



Fuel for thought

Addressing the social impacts of EU biofuels policies

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Report written by Anders Dahlbeck

Contributions by Tim Rice (especially on food rights chapter, 2008 baseline chapter and Tanzania chapter), Sylvain Aubry (especially on human rights obligations chapter), ActionAid Denmark/ Sara Jespersen (Guatemala chapter) and ActionAid Kenya/David Barisa (Kenya chapter).

Special thanks to Antoine Bouhey (PSO), Clare Coffey (ActionAid UK), Barbara van Paassen (ActionAid Netherlands), Roberto Sensi (ActionAid Italy), Lizzie Gerrard (ActionAid UK), Kirsten Sorensen (ActionAid Denmark), Laura Sullivan (ActionAid International) and Soren Ambrose (ActionAid International)

Cover Image: Halima Weli, resident of Palaka, with her grandsons Adam Rashidi and Riziki Mwalimu and granddaughter Sabrna Mwalimu. Weli has lost land to the Sun Biofuels Kisarawe plantation.

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Fuel for thought - Addressing the social impacts of EU biofuels policies

01

In recent years, communities supported by ActionAid and its partners from around the world have suffered the negative impacts of industrial biofuels production projects and policies. While ActionAid has been working with these communities on the ground, we have also conducted research on the global impacts of biofuel production and consumption on the human rights of poor and marginalised communities. Globally, it is estimated that biofuels have been involved in at least 50 million hectares being grabbed from rural communities, and participated significantly in the 2008 food crisis.

In 2009, the European Union (EU) adopted the Renewable Energy Directive (RED)¹ with the aim of reducing European greenhouse gas (GHG) emissions. The RED requires renewable energy sources to constitute 10% of the final consumption of energy for transport in each EU member state by 2020.² In 2010, member states submitted action plans outlining how they would meet this 10% target. It became clear that over 88% of the 10% target is to be met through so-called first generation biofuels.³ This means that the 10% target for renewable energy in transport by 2020 is for all intents and purposes a first generation biofuels target.⁴

This report will examine the effects of European biofuels policies on global and local food security and food rights, land rights, climate change, labour rights and women's rights. It will do so by referring both to independent modelling analyses of how food rights and land rights have been affected by European biofuels policies, and through field research which show the effects of European biofuels policies on a wide range of other development issues. The report will also situate the debate on the social effects of European biofuels policies within a legal and European policy context and provide recommendations for how the European Union and its member states can take the necessary steps to ensure that European biofuels policies do not have detrimental social and development effects in the global south.

¹ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (hereinafter 'RED'), OJ L 140, 5.6.2009, p. 16.

² Article 3(4) RED.

³ First generation biofuels are made primarily from food crops such as wheat, maize, corn etc or vegetable oils such as rape seed oil.

⁴ Because the 10% renewable in transport energy target is in effect a biofuels target, 'renewable energy policy' and 'biofuels policy' will be used inter-changeably throughout the report always meaning the EU's Renewable Energy Directive and refer to the target for the transport sector within that.

02

EU reporting obligations on issues of social sustainability

Article 17 of the RED outlines environmental sustainability criteria that biofuels need to meet to count towards the 10% renewable energy in transport energy, thereby clearly recognising some of the environmental perils of biofuels production at the scale needed to meet the new EU targets.⁵

However, no binding social criteria – which could be defined to ensure that only biofuels that do not have negative social impacts are used in the EU – are set out in the RED. Instead, the European Commission (EC) is merely required to report on the social sustainability of its biofuels policies based on the effects/damages that have already taken place.⁶ According to articles 17⁷ and 23 of the RED, the Commission will have to submit a report to the European Parliament and the Council in 2012, and then every two years after that. Also, in 2014, the EC will have to present a report reviewing a number of key elements of the RED, notably the 10% transport target contained in Article 3(4), and submit appropriate proposals in accordance with the report's findings.

Specifically, in 2012 the EC is required to report on the following (emphasis added):

The Commission shall, every two years, report to the European Parliament and the Council on the *impact on social sustainability* in the [Union] and in third countries of increased demand for biofuel, on the impact of [EU] biofuel policy *on the availability of foodstuffs at affordable prices, in particular for people living in developing countries, and wider development issues. Reports shall address the respect of land-use rights.* They shall state, both for third countries and Member States that are a significant source of raw material for biofuel consumed within the [Union], *whether the country has ratified and implemented each of the following Conventions of the International Labour Organisation [...]*

ActionAid welcomes that the EU is required to look at key issues such as the effects of European biofuels policies on food security and land rights globally. It is also important that the EU also has a mandate to address what it calls 'wider development issues'. Among these, the effect of European biofuels policies on climate change, women's rights and labour rights would seem particularly pertinent to review.

⁵ These environmental sustainability criteria include GHG emissions savings to be attained as well as criteria intended to protect against the conversion of land with high biodiversity or carbon stock.

⁶ Articles 17(7) and 23 of the RED. An example of how the Commission assumes its reporting obligation is provided for following Article 4(2) of Directive 2003/30/EC on the promotion of the use of biofuels or other renewable fuels for transport. In 2006, the Commission released a Biofuels Progress Report⁶ assessing the progress made under that directive and evaluating certain specific issues. See Communication from the Commission to the Council and the European Parliament, *Biofuels Progress Report - Report on the progress made in the use of biofuels and other renewable fuels in the Member States of the European Union*, COM/2006/0845 final (reporting pursuant to Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport, OJ L 123, 17.5.2003, p. 42).

⁷ Article 17(7) of the RED

It is crucial that the European Commission comprehensively reports on all of these issues for a number of reasons. Extensive research and consultations with poor and marginalised communities in developing countries have highlighted the negative impacts of large scale industrial biofuels production. In this report, ActionAid also outlines three specific cases of how biofuels production has already had negative effects on development and human rights in developing countries.

Women around the world are more likely to live in poverty than men – just because they are women. ActionAid believes that the best way to end poverty is to strengthen women in their own struggles, helping them to unleash their own potential to change the world. Considering this but also the EU's own development policies and the international human rights framework that EU member states are party to, the impact of biofuels policies⁸ on women around the world merit proper scrutiny and inclusion in this report.

The EU already has legal obligations to ensure that its policies do not have negative effects on development in countries outside of the EU. Article 208 of the Lisbon Treaty states that: 'Union development co-operation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development co-operation in the policies that it implements which are likely to affect developing countries.'⁹ This means that, as a minimum, the EU must not undermine the work that it is doing with its development policies with policies in other areas such as energy. EU policies, both external and internal, must be coherent with development objectives.

Additionally, the Lisbon Treaty requires all EU policies to respect the rights laid out in the Fundamental Rights Charter, and international treaties such as the International Covenant on Economic, Social and Cultural Rights impose clear obligations upon the EU and its member states to guarantee human rights such as the right to food or the right to water.

Given this, it is paramount that the RED report that the EC will submit to the European Parliament and the European Council in 2012 gives a full and accurate picture of the effects of the European biofuels has already had on the issues that the EC is mandated under article 17(7) to look at, including food security and land rights. Unfortunately, the baseline study for the 2012 report, which bases itself on data available from 2008¹⁰, has some fundamental flaws, indicating a lack of available capacity, resources or political will to provide an accurate picture of the impacts.

ActionAid is also concerned by the scope of the 2012 report, as it will be based on data available on biofuels consumed in the EU in 2009 and 2010. This means that it will not look at biofuels consumed in 2011 and 2012, and maybe more importantly, it will not look at biofuels production which is planned or has started as a result of the projected demand for biofuels created by the Renewable Energy Directive. This means that large amounts of *de facto* land grabs in developing countries, where land has been bought or leased, the land cleared and local communities have been forced off the land, will not be covered by the EC's report unless the biofuels produced reached European consumers by 2010.

⁸ See e.g. European Development Consensus http://ec.europa.eu/development/icenter/repository/european_consensus_2005_en.pdf

⁹ Article 208, Treaty of Lisbon, see http://europa.eu/lisbon_treaty/full_text/index_en.htm

¹⁰ See http://ec.europa.eu/energy/renewables/studies/doc/biofuels/2011_biofuels_baseline_2008.pdf

Similarly, the fact that local food security and the right to food will be jeopardised in many places as a result of local agricultural land being diverted to biofuels production rather than food production will not be examined unless the biofuels reached the EU in 2009 and 2010. Numerous cases of sub-standard labour conditions and threats to women's livelihoods will remain uncovered by the EC's report, unless the scope and objectives of the report are widened to ensure a more honest and accurate assessment of the effects that European biofuels policies have already had on development issues in poor countries.

ActionAid therefore urges all competent actors with knowledge and understanding of the impacts of EU biofuels policies to submit this to the European Commission for their consideration and, if appropriate, inclusion in the report.

The European Union's Policy Coherence for Development obligations

Article 208 of the Lisbon Treaty states that: 'Union development co-operation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development co-operation in the policies that it implements which are likely to affect developing countries'.

This means that the EU must not undermine the work that it is doing with its development policies with policies in other areas such as energy. EU policies, both external and internal, must be coherent with development objectives. This is what is meant by the EU's commitment to Policy Coherence for Development.

Furthermore, the key inter-institutional agreement on development co-operation of the European Commission, European Council and European Parliament is known as the 'European Consensus on Development'. This states that 'the EU is fully committed to taking action to advance Policy Coherence for Development in a number of areas. It is important that non-development policies assist developing countries' efforts in achieving the MDGs.'

The Human Rights obligations of the EU in relation to the social and development effects of its biofuels policies

03

The EU's obligations

The EU and its member states have a legal obligation to respect, protect and promote human rights, and in particular economic, social and cultural rights (ESCR) – which comprise, for example, the rights to adequate food, to water and sanitation, to housing and to the highest attainable standard of health. This obligation appears clearly in at least three sources.

Firstly, since the entry into force of the Lisbon Treaty in December 2009, Article 6 of the Treaty on European Union specifies that the EU is bound to respect the rights contained in the Charter of Fundamental Rights, including the right to education, the right to fair and just working conditions, the right to property, and the right to health care. These obligations matter. According to the European Commission itself, “fundamental rights enshrined in the Charter are not mere abstract values or ethical considerations”, and their respect is a requirement subject to the scrutiny of the European Court of Justice.¹¹

Second, the EU must comply with general international law in the exercise of its activities, which includes a requirement to comply with the Universal Declaration of Human Rights (UDHR).¹² International law and international human rights law are clearly enshrined in the Treaty on the European Union (TEU). In particular article 2 which outlines that the EU is founded “on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.”

Importantly, article 3.5 of the TEU states that “In its relations with the wider world, the Union shall [...] contribute to peace [...] eradication of poverty and the protection of human rights [...] as well as to the strict observance and the development of international law.” Meanwhile, article 21 obliges the EU to be guided in its international work by “democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity [...] and international law.”

Thirdly, all 27 EU Member States have ratified the International Covenant on Economic, Social and Cultural Rights, which is the reference legally binding text that defines Economic, Social and Cultural Rights at international level. By doing so, they have made the legal commitment to implement these rights in all contexts, including when they act through organisations such as the EU.

