ethical issues regarding the independence of this research need to be addressed as well. The research project, of which this chapter is a part, originally also included a part which aimed specifically at what experiences from biofuel developments can contribute for establishing better and more transparent ESIA procedures. Melinda Fones-Sundell, currently the Stockholm Environment Institute, and formerly with ORGUT, was to participate in this latter part of the project. However, since Fones-Sundell had had an important role in the process around

oriented reviews or critical analyses of the process means that few lessons have been learned as to how ESIA processes are carried out and how they can be improved.³⁴

The autonomy of the team involved in the ESIA is an obvious factor when ESIA teams are identified and recruited. Otherwise the investors can manipulate the implementation of the study and its results or other interests biased in favour of or against the investments. But even though independent consultants are selected to carry out the ESIA, the question still remains regarding **how** independent they can be. And more importantly, there is reason to ask whether the independence of the ESIA team of the project proponent can guarantee impartial results given the institutional routines currently governing the issuance of investment permits. Current

SEKAB T's ESIA for Bagamoyo (she was ORGUT's lead consultant for the feasibility studies leading up to the preliminary ESIA), she could not herself be a member of a research team that also addressed the investigation of the ESIA process. We therefore decided to divide the project into two parts, where Fones-Sundell will take part only in the second stage of the project which is not yet completed. Fones-Sundell instead became an informant for the first part of the research project and was interviewed by us in the same way as other informants. With reference to ethical issues it should also be mentioned that one of the authors of this chapter, Kjell Havnevik, in 2005 entered into a three year frame consultancy contract with ORGUT. Within this contract a four week consultancy project was carried out focussing on support to Suledo community forestry in Kiteto district. ORGUT has also supported Havnevik in technical ways during other field work he undertook in Tanzania in 2007 and 2008. ORGUT's office in Dar es Salaam also helped establish contact between Havnevik and SEKAB T in November 2007. As mentioned earlier this project has been funded through Sida support to the Nordic Africa Institute programme, "Inequalities and poverty in Africa", coordinated by Mats Hårsmar, the Nordic Africa Institute.

³⁴ Fones-Sundell, Melinda, undated, "Lessons learned from ESIA implementation in Africa with special reference to the bioenergy sector (in Tanzania)."

practice is that ESIA's are carried out by an independent consultant contracted by the proponent or the investor. The project proponent applying for the investment license or permit however, most often hands the final ESIA document or report to the relevant government agency. Criticism related to ESIA processes has been raised with reference to changes made to the independent consultant ESIA report and its conclusions as compared to those presented in the final ESIA report handed over to government agencies. The potential discrepancy in results and conclusions has been one of the core topics of discussion with reference to SEKAB T's ESIA process in Bagamoyo district.

An ESIA process is usually divided into several stages. But before the launch of the ESIA, a feasibility study and the technical planning exercise of the project or investment in question should be finalized.³⁵ The formal procedures in Tanzania involve the registration of the project at NEMC, before submitting a project brief. The content of this brief was launched in the regulations for the ESIA's of 2005. Based on the brief, NEMC decides whether a project requires a full ESIA or not. A full ESIA process involves a scoping process, upon which Terms of Reference (ToRs) for the ESIA are based. Given that the ToRs are approved by NEMC, the ESIA process can continue with baseline studies.³⁶ The baseline studies are the first stage of the ESIA, covering the physical and social environment. A second part is a summary

³⁵ Large institutions such as banks, development agencies and donors normally have procedures to ensure that this is done, while private companies in many cases are seen to fast-track the process. See, Fones-Sundell, Melinda, "ESIA as a Tool for Public Participation in Decision Making. Some experiences from Bagamoyo, District." Presentation at seminar on biofuel and smallholders in Africa, at the Nordic Africa Institute, Uppsala September 17, 2009.

³⁶ Interview with Ruriga, NEMC; November 2, 2009.

document, founded on the baseline studies. In the summary document, detailed recommendations and suggestions for mitigating measures of the project or investment proposed are given. This final ESIA and the base line studies are then submitted by the proponent or investor to the relevant government agency for assessment. According to informants at NEMC, it is important that the ESIA is submitted by the proponent, as the ESIA is also called an environmental impact statement, reflecting the proponent and its commitment to the environment.³⁷ However, lack of clarity about who does what throughout the process, may compromise the transparency of the ESIA. In Tanzania, the Environmental Management Act (EMA) that stipulates the role and structure of EIAs and guidelines is issued by the Vice President's Office.³⁸

Generally, for all levels of the ESIA, questions of access to information and information sharing are pertinent and significant to the process and outcome. Like in most processes, a challenge is how information can be withheld from stakeholders who are likely to suffer from the investment project. With regards to the discussion of biofuel investments, smallholders and poor people are the ones more likely to suffer from a lack of information sharing, as land rights (formal and customary) and irrigation impacts and needs may not be taken properly into consideration. Land and water are critical resources both for smallholders, large-scale biofuel projects and ecological systems. Within formal political structures and the bureaucracy, lack of information can lead to decisions being made based on wrong assumptions. In a developing context, land grabbing by foreign investors in connection with large-scale projects is a

³⁷ Ibid.

³⁸ Fones-Sundell, Melinda, undated.

recurrent theme (refer to chapter 2). Hence it is crucial to clarify the laws, rules and regulations related to land access as a basis for respect by all involved stakeholders and for enforcement by the relevant government authorities. This is one important reason why NEMC sends a team representing a Technical Advisory Committee to conduct a review of the submitted ESIA. Through a field visit, the team checks the validity of the information presented in the ESIA. The proponent pays for the costs and the length of a field visit is normally three to four days.³⁹ However, the length of the visit is likely to be insufficient in some of the larger, more crosscutting projects involving a range of different stakeholders.

The structure and table of contents of the summary ESIA to be handed to the government agency are explicitly spelled out in Tanzanian government guidelines. On the other hand, the content and structure of the baseline studies will vary depending on the location and nature of the project. What to be included is specified in the ToRs for the ESIA, which are embedded in the contract between the consultant conducting the ESIA and the proponent. However, the ToR is reviewed by NEMC to ensure that a certain level of quality is assured.⁴⁰

The SEKAB Bagamoyo project – analysis of the ESIA process

The first stage of the ESIA process in the Bagamoyo project, the baseline study, was conducted from January to May 2008 with ORGUT as the lead consultant. The study produced by ORGUT consisted of 12 documents that were delivered to SEKAB on May 8, 2008, and with

³⁹ Interview with Ruriga, November 2, 2009.

