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# Political Dynamics of Land-grabbing in Southeast Asia:

Understanding Europe's Role

Saturnino M. Borras Jr. and Jennifer C. Franco



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## Summary

***Land-grabbing is occurring at a significant extent and pace in Southeast Asia; some of the characteristics of this land grab differ from those in regions such as Africa. At a glance, Europe is not a high profile, major driver of land-grabbing in this region, but a closer examination reveals that it nonetheless is playing a significant role. This influence is both direct and indirect, through European corporate sector and public policies, as well as through multilateral agencies within which EU states are members. Looking at some of the cases of large-scale land acquisition in Southeast Asia, and the role played by the European Union, we put forward several observations and issues for discussion.***

The assumption about the existence of reserve agricultural land (“idle”, “marginal” and “uninhabited”) in the global South that can solve the global food and energy crises is fundamentally flawed.

The official claim by the state over ‘non-private lands’ and its effort to seize these lands undermine and violate the rights of peoples living and working in these geographic spaces.

Land-grabbing leads to dispossession and/or to ‘adverse incorporation’ of people into the emerging enclaves of the global agrofood-feed-fuel complex.

Land-grabbing is currently being carried out by domestic and transnational companies, often with encouragement and support from central governments.

Most of the products produced – food, feed, fuel – are exported or are planned to be exported to other countries, within the circuit and logic of the global industrial agrofood-feed-fuel complex, with trade policies such as those by the EU having important implications.

Transnational companies and their domestic partners, landed elites and bureaucrats, are among those who corner much of the created wealth, with limited positive livelihood impact on farming communities.

Various land policies by bilateral and multilateral agencies, including those that involve European Union or EU member states have direct and indirect implications for the current land-grabbing in the region, ranging from an inability to carry out effectively existing progressive land policies to actually promoting pro-market land policies that help encourage or facilitate land-grabbing.



# 1. Introduction

We begin this paper with three stories of land-related agrarian dynamics involving the rural poor in three different countries in Southeast Asia.

## STORY 1: CAMBODIA

Omlaing Commune is located in the province of Kampong Speu, Cambodia.<sup>1</sup> A recent case of land-grabbing has made this commune famous in Cambodia and internationally. Two parcels of land, each measuring more than 9,000 ha, were allocated to Phnom Penh Sugar Company and the Kampong Speu Sugar Company. The politically well-connected Cambodian People's Party (CPP) senator and Cambodian business tycoon Ly Yong Phat owns both companies. These particular land allocations were partly encouraged by a special government program for making large land concessions to promote investments. Under the scheme the ceiling per concession is 10,000 ha. The mode of transfer is a 99-year government lease. In this case, the two parcels of land are adjacent to each other, and so, essentially, the award for the same owner ballooned to nearly 20,000 ha.

The land in question, meanwhile, is devoted to a single crop – sugarcane – destined (as sugar) mainly for export to Europe. Ly Yong Phat's companies in turn have forged an alliance with a Thai company engaged in the sugarcane business. World sugar prices reached a 29-year peak in February 2010. Cambodia has been encouraging sugar millers to produce for export to the European Union. These sugar investors can export their goods without tariffs under the EU's "Everything But Arms" (EBA) agreement with least developed countries. Encouraged by this policy, Cambodia has attracted significant direct foreign investments in land. As a consequence, many sugarcane companies have opened up. Cambodia's Koh Kong Sugar Industry Company Limited, Thailand's Khon Kaen Sugar and Taiwan's Vewong Corp have opened a sugar mill in Koh Kong province. The Cambodian Mong Reththy Group, in partnership with a French company, is also expected to open a sugar factory, with a predicted output of 80,000 tonnes of sugar to be sold in the European market. They all needed large tracts of land for sugarcane production. It is in this broad political economy context that the Omlaing land case can be best understood.

1 Partly based on Borrás' fieldwork in April 2010.

The nearly 20,000 ha of land in Omlaing have always been populated and tilled by hundreds of villagers. It is a beautiful plain, crisscrossed by creeks that provide irrigation to pockets of paddy ricefields. The contested land is a patchwork of second growth forested areas along with low growing shrubs, and combined with many patches of irrigated, highly productive rice lands within it. Most villagers have lived and worked on this land for generations. Newer settlers arrived only after the peace settlement in the mid-1990s.

After the concessions were awarded to the companies, they began to clear the land. The most quickly uprooted were the more recent settlers. Each household was given \$25 disturbance compensation and dumped in a resettlement location lacking in both infrastructure and suitable farming potential. Their area was separated from the cleared plantation site by barbed wire. Most of the villagers who had farms inside the contested land and who had been settled there for a long time were offered \$100/ha compensation for the irrigated ricelands. Many did not agree and refused to abandon their farms. Thus began a running conflict between the villagers, the company, and the government. As the clearing went on, sealing off their access to farms and destroying irrigation creeks, the villagers resorted to various forms of resistance-- from small-scale arson and throwing stones at drivers of the company's clearing equipment, to barricading key highways. The government deployed the police to protect the company workers and equipment. The villagers persisted in their protests against the land-grabbing and several were arrested and thrown in jail.

While many villagers have already lost or are about to lose their livelihoods, the company has started to plant sugarcane, and is soon to begin harvesting and processing the crop for export, mainly to Europe. Notably, bilateral and multilateral institutions with which Europe is linked, as well as the European Union itself, refused to condemn openly and officially the human rights violations committed against the villagers by the company and the police. There has been no acknowledgement or condemnation of the fact that the land-grabbing and displacement of the villagers was partly inspired by European Union sugar trade policy. Perhaps a voice in the wilderness is that of UN Rapporteur for the Right to Food, Olivier de Schutter, who has raised concerns about the Omlaing case.

By September 2010 and according to the World Bank (2010: 44), there were 61 large-scale land concessions in Cambodia, with a total coverage of 958,000 ha, and an average size of 8,985 ha each. However, many smaller and undocumented land acquisitions are not included in this official count.

## STORY 2: INDONESIA

Story 2 is about a village that engaged in oil palm production, and is taken in its entirety from a recent publication by John McCarthy (2010: 837):

“We will now consider [a remote village] subject to the KKPA scheme,<sup>2</sup> a settlement of 188 households. This village allocated some 900 ha of land to the scheme – 300 ha for plantation land and 600 ha for return as oil palm smallholdings. Village respondents noted that only about 10 of the 188 households – those close to the village head and other key village leaders – managed to hold onto KKPA oil palm entitlements. The village proved least able to respond to the challenges presented by oil palm. Facing the same inducements as their neighbours, villagers here even more willingly sold their plasma entitlements.<sup>3</sup> When brokers made offers on plasma as well as unproductive rubber land and remaining areas of village common land, as one local official explained, the villagers seemed to have been struck by a ‘euphoria’ to sell their land:”

“The brokers went around saying ‘it’s a dream, it won’t happen’. At the same time they have an entitlement to an unproductive oil palm smallholding. They were offered Rp100,000 (approx. \$US14.18) per hectare at the time of the feast after Ramadan, when they have difficulty eating or sending their children to school. Just when they have a real need, there’s this opportunity to sell their land. More land was sold in the wet season [a crisis time for rubber farmers because rubber gardens can only be intermittently tapped].”

- 2 “The next generation of schemes, known as the ‘Primary Cooperative Credit for Members’ (Koperasi Kredit Primer untuk Anggota, or KKPA) covered the period 1995–1998. It involved a more direct private-community ‘partnership’ model with the plantation firm being responsible for nearly all of the project, working directly with participating farmers to resolve land problems, providing training and extension services for plasma cooperatives, and establishing infrastructure without direct state engagement” (McCarthy 2010: 831–32).
- 3 “The state facilitated access to forest and village lands, infrastructure development, and credit at concessionary rates for plantation developments. Policies generally required ‘a 20 percent/80 percent mix between estate area and smallholder area’. The state provided ‘financing for smallholder plantings, initial living expenses and housing’ while requiring that ‘the nucleus estate was responsible for extension services, for collecting and for processing the fruit bunches’... These nucleus estate schemes involved permanently alienating local land for the development of a plantation ‘core’ under a state granted ‘land use permit’ over what was considered ‘state land’, together with the provision of smallholder plots known as ‘plasma’. The latter typically consisted of two ha of oil palm for a smallholder family and a small parcel of land for food crops located at each housing site. The smallholder would obtain fully privatised rights over their smallholding upon settlement of the oil palm development loan” (McCarthy 2010: 828–29).

“Key figures in the local town bought up large parcels of land, with the family of the district head purchasing 100 ha along the main road into the village. The former village head estimated that 30- 60 percent of the 188 households were now landless, most surviving as poor casual day labourers (*buruh harian lepas*) without livelihood security or worker protection.”

According to John McCarthy (2010: 833): “Oil palm is the most significant boom crop in Southeast Asia, and one associated with large-scale agrarian transformation... The area under oil palm in Southeast Asia grew from 4.2 million hectares in 2000 to 7.1 million ha in 2009, with millions of additional hectares either in transition or set aside for further development... Over recent years the smallholder sector has expanded significantly. It is estimated that 3.5 million smallholders cultivate oil palm in Indonesia, comprising 40 percent of the area under this crop... In January 2007, 59 energy firms and institutions made a commitment to invest US\$12.4 billion in biofuel development in Indonesia... To support this commitment, in 2007 the Indonesian government earmarked 6.5 million ha of ‘idle land’ for biofuel related crops, including three million ha for oil palm”.

### STORY 3: PHILIPPINES

After the food crisis in 2007-08, the Philippine government identified lands that could be allocated for intensified food and biofuel (*jatropha* and others) production. It aggressively encouraged domestic and foreign investors to seize investment opportunities in the countryside. In 2009, the Philippine government allocated 1 million ha of so-called ‘marginal’ and ‘uninhabited’ lands for a joint venture investment by the Malaysian Kuok Group of Companies and the Filipino San Miguel Corporation (SMC), with a US\$1 billion investment exposure. According to the companies’ official declarations, the joint venture aims to help the government achieve food security by transforming marginal, idle and uninhabited lands into productive spaces.

Our recent field investigation in some of the key areas included in this joint venture in Davao del Norte in Mindanao revealed the following: (a) the key crops and products being promoted are cassava (for ethanol) and oil palm, (b) all the allocated lands in this province are significantly populated, contrary to the official census that categorises them as uninhabited, (c) all the allocated lands are productively engaged, contrary to reports that they are marginal and idle lands. In fact, in one

municipality in Davao del Norte, the field staff of San Miguel Corporation admitted that the lands were extremely productive and farmed using multi- and inter-cropping farming techniques; so productive in fact that people could not be enticed by the company's offer for contract-growing schemes.

In some places, however, the local population was persuaded to become part of the company's growership schemes. Field investigation suggests that those who did opt to devote some parts of their land to the scheme did so by converting portions of subsistence farm plots to produce cassava for ethanol. Now, in many places involving the San Miguel-Kuok land allocation, local people have become increasingly suspicious and anxious that the new arrangement is a prelude to losing their lands completely.

