



NO BUSINESS, NO RIGHTS

Human rights impacts when land investments fail to include responsible exit strategies. The case of Addax Bioenergy in Sierra Leone

Report #86

**SWED
WATCH**

Swedwatch is an independent not-for-profit organisation that conducts in-depth research on the impacts of businesses on human rights and the environment. The aim of the organisation is to contribute towards reduced poverty and sustainable social and environmental development through research, encouraging best practice, knowledge-sharing and dialogue. Swedwatch has six member organisations: Afrikagrupperna, the Church of Sweden, Diakonia, Fair Action, Solidarity Sweden-Latin America and the Swedish Society for Nature Conservation. This report, which can be downloaded at www.swedwatch.org, is authored by Swedwatch. The Church of Sweden stands behind the report and has participated in developing its recommendations.



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Preface

by the UN Special Rapporteur on the Right to Food

The 2017 State of Food Security and Nutrition report of the Food and Agriculture Organisation (FAO) of the United Nations does not bring us good news. There are currently 815 million undernourished people, an increase from 777 million in 2015. More than half of food insecure persons live in Africa, and the highest hunger levels are in Sub-Saharan Africa.

Ironically, many countries in Africa have the highest proportion of arable land with respect to agricultural potential as well as significant natural resources, yet their populations continue to suffer from hunger and malnutrition.

International financial institutions, and many donors, have been advocating investments in Africa, mostly related to large-scale land appropriation. Sometimes these investments pose high risks for investors, while it creates environmental destruction and human rights violations to local communities. Many African countries have ineffective legal systems when it comes to upholding the rights of people. Often regulations are irresponsibly or corruptly ignored so as to attract and please big investors. Social consequences follow, especially arising from the failure to protect traditional forms of land tenure. For local communities, raised expectations of job opportunities and a better life promised by large scale investments are often not fulfilled, and instead they lose what little they previously had.

With this background in mind it is essential to take steps to ensure that future investments in land respect, protect and fulfil the human rights obligations owed to communities, with particular attention paid to small-scale farmers who feed 80-90% of local communities in Africa. These farmers, most of them women, are the true engines of rural development, and the best hope for overcoming hunger and poverty. Women constitute eight out of ten farm workers, and mostly lack secure land tenure for themselves and their families. Therefore the right to food, gender equality and women's empowerment must become integral parts of such investment projects, and this will not happen without a concerted effort, including monitoring and regulating agricultural projects, especially those that flow from large investments.

Biofuel investments, as this report focuses upon, are particularly controversial. These investments often produce land rushes and the emergence of biofuel plantations that supplant crops, designed for human consumption, which then leads to food shortages and high food prices. In effect, biofuel investments tend to overlook the right of peoples to food as well as encroach on other fundamental rights. It is clarifying to recall that the 2008-09 food riots have been partly linked to biofuel production as a result of record spike in food prices that produced rising hunger.

There is also a moral dilemma: Biofuel help developed countries reduce the emission of green house gases in the fight against climate change, but at the cost of inflicting on African peoples high food prices and losses of their agricultural lands.

This report usefully illuminates the generally ignored sides of these biofuel deals. It shows the economic, social and environmental impacts on communities when such projects fail. Human rights risks related to a project failure are generally not accurately assessed by investors beforehand. In this report, a series of testimonies about the controversial Addax Bioenergy project in Sierra Leone tell a sad story that needs to be heeded. This project was hyped as offering a positive model for sustainable large scale agricultural investment. Yet, when the project stalled, the affected communities were left to fend for themselves without the promised agricultural support that would guarantee food security nor opportunities for an alternative livelihood.

Considering that Sierra Leone is one of the poorest countries in Africa, and hit hard by Ebola, a responsible exit strategy for big land related investments is necessary when unanticipated problems undermine the viability of the project. The report successfully raises important questions that need to be addressed by the international community, and donor countries, as well as by the global corporations making these risky and disruptive large-scale foreign investments in poor countries. The report is also notable for providing a set of recommendations for future investments with the goal of avoiding severe human rights violations. It timely and effectively challenges policy makers and private sector investors in poor countries to do better and to be sensitive to the fragility of the human rights of persons and communities living in impoverished circumstances.

Hilal Elver
UN Special Rapporteur on the Right to Food

October 2017, New York



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Executive summary

This report illustrates the impacts on local communities when land-related projects stall and when investors and companies have failed to identify and address such risks beforehand. It also explains the responsibility of investors at a premature and unplanned exit (divestment). The report presents a case study from Sierra Leone where several large-scale land-related projects stalled or scaled down following the outbreak of Ebola and the decline in international commodity prices during 2014 and 2015.

In 2011, the Swedish development finance institution (DFI) Swedfund and its Dutch counterpart FMO became minority shareholders of the company Addax Bioenergy in which the DFIs owned 8 and 17 percent respectively. The project represented the biggest agriculture investment ever undertaken in Sierra Leone, one of the poorest countries in the world. The plan was to lease large areas of land, from the beginning 57 000 ha, to produce ethanol for the European market and generate electricity for the national power grid in Sierra Leone. The project created over 3 000 new jobs in a remote area where 95 percent of the households depended on subsistence farming and where formal employment was almost non-existent. To mitigate food security risks connected with the loss of access to land, a support program to help farmers move from traditional to mechanised farming techniques was established.

Despite high ambitions, the Addax Bioenergy project faced a number of challenges, leading to severe financial constraints. Therefore, the project was drastically down-scaled in 2015 for a year and a half, during which Swedfund and FMO sold their shares and left the project. By then, their shares had been reduced to one and 8 percent respectively, after a couple of new issues of shares.

During the scale-down, the impacts on local communities were widespread: a majority of the employees lost their jobs and diminished access to natural resources due to the project, meant there was little to fall back on. A number of children in affected communities were forced to leave school during the scale-down, as their school fees could not be paid. Older women and land users stopped receiving help from other community members when these lost their jobs and most of the food security support programs stopped working, despite concerns from affected communities over not having enough to eat.

The earlier migration to the area due to the project, from which the communities benefited when the project was running ahead, contributed to problems once the project stalled as the changing demographics exacerbated conflict over natural resources. In some communities, workers from outside stayed and waited for the employment opportunities to return. In other cases, male workers from outside the project area that had children with women from the local communities, left the area and stopped maintaining their families, which increased the hardship for young women that were already marginalised.

Despite being provided with information on serious human rights impacts and risks, neither FMO nor Swedfund conducted human rights due diligence (HRDD) in line with the UN Guiding Principles on Business and Human Rights (UNGPs), before exiting the Addax Bioenergy project. After Swedfund's and FMO's exit, transparency

around the project and dialogue with local communities deteriorated significantly and made it harder to hold the project accountable for its impacts.

When operations resumed under the new majority shareholder Sunbird Bioenergy in December 2016, many employees were re-instated. However, some communities reported serious impacts on access to and quality of drinking water due to contamination, allegedly caused by resumed operations. Furthermore, new elements of the project were not preceded by consultations with local communities, and if any risk assessment has been carried out, it has not been made public. The lack of consultation is of serious concern and further exacerbated by decreasing space for civil society in the country: in 2016 human rights defenders in Sierra Leone working on business and land rights reported an increase in threats and attacks.

The report concludes that Swedfund and FMO, together with other involved parties, should assess how they could best assist in the remediation of the impacts caused by the Addax Bioenergy project stalling, and in preventing and mitigating the impacts related to the resumed operations. Above all, the lesson learnt from the Addax Bioenergy project is that risk assessments and mitigation measures need to include an exit perspective, take into account human rights risks in case of an unexpected project failure, and be financed from the beginning. They should not be left to depend on a project's commercial success.

Recommendations

To Swedfund and FMO

- Undertake an extensive assessment of impacts of the Addax Bioenergy project during the project scale-down with a particular focus on food security, local livelihoods and impacts on vulnerable groups, including women and children. The assessment should include meaningful consultations with the affected communities.
- Take an active role in remediating the negative impacts caused by the scale-down of Addax Bioenergy, and ensure that appropriate processes to enable remediation are in place.
- Take every reasonable and constructive step, including by contributing financially, to increase leverage and ensure Sunbird Bioenergy adequately addresses on-going impacts, and prevents and mitigates potential future impacts.
- Bring the discussion on land-related investments and exits to the Association of European Development Finance Institutions, EDFI, in order to address the dilemmas that might occur and to give guidance to other EDFI members.

To Sunbird Bioenergy, the new majority shareholder of Addax Bioenergy

- Immediately address the negative impacts on access to clean drinking water, in cooperation with relevant authorities. A long-term solution to water problems in Tonka community needs to be found.

- Make public the risk assessments of new activities such as elephant grass cutting and cassava production. Consult with affected communities about the new activities and clearly communicate information on risks, potential impacts and mitigation measures to all affected stakeholders.
- In assessments of impacts on food security and communities' livelihoods, take into account that food must be available, accessible and adequate for affected communities to be considered food-secure, in alignment with international guidelines.
- Pay particular attention to vulnerable groups in the project area, such as women, children and land users, when risks are identified and addressed, in line with the UN Guiding Principles on Business and Human Rights. Risk assessments should include a gender analysis and indirect risks related to population increase.
- Ensure external monitoring to track the effectiveness of mitigation measures, and to identify new risks, in a credible and transparent way.
- Improve communication with affected communities. Explore how the transparency and credibility of the Multi Stakeholder Forum could be strengthened. Ensure that the operating grievance mechanisms follows the effectiveness criteria set out in the UNGPs (Principle 31, see Annex).
- Ensure that responsible exit strategies are part of existing and future projects. Exit strategies should build on ongoing human rights due diligence and address risks for local communities related to an unexpected project shutdown.

