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**UNDERSTANDING LAND INVESTMENT DEALS IN AFRICA**

**COUNTRY REPORT: SIERRA LEONE**

## VI. CONCLUSIONS

OI confirmed that by early 2011, close to 500,000 ha of land had been leased to foreign investors or were under negotiation for lease in Sierra Leone. The following are the key concerns raised by the land negotiation and land investment processes in Sierra Leone:

### 1. Lack of information and public disclosure

There is a critical lack of information from government regarding all aspects of the Sierra Leone land deals and an alarming lack of transparency in the way the land deals are negotiated. The OI team was unable to obtain a copy of any land lease despite intense efforts and repeated requests. In addition, SLIEPA does not make available any details about investors. Sierra Leoneans thus have no access to information on the amount of land that has been leased or the details of land leases. Furthermore, there is almost no critical or accurate media coverage of land deals in Sierra Leone. Most deals receive no publicity at all, and when media reports do appear, they tend to categorically refer to agricultural investments in glowing terms, generally quoting a government official or President Koroma.

Until 2010, there was no public debate on the issue of land deals in Sierra Leone. Local civil society groups and NGOs such as MADAM, Green Scenery, and the Sierra Leone Association of Journalists on Mining and Extractives (AJME) are now trying to address the issue of foreign investment in land and engender national debate to increase public awareness on the issue.

### 2. Lack of responsible governance

In 2009, MAFFS published a set of policy guidelines for agricultural investments and incentives. However, the guidelines contain many loopholes and are nonbinding for investors, many of whom bypass MAFFS and negotiate directly with chiefs and local landowning families.

SLIEPA advises investors to introduce themselves to the government "via the Sierra Leone Investment and Export Promotion Agency" and then to engage a local agent (SLIEPA will help identify one) to support the land acquisition process.251 However, no SLIEPA documents mention the requirement that investors go through MAFFS or that they establish a five-year business plan to be submitted to a Government Negotiating Team, as specified in the MAFFS policy guidelines. Although SLIEPA officially falls under the jurisdiction of the Ministry of Trade and Industry, the Minister describes SLIEPA as an "independent" agency, and it appears to operate with a great deal of power and without central government oversight.

To date, no binding legal framework or legislation has been implemented to adequately handle agricultural investment. Thus, there is no legal obligation for investors to sign a Memorandum of Understand (MOU) with government – or have that MOU approved by Parliament or undergo a public disclosure process. The lack of a legal framework leaves the government and the people of Sierra Leone extremely vulnerable, as there are no pre-defined sanctions for failures to respect local land rights or environmental protection measures.

### 3. Confusion surrounding land "availability"

People's rights in the face of the presumed widespread availability of land for investment and cultivation are a key concern in the case of Sierra Leone land acquisitions. The GoSL, SLIEPA officials, as well as the FAO office in Sierra Leone, claim that only 11 to 15 percent of the country's arable land is being "used" or "cultivated", and they argue that 85 percent of cultivatable land is available to investors. OI has concluded that these figures come from outdated data and surveys. Moreover, it is unlikely that these claims are taking into account the use of bush fallows as an integral part of the smallholder farming system in Sierra Leone. Also SLIEPA advertises "pre-identified" zones that can accommodate large projects (10,000+ ha), and offers a list of potential palm oil and sugar production sites. SLIEPA does not specify the criteria used to identify the lands in question.

### 4. Farmland for fuels and not for food

The campaign to attract foreign investment in agriculture has emphasized opportunities for investors in sugar and palm oil, both of which provide raw stock for agrofuels. At present, Sierra Leone has no capacity for domestic agrofuel production, so production would clearly be for export. The Addax Bioenergy project is producing sugarcane for ethanol that is to be exported to the EU. Sierra Leone Agriculture is producing palm oil, and reports regarding its alleged use are contradictory. Quifel's lease was also originally negotiated under the premise that palm oil will be produced. Given that Sierra Leone remains a food-deficit country, the use of farmland to produce non-food products is cause for great concern especially in an era of price volatility on global food markets, which can make imported food unaffordable for the poor as was the case in 2008.