In addition to these obligations, the EU has made several commitments to guarantee human rights. The European Commission for example strongly supports human rights in its development policy.¹³ In particular, the European Commission supports the enforcement of the right to food, including establishing and strengthening redress mechanisms,¹⁴ and the European Parliament has taken a similar position.¹⁵

¹¹ European Commission, “Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments” Commission SEC(2011)567 final (6 May 2011), p. 4.

¹² See S. Aubry, “(Bio)Fuelling Injustice? Europe’s responsibility to counter climate change without provoking land grabbing and compounding food insecurity in Africa” *EuropAfrica* (February 2012), p. 87-89. See also O. de Schutter, “Human rights and the rise of international organisations: the logic of sliding scales in the law of international responsibility” in J. Wouters, E. Brems, S. Smis and P. e Schmitt (eds.), *Accountability for Human Rights Violations by International Organisations* (Intersentia, October 2010), p. 72-73.

¹³ European Commission, “Increasing the impact of EU Development Policy: and Agenda for Change” COM(2011) 637 final (13 October 2011), p. 5.

¹⁴ European Commission, “An EU policy framework to assist developing countries in addressing food security challenges” COM(2010)127 (31 March 2010), p. 5.

¹⁵ European Parliament, “Assisting developing countries in addressing food security challenges” European Parliament resolution of 27 September 2011 (2010/2100(INI)), para. 29.

There are 160 State parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR). These rights and the related obligations they entail on States are precisely defined across several authoritative documents, including for instance the reports written by the thematic UN Special Rapporteurs, the General Comments produced by the UN Committee on Economic, Social and Cultural Rights and the FAO Voluntary Guidelines on Land Tenure to support the progressive realization of the right to adequate food in the context of national food security. ESCR have also been transposed and interpreted in many domestic legal systems throughout the world, generating a rich jurisprudence.

States and certain international organisations have obligations with regards to ESCR not only towards people within their territorial boundaries, but also towards people affected by them in third States. This extra-territorial duty has been accepted before by EU Member States,¹⁶ and it is reflected in the Fundamental Rights Charter which distinguishes between the rights applicable to “everyone” (such as the right to education) and those merely applicable to “every citizen of the Union” (such as the right to vote and to stand as a candidate at elections to the European Parliament). The extent and scope of these so-called “extra-territorial obligations” have been specified at an expert meeting in Maastricht in September 2011, where the Maastricht Principles on Extra-territorial Obligations of States in the area of Economic, Social and Cultural Rights (ETO Principles) were adopted. The ETO Principles codify existing international law and guidance to determine the obligations of the EU and its member states.

¹⁶ European Parliament and Council Regulation No 1233/2011 on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76/EC and 2001/77/EC (16 November 2011), operative para. 4.

EU biofuels policies and human rights

In relation to its biofuels policy, the EU and its member states have failed to respect at least four of their extraterritorial obligations, leading to conclude that they violate international law.¹⁷

The obligation to conduct human rights impact assessments

The EU must conduct an assessment of the impact of its policies on human rights in third countries before adopting them, and take its results into account so as to prevent human rights violations (ETO Principle 14). The reasoning behind this principle is very simple: the EU and its member states cannot claim that they do not harm human rights if they do not take reasonable steps to assess the effect of their policies in third countries.

The obligation to avoid causing harm in third countries

Logically, the EU and its member states must not act in a way that nullify or impacts the enjoyment of ESCR in third countries. Of course, the effects of some policies in third countries may be unintended, and the EU and its Member States are not necessarily responsible for all of these side effects. However, the EU and its Member States are responsible for all effects that were *foreseeable*, even if the potential impact was uncertain (ETO Principle 13).

The obligation to regulate private actors so that they do not harm human rights

International law requires that the EU and its member states take measures to ensure that private actors (such as individuals, companies, investors etc) are in a position to regulate and do not harm human rights in third countries (ETO Principle 24). In contrast, the EU has adopted a weak approach to corporate regulation, preferring to it the non-binding concept of “corporate social responsibility”. This loophole in the EU policy has allowed EU-based agro-industries and private investors to grab land and harm ESCR in third countries, in violation of international standards.

The obligation to provide access to remedies

All victims of a violation of their ESCR must have access to a prompt, accessible and effective remedy before an independent authority (ETO Principle 37). When the harm takes place in a third country as a result of EU policies and laws, the EU should seek cooperation with the other concerned states, and, when necessary, offer access to remedies. This is an essential component of the human rights approach, which guarantees that rights have concrete meaning. Yet, most of the people evicted from their land, suffering from hunger or otherwise affected by the RED have not had access to any remedy, and the harm has not been repaired (as will be seen in a number case studies in this report) and the cause has not been removed.

In addition to these rights, the EU's biofuels policies also threaten a series of other human rights, such as land rights, food rights, women's rights and labour rights, and these will be treated separately later in this report.

¹⁷ See more details in S. Aubry, “(Bio)Fuelling Injustice? Europe's responsibility to counter climate change without provoking land grabbing and compounding food insecurity in Africa” *EuropAfrica* (February 2012), p. 89-93.

04

Inadequacies in the 2008 baseline study used for the EC social sustainability reporting

The EC has developed a baseline study of the impacts of the RED, using 2008 as a reference year, to provide the methodology and content against which the 2012 EC sustainability report and biannual reports thereafter will be assessed and reported. The quality of the 2008 baseline study is therefore vital to assessing how accurate and useful the findings of the 2012 report will be.

The baseline study indicates a very narrow view on the range of issues that deserve attention in relation to impacts on EU biofuels policies and in some cases exhibits inadequacy in understanding of these issues and lack of use of appropriate existing research and material available. This raises serious concerns regarding the upcoming report by the Commission in 2012. This section therefore looks at some of the inadequacies identified in the baseline study in relation to the social issues and strongly advises that these issues are covered more thoroughly in the report in 2012.

Insufficiently developed methodology for social issues

Social aspects are poorly covered in the baseline study. Little attempt has been made to quantify, using agreed methodologies, issues such as job creation, wealth benefits, working conditions, local food insecurity (including price increases and volatility), transparency and so on. If no existing methodology is currently available, methodologies should be devised so there can be consistent and accurate reporting in all biannual reports.

The report does use modelling to assess the impacts of biofuels on global food prices and concludes: biofuel production “can explain a significant part of the observed historical [food] price increases.¹⁸” However, the study fails to consider local level developments and the very real impact on poor people’s lives and local food security.

Crucially, understanding a social situation requires to use both quantitative indicators – figures giving general trends, about, for instance, prices – and qualitative data – on the ground case studies which reflect how groups are affected by the policy. Yet, the baseline study relies almost exclusively on quantitative data, and makes no attempt to get the perspective of concerned communities.

These shortcomings in the methodology to analyse social issues is in contrast to environmental aspects covered in the baseline study, where much more efforts have been made to find appropriate datasets, for example to water stress, water footprint, risks to soil quality and biodiversity. As a result, it appears that the EU puts the burden on affected communities and individuals to demonstrate that biofuels has negative effects, whereas it is the duty of the EU to monitor adequately the effect of its policies and ensure it does not do harm in its territory and in third countries.

Poor use of existing literature

The baseline study makes insufficient use of existing literature¹⁹ Existing literature which could constructively be used includes the “Price Volatility in Food and Agricultural Markets: Policy Responses²⁰” report commissioned by 10 Inter-Governmental Organisations for the G20 Agricultural ministers’ meeting in 2011, but also a number of civil society reports and studies by ActionAid, Oxfam and FIAN International to mention a few.²¹

¹⁸ See http://ec.europa.eu/energy/renewables/studies/doc/biofuels/2011_biofuels_baseline_2008.pdf p. 5

¹⁹ See http://ec.europa.eu/energy/renewables/studies/doc/biofuels/2011_biofuels_baseline_2008.pdf

²⁰ See “Price Volatility in Food and Agricultural Markets: Policy Responses” http://www.oecd.org/document/20/0,3746,en_2649_37401_48152724_1_1_1_37401,00.html

²¹ Other studies that could usefully be considered include

- J. Franco, L. Levidow, D. Fig, L. Goldfarb, M. Hönicke & M. L. Mendonça, “Assumptions in the European Union biofuels policy: frictions with experiences in Germany, Brazil and Mozambique” 37(4) *Journal of Peasant Studies* 661 (2010)

- Friends of the Earth Europe, “Africa: up for grabs” (June 2010)

- A. Graham, S. Aubry, R. Künemann and S. Monsalve Suárez, “Land Grab Study” FIAN International (2010).

Lack of focus on implementation of conventions and facts on the ground

Article 17(7) of the RED requires the EC to report on whether “third countries [...] that are a significant source of raw material for biofuel consumed within the Community” have ratified and **implemented** a number of International Labour Organisations (ILO) conventions. The baseline study focuses on ratification but does not go far enough in assessing implementation. The EC should invest more in ensuring de facto compliance through increased quantitative and qualitative information gathering from the ground. Worse, fundamental mistakes about international human rights law and the way the ILO works cast doubt about the understanding of this issue by the authors of the study.²²

Inadequate coverage of various social issues

In terms of content, land rights is an example of the superficial coverage that the baseline study provides for issues with severe consequences for people in developing countries.²³ The focus is on awareness, inheritance, implementation of laws and legal issues around rights rather than whether land rights have been guaranteed or violated. In fact there is no attempt to examine issues such as, for example, the displacement of people, the impacts on traditional customs, or the loss of livelihoods from the land, while in reality, many studies have reported that these are major factors when land is grabbed for biofuels production and the EU itself has highlighted it as a risk relating to the EU’s biofuels policy.²⁴

Furthermore, the provision within the RED for ‘wider development issues’ to be covered is not taken forward properly by the baseline study which might affect the range of content included in subsequent reports. There is only superficial coverage of job creation, gender related issues, and the involvement of small holders in biofuels production. The interconnection between climate change and development is not tackled despite the range of scientific studies that have severely questioned the merits of industrial biofuels

production from a climate change perspective.²⁵ The baseline study contains nothing on workers conditions (apart from whether a country has ratified ILO conventions), wages, local food insecurity and so on.

In particular women’s rights are of concern as the baseline study has failed to include gender disaggregated data sets which means that even with a potentially significantly improved 2012 reporting exercise by the European Commission, any meaningful impact assessment would be difficult due to a lack of baseline data.

ActionAid would like to see a comprehensive overview of these issues, particularly regarding those countries from which the EU is importing, or likely to be importing large amounts of biofuels.

Inadequate geographical coverage

The geographical coverage of countries could be improved. Whilst large exporters to the EU are covered, some important countries in Africa are ignored. The study of Ethiopia, Malawi, Mozambique, Nigeria, Sudan, Tanzania and Uganda is welcome; but the baseline study omits a number of countries in West Africa where a massive land grab for biofuels potentially ending up in the European Union has been taking place for many years, including Ghana, Senegal and Liberia to name a few.²⁶ The country factsheets that make up the bulk of the report are merely a listing of legal and voluntary mechanisms that are relevant to the EU’s sustainability schemes rather than a useful source of data to understand what is happening on-the-ground and assess compliance with human rights obligations.