### **THREE STORIES, COMMON MESSAGES**

Of course the three stories narrated above have very different histories and socio-economic and political realities. Yet they also convey common messages that, when put together, provide insight into the specific character of land-grabbing in Southeast Asia and help demonstrate whether, how and to what extent Europe is involved. In each case a political economy perspective provides a good entry to the issues at stake by asking four fundamental questions: who owns what, who does what, who gets what, and what do they do with the created surplus wealth (Bernstein 2010). The key common messages that result include the following.

First, the assumption about the existence of reserve agricultural land ("idle", "marginal" and "uninhabited") in the global South that can solve the global food and energy crises is fundamentally flawed. Second, the official claim by the state over 'non-private lands' (and state efforts to seize these lands) undermines and violates the rights of peoples living and working in these geographic spaces. Third, land-grabbing leads to dispossession and/or to 'adverse incorporation' of people into the emerging enclaves of the global agrofood-feed-fuel complex. Fourth, land-grabbing is currently being carried out by domestic and transnational companies, often with encouragement and support from central governments. Fifth, most of the products produced – food, feed, fuel – are exported or are intended for export to other countries, within the circuit and logic of the global industrial agrofood-feed-fuel complex. And finally sixth, transnational companies and their domestic partners, landed elites and bureaucrats, are among those who corner much of the created wealth, with limited positive livelihood impact on farming communities.

More lessons can be drawn. But for current purposes, these six common insights are illustrative of the political economic dynamics of land-grabbing in the region. The driving force for land-grabbing in Southeast Asia is both internal and external. It is in this context that we should critically examine the role of Europe in land-grabbing in the region.

Certainly, Europe – government and corporate entities – is not as extensively engaged in direct land-grabbing in Southeast Asia as regional actors (e.g. China, South Korea, Gulf States), nor when compared to Europe's more direct role in many cases of land-grabbing in Africa, the former USSR/Central Asia and Southern America. But it would be folly to think that Europe is in no way involved with what is currently going on in Southeast Asia.

We can trace Europe's role in Southeast Asian land-grabbing in a number of ways. (1) To a relatively limited extent, Europe is involved in some direct and actual investments in land, either through the conventional agribusiness sector or finance capital. (2) To a larger extent, some of its policies such as the one on mandatory biofuel blending, as well as domestic biofuel production and trade policies, have far-reaching direct and indirect impact on land-grabbing. (3) Some of its member states may be engaged in land policies that may inadvertently facilitate, rather than block, further land-grabbing. (4) Some of the multilateral agencies such as the World Bank that EU members states are part of may be pursuing land policies that encourage and promote land-grabbing. (5) Despite having a relatively progressive land policy guideline, namely, the EU 2004 Land Policy Guidelines for Developing Countries that can potentially protect poor people's right to land resources, this policy remains unactivated as a guideline. (6) Meanwhile Europe is directly and indirectly supporting mainstream prescriptions on how to address the problem of global land-grabbing through 'win-win' formulas such as a 'code of conduct', which are likely to promote, and not prevent, land-grabbing. And finally, (7) there is an ongoing failure to question the fundamental causes of the food and energy crises, i.e. the very model of transnational corporation (TNC)-controlled industrial agrofood-feed-fuel complex.

In this light, some issues for discussion at the European Union level are recommended, as follows:

(1) Seriously rethink policies that perpetuate and promote the current model of fossil-based, TNC-controlled industrial agrofood-feed-fuel complex that is the fundamental reason for the current food and energy crises. Rethinking the logic

and patterns of production, distribution and consumption of food and energy is the first step towards resolving the current crises and achieving the capacity to feed the world in future in a sustainable way.

(2) Drop the flawed assumption of the existence of ‘reserve agricultural land’ in the global South that can solve the food and energy crises in the North. Accepting that this assumption is incorrect should encourage the EU to reassess alternative strategies for dealing with the crises.

(3) Rethink the corporate-driven biofuel project as a strategy to solve the energy crisis. This can be done partly by re-examining the pattern and logic of the transport sector in Europe.

(4) Activate the EU 2004 Land Policy Guidelines, especially their rights-based provisions, partly by rallying up all member states to support them. This could also be an effective way to check the policies of some member states, some of which tend to promote apolitical, technical land titling programs that in many settings may inadvertently contribute to land-grabbing.

(5) Actively work within multilateral institutions where EU member states have membership in order to influence the land policies of the former away from outright market-based approaches and towards more rights-based approaches as highlighted in the EU Land Policy Guidelines.

(6) Do not support calls for a Code of Conduct (also known as the Principles of ‘Responsible Agricultural Investment Principles’ or RAI Principles), and instead support the Food and Agriculture Organisation (FAO)-driven and civil society-supported Voluntary Guidelines for Land Resources Management and Governance. Drop the call for simultaneous, parallel co-existence of RAI Principles and Voluntary Guidelines, in favour of only the latter.

(7) Support systematic independent research on the impact of land-grabbing on existing agrarian structures, and support independent local-global actions by autonomous agrarian social movements and civil society organisations in blocking destructive land-grabbing activities.

The rest of this paper will elaborate on the key points summarised above.

## 2. The current Global Land-grab and Southeast Asia

A convergence of global crises (financial, environmental, energy, food) in recent years has contributed to a dramatic reevaluation of and rush to control land, especially land located in the global South. Transnational and national economic actors from various business sectors (oil and auto, mining and forestry, food and chemical and bioenergy) are acquiring, or declaring their intention to acquire, large swathes of land on which to build, maintain or extend large-scale extractive and agro-industrial enterprises. National governments in “finance-rich, resource-poor” countries are looking to “finance-poor, resource-rich” countries to secure their own food and energy needs into the future, while many national governments in “finance-poor, resource-rich” countries are shopping around for possible land investors. As a result, there is an ongoing and dramatic rise in the volume of cross-border large-scale land deals. Many now refer to this phenomenon as a new “global land grab”.<sup>4</sup> In its September 2010 report, the World Bank claims there are now about 45 million ha covered by recent large-scale land acquisitions, 70% of which are in Africa (Voegelé 2010: vi).

Much continues to be written by academics, activists and policy analysts about the ongoing wave of large-scale, cross-border land deals. Nonetheless, an understanding of the character and dynamics of land-grabbing remains limited. Some regions have received more attention than others, with land-grabbing on the African continent receiving the lion’s share of the international spotlight. In fact, much of the literature on the ‘global’ land-grab is solely about Africa (see, e.g. Cotula et al 2009). This leads to both strengths and weaknesses in analysis of the issue. Among the strengths is the ability to demonstrate that large-scale land investments tend to result in negative outcomes for domestic populations, even in land-abundant countries such as those in Africa. Yet focusing solely on Africa risks missing important specificities and dynamics of land-grabbing in other regions. We do not question such a focus on Africa. Rather, our main concern in this paper is to analyse and trace the global land grab experience in another region, Southeast Asia.

While the total quantity of land implicated in Southeast Asian land-grabbing is relatively less than in Africa, Latin America or the former Soviet Eurasia, it is still

4 Elsewhere we discuss the politics of the global land grab more generally, and the virtues and vulnerabilities of the term “global land grab”; see Borras and Franco (2010). The current present paper draws heavily on this previous paper in the attempt to focus in on the Asian experience.

significant in the global context, and in some specific countries (e.g. Cambodia, Indonesia, East Timor, Laos, Philippines, Malaysia) it represents a major development problem. It is useful to examine the Southeast Asian situation in order to get a better understanding of the distinct regional character, scope and magnitude of the problem, as well as of the role of intra-regional and transnational capital in large-scale land acquisitions. How this land grab is impacting upon processes of land use change, crop use change, and changes in land property relations are critical issues for people in the region. Most of the wider literature on land-grabbing tends to be confined to mapping and counting incidences of land grabbing. Though important and useful, such descriptive efforts do not necessarily enrich understanding. For this reason, we have opted to concentrate here on drawing out the political dynamics of land-grabbing in Southeast Asia. We use a few selected empirical cases of land-grabbing to illustrate key points. We hope that a better understanding of the character of the land-grab problem in this region, and of the role of European interests and actors in it, can contribute to advocacy efforts in Europe and Asia in particular, and to our broader understanding of the phenomenon of global land-grabbing more generally.

Just how much land has actually changed hands in the recent global land rush remains unknown. Various estimates suggest that the total lands involved in cross-border large-scale land deals reached 20 million hectares between 2005 and mid-2009 (GRAIN 2008, Cotula et al 2009, IFPRI 2009). A report released in 2008 by (the NGO) GRAIN was perhaps the first to declare a global trend in land-grabbing linked especially to ramped-up biofuels promotion and food-for-export initiatives (GRAIN 2008).<sup>5</sup> In April 2009, the Washington DC-based International Food Policy Research Institute (IFPRI) - a member of the CIGAR (Consultative Group on International Agricultural Research) - issued a statement claiming that, since 2006, 15 to 20 million ha of farmland in developing countries had been sold or leased, or were under negotiation for sale or lease to foreign entities. The report identified several cases, mostly in Africa.<sup>6</sup> The London-based International Institute for Environment and Development (IIED) followed with its own report, also focusing on transnational land deals in several countries in Africa, and revealing that some 2.4 million ha of land had already been allocated, though not necessarily fully utilised yet (Cotula, et al. 2009). One news article in early July 2009, citing UN and other sources, reported an estimate of at least 30 million ha of land 'being acquired to grow food for countries such as China and the Gulf states who cannot

5 Since then, GRAIN has maintained a blog that serves as a clearinghouse for news articles and other kinds of reports on global land deals. See <http://farmlandgrab.org/>

6 IFPRI (2009), as reported by Reuters, 30 April 2009.

produce enough for their populations?<sup>7</sup> In September 2010, the World Bank claimed that ‘45 million ha worth of large scale farmland deals were announced even before the end of 2009’ (Voegle, 2010: vi).

In addition to alarm and resistance, this new wave of cross-border, large-scale land deals provoked different responses from various quarters internationally. After some initial discussion and debate about the potential virtues of instituting a “code of conduct” to “self-regulate” these kinds of land deals, the World Bank (WB), United Nations Conference on Trade and Development (UNCTAD), International Fund for Agricultural Development (IFAD), and FAO joined forces to propose a framework for self-regulation of land deals, called “Principles for Responsible Agricultural Investment”. The framework was formally announced at a conference held in Washington DC in April 2010. The unveiling of the “principles” marked the culmination of a year-long process of discussion amongst the World Bank and others (including IFAD and IFPRI) over how to respond to the emerging land rush. What is crucial to note is that their response entailed a major shift in the discourse and framing of the global land rush underway - from alarm to excitement. Hence the call for a “code of conduct” or set of “principles” that would supposedly better govern cross-border large scale land deals so that “multiple stakeholders” (e.g. investors and the affected local communities) could benefit. Ultimately, this constitutes nothing less than a high-powered attempt to give the global land rush an “extreme makeover”. This is because - rather than social justice - the starting point of this attempt to alter the discourse was a particular vision of successful national capitalist economic development. From this perspective, the central problem at hand is not a land problem, but an investment problem - hence the title of the document unveiled last April 2010 at the annual World Bank land conference - “Principles for Responsible Agricultural Investment”. This sort of framing means that the key to addressing the problem is not less land-grabbing, but more “responsible” land-grabbing. Here, more large-scale investments are seen as the main solution to (rural) poverty, but because these investments potentially involve certain kinds of social and environmental “risks”, a more beneficent (self-) regulatory environment must be devised in order to both maximise the opportunities and minimise the risks.<sup>8</sup>

7 <http://www.guardian.co.uk/environment/2009/jul/03/land-grabbing-food-environment> accessed 17 December 2009.

