Land Investments or Land grab?

A critical view from Tanzania and Mozambique

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1 Key message

Four months after the research for this report was undertaken in Tanzania and Mozambique, the international media reported turmoil in the streets of Maputo. The wheat prices rose with 17 % in one week. This is devastating in a society where the majority of the population spend 3/4 of their income on food. But this is not a new experience for the people in Mozambique. In April 2010, while conducting this study, Dezeve village, north of Maputo was visited. The community was starving after losing their jobs at the Jatropha plantation, which had been abandoned by the South African company. The community had given away their land to the investors based on the promise of employment. They were now left without land to cultivate, no income and no information about the future plans for the project or the land. The international media never reported from Dezeve.

With the food crisis of 2008 the number of chronically hungry people reached 1 billion. At the same time the demand for agricultural land in Africa has increased dramatically. The World Bank estimated that by 2009 45 million ha of land has been allocated to foreign investors, 70 % in Africa alone. There are several driving forces behind this surge in large scale land investments. The 2008 rise in food prices was one of them, as investors saw this as an opportunity to invest in the growing food market. In addition, the western consumption and the focus on climate change have lead to a surge for short-term solutions. Among them are Biofuel production and introduction of carbon credits, activities that are now increasingly demanding arable land in Africa.

1.1 A new hope for African agriculture?

Proponents of these investments argue that not only will investors and consumers benefit from these investments, the recipient economies will also experience rural development and economic growth. The rationale is that the investments will create a win-win situation. Governments in developing countries view this as a viable means to increase capital flow to the agricultural development. For them, this is an opportunity to reduce unemployment and induce social development in the rural sector. Most importantly, they view the investments in the agricultural sector as an engine for economic growth.

Rather than promoting development in the recipient countries, critics have argued that these high-risk large scale land investments exploit local resource users. The findings in this report support that there is little, if any, development potential in these investments. In addition to endangering rights of traditional land holders, weak regulative frameworks on FDI in the agricultural sector dramatically reduces the developmental potential of the investments both on a local and national level. Low tax rates, no restrictions on profit repatriation and exports, low labour standards and no obligation to utilize local inputs can potentially lead to enclave sectors in the economy. Thus, these investments run the high risk of copying the developmental failures like other attempts in the primary commodity and mineral sector before them.

There is little to gain from these investments for the local community. Community consultations are held on the investors' terms and selective information is being given. With help from the government, the investors have attained full knowledge of the law, and their own rights. Most villagers do not have access to this knowledge. With the promise of job opportunities, schools and health centers, villagers give the investors the rights to use land their land for a period up to 99 years. In reality, these investments are not development initiatives, but high-risk projects where failure can bring devastating consequences. In these high-risk projects the most vulnerable part is the rural farmer. While investors have insurance systems and the possibility to declare bankruptcy, the farmers trade away their only security and their main asset; their land.

Due to this manipulative process, rural farmers are consistently being taken advantage of. In this and many other reports, several breaches of the investment process that undermine the rights of the local resource users have been revealed. The promises of building social infrastructure have not been fulfilled in any of the cases in this study. In the cases where the farmers received employment, the terms of the contracts were set to the bare minimum. Economic compensation for the land was given only in the Tanzania case, which was another example of a process without participation. Farmers are giving away their most valuable assets to profit-seeking entities, based on information asymmetries and persuasion. This is not development, this is land grabbing.

The responsibility of avoiding this situation lies not only with investors or host state governments. The current situation is the product of a demand for resources in the developed world. Therefore, the international community needs to ensure that citizens of developing countries do not suffer in order to sustain the developed world's unsustainable life style.

2 Introduction

Foreign direct investment (FDI) in the agricultural sector in developing countries has increased substantially in recent years, with increasing potential for energy and food production. Estimates of the size and scale of the investments are still somewhat uncertain. However, according to the World Bank, 45 million ha of land has been allocated to foreign investors, 70 % in Africa alone[1]. UNCTAD reported an increase of FDI inflows to Africa to a record level of $88 billion in 2008, reaching an increase of FDI stock in the region to $511 billion in 2008[2]. Despite the increase, capital flows to the Sub-Saharan African countries (SSAs) are still low compared to other regions, especially in the agricultural sector. The global financial crisis lead to reduction of FDI inflows. However, there are numerous signs of recovery and growth in inward FDI to the agricultural sector.

Changes in global demand for food and energy and the opening up of international markets have facilitated the increase in capital flows to developing countries. The recent and recurrent world food and energy crisis have sparked the demand for food and for various sources of energy on a global scale. As a consequence, the food and agrofuel[3] industries have been the primary targets for foreign investment. Apart from this, the increasing trade in carbon quotas has sparked demand in the "production" of carbon credits in developing countries. Foreign companies have invested in conservation projects and tree plantations to earn carbon credits, which are subject to trade to high-polluting countries.

Previous concerns regarding international capital flows have been that investors avoid the vulnerable markets in developing countries. The debate has now shifted to the potential risks and benefits these flows of capital might cause in SSAs. Recipient governments welcome the investments through a wide range of financial incentive mechanisms in order to increase capital flows from abroad. Attracting foreign investment has become a key strategy for agricultural development. At the same time several activists, non-governmental organizations (NGOs), scholars and international institutions such as FAO and the World Bank raise concerns about the investments in the agricultural sector in developing countries. Reports of widespread breaches of judicial practice in allocation of land, and the size of the investments, have lead critics to argue that large scale land investments threaten traditional rights to land for rural farmers. Land rights activists claim many investments have been made under false pretenses and with questionable contracts.

In addition to this, critics are concerned about food security and the long-term development potential of the investment, as leases are signed for 50 up to 99 years[4].

Land rights activists have used the phrase "land grabbing" to explain such land acquisitions by foreign investors in developing countries. Several definitions have been presented to explain the term "land grabbing". Some claim that investment in land is "land grabbing" if there is a "purchase or lease of vast tracts of land by wealthier, food-insecure nations and private investors from mostly poor, developing countries in order to produce crops for export"[5]. Other definitions are more size specific. FAO argues that one may talk about "land grabbing" if the investment exceeds 1000 ha[6]. Another way of defining "land grab" could be less size specific and leave a larger role for breaches in the investment process. Thus, "land grabbing" could be defined as a process where large tracts of land are bought or leased by foreign investors (nations, private) in developing countries using illegal or manipulating methods. A weakness with this definition is that it does not include land acquisitions that are made legally, but which for some reason is disputed due to conflicts that arise with it. The South-Korean company Daewoo's investment in Madagascar serves as example. The 1.3 million ha investment followed the recipient government's laws[7]. Regardless of this, the government received massive criticism due to the nature of the investment. In the empirical studies for this report, breaches in the investment process methods used in the process and the developmental impact of the land acquisition are used as criteria to identify "land grabbing".

The main arguments in support of attracting FDI to the agricultural sector in developing countries have been that it will improve livelihood in the rural areas and cause economic growth.

Thus, this report will focus on the micro and macro developmental impact and potential of foreign investments in the agricultural sector in Mozambique and Tanzania. In order to analyze this, the land acquisition process and the regulatory framework for foreign investment in the Tanzanian and Mozambican agricultural sector have been examined. The main objective of this report is to voice the concerns of rural farmers, and thus identify and discuss the main conflict in this process.