⁴⁰ Ibid

the title “Preliminary Environmental and Social Impact Analysis (ESIA).⁴¹ The term “preliminary” was used because SEKAB T had not provided a feasibility study for the investment project, thus a final ESIA could not be produced. ORGUT had subcontracted Ardhi University (ARU) “to carry out part of the assignment.”⁴²

The second phase of the Bagamoyo ESIA process was conducted between May and July 2008. During July 2008, two versions of the Bagamoyo ESIA appeared. A short version of 64 pages was published by Swedish Radio. ORGUT does not recognise this product, although the signature of the ORGUT lead consultant appeared on page 2. ORGUT claims this is a SEKAB T product. How this report found its way to the public sphere is unclear. The second version of

⁴¹ These documents related to a contract between ORGUT Consulting AB and SEKAB Bioenergy Tanzania LTD dated August 3, 2007, and included, 1. Terms of Reference for an Environmental Impact Assessment of the proposed SEKAB-BT Biofuel Development Project in Bagamoyo, Tanzania, 2. Preliminary Environmental and Social Impact Analysis (ESIA) of BioEthanol Production on the former Razaba Ranch, 3. Baseline Study 2.2.1 Inventory of Existing Terrestrial Wildlife, 4. Baseline Study 2.1.3 Industrial Processing Component, 5. Baseline Study 2.3.1 Policy Framework, 6. Inventory of Fauna and Flora in the Intertidal Area in Kitame, Bagamoyo, 7. An analysis of the Socio-Economic Environment, 8. Land Use Report, 9. Vegetation survey of proposed sugar cane plantation, 10. Specialist Studies:Water Resources, 11. Environmental Impact Statement (EIS) and 12. Stakeholders consulted. These products were accepted by and paid for by SEKAB T in full on October 10, 2008. ORGUT, “regard the above documents as delivered on May 8, 2008 to be accurate and of the required professional standard, given the information available.” (ORGUT, undated).

⁴² This subconsultancy contract was dated November 12 2007 and was valid until February 4, 2008. The work was paid for by ORGUT on February 12 2008. After February 2008, “ORGUT has had no contractual relationship with ARU nor have any payments whatsoever been made to ARU or any of the individual consultants involved”. (ORGUT undated, p. 2)

the July 2008 report has 187 pages. There were amendments and additions to the July version as compared to the May one. ORGUT's lead consultant had commented on SEKAB's July version of the ESIA, and "she signed the study team signature page for the study after SEKAB had explicitly accepted the changes she proposed."⁴³ However, there were more changes and modifications in the SEKAB July version than ORGUT's lead consultant had been aware of. For instance, the following sentences were deleted in the July version, (i) "The (Bagamoyo district development) profile is clearly not geared towards new investment areas like biofuel or the size of investments planned by SEKAB" and "The project may want to consider an alternative feedstock to produce ethanol that does not require irrigation." This was not in agreement with the comments made by ORGUT's lead consultant. Hence the possibility occurs that ORGUT's lead consultant simply did not read carefully the version she signed (considering that the contract with SEKAB had already expired and payment had been finalized), or that changes were made in the ESIA after she signed. However, it does not appear in the July version which changes had been made and by whom compared to the May version. Changes may have been made by SEKAB T or by consultants from Ardhi University that was hired directly by SEKAB T to assist in the preparation of the ESIA for presentation to NEMC.⁴⁴ Yet according to the lead consultant from Ardhi University, the changes made by their staff before submitting the document in July were just a matter of structure, not of content.⁴⁵

⁴³ ORGUT, undated, p.1.

⁴⁴ Apparently ORGUT needed to recruit a local counterpart as Tanzanian regulations require that foreign firms work in association with Tanzanian firms (Interview with Mato, October 30 2009).

⁴⁵ Interview with Mato, October 30, 2009.

The July version was handed over to the NEMC for a review, although ORGUT claims not to be aware of such a hand over taking place. However, according to our informant from Ardhi, the restructured report was sent back to ORGUT for their approval before submitting it. In other words, ORGUT and Ardhi have quite different versions of what actually took place. Concerning the review it is not unusual that the EIA department at NEMC has a brief review of a document before it goes through a more thorough review, to see whether it will conform with the required standards.⁴⁶ ORGUT does not consider itself the owner of the July ESIA version over which it seemingly had not had influence.⁴⁷ The fact remains, however, that the signature of ORGUT's lead consultant appeared on the ESIA version for which it claimed it could not take responsibility.

The NEMC Technical Review Committee (TRC) is stated to have assessed SEKAB T's ESIA for the Bagamoyo project including conducting a field visit once the report had been officially submitted for review by NEMC. Some of the informants we spoke to in the affected villages in Bagamoyo confirm that they received a visit from NEMC. The reports made by the Technical Advisory Committee (TAC) based on the field visit and other reports by NEMC are supposed to be accessible to the public through the director of NEMC. However, during our visits to NEMC in October/November 2009, we could not gain access to these documents, nor could we get them from other sources. Hence we have no direct insight into the conclusions and comments made by the TAC, or the comments from other relevant ministries such as the

⁴⁶ Interview with Mato, October 30, 2009.

⁴⁷ Interview with Per Giertz, Head of ORGUT, June 22, 2010.

Ministry of Water and Ministry of Agriculture. Thus, we are not able to say anything about the content of these reviews.

The final ESIA for the Bagamoyo project was handed over to NEMC in December 2008. Information gained from interviews indicates that field studies in relation to the Bagamoyo ESIA had been conducted by SEKAB and Ardhi consultants after July 2008. A mail from Per Renman, SEKAB T, to ORGUT from March 20, 2009 stated:

“As you will see in the document (December 2008 version of the ESIA, our addition) we have together with Dr Mato (of Ardhi, our addition) spent considerable time on Quality Assurance of the document as the draft version was found to include many incorrect statements. You will also find from the document that we decided to perform/include a number of additional studies to a) raise the standard of the document to an acceptable level and b) meet the specific questions stated by the NEMC lead Technical Review Committee. For your information NEMC has now submitted the study to the Minister for Environment for final approval. We understand with a strong recommendation for approval. We therefore have nothing against that the study is circulated to Sida.”

The lead consultant from Ardhi to some extent confirms the statement made by SEKAB T, as he claims that the review by the Technical Advisory Committee and the relevant sectors brought up a number of questions to which answers had to be provided in the December ESIA report. However, according to the same source, it was not a matter of conducting new studies, but rather including more information from the baseline studies in the final ESIA report. This was information that they had not considered important to include in the first version, but

which the review by the TAC and the relevant ministries required.⁴⁸ Yet, according to a statement made by SEKAB T, additional “soil, industrial, biomass and wildlife studies were conducted by a number of subject specific experts. The information was coordinated by EIA Experts from Ardhi University in line with ORGUT’s expressed approval.”⁴⁹ ORGUT, however, distances itself both from the July version and the December version of the ESIA. A detailed investigation of the December version of the ESIA, shows a number of changes compared to the content of the May preliminary ESIA version, made without the knowledge of ORGUT, but still with the ORGUT team leader’s signature. SEKAB T, however, through its leader, Anders Bergfors, (interview October 30 2009) stated that SEKAB T had not altered any conclusions, but followed standard procedures as given by NEMC. This is in line with the statements on the process that SEKAB T has put on their website as well.