²² See also p. 78-79 of “(Bio)Fuelling Injustice? Europe’s responsibility to counter climate change without provoking land grabbing and compounding food insecurity in Africa”, EuropAfrica/FIAN, S. Aubry et al.

²³ See, for example, http://ec.europa.eu/energy/renewables/studies/doc/biofuels/2011_biofuels_baseline_2008.pdf p. 92-102

²⁴ SEC (2008) 434/2 Commission Staff Working Paper accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “The EU -- a global partner for development, Speeding up progress towards the Millennium Development Goals, Policy Coherence for Development, Climate Change/Energy/Biofuels, Migration and Research”

²⁵ See e.g. International Scientists and Economists’ statement on biofuels and Land Use, <http://www.euractiv.com/sites/all/euractiv/files/scientists%20biofuels%20letter.pdf>

²⁶ See, for example,

- “Biofuels Land Grabbing in Northern Ghana”, http://www.biofuelwatch.org.uk/docs/biofuels_ghana.pdf ;

- “Senegal: Biofuels Boost Land-Grab Conflict in Country” <http://allafrica.com/stories/201110281172.html>

The effects of European biofuels policies on food security and food rights in developing countries

According to the UN's World Food Programme, hunger is the single biggest health risk globally, killing more than AIDS, malaria and tuberculosis combined on an annual basis. One out of seven people globally go hungry, representing around 1 billion people. One out of four children in developing countries is underweight, and according to UNICEF around 6 million children under five years of age die every year due to malnutrition related diseases. Women are disproportionately affected by hunger globally, with around 60% of the world's hungry being women.

European biofuels policies' effects on food prices

Biofuels represent a large and increasing part of global agriculture production use, which has a significant impact on global food prices. During the 2007-2009 period biofuels accounted for a significant share of global use of several crops – 20% for sugar cane, 9% for vegetable oil and coarse grains and 4% for sugar beet.²⁷ These shares in global markets influence both the price levels, which are higher than they would be if no biofuels were consumed, and price volatility, because there is very little elasticity in the agricultural market either as a result of a supply shortfall (such as weather related factors) or demand pressures (such as biofuels).

²⁷ 51. OECD/FAO (2010), *Agricultural Outlook 2010-2019*, OECD, Paris.

²⁸ See K. von Grebmer, M. Torero, T. Olofinbiyi, H. Fritschel, D. Wiesmann, Y. Johannes, L. Schofield, and C. von Oppeln, "Global Hunger Index 2011. The Challenge of hunger: Taming price spikes and excessive food price volatility" IFPRI, *Concern Worldwide and Welthungerhilfe* (October 2011), p. 24.

²⁹ FAO, et al, 2011. *Price Volatility in Food and Agricultural Markets: Policy Responses*, see <http://www.oecd.org/dataoecd/40/34/48152638.pdf>

Mandates and policy support for biofuels, and increasing biomass usage for heat and electricity, both in the EU and beyond, generate additional demand for land on which to grow feedstocks. Indeed, the International Food Policy Research Institute (IFPRI) has stated that such mandates and targets have created a new demand for crops for fuel which *"places new pressures on agricultural markets, which are characterized by temporal restrictions (the time it takes to increase production), limited resources (land, water, and nutrients), and growing demand driven by demographic and income increases. In addition to magnifying the tensions between supply and demand, the rigidity of biofuel mandates exacerbates price fluctuations and magnifies global price volatility. Last but not least, biofuels gradually increase the link between energy markets (which are highly volatile) and food markets (also volatile), further increasing the volatility of the latter."*²⁸

The use of agricultural biomass to produce energy constitutes a significant additional demand for agricultural commodities. This shift in demand can reasonably be expected to have some impact in raising agricultural commodity prices above where they would have been before the additional demand for these crops as energy feed stocks. The question is therefore not *whether* there is an impact on agricultural commodity prices but how *big* it will be. According to a report written by 10 inter-governmental organisations including the World Bank and the Food and Agricultural Organisation (FAO), forward "projections encompass a broad range of possible effects but all suggest that biofuel production will exert considerable upward pressure on prices in the future."²⁹

Many of the key resources needed to produce biofuels are presently used directly as food or as feed for animals. As a consequence of increasing global demand for biofuels and bioenergy resources - often fuelled by targets such as the current EU one, which will see biofuels consumption in the EU double in the next 8 years³⁰ - there is increased pressure both directly and indirectly on food prices. With increased biofuels demand,³¹ there is increased competition for key commodities including vegetable oils, staple crops such as maize, soy, wheat and sugar but also increasing competition for the resources needed to grow these crops, including land, soil, nutrients and water.

The demands placed on land and food resources are already anticipated to continue to rise due to expanding populations, income growth and continuing expansion in meat consumption and at the same time the production of many crops is threatened by the consequences of climate change. Concerns are also compounded by the risk that biofuel demand would more directly link food commodity prices to oil price. This is because when some feedstocks become substitutes for oil, their price will follow oil prices (i.e. when oil prices are up, the cost of the feedstock is up, and when oil prices are down, the price of those feedstocks are down) rather than responding to demand for food. This means e.g. that if there is a spike in oil prices but no increased demand for these feedstocks as food, their price could still rise sharply with devastating effects for those who spend a large proportion of their disposable income on staple foods.

What is important in this context is the sheer scale of biofuel demand. A 1% increase in biofuels in energy usage globally places a massive extra burden on the agricultural sector. Prices will move higher in an agricultural sector that is already stretched to meet current demand. The sector often cannot respond quickly as stocks have in recent years been chronically low and shrinking, land availability is limited and productivity cannot be sustainably increased at a high rate.

It is of crucial importance to consider how much of disposable income is spent on food when evaluating what effect even a small food price rise will have on food security. Wiggins et al have calculated the effects of a 50 per cent increase in the price of staples on illustrative food budgets in low-income countries. Starting from the assumption that a typical low-income-country consumer spends 50 per cent of its income on food, the 50 per cent higher prices in staple foods (such as wheat and maize which are used for biofuels) increase food expenditure as a share of total income to 60.5 per cent for the low-income-country consumers.³²

While biofuel targets have been established not just in Europe, but across the world³³, the effects of EU biofuels policies on food prices and volatility are significant.^{34 35}

³⁰ For details on how biofuels demand will grow in different EU member states, please refer to their national action plans on renewable energy; http://ec.europa.eu/energy/renewables/transparency_platform/action_plan_en.htm

³¹ Ibid: http://ec.europa.eu/energy/renewables/transparency_platform/action_plan_en.htm

³² Wiggins et al, 2008; adopted from Trostle, 2008

³³ For more information about biofuels mandates and targets globally, see <http://www.biofuelsdigest.com/bdigest/2011/07/21/biofuels-mandates-around-the-world/>

³⁴ See Lipsky, 2008. Commodity Prices and Global Inflation. IMF. <http://www.imf.org/external/np/speeches/2008/050808.htm>

³⁵ FAO et al, 2011.

Causes of the 2007-2008 food price spike

A European Commission analysis was early to claim that European biofuel use had not played a major role in the 2007-08 spikes. It did however conclude that the US biofuels policy with its reliance on maize as a feedstock 'has had a noticeable impact on the maize market'; however, but called its food price impacts at the time 'moderate'.³⁶ On the other hand, a DG Agriculture³⁷ background note of 2008 did acknowledge the effects of the EU biodiesel use for the vegetable oil market.³⁸ The commonly held independent view established by now is more nuanced and most studies and summary reports mention biofuels as one of the factors having contributed to the price spikes. This was one of the conclusions of Blanco Fonseca et al, 2010, who conducted a thorough review of existing evidence.³⁹

³⁶ Communication COM(2008) 321, May 2008, "Tackling the challenge of rising food prices Directions for EU action", p4.

³⁷ <http://ec.europa.eu/agriculture/>

³⁸ http://ec.europa.eu/agriculture/analysis/perspec/foodprice/sum_en.pdf

³⁹ Blanco Fonseca, M, Burrell, A, Gay, H, Henseler, M, Kavallari, A, M'Barek, R, Pérez Domínguez, I and Tonini, A (2010). *Impacts of the EU biofuel target on agricultural markets and land use: a comparative modelling assessment*. JRC Scientific and Technical Reports, EUR 24449 EN.

⁴⁰ http://ec.europa.eu/energy/renewables/studies/doc/land_use_change_study_jrc_biofuel_target_iluc.pdf

Causes of food price spikes in 2010-11

Abbott *et al* have monitored the drivers for food price increases repeatedly since 2008 for the US based Farm Foundation. They draw from these earlier experiences when issuing an analysis in 2011 comparing that year's situation to 2007-08. Important points to highlight are that the major drivers in 2011 were the large and persistent demand shocks from biofuel policies as well as the demand derived from Chinese soybean imports, droughts in Russia (and reduced stocks-to-use ratios), and tight (inelastic) agricultural markets - in part due to higher biofuels demand.

Effects of EU biofuels policies on 2020 food prices

In this section, we analyse the results of modelling predictions as to where food prices might be as a consequence of EU biofuels policies (most of these models are to 2020, some to 2015). That said, modelling results are highly dependent on the model used (partial or general equilibrium), how it was constructed and the assumptions included. In general, later models tend to be more complex and better designed and thus are viewed as having more robust results. The models reviewed are Fonseca et al 2010⁴⁰ and Laborde (2011).

Figure 2: Increases in agricultural food prices by 2020 due to EU biofuel policies

Study and Model used	Main results
Fonseca et al 2010 ⁴¹ Price effects in 3 models AGLINK-COSIMO ESIM CAPRI	AGLINK – COSIMO Ethanol feedstocks - negligible Oil seeds – negligible Vegetable oils – 20% ESIM Rapeseed oil - >33% Sunflower oil - >33% Maize – 22% Wheat - 8% Sugar – 21% CAPRI Cereals – 10.2% Oilseeds – 19.5%
Laborde (2011) Updated version of the global CGE model MIRAGE-Biof	Cereals 1-2% Sugar 0% Oil seeds 3-16% Palm oil 4%

The general conclusion from the four models (ESIM, CAPRI, AGLINK-COSIMO, MIRAGE-Biof) in table 2 is that due to EU biofuels policies, by 2020 oilseeds may be up to 33% higher, vegetable oils up to 20% higher, wheat up to 16% higher, maize up to 22% higher and sugar up to 21% higher. By way of comparison, Fischer et al looked at global biofuels development and found that cereal prices will increase by about 35% and other crops by about 27%. This assumes targets for biofuel use is around a 7% share in final consumption of total transport fuels globally by 2020. This

shows that EU biofuels demand does not act in a vacuum, but demonstrates how it will amplify the effects of global consumption.