1. *World Bank, 2010* ***Rising Global interest in Farmland Can It Yield Sustainableand Equitable Benefits?****:vi*
2. *UNCTAD 2009,* ***World Investment Report – Transnational Corporations, Agricultural Production and Development****. New York and Geneva*
3. *Agrofuel is a term that has been used to describe biofuel from agricultural commodities.*
4. *Cotula, L., S. Vermeulen, et al. (2009). Land Grab or development opportunity? Agricultural investment and international land deals in Africa. London/Rome, IIED/FAO/IFAD. And Sulle, E. and F. Nelson (2009). Biofuels, land access and rural livelihoods in Tanzania. London, IIED.*
5. *Daniel, S. and Mittal, A. (2009)* ***The Great Land Grab. Rush for World's Farmland Threatens food security for the Poor****. Oakland Institute, Oakland*
6. *Cotula, L., S. Vermeulen, et al. (2009). Land Grab or development opportunity? Agricultural investment and international land deals in Africa. London/Rome, IIED/FAO/IFAD.*
7. *The Bread Basket of South Korea: Madagascar (23.11.08)* ***Times Magazine*** http://www.time.com/time/world/article/0,8599,1861145,00.html

3 Context

3.1 Tanzania

Tanzania is considered one of the most stable countries in the continent, and has experienced economic growth in recent years. Despite this, Tanzania still remains among the least developed countries in the world ranking at 151st out of 182 countries in the world with data, according to the Human Development Index (HDI)[8]. In terms of per capita income, Tanzania is in the bottom 10 % of the world's economies[9]. The country is highly dependent on agriculture. The sector provides 85% of Tanzania's exports and agricultural commodities account for nearly half the nation's GDP. Land access remains crucial for the 80% of the population who are dependent on agricultural or pastoral activities for subsistence. At the same time, there is a prevailing perception that the production level of smallholder farmers is low, and that land resources are not adequately utilized[10].

According to the Government, Tanzania has about 44 million ha of arable land, where only 10,2 million ha under cultivation[11]. Several large scale foreign investments have been approved or are under consideration by the Government. In 2009, 640,000 ha had been allocated to foreign investors for biofuel production, 4 million had been requested. One of the biggest investors involved is the Swedish company ***Sekab,*** which has requested 400,000 ha for sugar cane production in Bagamoyo. The same company requested 500,000 ha to produce sugar cane in Rufiji[12]. In addition the UK energy company CAMS Group has acquired 45,000 ha for sweet sorghum production for biofuels and the British company Sun Biofuels aquired over 8000 ha in Kisarawe[13].

3.1.1 Tanzania Land Law

In Tanzania, land rights are mainly dealt with through customary tenure systems. These are usually seen as sufficient for local resource users, but in many countries customary land rights do not have formal legal legitimacy.

After independence in the beginning of the 1960's, land was transferred from the authority of the colonial Governor to the independent state.

The present Tanzanian Land Act came into force in 2001, and consists of The Land Act no. 4 of 1999 and The Village Land act no. 5 of 1999. These include legislation over the three categories of land in Tanzania:

8. *UNDP 2010* http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_TZA.html
9. *CIA World Fact Book 2010* https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html
10. *Sulle, E. and F. Nelson (2009). Biofuels, land access and rural livelihoods in Tanzania. London, IIED.*
11. *Ibid.*
12. *Cotula, L., S. Vermeulen, et al. (2009). Land Grab or development opportunity? Agricultural investment and international land deals in Africa. London/Rome, IIED/FAO/IFAD.*
13. *Ibid., Sulle, E. and F. Nelson (2009). Biofuels, land access and rural livelihoods in Tanzania. London, IIED.*

- ***Reserved Land***: conservation areas such as game reserve, forest reserve, marine reserve, national parks etc. 30%-40% of Tanzania's total land area

- ***Village land***: Land within the demarcated or agreed boundaries of a village. Village land is under managerial control under the Village Council, and the legal framework of the Village Land act no. 4 of 1999.

- ***General land***: Consists of all land that is not Village Land or Reserved Land. It may include "unused or unoccupied" village land[14], which makes the legislation of Village Land somewhat confusing. (See below)

The 1999 Land Acts place ownership of all land with the president "as trustee of the people"[15]. In addition, the Land Act reformed the previously dualistic character of land rights where customary land law and national law were overlapping. Today, '"customary rights of occupancy' [are] legally equivalent to any 'deemed' or 'granted' right of occupancy"[16].

3.1.2 Foreign Investment in Land – Process and conditions

According to the law, only general land may be allocated to foreign investors. If an investor wishes to invest in village land, the land must be transferred to general land by the president. Alternatively, the investor can get general land, allocated by the Tanzania Investment Centre (TIC). The TIC facilitates foreign investment in land, and consults the investor on regulation and relevant stakeholders.

There exist no rule of consultation with local resource users when acquiring general land,. The whole process happens at government level, from introduction of business idea to the TIC, finding of appropriate general land, approving of land by the Ministry of Agriculture and finally application for derivative right of occupancy from the TIC.

The investor may also identify land that is currently village land. In such cases, the investor meets the village council to seek approval. The investment purpose has to be approved at the District Land Committee, and the Village Assembly gives the formal approval. The land is transferred from village land to general land by the president and compensated according to an agreement between the village and the Commissioner of Land[17]. This implies that in order to acquire land that is under some form of customary ownership, the acquiring part is required to consult the local resource users and include them in the decision making process. Primarily, foreign investors may only acquire general land and land that is made available by villages through village land use plans. However, establishing land use plans has proven to be too costly for villages, and this has led to very few land use plans being made[18]. According to Larsen, the government launched a strategy to help implement the land law in 2005, but the strategy has not been initiated and does not have a budget at this point[19].

The amount of foreign investment to Tanzania has increased immensely during the last decades. The percentage of Tanzania's GDP from FDI has increased from 0.1% in 1900, to 32.9% in 2005[20]. Between 2004 and 2007, FDI inflows to Tanzania grew from 331$ million to 600$ dollars. In 2008 Tanzania received inward FDI worth 744 million dollars[21]. There has been a significant drop in the FDI inflows due to the global financial crisis. However, UNCTAD argues that the potential for FDI inflows to the agricultural sector will increase in the years ahead[22].

The government seeks to attract foreign investment and the regulative framework has been altered to facilitate capital inflows. A previous exemption on tax of establishing industry has been removed. There is still a 30% corporate tax in Tanzania for both residents and non-residents[23]. However, capital allowance incentives relief the corporate tax claim significantly, since the investors can deduct cost of investment and purchases from their taxable profits. In addition to this, there is zero tax on import of equipment, exemption from VAT on specified goods, such as computers and accessories, zero VAT on exports, and right to transfer 100% of profits and capital out of the country[24]. In addition, export restrictions on agricultural products have been removed[25].