SEKAB T, as well as Ardhi’s lead consultant and NEMC informants, claim, as indicated above, that the changes made in the document were made in response to NEMC’s review of the ESIA and that they aimed at enhancing the quality of the work of ORGUT. The consultants from Ardhi University claim to have been directly contracted by SEKAB T to do this job, but with permission from ORGUT.⁵⁰ In our interview with the Ardhi lead consultant, he particularly stressed that his conditions for getting involved in the restructuring process before the formal review of the report took place was that the content was not to be changed.⁵¹

⁴⁸ Interview with Mato, October 30, 2009.

⁴⁹ SEKAB statement on Bagamoyo BioEnergy project, April 3, 2009.

⁵⁰ Interview with Mato, October 30, 2009.

⁵¹ Ibid.

The argument that changes were made to the July ESIA version from the May version to enhance its quality, gives ground for critical questions. Apparently, the EIA department at NEMC could have conducted an informal review of the report, before it was formally submitted. The informality of the process at this stage is a weakness, as it gives ground for speculations about what changes were required and why. Moreover, the difficulty of obtaining the written records of what NEMC required in terms of changes/improvements of the ESIA once it was formally reviewed indicates a process that is not entirely transparent. And, finally, contributing to the list of critical questions is the fact that all the important changes made in the December ESIA version as compared to the May version have the effect of systematically downplaying issues and risks related to critical environmental aspects, and in particular related to water provision, wildlife and fuel wood (See box 6.1). In addition, none of the original base line studies for the ESIA conducted by ORGUT were submitted to NEMC.

BOX 1: Overview of major changes in the December 2008 ESIA for the Bagamoyo SEKAB T biofuel project as compared to the May 2008 version

“Preliminary ESIA” has been changed to “Final Report”. In the title and throughout the document, and the explanation of why it is called a preliminary report has been deleted: “It is unfortunate that neither the final plans for the sugarcane farm nor for the ethanol plant were available to the ESIA team for analysis, a fact which precludes many of the final and quantitative analyses which are normally part of an ESIA. The Environmental Information Statement is therefore a preliminary one and points to the most important information gaps which should be remedied before a final report can be produced” (Appendix 1, p. 1).

Base line studies. Text sections about the eight comprehensive base line studies (vegetation, land use, wildlife, flora and fauna, water resources, socio-economic environment, stakeholders consulted etc) have been removed in the report, including the section on ToRs. These baseline studies were not handed in to NEMC as part of the ESIA.

Deletions and additions (bold text shows what has been deleted and underlined text what has been added in the December 2008 ESIA as compared to the May 2008 version):

- a. **“There is a great confusion as to what the “project area” actually entails”.**
- b. The socio-economic survey has documented a **relatively large** number of **pastoralist** activities in the area proposed for conversion to bioenergy crops.
- c. In addition the people from adjoining villages (**Makarunge, Kdomole** (Makurunge and Matipwili) use small bits of the former ranch area for permanent or temporary cultivation.
- d. **“Identification of Institutional Needs”.....”The Bagamoyo district developed an investment profile in 2007. Six areas are specifically mentioned: Fruit processing, tourism and hotel development, education, dairying, honey and small scale mining. The profile also highlights the district shortage of forest products and the dependence on firewood and charcoal for cooking. Further the abundance of arable land ... is stressed. Apart from listing jatropa as one of a number of tree species that may be planted in the area there is no mention of sugarcane or biofuel. The profile is clearly not geared towards new investment areas like biofuel or the size of investments planned by SEKAB.”**

Mitigation measures – Biodiversity

- e. **“... coastal mangrove areas, which may also be affected by the changes in water flow caused by increased intake of river water for project irrigation”.**

Social Economic Indicators

- f. **Indicator: Distance and time to collect forest products**
- g. **Indicator: Number of compensation plans to address dislocations associated with the Project’s activities**

Impacts of Water Availability

“Malaria is one of the major tropical diseases associated with irrigation schemes. [which] lead inevitably to increased malaria in local communities.

Impacts on Biodiversity

- h. Conversion of the present vegetation to sugarcane monoculture will have a **huge significant** impact on the local flora and fauna. Under this project most of the wildlife habitats will be destroyed during the process of clearing land for agricultural production.
- i. **“Its (Vinasse) acidic character, its high BOD content, and its enormous volume make its treatment the most decisive factor in the total environmental impact of an ethanol distillery”.**

This is of concern due to the high COD and BOD levels of vinasse. If untreated vinasse is discharged into rivers and lakes oxygen level will decrease. This may result in death of fish and other aquatic life.”

Summary

“The project may want to consider an alternative feedstock to produce ethanol that does not require irrigation”.

The **sugarcane** irrigation water requirement is **high significant**. This suggests that, **at certain times of the year or certain years, that sometimes** – water supplies from the river may not **be available sufficient** – a the **minimum available water** must be **maintained left** – in the river for geomorphologic and ecological functions.

There are serious issues of wildlife migration and loss of biodiversity...

In particular, local governments and the local population should be well-informed about the **extent to which SEKAB BT views its corporate responsibility in terms of provision of social and physical infrastructure. The interviews have shown that there is a great deal of room or serious misunderstanding on these issues** practical implementation of sustainable biofuel production.

Energy demand and consumption are among the main challenges currently facing the nation. Introduction of a Bioenergy project is a welcome opportunity. Such initiatives not only reduce the demand for fuel importation but also have an impact on poverty reduction through increased employment and income sources (does not exist at all in the May version).

Assessment of the changes made in the various ESIA documents

One major weakness of the Bagamoyo ESIA process is the lack of a project or investment feasibility study. It is evident that a sound and relevant ESIA could not be completed in such a context. ORGUT, however, resolved the problem by putting the word “preliminary” in front of the collection of base line studies and projects that it presented to SEKAB T (refer note 41 above). In Tanzania, strict guidelines exist for the summary ESIA that constitutes a synthesis of the baseline studies and environmental and social mitigation approaches to address the impact of the project ESIA. As previously mentioned, for the finalization of the ESIA to be submitted to NEMC, SEKAB T contracted some of the same consultants from Ardhi University (ARU) that had earlier been subcontracted by ORGUT to prepare the baseline studies. It may not be unreasonable that SEKAB T employed researchers/consultants who already had gained knowledge of the site and area of the proposed project. However, the conflicting statements over the possible changes of the content, give reason to raise questions about the independence and autonomy of the consultants at this stage.

