

THE EUROPEAN UNION AND THE GLOBAL LAND GRAB

In recent years, around the globe through numerous mechanisms, peasants, pastoralists, fishers' communities, rural women and indigenous peoples are losing their once effective control over significant areas of the world's land, water, wetlands, pasturelands, fisheries and forests – including their right to decide how these natural resources will be used, when and by whom, at what scale and for what purposes, for generations to come. This control is being captured by various configurations of actors (foreign and domestic) from big corporate business and finance and government, often for large-scale industrial and industrial agriculture ventures and often packaged as large-scale investment for rural development.

But rather than being investment that is going to benefit the majority of rural people, especially the poorest and most vulnerable, this process constitutes a new wave of land and water 'grabbing'. It is a global phenomenon whereby the access, use and right to land and other closely associated natural resources is being taken over - on a large-scale and/or by large-scale capital – resulting in a cascade of negative impacts on rural livelihoods and ecologies, human rights, and local food security. In order to stop such harmful effects, land grabbing and its contributing factors must be opposed.

This Fact Sheet highlights the involvement of the EU in the global land grab, both directly through the involvement of European capital and corporations in the acquisition of land and indirectly, through the suite of EU policies which are transforming land into a global commodity. It concludes with a number of concrete demands and proposals for the EU to end its collusion in the global land grab and align with international human rights law, especially the Right to Food.

HANDS OFF THE LAND

TAKE ACTION AGAINST LAND GRABBING

a joint project of TNI, FIAN International, FIAN Netherlands, FIAN Germany, FIAN Austria, IGO in Poland and FDCL in Germany.



Europe as actor: european capital and corporations

As land and agricultural commodities have become a lucrative investment opportunity, European corporations and financial actors have not missed out on the action. According to a 2010 OECD report, the largest group of private sector financial actors involved in farmland and agricultural infrastructure investment is based in Europe – some 44%.¹ While these deals are often presented as beneficial economic ‘investments’ in ‘farmland’, they too often involve undermining existing economic, social, and ecological activities and investments by peasants, fisherfolk, and pastoralists, especially rural women and indigenous peoples, in a wide range of ecological settings.

Rather than stimulating broad-based development, it is clear that the prospect of high returns is the real draw for such investment. These returns are prompting new actors to become involved in agriculture and land-based commodities. European pension funds such as the Swedish AP2, the Dutch APG and PGGM, and the Danish PKA have all recently made large investments in global farmland.² At times, these ‘investments’ amount to pure speculation.³ Betting on land prices rising,

financial actors are acquiring land just to sell it off later at a higher price without making any kind of productive investment. This further consolidates ongoing processes of land concentration.

The very same forces which are driving up the price of land and displacing local people are luring in foreign investors. The Brazilian Farmland Fund which is managed by London based Bramdean Asset Management promises that acquiring land in Brazil will “provide investors with exposure to the long term macro drivers of a rising global population, land and water supply constraints and the Brazilian agribusiness opportunity”.⁴ Sometimes the interests of European states directly align with that of its corporations. The Italian state for instance owns 30% of Italian energy giant, ENI, which is currently undertaking a new multi-billion dollar investment in the Republic of Congo to ‘develop’ 70 000 hectares of ‘unfarmed’ land for the production of agrofuels.⁵ It is thus clear that land and its natural resources have been identified by European states and corporations as a new frontier for capital accumulation.

Europe as driver: european policies

The involvement of European corporations and financial actors in the global land grab has been greatly encouraged by a host of auxiliary policies which have stimulated the demand for and profitability of land:

1. The Renewable Energy Directive (RED)

In 2009, the European Parliament adopted the Renewable Energy Directive (RED) which mandated that 20% of the energy used in the EU and 10% of each member state's transport fuel must come from renewable energy sources by 2020. This has helped tremendously to spark the current land grab, nearly exclusively in the Global South, for producing, on a large scale and largely for export, agrofuels – crops such as palm oil, sugarcane, corn and jatropha, to name a few, that are grown as a source of liquid fuel destined mainly for a huge and highly inefficient transport sector. European corporations are directly involved in the acquisition of land for agrofuels, in combination with other host governments. Brazil for instance has signed bilateral agreements for agrofuels development with Germany, Sweden, the Netherlands, Denmark, France, Italy and the UK.⁶ The prospect of a stable, long-term, lucrative European market for agrofuels is a major trigger of land grabs by domestic and regional actors in the Global South. Much of the oil palm expansion in South-East Asia for European markets is driven by Malaysian and Indonesian capital, for example in the Philippines.⁷

2. EU Investment Policy

Following the ratification of the Lisbon Treaty, the competence for foreign direct investment was centralised, subject to the EU's common commercial policy. While there is a real opportunity during the current transfer period to redress some of the serious flaws of the bilateral investment treaties (BITs) that individual member states have signed, many of the bad practices which have plagued such treaties are expected to remain in place. These include such things as 'stabilisation' clauses which are designed to immunize investors from any changes in the law of the host state (e.g. minimum wages for agricultural workers) over the duration of the investment project. Should the investor feel 'indirectly expropriated' or 'unfairly treated' as a result of policy changes in the host state such as measures aimed at supporting peasant farming, the investor has recourse to international arbitration in order to circumvent host state regulation. All in all, EU FDI policy has therefore not altered the fundamental balance of power between investors and host states in which the emphasis lies firmly on investors' interests rather obligations. Given that six EU countries are among the biggest investors in outwards FDI stock in agriculture, such an investment policy is likely to act as a stimulus to large-scale land acquisitions.⁸