To EDFI and its members, as well as to other development finance institutions

- Update existing guidelines to include clear requirements on on-going human rights due diligence and exit strategies, particularly in land-based investments, in all relevant guidelines. Make sure exit strategies are planned and financed at the initial stage of a project, and regularly updated.
- Ensure that grievance mechanisms are available for all affected stakeholders and that complaints are addressed regardless of whether the DFI involved is still invested.
- Make sure investments in agriculture or food systems live up to the Principles for Responsible Investments in Agriculture and Food systems by the Committee on World Food Security.

To companies and investors in large-scale land-related projects

- Ensure that responsible exit strategies are part of existing and future investments. Exit strategies should build on on-going human rights due diligence and address risks and impacts on local communities related to a temporary or permanent project shutdown.
- Make sure investments in agriculture or food systems contribute to food security in line with the Principles for Responsible Investments in Agriculture and Food Systems by the Committee on World Food Security.

- Abide by the UN Guiding Principles on Business and Human Rights, and safeguard the informed participation of local communities and human rights defenders in decision-making and as part of the human rights due diligence process.

To the Governments of Sweden and the Netherlands

- Adopt national legislation on mandatory human rights due diligence for companies and investors, prioritising those with operations in high-risk areas. For land-related investments human rights due diligence should always include an exit perspective and address risks and impacts for local communities related to temporary or permanent project shutdowns.
- Explore ways to promote dialogue, both locally and internationally, between different actors such as companies, investors, affected communities and civil society including human rights defenders.

To the Government of Sierra Leone

- Develop a National Action Plan on Business and Human Rights through broad consultation with civil society and other stakeholders, following internationally recognised criteria for an effective National Action Plan (see Annex). The plan should place particular emphasis on land-related investments and local community dialogue.
- Require businesses to develop responsible exit strategies at the initial stage of projects and to conduct human rights due diligence on an on-going basis and prior to exits, particularly in land-related projects. Include requirements on exit strategies in all relevant guidelines.
- Ensure that new land investments do not pose a threat to local food security but contribute to long-term sustainable development for local communities, including vulnerable groups within those communities, in line with international guidelines such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
- Ensure that the National Land Policy is fully implemented.
- Identify adequate ways to protect local communities from negative impacts when land-related projects fail or stall. Measures to mitigate negative impacts on local communities in case of a project shutdown should be planned and financing secured at the initial stage of the project.
- Improve the capacity of relevant authorities and allocate sufficient resources to ensure efficient and transparent monitoring of projects with high risks for adverse impacts on human rights and the environment.
- Ensure that human rights defenders are protected and able to carry out their work safely.
- Explore ways to promote dialogue, both locally and internationally, between different actors such as companies, investors, affected communities and civil society including human rights defenders.

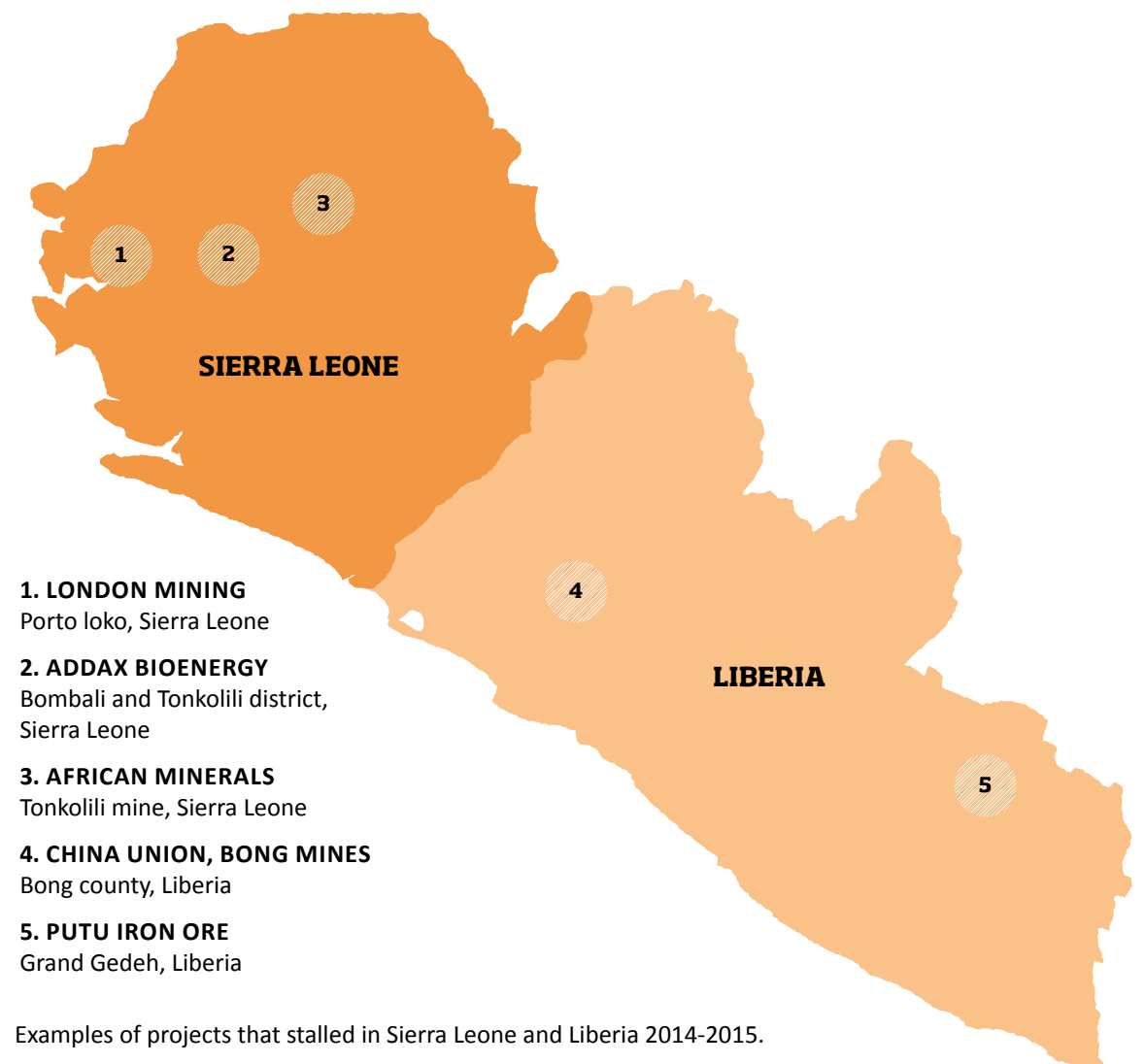
List of abbreviations

AOG	Addax and Oryx Group
CFS-RAI	Principles for Responsible Investment in Agriculture and Food Systems
DFI	Development Finance Institution
EDFI	Association of European Development Finance Institutions
EPA	Environmental Protection Agency
ESHIA	Economic, Social and Health Impact Assessment
FAO	Food and Agriculture Organisation of the United Nations
FBO	Farmer Based Organisations
FDP	Farmer Development Program
FDS	Farmer Development Services
FMO	Dutch Development Finance Institution
GDP	Gross Domestic Product
HRDD	Human Rights Due Diligence
IFC	International Finance Corporation
MAFFS	Ministry of Agriculture, Forestry and Food Security
MSF	Multi-Stakeholder Forum
NAP	National Action Plan
NGO	Non-Governmental Organisations
OECD	Organisation for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
RSB	Roundtable for Sustainable Biomaterials
SILNoRF	Sierra Leone Network on the Right to Food
Swedfund	Swedish Development Finance Institution
UNGPs	UN Guiding Principles on Business and Human Rights
UNIMAK	University of Makeni
VVGT	The Voluntary Guidelines on Responsible Governance of Tenure of Land
WFP	World Food Program

1. Introduction

Large-scale land-related projects such as commercial agriculture and mining imply a wide range of human rights risks for local communities, especially in areas with widespread poverty and food insecurity. Although companies and investors diligently assess financial risks associated with potential project challenges, most do not address human rights and environmental risks in the event of a temporary or permanent project shutdown. This report addresses the negative impacts on local communities when land-related projects stall. It highlights the need for investors to develop comprehensive exit strategies that address human rights risks in the event of a temporary or permanent project shutdown, and in the event of an unplanned exit (divestment).

Human rights challenges when land-related projects stall is currently a highly relevant issue in Sierra Leone and Liberia. The brutal civil wars in Sierra Leone and Liberia that ended in 2002/2003 were fueled by competition over, and revenues gene-



Examples of projects that stalled in Sierra Leone and Liberia 2014-2015.

rated from, the extraction of natural resources, primarily diamonds and timber. The conflicts destroyed already stressed national infrastructure and basic social services, including access to health care, water, and education. While still recovering from the wars and working to attract investors, both countries were hit by a double crisis: the world's most devastating Ebola outbreak and a sharp decline in commodity prices on the international market.