8 The seven principles for responsible agro-investment are: (1) respecting land and resource rights: existing rights to land and associated natural resources are recognized and respected; (2) ensuring food security: investments do not jeopardize food security but strengthen it; (3) Ensuring transparency, good governance, and a proper enabling environment: processes for acquiring land and other resources and then making associated investments are transparent and monitored, ensuring the ac-

The so-called “responsible principles” are being promoted in tandem with the notion of the existence of “reserve agricultural land”. Currently, it is estimated to be 1.725 billion ha [775,211 + 445,858 + 305,711 + 198,064] (Fisher and Shah 2010, cited by World Bank, 2010: 110). The regional breakdown of this estimate is provided in Table 1:

**Table 1: Potential land availability by region (all areas are in thousands of ha)**

Regions	Total area	Forest area	Cultivated area	Suitable non-cropped, non-protected			
				Forest < 25/sq. km	Non-forest with population density of		
					< 25/sq. km	< 10/sq. km	< 5/sq. km
East and South Asia	1,932,941	493,762	445,048	46,250	14,341	9,496	5,933
- China	935,611	167,202	136,945	10,514	2,176	1,383	843
- Indonesia	183,897	95,700	32,920	24,778	10,486	7,291	4,666
- Malaysia	32,243	21,171	7,184	4,597	186	119	50
Sub-Saharan Africa	2,404,224	509,386	210,149	163,377	201,540	127,927	68,118
Middle East and North Africa	1,166,118	18,339	74,189	209	3,043	843	236
Eastern Europe and Central Asia	2,469,520	885,527	251,811	140,026	52,387	29,965	18,210
Latin America and the Caribbean	2,032,437	933,990	162,289	290,631	123,342	91,576	64,320
Rest of the World	3,318,962	863,221	358,876	134,700	50,971	45,687	41,102
World Total	13,333,053	3,706,457	1,503,354	775,211	445,858	305,711	198,064

Source: World Bank (2010: 110)

Note: ‘Suitable’ means that at least 60 percent of possible yield can be attained for any of the 5 rainfed crops considered here (wheat, oil palm, sugarcane, soybean, maize). Countries are included if they have a total of at least 3 Mn ha of forested or non-forested suitable area where the population density is < 25/sq. km. Suitable ha per cultivated ha area based on non-protected, non-forest suitable area where the population density of the grid cell is < 25/sq. km., < 10/sq. km., or < 5/sq. km. Original source: Fisher and Shah (2010).

countability of all stakeholders within a proper legal, regulatory, and business environment; (4) Consultation and participation: all those materially affected are consulted, and the agreements from consultations are recorded and enforced; (5) Responsible agro-investing: investors ensure that projects respect the rule of law, reflect industry best practice, are economically viable, and result in durable shared value; (6) Social sustainability: investments generate desirable social and distributional impacts and do not increase vulnerability; and (7) Environmental sustainability: environmental impacts of a project are quantified and measures are taken to encourage sustainable resource use while minimizing and mitigating the risk and magnitude of negative impacts (World Bank, et al 2010).

**Table 2: Land availability by region for different crops (< 25 persons/sq.km. and < 6 hrs. to major market), All area in thousands of ha.**

Region	Total	Maize	Soybean	Wheat	Sugarcane	Oil Palm
East and South Asia	3,320	465	443	1,045	500	867
- Southeast Asia	2,918	425	415	712	499	866
- South Asia	402	39	28	333	1	1
Sub-Saharan Africa	94,919	44,868	38,993	3,840	6,023	1,194
Latin America and Caribbean	93,957	28,385	37,716	11,043	15,021	1,793
Eastern Europe and Central Asia	43,734	3,851	419	39,464	0	0
Middle East and North Africa	2,647	0	10	2,637	0	0
Rest of the World	24,554	5,741	5,289	12,747	722	55
World Total	263,131	83,310	82,870	70,776	22,266	3,909

Source: World Bank (2010: 111, original source: Fisher and Shah, 2010).

For East and South Asia, the World Bank's estimate of potential available land is 73 million ha.; see Table 1 [46,250 + 14,341 + 9,496 + 5,933]. Indonesia is estimated to have 22.4 million ha, while China has only 4.4 million ha. Therefore, in East and South Asia, the chief target is at least 73 million ha of land where large-scale land investments can be made. For Southeast Asia, the principal crops targeted include oil palm, sugarcane, wheat, soybean and maize (see Table 2).

The single most important crop that has been linked to Southeast Asia and to the current global land-grab is oil palm. This is indeed one crop that illustrates how closely linked Europe and Southeast Asia are.

**Table 3: Palm Oil Import data, in Tonnes**

	China	India	Germany	Netherlands	UK	Italy	Belgium	France	Top 4 EU countries*
2007	5,223,369	3,514,900	1,076,393	1,237,817	491,944	507,622	n.d.	n.d.	3,313,776
2006	5,220,161	2,766,382	963886	1,832,217	692513	515337	431340	334841	4,003,950
2005	4,468,210	2,449,184	949792	1,721,369	668841	478435	389400	306317	3,818,437
2004	3,980,868	3,472,518	821987	1,378,826	706083	369956	345347	267586	3,276,852
2003	3,422,999	4,026,436	636565	1,076,643	782188	312664	285258	271460	2,808,060
2002	2,302,730	3,052,625	679794	1,044,336	623401	308318	n.d.	267920	2,655,849
2001	1,606,287	2,733,119	605438	989612	619549	303714	253054	251566	2,518,313
2000	1,460,776	3,054,923	552931	701779	554022	260763	273581	n.d.	2,069,495
1999	1,258,271	2,868,429	412233	711663	463337	228903	180715	112640	1,816,136
1998	990317	1,608,056	471911	695263	372101	227454	143147	108271	1,766,729
1997	1,235,099	1,044,407	494099	220994	438434	229459	170684	n.d.	1,382,986
1996	1,078,220	1,113,851	408526	343403	433939	225139	151347		1,411,007

\* Germany, Netherlands, United Kingdom and Italy. These four were consistently at the top 20 importers. Belgium and France are part of the top 20 for the most part (not in all years) during the same period.

Source: FAO Statistics collated by the authors.

Among many important insights, Table 3 shows that altogether, EU member states constitute a key driving force for the rapid expansion of oil palm production in Southeast Asia, leading to dispossession and/or adverse incorporation of the rural poor into emerging oil palm plantations, as told in Story 2 at the beginning of this paper. Other important insights include: First, China is the single biggest buyer of palm oil. The dramatic increase in importation occurred between 1996 and 2007, when the quantity of its imported palm oil increased five-fold, from 1.07 million tonnes in 1996 to 5.2 million tonnes. Second, India is the second largest importer, and the dramatic increase in its purchases occurred during the same period – from 1.1 million tonnes in 1996 to 3.5 million tonnes in 2007 – a more than three-fold

increase. Third, the combined top 4 EU countries – namely Germany, Netherlands, United Kingdom and Italy - registered a similar sharp increase in the quantity of imported palm oil, by at least three times, or from 1.4 million tonnes in 1996 to 3.3 million tonnes in 2007. This data excludes other EU countries that also imported at significant levels (eg- Belgium and France), but which, for some of the years, did not make it into the top 20 list. The FAO data is only up to 2007, but by all indications, the trend registered in Table 3 (i.e. increasing importation of palm oil) continues.

Meanwhile, data on palm oil exports from the two leading countries - Indonesia and Malaysia - shows a similar pattern (see Table 4). A dramatic increase in exports was registered during the same period. In Indonesia, the amount of palm oil exported went from 2.9 million tonnes in 1997 to 8.8 million tonnes in 2007, a nearly three-fold increase. In Malaysia, it nearly doubled – from 7.4 million tonnes in 1997 to 13 million tonnes in 2007. Again, FAO provides data only up to 2007, but by all other indications, the trend registered in Table 4 continues.

**Table 4: Indonesia and Malaysia: Palm Oil Export, in Tonnes**

	Indonesia	Malaysia
2007	8,875,419	13,011,131
2006	12,100,922	14,202,672
2005	10,376,190	13,192,535
2004	8,661,647	11,793,588
2003	6,386,410	12,079,129
2002	6,333,708	10,448,744
2001	4,903,218	10,002,494
2000	4,110,027	8,140,720
1999	3,298,986	8,584,640
1998	1,479,278	7,290,179
1997	2,967,589	7,489,970

Source: FAO Statistics

In short, as China, India and Europe have demanded and purchased increasing quantities of palm oil over the past decade or so, the monocropping production of palm has dramatically expanded in Indonesia and Malaysia, and is now significantly expanding in Thailand, Philippines and Cambodia as well. The official justification for this is that there exists 'reserve agricultural land' in these countries (refer to tables 1 and 2, and the three stories at the beginning of the paper).

## 'LAND-GRABBING' IN SOUTHEAST ASIA

It is almost impossible to quantify the extent of land-grabbing in Southeast Asia. One reason for this is a problem of definition; what qualifies as land-grabbing? If we restrict the definition to only cross-border mega land deals, then many of land transactions in the region may not qualify, and the extent of the phenomenon may be relatively less. For example, none of the stories shared at the beginning of this paper would qualify because the immediate land grabbers are all domestic elites. But if we broaden the definition to mean all significant land transactions brought about by the recent restructuring in the global agrofood-feed-fuel complex and involving both foreign and domestic capital in a variety of arrangements, then all three stories will qualify. In this latter scenario, the extent of land-grabbing in Southeast Asia would indeed appear to be quite significant -- but then, still impossible to pin down.

Why is the current land-grabbing phenomenon so hard to pin down? For one (and for various reasons), large land transactions often occur outside the glare of public knowledge -- and accountability -- historically; today's land deals are no different. For another, the current phenomenon is still unfolding (and with a degree of uncertainty and speculation as well); moving targets are inherently difficult to pin down. But this one still suffers too from not enough information from the field; much more empirical research needs to be done, perhaps especially in Southeast Asia.

Rather than trying here to do a definitive count of the extent of land transactions in the region, we propose instead to attempt to begin drawing out the mechanisms and character of the phenomenon, and its implications, and in this way we hope to contribute to further discussion. For our part, we can detect at least three inter-linked dimensions of land-grabbing in Southeast Asia, in terms of land-related social change.