It also appears that NEMC demanded further clarifications before it accepted the application for an investment permit. It is not clear what these demands were since no written document of NEMC’s technical review could be obtained. It is clear, however, that SEKAB T again hired the same consultants from ARU to restructure the report according to NEMC’s requirements. SEKAB T claims that the final work on the report has enhanced the quality of the preliminary ESIA, whereas a detailed review of the changes made between the May and December versions of the ESIA shows a systematic change of the content in direction of downplaying the environmental and social aspects. This is highly questionable, not only because it reduces the reliability of the report, but also since a feasibility study for the project or investment never

materialised. It is difficult to understand how NEMC could accept an ESIA for which no feasibility study of the project existed and which did not come with the baseline studies attached. Considering the core importance of a feasibility study, it is difficult to accept or understand that this can be explained by lack of capacity or competence solely in NEMC and other relevant government quarters.

It is reasonable to expect that an ESIA can be improved based on scrutiny and demands by the relevant government agency, in this case NEMC. But what stands out in this case is that there is a lack of transparency concerning the instructions about how the process of improvement of the ESIA is to take place (in SEKAB T's case, the July 2008 version). The lack of transparency is particularly noteworthy in this part of the process, as it is prone to potential biases in the execution as is the work related to the original ESIA. We find that the discrepancies in the different versions of the ESIA challenge the accountability of SEKAB T in relation to the ESIA process and also in relation to General Corporate Social Responsibility (CSR) guidelines. Limited transparency around the ESIA process in Tanzania makes it possible for SEKAB T to employ double standards, one for the activities based in Sweden by the mother company, and another for its subsidiary in Tanzania, SEKAB T. This, however, is not unique for SEKAB and SEKAB T alone.

ORGUT had a role both in preparing the ESIA and in legitimizing it. By not carefully verifying the full content of the July version of the ESIA, ORGUT came to give legitimacy to SEKAB's Bagamoyo project, beyond the stage it claimed it had taken responsibility for. Ownership of the process and the products associated with its various stages thus need to be clarified in the

ESIA process and be reflected in the contract between investment proponents and consultants. To make the ESIA process more open and transparent would also help various stakeholders to gain insights into the process which can enhance its quality and governance. Such openness around processes of government budget allocations and the subsequent tracer studies, has in fact turned out to be effective, e.g. in the education sector in Uganda and Tanzania.

SEKAB's biofuel project in Rufiji district

Investments in Rufiji district

A critical aspect of large-scale biofuel projects is access to land, either for acquisition or lease. The best option for land access in Tanzania is through the long term leasing of village land. In a note from February 2009, SEKAB T's land and agricultural manager outlines the process that the company is involved in to access village land for investment. Since a foreign company cannot own land in Tanzania it can be given a user right or lease through the TIC. The TIC has been given ownership of the land through the Commissioner of Land, and a foreign company is given a Derivative Right of Occupancy. This is based on a leasehold system and the holder will only pay an annual administrative fee for the land. According to the SEKAB manager, the difficult nature of the process had by late 2008 led to the fact that "very few foreign investors have so far been given such derivative rights."⁵²

In order to access village land, the foreign investor and its local subsidiary, in this case SEKAB T, were urged by the TIC to visit Rufiji district and village authorities in order to identify and discuss the availability of suitable land. For a village to allow foreign investors to lease village

⁵² Oscarsson, P., 2009, "The Land Process in Tanzania", mimeo.

land under derivative rights, the Village Assembly, constituted of all villagers above 18 years of age, has to give its consent. Discussions at village level, however, provide ample ground for misunderstanding due to language problems, cultural barriers and insufficient knowledge and information about local rights.⁵³

⁵³ This is documented by various NGO studies in the rural areas to be affected by SEKAB T's projects in Bagamoyo and Rufiji districts, notably, ActionAid (2009), "SEKAB – Etanol till varje pris? Hur SEKABs biobränsleprojekt i Tanzania drabbar lokalbefolkningen" and in Roberntz et al., 2009. Such investigative reports, although based on short term field studies are important since they may add important information about critical environmental aspects and local people's situation, contacts with and perceptions of the investing companies, in this case SEKAB T, that engage with them. But the rapid approach of such investigations, makes them also susceptible to misunderstandings and factual errors. For instance, ActionAid (2009) report's discussion of food security (section 8), claims that, "If the Rufiji delta was being utilised for food production instead of biofuel production, it could provide the whole of the capital, Dar es Salaam, and the surrounding areas, in excess of five million people, with food" (our translation). On this it can be commented that the Rufiji delta is today, and has been for generations, intensively cultivated with food crops, in particular rice. The limiting factor for production is the existence of mangrove forests and the salinity of waters that penetrate the delta with tidal water. The planned biofuel plantations of SEKAB T in Rufiji are not targeted for the delta, but for the central or western part of Rufiji district and on higher ground to the north and south of the flood plain. Cultivation in these areas is rain fed and their productivity would thus be enhanced with irrigation. The problem of some of SEKAB T's plantations in Rufiji district is thus not the areas of their planned location, but their size and the volumes of water required to be drawn from the river. In addition some of the planned sugar cane cultivation areas proposed by SEKAB T were located in wooded areas and had not taken into account the climate effect while other cultivation areas were targeted for village food production areas as planned in village land use plans. In essence, SEKAB T was ill advised about the size and location of some of their planned sugar cane cultivations, but not about the activity itself (for more documentation about the complexity of the flood plain and higher ground agriculture, see note 12). Smaller scale production of sugar cane on 'unused' or underutilised land employing some kind of irrigation techniques could make a contribution to village livelihoods.

Two major legal and regulative processes regarding village land demarcation and land use should in principle have been cleared before land was leased to foreign investors. The village should have received its village land certificate from the Ministry of Lands, which is based on the finalisation of cadastral surveys of village borders and a Village Land Use Plan (VLUP). As of 2009, less than 1000 of the 11 000 registered Tanzanian villages had received their Village Land Certificates. The VLUP is prepared by the National Land Use Commission and shows the zoning in different uses of village land. According to the Commission, the preparation of land use plans, “is the only way to meet requirements for villagers scientifically and find extra land for the biofuels production.”⁵⁴ The process of preparing village land use plans is, however, also proceeding very slowly.