The West Africa Ebola virus disease outbreak stretched from 2014 – 2016.¹ The socio-economic impacts of the epidemic included stalled health care and education services and disruption to agriculture, manufacturing, construction, trade and commerce, transport, and tourism. These key economic sectors were seriously affected and resulted in an increase in national unemployment rates.² The economic impact of the Ebola crisis has been estimated at 300 million USD for Liberia and 1.9 billion USD for Sierra Leone.³

The outbreak coincided with a sharp international decline in commodity prices. Especially the drop in iron ore prices⁴ had a drastic effect on both Liberia and Sierra Leone where iron ore accounted for 56 percent of total export revenue in Sierra Leone in 2013 and for about 65 percent of total export revenue in Liberia in 2014.⁵ The price-drop affected several mining projects in both countries to stall and resulted in thousands of jobs being lost.⁶ In addition, community funds and local development projects financed by companies' profits, were also affected.

Although the economies of Sierra Leone and Liberia have shown signs of recovery in 2016 and 2017, local communities are still struggling with the aftermath of this double crisis. Poverty is widespread with 60 percent of Sierra Leoneans and 54 percent of Liberians living below national poverty lines in 2016.⁷ Over half of Sierra Leone's population – more than 3.5 million persons – are considered to be food insecure. Out of these, 600,000 are considered to be severely food insecure; a number that rose by a staggering 60 percent between 2010 and 2016.⁸ Food insecurity is generally more common among the rural population which is largely dependent on subsistence farming for its survival.

For businesses operating in such a high-risk context, the thorough identification and address of human rights risks is critical. The increase in land-related investments during the past ten years have led to conflicts between companies and communities in many parts of the world, also in Sierra Leone and Liberia. The situation for human rights defenders questioning these investments is deteriorating in both countries.

The recent experiences of land-related projects that have stalled raise important questions about how to ensure that foreign investments contribute to long-term sustainable development and prevent new conflicts in a region that, despite its natural resources, remains one of the poorest in the world.

Sierra Leone has made efforts to promote large-scale agriculture projects as part of a drive to diversify the economy and make it less dependent on the mining sector. However, large-scale land-related projects, whether mining or agriculture, often entail similar human rights and environmental challenges. When such projects stall, impacts tend to worsen. In order to illustrate the need for exit strategies among international investors in all large-scale land-related projects, this report uses the experiences of the Addax Bioenergy project in Sierra Leone. When it started in 2011, it represented the biggest agricultural investment ever made in Sierra Leone, and sought to become a model for sustainable agricultural investments in Africa. The report pays particular attention to the role and responsibility of the Swedish and Dutch development finance institutions (DFIs) Swedfund and FMO, that were minority shareholders of the project before exiting in December 2015, after the project had stalled in July of that same year.

2. Methodology

This report builds on investigations conducted in Sierra Leone in March 2017 on the impacts caused by the Addax Bioenergy project, and other land-based projects that stalled during the same period. It also draws on findings and developments from a 2013 Swedwatch report on the Addax Bioenergy report titled No Land, No Power.⁹

Swedwatch visited seven communities in the Addax Bioenergy project area and conducted a total of ten focus group interviews, with 6–10 participants in each, mainly women. Women are crucial to household food security and produce a large proportion of the food in Sierra Leone. They are more likely to be disadvantaged by land investments since they generally lack access to land and are less likely to be employed.¹⁰

The findings from these focus groups were triangulated with interviews with stakeholder groups including public authorities, civil society organisations, and experts within the fields of business and human rights, food security and sustainable development. Since the external monitoring of social and environmental impacts ceased when the DFIs exited the Addax project, there is limited information by which to compare community and company accounts. Swedwatch has therefore strived to collect as many different opinions from as many separate sources as possible. Swedwatch has changed the names of interviewed community members, in order to protect their identity.

During the research process Swedwatch also contacted the companies involved in the project. Sunbird Bioenergy provided information via email and one of the company managers took part in a telephone interview with Swedwatch. The former majority shareholder, AOG, which currently holds 25 percent of project shares, referred all questions to Sunbird Bioenergy. Swedwatch met with Swedfund for interviews on several occasions, including to discuss findings of research, while FMO chose to send written answers to Swedwatch's questions. Swedfund, FMO and Sunbird Bioenergy were offered the chance to read and comment on the report before publication. Their written statements are available on Swedwatch's website.¹¹

In the absence of explicit directives and guidelines on exit strategies, Swedwatch assesses the performance of Swedfund and FMO against the UN Guiding Principles on Business and Human Rights (UNGPs). Although the UNGPs were endorsed by the Human Rights Council in 2011, just before Swedfund's and FMO's investment in Addax Bioenergy, the principles are highly relevant to assess how they acted at the time they decided to exit the project.

While this report illustrates some of the human rights issues that need to be assessed on a larger scale, a more extensive study is needed to further clarify the scope and severity of the human rights impacts regarding the Addax Bioenergy project.

Since the land was leased to Addax Bioenergy there has been a decrease in farming activities. According to local communities they are now depending on the company for their survival.



3. Lack of responsible exit strategies

The lack of human rights-focused exit strategies when investors divest, and subsequent impacts on local communities, has been a recurring theme in Swedwatch's research and findings.¹² In a 2013 report titled Cut and Run, Swedwatch together with SOMO and Green Advocates Liberia, first highlighted the need to implement adequate exit strategies, based on a study of Swedfund's withdrawal from Buchanan Renewables in Liberia which had severe consequences for local communities (See more on page 52). Since then, Swedwatch has identified a general lack of exit strategies that adequately address human rights and environmental risks and impacts, among investors. This report aims to address this gap and to highlight the need to ensure that local communities are protected if projects should fail or stall.

Explicit guidelines on how to exit a project in a responsible way are hard to find. However, the UNGPs and the concept of human rights due diligence (HRDD) provide some guidance. The UNGPs state that risk management should be on-going and should account for possible changes as operations and the operating context evolve.¹³ This should be done through effective HRDD, which is especially important in environments with heightened risks. Heightened risks may arise from an operational context including conflict, corruption, or from business activities commonly associated with human rights impacts such as land acquisition, resettlement and extensive water usage, or the presence of groups that are particularly vulnerable to business impacts due to political, social or economic marginalisation.¹⁴ The operating environment of the Addax Bioenergy project includes several of these risk factors.

Any decision that could have a negative impact on human rights (such as the decision to exit a project) should first be subject to a risk assessment as part of the due diligence process of a business. Impacts should be assessed prior to a new activity or relationship, major decision changes in the operations, in response to, or anticipation of, changes in the operating environment, and periodically throughout the life of a project or relationship.¹⁵

According to the UNGPs, state-owned or state-controlled businesses (including those that receive substantial support and services from export credit agencies or official investment insurance or guarantee agencies) should take additional steps to protect against human rights abuses, including by requiring human rights due diligence.¹⁶ This applies to DFIs, such as Swedfund and FMO, that are partly or wholly funded by the state (for more on guidelines, see chapter 5).

3.1 Swedfund and FMO

Swedfund and FMO were minority shareholders of Addax Bioenergy. They are government-backed institutions that invest in private sector projects in low- and middle-income countries to promote job creation and sustainable economic growth. DFIs are usually majority-owned by national governments. While Swedfund is the Swedish development finance institution and wholly owned by the Swedish state,

FMO is a development bank with 51 percent of the shares held by the Dutch State and 49 percent held by commercial banks, trade unions and other members of the private sector.¹⁷

Swedfund

Through the Swedish Ministry for Foreign Affairs, the Swedish Government has assigned Swedfund to be Sweden's development finance institution for investments in poor countries. Swedfund is managed by Sweden's Ministry of Enterprise and Innovation and Swedfund's mission is to reduce poverty through sustainable business. Swedfund's main geographical focus is on Sub-Saharan Africa.¹⁸ In 2016 Swedfund's investment portfolio amounted to approximately 4.098 billion SEK, equivalent to 428 MEUR. It is the smallest DFI in Europe. Swedfund invests primarily in three sectors; renewable energy, manufacturing and service, but also in financial institutions and funds.¹⁹

According to the current guidelines from the Swedish Government, Swedfund's activities should contribute towards achieving the goals for Sweden's Policy for Global Development (PGD).²⁰ Swedfund shall ensure that operations are conducted in a business-like manner. The investments shall be financially, environmentally and socially sustainable and promote gender equality. Investments in the energy sector shall focus on renewable energy, thereby precluding investments in fossil fuels. Its overall goal is to contribute to poverty eradication through sustainable businesses.