3. European Trade Policy – The Case of ‘Everything But Arms’ (EBA)

Trade policies and free trade agreements can generate strong incentives for land grabbing. In 2001, the EU adopted the Everything But Arms (EBA) agreement in which imports into the EU from the world’s least developed countries would be free from any duties or restrictions – except for arms and ammunitions. While such an agreement may sound benign, it has helped to fuel global land grabbing. In Cambodia, the EBA has been a key factor in a series of land grabs carried out by Ly Yong Phat, a Cambodian businessman and senator, in order to produce sugar for export to the EU. Despite a national law limiting the size of land concessions to 10 000 hectares, Ly Yong Phat has been able to directly own or acquire interests in over 60 000 hectares of land for sugarcane production.⁹ Over 400 families have been thrown off their land even though they possess legal documents showing their entitlement to the land. It has been explicitly acknowledged by an assistant to Ly Yong Phat that in the absence of the EBA agreement, sugarcane production would not be such an attractive investment.¹⁰ However, even in the face of these clear violations of the law and human rights abuses, the EU has refused to repeal its EBA agreement with Cambodia, rejecting the notion that its sugar trade policy is in anyway related to this grabbing of land.

4. The Common Agricultural Policy (CAP)

Europe’s industrial agricultural system is becoming ever more land hungry. As the world’s largest importer of food, nearly 60% of the land used to meet Europe’s demand for agricultural and forestry products comes from outside its borders.¹¹ In 2007/08, the EU’s virtual net import of land – the amount of land required to produce one unit of a given agricultural good – was close

to 35 million hectares, almost equal to the size of Germany.¹² Rather than reduce this virtual trade in land, the EU system of farm subsidies known as the Common Agricultural Policy (CAP) promises to increase Europe’s land consumption. The latest CAP reforms introduced in October 2011 focus on strengthening the international competitiveness of European agribusiness. An essential component of this competitiveness is access to cheap raw materials, especially for the European livestock industry which imports 75% of its feedstock.¹³ The EU is the largest importer of soymeal and the second largest importer of soybeans after China, both key sources of feedstock. Most of this feedstock demand is met through importing soybeans grown on vast soy monocultures in South America, totalling an area of approximately 20 million hectares.¹⁴ The expansion of this ‘soya frontier’ has come at a high social and ecological cost as rural communities are driven off their land and precious natural habitats are destroyed. As land around the world is being grabbed to meet European food consumption habits, the opportunity for people in the Global South to enjoy an equitable share of the world’s resources is rapidly diminishing.

5. EU Land Policy – Market-based or Rights-based?

EU land policy remains somewhat undefined and uncoordinated. In 2004, the European Council and Parliament endorsed the 2004 *EU Land Policy Guidelines: Guidelines for Support to Land Policy Design and Land Policy Reform Process in Development Countries*. These guidelines contained many progressive elements and crucially recognised the fact that access to land and its resources was connected to the realisation of a number of fundamental human rights. However, even though these guidelines have been endorsed, very little recognition is afforded to them.¹⁵

Furthermore, the UK, Germany, Belgium, France and Sweden have all introduced recent land policy legislation which emphasises a more market-led approach to land reform in order to create an attractive investment climate. Whatever guidelines

may have been issued, the *de facto* land policies of EU member states further the notion that land can be brought into productive use through large-scale (foreign) investment.

Europe as context: land grabbing within Europe

Europe itself has been the target of land grabbing. In the past five years, Western European companies from Britain, Sweden, Denmark, Finland, Switzerland and France have been accumulating land in Eastern Europe, concentrating in particular on the 'Black Earth' area of Russia and the Ukraine. Foreign investors have pursued different strategies for obtaining land including purchasing land shares as in the case of the British company *Landkom* which was leasing over 100 000 hectares in the Ukraine in 2008/2009.¹⁶ Other investors acquire equity in established agro-holdings, such as the *Swedish Black Earth Farming* which bought equity within the Russian based *Agroinvest* giving it control of more than 300 000 hectares of Russian farmland.¹⁷ Whatever the strategy, the weak position of the rural population with regards to land and farm asset ownership means that the accumulation of land by foreign investors has often infringed on the rights of local landholders who may find themselves illegally dispossessed of their land. The global land grab is thus as much a concern for European citizens as it is for farming communities outside Europe.

What is the EU response to land grabbing?

The EU response to land grabbing has been mired by inconsistencies. On the one hand, key figures have voiced concern. The director general for aid and development of the European Commission stated that: "The European Union is concerned by the trend of foreign investors and countries acquiring large tracts of farmland in developing countries to guarantee their own food security... We are very concerned because this is another way to exploit developing countries ... doing it thirty years ago, this would have been a perfect example of neo-colonialism".¹⁸ On the other hand, the plausibility of such statements is undermined by the continuing EU involvement in land grabbing, both through the direct acquisition of land by EU corporations and through the host of policies which the EU continues to extend despite evidence that they are fueling land grabs around the world.