3.2 Context Mozambique

Mozambique, is one of the ten least developed economies in the world[26]. After the civil war, the economy has experienced a steady GDP growth rate averaging between 8-9 % since the late 1990s. This is among the strongest growth rates in SSA. Among the key exports are products such as aluminium, seafood, and other agricultural products. Although the country

14. *Sulle, E. and F. Nelson (2009). Biofuels, land access and rural livelihoods in Tanzania. London, IIED.*
15. *Ibid.*
16. *Ibid.*
17. *Ibid.*
18. *Interview with Yefred Myenzi, 28.04.10*
19. *Interview with Rakel Larsen, MS Tanzania, 23.04.10*
20. *UNCTAD (1992). World Investment Report 1992. Geneva, United Nations conference on Trade and Development, UNCTAD (2006). World Investment Report 2006 - FDI from Developing and Transition economies: Implications for Development. Geneva, United Nations Conference on Trade and Development.*
21. *All Africa 2010* http://allafrica.com/stories/201001200396.html
22. *Unctad 2009: 110*
23. http://www.tanzaniaembassy.or.jp/english/busines/in_incen.html
24. http://www.tanzaniaembassy.or.jp/english/busines/in_incen.html
25. http://www.imf.org/external/pubs/ft/fandd/2000/06/kanaan.htm
26. *https://www.cia.gov/library/publications/the-world-factbook/geos/mz.html*

has shown signs of recovery, Mozambique is still heavily reliant on foreign aid. Half of the national budget is aid, and almost half of the country's population live under the poverty line[27]. Mozambique must sustain its economic growth in order to improve the economy. One of the key mechanisms has been to attract FDI. According to UNCTAD, flows of FDI to Mozambique have improved from US$154 millions in 2002 to US$587 millions in 2008. The agricultural sector attract close to 10% of inward FDI, with cotton and sugar production as the main activity[28]. This comprises a relatively large percentage, and one of the highest in Africa.

Most Mozambicans are subsistence farmers, and the agricultural sector employs about 80 % of the population[29]. Mozambique seeks to modernize and expand agricultural production, and a key strategy is to attract foreign capital to the sector. So far, several large investment projects have been established and approved, particularly within biofuel, forestry and food production. The Gaza province, which two of our case studies were located, has been sought out and 634,346 ha of land have been demanded for Bioethanol production in that area alone. Other areas are the Zambezi River and the Cabo Delgade Province. The total demand is 971,946 ha for Bioethanol production and 1,355,450 ha for Biodiesel production. Among the main investors so far is the London-based Central African Mining and Exploration Company (CA MEC) for a large bioethanol projects, called Procana. In addition, Sun Biofuels, SEKAB, and Ecoenergia are also among the investors[30].

3.2.1 Mozambique Land Law

At the time of independence in 1975, Mozambique nationalized all land. With the ***Land Act*** from 1997, regulations on land policy was further institutionalized[31]. The main objectives of this land law are[32]:

- to protect existing land rights
- to promote a transparent land allocation system
- to create a favourable environment for new investment into rural areas and stimulate community development with mutual benefits for all stakeholders

According to the Law, land belongs to the state and may not be sold, mortgaged or pledged[33]**.** In the Land act from 1997 the state maintains its role as owner of the land, and attributes to individuals the legal right to use and benefit from the land. This right is called the DUAT – ***the direito de uso e approveitamento da terra*** (Land use and benefit right). The DUAT is currently Mozambique's single form of land tenure right, and is exclusive, inheritable and transmittable[34]. There are three ways to acquire the right to use and benefit land[35]:

- occupation by local communities or individuals according to customary norms and practices (an existing right)
- occupation in good faith by individuals for a period of at least 10 years (also an existing right)
- formal request to the State for a new land use right

With the Land act, customary land rights have been given legal protection. Formalization of customary land tenure is only available at the community level, however such communities are defined broadly to accommodate a wide range of groups[36]. The definition of community land includes occupied land, common land and future needs of land[37].

3.2.2 Foreign Investment in Land – Process and conditions

In Mozambique, the Centre for Promotion of Investment (CPI) facilitates the acquisition of all necessary licences, permits and authorisations for foreign investors[38]. The CPI coordinates and consults with the relevant departments and ministries prior to processing applications for investment projects in the agricultural sector. After the investment project is approved, the CPI negotiates with the Ministry of Agriculture and the local government to acquire land concession[39].

The Mozambican land act require community consultation with the affected users concerned by investments in land. This is to protect the rights holders. Furthermore, the communities that have rights over the land in question must approve the land transfers. In addition

27. *CIA World Fact Book 2010*
28. *FIAN, 2010* ***Land Grabbing in Kenya and Mozambique A report on two research missions – and a human rights analysis of land grabbing****. Heidelberg*
29. *Ibid.*
30. *Daniel, S. and Mittal, A. (2009)* ***The Great Land Grab. Rush for World's Farmland Threatens food security for the Poor.*** *Oakland Institute, Oakland and Nhantumbo, I. and Salamão, A (2010)* ***Biofuels, land access and rural livelihoods in Mozambique.*** *IIED, London*
31. *Nhantumbo, I. and Salamão, A (2010)* ***Biofuels, land access and rural livelihoods in Mozambique.*** *IIED, London*
32. *Norfolk et. Al (2007) "Improving Tenure Security for the Rural Poor - Mozambique country case study" FAO, Maputo*
33. *Interview with CPI-official Gil Bires, 20.04.10*
34. *Norfolk et. Al (2007) "Improving Tenure Security for the Rural Poor - Mozambique country case study" FAO, Maputo*
35. *Ibid.*
36. *Nhantumbo, I. and Salamão, A (2010)* ***Biofuels, land access and rural livelihoods in Mozambique.*** *IIED, London*
37. *Knox, A. et. Al. (2009)* ***Integrating customary land tenure into statutory land law.*** *USAID www.usaid.gov*
38. *Cotula, L., S. Vermeulen, et al. (2009). Land Grab or development opportunity? Agricultural investment and international land deals in Africa. London/Rome, IIED/FAO/IFAD.*
39. *Interview with CPI-official Gil Bires, 20.04.10*

to this, further requirements for protection of access rights, fair compensation and opportunities to review the agreements are demanded prior to full approval[40].

There are some differentiated laws between domestic and foreign investors. There are different time frames for compliance with the investment plan between foreign and Mozambican nationals. The land act states that foreign investors need to be in compliance with the investment plan within two years. For national investors this compliance time frame is five years. If the agreements in the investment plan are not fulfilled within the time frames for domestic and foreign investors, the land leases can be terminated[41].

The conditions on FDI in Mozambican agricultural sector are favourable for foreign investors. The corporate tax in the agricultural sector is only 10 %, compared to the average corporate tax which is 32 %. In addition to this, there is a further reduction of 80 % on the already low corporate tax in the agricultural sector up until 2015. This tax relief is adjusted to 50 % up until 202542. Other incentives within the agricultural sector is duty free import of equipment, exemption of real property transfer tax, exemption of stamp duty, no VAT, different types of training scheme incentives and tax deductible expenditure up to 150 % of the expenditure in public utility infrastructure. Foreign investors are also allowed to repatriate 100 % of the profits and dividends from the production, as well as full protection from expropriation[43]. The CPI sets no demands on local content requirements for the production. Since there are no restrictions on imports of inputs, this pursued policy implies that there are no demands on procurement of local inputs for the agricultural sector. Furthermore, there are no requirements on establishment of supporting industry such as processing plants for the production[44].