FMO

FMO is Europe's largest development bank and its loan and equity portfolio amounted to EUR 6.4 billion in 2016.²¹ FMO focuses on inclusive finance through microfinance, rural-based infrastructure and agriculture, with the largest share of investments made in Africa. Under an agreement with the Dutch Government, 70 percent of FMO business must be in low-income countries and lower middle-income countries, at least 35 percent of which must be among the 55 poorest countries on the World Bank country list.²² The mission of FMO is "to empower entrepreneurs to build a better world". FMO invests in businesses, projects and financial institutions, by providing capital, knowledge and networks to support sustainable growth. The goal is to empower people to apply their skills and improve their own quality of life.²³

Sustainability guidelines

Swedfund and FMO have committed to following a number of sustainability guidelines including the IFC Performance Standards, the OECD Guidelines for Multinational Enterprises, the UNGPs, the Global Compact, the UN Principles for Responsible Investment (PRI) and the guidelines of the Association of European Development Finance Institutions, (EDFI). They also support the implementation of the Sustainable Development Goals (SDGs).²⁴

EDFI

15 European DFIs are members of the Association of European Development Finance Institutions, EDFI. The Association strives to strengthen the flow of information and cooperation between its members and other bilateral, multilateral and regional DFIs.²⁵

In 2009 EDFI adopted a set of principles for responsible financing that placed several requirements on its member institutions. This included requirements to ensure that financiers adopt a preventive and precautionary approach to the environmental and social impacts of investee companies, in order to prioritise the interests of affected people. If it is believed that negative environmental or social impacts are unavoidable, the effects of said impacts must be appropriately mitigated or compensated for. The principles also encourage investee companies to establish an open dialogue with their stakeholders on the environmental and social impacts of their business activities.²⁶ EDFI has adopted an exclusion list of sectors that their members are not permitted to finance.²⁷

4. Case study: Addax Bioenergy project in Sierra Leone

The Addax Bioenergy project in Sierra Leone stalled, or scaled-down as described by the company, in July 2015 (see more on page 26). This eventually led to the DFIs that had participated in the project to exit in December of the same year. The project remained stalled during 1,5 years until a new investor was found and operations resumed under the new majority shareholder, Sunbird Bioenergy.²⁸ The project scale-down had serious impacts on local communities. This section gives a background to the Addax Bioenergy project, after which impacts related to both the scale-down and resumption of operations are described.

In 2011, the local company Addax Bioenergy was 75 percent owned by the Swiss investment group Addax and Oryx Group (AOG) and the remaining 25 percent was owned by Swedfund (8 percent) and FMO (17 percent). The project was co-financed by five DFIs from Europe and Africa, which together secured EUR 133 million in debt finance.²⁹ The EUR 267 million Addax Bioenergy project was the biggest agricultural investment ever made in Sierra Leone when the support of the DFIs was announced in December 2011.³⁰

The business plan

Addax Bioenergy's business plan was to grow sugarcane to produce ethanol for the European market, and to use bagasse (a fibrous waste product created during sugar cane production) to generate electricity for the national grid in Sierra Leone. The project was projected to generate 90,000 m³ of ethanol per year, 20 percent of the country's electricity supply and create up to 4,000 new jobs. The project was scheduled to become operational in 2013 and reach full production in 2014.³¹ The company originally leased 57,000 hectares for 50 years. 60 communities were affected by the project from the beginning. To prevent impacts on local food security related to loss of access to land, an extensive support program was set up to help local farmers switch from the traditional shifting cultivation to mechanised farming techniques.

Sierra Leone

Population: 7.1 million. About 60 percent of the population is under the age of 25.

Life expectancy at birth: 48 years.

Percentage of the population that is literate: 41.1 percent.

Corruption: Sierra Leone scores 30 points on a scale of 0 (highly corrupt) to 100 (very clean).

Sierra Leone remains among the world's poorest countries; 60 percent of Sierra Leoneans live below the national poverty line, on less than 1.90 USD a day. About 62 percent of the population lives in rural areas and depends on agriculture for food and income. Mining is the second-most important sector after agriculture, both for employment and income generation. Sierra Leone is rich in minerals such as diamonds, rutile, bauxite, gold and iron ore.

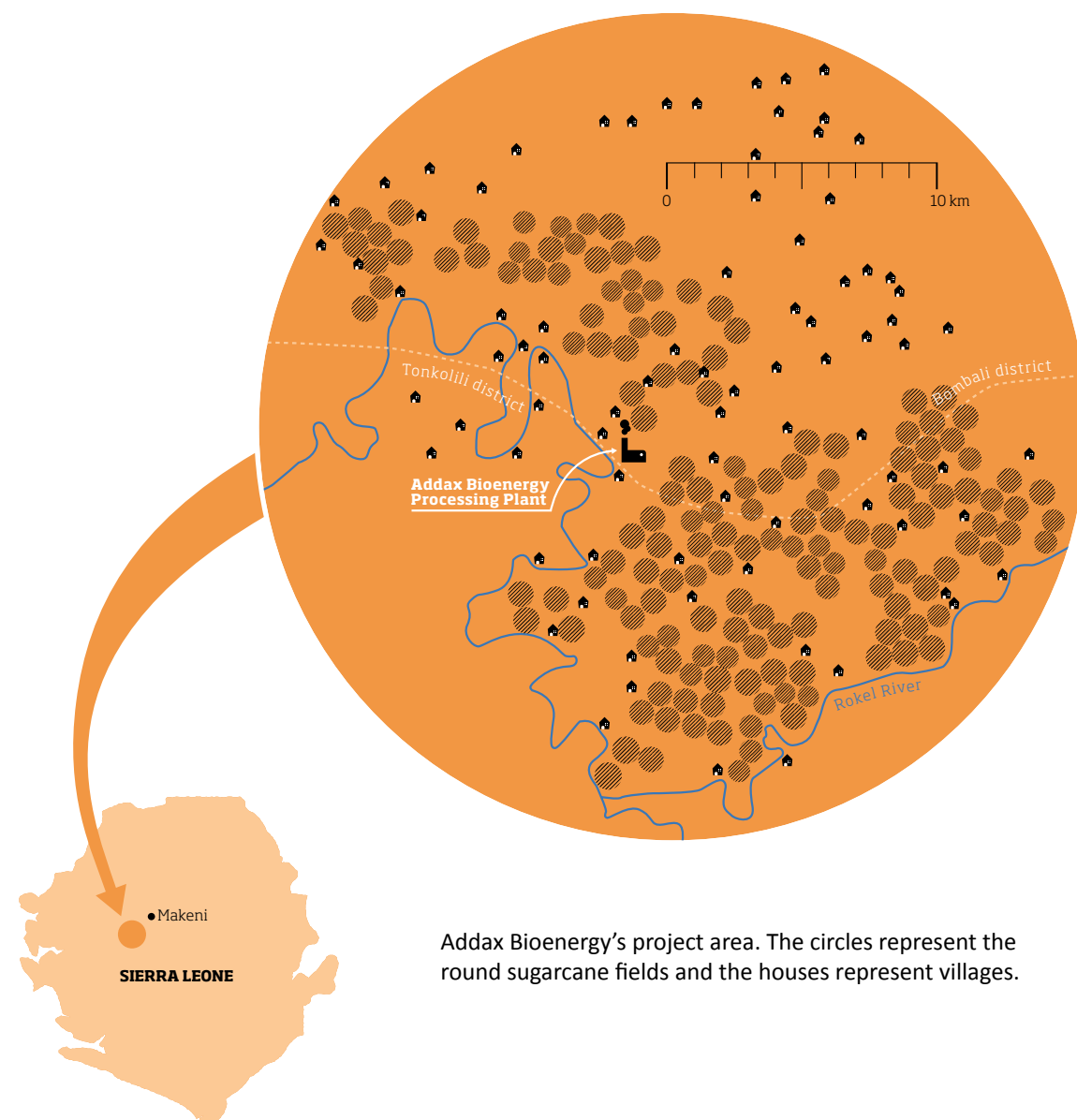
Conflict over natural resources, mainly diamonds, were important underlying causes of the brutal civil war that ravaged the country from 1991 to 2002. During the war, 50,000 people were killed and 2 million people internally displaced – one-third of the population. Another half million people had to seek refuge in neighbouring countries.

Prior to the Ebola outbreak in 2014, Sierra Leone had started to regain the attention of foreign investors. Sierra Leone's post-war economy had been rapidly recovering: in 2013, its economy grew more than 20 percent and Human Development Indicators showed clear signs of improvement. The direct and indirect effects of Ebola reversed many of the previous achievements. Furthermore, the sharp decline in commodity prices caused the country's two iron ore mines, operated by African Minerals and London Mining, to stall and the companies to go bankrupt, by the end of 2014. In 2014, mining contributed around 27 percent of GDP, dominated by the iron ore sub-sector, which alone contributed around 24 percent. In 2014 economic growth declined to 4.6 percent and then to -2.5 percent in 2015. In order to diversify the economy of Sierra Leone and make the country less dependent on the mining sector, the Government is promoting large-scale investments in agriculture and bioenergy.

Sources: CIA World Fact book, African Development Bank, FAO, UNDP and Human Rights Commission of Sierra Leone, Transparency International.