Demands on the EU concerning land grabbing

If the EU is truly committed to sustainable development, it is time for the EU to stop its involvement in the global land grab. The impact of this largely unregulated flow of investment capital on rural societies and ecologies has been disastrous. The UN Special Rapporteur on the Right to Food, Olivier de Schutter, has detailed how access to land and its resources is vital for the realisation of certain fundamental human rights enshrined in international human rights law. In order for the EU to honour its extraterritorial human rights obligations and those of its member states it must:

1. Oppose land grabbing and support the Right to Food: the EU must formulate a robust response to land grabbing. Such a response must be based on international human rights law, including the obligations of all states under the International Covenant on Economic, Social and Cultural Rights to “respect, protect and fulfil the right to food to the maximum of their available resources”.¹⁹ This includes the extra-territorial obligation of EU member states to prevent their own citizens, companies, and third parties under their jurisdiction from undermining the Right to Food of other countries. As it stands, EU member states, both collectively and individually, are still largely ignoring these obligations. Yet, as De Schutter points out, “these principles are not optional; they follow from existing human rights norms”.²⁰

2. Support the implementation of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests: after three years of discussion, the Guidelines were recently adopted in May 2012 by the 128 countries of the UN Committee on World Food Security.²¹ These Guidelines, which are the outcome of a multi-stakeholder consultation between states, intergovernmental agencies and civil society organisations, have been identified as an important first step in protecting the tenure rights of small-scale food producers and ensuring a more equitable governance of natural resources.²² The EU should thus commit itself to the successful implementation of these Guidelines. It should also however also recognise that much more still needs to be done to counter global land and water grabbing.

3. Drop its agrofuels targets under RED: given the prominent role of agrofuels in the global land grab, the EU should, as a matter of urgency, drop the RED target for agrofuels in the EU's transport sector. Instead, energy conservation and non-agrofuel renewable energy sources should be promoted. The EU should also end all support for agrofuels projects in countries that are highly dependent on food imports and which have a large number of hungry people, focussing instead on building up local, smallholder based food production.

4. Reform its investment policy from one centred on investors' interests to investors' obligations: the EU should require all bilateral investment treaties signed by EU member states to include stringent human rights clauses and include the right of the host state to develop policies in the public interest. To prevent a 'race-to-bottom' to attract foreign investment, the EU should help host countries in their investment decisions by providing model contracts which would refer to international human rights legislation.²³ Additionally, given the secrecy which surrounds many land deals, the first step to holding investors accountable is for the EU to set up a registry of all EU public and private actors involved in large-scale land acquisitions abroad. In general, future investment treaties should include clear social and environmental obligations for transnational corporations, should not include the one-sided and secretive investor-to-state dispute settlement mechanism, and protect social and environmental regulations.

5. Rethink its trade policy: in order for the EU to reduce its dependency on land outside its borders, it needs to radically rethink its patterns of production, distribution and consumption of food and energy. This should include a much greater emphasis on self-

sufficiency, especially of its animal feed. The EU should develop a clear 'protein strategy' setting out a timetable to reduce its import of animal feed, with incentives for such a reorientation outlined in the CAP. In order for the EU to stop its denial of the negative impact of its trade policies, such as in the case of the EBA agreement with Cambodia, EU trade policies should be subject to human rights impact assessments.

6. Activate the 2004 EU Land Policy Guidelines: despite their endorsement, very little attention has been paid to the 2004 EU Land Policy Guidelines and a number of states have developed parallel land policies. An integration of the 2004 Guidelines as the official land policy of all EU member states offers a real counterweight to a market based approach to land issues which has been responsible for the commodification of land underpinning the global land grab.

7. Achieve a coherent, progressive and ambitious rural development strategy: rather than buying into the 'win-win' myth that large-scale land acquisitions benefit all involved, the EU, together with civil society and peasant farmers' organisations, should put forward real alternatives to the agro-food-feed-fuel complex. Already a number of policies exist which call for such a paradigm shift. The 2010 European Commission Communication, 'An EU policy framework to assist developing countries in addressing food security challenges' for instance calls for a shift to small-scale farming and production for local/regional markets as the key to fighting hunger and rural poverty.²⁴ This is in line with international initiatives such as the 2009 IAASTD 'Agriculture at a Crossroads' report which states that 'business as usual' is no longer an option.²⁵ If sustainable rural futures are to be secured, it is time for the EU to send a forceful message by opposing the global land grab.

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The Hands off the Land project aims to raise awareness about land grabbing amongst the European public, politicians, policy makers, students and professionals. The project presents case documentation, fact sheets and thematic studies of transnational land grabs in Mali, Mozambique, Zambia, Colombia and Cambodia.

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Produced with financial support from the European Commission. The views expressed herein are those of TNI/FIAN/IGO/FDCL and not of the EC.