



## Policy Briefing paper

# Large Scale Land Investments in Sierra Leone: Opportunities and Challenges

## Green Scenery and Sierra Leone Network on the Right to Food

**Abstract:** This paper aims to map out the opportunities and challenges of large-scale land investment in Sierra Leone and makes recommendations to policy makers and donors on what measures they need to put in place to ensure that FDI benefits the nation and its people. It is based on the findings of the first ever land owners and users conference held in Freetown 2-3 April 2012.

### Introduction

In the past few years and in particular since the 2009 UK conference seeking to promote investment in Sierra Leone, there has been a sharp increase of interest by foreign investors in Sierra Leone. The extractive sector and the agricultural sector, in particular large tracts of arable land for industrial plantations, have attracted investor interest. While the two sectors could serve as good sources of revenue generation for the country, they present monumental challenges to generate revenue due in part to governance challenges in the sector and the capacity within government to design policies that will turn around a nation that depends on donor budget support to a nation thriving on its natural resource wealth. Further, there is external pressure, particularly from the World Bank Group and other government advisors, to provide investors with a range of extremely generous fiscal incentives and protection in order to compete with other investment destinations, this generous fiscal incentives and protection benefits the foreign investors and harm our country, resulting in a race to the bottom among impoverished countries on the continent.

### Government's priority

The Government's Agenda for Change, also known as PRSP 2, priorities 4 thematic areas of development for Sierra Leone for the period 2008 to 2012. These are:

- provide energy/electricity,
- develop infrastructure,
- develop human resources,
- increase agricultural productivity by promoting and supporting smallholder agriculture and promoting commercial agriculture through private sector participation.



While all of the priorities are laudable and could inch the country forward in its development aspirations, it has been observed that there is an inherent contradiction between the two stated components of the priority on agriculture in its field application - with one undermining the other and igniting proximate causes for conflict.

### **Challenges and Impact to date**

The promotion of commercial agriculture through private sector participation has attracted monumental foreign direct investments in Sierra Leone's arable land (and thus also water resources). Research findings show that at least one million hectares are already under long-term (50 years, with possible extension of 21) lease to foreign investors or are being negotiated for. The taking over of such an immense part of our sovereign territory (approximately 18 percent of the country's arable land) by foreign direct investors has started posing visible challenges at community levels; land owners and land users are expressing little knowledge of lease agreements by investors and are complaining bitterly about the hardship of losing their land and their livelihoods.

There are also worries over the impact of such investments on the country's food security. Sierra Leone is one of the countries that have gross food deficit, implying that food insecurity is high. The trend of the investments is largely for the production of raw stocks for biofuels or for commodity crops (including non-edible ones) for the global market. On the advice of consultants provided by the World Bank's private sector arm, the International Finance Corporation (IFC), oil palm and sugar cane are being promoted by the Government agency, Sierra Leone Investment and Export Promotion Agency (SLIEPA), for industrial plantations. Rubber plantations have also been added to the stock for large scale investment. The industrial plantations are largely seen as sources for infrastructural development and for labour and other related opportunities. However, after a closer examination and based on experience gained from the extractive sector, the negative impact far supersedes the benefit currently claimed.

Revenue to the state is being lost through overly generous tax holidays and other fiscal incentives and this will continue for a decade and over, to the tune of hundreds of millions of dollars. The state desperately needs revenue if only to close the budget deficit that is being supported by donor nations. This cannot be achieved by granting concessions to foreign direct investors. Adequate taxation is therefore required to raise needed revenue.

It is foolhardy to say the country will benefit if Sierra Leone exports processed products from this sector given the instance of repatriating all profit by investors to the origin of investment under this programme. Export figures will rise and very likely GDP values with it. Yet the underlying challenge is that profits will stay offshore and very little development will be shown for the growing GDP. It should be noted that many of the foreign investors are registered in

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well-known tax havens (Luxemburg, Switzerland, Mauritius, etc) so that even when their tax holidays expire and they should begin to pay corporate taxes, they can use complex transfer pricing techniques to avoid paying what is owed.

Further, some agreements (MOUs and land leases) contain extremely worrisome clauses that leave Sierra Leone and its elected government and affected population extremely disadvantaged and favour only the investors. Any disputes are to be settled not in Sierra Leone but in London, UK and stability clauses stipulate that even if a government enacts legislation that might affect the agreements in future, the agreement cannot be affected.

The plantations are designed to be industrial. This implies that their sizes will be phenomenal as is currently seen by the area of land the investors require. Furthermore, the absence of a regulation is encouraging a litany of investments largely in oil palm and sugar cane. The externalities of such industrial plantations must be studied carefully. Many studies have shown negative environmental impacts including impacts on hydrologic regimes, biodiversity and other ecological services. The overwhelming presence of monoculture is bound to destroy the country's aesthetic beauty that is naturally loved by many and rob the country of many of its diverse food and medicinal plants. There is further need of research to determine the impact of such domineering monocultures in the face of climate change.