40. *Cotula, L., S. Vermeulen, et al. (2009). Land Grab or development opportunity? Agricultural investment and international land deals in Africa. London/Rome, IIED/FAO/IFAD.*
41. *Ibid.*
42. *Interview with CPI-official Gil Bires, 20.04.10*
43. *CPI (2006) **Investment Policy and Opportunities in Mozambique**. CPI, Bilene*
44. *Interview with CPI-official Gil Bires, 20.04.10*

4 Findings

4.1 Experience of local resource users - unfulfilled commitment & compensation

The countries in this study have protective land laws that benefit local resource users by including customary rights in the statutory law, and acknowledging it as legally equivalent[45]. According to the investment procedures, the local communities which have user rights to the land in demand from investors must be consulted with, and most importantly must approve the investment prior to concession. Unfortunately there are at least two concerns about this process that reduces the relevance of the laws and stated correct procedures.

- ✖ Both countries in this study are challenged by inadequate implementation of the laws and procedures, including a functioning monitoring system

- ✖ The second concern is circumvention of laws by different stakeholders, including investors and government officials.

During the interviews with the villagers in both Tanzania and Mozambique, a common ambivalence towards the investment project was apparent. Some villages were disappointed with the compensation offered, but welcomed the investment due to the job opportunities. Others were not content with their situation, and would not accept the investment if they were asked again. In the three villages visited in Mozambique, the villagers were all waiting for the promised compensation. The standard compensation package was establishment of social infrastructure, often including a health station, schools, and communication infrastructure such as roads and electricity. Three out of four of the visited plantations had employed a significant labour force, namely Dezeve and Chilengue in Bilen and Palmeira, as well as both villages in Kisarawe. The plantation in Moamba had not started production at the time of the interviews.

4.2 Cases: Mozambique and Tanzania

4.2.1 Palmeira - Deulco

In April 2009 the South African company ***Deulco*** established a Jatropha plantation in Palmeira, in the South of Mozambique. Investors were given approval by the village for 1000 ha, and an additional 1000 ha is under consideration, according to the traditional leader

45. *Articles 12-13 of the Mozambique Land Act 1997, Sulle and Nelson 2009: 37*

in the village[46]. When the company arrived in the area, the villagers were promised a well, a school, electricity and a health centre. No economic compensation was given for the land leased by the company. At the time of the interviews there was no agreement on when these facilities were to be built[47]. Village members had approved the land acquisition during one meeting. The traditional village leader did not attend this meeting. He had not seen a written contract of the land acquisition or the forms of compensation. However, based on positive experience with the investors, he was confident that he would be included to participate in the negotiations[48].

In Deulco's plantation, employees worked from Monday to Saturday for 1500 Mozambican Meticais (MZN) per month (equivalent to 41 USD). They were told 300 MZN were left off for pensions and taxes. Thus, the real wage should be 1800 MZN, which is exactly the minimum wage. In Palmeira a bag of rice cost around 1000 MZN. The employees interviewed expressed that as subsistence farmers, they used to have periods of abundance, but also periods of extreme poverty. However, they also explained that they preferred the present situation of stability at a low level compared to the insecurity of the former situation[49].

4.2.2 Bilen district: Villages Chilengue and Dezeve - Energem

In the now abandoned ***Energem*** plantation in Bilen district, north of Palmeira the situation was different from the Palmeira case. Two groups of villagers were interviewed, from the villages Dezeve and Chilengue, both affected by the investment. The group from Chilengue stated that the consultation they had participated in was a party thrown by the investors, three months after the agreement had been made by the political leaders of the village. In Dezeve, the consultation had taken place over two meetings, one with the investors and one with the local authorities present. The agreement was made during these two meetings. Neither of the two groups knew the exact size of the land they had agreed to give away, but they disregarded the official size, which is 275 ha, and claimed this was too small. They did not know of any written contract.[50].

The compensation the villagers were promised did not include economic compensation, but consisted of wells, electricity, a health centre and a school. At the time of the interview, they had not received these facilities. As opposed to the other cases, there was little belief that this compensation would ever be given. Interviews from these villages, including one with the traditional leader, state that a new offer from investors would not have been accepted[51].

Employees at Energem's plantation earned 1650 MZN per month, which is below the minimum wage in the agricultural sector. The supervisor, which was employed from the village, earned 2200 MZN. The workers were not happy with the wage. Their most important food purchase is rice, and a bag of rice in their area costs 1300 MZN, which is barely enough food for a standard family in a month. They had little, if any, possibility to save money[52].

46. Interview with traditional leader, Palmeira,17.04.10
47. Interview with traditional leader, Palmeira,17.04.10
48. During the revolution in Mozambique in the 1970s, traditional leaders (or ***regulos****, as they were named by the Portuguese colonial rule) were replaced with a political* ***secretariat****. In the 1980s, the traditional leaders were reinstated and today, most villages have both a political leadership with relations to the government and a traditional leader.*

49. Interview with employees at Deulco' plantation in Palmeira, 17.04.10
50. Group interview in Villages Chilengue & Dezeve, Bilen district, 16.04.10
51. Group interview in Villages Chilengue & Dezeve, Bilen district, 16.04.10
52. Group interview in Villages Chilengue & Dezeve, Bilen district, 16.04.10

4.2.3 Moamba- Horta Boa

In the ***Horta Boa*** plantation in Moamba, there had been a consultation with the local community. The traditional leader was interviewed and he confirmed that they had approved a 350 ha investment on their land. There was also a second meeting where additional land was requested. However, the village leaders did not want to approve more before they experienced how the first investment developed, and opposed this proposal. Production had not started in this case, and the village leader did not know when it would. They did not have a copy of the contract. The community did not know if they could reclaim user rights to the land if production did not start. The traditional leader also admitted that he was not aware of the content of the contract when he signed it. Three years after the agreement, the villagers in Moamba had not received the health centre and school they were promised[53].

4.2.4 Kisarawe district: Villages Muhaga and Marumbo- Sun Biofuels

Several stakeholders in the Sun Biofuels plantation in Kisarawe north of Dar-Es-Salaam were interviewed for this report: two villages, a group of workers and the manager of the plantation. The 8000 ha plantation has been welcomed by the government, but also heavily criticised by NGOs, such as HakiArdhi and Action Aid Tanzania, as well as national and international media[54]. Yefred Myenzi from HakiArdhi, claims that "divide and rule" tactics were used to acquire the large piece of land the investors were given by the communities in the area. According to Myenzi, each village were told that they were the last remaining village to approve, and that if they did not approve, they would be left out of the investment project[55].

Muhaga Village, one of the 11 villages that approved to lease away land for the investment, released 1500 of their 5000 ha of land to the plantation. Several members from the village were interviewed. According to them, two meetings had taken place. In the first meeting, they agreed to the investment orally, and in the second meeting they received additional information. They stated that they felt the project was already agreed upon between the government and the investors when the meeting was held. They have requested a copy of the contract, but have not received this[56].

53. *Interview with Traditional leader, Moamba,19.04*
54. *Sulle and Nelson 2009, Sulle, E. and F. Nelson (2009). Biofuels, land access and rural livelihoods in Tanzania. London, IIED.;"Africa becoming Biofuel battleground", **Der Spiegel** 09.05.08, http://www.spiegel.de/international/world/0,1518,576548,00.html; Interview with Elias Mtinda, Action Aid Tanzania*
55. *Yefred Myenzi, Director of HakiArdhi: 28.04.10*
56. *Group interview, Muhaga village, 29.04.10*

Although the salary level at the Sun Biofuels plantation was above minimum wage, Elias Mtinda of Action Aid argues that the working conditions are not up to standard. According to Mtinda employees often work overtime without additional payment, and do not have access to benefits such as health services and other social security[57]. This was confirmed by the workers at the plantation. In addition to lack of social security benefits, the workers were disappointed about their short term contracts. The group of workers interviewed in Kisarawe were all on three month contracts[58].

