LEGEND
Land: Enhancing Governance for Economic Development

INVESTING RESPONSIBLY IN AGRICULTURAL LAND

THEMATIC CASE STUDIES FROM RESPONSIBLE LAND INVESTMENT PILOTS IN SUB-SAHARAN AFRICA

Thematic Case Study 3:

Reducing concession size, adjusting business plans and developing more inclusive business models

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March 2020

Introduction

This paper is one of three thematic case studies resulting from a set of pilot projects undertaken jointly by civil society and private business partners from 2016–2019 in five countries in sub-Saharan Africa. These pilots sought to test how private companies could collaborate with civil society organisations and other stakeholders to implement responsible agribusiness investments that recognise and respect community land rights, and to develop innovative tools and approaches that could be adopted and implemented at greater scale. Primarily based on learning generated by projects supported by LEGEND (Land: Enhancing Governance for Economic Development), a programme of the UK's Department for International Development (DFID), the case studies provide further detail on some of the key lessons from the pilots set out in a full LEGEND **Report** and summary **Briefing Note**.

This case study focuses on adjustments to investment plans and more inclusive approaches to business, that engage local communities and small-scale farmers that were adopted by the companies involved in pilot projects.

In the LEGEND pilot projects, companies addressed the weaknesses and risks inherent in acquiring large-scale land concessions from Government (Case Study 1) and recognised the need to respect and support the mapping and documentation of legitimate land rights (Case Study 2); they also found that they needed to change and adapt their original business plans. This becomes necessary for land investments to accommodate local people's land rights and to adopt more inclusive approaches to doing business in which small farmers can make greater contributions to production by working on their own land. This third case study compiles examples and information from pilot projects and wider assessments of good practice in land-based investment to explain another key lesson: that **companies must give proper consideration to land rights issues, meaning that they must be ready to reduce concession sizes, adjust pre-conceived business plans and consider opportunities to develop more inclusive businesses that do not require land acquisition**.

This lesson is illustrated by changes in business plans made by two companies, forestry investor Portucel Mozambique, and oil palm producer Natural Habitats Sierra Leone, to accommodate the legitimate land rights of local communities in developing more responsible approaches to planned long-term, large-scale investments in collaboration with LEGEND partners and other stakeholders.

The case study also considers examples of more inclusive business practices that could be adapted by companies in different contexts to enable local communities to contribute a greater share of production and gain a greater share of benefits through retaining land under their own direct control, and reducing the need for large-scale land acquisitions.

BOX 1 KEY FINDINGS ON CHANGES TO BUSINESS PLANS AND OPERATING MODELS IN RESPONSIBLE LAND INVESTMENT PILOT PROJECTS

- In order to resolve land conflicts with host communities, several companies participating in the LEGEND Challenge Fund found they had to make major changes to large-scale investment projects, including less ambitious plans to expand plantations, reductions in overall concession sizes, and reaching specific agreements with landowners and users directly affected, not only with chiefs and local leaders.
- By re-designing investment projects to accommodate local land rights, companies have been able to introduce more inclusive business models with transparent negotiation of terms, fairer distribution of benefits from land released by communities, and efforts to increase production on farmers' own land.
- By partnering with civil society organisations (CSOs) with relevant skills and knowledge of local communities' land tenure and land use systems, companies establishing large-scale plantations have been able to reshape relationships with local communities, adjusting overall business plans to accommodate their tenure rights, and introduce more inclusive approaches.
- In other contexts, innovative small- to medium-scale investment partnerships with civil society organisations have helped companies to establish inclusive production systems and businesses that directly engage local communities and small-scale farm producers without requiring transfer of their land. This has been done in a variety of established commodity sectors and new value chains for natural products.
- Moving the idea of responsible land investment from theory to practice remains a work-in-progress, and involves making changes to operating models and procedures to enable the creation of genuine shared value, in which companies are likely to need continued support and collaboration from impact investors, civil society and independent professional experts.

In discussing the outcomes of the pilot projects, this case study also draws on analysis by the LEGEND programme on the opportunities for agribusiness to become more socially and economically inclusive, including the importance of fair and effective land governance in agricultural development and investment processes, summarised in Box 2.