The thorny issue of land availability is one that must be addressed. One pointer from a research commissioned by the German Ministry of Economic Cooperation and Development (BMZ) and Bank of Sierra Leone and undertaken by Joachim Bald (PhD) and Peter Schroder (PhD) indicates that little room exists for agricultural expansion given the prevailing farming practices.<sup>1</sup> It is thus imperative for the government to undertake a comprehensive assessment of the actual scale of land that is available that could potentially be used for agriculture. As a further step and for the purpose of future revenue collection a land cadastre needs to be developed. Such data is vital for development planning which particularly will involve land use planning and sustainable land management. This research will demystify claims and counter claims of available land for agricultural expansion. In addition, it will help the Government to plan better how to proportion land for food production, large scale agribusiness, and other development initiatives in the future, particularly considering that Sierra Leone has a growing population that is likely to double in 36 years.

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<sup>1</sup> Study on Rural and Agricultural Finance in Sierra Leone: Product Innovation and Financial Access, March 2011.



### Opportunities

Government's support to small holder agriculture in order to achieve national food security must not be overlooked. According to government reports agriculture is contributing to about 50% of Sierra Leone's GDP. With calculated support by Government to smallholder farmers this figure is likely to increase and measured growth will be real. Furthermore, a substantial portion of the population is being employed by the sector and this is likely to be maintained or even increase once the government improves its support to smallholder farmers.

The smallholder agriculture has much prospect and potential to achieve real growth with telling effect on poverty reduction and a gradual move towards medium range commercialization that can likely be sustained with tolerable negative impact mitigation. Models inclined to sustainability should be developed with the goal of producing enough food to meet people's needs but does this in a way that conserves natural resources and enables progress towards social equity and poverty reduction.

### Rationale for the conference

As stated earlier, there is an inherent contradiction in the field implementation of the two agricultural policies set out in the Agenda for Change. Due to the financial might and sophisticated nature of players in large scale agro-investment, huge parcels of land are taken away from small holder farmers. In some cases, all the land within communities are taken away since they fall within the concession areas of agro-investors. This dispossession has significant draw backs;

- Land to support community livelihoods, traditions and culture will be unavailable, these rights have to be guaranteed by the state
- Community and national food security will be undermined as land will no longer be available, even when available it will be insufficient to support small holder farmers to produce the required food for the nation.
- The method of acquiring land from communities has been plagued by a **lack of** transparency, inclusive participation, and free, prior and informed consent
- Payment of lease rent is ever-more confusing as there seem to be no clear measures of payment against land area owned by land owners. In some cases payment are just not received
- There is a lack of clarity on compensation for crops and how and when these should be paid
- Family land holdings are either not properly surveyed or not surveyed at all or documented. In all instances, surveys have only targeted the gross and nucleus areas.
- Communities have hardly seen any of the lease agreements or MOUs and have not been properly informed of their content



- Vulnerable groups, such as women, have been marginalized in all land acquisition processes and outcomes

The above concerns as well as similar issues highlighted in previous field research demonstrated the urgent need to bring together communities that are directly affected or likely to be affected by large scale agribusiness. This demand for a national conference of land owners and land users also became apparent when questions pertaining to what was happening in other parts of the country were frequently raised in research meetings.

### **Conference objectives**

The following were developed as the objectives of the conference.

1. Identify common issues related to large scale land investments
2. Define free, prior and informed consent in the context of the ongoing land deals
3. To understand procedure of land acquisition in communities
4. Develop an advocacy strategy to strengthen the voice of farmers at the policy level
5. Identify representatives for future work in ALLAT

The intended outcome of the conference was to develop a strategy to constructively engage policy makers on how to deal with the challenges posed by large scale land acquisition for agribusiness in the country.

### **Conference discussions**

While some seventy concerns were raised and discussed, the concerns raised in the attached communiqué were deemed to be the most urgent in need of addressing.

The participants discussed what **free, prior and informed consent** meant to them which is to say: that the SLIEPA explanation of free, prior and informed consent serves as a fitting working definition.

There are variations in land acquisition procedures depending on who is involved, where they come from and for what reason the land is being acquired. However, a common procedure stood out when land is needed in large scale and for investment purpose. Paramount in the consultation and negotiation should be the land owning families. A documented agreement for the lease with a site map/plan must be signed by heads of land owning families, their members and the Paramount chief. The content of the agreement must be thoroughly explained to land owning families in a transparent manner. Copies of the agreement must be kept at the chieftdom office for inspection and safe keeping.