*First* is the question of land use change. The dominant thinking is that land-grabbing leads to two types of land use change, both of which are socially and environmentally unacceptable: lands devoted to food crops being converted to crops for biofuels, and lands devoted to forest being converted to biofuels or to food production for export. These processes certainly occur, to a significant extent, in Southeast Asia. However, it is important to embed the analysis of these two streams of land use change within much broader and complex land use change streams and dynamics, question fundamental assumptions about land use classifications, and try and determine whether change has been induced directly or indirectly by policies adopted domestically or from distant cross-border places, among others.

*Second* is the question of crop use change. By crop use change we mean changes in the way crops are used that shape and are shaped by global-national patterns of agrofood-feed-fuel production, distribution and consumption, from one agricultural sector to another (e.g. from food to fuel) and by location (e.g. from domestic use to export). Concretely, oil palm, coconut oil and corn have been traditionally used for food and feed products in Southeast Asia, either domestically or for export. Suddenly, their uses were shifted to fuel. This can occur directly, where palm oil or coconut oil uses were directly converted to fuel, or indirectly, where other oil crops elsewhere were converted from food to fuel uses, opening a new need for oil crops for food.

*Third* is the question of land property relations change. This is one of the most discussed dimensions of the current global land-grab, focusing on one specific issue: dispossession due to land-grabbing. A proper analysis of the dynamics of land property relations change should have at its centre the nature and direction of change in terms of *effective control* over land resources by the rural poor. Only then is it possible to see the full dynamics and many faces of land property relations change: full dispossession; displacement/dislocation but not dispossessed; remaining as formal owners of land but only nominally, and so on.

### *Land use change*

In terms of land use changes, there are at least four broad patterns of change that we can detect. In the first pattern, lands remain within food production, but the purposes for which that food is produced have changed. In aggregated official censuses about land use, these changes in land use are not always captured. One subtype here involves lands previously devoted to food production for consumption or domestic exchange, which are then converted to food production for export. It is this sub-category that is the focus of the current global land grab and its critics. They point to countries such as Africa that are marked by persistent hunger but are suddenly promoting aggressive food production for export. Arguably, this type of use change, while a central feature of the current global land-grab debate, is *not* a key feature in Southeast Asian land-grab, at least not to the same extent as in Africa.

The second pattern involves converting food lands to biofuel production for export is another feature of the current (trans)national commercial land deals and there is definitely a Southeast Asian facet to it. Many lands put to use to produce *jatropha* and ethanol from cassava in the Philippines were lands taken from subsistence farming. This is certainly the case in many areas of oil palm expansion in Indonesia.

**Box 1**

Malaysia pioneered the commercial oil palm industry... With rising land and labor costs, the industry moved to neighboring Indonesia, which at 16.9 Mt in 2008 is now the world's largest producer, slightly ahead of Malaysia (15.8 Mt), with Malaysia and Indonesia now accounting for 85 percent of global palm oil production. Planted area more than doubled between 1997 and 2007, from 2.9 million ha to 6.3 million ha.

A major social issue in oil palm development is the frequent failure to recognize local land rights. Improving the clarity of rights would allow local people more say in negotiating the terms of making their land available for oil palm – and reduce the costs for companies. Social conflict surrounding oil palm expansion also derives from opaque or poorly understood contractual agreement, lack of consultation, and limited benefit-sharing with local communities...

The oil palm sector has also been criticized for being a major contributor to deforestation and greenhouse gas emissions. Oil palm plantations harbour less biodiversity than natural forests, fail to provide the same environmental services..., and may force smallholders to give up subsistence production and rely on food from the market. Some 70% of Indonesia's oil palm plantations (4.2 million ha) are on land previously part of the forest estate; and 56 percent of expansion between 1990 and 2005 was at the expense of nature forests... To help expand production, the government provided land, in many cases, still forested, almost for free, within a legal framework that did not recognize local land rights... Timber sales were expected to finance planting and oil palm establishment. But many companies allegedly use fictitious palm oil schemes to obtain logging licenses without ever establishing oil palm estates. By some estimates, up to 12 million ha have been allocated to oil palm and deforested but not planted...

Some 25% of oil palm is estimated to have been established on peat. Developing oil palm on peat land causes irreversible damage to vulnerable ecosystems and high level of carbon emissions...

At more than 20 million ha the amount of such land available is well above the 10-20 million expected to be needed to meet oil palm demand for the next decade and beyond...

The third pattern involves settings where “nonfood land use” areas are converted to food production. The term ‘nonfood lands’ is used here in a loose manner to mean lands not primarily devoted to food production, although there may be varying extents of food production in these spaces. Forestland is included in this category despite the fact that forests are host to important food items for many people. A sub-category here involves settings where lands that are devoted to forest or other nonfood purposes were converted to food production for export. This is the type depicted in massive clearing and destruction of forests - especially in Indonesia and Malaysia - for oil palm expansion (see Box 1), and it is starting to gain more ground in the Philippines, Thailand and Cambodia.

The fourth pattern involves settings where lands dedicated to forest and ‘marginal/ idle’ lands are being converted to biofuel production. A sub-category here shows forestlands and waste/marginal lands being converted to biofuel production for export. Southeast Asia is a key region of the world where this type of land use change is significant. Indonesia and Malaysia are the world’s top producers of palm oil.

An underlying issue is the fundamental notion of ‘land use classification’ and the ways in which classification is carried out. States are engaged in what James C. Scott (1998) describes as attempts to simplify otherwise complex realities such as land-based social relations, notions of productive undertaking and ways of measuring (and monetising) this, such as in the case of subsistence farming activities, and so on. For example, we are made to believe that globally there are 1.725 billion ha. of available land, and 73 million ha. of these are in East and South Asia, with Indonesia having 22.4 million ha. (see Table 1 and Box 1). But how were they able to arrive in such an estimate? How much do we really know about people living and working in these vast spaces worldwide? Analysts rely on standard central state censuses, assessments and measurements, which historically have proven to be largely inaccurate and blind to human and social processes, as demonstrated and explained by Scott (1998), among others. Story 3 at the beginning of this paper illustrates the point - a million ha were allocated to the Malaysian Kuok company and Filipino San Miguel Corporation to transform it from being “idle and unpopulated” into productive zones of food production. In fact these lands were productively engaged and densely populated by rural poor people. This is a common story across Southeast Asia.

### *Crop use change*

Perhaps the crop with the most far-reaching and dramatic use-change ripple effect is corn (Gillon 2010). When the US corn belt in the Midwest decided to change the use of maize from food and feed to fuel, the effect on the global agrofood complex was massive and immediate, both within the United States and worldwide. It radically reduced the global supply of grain, thereby contributing to the sudden increase in food prices. And it radically reduced the global supply of livestock feed, thereby causing a huge increase in the price of meat worldwide. This crop use change also led to significant land use change, where lands previously set aside were put back to production.

The multi-dimensional causes and consequences of crop use change of highly 'flexible' crops such as soya, corn, and sugarcane, can be seen in the experience of the Indonesian oil palm sector. Land-grabbing does not have to be caused directly and explicitly by direct cross-border capital flow, or by actual land use change and land property relations change. It can be, and has been, facilitated by a simple conversion in crop use – usually provoked by policies in agricultural subsidy, production and trade, domestically and internationally.

### *Land property relations change*

There are four possible and broad types of land-based wealth and power transfers in land property relations change: redistribution, distribution, non(re) distribution, and (re)concentration. *First*, the defining principle of Type 1 (redistribution) is that land-based wealth and power are transferred from the monopoly control of either private landed classes or the state, to landless and near-landless working poor (poor peasants and rural labourers). It changes the relative shares of social classes and groups in society. It is a 'zero-sum' reform process. The conventional notion of redistributive land reform - i.e. applied only in large private lands - is the most commonly understood example of land-based redistributive reform. However, there are a variety of policy expressions beyond the conventional notion that can result in changing the relative shares of social classes and groups in society. These include redistributive land reform, land restitution, share tenancy or land tenure reform, land stewardship, indigenous land rights recognition and labor reform. This is regardless of whether a policy is applied to private or public land. The key is being able to establish the degree and direction of redistributed wealth and power. While they do not automatically

guarantee a shield against land-grabbing, redistributive land policies have the potential to provide secure land rights to the rural poor, who might be affected by large-scale land investments.

*Second*, the defining character of Type 2 (distributive) is that the landless and near-landless working poor are the recipients of land-based wealth and power. However the original source of wealth and power can either be the state or community (or a private entity that has been fully compensated by the state). In many settings, this type of reform would mean affirming and protecting pre-existing access to and occupancy of land by poor peasants, but tenure is insecure. It is a 'positive sum' reform process. It does not take resources from one social class or group in society and redistribute to another. In fact, often such a policy is passed precisely to avoid having to resort to redistributive policies. The importance of being clear about a distinct Type 2 land policy is the fact that it generally involves the broad and vague category of 'non-private lands' (state, public, community lands), which is the principal target of the key drivers of large-scale land investments. This is the type of land that is thought to comprise the bulk of the so-called global 'reserve agricultural land'. Because these lands are principal targets for conversion into 'productive use', various land policies have been passed to govern them. However, most of these land policies are not distributive in character at all, as most are aimed at simply converting these lands into commodities that can be traded freely in the market. Very little thought is given to how land-based wealth and power transfer occurs. The current discourse and developments brought about by the global land grab have turned the spotlight on the fate of non-private lands, particularly in Southeast Asia.<sup>9</sup> Land policies dealing with these non-private lands that are not explicitly distributive in nature, (such as many of the ongoing programs to formalise land rights), are likely to result in outcomes that do not favour the rural poor. In many settings marked by inequality, technical formalisation of land rights actually formalises existing inequalities, leading to non-distributive outcomes, and the rural poor losing out. Contemporary formalisation campaigns have

9 The current situation in Sarawak in Malaysia as explained by Cramb and Ferraro (2010: 2) partly demonstrates this: (i) 20-25% of total land area and 60-70% of total agricultural land are claimed as 'Native Customary Land' (akin to a community-based tenure), with individual tenure. The Land Code prohibits non-Natives to own lands in this area, resulting in increasing tension and conflict because much of the oil palm capital are controlled by Malaysian of Chinese decent; (ii) oil palm currently covers 5% of the total land area and 62% of all agricultural land in Sarawak, with one million ha targeted to be covered by oil palm by 2010, including 400,000 ha of Native Customary Land; (iii) 79% of the palm oil plantation in Sarawak are privately held, and it is part of the official development strategy to transform the Customary Lands into commercially engaged commodity during the past three decades.

demonstrated similar outcomes. This is especially worrisome in national settings in Southeast Asia where a significant portion of the lands fall under the category of non-private lands, such as in Indonesia (where 70% of land are considered state lands), Cambodia, Laos, Vietnam and the Philippines.

*Third*, the defining character of Type 3 (non-[re]distributive) is the maintenance of the status quo, where the status quo is a condition marked by land-based inequity and exclusion. Here, the most typical land policy is ‘no policy.’ Having no (redistributive) land policy is effectively the policy framework at play. In settings where there are vast land-based inequities and exclusion, a ‘no redistributive land policy policy’ effectively advocates for non-redistribution of land-based wealth and power. In other settings, having a land policy - even a redistributive land reform policy - but keeping it dormant, creates a similar effect. However, there are also active land policies that are categorically non-(re)distributive.