Based on similar analysis, international organizations mandated by the G20 to produce recommendations on food price volatility concluded that G20 governments, amongst which are the main biofuels producers and consumers, should “*remove provisions of current national policies that subsidize (or mandate) biofuels production or consumption*”.⁴²

⁴¹ http://ec.europa.eu/energy/renewables/studies/doc/land_use_change/study_jrc_biofuel_target_iluc.pdf

⁴² Price Volatility in Food and Agricultural Markets: Policy Responses. Policy Report including contributions by FAO, IFAD, IMF, OECD, UNCTAD, WFP, the World Bank, the WTO, IFPRI and the UN HLTF.

Other effects of European biofuels policies on food rights and food security

An expansion of industrial biofuels production (which is *de facto* needed to meet the EU's renewable energy targets in transport) also causes food insecurity for other reasons. The expansion of industrial biofuels promotes an industrial farming model. Meanwhile, it has been proven in many studies that the most sustainable way to address food insecurity in Africa is to promote small-scale farming, which tends to be more productive, more redistributive, and more sustainable.⁴³ It is for this reason for instance that the EU considers that "sustainable small-scale food production should be the focus of EU assistance to increase availability of food in developing countries."⁴⁴ Biofuels production also has significant impacts on local food security as local agricultural resources are diverted to biofuels production.

The myth of 'marginal lands' and its effects on food security and food rights

It is sometimes argued that biofuels production is not in competition with food production as there is plenty of available land that is currently unused that could be used for biofuels production. Much of this is what some would refer to as 'marginal' or 'degraded' land.

⁴³ See P. B Matondi, K. Havnenik and A. Beyene, "Introduction: biofuels, food security and land grabbing in Africa" in P. B Matondi, K. Havnenik and A. Beyene (eds), *Biofuels, land grabbing and food security in Africa*, Zed Books (Uppsala: 2011), p. 15; The Oakland Institute, "The myth of job creation" Land Deal Brief (December 2011), p. 4-5.

⁴⁴ See European Commission, "An EU policy framework to assist developing countries in addressing food security challenges" COM(2010)127 (31 March 2010), p. 4.

⁴⁵ See e.g. P. B Matondi, K. Havnenik and A. Beyene, "Introduction: biofuels, food security and land grabbing in Africa" in P. B Matondi, K. Havnenik and A. Beyene (eds), *Biofuels, land grabbing and food security in Africa*, Zed Books (Uppsala: 2011), p. 8

⁴⁶ See e.g. J. Franco, L. Levidow, D. Fig, L. Goldfarb, M. Hönicke & M. L. Mendonça, "Assumptions in the European Union biofuels policy: frictions with experiences in Germany, Brazil and Mozambique" 37(4) *Journal of Peasant Studies* 661 (2010), p. 676.

⁴⁷ International Energy Agency, *Technology Roadmap – Biofuels for Transport*, p. 30. See http://www.iea.org/papers/2011/Biofuels_Roadmap.pdf

⁴⁸ HLPE, "Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security" *FAO Committee on World Food Security* (July 2011), p. 25-26.

This narrative is however seriously flawed and has serious consequences for food security, not least at local level. It has been proven repeatedly that much of the land considered as "idle" frequently constitutes a vital source of food and livelihood for poor people by providing fruits, herbs, wood for example for heating or grazing area.⁴⁵ Additionally, production on what is classified as 'marginal land' has often proven to not be economically viable,⁴⁶ due to the low yields that it produces and more fertile land (needed for food production) is often used for biofuels production.

The International Energy Agency emphasizes another problem with 'marginal land', i.e. that *"there may be potential to use currently unused land, but it is difficult to identify "unused" land, since reliable field data is lacking on current land-use through smallholders and rural communities. Complex land tenure structures and lack of infrastructure in rural areas are additional challenges for the expansion of biofuels production in many African countries*⁴⁷. Similarly, the Committee on World Food Security's High Level Panel of Experts on Food Security and Nutrition (HLPE) has stated that: *"It is often asserted that there is much 'available' land in Africa and Latin America. This suggests abundant unused land. However, there is rarely any valuable land that is neither already being used in some way, nor providing an important environmental service.*^{48"}

As we will see also in the case studies later on in this report, using what is labelled 'marginal lands' for biofuels production in many developing countries can therefore threaten food rights and food security locally.

The effects of European biofuels policies on land rights in developing countries

06

The International Land Coalition (ILC) defines land grabs as:

Acquisitions or concessions that are one or more of the following: (i) *in violation of human rights, particularly the equal rights of women;* (ii) *not based on free, prior and informed consent of the affected land-users;* (iii) *not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered;* (iv) *not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and;* (v) *not based on effective democratic planning, independent oversight and meaningful participation.*

Land is a vital resource for life and livelihood. This is true regardless of where in the world one lives, but in few places are people as reliant on access to land as small-scale farmers in the global south. Here, the land is often vital both for subsistence farming, water supplies, and a basic income. In fact, the question of access to land is intimately linked to several other human rights such as, the right to work and the right to water to mention a few. In particular, the UN Special Rapporteur on the Right to Food has highlighted how access to land is closely linked to the right to food.⁴⁹

Crucially, in addition to its economic value, land often also plays a central social role and it has a deeply cultural and historical value. Land rights are thus closely linked to communities' identities and cultural heritage. Land rights and their denial have historically been central to some of the most important social struggles throughout history: from feudal exploitation in Europe to colonisation in many part of the global south, to the state taking control over all land in many Eastern European countries that were part of the Soviet bloc.

Today, land rights are heavily under threat by states and corporations (often multi-national corporations), buying, leasing and grabbing land in poorer countries to meet their resource needs. The International Land Coalition (ILC) estimates that between 2000 and 2010, at least 71 million hectares of land have been subject to land deals or in negotiation for land deals,⁵⁰ of which 78% are for agricultural purposes. Of these, over three-quarters are likely to be devoted to crop production for biofuels.⁵¹ And, despite this land often being presented as idle or unused land, in practice land acquisition involves more fertile land and in most cases results in the loss of access for, and failure to compensate, the poorest and least powerful groups.

Land rights are also recognised in ILO Convention 117, the Social Policy Convention,⁵² which protects the right to control of land for non-agriculturalists, regard for customary land rights and the supervision of tenancy agreements. The ILO's Indigenous and Tribal Peoples convention (No 169) also recognises the special relationship between indigenous people and their lands; requires the state to protect their right to land; and provides safeguards against arbitrary removal of indigenous people from their traditional land. These norms have been reinforced in the 2007 UN Declaration on Indigenous Peoples.⁵³

⁴⁹ The rights to Food, Report by the UN Special Rapporteur on the Right to Food to the 65th session of the UN General Assembly on 11 August 2010, A/65/281.

⁵⁰ Land Rights and the Rush for Land, International Land Coalition, 2011, www.landcoalition.org/sites/default/files/publication/1205/GSR%20summary_ENG.pdf

⁵¹ See Land Rights and the Rush for Land, International Land Coalition http://www.landcoalition.org/sites/default/files/publication/1205/ILC%20GSR%20report_ENG.pdf p. 4

⁵² See International Labour Organisation (ILO) Convention 117, the Social Policy Convention, <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C117>

⁵³ See http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

At regional level, the American Convention on Human Rights provides that “No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest⁵⁴” and the African Charter on Human and Peoples’ Rights provides for similar rights⁵⁵ with Article 21 stating that: “All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.”

Several studies have showed a close relationship between the increased global demand for biofuels, to which EU targets are contributing, and a rush for land which often leads to land grabs. According to estimates done by the World Bank, 46.6 million hectares of farmland were acquired between October 2008 and August 2009 alone in developing countries by international investors.⁵⁶ Meanwhile, the so-called Land Matrix project, lead by the International Land Coalition, estimates that 66% of large-scale land acquisitions in Africa are for biofuels production, the equivalent of 18.8 million hectares⁵⁷ (this figure is for total land acquisitions for biofuels, not just that which is meant for European consumption). The EC’s own 2008 baseline

study on the effects of biofuels concludes that at least 6.6 million hectares of additional land was needed for biofuels between 2003 and 2008⁵⁸ (i.e. before the Renewable Energy Directive had even come into force).

According to a report written for the European Parliament in mid-2011, one of the main causes for such land grabs are biofuels, including European biofuels policies.⁵⁹ This is also confirmed by HLPE, whose studies have found that increased biofuels consumption is an important international driver in international land investments.⁶⁰

There are different estimates as to just how much European biofuels policies affect demand for land and land grabs. The Renewable Energy Directive itself states that “The incentives provided for in this Directive will encourage increased production of biofuels and bioliquids worldwide.⁶¹” According to the so-called Gallagher Review, an independent inquiry commissioned by the UK government, it is thought that between 22 million hectares and 31.5 million hectares of land could be needed in total by 2020 to reach the EU’s 2020 biofuels needs.⁶² Assuming again that 60% of European biofuels consumption by 2020 will be imported and that proportionately the same amount of land is needed to produce a given quantity of biofuels, the Gallagher Review would put the amount of land needed outside of Europe for biofuels between 13 – 19 million hectares.

⁵⁴ Article 21, American Convention on Human Rights, OAS Treaty Series No. 36. Entered into force 18 July 1978.

⁵⁵ Article 21, African Charter on human and Peoples’ Rights. OAU Doc. CAB/LEG/67/3. Entered into force 21 October 1986.

⁵⁶ See World Bank, *Rising global interest in farmland: can it yield sustainable and equitable benefits?*, Washington, D.C., 2010, available at: http://www.donorplatform.org/component/option,com_docman/task,doc_view/gid,1505,p,35.

⁵⁷ See W. Anseeuw, L. Alden, L. Cotula, M. Taylor, “Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project” IIED, CIRAD and ILC (January 2012), p. 25.

⁵⁸ Based on the graph in Ecofys, Agra CEAS, Chalmers University, IIASA and Winrock, “Biofuels Baseline 2008” Report to the EU in response to Tender No. TREN/D1/458/2009 (January 2012), p. 146.

⁵⁹ See An assessment of the effects on land ownership and land grab on development, p. 14, EXPO/DEVE/2009/Lot 5/13

⁶⁰ HLPE, “Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security” FAO Committee on World Food Security (July 2011), p. 21.

⁶¹ Renewable Energy Directive, operative paragraph 74

⁶² UK renewable Fuels Agency, “The Gallagher Review of the indirect effects of biofuels production” (July 2008), p. 32.

It is clear that not all of this land (and associated resources) will come directly from developing countries, some may be produced in e.g. the USA. However, due to Indirect Land Use Change⁶³ (ILUC) effects, it is reasonable to assume that a large part of the land needed for biofuels directly in the EU or imported from countries such as the USA will nonetheless lead to land use change in the developing world.

Land grabs are however not primarily about numbers. It's about the people and communities whose lives and livelihoods are at stake when land is grabbed. In order to have an understanding of the impact of the RED on land grabbing, statistics must be cross-checked with reality on the ground. Below, ActionAid presents three different stories of when land has been grabbed as a result of European biofuels policies, and how this has affected local communities. In many cases, their food security has been threatened, their land has been grabbed, they've endured substandard working conditions, and in some cases, they have even died.