### 5. Taking advantage of local vulnerabilities

Local community members do not receive full disclosure from "coordinators" (agents hired by investors to convince

locals to agree to land leases). Local communities, town and section chiefs, and landowners are generally persuaded that investments will only bring benefits, whether employment or other forms of "development." Potential negative impacts,
such as loss of farmland, social tension, and food insecurity are rarely predicted or acknowledged. In none of the case studies do investors provide landowners and chiefs with copies of the lease agreements. Furthermore, there is evidence that, when locals are unable to read, only parts of the lease documents are read aloud to them before they sign. With the exception of one Paramount Chief, all landowners and chiefs interviewed during OI fieldwork asserted that they had not been given copies of leases they had signed, nor were they able to recall the contents of the agreements.

Under traditional Sierra Leonean social structure, there is little tendency to publicly question authority. This makes rural people all the more vulnerable to those individuals who, from positions of authority, convince community members that a land lease is in their interest. The land deal case studies illustrate how this has played out in Sierra Leone: an MP acted as representative for Addax Bioenergy and a well-connected individual acted on behalf of Quifel. There must be protections against conditions that lead to this "induced consent." In addition, investors are benefiting from a common misconception in Sierra Leone that most foreigners, particularly "white people," are in their country working with NGOs toward charitable and humanitarian goals.

Local people often confuse foreign corporations with NGOs, and in many cases, investors' agents, anxious to persuade community members of the benefits of agricultural investments, do not correct the communities' misconception.
Finally, women are extremely vulnerable in the face of land negotiations. While women represent an extremely important part of the farming population and are vital contributors to food security, women have no legal title to land (although there are some exceptions).254 Because they are not landowners, women are generally not present at consultations with investors and, even if they are, they have no voice. In many cases, they are not even aware that the land they are cultivating is being leased. Not surprisingly, therefore, women are not entitled to a share of land rental fees, even when they lose their land.

### 6. Lack of environmental protections

There is little acknowledgement within the government ministries – and none at all in SLIEPA – of environmental and sustainability issues related to agricultural investments. Large-scale, industrial agricultural developments necessitate monocultures heavy mechanization, the use of hybrid seeds or clonal varieties (in the case of palm oil), and the use of chemical pesticides and fertilizers, all of which lead to the depletion of soil fertility, soil and water contamination, and loss of biodiversity. Moreover, large-scale irrigation schemes, such as those planned for the Addax sugarcane plantations, require massive amounts of water to be drawn from vital river systems.

These and other environmental impacts affect the wellbeing of local populations and reduce their capacity to cope in the face of climate change. Agro-ecological agriculture, encouraged by many civil society groups, farmer associations, scientists and also the UN Special Rapporteur on the Right to Food, is not being discussed or explored by investors or by the GoSL. Environmental, Social and Health Impact Assessments (ESHIAs) are, according to MAFFS, mandatory for all large-scale land deals. Yet deals are being signed and projects moving forward (Quifel, SLA) without ESHIAs. The ESHIA for the Addax project does not contain detailed information of existing land use in the area, including a full analysis of all products and services derived from existing land use. Nor does it contain the information on the livelihoods of nonlandowners working the land, especially women, necessary to assess the loss to these vulnerable groups.

Furthermore, the ESHIA is not a binding legal document, even though it may be viewed as such by the Sierra Leone Environmental Protection Agency (SLEPA). The ESHIA does not stipulate pre-defined sanctions for failing to adhere to lease terms or failing to undertake measures to mitigate risks – to human health, soils, rivers and biodiversity. In addition, it fails to consider all other large-scale investments in the area, including in mining, logging or agriculture, so that an overall assessment of the collective impact on water resources, land, vegetation, community livelihoods and health can be properly assessed.

The only governmental agency with the responsibility to monitor the environmental impacts of land deals is SLEPA. However, SLEPA can only analyze the deals once an official ESHIA has been completed and submitted; the agency has no control over investors who do not sign MOUs with the GoSL or undertake and submit the proper impact assessments. Because SLEPA falls under the jurisdiction of the Office of the President there are concerns that the agency may not be able to fulfill its responsibility as an independent watchdog, given the president's outspoken support for the foreign investments.

### 7. Concerns over government's role in land acquisitions

The GoSL grants foreign investors generous fiscal incentives and protection. Agricultural investments in tree crops and rice benefit from 10-year corporate tax holidays and zero import duty. The country allows 100 percent foreign ownership in all sectors; there are no restrictions on foreign exchange, no limits on expatriate employees and full repatriation of profits, dividends and royalties.