*Fourth*, the defining character of Type 4 ([re]concentration) is that while land-based wealth and power transfers do occur, access to and control over land resources actually gets (re)concentrated in the hands of the economically and politically dominant social classes and groups: landed classes, capitalists, corporate entities, state or other dominant community groups such as village chiefs. This kind of change can occur in private or public lands. The organisation of control over land resources can be through individual, corporate, state or community group institutional arrangements in property rights. The transfer may or may not involve full land ownership. Different variations are possible, but the bottom line is the same: the recipients of land-based wealth and power transfers are the economically and politically dominant social classes and groups, as well as state officials and bureaucrats. In recent fieldwork in the Philippines, we found that land investors and land speculators actually prefer land deals that have clear property documents, in order to ensure the investors’ security. Hence, investors prefer to forge land deals with indigenous people’s groups that have, for example, Certificates of Ancestral Domain Claims or Titles. The companies deal with a few elite leaders of these groups to formalise control over large portions of lands. This is a similar strategy adopted by many palm oil companies in Indonesia and Malaysia. This often risks potential and actual reversal of earlier gains in (re) distributive land policies, with effective control over land resources transferred back to elite actors.

We will come back to these four types of land property relations change later in the paper when we discuss the role of the European Union in land-grabbing.

## EUROPE AND LAND-GRABBING IN SOUTHEAST ASIA: UNDERSTANDING LINKS

The role of Europe in Southeast Asian land-grabbing may not be as high profile and obvious as that of China, South Korea, or the Gulf States, but this does not mean Europe is not implicated—directly and indirectly—in land-grabbing in the region. One implication of the obsessive and narrow focus on the role of the ‘new bad guys’ (China, South Korea, Gulf States) is that it inadvertently de-emphasises the equally important role played by Europe in the land rush. This role is evidenced in a number of interrelated ways.

### *European biofuels policy and land-grabbing in Southeast Asia*

The European Union is pursuing a biofuels policy ostensibly for three reasons: energy security, greenhouse gas (GHG) savings and livelihoods in developing countries. Despite counter-arguments and mobilisations by researchers and civil society groups, who warn of the problems with a corporate-driven biofuels policy, the EU still set put in place a target of 10 percent mandatory biofuel blending by 2020. Franco et al (2010: 664) explain that: “The EU’s biofuels policy is very much corporate sector-influenced. This can be seen partly in the composition of the EU consultative body, the European Biofuel Technology Platform (EBFTP). Various business interests have sought to ensure policy outcomes favourable to large-scale biofuels production for the European transport sector... [Table 5] shows the composition of the EBFTP’s steering committee. It includes 15 members from the oil, auto, biotech, biofuels and forest products industries. Also included is COPA-COGECA, representing the more affluent, industrialised, commercial-oriented farmers. It is affiliated with the International Federation of Agricultural Producers (IFAP) – a rival of *La Via Campesina*, a leading critic of corporate-driven biofuels...” What this all largely means is that the biofuels policy will be aggressively pursued based on calculations about corporate profit, rather than on official discourses around GHG savings or livelihood generation in producing countries.

**Table 5. Steering Committee of the EBFTP**

Member	Position	Organisation	Sector
Veronique Hervouet	Chair	TOTAL SA	Oil
Markku Karlsson	Vice-Chair	UPM-Kymmene	Forest Products
Anders Roj	Vice-Chair	Volvo Technology	Auto
Rene van Ree	Vice-Chair	Wageningen University & Research Centre	Academe

Member	Position	Organisation	Sector
Ricardo Arjona Antolin	Member	ABENGOA Bioenergy	Biofuels
Olivier Appert	Member	IFP	Biotech
Phil Bowen	Member	Cardiff University	Academe
Luis Cabra	Member	Repsol YPF, SA	Oil
Dirk Carrez	Member	EUROPABIO	Biotech
Raffaello Garofalo	Member	European Biodiesel Board	Biofuels
Martha Heitzman	Member	Air Liquide	Biotech
Dietrich Klein	Member	COPA-COGECA	Farmers
Andrzej Kulczycki	Member	Institute for Fuels & Renewable Energy	Biofuels
Charles Nielsen	Member	DONG Energy	Oil
Ulrich Schurr	Member	Julich Research Center, Institute for Phytosphere Research	Biotech
Steen Skjold-Jorgensen	Member	Novozymes North America Inc.	Biotech
Wolfgang Steiger	Member	Volkswagen AG Wolfsburg	Auto
Harri Turpeinen	Member	Neste Oil	Oil
Gianpetro Venturi	Member	Universita di Bologna	Academe

Source: EBFTP website.

Oliver Pye (2010: 851) explains that, “the 10 percent mandatory target for ‘renewable energy’ adopted by the European Parliament in December 2008 is fuelling a frenzy of investment in palm oil across Southeast Asia”. As we have seen in Tables 3 and 4, there were dramatic increases in oil palm production in the region, and Europe’s importation of palm product, between the mid-1990s and 2007. The recent EU biofuels policy passed in 2008 would certainly trigger greater increases in the scope and speed of oil palm expansion in Southeast Asia. This in turn is likely to result in more dispossession and/or impoverishment of the rural poor in oil palm producing rural villages, as shown in Story 2 at the beginning of this paper.

Pye (2010: 854) explains that, “The prospect of a subsidised and long-term guaranteed market for biofuels has substantially accelerated the expansion of oil palm plantations. Plantation area in Malaysia and Indonesia has already doubled since 1997, reaching around 10 million ha. by 2005. Current plans aim to treble the area devoted to oil palm in Indonesia alone to 20 million ha. by 2020, or, if plans of the ‘National Team on Biofuel’ are believed, to nearly 30 million ha. by 2025... Plantations are also expanding in Sarawak, Southern Thailand, the Philippines (mainly Mindanao) and in Papua New Guinea”.

What does this mean in the countryside of Southeast Asia? It means our Stories 2 and 3 are likely to be multiplied a thousand times.

### *European capital and land-grabbing*

Table 5 gives us some idea about the involvement of various corporate sectors—directly and indirectly – in land-grabbing, by way of their interest and investment in corporate-driven biofuels. In addition, there is emerging finance capital that is directly involved in land-grabbing. The Organisation for Economic Cooperation and Development (OECD) released a recent report (dated 10 August 2010) into financial companies that have entered into farmland and agricultural investment. Some highlights of the report are revealing and relevant to this paper:

Some 54 funds/companies were contacted and 25 were interviewed for this report. As a group, those interviewed accounted for about USD 7.25 billion in agricultural assets under management. Estimates of the total amount of capital invested by the private financial sector in farmland and agricultural infrastructure varied between USD 10-25 billion. There is an expectation that this level of investment in agriculture will double or triple in the near to longer-term. Of the 25 funds/companies surveyed, 20 were currently raising capital.

Of the funds/companies surveyed, **32% of the offices were based in Europe**, 28% in North America, 24% in South America, **12% in Asia/Pacific** and 4% in North Africa/Middle East. Differences in strategies and business models reflected local conditions, type of production, access to financial networks/sources of capital, political/legal/governance issues, infrastructure challenges and overall risk/security levels.

Endowments and wealthy individuals/families have historically been the principal source of funds but there has been a noticeable shift in recent years with hedge funds and large institutions, including endowments and pension funds, entering this asset class by investing in existing funds, or in some cases sponsoring their own vehicles to attract funds for the sector. Almost all surveyed indicated significantly more interest (63%) or more interest (32%) in this asset class by investors with public and private pension funds a growing primary source of funds.

The geographic focus of investment activity in the sector has shifted noticeably toward South America (led by Brazil) and increasingly Africa **[with Asia and the Pacific combined cornering a small share of 7%]**. Both regions are attracting an increasing amount of capital being raised for investment in the sector.

Of those surveyed, 83% of the farmland being acquired or leased on a long-term basis is dedicated to the production of major row crops (soft oilseeds, corn, wheat and feed grains), with 13% invested in livestock production (typically grazing of beef cattle, dairy, sheep and swine) and 4% for permanent crops such as sugar cane and viticulture, agricultural infra-structure (primarily on-farm storage) and set-asides (reserves in South America). Investment in water rights, infrastructure or other points along the value chain (either upstream for distribution of crop inputs or downstream for storage, transportation and primary processing for food and fuel/industrial applications) are of secondary importance. However, interest was growing for investments which would enhance the value of their farmland holdings such as transportation and logistics infrastructure, thereby expanding market access.

The OECD report provides a glimpse into the increasing interest by financial capital on farmland and agricultural investments globally. For the purposes of this paper, two relevant issues are highlighted: (a) that one out of three of the studied financial companies is based in Europe and (b) that the Asia Pacific region is not the main destination for this kind of financial capital, as investors are more interested in southern America and Africa. It is in this context that we discuss finance capital and land-grabbing in Southeast Asia.

In Southeast Asia, transnational land-grabbing is indeed a significant phenomenon. If we look at it from a conventional North-South axis, we notice some important (and relatively new) characteristics of the ongoing land-grab in the region. From a North-South perspective, we will see less large-scale land investment activities, direct or indirect. There are only sporadic significant investments in some countries in the region, involving food, feed, fuel and pulp production for export. If we look at it from a South-South perspective, there are equally important (and again, relatively new) land investment features. Examples include the aggressive and significant investments by Vietnamese capital in Cambodia for food and pulp production, Indonesian-Malaysian capital in new and planned oil palm expansion in the southern Philippines, and Chinese capital in large-scale land investments in virtually all countries in the region.

If looked at from the perspective of the ‘finance rich, net food importing countries / land and resource rich, finance-poor countries’ axis, which is the most popular way of framing the current transnational land-grab, we will also see that the Gulf States, China, Taiwan, and South Korea are all currently actively involved in actual and planned large-scale land investments. This is also evident in direct land acquisitions (either outright purchase where possible or long-term lease arrangement where allowed), as can be seen in Gulf States and South Korean activities in the Philippines, Indonesia, Vietnam, Laos, Cambodia, among others. It is also important to note that several transactions do not actually involve any direct land deals, but are trade activities, such as a UEA’s attempt to buy bananas directly from the Philippines which has, in turn, triggered and fuelled land speculation for possible banana production expansion. Many early reports of the Gulf States’ banana buying activities in the Philippines eventually fizzled out, but newer attempts arose in the meantime.<sup>10</sup> This means that while many trade transactions have very direct bearing on land-grabbing, it is not possible to explicitly link these companies (or countries) directly to the practice.

It is also important that we see the transnational nature of capital from an intra-regional perspective. One relatively new feature of the current global land grab is that financially richer countries within various regions have become leading actors in regional land grabs. This is very much the case in Southeast Asia where one of the most active drivers of land-grabbing is capital coming from within the region, namely Chinese, Taiwanese, South Korean, Malaysian, Indonesian, and even Vietnamese capital. An illustrative example is the case of the GT Leste Biotech Indonesian company, which has secured an agreement with the East Timor government for a \$100 million investment to develop a 100,000 ha. sugarcane plantation to produce ethanol; with a 50-year lease contract, renewable for another 50 years (so effectively, 100 years).