Together, the stories of the individuals and communities below paint a bleak picture of the human rights footprint of European biofuels policies, and what emerges is a body of evidence of how European biofuels policies contribute to rights abuses and food insecurity globally.

⁶³ Indirect Land Use Change (ILUC) is generated by the elevated demand for agricultural commodities as a consequence of biofuel consumption. When biofuels are grown on existing arable land, which will often be the case, ILUC can ensue elsewhere, either in the same country or in other parts of the world. This is because current demand for food and animal feed may well remain unchanged and cannot be assumed to fall. As a consequence pre-existing agricultural production can be displaced into new areas. This displacement will cause some new land to be brought into arable production possibly far from the area in which the biofuel feedstock is being grown, potentially impacting grasslands, forests or other natural habitats.

07

Tanzania - A story of broken promises and land grabs in biofuels venture

“There is no clean water, there is no road, there is no clinic, so all the promises are fake, the promises are air. The biofuels company, they work only for themselves. They promised they will first fulfil the promises before they could start using our land. That was in 2006 and nothing has been done”

Halima Ali, Mhaga village, tailor and farmer.

“In general we are not getting any benefit from the white man’s place [the plantation]. We can only say that they only want to benefit themselves.”

Halima Weli, Palaka village, farmer.

“Previously, before the company came, we used to get water easily and ever since the company came we face more difficulties in getting water than before. The place where we get water is very far, so we have less time to study, less time to play.”

Mariam Shabani, Mhaga village, 13 years old

Image left: Halima Ali with her son Hamsa Shabani, 6, and daughter Mariam Shabani, 13, at home in Mhaga village.

PHOTO: TOM PIETRASIK/ACTIONAID



In their attempts to get cheap biofuels onto the European markets quickly, many European companies make promises to communities in the south of how using their land for biofuels production will provide lots of benefits, including more jobs. Unfortunately, these promises are rarely kept, and communities who have trusted companies and let them use their land often find themselves landless, with no access to culturally important land, and with few jobs after European companies have moved in and cleared their land to produce biofuels. The case of Sun Biofuels' activities in Tanzania is only one of these many stories about how European biofuels policies have serious and detrimental consequences in other parts of the world.

In 2009, Sun Biofuels Ltd, a UK-registered biofuel company, began clearing land to establish an 8,200 hectare biofuel plantation in Kisarawe, Tanzania. By mid 2011, they had cleared some 2,000 hectares and replanted with jatropha. Sun Biofuels cited EU Directives - and the prospects of export markets - as an important reason for the development of jatropha and biofuels.^{64, 65}

The exact end use of Sun Biofuel's product remains uncertain. In the past the company has targeted the aviation industry. For example, Sun Biofuels was in negotiation with Lufthansa for some time to supply around 300 metric tonnes of jatropha oil in 2011. The first shipment was sent from the company's other jatropha plantation in Mozambique to Lufthansa in July 2011.^{66, 67}

Some three years after the start of the land clearance, the 11 villages affected by the plantation are now worse off than before the company arrived. They say that had they known that the company would operate in this way, the communities would never have agreed to give up their land. But worse was to follow.

In August 2011, like many biofuel companies before it, Sun Biofuels went into administration and fired almost all of the 700 local workers. The company was immediately sold to UK-based Lion's Head Global Partners. The new owners decided to scale back the operations to a small pilot project before making any further decision on the future of the plantation. Only a handful of people are now employed, while the damage to the land is largely done already.

At the heart of the communities' grievances is the fact that many people claim not to have received compensation for their land that was taken some 3-4 years ago. In some cases the amount of money offered covered only a portion of the land taken. Prompt, fair and full compensation for land is required under Tanzanian and international law. Furthermore, the communities claim that there has been no payment made for the substantial amount of 'communal' or 'village' land that Sun Biofuels acquired.

⁶⁴ Sun Biofuels, 2011. Accessed July 2011. <http://www.sunbiofuels.com/business.html?page=9>. Since the company went into administration, the web site has been withdrawn.

⁶⁵ Alternative Energy, 2011. Brits acquire more African Acreage for Biofuels. http://www.ae-africa.com/read_article.php?NID=2999&PHPSESSID=0c9636d416345361181a17dfbd39ab51

⁶⁶ [http://www.hardmanandco.com/Research/Jatropha%20Sector%20Report%20\(Final\).pdf](http://www.hardmanandco.com/Research/Jatropha%20Sector%20Report%20(Final).pdf)

⁶⁷ <http://biofuelsdigest.com/bdigest/2011/07/26/sun-biofuels-commences-shipment-of-jatropha-oil-from-mozambique/>

Image left: Halima Ali with her son Hamsa Shabani, 6, and daughter Mariam Shabani, 13, at home in Mhaga village.

A household survey conducted by ActionAid found that 82% of respondents declared that they had not received any money for their land. During an ActionAid meeting with residents of Mtamba village, 12 residents said they had given up land but, as of July 2011, not one stated that s/he had received compensation. During focus group discussions in six villages, of 45 respondents, only 17.8% reported that they had been compensated.⁶⁸ These responses vary from the claims of both the previous and current owners of Sun Biofuels. It is also in violation of the Tanzanian Land Act 1999 which requires prompt payment.

Take Ramadhani Athumani Lwinda who lives in Mhaga village as an example. Local government documents dated 20 November 2010 confirm that he and his brothers farmed 667.5 hectares (1,649 acres). The company took all this land but would only compensate him for 35 hectares (85 acres).

The communities only agreed to give up their land because of a series of promises made by the company - to provide employment, water supply points, schools, medical clinics, and other social provisions. Apart from poorly paid jobs (about 100,000 Tanzanian Shillings or €50/month), for those few who got them, none of these promises have been met according to the community.

⁶⁸ Dr. MakariusMdemu, pages 28 and 29. Forthcoming.

⁶⁹ Mandari

⁷⁰ Memorandum of Understanding between Sun Biofuels Tanzania Ltd and Kisarawe District Council, section 2.1.1.2,

To many, particularly amongst women, the promise of the delivery of wells and safe and clean water was one of the main reasons for allowing the company to establish a biofuel plantation.⁶⁹ This was particularly vital as the Sun Biofuels plantation engulfed water sources previously relied upon by the communities. But the communities report that the company's promise to build wells has not been met and members of the affected communities said that they now spend up to 4 hours per day, and considerable amounts of their income, collecting water.

The plantation includes the burial sites of the relatives of many members of the communities. Despite this, in February 2010, the previous owners of Sun Biofuels sent a letter informing the communities that they were no longer allowed to access the plantation land and therefore the graves of their ancestors. This is in contravention of the Memorandum of Understanding between Sun Biofuels Tanzania and Kisarawe District Council where it states that 'Right of way access to graveyards will be provided'.⁷⁰

The Sun Biofuels plantation is also causing local food insecurity in a country where hunger and malnutrition is already a problem. Not only does less income now mean less money for food, but the plantation has taken some land out of production, communities are also not accessing other food sources from the forest which has been cleared and large numbers of workers left their land in anticipation of good wages on the plantation and are no longer able to engage in farming activities.

As a result, the area planted with food crops has declined by 14% and local harvests have fallen by 11% since the plantation started (2008-11).⁷¹ Many people, including children, have told ActionAid that they now have to skip lunch as they cannot afford to eat three meals per day.

For those employed on the plantation by the previous owners, up to 90% of their income went on purchasing food, with hardly anything left for children's education or medicines and health care. Inside the plantation, sanitation facilities for the workers were non-existent and workers were often exposed to chemicals. These conditions are in violation of the 2003 Occupational Health and Safety (OHS) Act 2003 of Tanzania.

These injustices make a mockery of the company's previous owner's claims that their biofuel production was sustainable. In many cases, the problems faced by the communities constitute human rights abuses. The local communities have mobilized and formed a task force made up of representatives from all 11 villages to articulate their demands. They ask that the new owners grant access to the communities to visit ancestral graves and access to water sources within the plantation; and that the company comes forward and honour all promises. This includes full and fair land compensation and social amenities. Failing that, the company must work with the Tanzanian Government to enable the land to go back to the communities and to be properly compensated.

71 Dr. MakariusMdemu, pages 6 and 7. Op cit.

08

Kenya - European companies cashing in on European biofuels policies at the expense of local communities



Image: Gertrude Kadzo, a 37 years-old farmer holding jathropha beans being grown on her land in Dakatcha, Kenya.

PHOTO: PIERS BANATAR/ PANOS PICTURES/ ACTIONAID

When the European Union agreed the targets in the Renewable Energy Directive (RED), they also sent a strong signal to companies and investors about where to invest their efforts and money. The signal to invest in first-generation biofuels was clear. Through subsidies and guaranteed markets, investors knew that they could make money out of biofuels. This has led to many European companies buying up or leasing land in developing countries to produce cheap biofuels feed-stocks. However, as the RED does not contain any binding social sustainability criteria, a strong signal has also been sent to investors that any social damage their biofuels production causes will not have any effects on their ability to make money when selling their produce to European markets, in particular when they operate in countries where the judicial system is too weak to protect affected people. One example of an area where a European company keen to profit from the EU's biofuels targets has leased land without due consideration to the effects on local populations is the Dakatcha Woodlands area.

The Dakatcha Woodlands is located in Kenya's coast region. In 2008 the Italian company Nuove Iniziative Industriali (NII), through its subsidiary Kenya Jatropha Energy Ltd (KJE), applied for permission to lease 50,000 hectares of land to the Malindi County Council, constitutionally the trust-holder of the land on behalf of the communities living on the land. 20,000 members of the Watha and Giriama communities live in the area affected by the proposed plantation. The local community has alleged that Malindi County Council originally leased the land without following due process, allowing KJE to start clearing land to grow jatropha for biofuels.

If the plantation had gone ahead, the communities would effectively have been displaced from the land where they have lived for generations in small villages. They grow food crops such as cassava, maize and pineapples in small fields outside of the woodland area to feed their families and sell at the local market, often using the money to send their children to school.

In response to the plans to displace 20,000 people from their land, and putting their access to adequate food and nutrition at risk in the process, local communities with the help of national and international civil society organisations organised themselves to oppose the deal. While some forest was destroyed and some work to grow biofuels on the land started, the efforts to stop the plantation (including thousands of ActionAid supporters from all over the world contacting the Kenyan authorities to ask them to stop the deal), resulted in a temporary suspension of the biofuels in mid-2010 by Kenya's National Environment Management Authority.⁷²

In August 2011, Kenya Jatropha Energy Ltd issued an ultimatum to the Kenyan Government. If they were not given a licence for their biofuels plantation in the Dakatcha Woodlands within 10 days, they would withdraw their investment from the area. The 10 day deadline expired without the licence being approved. According to local sources, the growing of jatropha in Dakatcha has now stopped.