Addax Bioenergy aimed to become a model for sustainable large-scale agricultural investments in Africa. It gained considerable attention for its high profile on issues of sustainability and it committed to following a wide range of social and environmental criteria, including the IFC's Performance Standards and the African Development Bank's Safeguard policies, and a number of voluntary guidelines such as the UNGPs and the Voluntary Guidelines on Security and the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT).³²

With strong support from both the DFIs and the Government of Sierra Leone, the project seemed to be built on solid ground. It was ratified by Sierra Leone's Parliament in 2010 and was considered to be well in line with the country's development goals in the poverty reduction strategy Agenda for Change, which identified agriculture as the engine for socio-economic growth and development with a focus on the commercialisation of the agricultural value chain and promotion of private sector participation.³³ In 2013, Addax Bioenergy received the first African certification by



Addax Bioenergy's project area. The circles represent the round sugarcane fields and the houses represent villages.

the Roundtable for Sustainable Biomaterials (RSB).³⁴ It also became the first operation in Sierra Leone to be registered as a Clean Development Mechanism project of the United Nations Framework Convention on Climate Change.³⁵

The collaboration with the DFIs was particularly important for the sustainability profile of Addax Bioenergy.

Leasing of Land

Before the DFIs joined the Addax Bioenergy project, a lease process including two years of consultations with local communities and other stakeholders was carried out and a lease agreement was reached in 2010. Addax Bioenergy originally leased 57,000 ha of land, 14,000 ha of which were developed. Since the company wanted flexibility and was unsure as to where to construct the sugarcane pivots, it leased more land than it intended to use. Communities could apply for a permission from

the company to use land that was leased but not yet developed.³⁶ According to its lease agreement, the company had the option to relinquish undeveloped land after five years.

Sierra Leone has a plural legal system in which customary law and English-type laws co-exist. The land tenure system in the Addax Bioenergy project area in Bombali and Tonkolili district is based on customary law. The communities usually consist of both landowners and land users. Landowners belong to families with land rights inherited from previous generations. Such family units are legal bodies with the right to claim and hold land. Land users lack formal land rights, but can get permission to use some of the land owned by the landowning families. In general, women do not own land and are dependent on the land rights of their husbands or other male relatives. The Paramount Chief is the custodian of the land on behalf of the entire Chiefdom, and he is responsible for arbitrating any land disputes.³⁷

During the lease process, the lands of traditional landowners were charted, mapped and registered for the first time, by Addax Bioenergy. In 2010 Addax Bioenergy signed a Memorandum of Understanding with the Government covering the power supply, water access, tax breaks and legal protection for the company.³⁸

After signing the MoU with the Government, the company signed land lease agreements with the three Chiefdom Councils of the project area. According to the lease agreement, the lease would be paid to the chief Administrative Officer and then split in 50 percent to local landowners, 20 percent to the District Council, 20 percent to the Chiefdom administrator and 10 percent to the National Government. Apart from the lease agreements to which landowners were not party, Addax signed Acknowledgement Agreements with the landowners in order to give them a status as project parties. In some cases, the acknowledgement agreements were signed using fingerprints since many of the landowners were illiterate.³⁹ According to the Acknowledgement Agreements landowners would receive an extra 3,5 USD per ha and year. With this set up the landowners would receive a total of 7.9 USD per ha annually. Land users were not entitled to any of the money from the lease payment or acknowledgement agreements.⁴⁰

FACT

The National Land Policy of Sierra Leone

In November 2015, the Government of Sierra Leone adopted a comprehensive National Land Policy which addressed many of the weaknesses in the land tenure system. The Policy aims to establish a just land tenure system which will ensure equitable access to land for all citizens and stimulate investment for the nation's development. In addition to this the Government has endorsed and is working to implement the Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forests (see chapter 5 on guidelines) in partnership with the UN Food and Agriculture Organisation (FAO).⁴¹ A more efficient management of the land sector is one of the key priority issues in the national development plan, Agenda for Prosperity.⁴²



Addax Bioenergy would produce electricity to the national grid in Sierra Leone but the communities in the project area still lack electricity and cook mostly with firewood. Firewood has become harder to access after the land was leased to the company.

Project area

The Addax Bioenergy project is located south of Makeni town in northern Sierra Leone. In addition to a sugarcane estate covering about 10,000 ha of circular fields with pivot irrigation, the project consists of an ethanol refinery and a biomass power plant. The company's estate includes land in Makari Gbanti and Bombali Shebora Chiefdoms in Bombali district and Malal Mara Chiefdom in Tonkolili district. At the start of the project, it had an impact on nearly 14,000 people.⁴³ Of the 57 000 ha originally leased by the company in 2010, a significant part has since then been relinquished. As of April 2017, 23 500 ha were still leased by the company, according to the current majority shareholder Sunbird Bioenergy.⁴⁴

The project area was originally remote, with very limited infrastructure. Agriculture was the main livelihood strategy, and 95 percent of households, which averaged nearly 10 members each, were involved in small-scale farming. Formal employment was almost non-existent. The communities normally practised shifting cultivation including clearing by fire. Rice was the main crop grown during the rainy season, and sweet potato and cassava the main crops during the dry season. A large variety of other crops were grown in smaller quantities. The use of natural resources was fundamental to local livelihoods, including for charcoal production, wild plant collection, beekeeping, hunting and fishing.⁴⁵

A majority of the inhabitants of the project area used to have access to more land than they cultivated. However, the shifting cultivation practised requires the land to fallow a couple of years, to counteract depletion of the soil. Malnutrition and food scarcity were recurrent problems, originating from a seasonal lack of food due to poor yields and inadequate storage facilities. According to one of the baseline studies preceding the Addax Bioenergy project, the nutritional status of children under five in the area was severe: 23.2 percent were underweight, and 41.8 percent were stunted.⁴⁶ A high prevalence of anaemia was also found in both children under five and women of reproductive age.⁴⁷

FACT

Food security and the Right to Food

Land investments in regions where the affected communities are highly dependent on natural resources for their livelihoods risk having a negative impact on local food security and the right to food, if these risks are not properly identified and addressed. People are considered food secure when they have adequate access at all times to sufficient, safe, nutritious food to maintain a healthy and active life.⁴⁸

The right to adequate food as a human right was first formally recognised by the United Nations in the Universal Declaration of Human Rights (UDHR) from 1948, as a part of the right to a decent standard of living (UDHR Article 25). It was further recognised in Article 11 of the International Covenant on Economic, Social and Cultural Rights, a binding instrument for those states having ratified it. In 1999, the right to food was interpreted by the Committee on Economic, Social and Cultural Rights (CESCR) in the General Comment 12 establishing that:

The right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement.

In addition, the United Nations Special Rapporteur on the Right to Food has defined the right to food as:

*The right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.*⁴⁹

To end hunger and achieve food security is also part of the set of Sustainable Development Goals (SDG 2, See Annex), adopted by world leaders in 2015, and meant to be achieved by 2030.⁵⁰

Risk assessment and mitigation plans

During the initial phase of the Addax Bioenergy project, between 2008–10, an Economic, Social and Health Impact Assessment (ESHIA) was carried out on behalf of the African Development Bank that co-financed the project. This assessment included 14 specialist studies of which only a summary was made public.⁵¹ The ESHIA summary recognised that local communities regarded land as their most precious possession and as a safeguard for the maintenance of their livelihoods. It focused on the project's impacts related to limited access to land and the threat it could pose to food security and livelihoods in the 60 affected communities.

To address the risks identified in the ESHIA, a resettlement policy framework and resettlement action plan were made and a summary of those was also made public. Physical resettlement was largely avoided, but 77 people were moved to new houses constructed by the company. Compensation for economic displacement consisted of three primary components: (1) a one-off payment for crops and trees lost, (2) monies paid via the land lease and acknowledgement agreement and (3) participation in the Farmer Development Program (FDP) - an agricultural project meant to improve the food security for all community members in the affected communities, including the land users.⁵²

Potential impacts on biodiversity and the environment were also addressed. The project was designed to avoid forested areas as much as possible and ecological corridors were created across the site to facilitate ecological processes. Lack of access to drinking water was an issue for many of the communities in the project area. Impacts on water were predicted to be moderate. The project would use the Rokel River for irrigation and the water abstraction would be about 2 percent of the river water flow.⁵³ Where water sources were affected by the plantations, Addax built new water wells to ensure potable water quality.⁵⁴ In addition, Addax Bioenergy also built water wells in a number of the other affected communities to improve their access to water and sanitation.⁵⁵

In order to ensure an effective dialogue with the affected communities, Addax established liaison committees and a formal grievance mechanism to receive communities' grievances and concerns and facilitate their resolution. It also established a multi-stakeholder forum (MSF) administered by the University of Makeni as a platform for discussing concerns among various stakeholders and civil society groups. The MSF was also tasked to monitor the project and its developments.

Measures to mitigate food insecurity

The Farmer Development Program (FDP) was a cornerstone of the Addax Bioenergy project. It aimed to secure the per capita food baseline in the project area and boost food production.⁵⁶ Through the FDP the company would plough, prepare and sow community rice fields. This was calculated based on the number of affected persons in the communities. It included 60 community fields (one per village) and a total area of 1,960 ha, which according to the company would more than double the land under food production in the project area and enable the production of about 1,400 tons of rice per year.