BOX 2 LAND GOVERNANCE AND INCLUSIVE BUSINESS IN AGRICULTURE – ADVANCING THE DEBATE

LEGEND research has identified a variety of actions that companies can take to increase the social and economic inclusion of local communities in agribusiness ventures, in order to follow through on sustainability and human rights commitments. These include:

- strengthening voice and representation of small producers
- ensuring equitable contracts and terms of engagement
- increased employment creation and respect for labour rights
- supporting local food security
- ensuring community tenure rights and fair and transparent negotiations for land access.

Rather than seeking to apply a pre-determined business model to every situation, companies can work within the constraints and opportunities presented by existing value chains, which are substantially determined by the characteristics of the crops themselves and the ways in which they can be transported, stored and processed to meet the industry, market and consumer requirements.

Although the structure of industrial supply chains may tend to exclude small-scale producers, there are various improvements companies should make to promote greater farmer participation on the ground. There may be opportunities to work with different commodity sectors to improve small farmers' access and participation, and to develop more direct trading arrangements between inclusive farm enterprises, buyers and distributors.

(Source: LEGEND (2018) Land governance and inclusive business in Agriculture: advancing the debate, by Laura German et al)

Adjustment of large-scale investment plans in LEGEND pilots

To adjust their business plans and move towards more inclusive partnerships with local communities, two major companies participating in LEGEND's pilot projects needed to **adopt new modes of consultation and negotiation to gain community consent** for continuing investment plans through fair and open negotiations with local communities Civil society partners needed to **provide legal support and assistance to community-based organisations** to create a level playing field for negotiation and address community grievance and complaints for loss of access to land and natural resources. At the same time, the companies needed to strengthen internal procedures to mainstream land as a central environmental, social and governance (ESG) risk and to **connect ethical commitments in company policy to improved operational practices** in working with local communities and accessing land.

Portucel's foresty investment in central Mozambique

As a result of difficulties in acquiring land for development within its large concessions, **Portucel's foresty investment in central Mozambique** made significant adjustments to its original business plans and overall approach. Delays in the construction of rail and port infrastructure also made it necessary to support its original long-term objective of supplying European markets with bulk exports of eucalyptus pulp for paper, as described in Case study No. 1.

Portucel had improved its approach to land acquisition for forestry plantations, previously based on cursory consultation with community leaders, in response to IFC requirements when it provided additional finance for the investment. Nevertheless, by the end of 2017, after 3 years of operation, Portucel had planted only 4% of its total concession area, in a patchwork of small plantation blocks established on land that local communities had been persuaded to release, but also faced widespread community discontent as it became clear that the forestry investment would provide only limited employment for local people.

As the LEGEND project got underway, Portucel made significant adjustments in its business plans and operating procedures to adopt a more inclusive overall approach. These include:

- Suspending acquisition of new land for planting, pending full documentation of land rights and community readiness to negotiate the release of land – in effect adopting an approach based on Free, Prior, Informed Consent (FPIC).
- Negotiating for access to land only with clearly identified community groups and households that consider they have sufficient unused land to release, ensuring that each household can maintain at least 2.9 hectares (ha) of cropland for food production, and respecting decisions of all those choosing not to release land for tree plantations.
- Reframing its plans in public documents and company presentations as investment in a sustainable agro-forestry landscape mosaic, with support for alternative crops and income-generating projects, in addition to development of smaller-scale eucalyptus plantation blocks.
- Concentrating on the first phase of the investment to focus on production of woodchips for European energy markets and poles for national construction sector markets, to be produced in a mix of small-scale company and community-managed plantation blocks and by out-growers.
- Introducing a sustainable development programme, as part of its overall corporate social responsibility (CSR) scheme and doubling its initial investment of US$5 million. This included agricultural extension support, improved seeds, wells and grain stores reaching approximately 6,000 families.
- Investigating options for the development of out-grower schemes with individual farmers and small-scale woodlots managed by community members and potential contractual mechanisms.

Through the LEGEND pilot project, the civil society partners, ORAM and Terra Firma, undertook a training programme to prepare and build the capacity of local community leaders and village Land Associations that were established to strengthen local land rights management on a community basis and to enable them to negotiate acceptable terms for release of land to the company and for out-grower contracts for tree production by local farmers.