Finally, another key and dominant factor in Southeast Asian land grabbing is domestic capital. This is either domestic companies’ capital alone, or it is this capital combined with foreign capital. For example, the bulk of capital in the oil palm sectors in Malaysia and Indonesia come from these countries. However, domestic capital has also forged alliances with foreign capital, usually from neighbouring countries, to facilitate large-scale land investments. Southeast Asia has witnessed the rapid expansion of large-scale land investments through this strategy. Examples include the Malaysian Kuok Group of Companies and San Miguel Corporation in

10 Borrás’ interview with Vic Lao, President of Mindanao Business Council (MBC), May 2010, Davao City.

our Story 3. Another is Cambodian company that has forged alliance with a Thai company to develop 20,000 ha of sugarcane land to produce sugar for export to Europe (our Story 1).

Capital in land grabbing in Southeast Asia comes from the conventional agribusiness-food complex. In addition, it also comes from the biofuels complex and banking and finance. Examples of the former include the continuation and expansion of European agribusiness-food complex trade activities with key Southeast Asian oil crops, such as palm oil and coconut oil (recall the significant share of European imports of palm oil). As mentioned earlier, the OECD 2010 report shows that global financial capital is not particularly keen on Asia and the Pacific, but nonetheless, 12% of the total number of studied finance companies have headquarters based in the region, suggesting the increasing role of financial capital, although domestic and regional in character.

Why have we enumerated these various types of transnational and domestic capital in Southeast Asian land-grabbing? One reason is because policy advocacy work and political actions undertaken by proponents of pro-poor reforms (eg- social movements and civil society groups) can be more effective when they have a clearer handle on the complex nature of capital involved.

#### *European view and policy related to 'reserve agricultural land' and its implications*

Europe subscribes to the idea that agricultural land exists in the global South (see Tables 1 and 2) that can be transformed into productive commodities, which will in turn solve the persistent food and energy crises. It is generally implicit in EU policies, but can be easily detected. The most concrete indicators of this assumption are: First, the EU's biofuels policy which assumes it can continue with the current pattern and logic of its transport sector by contracting poor peasants and 'un-used' lands in the global South to produce liquid fuel for Europe's cars. Second, the EU's food and trade policy is founded on the logic of an industrial agrofood-feed-fuel complex and relies largely on key commodity production (eg, of soya) in the global South. In fact, the latest and most direct emerging EU policy on land-grabbing (see draft EU Statement, dated 27 September 2010, Annex 1) does not in any way question the basic logic of the current large-scale land investments; instead it focuses on how to carry out such investments within a 'win-win' framework. The EU 27 September 2010 draft Statement argues: "The challenge remains how to channel the investments in order to match the country food security strategies,

maximising positive outcomes for local populations and ensuring the protection of the tenure of rights of all local users of land and natural resources”. It is essentially the same as the World Bank’s “win-win” formula (World Bank 2010).

The problem is that it is unlikely that the conventional measurement of potential ‘land availability’, estimated by the World Bank (2010) at 1.725 billion ha, accurately captures existing land-based social relations and realities. The very notion of “reserve” more or less automatically renders such land, by definition, “available,” amenable to, and appropriate for transformation into global granaries or new oil wells. And in the process, other possible or actual uses are rendered “illegible”—a term used by Scott (1998) to show how state officials reinterpret diverse local societies in order to facilitate central state regulation and administration. Historically, “seeing like a state” has involved simplifying observed (local) social practices: [L]ocal practices of measurement and landholding were “illegible” to the state in their raw form. They exhibited a diversity and intricacy that reflected a great variety of purely local, not state, interests. That is to say, *they could not be assimilated into an administrative grid without either being transformed or reduced to a convenient, if partly fictional, shorthand*. Looking at Stories 1, 2 and 3 in the beginning of this paper, we know that so-called marginal, idle, un-used and uninhabited lands can in reality be productively engaged and populated. This is very much a Southeast Asian character.

Furthermore, accepting the notion of reserve agricultural land necessarily renders existing local land-based social relations and practices vestiges of the past — to be acknowledged, but ultimately not worthy of being taken seriously enough to protect and advance into the future. They simply do not “fit” the economic development grid envisioned by today’s key drivers of mainstream development. Instead, based on past experience, what we can expect from this kind of framing of the land debate is more dispossession in the name of transforming “marginal” land into economically productive spaces. Here we can recall the Omlaing case in Cambodia, the Indonesian village, and the allocation of one million ha of land as part of the Kuok-San Miguel joint venture, as told in opening Stories 1, 2 and 3. Moreover, the rehabilitation of so-called “degraded” lands often comes in the form of industrial mono-cropping that is portrayed as ‘environmentally friendly’, but actually ecologically undermines the land. For example, industrial tree mono-cropping, including oil palm and eucalyptus plantations across Southeast Asia, are now often referred to as “sustainable reforestation”. This was precisely the official excuse for expelling villagers in a vast 300,000 ha of land in Cambodia, which was allocated for eucalyptus plantation to produce pulp for export to China.

What is clear is that assumptions about ‘reserve agricultural land’ are seriously flawed, along with the use of the notion for assessment and measurement purposes. Policies built around such flawed assumptions are bound to do more harm than good to the rural poor in the countryside of Southeast Asia and elsewhere.

*Europe’s land policies: staying away from (re)distributive policies and favouring non-redistribution and (re)concentration trends*

It is true that in 2004, the EU introduced Land Policy Guidelines that are more progressive than the mainly market-oriented World Bank 2003 land policy. For the purposes of this paper, we raise two inter-related points: (a) while relatively better than the straightforward neoliberal land policy framework of the World Bank, the EU guidelines and the land policies recently adopted by some of its member states, are nonetheless not significantly redistributive in content, and (b) whatever progressive potentials the EU Land Policy has, it remains meaningless if it is not activated to promote the rights to land resources of poor people in developing countries. A brief elaboration is warranted.

Recall our discussion above of the four broad types of land property relations in the context of current land-grabbing. It demonstrated that there are two interlinked trends in land policies among international institutions: redistributive and distributive land policies have been marginalised in mainstream official development policies, including in some important EU member states, while land policies that constitute, or are likely to result in, non-redistribution and (re)concentration of land resources tend to be favoured. This is certainly the trend in European member states’ land policies in Southeast Asia. This is problematic, especially in the context of widespread land-grabbing, because existing land policies that do not favour (re) distributive reforms are likely to (inadvertently) result in non-distribution and even (re)concentration.

Historical studies of the land policies of three member states of the EU demonstrate this trend towards non-redistributive land policies. Lies Craeynest (2009: 61-63) explains that, “While [the UK’s Department for International Development or DfID’s] approach to land reform in the 1980s was very much in line with the dictates of modernisation, formal registration and market mechanisms for redistribution, espoused by the international financial institutions during the 1980s and most of the 1990s, there was a brief period from 1997 to 2002 where a wind of change blew through the thinking on land in DfID. This was made possible because of a range

of factors, including a new government with a minister in a brand new department who wanted to make some radical changes in the way Britain ‘conducted’ its aid, a changing development discourse of livelihoods, assets and ‘rights-based approaches’, and a relatively open civil service structure which allowed for some cross-institutional and cross-disciplinary thinking on various issues, including land. When comparing approaches to land policy developed in the 1997 to 2002 period with the trends in thinking on agriculture and land from 2003 onwards, there are clear differences in overall approach. To capture the difference in emphasis between these periods I have named these the Rural Livelihoods period and the Agricultural Growth period. The most discernable differences between both periods come down to four main areas...”

Craeynest continues: “The first difference concerns formalised property rights. The Rural Livelihoods approach [1997-2002] does not promote either formal or informal property rights, but states very specifically that titling will not resolve difficulties for smallholders, and can even make matters worse. The Agricultural Growth approach [2003 onwards] takes a more evolutionary perspective.... The second difference is... where the Agricultural Growth approach has a more linear, even if paced, vision of the land reform processes that developing countries need to go through in order to develop, the Rural Livelihoods approach recognises that one size-fits-all models are not appropriate and that a more contextualised approach will be needed to address the intensely political nature of national and regional land debates. There is an explicit cautionary note about the applicability across continents and countries of de Soto’s promotion of formal titling, as well as about putting too much faith in new registration technologies as these do not solve the political nature of the land debate. Thirdly, the approaches differ in the importance they place on different actors in helping to move land reform forward. The Rural Livelihoods approach focuses mainly on the roles of government and civil society, explicitly recognising the importance of the participation of civil society in developing a national project for land reform... The Agricultural Growth approach, on the other hand, puts its emphasis much more on private sector led growth, and thus gives a much bigger role to the private sector. Finally, although both approaches concern themselves more with reforming land tenure rather than with actual land redistribution, there is a difference with regards positions on methods for land distribution. No particular approach is favoured within the Rural Livelihoods approach, and, although it does state that ‘there is a range of alternatives for improving land distribution, short of expropriation’... it blames both state-led and market-led solutions for not having had any real impact on actual transfer of land. The Agricultural Growth approach on the contrary seems to take quite a different line. The Agricultural Growth paper

states clearly and upfront that the central principle for land redistribution must be the 'willing buyer, willing seller' model... With the abandonment of the Rural Livelihoods approach in most of DfID's agricultural thinking, a loss of central capacity to work on technical and livelihood-related issues, and a move towards focussing on the economic growth potential of agriculture and investment climate in rural areas, DfID seems to have returned to the economic models espoused in earlier decades, although now with a reinigorated interest in the role of agriculture. On land reform, this seems to have implied a return to some extent of the preference for clear, transparent and formalised land titles, and it is in this context that de Soto's thinking has had an important impact in DfID."

With respect to Germany, a study by Roman Herre (2009: 5) of German land policy offers the following insights: "The official development assistance (ODA) of the German government's development cooperation (DC) is the fifth largest in the world. In the first decades after World War II land policy was a neglected field of DC. This changed sharply in the mid-1990s: the German DC has since become actively involved in land policy issues in more than 20 countries around the world. It is also an important actor in multilateral land policymaking. This paper focuses on the Ministry of Economic Cooperation and Development (BMZ), the technical cooperation arm (GTZ) and the 'financial cooperation'(KfW) as the three key actors in the German development cooperation. The official aim of German land policy is purportedly to effect poverty reduction. The expression of this policy is the commitment and support to technical land administration and management (e.g. titling, registration, cadastre, land markets). Engagement in redistributive land policies like land reform is almost non-existent. Altogether, the actual focus on land administration and technical approaches tends to be blind to the political dimension of land policies. A neglect of political issues – equity issues, redistribution, meaningful participation, human rights – is unlikely to lead to any significant positive impact on the rural poor in developing countries worldwide".