According to SEKAB, the company set in motion the process of accessing village land in Rufiji by following the legal process step by step. By February 2009, SEKAB was dealing with 13 of the approximately 90 villages in Rufiji district. However, since the VLUPs had not been finalised, SEKAB T “decided to put the continued discussion with most of the villages on hold until the exercise was finalised.” In only four villages had SEKAB, by February 2009, managed to finalise discussions and demarcations with the villages and been given final approval from the Village Assemblies.⁵⁵ In addition to informing about its handling of the complicated land access process, SEKAB T also makes efforts to inform about its emphasis on sustainability and rights perspectives as guiding criteria for its operations and its willingness to

⁵⁴ Web site of National Land Use Planning Commission (<http://www.nlupc.org/>), April 2009.

⁵⁵ Oscarsson, *op. cit.*, p. 4.

enter into “serious dialogue on how to best achieve social and environmental sustainability.”⁵⁶
This was most recently done in response to the draft WWF-Sweden report of June 2009.⁵⁷

Findings from WWF-Sweden’s investigation of SEKAB T biofuel development in Rufiji district

The WWF-Sweden report regarding SEKAB T’s plans for large-scale biofuel production in Rufiji district is based on a field visit in late March 2009, including visits to and discussion with authorities and smallholders in villages where SEKAB T was involved.⁵⁸ By combining village maps (obtained in the villages), maps provided by SEKAB T (providing information about their plans), and maps of village land use plans (from the National Land Use Planning Commission), and findings from interviews, WWF-Sweden provided a rather startling picture

⁵⁶ SEKAB T’s official response dated 25 June 2009, to the draft report by WWF-Sweden (Roberntz et al., 2009). Here it is claimed that SEKAB T, “from the start stated that sustainability is a top priority and realises that difficult compromises to social and environmental challenges are necessary” and further that, “SEKAB is interested in a serious dialogue on how to best achieve social and environmental sustainability.” SEKAB T does not feel, however, that “the WWF assumptions, statements and guesses” can be a base for a constructive dialogue for “true development” and “sees no reason to discuss them in detail in this forum” (i.e. the response of June 25). To this, our comment is that a constructive dialogue has little space to develop if one of the partners has the blueprint for “true development”. The WWF-Sweden draft report (Roberntz et al., 2009) provided a good opportunity for SEKAB T to inform about and explain why their plans had taken their current path and why discrepancies between visions and planning operations on the ground occurred. The history of development assistance and investments is full of such discrepancies that need to be discussed by all stakeholders in order for objectives to be attained.

⁵⁷ Roberntz, P. et al., 2009.

⁵⁸ See note 53 above about the need to take a critical approach to the information provided by NGOs and advocacy groups based on short term field visits. This is taken into account when providing our analysis and basing it on the WWF-Sweden or Roberntz et al., 2009 report.

of SEKAB T's plans in terms of location and possible impacts that show wide discrepancies with SEKAB T's stated objectives that emphasise sustainability and local rights perspectives. The key information provided by WWF-Sweden, and which is shown in some of the attached maps, 1-5, is presented in the following.⁵⁹

- ***SEKAB T planned investment area***

WWF-Sweden was provided with maps by SEKAB T on two occasions. They indicated similar geographic locations of the project, but the second map showed a smaller area and was more specific in terms of outgrower areas and village boundaries. The total area of the project on the first map comprised 175 000 ha (polygons and ellipses in map 1) and the areas of the second map received added up to about 78 000 ha (polygons in map 2). About 15 per cent of this land, 11 400 ha, was targeted for outgrower land.

- ***The character of outgrower schemes***

Based on interviews and map 2, it was found that the outgrower areas adjacent to the SEKAB T project were planned to be a sharecropping system rather than outgrower schemes with some influence for smallholders. The scheme will be managed by SEKAB T and any profits after deducting SEKAB's costs, will be returned to the villages.

- ***Overlap between SEKAB investments and conservation areas***

Combining SEKAB T's map for areas of planned investments with the United Nations Environmental Programme's (UNEP) maps of protected areas in Rufiji district, the WWF-

⁵⁹ Roberntz et al., pp. 17-19. All maps are taken from Roberntz et al., 2009.

Sweden report shows that the location of the investments will intrude on two forest reserves, *Katundu* (about 6 000 ha) located south of Rufiji river, and *Ruahi river* (about 80 000 ha) to the north (see map 3). According to UNEP, these forest reserves are not defined as key biodiversity areas, but as nationally protected areas.

- ***Planned investment area, vegetation cover and carbon***

When the WWF Sweden team overlaid the SEKAB T map with the demarcation for sugar cane cultivation, including outgrower areas on Nyamwage village land, with a vegetation map, it emerged that the planned sugar cane plantation would be located on wooded grassland (see map 4). A field visit confirmed that the area was covered by Miombo forest and it was estimated that the canopy cover exceeded 30 per cent. Old Miombo forests such as that located in Nyamwage village attract high prices on the timber market, but they store large quantities of carbon as well.

According to UNEP maps, the areas of SEKAB T's interest in Rufiji district, have high (148-563 tonnes carbon/ha) to medium (101-148 tonnes carbon/ha) carbon content (see map 3). According to WWF-Sweden, sugar cane plantations covering 200 000 ha on such land would potentially transform land that currently stores between 20 to 113 million tonnes of carbon. In comparison, the annual GHG emissions from road traffic in Sweden are about 20 million tonnes of carbon dioxide, equivalent to 5.5 million tonnes of carbon. Hence, according to WWF-Sweden, if all stored carbon in the vegetation on 200 000 ha were released as carbon dioxide, it would equal between four and 20 years of the GHG emissions from the current Swedish road traffic.

An initial risk assessment of SEKAB T’s large-scale biofuel production in Rufiji district was published in June 2009.⁶⁰ This report, on the other hand, assumes a low impact of SEKAB T’s planned production of biofuels for interfering with carbon sequestration, but at the same time, it is stated, somewhat contradictorily, that the risk has not been determined.

- ***Planned investment areas and village land use plans***

Of the 8 village land use plans that WWF-Sweden received from the office of the National Land Use Planning Commission, six village plans coincided with SEKAB T’s demarcated areas of interest (map 2). The following zonings of village land would, according to the WWF-Sweden analysis, be affected by sugar cane production (as an example the village land use plan of Nyaminywili village is attached as map 5):

Village	Affected
Kipo	Reserve land, grazing land
Nyaminywili (see map 5)	Reserve land, farm land
Kipugira	Reserve land
Ndundunyikanza	Forest reserve
Ngorongo West	Village forest, investment land, rice fields
Ngorongo East	Investment land, village forest, settlement area

⁶⁰ Stockholm Environment Institute/Institute of Resource Assessment, IRA, University of Dar es Salaam (SEI/IRA report), 2009, "Initial Assessment of Socioeconomic and Environmental Risks and Opportunities of Large-Scale Biofuels Production in the Rufiji District." A report prepared for SEKAB T.