Portucel also faced difficulties with its overall operating environment that compounded the risks to its original investment plans. As well as facing difficulties in meeting planting and wood production targets to justify investment in the pulp mill, this also required construction of new rail transport infrastructure and a new deep-water port to enable bulk exports of eucalyptus pulp. From 2017–2019, Mozambique faced a deepening debt crisis and government had difficulties obtaining the necessary loans, leading to a delay in plans to develop the mill and obliging Portucel to focus on less ambitious plans and planting targets.

Communities have proactively sought direct negotiations with Portucel to embark on partnership projects, potential out-grower schemes and jointly managed forestry planting, and the LEGEND project prepared them for this. The company has signalled its intention to respond and project partners anticipate negotiations to establish out-grower and community-based planting and production systems and partnership arrangements, although doing so is unlikely to be straightforward, with various challenges involved.

For out-growers to contribute timber at scale, farmers would need to use land previously dedicated to food or annual crops, and mechanisms would be needed to provide them with regular farm income to help meet food and other household needs during the 5–7 years required for eucalyptus to yield sufficient wood for sale. Another challenge in Mozambique is that, unlike some other African countries, all land is formally the property of the state and the law does not allow communities or individuals to gain financially from land transactions. This means that they cannot sell or lease surplus land to the company, and that in order to establish further plantation blocks alternative partnership arrangements with village communities and the farm households contributing land will be needed. This means that, as well as entering into out-grower contracts with large numbers of dispersed farmers to produce trees, the company would need to negotiate satisfactory benefits in kind, or some sort of joint enterprise arrangement, for communities or neighbouring groups of households if they are to provide enough land for Portucel to meet its production targets.

Although Portucel offers to support community development projects and to improve water supply and healthcare facilities, a principle hope of local people has been for job-creation, and so without this, it may be difficult for village communities to reach agreement on releasing more land for forestry. On the other hand, IFC and USAID have also invested in piloting development of small-scale dams with associated irrigation schemes within Portucel's land concessions, to enable improved year-round production of annual crops and seasonal vegetables for home consumption and regional markets, while reducing pressure on land for rainfed farming. In communities that have accepted these proposals, support to develop more intensive production systems on re-organised irrigated landholdings arrangements may provide a solution that enables larger land areas to be devoted to forestry. This is part of the extended mosaic of diversified land uses that Portucel now hopes to create.

- **Portucel's presentation at a closing project workshop** held in Maputo in September 2019 describes the company's current approaches and overall vision (currently only available in Portuguese).

Oil palm investor Natural Habitats Sierra Leone (NHSL)

Natural Habitats Group's plans to develop its oil palm plantation in eastern Sierra Leone have also changed to accommodate local people's land rights. In this case, as a result of the company's collaboration with Solidaridad, it has adapted to the demands of host communities to reduce the concession size and renegotiate land leases on fairer terms.

As described in **Case Study 1**, an original concession to the entire Makpele Chiefdom in Pajehun District, an area of over 40,000 ha, had been granted hastily to a previous investor by the Paramount Chief and Chiefdom Council, under pressure from government and local politicians. This original concession was part of a public-private scheme for economic reconstruction and employment creation following the end of Sierra Leone's civil war, but its approval did not involve any meaningful community consultation or consent. When NHSL acquired the concession, its original plan was to create a large nucleus estate for organic oil palm production for premium European markets. Significant disputes had developed concerning land that had been acquired by the company but which had not yet been planted. These included unpaid land rents, land users not properly compensated for field and tree crops they had lost, and escalating tensions between a landowner organisation willing to release land to the company and another seeking to prevent it. This threatened social stability over a wide area that had previously been a focus of armed conflict.

As a result of the LEGEND project, which facilitated extensive consultation through a multi-stakeholder platform and participatory mapping of the area to identify which land areas land-holding families were actually prepared to release, the company eventually established a consensual solution with rival land owner organisations and the full range of community stakeholder groups, including women and youth from the different villages. The new elected government that took power in 2018 announced its intention to legislate for implementation of the country's new Land Policy that limited commercial land concessions to 5000 ha, whereas previously, much larger concessions had been allowed and encouraged.