Local resource users that owned private plots of land were given monetary compensation. However due to the lack of a demarcation process, this had become a source of conflict between the local resource users and the company. Land titles were unclear at the time of the investment, and several people felt they were not adequately compensated. To determine who had rights to compensation, the villagers were told to report to the company. For the management at Sun Biofuel, this was complicated since, apart from this self-reporting, they had no possibility of controlling who had rights to compensation and not. The prize of the land was not negotiable for the previous owners, but was decided through an estimation of its commercial value by representatives from the University of Dar-Es-Salaam.

4.3 Flawed investment processes and potential conflicts

According to Tanzanian law, a village is only allowed to allocate 50 ha of land to a new right-holder. For areas larger than this, the land must be transferred from having status as village land to general land. The TIC recognizes that there are flaws with the investment process. The investment law assumes the existence of a land bank. This is supposed to consist of general land available for investments, found through the making of village land use plans. An investor should pick available areas to invest, based on what land has been made available to the land bank. However, the system of a land bank has not yet been completed, and the absence of this has lead to alternative ways of allocating land. In the present situation, investors, with assistance from the TIC, find land areas that are not in use. The TIC claims that this does not conflict with the land law, as it is possible to reject the investment at the provincial, district and village level. However, when the TIC and the investor seek out the land, there is often disagreement about the availability of the land. While land may seem available to the TIC and the investor, the villages use the land in ways not known to the outsider, as well as have intricate forms of overlapping land rights[59]. Lack of demarcation of village land areas through land

57. *Interview with Elias Mtinda, Action Aid Tanzania 23.04.10*
58. *Interview with Employees at Sun Biofuel's plantation in Kisarawe, 29.04.10*
59. *Interview with Rakel Larsen, MS Tanzania, 23.04.10*

use plans, and weak implementation of the land act has lead to institutionalization of flawed investment processes, according to land rights activists in Tanzania. Myenzi argues that due to little availability of general land, investors and government have invented new ways of allocating village land to investments[60].

In Tanzania, the village is supposed to set the terms for the investment, and are to be compensated[61]. Similarly, the Mozambican Directorate for Forest and Land state that the community consultation is an essential part of the land acquisition process, not only to protect local rights to land, but also to help the investors in the investment process. Further, they argued that a more thorough consultation process increases the probability of a succeeding investment. It follows that it therefore would be unwise of the investor to neglect this part of the process[62]. However, according to Diamantino Nhampossa, Executive coordinator of ***União Nacional de Camponeses*** (UNAC) in Mozambique, "Consultation with the local community is reduced to a formality, when it should be at the centre of the process"[63].

According to Rauno Laitalainen, a Finnish consultant to the Directorate for forest and land in Mozambique, there is a difference between large scale and small scale investors. His experience is that large scale investors are more concerned about reputation, and have learned the hard way about unfulfilled commitments. Thus large scale investors are preferred by the Government[64]. Nhampossa argues that this is random, "since the Government does not have the capacity to monitor the investment projects, the probability of investors taking villagers seriously as stakeholders is decided according to the probability of unfulfilled commitments being uncovered"[65]

Pressure has been building up on land in Mozambique, according to Christopher Tanner from the UN Food and Agriculture organization (FAO). 76 land conflicts have been identified in Mozambique, 76% of these occurring in the provinces of Tete, Cabo Delgado and Zambezia[66]. The Directorate for Forest and Land confirms that there have been land conflicts, but argue that this is due to the local community misunderstanding the conditions of the investments. According to them, a common problem is that there are no time frames for when compensations will be received[67]. Tanner states that "in most cases there is some form of consultation with the local community, but this consultation is often flawed"[68]**.** However, Tanner argues that the main problem with land acquisition in Mozambique is lack of land demarcation, and points to the lack of the ***Rule of Law***: "Despite having a land legislation that has been termed among the best in Africa, the law is not thoroughly implemented in practice. The government does not have capacity to educate the

60. *Interview with Yefred Myenzi, Hakiardhi,28.04.10*
61. *Interview with the Tanzania Investment Centre, 28.04.10*
62. *Interview with Mosambique Directorate for forest and land 15.04.10*
63. *Interview with Diamantino Nhampossa, UNAC, 14.04.10*
64. *Interview with Rauno Laitalainen, 15.04.10*
65. *Interview with Diamantino Nhampossa, UNAC, 14.04.10*
66. *Nhantumbo, I. and Salamão, A (2010)* ***Biofuels, land access and rural livelihoods in Mozambique****. IIED, London: 31*
67. *Interview with Mosambique Directorate for forest and land 15.04.10*
68. *Interview with Christopher Tanner, FAO, 20.04.10*

population or implement the legislation. Inhabitants in rural areas are rarely aware of their own rights"[69].

The same tendency of insufficient consultation procedures were pointed out by informants among Civil Society Organizations (CSOs) in Tanzania, as well as found in the case of Sun Biofuels in Kisarawe. Studies made by ***Action Aid Tanzania*** support the findings in this study: consultations with the respective villages are often reduced to one meeting, where agreements are made either with or without contracts. In addition to this, allegations of corruption have also been frequent before and during investment agreements[70].

When investors acquire village land for investment projects in Tanzania, they must pay compensation directly to the villagers. By law, the investors must pay market value prize for the land they acquire. The Kisarawe case revealed two potential problems with this process. Firstly, markets are not as stable and institutionalised in the rural areas of Tanzania as western property markets. This has lead to disagreements about the actual prize of the land, and what should be included in the prize assessment. Many farmers as well as land rights advocates argue that farmers are paid random prizes for their land. In Kisarawe, the prices were decided through an assessment done by representatives from the University of Dar-Es-Salaam. The villagers experienced the price offer as low, but had no opportunity to negotiate. The second problem has been that of demarcation of land. In the Kisarawe case these issues were confirmed by both the plantation manager and the farmers, as well as land rights advocates Myenzi of Hakiardhi and Mtinda of Action Aid[71].

4.4 Information asymmetries

There are several aspects that contribute to the impression that the law does not adequately protect the possibility of the local communities to influence the process. The findings show that the villagers are not given the possibility to make a free, prior and informed consent, despite being invited to a consultation. This is a renowned principle, stated in e.g. the UN declaration on Rights of Indigenous People. In all of the examined cases, there was a tendency that the consultation processes had little real participation from the local communities: A meeting was held, where the investor informed about the project. The investor presents the project to the local community on its own premises. Villagers are left to make a decision based on the information the investor highlights, but are rarely informed about possible negative consequences. Several of the local resource users explained they experienced that the scope of the project had already been decided at the time of the meeting. They experienced that they had no power to influence the terms of the negotiation or the outcome[72]. The only aspect they found they had the possibility to influence was the size of the land approved, or simply refusing the project. Considering the information they were presented with, this did not seem to be an alternative for the communities visited. For most of those interviewed, the positive outcomes in the form of job opportunities and infrastructure were considered more important than keeping the user rights to the land.