Yet, the Minister of Finance and Economic Development has admitted that the existing regimes of tax and duty exemptions are seriously eroding the government's tax base (and around the time of the implementation of incentives and protections for investors, the GoSL began imposing a 15 percent domestic Goods and Services Tax). It is not clear how the GoSL is going to benefit from land deals when it continues to attract investors through giveaway rates and generous fiscal incentives.

A pro-business orientation is resoundingly endorsed by the GoSL. The President Ernest Bai Koroma is extremely enthusiastic about agricultural investment, promoting it unquestioningly as a strategy for rapid economic growth. The high-level support for foreign investment in Sierra Leone's farmland is a deterrent to open criticism among government officials, employees, and others fearful of being viewed as opposed to "development."

Rural people feel they are not in a position to speak out against or to question policies endorsed so strongly by their head of state. There are also questions regarding high-level government involvement in the Sierra Leone land deals. As pointed out earlier, the law firm that represented both Quifel Agribusiness (SL) Ltd. and landowners in the Addax deal is the firm of Franklyn Kargbo, who worked as an advisor on governance in the Strategy and Policy Unit in the Office of the President when these leases were negotiated. In December 2010, he was appointed Minister of Justice and Attorney General

The MAFFS policy document states that land leases are developed jointly by the Office of the Attorney General and the investor's lawyer, yet the man whose law firm negotiated at least two of the investor's leases is now the Attorney General, and as such, also in charge of the ongoing land tenure reform process. This anomaly has been made public, but has not been resolved.

### 8. External interests at work

The World Bank Group has been instrumental in increasing foreign investment in Sierra Leone by funding institutions and leading reforms to attract investors and to ensure their access to land and resources. In particular, the IFC provides financial support and works closely with SLIEPA. The World Bank Group is also financing a hasty process of land tenure reform. There are concerns that reform measures, in their desire to accommodate foreign investors, are overlooking the issues of equitable and secure access to land for all Sierra Leoneans, particularly women farmers.
Neither SLIEPA nor the IFC respect the need for transparency in their operations. Neither was available for interviews with OI, nor are the land deals that have resulted from SLIEPA promotions the least bit transparent. Those studied by OI do not conform to the World Bank principles for responsible agro-investment.

They do not respect usufruct rights to land use or local needs for water and farmland, and there is little or no accountability. There is no proper regulatory framework to deal with FDI in land resources (all those materially affected are not consulted), and they do not strengthen food security.

The World Bank promotes and enables land deals that clearly do not respect their own principles of responsible agro-investment. In addition to the pervasive influence of the World Bank Group, the Tony Blair African Governance Initiative and the European Commission are also funding programs and working behind the scenes to shape policies that promote the large-scale investment in land in the country. Both supported the Sierra Leone Trade and Investment Forum held in London to sell the "opportunities" in the country to foreign investors. The FAO office in Sierra Leone has also been supportive of at least one of the investors, publicly praising Addax Bioenergy and taking on a project in the area to train farmers.

### 9. Potential for conflict

Most of the agricultural investments in Sierra Leone are recent and are not yet fully operational, and yet there are early warnings about the risks they entail – social, political and economic. In Lungi Acre, in the Addax lease area, local people are making veiled threats about what they will do if the company continues to mistreat the local workers, if it doesn't compensate them for the loss of their bolilands, and if it doesn't fulfill its pledges to contribute to local development.

The Quifel investment is indirectly related to a violent dispute over the position of Paramount Chief in Loko Massama Chiefdom, and tension remains high in the area because of perceived advantages that the position would afford because of Quifel's presence. The Sepahan Afrique agreement has already caused internal conflicts in the community of Madina, where people turned on each other, believing that the company had been "tipping" certain individuals to garner their support for the investment.

Sierra Leone is still struggling to overcome the devastating economic, social, political and psychological effects of its long civil war. Patrick Johnbull, of the Sierra Leonean NGO, Green Scenery, and also with the country's Justice and Peace Commission, commented that the way the land deals are currently being negotiated – where local people are cajoled into leasing their land through much deception – is "going to lead to the same war we just came from."

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