In November 2018, NHSL signed a new lease for a vastly reduced oil palm plantation area of less than 10% of the area the company had originally hoped to develop. Although 3,302 ha were mapped and acquired by NHSL under the new land lease, of this only 2,320 ha is to be planted as these areas also contained HCV (High Conservation Value) and HCS (High Carbon Stock) areas which need to be conserved under RSPO (Roundtable on Sustainable Palm Oil) New Planting Procedures (NPPs) which need to be followed for the produce to receive RSPO certification. 28,380 ha were returned to the community. The new agreement met all parties' needs, and involved fair rent revenues for landholders ($12.5 per developed ha, as opposed to an initial $2.5), provisions to expand an intended out-grower scheme, so that farmers could acquire a larger volume of palm nuts produced on farmers' own land. The land-owning families and village communities that agreed to supply land also negotiated access to a 5% share of the company's annual profit, and the company agreed to prioritise local labour for employment, and to expand investment in additional projects in community food security and livelihoods.

As a result of the collaboration with Solidaridad, NHSL's process of adaptation achieved through collaboration with Solidaridad has several features of relevance to other companies and cases:

Although NHSL wanted to take a responsible approach from the start, this was not immediately reflected in operational practice on the ground: expectations of being able to develop a very large oil palm plantation were high, and field staff were unsure what company policies actually required. Solidaridad found they needed to engage actively with NHSL at both headquarters and field project levels to help reach a solution and considerable learning has taken place.

- Solidaridad's **learning story on the reduction of the NHSL concession size** explains the challenges involved
- NHSL's own summary of project accomplishments and lessons is available **here**.
- For further insights into the evolution of company perspectives, policies and practice during the project, see **the compilation of internal NHSL reports** that the company kindly released.

The new approach to community partnership remains at an early stage and the company will need to maintain and extend the initiatives begun and agreed upon during the pilot project:

- NHSL had begun to support community food production, based on experience elsewhere in West Africa following a participatory needs assessment, and Solidaridad introduced a series of new initiatives which proved to be important ingredients in reaching consensus. These included setting aside land for food production, which is proportional to community needs, training farmer groups in good agricultural practices, and providing of seeds and tools for groundnut, rice and cassava production.
- Solidaridad launched an awareness campaign around the role of women in food production and the importance of secure land rights for women in the surrounding villages. This campaign promoted women's participation in community discussions about the release of land to NHSL and led to the formation of women's groups and their active engagement in the multi-stakeholder platform established for negotiations with the company.

- Solidaridad initiated village savings and loans associations (VSLAs) in each village, which were made up of approximately 80% women. The VSLAs were given training on the importance of gender issues in the household, sexual and reproductive health, home economics and basic business management.
- NHSL is now looking to expand oil palm production by working with out-growers farming on their own land, to increase overall production without expanding the plantation itself, and provide additional opportunities for local people. Towards the end of the pilot project, NHSL began discussions about a possible merger with GoldTree, another oil palm producer in Sierra Leone with greater experience of managing out-grower operations.
- For a full account of the changes made as a result of the project, see **Solidaridad's brochure on: accomplishments and lessons from the LEGEND project**.

The scope for more inclusive business models

In addition to the changes and adjustments made in large-scale agri-investments, a variety of examples of alternative community-based business models have been promoted and assessed by other RLI pilot projects. Although these are mainly small-scale initiatives pioneered by NGOs and local business partners, others have emerged from communities' own initiatives to gain support from private-sector agribusiness and from public investors.

The approaches developed are still a work-in-progress, but present new opportunities for investors and agri-entrepreneurs to achieve scale without requiring large-scale land acquisitions or removing land from farmers' and communities' control. Key to this approach is allowing farmers and communities to shape arrangements for sharing land, benefits and profits, and for land resource planning through internal discussion and negotiation with the business partners. Because of the time required to establish the foundations for robust partnerships and sustainable returns, and for perennial crops and farm yields generally to mature, these types of arrangements need to be underpinned by sources of 'patient' capital that include development finance institutions, philanthropic and 'impact' investors. Examples of these types of approaches include:

- The **Phata cooperative scheme in Malawi** illustrates how investors and private-sector farm business managers can support a community-based enterprise – in this case a growers' cooperative supplying Illovo Sugar, where members have pooled customary land holdings for irrigated sugar production, sharing 60% of the profits, gaining regular employment and reserving land for food production.
- The NGO Welthungerhilfe (WHH) has experimented in developing 'cocoa production clusters' in Sierra Leone, envisaged as joint enterprises with village communities. In this approach, customary landowners contribute land areas clustered together geographically to establish village-based social enterprise partnerships with a cocoa growing and trading company. The land-owning families will receive land rents and revenue shares from the business in return for providing land while also creating employment for community members trained in improved cocoa production and land management techniques. A **WHH research report** discusses existing cocoa block farming models in Sierra Leone and the opportunities to further develop these into sustainable community-based enterprises producing high-quality cocoa for export into European niche markets, which was the eventual aim of the project that WHH initiated.
- In an example from the growing natural products commodity sector, Baobab Products Mozambique combines work with 20 women's harvester groups, integrating them into global value chains for natural products and services, with mapping and registration of village land and natural resource rights for 20 communities, participatory land use planning and formulation of local bylaws to ease pressure on land resources.
- Micaia's reflection paper, **Innovations and inclusive business in baobab value chains**, explains this case.
- Another Micaia paper, **Changes in household and gender dynamics resulting from baobab business development**, assesses the benefits for women's economic and social empowerment, increasing household welfare and changes in behaviour amongst otherwise poor and marginalised people in a drought prone resource poor region of central Mozambique.

In other initiatives assisted by the UK-supported **Partnerships for Forests programme** (P4F), agribusiness and forestry companies were challenged to devise investment plans that reconcile economic uses and environmental protection of tropical forest environments. P4F has piloted diversified investment projects that place local communities at the centre, and developed bankable longer-term investment proposals. These aim not only to generate employment but also to support community businesses based on sustainable forest utilisation, complementing the principle business investment, contributing to local economic development at greater scale while stabilising and improving forest land use.

Agri-trading company **Touton** established a Licensed Buying Company (LBC) in Ghana to **offtake and market smallholder cocoa** through national channels and gain better control of the value chain. Touton aims to invest in increasing cocoa productivity by assisting 60,000 small-scale producers to farm in environmentally responsible ways and to improve their livelihoods. **Touton's collaboration with the P4F programme** has put incentives in place for local communities and cocoa farmers to sustain this model over time, by assuring landowners of returns from rehabilitation of cocoa trees and assisting farmers to obtain land rights documentation by helping to resolve disputes between landowners and migrant farmers. Touton has also established **Rural Services Centres** as platforms for community members to access employment opportunities, training, financial services and technical support. Here and at other project locations in Ghana, P4F has introduced landscape management boards, engaging chiefs, landowners, local government, community groups and other stakeholders in sustainable land use planning, forest conservation efforts and resolution of land tenure problems.

Miro Forestry adopts a similar approach to forestry in Ghana, working with P4F to establish benefit sharing from timber production on land released by land-owning families. Miro also works to reduce pressure on forest resources by strengthening farmers' land rights and improving management, and to build a **sustainable community-based charcoal business**. Miro Forestry's approach shows how well-planned, effective community engagement, working with community members from the bottom up, builds durable positive relations, avoids land conflict and maintains stable and profitable businesses with good prospects of sustainability.

Miro Forestry has also established a **timber plantation in Sierra Leone** working in direct collaboration with local landholders with investment from UK development finance institution CDC. This has involved extensive consultations at village level and participatory mapping to identify and reach a consensus on land to be made available for new tree planting, before a lease could be signed. Landholding families received 80% rental value and additional income for each hectare developed. The project has delivered benefits for local people, including the creation of over 600 jobs, access to education and the establishment of community boreholes. As part of its collaborative approach, Miro Forestry plans to devote 5% of its own revenues to funding community-led development projects.