Jonas Vanreusel (2009: 5) studied the historical trajectory of Belgian development aid and its land policy component, and has come to the following conclusions: "For the most part of its history, the Belgian Official Development Assistance (ODA) focused on narrow agricultural productivity issues. With the slow but steady insertion of Belgian ODA into the international development community's priorities, instruments and methods, Belgium started to focus on broader rural development. In some cases, this evolved into broader support for agrarian reform projects and encouraged change in rural technical infrastructure and the provision of services to improve the possibility of making a living from the land for smallholders and re-

cent land reform beneficiaries... In the 1980s, little attention was paid to the effects of redistributive land reform. Belgian ODA to the agricultural sector, along with international trends, dwindled at the end of the 1990s, but at the same time, two major agrarian reform projects were undertaken, in the Philippines and in South Africa. While these projects were ambitious in size and scope and showed overall positive results, they were not guided by a consistent and practical set of policy guidelines and priorities, which resulted in unclear participation by and targeting of vulnerable populations. The pro-poor objectives have consequently been watered down because of disappointing partner government support and poor execution of land reform. The publication of the Belgian ODA's Strategy Note on Agriculture and Food Security in 2002 mentioned the importance of access to land but fell short of providing practical guidelines on how such a strategy can be carried out in reality. Special programmes, multilateral funding and NGO co-funding of the Belgian ODA have also somewhat neglected the land issue, but some interesting experiences, and pressure from some partners, show some potential for prioritising land policies”.

The other EU member states that have introduced specific and recent land policies are Sweden and France, and they follow the general trend demonstrated in the land policies of the UK's DfID, Germany and Belgium; that is, a re-orientation away from politically contentious but truly pro-poor redistributive land policies (such as land reform), and towards either market-oriented/productivist policies (as seen in the UK and Belgium) or technicist/de-politicised land titling projects (as in the German policy). This explains why the German GTZ is very active in land policies in Southeast Asia, and why it obsessively promotes a singular campaign: formalisation of land rights, especially in 'marginal lands', through technical land registration, titling and administration. In the Philippines, the land policy positioning by GTZ – arguing for a halt of redistributive land reform and focussing on land titling and registration and administration – was used by anti-land reform landlords inside and outside government, who tried to block the extension of the land reform law for another five years. Fortunately, the anti-reform forces were defeated, and the land reform law was extended (Borras, Carranza, Franco and Manahan 2009).

In the midst of the raging land-grabbing in Southeast Asia, existing, non-redistributive European land policies will not help prevent the phenomenon. In some settings, they might even help facilitate it. A close reading of the latest EU policy on land-grabbing (see Annex 1) reveals a serious lack of appreciation for the urgent need for redistributive land policies. Only vague references are made to ideas of 'protection of the tenure rights of all local users of land and natural resources', which mean nothing in the face of real policy dynamics.

In his close examination of the EU Land Policy published in December 2008, Pascal Bergeret (2008) looked at the policy's key potential, but pointed to a difficult challenge in realising it. He said: "In 2004 the EU Commission published *EU Land Policy Guidelines: Guidelines for Support to Land Policy Design and Land Policy Reform Process in Developing Countries*. This document was drafted by a task force comprising representatives of some EU member states and independent experts, and was endorsed by the European Council and Parliament. Although it is non-prescriptive, the document contains clear recommendations to governments and donors engaged in land policy, which are geared towards the defence and strengthening of small-scale family agriculture. It proposes that steps be taken to allow the legal recognition of customary rights and to strengthen the institutional capacities of the customary structures that enforce them" (Bergeret 2008: 5).

Bergeret continues: "Since the EU guidelines were published in November 2004... very little attention has been given to them. It is practically impossible to find them on the website of DG DEV [the European Commission's Director General for Development]. European Commission policy documents on development – even on rural development – only scantily address land issues and systematically fail to refer to the EU guidelines. When attempting to find the guidelines with major search engines on the Web, one is led to links for civil society organisations, such as the Land Coalition or OXFAM, instead. Such a lack of publicity is very telling. It reflects the fact that the work of the task force, although formally endorsed at the highest levels of EU governance (Commission, Council and Parliament) is not actually owned by the EU system. The point of view of the task force, as we have seen, slightly diverges from the point of view of other donors through its political flavour. The guidelines have not been translated into the EU official languages and publicity has been kept minimal. In 2005 DG DEV stated its intention to accelerate the diffusion of the guidelines but with no apparent concrete steps taken to realise that intention" (Bergeret 2008: 24).

In short, the key question is: how can the EU Land Policy Guidelines, or more aptly, their progressive provisions, be activated to actually mean something for the rural poor in Southeast Asia, especially in light of the global land-grab? This is not at all clear, and as Bergeret explains, it seems the EU is not interested in implementing the guidelines at all. No mention was made in its September 2010 draft Statement (see Annex 1) of how the guidelines might be activated and mobilised to counter land-grabbing. The guidelines were referred to in just one sentence in the statement, and even then only in connection with providing technical assistance to civil society groups in the consultation processes around mega land deals.

*Europe's unwillingness to challenge dominant multilateral agencies and to question the dominant development model*

The most notable thing about the EU's response to the food crisis and recent global land rush is that it has been more reactive than proactive, and more about process than content. Only on the eve of the World Bank's April 2010 conference did the European Commission issue its own communiqué about the situation, which essentially reaffirmed commitment to the same kind of large-scale investment in agriculture that's already in the process of discussion and consolidation. At the same time, one finds in the document a relatively stronger articulation of support for smallholder agriculture than might be seen elsewhere. This, at first glance, seems somewhat out of tune with earlier formulations of the "principles of responsible agricultural investment" project. The potential tension and conflict between rural poor land rights and large-scale (foreign) investments in agriculture can be detected in the following quote from the EC communiqué:

"Secure access to land and secure land tenure and use rights are prerequisites for higher productivity of small holder farmers. Effective national land policies and laws are essential, requiring governments to take priority action on land. Where countries develop policies on agriculture, land, and biofuels, the EU and its Member States should advocate that these policies address concerns over availability and access to food and stimulate the integration of smallholder farmers in production chains. Moreover, internationally recognised principles should guide investors, host countries and other stakeholders towards investments in agriculture that respect human rights, livelihoods and resources. *The EU and its Member States should support the development of internationally agreed principles for responsible investments in agricultural land*, building upon existing Land Policy Guidelines" (European Commission, 2010; emphasis added).

Today, within the World Bank-led framework of "responsible" large-scale investments in agriculture (made possible through adherence to a "code of conduct" and agreed-upon "principles"), one mechanism being promoted in mainstream development circles appears to be to give a more central role to various forms of joint ventures or contract-growing/out-grower schemes. This likewise appears to be the case with EU policy, as illustrated by the communiqué quoted above. The 27 September 2010 Draft EU Statement (Annex 1) has again reiterated this point: "... in the vast majority of cases of large-scale investments, the benefits of the investment could be achieved by the use of business models other than large scale land acquisition such as contract farming, without any change being made

to the rights over the land”. In embracing such a position, the EU can claim to be protecting rural poor land rights and small family farm agriculture, while at same time addressing the food, energy and security needs of “resource-poor” countries and segments of the global population; all by promoting “responsible” agricultural investments in “resource-rich” countries through the application of a voluntary code of conduct (e.g., self-regulation). Under this framework, the ‘plasma’ scheme in Indonesia, through which millions of ha of land were converted to oil palm monocropping cultivation (see our Story 2) and the scheme employed by Kuok-San Miguel in the Philippines (our Story 3) would fit perfectly. But Stories 2 and 3 reveal the model’s flawed assumptions, and they are not unique. As mentioned previously, these sorts of cases are common right across Southeast Asia.

Advocates of a Code of Conduct for land-grabbing argue that without clear land property rights (usually defined as individual and private) the “risk” of dispossession is high. The EU supports this view, as outlined in its latest Draft Statement of 27 September 2010 (Annex 1). Implicit here is a belief that formal land property rights remove this risk and serve as a guarantee that people will not be displaced and dispossessed by these large-scale land deals. Such a view converges with years of mainstream advocacy for the privatisation of the remaining commons, and the formalisation of land rights, targeting public lands worldwide. Yet this view is deeply flawed. There is much evidence to show that formal land property rights are no guarantee against dispossession; in fact they often appear in association with it. Again, the Indonesian villagers had clear property rights, yet lost their land. The paddy rice farmers in Omlaing Commune in Cambodia had clear property rights over their farms, but it was no guarantee against dispossession.

**Box 2:**

In Lao PDR land concessions are negotiated, awarded, and managed haphazardly, with no systematic or unified monitoring and evaluation procedures. The result is a loss of valuable natural resources and the marginalization of vulnerable populations. Failure to integrate concessions into the regular land administration system leads to corruption, speculation, and a parallel land market characterized by a lack of security. Such tendencies are reinforced by unclear assignment of responsibility to relevant institutions. This situation leads to incorrect interpretations and uneven application of laws and regulations, abuses of public powers to support private developments, and failure to provide compensation to local communities. Addressing these issues, and the many underperforming or poorly performing concessions that have resulted from them, requires better communication with investors and a more reliable land information system.

(World Bank 2010: 41)

Meanwhile, the assumption that the negative consequences of current mega land deals can be avoided by (a) ensuring transactions among “multi-stakeholders” are formal and transparent and where possible decentralised-localised (see Box 2) (b) guaranteeing representation for multiple stakeholders and (c) ensuring information is made available to stakeholders, is only partly correct. Certainly, any land deal should at least be transparent, but transparency does not necessarily guarantee pro-poor outcomes. Transparency is not the same as accountability, and transparent transactions do not necessarily guarantee accountability, especially to poor “stakeholders”. Moreover, the question of representation of social groups, especially in rural communities in Southeast Asia, is problematic, uneven, and politically contested, whether negotiations are transparent or not. In some cases, an elite minority section of a community claims to represent the poor even when it does not. On many occasions in many countries in the region, local elites forge formal contracts with investors in the name of their communities, despite having no mandate to do so. Often in such situations, the rural poor have little opportunity to set the record straight. Meanwhile more powerful stakeholders have little interest in ensuring that oppositional voices are even heard - much less taken into account - if doing so could mean scuttling the deal altogether. Different social groups join the negotiating table with different degrees of political power. Finally, the World Bank has a special bias towards decentralised-localised negotiations. But it is at the local level that local elites and bureaucrats who stand to gain in new investments can easily manipulate negotiation processes, and where local poor communities can be isolated from their potential national allies. The documented case of a World Bank market-led agrarian reform project in the Philippines (Borras, Carranza, Franco and Manahan 2009) is illustrative.

Then there is the problem of the *voluntary* nature of agreements. Violations are difficult to pin down; violators are impossible to bring to account. Even where there is formal agreement by all parties to the principles of free, prior, and informed consent (FPIC), these principles are rarely observed and enforced in practice, and it would take a large amount of political power, time and resource to ensure they were. Sawyer and Gomez (2008) observe the paradox that as international treaties, voluntary guidelines and FPIC principles have become more institutionalised, we have at the same time seen an increase in violations of the rights of indigenous peoples and the penetration of their territories worldwide.