FACT

According to the ESHIA, the FDP would “ensure that each household affected by the project is indefinitely provided with enough land and appropriate training to ensure sufficient rice production and enhance and sustain food security”.⁵⁷

The support subsidy was designed to be phased out over three years. The land preparation work for community fields and seed input was free of charge to the community in the first year of establishment, and was subsidised by the company at two-thirds in the second year and one-third in the third year, and charged at cost thereafter.

The affected communities expressed concerns over not being able to continue the mechanised farming on their own after the third year as planned. Therefore, in October 2013 Addax introduced a new program called the Farmer Development Services (FDS) through which Addax would continue to provide inputs and machines at the request by farmers, and recover its cost after harvesting.⁵⁸ After the FDP, farmers were expected to organise themselves into Farmer Based Organisations (FBOs) and eventually merge their activities into Agricultural Business Centers, in line with the Government of Sierra Leone and FAO national agricultural development strategy for rural livelihood enhancement and commercialisation of smallholders.⁵⁹

Following criticism that the FDP was too focused on rice and did not meet the dietary needs of the local populations, in 2013 the company started the Village Vegetable Garden program, which was directed primarily toward women, who would receive seedlings and training to grow vegetables.

Through the Farmer Field and Life School program, adapted from the FAO farmer training program, 2,000 people from the local communities received training in better farming practices in a 30-week in-field program.⁶⁰ According to the ESHIA, these practices would reduce the need for local farmers to leave their land fallow for extended periods to rest the soil. It was expected that this would increase the planting period and enable the communities to make more effective use of the land.

4.1 Impacts of the Addax Bioenergy project

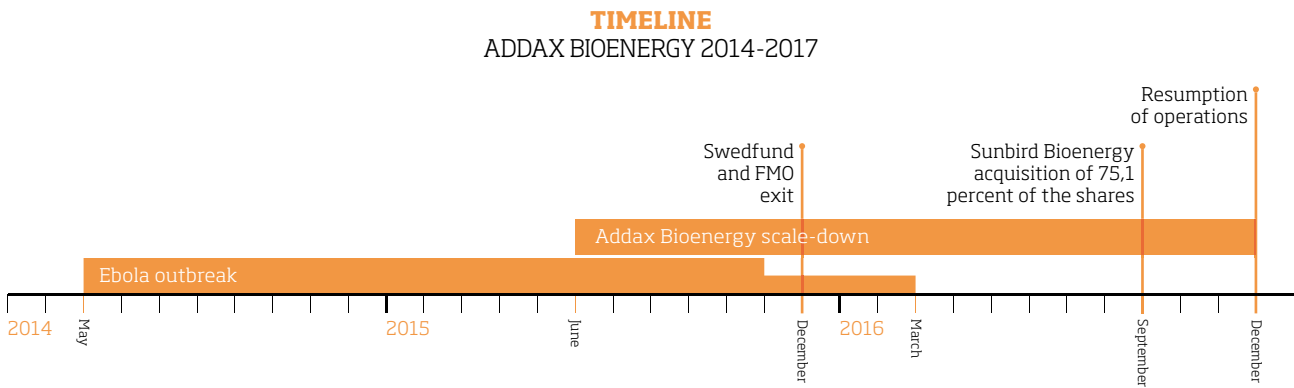
According to Addax Bioenergy, food security, living standards and local infrastructure in the communities affected by the project improved significantly following the start of operations. New roofs and houses were built in many of the affected communities with income from the project and Addax constructed around 440 km of new roads, though not all villages were connected to them.⁶¹ However, numerous local and international NGOs have highlighted serious environmental and human rights concerns related to the project. The criticism has largely centred around impacts on food security and communities' livelihoods caused by the loss of land and natural resources, impacts on local water sources, the insecurity of short-term employment and a lack of free, prior and informed consent of local communities before the project started.⁶²

In 2013 and 2014, before the Ebola outbreak, a research team from the Stockholm Environment Institute (SEI) visited the Addax Bioenergy project on two occasions to assess the impacts of the project. The study discovered both positive and negative impacts, including significant changes in the access to, and use of, natural resources, changes in infrastructure, new income sources and transition to wage labour,

and local demographics.⁶³ There has been a significant influx of migrants seeking employment with Addax Bioenergy and according to local communities surveyed in the report, competition for food had increased due to the combination of population growth and constraints on agricultural production. According to the SEI report, published in 2015, the Sierra Leone Government lacked the capacity and resources to supplement Addax Bioenergy’s investments and fill crucial gaps. It concluded that without an effective public sector to provide oversight, infrastructure and key services, problems would arise and opportunities would be missed.⁶⁴

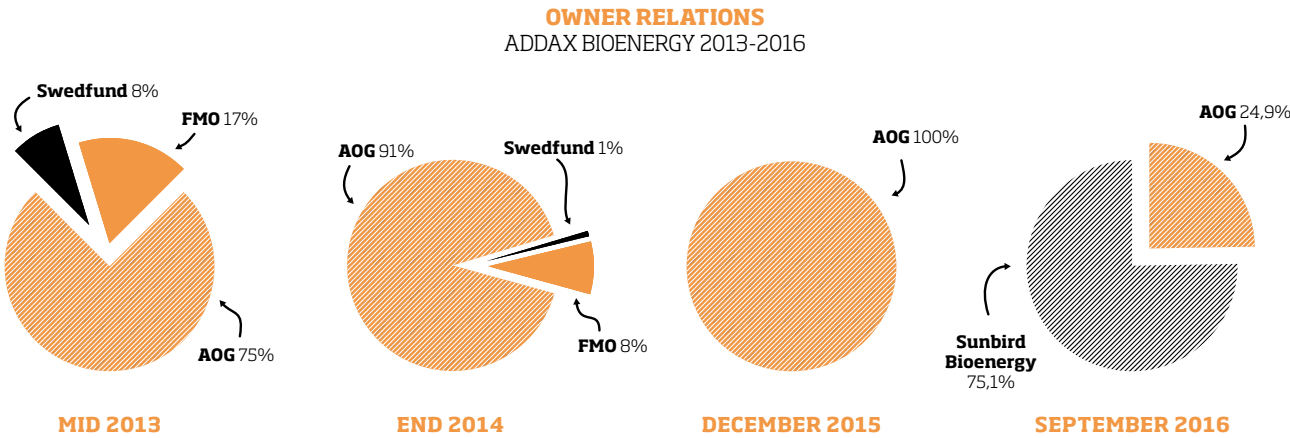
4.2 Scale-down of the project

Addax Bioenergy faced several challenges during the early stages of the project. The first batch of ethanol produced was a disappointment since the volume was far less than expected due to low yields of sugarcane.⁶⁵ Choosing the wrong type of sugarcane for the local climate in combination with fires that destroyed parts of the sugarcane fields were some factors that contributed to the low yields.



Challenges were exacerbated when the EU price of ethanol fell by approximately 27 percent in 2013 and when the Ebola outbreak hit Sierra Leone in 2014 which led to substantial delays as most of Addax Bioenergy’s contractors declared “force majeure” and left the site.⁶⁶ As a result of lost earnings and increased costs, new financing of the Addax Bioenergy project was needed. In June 2015, Addax Bioenergy and its main shareholder AOG decided to downscale the operations, starting the following month, and review options for the future in an attempt to minimise damage. The project remained stalled for 1,5 years. In December 2015, to facilitate a transfer to new ownership, AOG repaid debt financing from the DFIs that were lenders to the project,⁶⁷ while Swedfund and FMO sold their shares in the Addax Bioenergy company back to AOG.⁶⁸

Most of the employees from the local communities (over 2,000 people) were contracted on a short-term basis and lost their jobs due to the scale-down. About 100 employees were retained in order to maintain Addax Bioenergy’s facilities, and the approximately 1,000 permanent workers were paid 45 percent of their monthly salaries during the scale-down. Land lease fees were still paid. Before the scale-down, the company was active in the fight against Ebola and provided substantial support to the local communities in handling the disease, building Ebola isolation and treatment units, and donating vehicles and equipment.⁶⁹



Changes in ownership

In September 2016 majority ownership (75.1 percent) of Addax Bioenergy was transferred to a group of investors led by Sunbird Bioenergy Africa Limited, a developer and operator of large-scale renewable energy projects in Sub-Saharan Africa that also operates projects in Zambia and Zimbabwe.⁷⁰ AOG retained a minority stake of 24.9 percent. According to AOG, Sunbird Bioenergy Africa had the capabilities to fully realise the project’s potential.⁷¹ The takeover involved several substantial changes to the project design (See chapter 4.3). In December 2016 Sunbird Bioenergy started employing members of the local communities on short-term contracts and, according to Sunbird, as of April 2017 a total of about 2,500 were employed.⁷²

External monitoring

Before the scale-down and changes in ownership, monitoring of the Addax Bioenergy project was performed quarterly by the consultant firm Nippon Koei on behalf of the DFIs, and by SCS Global Services on behalf of the RSB certification scheme. The company itself also engaged in monitoring in line with its commitments in the ESHIA.