Information asymmetries are found to be present at all levels of the acquisition process. The investor is familiar with all aspects of the investment process, both law and rights. In Tanzania and Mozambique, the TIC and the CPI give the investor guidance to the investment procedure. The local resource users are often illiterate and do not have access to documents or awareness of their rights prior to the investment. The mandatory consultation process in Mozambique and Tanzania serves not as a negotiation between two equal parts, but as the first meeting with statutory land law for the majority of the villagers. None of the villages visited in this study were in possession of a written contract stating the amount of land given to the investor. Myenzi argues that since land use plans are so expensive, villagers are rarely aware of the extent of land they own[73]. According to CSOs working on the issue in both countries, the general trend is that local resource users do not have the financial means or the knowledge of the legal system to pursue their cases further in the legal system[74].

Civil society actors in both countries also experienced asymmetries in information, as they were not included in deals made at a governmental level. According to João Nogueira in Justice Ambiental, diplomats from the investor's country and the Mozambican government make deals without participation of CSOs that have expertise on the field. He sees FDI as a development strategy in which civil society is denied participation due to little transparency and a lack of invitation to the decision making process[75].

4.5 Top-down process

Nhampossa argues that concessions are given before the relevant stakeholders have been mapped out, and without visiting the areas: "The government has decided to put a lot of emphasis on investment promotion, thus it has become difficult for regulators to do anything but facilitate investment. The central government exerts pressure on the provincial government, the provincial government on the regional government, the regional

69. *Interview with Christopher Tanner, FAO, 20.04.10*
70. *Interview with Elias Mtinda, Action Aid Tanzania, 23.04.10*
71. *Interviews with Elias Mtinda, Action Aid Tanzania, 23.04.10; Yefred Myenzi 28.04.10; Groups interviews in Muhaga and Marumbo Villages, 29.04.10*
72. **Group interviews, Muhaga and Marumbo Villages, 29/04/2010**
73. *Yefred Myenzi, 28.04.10,*
74. *Interview with Yefred Myenzi, 28.04.10*
75. *Interview with João Nogueira, Justice Ambiental, 19.04.2010*

government on the local government etc."[76]. Government officials accompany investors to the villages that own and use the land areas in demand.

A similar process is seen in Tanzania. According to Myenzi, the TIC writes a letter on behalf of the president stating the president's support of the investment. This exerts a downward pressure on the village council. The letter is presented in a village assembly, which is often initiated by the investor. In addition to this, a Member of Parliament (MP) is often present, as was the experience in Kisarawe. The primary aim is to convince the village council to agree to transfer their village land to general land, so that it can be used for investment.

To avoid potential conflicts, investors have been asked to finance land use plans in order to establish clarity about what land is allocated. However, Myenzi sees funding of land use plans by an investor as problematic: In cases where no available land is found in this process, this could lead to pressure on both government and community[77].

4.6 Social security and unused land

Another issue which was discussed with the affected local communities was the changing social dynamics in the community. Many of the villagers had experienced a substantial change in livelihood after the investor's arrival. The majority of those interviewed were previously relying on subsistence farming, cash crops, such as cashew nuts, or selling other local resources, such as fruits or charcoal. In Palmeira, only part of the communities' land was given to the investor. In other cases, such as in Kisarawe, the community had no longer access to common land areas. For the majority of the informants, the main incentive for giving away ownership to the investor was the promise of job opportunities and a stable income. In all the communities a small group was offered work while others continued to rely on subsistence agriculture. In Kisarawe, many of the informants had lost all their land, including access to commons, while not receiving employment.

Our findings suggest that for the local resource users the loss of access to their previous source of food is not necessarily experienced as negative. For the local resource users, the paid labour represents an opportunity for smoothing their income, but does not necessarily lead to an improved standard of living. The income is spread out at a low level. Thus, the farmers have received stability in poverty as opposed to a more unstable subsistence farming situation were abundance and poverty occurred in cycles[78].

However, there is reason to be concerned by the stability the local resource users are describing. The dependency on one employer leaves communities vulnerable. As illustrated by the ***Energem*** case, the investment is a high-risk project. In this case, the company abandoned the plantation and left the community unemployed and without access to cultivated land. The farmers had abandoned subsistence farming, and were reliant on waged labour.

In Tanzania, the legal framework states that land must be transferred to general land in order to be allocated by a foreign investor. After this transfer, the land will revert to the TIC after the investor ends production[79]. The long-term trade-off that is done by the local resource users is substantial, and seems not to be fully understood by any of the relevant stakeholders, including investors, government and the communities themselves.

76. *Interview with Diamantino Nhampossa, 14.04.10*
77. *Interview with Yefred Myenzi, 28.04.10*
78. *Interview with Diamantino Nhampossa, 14.04.10*
79. *Articles 19 (2) and 20 (5) of the Land Act 1999*

4.7 Macro developmental impact – The risk of a regulatory framework skewed towards incentives

In the agricultural sector, FDI has been argued to improve the opportunity for upward social and economic mobility. Since agriculture traditionally has been a labour intensive sector, FDI may absorb a significant part of the rural labour force, and provide a steady income for the rural communities. The Mozambican and Tanzanian governments see multiple advantages with an FDI-led development strategy in the agricultural sector[80]. In addition to contributing capital to fill savings gaps in developing countries, FDI is considered to bring new technology, superior management techniques, and improve access to international markets. In the best case scenario, rural unemployment will be reduced; new sources of income will be created, the Government will receive rents from the production and foreign exchange from exports. In addition to this, supporting industry may flourish as demand for inputs to the agricultural sector may increase[81].

Given the appropriate policy framework proponents of this strategy present this process as automatic, unless the recipient government implements policies that halt the process. There is, however, a significant body of literature arguing that FDI-led development strategies are far from a recipe for success. Some even believe it can be detrimental to developing countries long term economic growth. Research on FDI-led development presented by Wade[82], Stiglitz[83], Rodrik[84] and Chang[85] on the development strategies of the late-developers suggests that the most important cause of the success was strict regulatory regimes and protection of domestic industries. According to these scholars choosing an FDI-led development strategy without an appropriate regulative framework is unlikely to succeed.

NGO representatives in both Tanzania and Mozambique are concerned about the "open door" policy their governments have established towards FDI in the agricultural sector. They argue that it is not only a risk to land access for local resource users, but it is also an unwise strategy for long term economic growth. João Nogueira is critical to the distribution of profits in the global value chain: "Where are the refineries for jatropha? Will all the jatropha be exported? How much are we taxing the companies and where is the proof of local spillovers from the production like individual development for the workers?"[86]. Tanner, of the FAO, argues that "the government does not wish to impose proper conditions on the investments because they are afraid that investors will choose other countries to invest in"[87]. This view supports the idea that a "race-to-the-bottom" process is happening between developing countries. Since competing developing countries offer similar conditions to foreign investors, they can only compete through incentive mechanisms. Consequently, the country that offers the most generous regulatory framework will be chosen for investment. Tanner says "that in order for these investments to be classified as developmental, Mozambique must implement proper monitoring techniques for the investments, the consultation process must be taken seriously and farmers must receive training to achieve social and economic mobility"[88]. The case studies in this report also show few signs of knowhow spillovers and learning potentials in the investment projects as farmers are set to work with less demanding tasks in the routine like plantation labour. Thus there is little evidence for FDI inducing upwards social and economic mobility in the rural areas.