⁷² See <http://www.nema.go.ke/>

According to Kenyan media sources, jatropha plantations for biofuels have been banned in Kenya's Coastal Region.⁷³ Two officials from the Kenyan National Environment Ministry have been suspended for illegally issuing international companies with licences to grow jatropha.⁷⁴ In addition, a licence granted to a Canadian biofuels company has been revoked in the Tana River Delta. British firm G4 Industries Ltd has allegedly also pulled out of the Tana River Delta region near Dakatcha as it acknowledged that environmental concerns about its project were mounting.⁷⁵

Although the threat of being removed from their land was imminent only one year ago, since the Dakatcha community started working with ActionAid to bring this struggle to the attention of national and international actors, no-one has been displaced.

The community has set up a conservation group to rehabilitate the parts of Dakatcha that had been destroyed by charcoal-burning activities, clearing land for biofuel cultivation, and other activity by the company.

In mid-2011, a local Member of Parliament visited Dakatcha accompanied by the Provincial Commissioner and other local leaders. The purpose of the meeting was allegedly to quell the concerns of the community. However, the community were not satisfied with claims by the politicians that the jatropha project should be supported and they took a stand, chasing them off their land.

However there is a risk that the Dakatcha problem has simply gone elsewhere. Beyond Kenya, NII reportedly continues to grow jatropha in Ethiopia and Senegal. The risk is thus that companies such as NII will continue to grab land in places with less civil society and media scrutiny, as well as lower legal protection for poor and marginalised communities. This will mean companies will switch production to countries with lower protection against rights violations, as acknowledged by the World Bank.⁷⁶ and several civil society reports.⁷⁷

⁷³ See <http://envirolib.org/news/kenya%E2%80%99s-environment-authority-advises-jatropha-is-%E2%80%9Bnot-viable%E2%80%99-in-coastal-kenya/>

⁷⁴ See <http://www.standardmedia.co.ke/InsidePage.php?id=2000039849&cid=14&j=&m=&d=>

⁷⁵ See <http://www.treehugger.com/renewable-energy/uk-company-pulls-out-controversial-kenya-biofuel-project.html>

⁷⁶ See World Bank (2011), p. 55; R. Arezki, K. Deininger, H. Selod, "What Drives the Global 'Land Rush'?" World Bank Policy Research Working Paper Series 5864 (October 2011), p. 16.

⁷⁷ See, amongst others, p. 72 of "(Bio)Fuelling Injustice? Europe's responsibility to counter climate change without provoking land grabbing and compounding food insecurity in Africa", *EuropAfrica/FIAN*, S. Aubry et al.

Guatemala - Feeling the biofuels pressure

09

The EU's biofuels targets mean that imports of biofuels will have to increase substantially. Biofuels production will have to move into new geographical areas, and current production of feedstocks used for biofuels, including sugar, will increasingly be diverted to biofuels production as selling e.g. sugar as a biofuels feedstock rather than a food commodity will become increasingly lucrative. In 2008 Guatemala was already "a significant country for EU biofuels."⁷⁸

Many of the companies that today run sugar plantations in e.g. central and Latin America will sell their produce both to sugar and bioethanol refineries. Looking at areas where feed stocks for the increasing European biofuels' consumption will come from is therefore highly pertinent. This is the story of the type of highly volatile and vulnerable markets that European biofuels markets will increasingly depend on for their fuel. Meanwhile there is no mechanism in place that ensures that crops related to human rights abuses are excluded from the EU market.

90% of Guatemalan bioethanol exports currently go to Europe. Nicaraguan bioethanol producer Nicaragua Sugar Estates (NSE) owns 85% of Guatemalan sugar producer ChabilUtzai S.A. The Guatemalan company's produce is currently sold as sugar on the food market because that's more profitable at the moment, but it is likely to be sold as sugar for bioethanol as soon as that becomes profitable. It is therefore reasonable to assume that some of the Guatemalan sugar produced by NSE will eventually end up in European cars.

In March 2011, eleven indigenous Q'eqchi' indigenous communities were evicted from lands in the Polochic Valley in the Alta Verapaz region in eastern Guatemala. The communities had to make way for a sugar venture. Ongoing disputes over land were silenced with violence, threats and in some case the loss of life.

Polochic Valley is the home to one of Guatemala's 14 sugar mills. The refinery was built in 2007 after sugar producer ChabilUtzai S.A had taken over practically all the land in the valley for sugar production (over 5,000 hectares) by buying the land from various land owners, who were not the people who lived on and depended on the land for their survival.

The former farm-worker communities and hundreds of families who did reside there now had to leave the lands on which they have worked and lived for generations. In many cases the farming communities were still owed benefits and pay by the previous land owners. Negotiations over adequate compensation for the involuntary displacement were also, in many cases, unresolved.

As the company ran into financial difficulties and embarked on a new strategy to attract investors to save its sugar venture, it also sought an eviction order to be able to remove the farm workers who still had not left their lands. The eviction order was granted by the court⁷⁹ for the removal of 14 Q'eqchi' communities, constituting around 800 families. 200 members of the army and national civilian police were reportedly mobilised from around the country to execute the evictions. They are alleged to have been accompanied by the company's employees – with their faces covered so that the farm workers could not to recognise them.⁸⁰ 11 of the 14 communities were evicted during those days.

⁷⁸ Figure 18, http://ec.europa.eu/energy/renewables/studies/doc/biofuels/2011_biofuels_baseline_2008.pdf

⁷⁹ By Judget Yat of the Court of First Instance in Drug and Environmental Crimes

⁸⁰ The video "La conflictividad agraria en el Valle del Polochic" was transmitted by Guatevisión (a Guatemalan TV channel) on May 29th, 2011

Three people were killed during or following the evictions. Several more people were shot at and wounded. Many of the families' material possessions such as houses and the crops they relied on for food security were also destroyed and burnt down. Many members of the community are still suffering from the insecurity and trauma they experienced during, before and after the evictions.

During the past three years of struggle to maintain their land, and as the conflict has become militarised, the communities have been at risk of severe food insecurity as the communities were at threat of or were evicted from the land where they farmed for their subsistence. As the government's land policies in Guatemala lead to a re-concentration of land ownership in the hands of a few powerful players on the market, Guatemala have gone from being self-sufficient in food production to being a net importer. Conflicts such as the one in the Polochic Valley are symptomatic of increasing food insecurity and diminished land rights in Guatemala.

ActionAid is very concerned about the situation of the evicted communities and the ones at risk of eviction and subsequent food insecurity in Guatemala. Primary responsibility for ensuring individuals under its jurisdiction have access to sufficient food and that their rights are guaranteed lies with the Guatemalan State.

However, international actors such as the EU also have a responsibility not to tap into socially volatile and vulnerable markets such as the Guatemala sugar market. Through its renewable energy targets, the EU is placing additional pressure on fragile situations such as the one in the Polochic Valley. In fact, the mere existence of the targets and promises of a growing export market for biofuels work as incentives for rights abusers in fragile countries to clear land of people and cause food insecurity, personal trauma, and as has been the case in the Polochic Valley, death. If the EU continues with its current biofuels policies, this pattern is unlikely to change and may get worse.

The effects of European biofuels policies on 'wider development issues', including climate change, labour rights and women's rights

10

Article 17(7) of the Renewable Energy Directive gives the European Commission a mandate to look at the effects of European biofuels policies on what it calls wider development issues, besides food prices and land rights. European biofuels consumption does indeed have an effect on several other development issues, and this report will consider three of these: climate change, labour rights and women's rights. None of these should be considered as optional additions but core to the debate about the true impacts of EU biofuels policy.

European biofuels policies and women's rights

As production methods change when agricultural production is converted into biofuels production, women in the global south tend to be disproportionately affected. In its 2008 study "Gender and equity issues in liquid biofuels production"⁸¹, the FAO notes that "large-scale plantations for the production of liquid biofuels require an intensive use of resources and inputs to which smallholder farmers (particularly female farmers) traditionally have limited access."⁸² The FAO study also notes that biofuels will "put pressure on the so-called "marginal" lands, providing an incentive to convert part of these lands" and that "on marginal lands, women have traditionally grown crops for household consumption and medicinal uses. The conversion of these lands to plantations for biofuels production might therefore cause the partial or total displacement of women's agricultural activities towards increasingly marginal lands."⁸³

A study by the International Institute for Environment and Development⁸⁴ (IIED) commissioned by the FAO also concludes that women are "more vulnerable to displacement from the uncontrolled expansion of large-scale mono-crop agriculture" for biofuels and that "women's land rights risk being eroded by large-scale biofuels expansion, due to existing gender inequalities."⁸⁵ In fact, many studies seem to show that large scale biofuels production reinforces existing gender inequalities. Women tend to be totally excluded from the negotiations of the deals – when they take place – by both local and international actors who do not make efforts to reach them.⁸⁶

The EU member states have a clear obligation under international law to consider the effect that biofuels policies have on women in the agricultural sector. Article 14 of the Convention Against All Forms of Discrimination against Women (CEDAW), to which no less than 187 states are parties, including all EU member states, provides that "States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy."⁸⁷ The European Union should ensure that its policies do not impair the enjoyment of this right and contribute to the spirit of this provision. It would also be consistent with the European Union's policy coherence for development obligations for the EU not to promote policies that would risk rural women's rights in developing countries.

⁸¹ See "Gender and equity issues in liquid biofuels production", FAO <ftp://ftp.fao.org/docrep/fao/010/a1503e/a1503e00.pdf>

⁸² See <ftp://ftp.fao.org/docrep/fao/010/a1503e/a1503e00.pdf> p. 5

⁸³ See <ftp://ftp.fao.org/docrep/fao/010/a1503e/a1503e00.pdf> p. 7

⁸⁴ See <http://www.iied.org/>

⁸⁵ See "Fuelling exclusion? The biofuels boom and poor people's access to land", FAO <http://pubs.iied.org/pdfs/12551IIED.pdf> p. 29

⁸⁶ See e.g. E. Daley, "Gendered impacts of commercial pressures on land" ILC/CIRAD/Mokoro (2011), p. 4.

⁸⁷ See "Convention Against All Forms of Discrimination against Women" <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article14>

Across the developing world, women account for 60 to 80 per cent of farmers.⁸⁸ Meanwhile, women receive only 5 per cent of extension services in many developing countries.⁸⁹ The gender gap in agricultural support has a devastating impact on poverty, hunger and economies at large across the developing world. The UN Food and Agriculture Organisation recently estimated that bringing the yields on the land farmed by women up to the levels achieved by men would increase agricultural output in developing countries between 2.5 and 4 per cent. This increase in production would in turn reduce the number of hungry people in the world by between 12–17 per cent. i.e. around 100 million people.⁹⁰

Given this centrality of women's rights and investments in women farmers to advance rural development and food security, it is crucial that the EC develops the quantitative and qualitative gender-segregated data and information that will allow the EU to adequately assess, and if appropriate address, any negative impacts that the EU's biofuels policies have on women's rights in developing countries.