WWF-Sweden's detailed findings at village level show that SEKAB T's sugar cane plantations will affect village land in different degrees in the range of 15 per cent to 77 per cent. The planned sugar cane plantations would in addition reduce farmland available in some villages. Nyaminywili village would transfer 60 per cent of its farmland to sugar cane production and Ngorongo West, 49 per cent.⁶¹ The SEI/IRA report⁶² assumes that a low risk exists regarding interference of sugar plantations with food production without, however, providing any documentation of relevant village land use plans. This assumption is in contrast to the findings presented by WWF-Sweden.

- ***Consultations and compensation***

According to interviews conducted by WWF-Sweden in Rufiji villages, SEKAB T's strategy, when consulting with villages and reaching agreements, seems to have been to address one village at a time.⁶³ This approach, as argued by WWF-Sweden, is likely to undermine the possibility of villages having fair negotiations and tensions between villages may emerge as well if large discrepancies occur in the agreements. Interviews conducted in villages indicated

⁶¹ Roberntz et al., 2009, p. 19.

⁶² SEI/IRA, op. cit.

⁶³ Such a strategy of creating atomised villages with limited scope for cooperation between them was nothing new in the Tanzanian context. The Tanzanian government itself had employed such a strategy in its villagisation programme from 1969 onwards. Although the official motto was to instil development from below, the creation of atomised villages was also an integral part of strengthening the political control of the countryside, refer to Havnevik, Kjell, 1993, *Tanzania - The limits to development from above*, Nordic Africa Institute and Mkuki na Nyota publishers, Dar es Salaam. Pp. 195-214.

that promises had been made by SEKAB T on social development, e.g. building of schools. No information, however, is provided about the follow up of such promises. WWF-Sweden is of the opinion, after its brief fact finding trip, that lack of knowledge among villagers implies a special responsibility for investors to ensure that local livelihood compensation and social development are adequately addressed.⁶⁴

Some assessments

The field findings provided by WWF-Sweden regarding SEKAB T's approaches and plans for large scale biofuel production in Rufiji district show only limited considerations to environmental sustainability. The large-scale sugar cane plantations will partly be located on reserved forestland and will result in land use changes with negative implications for climate change. It is highly questionable, under such conditions, that the production of biofuel by SEKAB T in Rufiji will adhere to the EU sustainability criteria. In addition, the local food security situation is negatively affected through planned encroachment of large-scale plantations on village farming areas. The organisation of the outgrower schemes seems more like a sharecropping arrangement than a scheme where smallholders can influence production and marketing conditions.

The SEI/IRA initial risk assessment of SEKAB T's investment plans for biofuel production in Rufiji district raised far fewer questions regarding investment risks, climate impacts, intrusion on farming land and natural reserves. However, the analysis and findings of this report are supported by limited cartographic documentation, far less than that of the WWF-Sweden

⁶⁴ Roberntz op. cit., p. 21.

report, for which much of this documentation was obtained from official Tanzanian agencies. The SEI/IRA study is also weak in its analysis of the environmental implications of the planned large-scale irrigated biofuel plantations and in particular, on their impacts on environmental flows and fragile downstream ecological systems, although it is recommended that the issue should be further investigated.⁶⁵

The change of ownership of the Rufiji biofuel project from SEKAB T to EcoDevelopment in Europe will not imply that the challenges related to large-scale biofuel production in Rufiji district are gone. The people responsible for SEKAB T's initiation and first phase of implementation of the project are precisely those who run and own EcoDevelopment Europe. The rapid expansion and changes connected with large-scale acquisitions and lease of land for biofuel and food, give urgency to the call, mentioned above, for establishment of legal regulations that can be applied everywhere.

SEKAB T's application for Credit Enhancement Guarantee

The Application

The application for a Credit Enhancement Guarantee was submitted to Sida on July 28, 2009. In the application, SEKAB T claims it is a company, "engaged in developing state of the art AgroEnergy projects in Tanzania". Attainment of a credit would enable SEKAB T "to take the first of our projects to Financial Closure early in 2010 and continue development of the second project (i.e. Rufiji, our comment) to activate the first AgroEnergy cluster development in

⁶⁵ See Widengård, 2009.

Africa.”⁶⁶ The application further discloses that SEKAB, Sweden is ready to sell SEKAB T and all its East African operations to the minority owners, EcoDevelopment in Europe AB and furthermore that ethanol purchase and sales agreements are in place to be activated between SEKAB T and SEKAB, Sweden. Such agreements, according to the application, “are essential for continuity and will come into force subject to sufficient funding being secured for the continuing operations in Tanzania”.

The motivation of the sale of SEKAB T to the minority owners is, “an attempt to both separate the African ventures from the municipalities in northern Sweden as well as to maintain the Swedish connection and assure the continuity of the process”. Further the application informs that the Government of Tanzania has been invited to become a 10% shareholder in SEKAB T, and a Memorandum of Understanding is about to be signed with the Tanzanian Petroleum Development Corporation (TPDC) to work towards TPDC becoming a shareholder of SEKAB T thus creating the first Public Private Partnership in the AgroEnergy Sector in Tanzania. The application states that ethanol produced from sugar cane in combination with electricity co-generation are emerging as major products that at the same time can reduce carbon emissions and provide significant volumes of renewable fuels and electricity to the domestic as well as the international market and, in addition, become an engine for creating sustainable development in rural areas.

⁶⁶ SEKAB Bioenergy Tanzania, “Re:SEKAB BioEnergy Tanzania Ltd – Application for Credit Enhancement Guarantee”, Dar es Salaam, July 28, 2009.

Two districts, Bagamoyo and Rufiji have been identified for the Tanzania projects, with Bagamoyo at a more advanced stage. Here, “Land has been identified and demarcated, environmental and social surveys undertaken, and a sugar cane seed farm is established.” The application further argues “Equity participation is in place and an agreement with a strategic partner for building the factory and running the agricultural and factory operations is also in place. The project is ready to be taken to the financial market and financial closure is possible early in 2010 when a separate company will be created for the continued operation of the project.”