The CPI does not demand the establishment of refineries to make sure that more profits are contained in Mozambique. However, the CPI argues that there will be a possibility to renegotiate the terms of the investment at a later stage[89]. Mozambique also allows foreign investors to repatriate all profits from the investment. In cases where there is a joint venture between a national entity and a foreign investor, the likelihood of retaining profits in the national economy increases. However, several of the informants argue that there is a power imbalance in joint ventures and that this does not necessarily lead to more equal distribution of profits[90].

The situation is similar in Tanzania. Elias Mtinda of Action Aid Tanzania is critical to the types of labour activities that the investment projects create. While conducting a study of different foreign owned biofuel projects in Tanzania, Mtinda found that "although workers were being paid above minimum wage, they did not have access to social security. They were working long hours, 7 days a week which did not leave room for cultivating their own fields"[91]. With a low salary, the work did not provide the possibility to sustain livelihood beyond food, such as education or health[92]. FDI is said to offer the opportunity

80. *Interview with the Tanzania Investment Centre, 28.04.10,* **and Interview with CPI-official Gil Bires, 20.04.10**
81. Cotula et. Al 2009:78
82. *Wade, R. H., (1990)* ***Governing the Market: Economic Theory and the role of Government in East Asia's Industrialization.*** *Princeton University Press, New Jersey*
83. *Stiglitz, J., (2003)* ***Globalization and its Discontents.*** *Norton & Company Inc, New York*
84. *Rodrik, D., (2006) "Goodbye Washington Consensus, Hello Washington Confusion? A review of the World Bank's Economic Growth in the 1990's: Learning from a Decade of Reform" In* ***journal of Economic Literature,*** *Vol. 44, no 4*
85. *Chang, H., (2007)* ***Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism.*** *Bloomsbury Press, New York*
86. *Interview with João Nogueira, Justice Ambiental, 19.04.2010*
87. *Interview with Christopher Tanner, 20.04.10*
88. *Interview with Christopher Tanner, 20.04.10*
89. *Interview with CPI-official Gil Bires, 20.04.10*
90. *Interview with the Directorate for forest and land, 15,04.10*
91. *Interview with Elias Mtinda, Action Aid Tanzania, 23.04.10*
92. *Interview with Elias Mtinda, Action Aid Tanzania, 23.04.10*

upward social and economic mobility, but as the studies of this report show the only effect according to the workers have been achieving food supply stability at a low level. Thus the workers are performing menial skills with little possibility to save income, which is not enough to induce local development. According to studies by Sanjaya on FDI in the textile industry in Lesotho, there is no guarantee that increased employment will create developmental effects. Wages can be kept low and skills limited due to foreign expatriates maintaining the responsibility for administrative duties. In this case there is little opportunity for the advancement and training of local people[93].

Myenzi argues that the regulative framework for FDI in the agricultural sector discards the nation's long term interest. Myenzi refers to the mining sector, where he argues that the government is not collecting enough rents, and he fears that productive agriculture such as biofuels will face the same destiny with the current regulative regime[94]. Myenzi's claim is supported by research on the topic. A study by Christian Michelsen's Institute in 2006 confirms that due to a weak regulatory framework the government received less revenue than expected. And due to misreporting, several corporations did not pay corporate tax[95]

The TIC believes that there is a need to be patient with FDI in the agricultural sector. They argue that due to the special time-lag between point of investment and result in the agricultural sector we have not seen the effect of the investment yet. According to the TIC, the Government has also implemented measures to deal with conflicts of interest between the state and the investor. One example is the reduction of tax holidays for foreign investors to prevent investor flight when the tax holiday expires. In addition to this, the Government demands insight in companies business plans and requires an organizational chart upon investment to identify the intention and the development potential of the investment. Most importantly, the Government is in the process of establishing special requirements on biofuel investment[96]. According to representatives from the Tanzanian Ministry of Agriculture, the primary concern is whether the investment succeeds or fail, not the distribution of profits from the production. The high risk is due to weak infrastructure, low technological development, unpredictable access to water and a low skilled workforce. Thus, the ministry justifies a regulative framework skewed towards incentives in the regulatory framework governing FDI. In addition, the ministry believes that engagement by foreign investors will

increase the interest in Tanzanian agriculture, as foreign engagement automatically increases the status of the sector[97].

The *Kilimo Kwanza* ("Agriculture first"), a Government initiative, was launched in 2009 as a strategy to modernize and improve the agricultural sector in Tanzania. One aspect of the "ten pillar plan" is to make land more available to investors in order to increase capital flows to the sector, through increasing FDI. The initiative has also stated the importance of retaining more profits from agricultural production in Tanzania. Another important focus is the creation of links to the domestic industry from the FDI, such as trading with local suppliers and sharing information in the value chain. However, it is questionable whether the regulative framework governing FDI in the agricultural sector is capable of achieving these goals. With a soft tax regime, generous regulations on profit repatriation and no export restrictions, the government does not have the possibility to control the amount of reinvestment into the local economy. According to Chang, no obligation to use local suppliers in agricultural production can lead to an "enclave" situation, where all the inputs are imported and the only local connection is through employment that does not pick up new skills.

93. *Lall, S (2005) "FDI, AGOA and Manufactured Exports by a landlocked, Least Developed African Economy: Lesotho",* ***The Journal of Developmental Studies,*** *Vol. 41, no. 6: 998-1022*
94. *Interview with Yefred Myenzi, Hakiardhi, 28.04.10*
95. *Lange, S. 2006.* ***Benefit Stream from Mining in Tanzania: Case Studies from Geita and Mererani****. CMI, Bergen.*
96. *Interview with the Tanzania Investment Center, 28.04.10*
97. *Interview with the Tanzania Ministry of Agriculture, 28.04.10*

If there is little cooperation with local suppliers, the likelihood of technology spillovers diminishes[98].

The effect of the recent surge of FDI to the agricultural sector in Tanzania and Mozambique is difficult to measure. However, there is reason to be concerned about the current regulative framework. According to Dufey "Studies of several agricultural commodity markets assert that benefits from export production in the developing world have increasingly gone to actors in upper parts of the chain while the primary producers have received comparatively little. This is a valid concern for FDI in the biofuels sector as many of the concentrated market power structures are associated with large foreign companies"[99] With foreign investors export-oriented business plans, sub-Saharan African countries which are dependent on imports for 98% of their oil supply, stand the risk of exporting valuable raw material and importing it back for a much higher price[100]. Dufey believes that these are problems that can arise if "host governments attract investment before having adequate regulatory frameworks in place; and when governments offer generous economic incentives to attract foreign investors when the benefits of such investment are by no means assured"[101].

98. *Chang, H., (2007)* ***Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism.*** *Bloomsbury Press, New York: 91*
99. *Dufey, A. 2010 "Exploring new sector for attracting FDI: The case of biofuels" in* ***Responsible enterprise, foreign direct investment and investment promotion Key issues in attracting investment for sustainable development*** *Dufey et al. IIED, London: 88*
100. *Ibid. : 86*
101. *Ibid. : 73*

5 Summary of findings

It appears to be a two-fold rationale for an FDI-led development strategy in the agricultural sector in Tanzania and Mozambique. Primarily, the large scale land investments studied in this report are supposed to increase efficiency in the agricultural sector and promote economic growth. In addition to this, the investments are considered to contribute to local social and economic development through employment and contributing additional social infrastructure. This report has challenged this assumption.