In short: powerful multilateral agencies - particularly the World Bank - have taken a specific position on how to address the issue of the current global land-grab, mainly through a “win-win” formula involving a code of conduct. This is highly problematical – and the EU not only fails to challenge this flawed view and proposed

approach, but actually supports it. While the EU Draft Statement of 27 September 2010 is to be lauded in some regards, it is mainly concerned with process. Content-wise, it is aligned with the World's Bank proposed framework.

While the World Bank may suggest that there are no solutions to current land-grabbing other than pursuit of “win-win” formulas via a ‘code of conduct’ (which seem to also be attractive to other institutions like the EU) it is important that the EU seriously considers alternative policy frameworks. There are at least two alternative frameworks that should be explored: (a) the alternative Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources anchored by the FAO, and supported by numerous social movements and civil society groups, and (b) the comprehensive ‘human rights approach’ to land, as expounded by social movements like *La Via Campesina* (via the proposed UN ‘Peasants’ Charter) and human rights groups such as Foodfirst Information and Action Network (FIAN). The human rights approach as also been expounded and promoted by the UN Rapporteur for the Right to Food (De Schutter 2009).

Two propositions are put forward here: one is tactical and the other strategic. The EU Draft Statement of 27 September 2010 (Annex 1) supports both the FAO-anchored Voluntary Guidelines and the World Bank-led RAI Principles – again, pursuing a liberal, win-win framework. But pairing the two would only undermine the potentially progressive and potentially accountable FAO-led and civil society-supported Voluntary Guidelines. This is partly because the RAI Principles will find more support from the richer and more powerful international institutions (such as the World Bank) and from more powerful countries such as the United States and Japan, among others. Of the two options mentioned in the EU Draft Statement of 27 September 2010 – the World Bank-led RAI Principles and the FAO’s Voluntary Guidelines, the EU should endorse only one, and this should be the FAO’s Voluntary Guidelines. Moreover, and more strategically, it would be important for the EU to also support *La Via Campesina*’s proposal in the UN for a Peasants’ Charter. The UN system provides for a more comprehensive framework and more accountability - see Annex 2, with specific reference to the land provision in the proposed charter.

### 3. Conclusions and recommendations

Land-grabbing is occurring at a significant extent and pace in Southeast Asia; some of the characteristics of this land grab differ from those in regions such as Africa. At a glance, Europe is not a high profile, major driver of land-grabbing in this region, but a closer examination reveals that it nonetheless is playing a significant role. This influence is both direct and indirect, through European corporate sector and public policies, as well as through multilateral agencies within which EU states are members.

At the beginning of this paper, we have put forward a set of agendas for discussion with the EU. We are presenting these again here in abbreviated form, as follows:

(1) Rethink policies that perpetuate and promote the current model of fossil-based, TNC-controlled industrial agrofood-feed-fuel complex that is the fundamental reason for the current food and energy crises.

(2) Drop the flawed assumption about the existence of 'reserve agricultural land' in the global South that can solve food and energy crises in the North.

(3) Rethink the corporate-driven biofuel project as the strategy to solve the energy crisis.

(4) Activate the EU 2004 Land Policy Guidelines, and push for redistributive types of land policies.

(5) Work within multilateral institutions where EU member states have membership in order to influence the land policies of the former away from outright market-based approaches and towards more rights-based approaches.

(6) Reject the idea of a 'Code of Conduct/Responsible Principles for Land-grabbing', and instead support the FAO-driven and civil society-supported Voluntary Guidelines in Land resources Management and Governance.



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## Annex 1

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Brussels, 27 September 2010

### FAO-COORD 2010-101

**Subject: 36<sup>th</sup> session of the Committee on World Food Security  
(Rome, 11-14 and 16 October 2010)**

**Item VIII: Policy roundtables**

**b) Land tenure and international investment in agriculture.**

Delegations will find attached the draft Statement prepared by the Presidency on **item VIIIb)** of the abovementioned meeting.

This draft is submitted for discussion at the meeting of the Coordination Working Party (FAO) on 30 September 2010.

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**36<sup>th</sup> session of the Committee on World Food Security  
(Rome, 11-14 and 16 October 2010)**

**Draft Statement on behalf of the European Union and its Member States**

**Item VIII: Policy roundtables**

**b) Land tenure and international investment in agriculture.**

Mr/Mrs. Chairperson,

1. I am speaking on behalf of the European Union and its 27 Member States. [The candidate countries to the EU, Croatia, the former Yugoslav Republic of Macedonia and Turkey associate themselves with this statement.]
2. The EU welcomes the note prepared by the Secretariat of the CFS for this roundtable on “Land Tenure and International Investment in Agriculture. This document rightly establishes the link between food security, land access and investment in land. The conditional benefits as well as the potential negative consequences of the renewed national and international interest in investment in agriculture are clearly raised and the importance of the gender dimension in land tenure issues is emphasized.
3. The increasing competition for land and other natural resources enhanced by population growth, urban and industrial expansion, the increasing demand for biofuels and climate change puts pressure on land tenure and demonstrates the

need for well tailored policies and concrete solutions. Secured access to land and other natural resources and the active promotion of investment in agriculture remain essential in the pursuit of the right to adequate food for all and achieving food security.

4. Foreign as well as domestic investments in the agricultural sector of developing countries offer significant potential to complement public resources and
  - create supplementary employment and incomes,
  - improve access to markets and market information,
  - reinforce a wide range of extension and education services,
  - boost infrastructural works
  - and increase added value in the food production chain.

However, without clear policies and commitment, investments can also jeopardize land rights, small-scale agricultural production and enhance negative environmental and social impact with potential consequences such as

- eviction, displacement and negation of existing rights,
- increased corruption,
- environmental damage,
- social polarization and political instability.

5. Furthermore, as expressed by the FAO and the Special Rapporteur on the Right to Food, in the vast majority of cases of large-scale investments, the benefits of the investment could be achieved by the use of business models other than large-scale land acquisition such as contract farming, without any change being made to the rights over the land.
6. The challenge remains how to channel the investments in order to match the country food security strategies, maximizing positive outcomes for local populations and ensuring the protection of the tenure rights of all local users of land and natural resources.
7. The EU encourages the Committee to endorse the on-going inclusive process of development of the Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources and looks forward to an early and successful outcome.

The EU supports the on-going elaboration of Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources initiated by the World Bank, FAO, IFAD and UNCTAD, recommending that the consultation process be pursued and include all relevant stakeholders. This session of the CFS should propose detailed information on the organisation, funding and supervision of such a process.

8. The EU therefore supports the proposed decisions in the document. However, in order to fully ensure consistency between the two processes, the Responsible Agricultural Investment Principles should not be endorsed at an earlier stage than the Voluntary Guidelines. Member states should be able to adopt a comprehensive position on both documents at the same time.
9. Furthermore, the EU suggests to include the principle of Free, Prior and Informed Consent to the current set of Responsible Agricultural Investment Principles.
10. These initiatives are being prepared in response to growing interest in an international instrument to help improve the governance of tenure and are complementary. The key question remains how to respond in practice.
11. The EU urges FAO and the other international organisations involved to continue ensuring the consistency and complementarity between the two processes. The EU therefore recommends that a direct reference to the Voluntary Guidelines on land tenure is included in the wording of the first of the responsible agricultural investment principles.
12. The EU also calls upon all the members of the CFS to ensure that these initiatives keep focus on their food security and poverty reduction objectives.
13. In addition to national governments, local authorities and civil society organisations that can provide the links to local level communities have a major role to play in the consultation, design and monitoring of these initiatives. In order to facilitate this participation and increase the transparency of the process, appropriate capacity building and technical assistance will need to be provided. The EU Land Policy Guidelines provides useful guidance in this regard. In addition, the publication of a source book presenting good practice on how to address and implement the RAI principles would be strongly welcomed.
14. Following issues could be part of the HPLE programme of work:
  - Economical, social and environmental impacts of small scale and familial production systems versus production systems based on large scale land acquisition or leasing contracts.
  - A comparative analysis of the use of fiscal tools in order to match large scale investments with country food security policies

Thank you Mr/Mrs. Chairperson.

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## Annex 2

### La Via Campesina Peasants' Charter's Article on Land and Territory

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#### **'Declaration of Rights of Peasants, Women and Men'**

La Via Campesina, March 2009

Acknowledging that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Program of Action, affirm the universality, indivisibility and interdependence of all human rights, civil, cultural, economic, political and social... Emphasizing that in the International Covenant on Economic, Social and Cultural Rights, States have undertaken to ensure the realization of the right to an adequate standard of living for ourselves and our family, including the right to food, and our right to be free from hunger through the genuine agrarian reform...

Solemnly adopts the following Declaration on the Rights of Peasants...

#### Article IV: Right to land and territory

1. Peasants (women and men) have the right to own land, collectively or individually, for their housing and farming.
2. Peasants (women and men) and their families have the right to toil on their own land, and to produce agricultural products, to rear livestock, to hunt and gather, and to fish in their territories
3. Peasants (women and men) have the right to toil and own the non-productive state land on which they depend for their livelihood.
4. Peasants(women and men) have the right to safe water and adequate sanitation.
5. Peasants (women and men) have the right to water for irrigation and agricultural production in sustainable production systems controlled by local communities.
6. Peasants (women and men) have the right to manage the water resources in their region.

7. Peasants (women and men) have the right to support, by way of facilities, technology and funds, from the state to manage the water resources.
  8. Peasants (women and men) have the right to manage, conserve, and benefit from the forests.
  9. Peasants (women and men) have the right to reject all kinds of land acquisition and conversion for economic purpose.
  10. Peasants (women and men) have the right to security of tenure and not to be forcibly evicted from their lands and territories.
  11. Peasants (women and men) have the right to agricultural land that can be irrigated to ensure food sovereignty for growing population. Declaration of Rights of Peasants - Women and Men
  12. Peasants (women and men) have the right to benefit from land reform. Latifundia must not be allowed. Land has to fulfill its social function. Land ceilings to land ownership should be introduced whenever necessary in order to ensure an equitable access to land.
  13. Peasants (women and men) have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
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**TRANSNATIONAL INSTITUTE.** Founded in 1974, TNI is an international network of activist scholars committed to critical analyses of the global problems of today and tomorrow. It aims to provide intellectual support to grassroots movements concerned to steer the world in a democratic, equitable and environmentally sustainable direction. In the spirit of public scholarship, and aligned to no political party, TNI seeks to create and promote international co-operation in analysing and finding possible solutions to such global problems as militarism and conflict, poverty and marginalisation, social injustice and environmental degradation.

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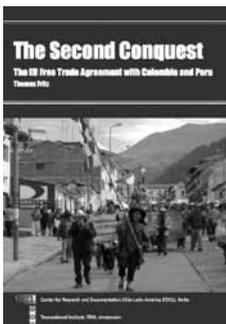


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The project advocates for greater policy coherence between EU development and trade policy, with a view to promote equitable and sustainable development.

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