⁸⁸ Mark Curtis, *Fertile Ground: How governments and donors can halve hunger by supporting small farmers*, ActionAid, April 2010, p.9. See http://www.actionaid.org.uk/doc_lib/fertile_ground.pdf

⁸⁹ See "Farming as equals", ActionAid, p. 4, http://www.actionaid.org/sites/files/actionaid/aa_farming_as_equalslores.pdf

⁹⁰ See "Farming as equals", ActionAid, p. 4, http://www.actionaid.org/sites/files/actionaid/aa_farming_as_equalslores.pdf

⁹¹ See, for example, "Climate Change – Impact, Vulnerabilities and Adaptation in Developing Countries" <http://unfccc.int/resource/docs/publications/impacts.pdf>

⁹² For more information, see inter alia <http://www.actionaid.org/what-we-do/climate-change/climate-change-and-poverty>

⁹³ J. Schade, "Human rights, climate change, and climate policies in Kenya: How climate variability and agrofuel expansion impact on the enjoyment of human rights in the Tana Delta" Research Mission Report of a joint effort by COMCAD (Bielefeld University), FIAN Germany, KYF, and CEMIRIDE (December 2011).

European biofuels policies and climate change

The RED was in part designed to help the EU achieve its objective to combat climate change. However, due to the EU's unwillingness to account for the full greenhouse gas (GHG) effects of biofuels, many biofuels counted under the Directive are actually worse for climate change than traditional fossil fuels.

This is of particular relevance to the effects of the EU's biofuels policies on development issues, as climate change has a tremendous impact on development globally. A growing body of evidence, including the recent reports of the Intergovernmental Panel on Climate Change (IPCC) shows that climate change causes falling crop yields, problems with access to water, the degradation of many eco-systems, and an increase in diseases such as malaria, spread by insects.⁹¹

Additionally, climate change has been one of the causes of the global food crisis. It also threatens the sustainable agriculture being practiced by smallholder farmers, who produce 85 per cent of food in developing countries. In Africa, yields from rain-fed agriculture could be reduced by up to 50 per cent by 2020, and in Central and South Asia, crop yields could fall by up to 30 per cent by 2050 as a result of climate change.⁹² Climate change also causes loss of life and livelihoods due to increasingly extreme weather events.

These issues have dramatic consequences for vulnerable people, and recent reports also show the relation between climate change and human rights violations.⁹³ Climate change is therefore a key issue which should reasonably be scrutinised when looking at the effects of biofuels policies on 'wider development issues'.

However, the EU currently fails to properly account for the GHG emissions of biofuels. This is mainly because the RED does not contain any methodology for measuring the GHG effects of so-called Indirect Land Use Change (ILUC).⁹⁴ Several studies have showed that ILUC has a significant effect on the carbon footprint of biofuels and means that several feed stocks used for biofuels are actually worse for climate change than fossil fuels.⁹⁵

In terms of land conversion alone, the ILUC impacts attributable to additional conventional biofuels usage by 2020 in all 27 Member States assessed within this study are between 4.7 and 7.9 million hectares.⁹⁶ As much of this land conversion will, if current trends continue, be likely to happen in carbon sensitive areas, the additional carbon emissions in the period up to 2020 as a result of European biofuels usage when including ILUC effects is anticipated to range from 313 and 646 MtCO₂e or between 2.9 and 6 gCO₂e/kgoe.⁹⁷ Effectively, this would be the equivalent of placing between 14.2 and 29.2 million additional cars on the roads across Europe in 2020.⁹⁸

Considering the concrete and serious effects of climate change on development, including food security and access to arable land, it is paramount that the EU factors in the full effects of its biofuels policies on climate change when considering the effects of the RED on wider development issues. One key way of doing this is to introduce honest carbon accounting through robust, binding, feedstock differentiated ILUC factors for all biofuels used in the European Union.

⁹⁴ Indirect Land Use Change (ILUC) refers to the displacement of e.g. agricultural production when land is converted for biofuels production. The agricultural production now needs to occur in a new place, maybe another country. The land use there will need to be changed, but as it is not occurring where the biofuels production is happening but somewhere else (for example a rain forest or a peatland) it is considered indirect.

⁹⁵ See, inter alia, "Anticipated Indirect Land Use Change Associated with Expanded Use of Biofuels and Bioliqids in the EU – An Analysis of the National Renewable Energy Action Plans" by IEEP, http://www.ieep.eu/assets/786/Analysis_of_ILUC_Based_on_the_National_Renewable_Energy_Action_Plans.pdf

⁹⁶ Ibid. IEEP, p. 14

⁹⁷ Ibid. IEEP, p. 18

⁹⁸ The number of additional cars on the road is calculated by dividing the additional GHG emissions from ILUC on an annualised basis by the estimated level of emissions per car in 2020. The latter is calculated based on the

European biofuels policies and labour rights

The policy induced expansion of the biofuels sector has been promoted as an opportunity for agricultural communities in both Europe and other parts of the world to diversify their production and sources of income, thus making them more resilient to changes in individual markets. It has also been portrayed as an opportunity for economic development and job creation in developing countries. These assumptions must be examined thoroughly in light of evidence highlighting that as traditional agricultural production turns into biofuels feedstock production, many rural and agricultural communities see a loss of job opportunities, downward pressure on salaries and lowered labour standards.

Communities across Brazil have reported that large scale biofuels production is threatening their labour rights. An ActionAid study in Brazil has found that, for example, in Rubiataba, Goiás, the Cooper-Rubi mill is gradually mechanizing the sugar cane harvest used for ethanol. According to a business representative, the number of workers during the harvest will be reduced from 800 to 300.⁹⁹ Other studies have concluded that workers on sugar cane plantations for ethanol in Brazil are regularly subjected to daily wage and minimum salary reduction; commutation or non-payment based on agreements such as paid rest, vacations, or the customary extra-month bonus at the end of the year.¹⁰⁰ The rising price of land in many parts of Brazil due to demand for land from bioethanol producers in the country have also lead to increasing numbers of agricultural communities not being able to afford land where they can work and thus risk unemployment.¹⁰¹

assumption that on average cars will produce 170gCO₂e/km in 2020 and will travel on average 13,000km per year. This equates to 2.21tCO₂e per car per year. These calculations are based on established scenarios for future car use in Europe.

⁹⁹ "Smokescreen – the hidden story behind biofuels" p. 9, see http://www.actionaid.org/sites/files/actionaid/smoke_screen__biofuels_executive_summary.pdf

¹⁰⁰ "Desempenho do setor sucroalcooleiro brasileiro e os trabalhadores" [Sugarcane/alcohol industry performance in Brazil, and its workers.] Estudos e Pesquisas, ano 3, n. 3. DIEESE, 2007.

¹⁰¹ See http://www.actionaid.org/sites/files/actionaid/aabrazil_smoke_screen_-_hidden_story_behind_biofuel_production.pdf

As seen in the description of events in the Polochic Valley in Guatemala previously in this report, land grabbing often leads to unemployment or underemployment as communities can no longer make a livelihood from working their land. The picture is very similar in the Kenyan Dakatcha region and in Kisarawe in Tanzania, both of which are described in the land rights section of this report.

The FAO has warned that labour rights in large-scale biofuels plantations (which are required to make biofuels production commercially viable) are precarious.¹⁰² Amongst various other agencies, the Office of the High Commissioner on Human Rights also reports cases of “child labour and of debt-bondage in the production of feedstock for biofuels.”¹⁰³

Overall, it is clear that the issue of how labour rights are affected by European biofuels mandates needs to be investigated and reported on much more rigorously than in the 2008 baseline study and is foreseen in the 2012 sustainability reporting.

¹⁰² See <http://www.fao.org/bioenergy/52180/en/> (Retrieved 26 March 2012)

¹⁰³ See <http://www.ohchr.org/Documents/Issues/ClimateChange/Submissions/LO.pdf>

Recommendations

11

Concrete examples from the communities we work with and scientific evidence from aggregated data prove that biofuels production driven by EU policy has negative impacts on the rights of people all over the world. The EU has clear legal obligations to ensure that its policies do not participate to drive these negative impacts, and to take steps to ensure sustainable solutions are found to this situation.

In order to honestly and accurately address the real effects of European biofuels policies on development issues in poor countries, ActionAid recommends that

The European Commission:

On the 2012 report

- Revises and updates the baseline study to ensure that better and relevant datasets are available for a range of key areas of human rights e.g. women's rights, labour rights and climate change impacts of European biofuels policies
- Adopts an adequate methodology, taking into account the limitations of the baseline study mentioned in this report, and notably, looks at the impact of the EU biofuels targets on food security, land rights, and other development issues more comprehensively, rather than restricting itself to tracking only the biofuels that reached Europe during 2009 and 2010 under the Renewable Energy Directive
- Ensures that the consultants in charge of the 2012 sustainability report have the necessary capacity and expertise in development, human rights, and international human rights law, and that they have enough time and resources to conduct a meaningful assessment

- Is prepared to propose all relevant forms of corrective action that will genuinely address the issues that emerge from the 2012 reporting on social sustainability
- Allows for Directorate Generals and EU institutions with the relevant expertise, including notably DG Development-Cooperation, DG Justice, and the EEAS to play the lead roles in defining the scope and final recommendations of the report in accordance with their competences
- Ensures the process of information gathering to be inclusive of communities that have felt impacts of European biofuels policies, and organisations that represent those communities

On biofuels in general

- Remove the 10% target for renewable energy in transport fuel as soon as possible
- Phase out all financial incentives for biofuels, including subsidies and tax exemptions
- Cap all expansion of biofuels consumption, production and imports to the EU at 2009 levels
- Introduce robust and binding social sustainability criteria for all bioenergy production
- Pursue all avenues to hold European biofuels corporations involved in human rights violations to account for those abuses

EU member states and the European Parliament:

On the 2012 report

- Actively participate in monitoring the social effects of European biofuels policies
- Ensure that the European Commission's report on social sustainability adopts an adequate methodology and notably covers the full impacts that European biofuels targets are having on food security, land rights and other development issues more widely, rather than restricting itself to tracking only the biofuels that reached Europe during 2009 and 2010 under the Renewable Energy Directive
- Propose that the European Commission put forward suggestions for corrective action that will genuinely address the issues that emerge from the 2012 reporting on social sustainability
- Call on the European Commission to publish its report on the social sustainability of biofuels by the end of 2012 at the latest, and publish and publicise the outcomes of the study widely in a transparent manner
- Call on the European Commission to ensure the process of preparing the 2012 report includes consultation with affected communities and NGOs representing these

EU member states in particular:

- Revise the Renewable Energy National Action Plans that they submitted in 2010 to remove all first generation biofuels from their plan to meet the 10% renewable energy in transport fuel target
- Phase out all financial incentives for industrial biofuels, including subsidies and tax exemptions
- Introduce robust and binding national social sustainability criteria for production and imports of all bioenergy, including biofuels
- Invest in renewable energies other than biofuels that have proven to be socially and environmentally sustainable and that actually lower GHG emissions
- Cap all expansion of biofuels consumption, production and imports to the member state at 2009 levels
- Ratify the Optional Protocol to the Covenant on Economic, Social and Cultural Rights which opens a complaint mechanism for victims of ESCR violations

Bibliography

European Union documents

Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (hereinafter 'RED'), OJ L 140, 5.6.2009

Directive 2003/30/EC on the promotion of the use of biofuels or other renewable fuels for transport.