The external monitoring of the project was disrupted by the Ebola epidemic and the last monitoring reports of the DFIs and the RSB were published in 2014. The RSB report (the report of Nippon Koei is no longer available online) pointed out considerable risks related to food security and access to clean water that were to be followed up with on-site visits in 2015.⁷³ However, the DFIs exited shortly after the publication, and following the changes in ownership the project lost its RSB certification.⁷⁴ Monitoring on behalf of RSB and the DFIs stopped, and the on-site visits never occurred. According to Sunbird Bioenergy, the company’s internal monitoring continued during the scale-down, but is not publicly available.⁷⁵ No external monitoring of the project’s social and environmental impacts has resumed.

4.2.1 Impacts related to the scale-down

The findings presented in this section are based on the interviews conducted during Swedwatch’s visit to seven of the affected communities in the Addax Bioenergy project area in March 2017.⁷⁶ Overall, the communities described the period of the project scale-down, from July 2015 to December 2016, which partially overlapped with the Ebola outbreak, as extremely difficult.



Sugarcane fields during the scale-down. Local communities had little to fall back on when over 2000 jobs were lost.

PHOTO: SILNORF

When Swedwatch visited the project area, Sunbird Bioenergy had recently started to employ members of the local communities again. Most people believed life was getting better since they had a paid job and an income, even if it hardly covered the basic needs of the families. Few wanted to go back to life as it was before the Addax project started. The communities expressed hope that the new company Sunbird Bioenergy would succeed and hire more people.

Overall, those interviewed by Swedwatch expressed relief that the project had resumed, though they felt that they lacked information about the company's plans for the future and were concerned about what would happen if the project would stall again.

Hassan Kargbo, Matero community:

"During the scale-down of Addax, all of us suffered a lot because most of us were just contract workers. Therefore, at the time of the scale-down we were not given any benefit payments. So throughout that period, our only means of survival was through charcoal burning, which we sold to buy food and feed our households. But firewood has become hard to access for us since our lands have been cleared. It was a very difficult time."

Fatmata Conteh, Malainka community:

"The only thing we want the company to do for us now is to provide us with employment and support our agricultural activities so that we can have access to food and also be able to support our children in school."

Food security

The Farmer Development Program (See page 24) was designed by Addax Bioenergy to grow enough rice for all community members within the affected communities. At most, the FDP-program cultivated a total area of 2000 ha and made Addax Bioenergy the largest single producer of rice in Sierra Leone.⁷⁷ However, in some communities the yields of the FDP did not meet the expected amounts. The FDP was designed to last for three years and was after that to be taken over by the communities themselves. Most communities reported to Swedwatch that the FDP was a great help as long as it was run by Addax Bioenergy. The FDP provided them with rice, and the income from employment was spent on buying products such as charcoal and palm oil that the communities had previously produced themselves.

Before the FDP was phased out, the communities began to voice concerns over not being able to continue the mechanised farming on their own. Several researchers and NGOs also questioned the sustainability of the program since it normally takes more than a few years for communities to successfully switch to mechanised farming.⁷⁸ Therefore, by the end of 2013, Addax Bioenergy introduced the Farmer Development Services (FDS). It was designed to provide the inputs and machines required to enable the communities to continue the mechanised farming when the more substantial assistance from the company through the FDP was phased out.⁷⁹ With the FDS, costs would be charged after harvesting. By the end of 2014, the FDP program had been phased out in most communities and the request for services through the FDS was high.⁸⁰

During the scale-down, the FDS program was interrupted. Due to a lack of financing and manpower, the services could not be provided to the communities at their request as planned. Several communities visited by Swedwatch reported that their requests for assistance from the FDS were denied or simply went unanswered during the scale-down. Because of that, none of the communities visited by Swedwatch reported being able to continue the mechanised farming as planned. According to the Ministry of Agriculture, Forestry and Food Security in Makeni (MAFFS), of the less than ten cooperatives from the project area that are currently active, none apply the mechanised farming methods learnt due to a lack of resources for machinery, fertilisers and other required inputs. During the scale-down, traditional farming was done to some extent but was also interrupted by the Ebola outbreak.

Adama Kamara, Romaneh community:

"When Addax came, they used to do farming for us through the implementation of the FDP. These programs also helped us a lot in improving our living standards in this community. Unfortunately for us, these programs have ended. The FDP only lasted for three years. We are unable to continue with the FDP, because we do not have the required capital to buy or rent machines for cultivating the field. At the time of the company's scale-down period, living conditions became extremely difficult for members of this community. During that period, there was no more employment and no money flowing around in the community as it was during the operational period."

Official data on food security in the communities affected by Addax Bioenergy is scarce, but local authorities confirmed the communities' testimonies regarding how the scale-down jeopardised food security due to the lack of income, disruption of mitigation measures and lack of alternative coping strategies. The lack of access to food was further aggravated by the Ebola outbreak, which affected local markets and triggered inflation. While communities in the Addax Bioenergy project area visited by Swedwatch did not report cases of Ebola, the communities faced many of the indirect effects on local markets. Since they now have to buy many of the basic products that they earlier used to produce themselves, they have become more vulnerable to inflation.

Nominous Kargbo is responsible for cooperation with the private sector at MAFFS that assisted Addax Bioenergy in implementing the FDP. As part of his work he regularly visits the affected communities.⁸¹ Kargbo notes:

"When the project scaled down, it had very serious impacts on the communities. It increased the impoverishment. At the same time, the company's mitigation measures stopped. It was really painful for people in the communities, and it needs serious attention."

A senior official representative of the Bombali District Council, one of the two districts where the Addax project is located, also discussed the impact of the scale-down on local communities:

Of course, food security was affected. Local communities in that area don't do farming anymore since most of their land has been handed over to Addax. Agriculture is almost zero from that area.

The local communities received no food-assistance from the District Councils during the Ebola outbreak and the company scale-down, but some were provided with food packages by local and international NGOs. The impacts on food security and communities livelihoods caused by the project scale-down have also been reported by the local organisation Sierra Leone Network on the Right to Food (SiLNoRF) and the Swiss NGO Bread for All.⁸²

FACT

Food security in the project area

In Sierra Leone, 59.7 percent of the rural population is food-insecure. July and August are called “the hungry months” since it is the most difficult time of the year to get food. It coincides with the peak of the rainy season when local production is low. According to a World Food Program study from 2015, the three Chiefdoms in the Addax project area had a food insecurity level of 60–70 percent (Makari Gbanti) and 40–50 percent (Malal Mara) in 2015. In Bombali Sebor, which includes the town of Makeni, food insecurity was 28 percent. It is the first time that data has been collected at the Chiefdom level, which means it cannot be compared to earlier studies. The Chiefdoms include communities that are not part of the Addax Bioenergy project area. Official community-level data on food security is not available.⁸³

Lack of alternative coping strategies

Addax Bioenergy’s involvement in the local area led to a decrease in traditional farming activities in most communities, in some cases due to a lack of land and in others because employment with the company was seen as a more attractive option, especially among the youth. In all of the communities visited by Swedwatch, people said that their own traditional food production had decreased significantly since the company came, which has made them dependent on Addax for their survival. This has also been confirmed by academic studies.⁸⁴

Mohammed Kamara, Malainka community:

“Before Addax came, all of us were engaged in agricultural activities. But with the coming of Addax, the food and firewood situation became difficult since they cleared large portions of land. As it is now, we have limited livelihood sources except the company’s employment.”

During the scale-down, the communities experienced an increase in vulnerability since the traditional coping strategies they previously relied on in times of hardship were no longer available. In preparation for the Addax project, most of the palm trees had been cleared, and today palm oil is no longer produced, although it used to be a primary source of income prior to the Addax project. Also, when the lands were leased to the company and large sections were cleared to make way for the sugarcane plantations, firewood became increasingly difficult to access for local communities.

Collecting firewood to make charcoal to sell has traditionally been an important source of income and a common coping strategy in times of crisis.

As a result, during the scale-down, competition for firewood increased as well as the tensions between different groups within the local communities. For example, land owning families started to charge land users for collecting firewood on their lands. This competition was further exacerbated by the population increase caused by the Addax Bioenergy project. During the scale-down period many of the people that had moved to the area in search for a job at Addax Bioenergy stayed, waiting for operations to resume and the employment opportunities to return. As long as Addax Bioenergy had been operating, these groups had offered a new source of income for local communities. Although the increasing migration to the area led to conflicts over jobs, it also made it possible for local community members to start small-scale businesses, sell food, cigarettes or offer accommodation to workers from outside the communities. During the scale-down these small-scale businesses had to shut down and the competition over the natural resources that remained, increased.

Vulnerable groups within the local communities such as land users and elderly women generally suffered the most from loss of traditional coping strategies. These groups reported to Swedwatch that the support in form of food or money that they used to receive from landowning families, who were usually the ones to get employment with Addax, stopped during the scale-down. Several of the older women Swedwatch interviewed had to leave the communities during the scale-down to seek help from family members elsewhere in order to lessen the burden on the family in the village.

Ya Adama, Matero community:

“I was born in this community but I was never from a landowning family. Before the company came we used to work on other people’s land. Even when the company came we were given a little help by the landowning families. If we were on good terms with them they would give us some food or money. The scale-down of the company was the most difficult period for us in this community, more so when it culminated with the Ebola outbreak, which made it more difficult than ever. During the scale-down, there was increased competition for charcoal burning. Even the landowning families had to go look for firewood and we would have to pay them to look for wood on their lands.”