In Rufiji, SEKAB T states that areas have been identified and secured, soil tests have been made and studies conducted to support planning potential projects within these areas and to develop a pipeline of future projects for commercialisation. It is claimed that, “close and trusted working relationships have been established with the Central Government, local authorities and communities.”⁶⁷ In addition, the application states that detailed risk analysis has

⁶⁷ That trusted working relationships have been established between SEKAB T and local communities is strongly questioned by ActionAid 2009 (section 5 focussing on how SEKAB had negotiated directly at village level) and by Roberntz et al., 2009. The critique addressed against SEKAB T by ActionAid is that it paid villagers to participate in the Village Assembly meeting that was organised to vote on providing land to SEKAB T for biofuel production. For this, each person participating was paid Tsh 8000 (SEK 45) and in addition SEKAB T paid Tsh 5000 to each villager that participated in a meeting and discussion with representatives from SEKAB T. We argue that paying villagers to take part in critical democratic decisions at village level is wrong. Hence we agree with the critique put forward by ActionAid against SEKAB on this point. But to pay villagers for taking part in a discussion with SEKAB T which may distract them from their work or other activities, seems reasonable, and should not be criticised. What appears from some of the reports, e.g. ActionAid 2009, is that villagers themselves seem to be confused as to what organ at village level has the authority to decide what. For instance in the

been undertaken in particular in relation to water availability and socio-economic and environmental issues. SEKAB T was advised by local banks in Tanzania that they were not able to lend funds to SEKAB T unless a Credit Enhancement Guarantee was in place. The application was signed by the managing director of SEKAB T, Anders Bergfors.

Sida's assessment, preparation and decision on the Credit Enhancement Guarantee

Sida's department of Partnership Development (Aktörsamverkan/AKTSAM) was responsible for the assessment and preparation of the decision on SEKAB T's application for a Credit Enhancement Guarantee. The application and review process was followed with great interest both from inside and outside Sida and government circles both in Sweden and Tanzania. The lobby groups in favour of renewable fuels and rapid agricultural modernisation in Africa worked on many levels to support a positive outcome for the application. On the other hand, NGOs, journalists, researchers and activists both in Tanzania, Sweden and elsewhere, who had followed the SEKAB case for some years, argued against the Swedish government support to SEKAB T's developments in Tanzania.

interview with Mrs Zauda Saidi Mbalapi, an agriculturalist in Nyanda-Katundu in Rufiji district, she said, "It is not my responsibility to decide on whether SEKAB shall come to our village. This is decided by the Village Council. Therefore, I cannot influence on the decision" (section 8 on food security). This is wrong according to Tanzanian laws and regulations for village governance. Such decision has to be taken by the Village Assembly where every person over 18 years of age has the right to vote. The Village Council is merely the administrative and executing organ of the village and does not have the right to alienate land from the village without a decision being taken in the Village Assembly which is subsequently supported by the District Land Officer and finally decided upon by the Commissioner for Land.

Sida professionals were also divided in their views and beliefs about the virtue of large scale biofuel production in Africa and in Tanzania, and the organisation, therefore, opted for a thorough assessment of the application. Part of this assessment was conducted by the Sida Help Desk for Environmental Assessment⁶⁸ (hereafter referred to as Sida Helpdesk) at the Swedish EIA Centre (SLU). Some of the general comments of the assessment were that:

1. The application documents provided by SEKAB T to Sida made it, “impossible to assess the economic, social as well as the environmental sustainability of the proposed intervention” (the application contained a brief application document, a comfort letter from the Tanzanian Ministry of Energy, as well as an MoU between SEKAB T and Tanzania Petroleum Development Corporation (TPDC)),
2. Information was lacking about the funding needs that SEKAB T had vis-à-vis Tanzanian banks and what exactly it was to be used for. SEKAB T, however, indicated that one project/unit of 20 000 ha in Rufiji would require an investment of USD 450 million. SEKAB T’s vision of developing from 200 000 to 400 000 ha of biofuel production in Rufiji would thus amount to 10 – 20 units totalling an investment cost ranging from USD 4.5 to 9 billion, and
3. The question was raised as to whether the Tanzanian Biofuel Task Force, representing various ministries, had been informed about SEKAB T’s application and what their views were.

⁶⁸ Nowadays called Sida External Expert Advice for Environmental Assessment.

The Sida Helpdesk assessment also discussed, at length, the fact that various ESIA's for the project has taken place and that disagreement about the authenticity of the July and the December versions had emerged between the lead consultant company, ORGUT, and SEKAB T. The changes that were made between the May 28 and December 2008 versions are identified in detail, of which the most important are shown in **Box 1** above. The assessment also argued that SEKAB T's claim of aiming for full compliance with the EU RED criteria was brought into doubt by the finding of WWF,- Sweden, that there were considerable overlaps of plantation sites with communal land in use and forest reserves with high carbon stock and CITES species.⁶⁹

It is also pointed out that according to the Environmental Management Act – Cap 191, the Environmental Impact Assessment and Audit Regulations of 2005, SEKAB T's projects in both Bagamoyo and Rufiji districts must be subjected to an independent participatory ESIA. In addition, the Rufiji project, due to its size and multiple potential impacts, could benefit from a Strategic Environmental Assessment (SEA), or, preferably, a SEA at national level could guide investments at national level.

⁶⁹ EU Renewable Energy Directive (RED), Article 17, "Environmental sustainability criteria for biofuels and other bioliquids". April 23 2009. The problems for SEKAB T's plans in relation to the EU RED criteria are particularly in relation to para 3b, 3b ii and 4b.

The Sida Helpdesk assessment went on to make brief conclusions about opportunities and risks associated with the projects, based on a number of studies.⁷⁰ The areas assessed include (i) water, (ii) socio-economy, (iii) land use/smallholders, (iv) biodiversity, (v) climate change, (vi) Tanzanian regulation and policy framework, (vii) national economy, (viii) sustainability of large scale biofuel investments. The assessment concluded that “It is important to look at alternative development pathways for Rufiji and Bagamoyo mentioned in the reports on which this assessment is based, referring to current livelihoods and natural resource use, needs and traditions locally, and compare it with risks and opportunities provided by investments suggested by SEKAB.” The major concerns expressed include the SEKAB T’s adjustments of the ESIA study, the lack of clarity regarding exactly where and for what the borrowed money will be used, the risks for environment and social wellbeing expressed in studies reviewed, as well as the fact that the Tanzanian regulation is not yet prepared to handle biofuel investments of this scale. Moreover, due to the overlap in Rufiji with forest reserves the investment is not in its current form fulfilling the EU sustainability criteria.⁷¹

⁷⁰ WWF Rufiji Study; ESIA Bagamoyo (May version); SEI Rufiji risk analysis; Tanzanian Forestry Working Group report; National Biofuel Taskforce document; Feasibility study of large scale biofuel investment in Tanzania by local researchers; Maps of SEKAB investment plans and current land use; Policy framework and regulatory scan by Econ Pöyry; SEKAB sustainability approach; SEKAB statement on ESIA; and SEKAB Environmental Impact Assessment Certificate.

⁷¹ Sida Helpdesk for Environmental Assessment, “General Environmental Assessment Comments”. September 30 2009.