The economic growth potential of the investments analysed in this study is questionable due to an inadequate regulatory framework governing FDI in the sector.

- ✖ The regulative framework does not provide the opportunity to protect and stimulate the domestic economy. No obligation to use inputs from the domestic economy combined with tax relief on imports of inputs can potentially lead to an enclave industry that with few links to the domestic economy.

- ✖ Securing a reasonable share of the profits from the production, as well as control over valuable resources are also at risk in the current framework in Tanzania and Mozambique. Mozambique in particular has chosen to offer a mild tax regime, with significant reduction on the corporate tax. At the moment there are no restrictions on exports. This can lead to situations where goods that are in demand in the domestic economy are instead exported. There are also no restrictions on profit repatriation; therefore there is no guarantee that profits are reinvested in the domestic economy.

- ✖ There are several signs of a "race-to-the-bottom" between Tanzania and Mozambique. This leads to the implementation of unbalanced regulatory frameworks that are highly skewed towards providing incentives for foreign investors. There is reason to be concerned about the distribution of profits in the global value chain when there is no policy space to demand that more lucrative parts of the chain is established in the recipient countries.

This research has shown that FDI in the agricultural sector in Tanzania and Mozambique can jeopardize local resource users land rights.

- ✖ In the cases studied in this report the local resource users were not given the opportunity to make a fully informed choice when the agreements were made. Local resource users are not informed about the high-risk nature of the investment projects. Unlike the investors, they have few channels of insurance and are vulnerable to shocks to their income. If the project fails, the most vulnerable suffer the most. This is illustrated by the Palmeira case.

- ✖ The investment processes studied were not based on participatory interaction with the local community. The consultation process was reduced to a formality, where only one or two meetings were held with the community.

- ✖ Skewed power dynamics in negotiation process between the investors and the communities is another problem with the investment process. The investor is aided by the Government and is informed of all the aspects of the land acquisition process. Few efforts are made to provide the same information and help to the communities. CSOs attempt to raise awareness about the land rights to communities affected, but CSOs in both Tanzania and Mozambique argue that this is challenging due to lack of transparency in the investment process.

- ✖ Due to failure to implement the demarcation of village land in Mozambique and establishment of land use plans in Tanzania, the land acquisition process has been altered from the formal procedure. This has lead to an institutionalisation of a flawed investment process.

- ✖ Among the rationales for FDI in agricultural land in Africa is the notion that there exists unused or degraded land with high production potential. In all the cases visited for this research, local resource users gave away land that was previously used for food production or collection of natural resources.

It is also doubtful that the FDI projects analysed in this study will spur significant developmental effects at the local level.

- ✖ The most common form of compensation given to affected communities is the establishment of schools, health centres, wells, electricity and other infrastructure. Some of the communities in this study had received parts of the agreed social infrastructure, but the tendency was that these promises were unfulfilled. None of the communities were aware of any written contract of the agreement between the investor and the community.

- ✖ In the Kisarawe case the communities were given compensation, however conflicts about value of the land had occurred. In addition, due to a self reporting system of establishing which farmers were to be given compensation, several affected farmers did not receive compensation.

- Employment is another form of compensation. The study shows that it was not a guarantee that community members able to work would be offered employment. On the plantations wages were kept low. In both countries the people working at the plantations visited had no opportunity to save income. The employment provided stability at a low level, with little potential for further development. With no system of social security and the work at the plantation as the only employment option, local resource users are made vulnerable in the transition from subsistence farmers to wage labourers.

6 Policy recommendation

- **Investments must never happen at the expense of people's food security**. An Environmental Impact Assessment and a Socio-economic Impact assessment must be made prior to any investment.

- **There must be full transparency and disclosure in FDI in land**, so that the local resource users and other civil society actors are given the possibility to influence the process. Governments and investors should ensure open and participatory processes at all levels.

- **Information asymmetries are to be avoided to ensure real participation in the acquisition process**. The local resource users must be given the opportunity to make informed decisions. This must be done through extensive awareness-spreading and education on rights and law among local resource users that are affected by an investment. One option is to do this in partnership with CSOs, such as land right activists or farmer's unions.

- **Regulations on judicial and ethical standards should be internationalized.** An international governing body is needed to ensure that the stakeholders with less bargaining power are properly informed about the motives and risks of these investments. National legislation and monitoring is not sufficient, as the investments are being made in an international context under weak regulatory frameworks.

- **Regional cooperation is the only way to avoid the "race-to-the-bottom" between developing countries.** Regional cooperation on external regulative frameworks is a possible option to avoid developing countries "underbidding" each other to attract foreign investment.

- **Increase the policy space in the WTO to regulate FDI in developing countries.** In the current international system countries face severe sanctions if they breach agreements in the WTO. After the Uruguay round developing countries have lost the opportunity to apply the same developmental regulatory frameworks as the successful late developers. Studies have shown that regulatory frameworks ensuring spillover effects to the domestic economy was a critical factor. Developing countries must be given the same opportunity.

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Appendix: Methodology

In the spring of 2010, the authors of this report undertook a fieldwork in Tanzania and Mozambique. During the fieldwork several cases were identified as "problem cases". These were pursued to uncover breaches in the investment process. The intention was to target problem areas in the investment processes. It is important to emphasize that there is great diversity of FDI in the agricultural sector. There are several investors that contribute greatly to the local community. However, some actors are less serious than others and are found to circumvent law and procedures and not contribute much to the local community in which they are present. The main objective of this report is to voice the concerns of rural farmers, and thus identify and discuss the main conflict in this process. The cases were chosen due to prior knowledge of the nature of the projects, and should not be perceived as a random selection of FDI projects in the countries.

Two main sets of informants were approached during the fieldwork: governments in Tanzania and Mozambique; as well as local resource users in four different cases of foreign investment projects. They were asked two sets of questions which contributed to this study:

- Government officials and experts were asked about the formal procedure and practice in foreign investments to the agricultural sector. They were also asked about the regulatory framework governing FDI.

- The villagers were asked whether there was a consultation, and how this consultation was done. They were also asked if they had access to a contract, compensation for the areas allocated, what the working conditions were on the plantation and if they had experienced changes in their food security.

The field work was undertaken during a short time period, and interviews were limited to mainly group interviews. Language was a barrier in interviews with local resource users, and these were done with the assistance of an interpreter. During the 10 days in Mozambique, villages in the Gaza district around Maputo were visited, and interviews and group conversations were undertaken with workers at one plantation and with villagers in three different villages. All of these interviews were made with the presence of two organizations; Justice Ambental (Environmental Justice), a CSO working on environment and social injustice, and União Nacional de Camponeses (UNAC), the national farmers union in Mozambique. Through conversations and interviews, these organizations gave us additional information on their view of the situation. We also had interviews with representatives from the directorate of land and forest, the Center for Investment Promotion (CPI) and Christopher Tanner from FAO.

In Tanzania we had several interviews with different organizations working on land questions, such as Hakiardhi, working on legal issues concerning land, MS Tanzania and Action Aid Tanzani. We also had an interview with Vijana Vision, a CSO focusing on land issues in rural areas, with youth as their main focus. Vijana Vision also facilitated and accompanied us in a field visit to three different villages in Kisarawe district and a visit to Sun Biofuel's plantation.

The report is primarily based on findings from the fieldwork. In addition to this, empirical data from several qualified studies of FDI in the agricultural sector will be used.

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