Conclusions

- **Companies participating in the LEGEND Challenge Fund had to make major changes to large-scale investment projects in order to address land conflicts stemming from the sheer scale of concessions granted by government and poor community engagement.** These changes included making reductions in overall concession size, settling for less ambitious plans to expand plantations, and reaching specific agreements with landowners and users directly affected, not only with chiefs and local leaders. By committing to recognition of legitimate land rights and direct negotiations with rights holders, the companies made incremental improvements in business plans that had suffered from weak initial due diligence and a lack of field-based risk assessment and consultation with land users at the investment planning stage.
- **By re-designing investment projects to accommodate local land rights, companies have been able to introduce more inclusive business models with transparent negotiation of terms, fairer distribution of benefits from land released by communities, and efforts to increase production on farmers' own land.** Company decisions to reduce plantation sizes, adopt more realistic production targets and work in closer partnership with local communities create a basis for more sustainable productive operations and supply chains. They are also better aligned with globally agreed ethical and human rights standards, namely the 'Voluntary Guidelines on the Responsible Governance of Tenure' (VGGT) and the World Community on Food Security's 'Responsible Investment in Agriculture and Food Systems' (CFS-RAI).
- **By partnering with CSOs with relevant skills and knowledge of local communities' land tenure and land use systems, companies establishing large-scale plantations have been able to reshape relationships with local communities,** while also adjusting overall business plans and introducing new business models to become more inclusive.
- **In other contexts, innovative small- to medium-scale investment partnerships with CSOs have helped companies to establish inclusive production systems and businesses that directly engage local communities and small-scale farm producers without requiring transfer of their land.** A variety of small- to medium-scale investments in established commodity sectors, community-based enterprises and new value chains for natural products that generally requiring illustrate the potential for investors to generate sustainable returns by supporting development of community-based businesses at greater scale, without acquiring land. This approach can also help to restore and manage more marginal environments as sustainable sources of natural produce and landscape services such as watershed protection and carbon capture.
- **Moving the idea of responsible land investment from theory to practice remains a work-in-progress and involves making changes to operating models and procedures to enable creation of genuine shared value.** Companies are likely to need continued support and collaboration from impact investors, civil society, and independent professional experts to take initiatives to greater scale and achieve success in the long term, including for inclusive out-grower schemes, contract farming arrangements, community business partnerships and benefit sharing arrangements.

This case study is one of a series of three exploring lessons on cross-cutting issues in agricultural land investments derived from a set of pilot projects undertaken jointly by civil society and private business partners from 2016–2019, in five countries in sub-Saharan Africa: Ghana, Malawi, Mozambique, Sierra Leone and Tanzania. The case studies are based primarily on the results and findings of seven pilot projects supported by the LEGEND (Land: Enhancing Governance for Economic Development) programme of the UK's Department for International Development (DFID). Pilot projects supported by USAID and by the UK's P4F (Partnerships for Forests) have also provided relevant information and learning.

LEGEND aims to improve the security and protection of land rights while also promoting more responsible land-based investment by the private sector in priority countries by mobilising knowledge and skills to strengthen policy and practice, and by promoting innovation in land governance.

The pilot projects sought to test how private companies could collaborate with civil society organisations (CSOs) and other stakeholders to implement responsible agribusiness investments that recognise and respect community land rights, and to develop innovative tools and approaches that could be adopted and implemented at greater scale.

The lessons and practical outcomes of the pilots complement the findings and conclusions of recent research and analysis on land governance and agricultural investment undertaken by LEGEND. The case studies present practical project experiences and lessons learned of how the projects addressed particular issues and challenges to ensure that the agribusiness investments involved recognised and respected legitimate community land rights and laid a basis for sustainable partnerships and benefit-sharing arrangements between private business and host communities.

The case studies cover three topics of interest to practitioners, professionals and researchers, in the public and private sectors and civil society concerned with responsible land governance and agricultural investment in developing countries: Due Diligence of land based investments; Mapping and documentation of legitimate land rights, and; Shifts in business plans and models to becomes more inclusive.

LEGEND publications aim to initiate and stimulate debate, research, analysis and action on current issues in global land governance, by drawing together and assessing evidence and understanding on questions of emerging relevance and making recommendations for policy, development programming and stakeholder practice.

This publication has been funded by UK aid from the UK Government. The views presented in this paper are those of the authors, reflecting work undertaken by the DFID core land support team and LEGEND partners but they do not necessarily represent the views of DFID.

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Page 1: Planting cocoa seedlings at an agribusiness development project in Sierra Leone. Photo: J Quan | Sugar cane plantation. Photo: Florent Rols | De-husking baobab fruit to extract the flour in Guro, Mozambique. Photo: J Quan