Sida's decision on the Credit Enhancement Guarantee was dated October 29, 2009, and the main reasons for rejection of the application were the following:⁷²

- (i) That the request for guarantee does not fulfil the requirements of the new ordinance – Development Loans and Guarantees (e.g. one of the criterion is that procurement of products or services shall be made with international competition),
- (ii) Guarantees are aimed to support specific projects, not financing of development costs,
- (iii) The social as well as the “green” environmental risk is deemed to be high (influence on sensitive and already threatened environments) in relation to the potential advantages of the project,
- (iv) Uncertainty whether EU's sustainability criteria will be fulfilled,
- (v) Tanzania's fragile legal framework to manage biofuel investments of the type and magnitude proposed by SEKAB.

Major conclusions regarding SEKAB's biofuel plans in Tanzania and their implications

There are three main issues that call for concluding comments based on the above findings. One concerns the Tanzanian capacity to deal with large scale, cross cutting projects like biofuel investments, and particularly the capacity of the National Environmental Management Council (NEMC) to handle these. The second issue concerns the consultants and how they relate to the proponent as well as to government agencies involved in the ESIA process. And thirdly there is

⁷² Sida's Department for Partnership Development/AKTSAM, “Decision on Assessment and Preparation”, October 29, 2010. In addition to the reporting, presenting and approving Sida officials, 9 other officials, representing various departments and competences within Sida, Stockholm, had signed under the heading “consultation with.”

the issue relating to the ethical conduct of the investors, and in this particular case, SEKAB and SEKAB T.

It seems that NEMC has an elaborate structure that can ensure the promotion of high quality ESIA's. Yet there is lack of clarification and transparency on the follow up process once an ESIA has been submitted to NEMC. That NEMC provides unofficial reviews of the quality of ESIA's before formal hand over of an ESIA document gives room for questioning not only the transparency of the process, but also the relationship between the project proponent and the NEMC. With reference to the Bagamoyo ESIA report, the informal review conducted by NEMC before the July 2008 ESIA submission gives ground for questioning the reliability of the report. Moreover, due to some restrictions on access to review material from the TAC and relevant sectors, the ESIA process, and particularly in the period July – December, was not transparent and lacked clarity on responsibilities. NEMC needs to be clear on its formal procedures and follow these closely in all cases, in order to avoid the emergence of doubts about the legitimacy and accountability of the ESIA process and hence the content of ESIA report. Easing access to written documentation of ESIA reviews will improve the transparency of the process as will clearer assertions as to what is the responsibility of an independent executor of an ESIA study and what “independent” means in relation to the proponent of the project. Unless clarified, as the experience in the Bagamoyo case has shown, environmental and socio-economic issues risk being inadequately addressed in the ESIA process.

It emerges as well that NEMC needs to increase its capacity to assess ESIA's for major projects of a cross cutting nature as well as to be able to carry out control of mitigating measures once

projects are approved. A particular weakness in the Bagamoyo biofuel project is the lack of a feasibility study as an input for the project ESIA. The decision by NEMC to allow an investment license for a project without baseline studies and without foundation in a proper feasibility study indicates that the problems go beyond lack of competence and capacity.

With reference to the role of the consultant, it is clear that the lead consultant, ORGUT, and its subconsultants from Ardhi University, should not have compromised on the lack of a proper feasibility study. Adding “preliminary” to the title of the May version of the ESIA does not remove ORGUT’s responsibility for promoting sound procedures. However, the company is probably not the first to make such compromises, but this reflects a challenge that the consultancy industry faces in general, both as individuals and as companies, in their struggle to generate incomes (see note 35). SEKAB, Sweden, can also be held responsible, as the majority owner of SEKAB T, for not ensuring that formal procedures were fully followed for the production of the ESIA for the Bagamoyo project.

SEKAB, Sweden, is an experienced and municipally owned Swedish energy company with a vision of contributing to sustainability. However, the role played by SEKAB T in the ESIA process in Bagamoyo and in its project plan for biofuel development in Rufiji district, shows that the companies have failed in important areas to deliver in the direction of the recommendations proposed by research institutions and UN agencies.⁷³ How can a company,

⁷³ Such as guidelines and recommendations for large-scale land acquisitions and leases for biofuel development and food production proposed by the International Food and Policy Research Institute (IFPRI), Washington D.C.; the International Institute for Environmental Development (IIED), London, in cooperation with FAO and the

held in high esteem internationally for its technological developments in Sweden, plan its activities in Tanzania with the shortcomings and faults presented above? The weaknesses of the ESIA and planning processes both in Bagamoyo and Rufiji give not only reason to question some of the Tanzanian bureaucratic processes, but also SEKAB's ethical standards for their Tanzanian operations, as well as the responsibilities and rights of the consultant in the follow up process. It emerges, as well, that voluntary standards or guidelines for biofuel production will most likely not be adhered to. Internationally accepted codes of conduct for large-scale land acquisitions and leases with "teeth" are required to address the situation. This has yet to happen.

It should be acknowledged, however, that SEKAB T has taken an active and constructive role in creating a space for discussion and promotion of regulations and guidelines of the bioenergy sector in Tanzania, in cooperation with donors such as Sida and Norad, and in dialogue and with relevant Tanzanian ministries and agencies. On the basis of meetings, interviews and field visits in Tanzania, we found that SEKAB T had acquired relevant competence, both Tanzanian and foreign, to initiate the process of acquiring land for biofuel production. Operation managers and SEKAB T officials on the ground had sufficient experience to understand the complexities of accessing land for biofuel production. But the leadership of SEKAB, both in Sweden and Tanzania, took short cuts in the ESIA process, which reduced its quality.

International Fund for Agricultural Development (IFAD), both special UN Agencies located in Rome (Cotula et al.,2009); and the UN Special Rapporteur on the Right to Food (UN/SRRF) (for more details, refer to chapter 2).

With regards to the role played by donors and NGOs, the Swedish Embassy in Tanzania took a positive view on biofuel developments in the country and in particular the plans of SEKAB T. Both the Swedish and Norwegian aid agencies supported Tanzania in developing much needed guidelines and a regulatory framework for the biofuel sector and subsequently also biofuel policies. NGOs have played a critical role by exposing the content and implications of SEKAB T's plans in Bagamoyo and Rufiji through reports from the field and advocacy work. Major information which had not been properly identified and assessed in various consultancy reports supporting the EIA and planning processes has been made available that has thrown new light on SEKAB T's projects. The NGOs have thus shown their capacity in providing insights on the complexities of biofuel promotion in Tanzania and Africa. However, the rapid appraisals and studies made, although at times based on a lot of ingenuity, such as the WWF - Sweden report (Roberntz et al., 2009), also show lack of knowledge of context and a critical view of the information retrieved from interviewees.

NOTE: Due to technical problems the maps are not attached to this version of our report