### Concerns raised at the Conference

A number of concerns were raised among which the major concerns were:

1. there is a glaring absence of free, prior and informed consent in all the communities, and there is no transparency in the land deals;
2. consultations on land acquisitions are poor, excluding women and other stakeholders;
3. there are no binding regulations for large scale agro-investments and monitoring mechanisms in place;
4. there is no national watchdog body to monitor large scale land deals and industrial investments in agriculture;
5. there is no effective environmental management of land, water and vegetation in lease areas to prevent destruction of resources, water sources, native herbs and wildlife and to protect the livelihoods of those that depend on these;
6. community understanding of negotiating for large scale land deals is weak or non-existent and farmers have no access to independent legal representation to help them negotiate for their own interests, and to ensure fair compensation and content in the agreements;
7. traditional leaders, especially paramount chiefs, are serving as poor gatekeepers and some prevent direct community negotiations with the investors;
8. women that have lost their land and thus their livelihoods have no viable or safe alternative livelihood, and thus are the most vulnerable;
9. the investors do not provide relevant assistance and support to affected communities.

### Conference Recommendations

General recommendations for Government, its agencies, and partners:

1. in the absence of free, prior and informed consent in all the communities, we call for a review of all the agreements relating to the land investments, and education of all stakeholders of the content of all the agreements;
2. there must be full involvement of all stakeholders in the communities in all the consultations and negotiations on land deals, especially women;
3. a system of monitoring mechanisms must be put in place, and the government should establish regulations to safeguard rural populations in the face of large scale land acquisitions and industrial plantations;
4. appropriate environmental management systems must be put in place to protect land, water and vegetation in lease areas to prevent destruction of these resources, to protect the livelihoods of those that depend on these;



5. support is needed to help communities build their capacity in negotiation for compensation and content of the agreements, and they should be provided with independent legal counsel;
6. traditional rulers, especially paramount chiefs, should allow the full participation of their constituents, especially land owners and users, in the consultation and negotiation processes;
7. women that are affected by loss of their farmland and thus their livelihoods must be provided with safe and healthy alternative livelihoods;
8. the land investors should provide relevant assistance and support to affected communities;
9. land investment for agro-business should be designed to increase food security, not decrease it.

#### **Stakeholders to act on recommendations:**

##### **Office of the Chief of Staff**

- Develop regulations that will protect rural populations against large scale land acquisition for industrial plantations. Such regulations will have inbuilt guidelines common to all MDAs associated with large scale land acquisition for agribusiness. It should also include a provision for a grievance mechanism to be established in the location where the large scale agribusiness is undertaken
- Develop a robust monitoring mechanism with a fairly simple implementation plan and allow for a combined ministerial monitoring team
- Establish a protocol for inter-ministerial and inter-agency coordination on the issues of land acquisition for agribusiness
- A single entry point for investors in agribusiness must be established
- Put a hold on ongoing land acquisition and engender a study on land availability

##### **Ministry of Trade**

- To ensure that potential investors are orientated on the process of large scale land acquisitions for agribusiness
- Serve as one of the agencies in the monitoring team for laws, policies and regulations on large scale agribusiness

##### **Ministry of Agriculture, Forestry and Food Security**

- Be part of a land cadastre team to lend support to the formulation of land use planning and sustainable land management
- Stress support for small holder agriculture as a means to national food security
- Lend support to the study on arable land availability
- Serve in the monitoring team to check conformity to guidelines and regulations



### **Ministry Land Country Planning and Environment**

- Invest in land availability survey
- Invest in land cadastre system
- Support proper surveys and documentation of the various kinds of land; family holdings, community holdings and individual holdings
- Commission the study on the quantum of available arable land in Sierra Leone
- Implement strict procedures for the acquisition of ESHIA licences by current and future investors
- Demand annual environmental, health and social impact assessment

### **International Partners including International Finance Corporations**

- Support the government of Sierra Leone to commission a study on available land in Sierra Leone and a land cadastre system
- Demand from established investors survey maps of individual family land holdings as well as community land and request that those maps be made available in communities
- Demand from ongoing operations thorough annual environmental, health and social impact reports
- Demand thorough Environmental Social and Health Impact Assessment (ESHIA) study in line with international standards from those investors seeking insurance and or loans for their investments
- Emphasize mandatory best practices and due diligence in every aspect of the operations of the investors

### **Non Governmental Organisations**

- Give capacity building support to communities affected by large scale land acquisition for agribusiness
- Start independent monitoring of the investors in the sector
- Hold to account all stakeholders in the sector responsible for policy and planning including at local level
- Continue research work to unravel the issues and engender a process of understanding the problems in the field
- Start a watchdog body that will advocate on land issues in the country.