Biofuels Progress Report - Report on the progress made in the use of biofuels and other renewable fuels in the Member States of the European Union, COM/2006/0845 final

European Development Consensus http://ec.europa.eu/development/icenter/repository/european_consensus_2005_en.pdf

Treaty of Lisbon, http://europa.eu/lisbon_treaty/full_text/index_en.htm

2008 baseline study for 2012 social reporting on biofuels. http://ec.europa.eu/energy/renewables/studies/doc/biofuels/2011_biofuels_baseline_2008.pdf

European Commission, "Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments" Commission SEC(2011)567 final (6 May 2011)

European Commission, "Increasing the impact of EU Development Policy: and Agenda for Change" COM(2011) 637 final (13 October 2011)

European Commission, "An EU policy framework to assist developing countries in addressing food security challenges" COM(2010)127 (31 March 2010)

European Parliament, "Assisting developing countries in addressing food security challenges" European Parliament resolution of 27 September 2011 (2010/2100(INI))

European Parliament and Council Regulation No 1233/2011 on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76/EC and 2001/77/EC (16 November 2011)

An assessment of the effects on land ownership and land grab on development, EXPO/DEVE/2009/Lot 5/13

SEC (2008) 434/2 Commission Staff Working Paper accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "The EU -- a global partner for development, Speeding up progress towards the Millennium Development Goals, Policy Coherence for Development, Climate Change/Energy/Biofuels, Migration and Research"

Renewable Energy National Action Plans, http://ec.europa.eu/energy/renewables/transparency_platform/action_plan_en.htm

Communication COM(2008) 321, May 2008, "Tackling the challenge of rising food prices Directions for EU action"

Ecofys, Agra CEAS, Chalmers University, IIASA and Winrock, "Biofuels Baseline 2008" Report to the EU in response to Tender No. TREN/D1/458/2009

Bibliography

International and regional legal instruments

Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/>

International Labour Organisation (ILO) Convention 117, the Social Policy Convention, <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C117>

American Convention on Human Rights, OAS Treaty Series No. 36. Entered into force 18 July 1978

African Charter on human and Peoples' Rights. OAU Doc. CAB/LEG/67/3. Entered into force 21 October 1986

Convention Against All Forms of Discrimination against Women <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article14>

Reports

World Bank, *Rising global interest in farmland: can it yield sustainable and equitable benefits?*, Washington, D.C., 2010

World Bank (2011), p. 55; R. Arezki, K. Deininger, H. Selod, "What Drives the Global 'Land Rush'?" World Bank Policy Research Working Paper Series 5864 (October 2011)

The Right to Food, Report by the UN Special Rapporteur on the Right to Food to the 65th session of the UN General Assembly on 11 August 2010. A/65/281.

O. de Schutter, "Human rights and the rise of international organisations: the logic of sliding scales in the law of international responsibility" in J. Wouters, E. Brems, S. Smis and P. e Schmitt (eds.), *Accountability for Human Rights Violations by International Organisations* (Intersentia, October 2010)

"Price Volatility in Food and Agricultural Markets: Policy Responses", by 10 IGOs including FAO, WTO and the World Bank, http://www.oecd.org/document/20/0,3746,en_2649_37401_48152724_1_1_1_37401,00.html

International Energy Agency, "Technology Roadmap – Biofuels for Transport" http://www.iea.org/papers/2011/Biofuels_Roadmap.pdf

"Gender and equity issues in liquid biofuels production", FAO <ftp://ftp.fao.org/docrep/fao/010/ai503e/ai503e00.pdf>

"Fuelling exclusion? The biofuels boom and poor people's access to land", FAO <http://pubs.iied.org/pdfs/12551IIED.pdf>

Lipsky, 2008. Commodity Prices and Global Inflation. IMF. <http://www.imf.org/external/np/speeches/2008/050808.htm>

UK Renewable Fuels Agency, "The Gallagher Review of the indirect effects of biofuels production" (July 2008)

OECD/FAO (2010), *Agricultural Outlook 2010-2019*, OECD, Paris

Climate Change – Impact, Vulnerabilities and Adaptation in Developing Countries <http://unfccc.int/resource/docs/publications/impacts.pdf>

HLPE, "Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security" FAO Committee on World Food Security (July 2011)

HLPE, "Price volatility and food security" High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security (Rome, July 2011)

"Smokescreen – the hidden story behind biofuels" http://www.actionaid.org/sites/files/actionaid/smoke_screen__biofuels_executive_summary.pdf

Fertile Ground: How governments and donors can halve hunger by supporting small farmers, ActionAid, April 2010, p.9. See http://www.actionaid.org.uk/doc_lib/fertile_ground.pdf

"Farming as equals", ActionAid, p. 4, http://www.actionaid.org/sites/files/actionaid/aa_farming_as_equalslores.pdf

Bibliography

- T. Rice, "Meals per gallon: The impact of industrial biofuels on people and global hunger" ActionAid (January 2010), http://www.actionaid.org.uk/doc_lib/meals_per_gallon_final.pdf
- Land Rights and the Rush for Land, International Land Coalition, 2011, www.landcoalition.org/sites/default/files/publication/1205/GSR%20summary_ENG.pdf
- "Anticipated Indirect Land Use Change Associated with Expanded Use of Biofuels and Bioliquids in the EU – An Analysis of the National Renewable Energy Action Plans" by IEEP, http://www.ieep.eu/assets/786/Analysis_of_ILUC_Based_on_the_National_Renewable_Energy_Action_Plans.pdf
- S. Aubry, "(Bio)Fuelling Injustice? Europe's responsibility to counter climate change without provoking land grabbing and compounding food insecurity in Africa" *EuropAfrica* (February 2012)
- The Oakland Institute, "The myth of job creation" Land Deal Brief (December 2011),
- Friends of the Earth Europe, "Africa: up for grabs" (June 2010)
- A. Graham, S. Aubry, R. Künnemann and S. Monsalve Suárez, "Land Grab Study" FIAN International (2010)
- Oxfam, "Land and power: The growing scandal surrounding the new wave of investments in land" Oxfam briefing paper 151 (22 September 2011).
- K. von Grebmer, M. Torero, T. Olofinbiyi, H. Fritschel, D. Wiesmann, Y. Yohannes, L. Schofield, and C. von Oppeln, "Global Hunger Index 2011. The Challenge of hunger: Taming price spikes and excessive food price volatility" IFPRI, Concern Worldwide and Welthungerhilfe (October 2011)
- E. Daley, "Gendered impacts of commercial pressures on land" ILC/CIRAD/Mokoro (2011)
- W. Anseeuw, L. Alden, L. Cotula, M. Taylor, "Land Rights and the Rush for Land: Findings of the Golbal Commercial Pressures on Land Research Project" IIED, CIRAD and ILC
- J. Schade, "Human rights, climate change, and climate policies in Kenya: How climate variability and agrofuel expansion impact on the enjoyment of human rights in the Tana Delta" Research Mission Report of a joint effort by COMCAD (Bielefeld University), FIAN Germany, KYF, and CEMIRIDE (December 2011)
- J. Franco, L. Levidow, D. Fig, L. Goldfarb, M. Hönicke & M. L. Mendonça, "Assumptions in the European Union biofuels policy: frictions with experiences in Germany, Brazil and Mozambique" 37(4) *Journal of Peasant Studies* 661 (2010)
- Blanco Fonseca, M, Burrell, A, Gay, H, Henseler, M, Kavallari, A, M'Barek, R, Pérez Domínguez, I and Tonini, A (2010). *Impacts of the EU biofuel target on agricultural markets and land use: a comparative modelling assessment*. JRC Scientific and Technical Reports, EUR 24449 EN
- P. B Matondi, K. Havnenik and A. Beyene, "Introduction: biofuels, food security and land grabbing in Africa" in P. B Matondi, K. Havnenik and A. Beyene (eds), *Biofuels, land grabbing and food security in Africa*, Zed Books (Uppsala: 2011)
- S. Vermeulen and L. Cotula, "Over the heads of local people: consultation, consent and recompense in large-scale land deals for biofuels projects in Africa" 37(4) *Journal of Peasant Studies* (2010)
- K. Deininger, D. Byerlee, J. Lindsay, A. Norton, H. Selod, M. Stickler, "Rising Global Interest in Farmland. Can it Yield Sustainable and Equitable Benefits?" World Bank (2011)

Bibliography

Media sources

<http://envirolib.org/news/kenya%E2%80%99s-environment-authority-advises-jatropha-is-%E2%80%98not-viable%E2%80%99-in-coastal-kenya/>

<http://www.standardmedia.co.ke/InsidePage.php?id=2000039849&cid=14&j=&m=&d=>

<http://www.treehugger.com/renewable-energy/uk-company-pulls-out-controversial-kenya-biofuel-project.html>

<http://biofuelsdigest.com/bdigest/2011/07/26/sun-biofuels-commences-shipment-of-jatropha-oil-from-mozambique/>

[http://www.hardmanandco.com/Research/Jatropha%20Sector%20Report%20\(Final\).pdf](http://www.hardmanandco.com/Research/Jatropha%20Sector%20Report%20(Final).pdf)

http://www.ae-africa.com/read_article.php?NID=2999&PHPSESSID=0c9636d416345361181a17dfbd39ab51

<http://www.biofuelsdigest.com/bdigest/2011/07/21/biofuels-mandates-around-the-world/>

“Biofuels Land Grabbing in Northern Ghana”, http://www.biofuelwatch.org.uk/docs/biofuels_ghana.pdf ;

“Senegal: Biofuels Boost Land-Grab Conflict in Country” <http://allafrica.com/stories/201110281172.html>

Alternative Energy, 2011. Brits acquire more African Acreage for Biofuels. http://www.ae-africa.com/read_article.php?NID=2999&PHPSESSID=0c9636d416345361181a17dfbd39ab51

[http://www.hardmanandco.com/Research/Jatropha%20Sector%20Report%20\(Final\).pdf](http://www.hardmanandco.com/Research/Jatropha%20Sector%20Report%20(Final).pdf)

<http://biofuelsdigest.com/bdigest/2011/07/26/sun-biofuels-commences-shipment-of-jatropha-oil-from-mozambique/>

Other sources

Mandari Memorandum of Understanding between Sun Biofuels Tanzania Ltd and Kisarawe District Council, section 2.1.1.2, 10 April 2006

International Scientists and Economists’ statement on biofuels and Land Use, <http://www.euractiv.com/sites/all/euractiv/files/scientists%20biofuels%20letter.pdf>

Sun Biofuels, 2011. Accessed July 2011. <http://www.sunbiofuels.com/business.html?page=9>. Since the company went into administration, the web site has been withdrawn

The video “La conflictividad agraria en el Valle del Polochic” which was transmitted by Guatevisión (a Guatemalan TV channel) on May 29th, 2011

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ActionAid International Europe Office
60 rue du Trône (Fifth floor)
1050 Brussels
Belgium

Telephone

+32 2503 2422

Facsimile:

+32 2502 6203

Email

brussels@actionaid.org

Website

www.actionaid.org/eu