Aminata Conteh, Lungi Acre community:

“As you see, I cannot work for Addax at my age. I only depend on good people around for my subsistence and care. Right now, I am taking care of three of my grandchildren because my son has died and my daughter is sick. Most of those who assisted me worked for Addax, and each time they were paid they gave a small amount of money. That is what kept me alive in this community. However, during the company’s scale-down all the people who used to assist me went without employment. They themselves were finding things difficult during this period. This worsened my situation most, and I was left with no choice but to go to Makeni to seek a relative’s assistance.”

Village Vegetable Gardens - a positive experience for women

The Village Vegetable Garden (VVG) program was a mitigation measure introduced by Addax Bioenergy in 2013 to improve women's livelihoods and food security. In two of the communities visited by Swedwatch, women viewed the VVG project as an important positive change, which provided them with both a source of vitamins during the "hungry months" and a new source of income. In one of the communities visited, the women who participated in the VVG program reported that they have been able to organise into a Farmer Based Organisation. All stakeholders interviewed by Swedwatch underlined the importance of investing in women as the most successful tool for lifting people out of poverty. This is also in line with Sierra Leone's development agenda, Agenda for Prosperity.⁸⁵

Impacts on children and young girls

Children in the project area were affected by the scale-down in several ways. As the rest of the population in the affected communities, they were affected by the lack of food caused by the interruption in the company's mitigation measures in combination with the loss of income when the employments at Addax were lost and the lack of alternative coping strategies. This was worsened by the Ebola outbreak that started before the scale-down of Addax Bioenergy's operations and had led to interruption of traditional farming and limited access to local markets. In June 2015, the same month that Addax announced that operations would scale-down, one of the local health clinics in the project area had 20 cases of malnourished children compared to two cases in March 2017, when Swedwatch visited the area.⁸⁶

Apart from the impacts on food security, children's education was also affected during the scale-down. Three of the communities Swedwatch visited reported that several children in each community had to drop out of school during the scale-down due to the families' inability to pay school fees when they lost their employment at Addax Bioenergy. Some of the children who dropped out had not yet returned to school when Swedwatch visited the area. Most of the children that Swedwatch were told about having to leave school during the scale-down, were girls between the ages of 14 and 19. In Sierra Leone, children normally start school when they are seven. In the communities of the project area, children often start and finish school later in life. Because of the long distances to the nearest school, parents tend to wait until children are around nine or ten years old and can walk alone to school. School is compulsory for nine years, meaning that they are not finished until they are 18 or 19 years old.

Adama Koroma, Matero community:

"In this community, we had several children who stopped going to school due to the company's scale-down. These children were paid for by relatives who worked at Addax, and when the project stopped their families no longer had the means to pay for them."

Salamatu Sesay, Tonka community:

"Before Addax came, we used to sell our farm produce to pay our children's school charges. But when Addax came and took over our lands, we no longer have available lands to cultivate. So we have to solely depend on the company's employment to pay our children's school fees."

Since the Addax-project started, some communities have noted an increase in young girls getting pregnant and leaving school due to the influx of male workers to the project area. Some of these unmarried young women who became pregnant have been stigmatised and forced to leave their homes by their families. In other cases, male workers stayed to take care of the new family but left when the project stalled, leaving the new family in dire financial straits.

The local organisation Community Action for Human Security works to prevent sexual and gender-based violence and to promote women's access to justice in the project area. According to the Project Officer, Peter Conteh, many new cases of fathers leaving their children uncared for were reported to the organisation in 2016.⁸⁷

After the workers were laid off, many of them returned to their original places and would no longer take care of their babies in the villages. These children have now become the burden of the grandparents and that is why they started reporting it. As long as the fathers had a job they contributed to the families, but now they are gone and people don't even know where they went.

Fire outbreaks

Fire outbreaks, sometimes caused by the practice of clearing by fire, have been a recurrent problem in the project area, and was reportedly a contributing factor to Addax's low yields prior to the scale-down of operations.⁸⁸ In many cases when sugarcane fields have burnt down, the cause of the fire outbreak has been unknown. According to the communities, the fires spread more easily after the sugarcane plantations were developed, ignoring the use of fire belts that the communities traditionally create to reduce the risk of fire spreading uncontrollably. This was not part of the risk assessment conducted at the initial stage of the project. Swedwatch witnessed several burnt down sugarcane fields.

One community in the project area, Romaro, was severely affected by a fire in 2015. Nine houses made of stone and brick with roofs of elephant grass and leaves, burned down completely and a large part of the community's harvest was lost. Some houses have been reconstructed since then, while other families are still struggling to secure adequate housing. According to the community, the incident has been reported to the company, which claims that the community is responsible for the fire spreading due to the traditional farming methods. As far as the community is concerned, the company has not taken any further steps to address risks that the fires spread more easily due to the sugarcane plantations. No compensation for lost housing or economic help to build new houses have been given to the community.



Women, children and landless people in the affected communities were particularly affected by the lack of food and income during the scale-down.

Adama Koroma, Romaro community:

"This area has always been prone to fires. We used to create a fire-belt around the village during dry season. This fire-belt served as protection against the fire from entering the village. But when Addax came, they planted sugarcane around the village, making it impossible for the community to prevent the fire from entering. This was the main reason why our village was burnt. The cause of the fire was unknown to all of us. During that period, even when we alerted the company workers about the outbreak of the fire, nobody responded to our call until the fire entered the village and burned our houses. After our houses and rice fields had been burnt down we saw them coming around to write down the names of affected households. But after that nothing happened."

4.3 Resumed operations

In September 2016, when the project had been stalled for over a year, Sunbird Bioenergy bought 75.1 percent of the shares in Addax Bioenergy and thereby became the company's new majority shareholder. The former majority shareholder AOG still owns 24.9 percent of the shares.⁸⁹

Sunbird Bioenergy rehired its first employees in December 2016. At the time of the Swedwatch visit, around 2,000 people were employed with Sunbird Bioenergy according to the company, most of them at short-term contracts. Since resuming operations, Sunbird Bioenergy has made substantial changes to the project design. The new business plan also includes the production of sugar, cutting of elephant grass and cassava production for biofuel.⁹⁰

According to Sunbird Bioenergy, an out-grower program for cassava is scheduled to launch in 2018 and is projected to produce 600,000 tons of cassava per year.⁹¹ This is expected to eventually create economic opportunities for 20,000 small-scale farmers, according to the company. Sunbird Bioenergy will use the cassava to produce bioethanol for the European transportation market, and 20 percent of the cassava will be left for communities' food consumption.⁹²

Many details of the new components of the project are still unclear, even to the communities in the project area. For example, the communities visited by Swedwatch have not been consulted or informed of the changes in the original project design. According to Sunbird they have done an internal risk assessment but it has not been communicated to the communities yet, and no new consultation with the communities has been conducted.⁹³ Sunbird Bioenergy has not been willing to share the risk assessment with Swedwatch. The members of the affected communities that Swedwatch interviewed expressed concerns over their dependency on the company for survival and the lack of alternatives if the project would stall again.

Ibrahim Bangura, Malainka community:

"If the new company (Sunbird) decided to close down or not to employ members of this community, then definitely we will die of hunger because at the moment we have no other means of survival. Even if we got our lands back, they will not be useful to us anymore because these lands were once areas where we used to get many products. These lands have been cleared since the company came."

4.3.1 Insecure employment

At the time of Swedwatch's field study, the majority of Sunbird's employees were employed to cut elephant grass.⁹⁴ Elephant grass is a species of perennial tropical grass native to the African grasslands, and grows wild in the communities of the Addax Bioenergy project area. The grass can be used as fuel for electricity plants. In most communities visited by Swedwatch, young men were working as grass cutters. They were pleased that employment opportunities were returning, but expressed concerns about the insecurity of their short-term contracts.

Women in all of the communities visited by Swedwatch were unsatisfied with the lack of employment opportunities for women with Sunbird Bioenergy. Swedwatch only met one woman who had attained employment with the company since operations were resumed. When Swedwatch visited the project area in 2012, about 10 percent of the employees were women, meaning around 200 women lost their jobs at the scale-down of Addax Bioenergy.⁹⁵ Most women were affected in more indirect ways when their male relatives lost their income.

The short-term contracts earlier offered by Addax Bioenergy and now by Sunbird Bioenergy has been a constant source of concerns for women. This was pointed out in Swedwatch's earlier report 'No land, No Power', published in 2013. The cultivation of sugarcane is done at the same time that communities need to engage in their own farming activities which has contributed to the decline in traditional farming in the communities. Many of the women pointed out that the lack of manpower for farming during the short-term employments was a major problem.

Marie Koroma, Worreh Yeama community:

"Addax usually employs our husbands and sons at a time when the farming season is approaching. Just after the farming season ends, the company will then drop a majority of them at a time when it is no longer possible to undertake farm activities. Thus, whatever crop we plant, it will definitely not be able to thrive well. It has made it very difficult for farming activities to take place in the community. This has created lots of difficulties in terms of food availability and support to our children's school and health care. The new company (Sunbird) that has come is not employing women. We would have been glad if they did."

Apart from the concerns related to the short-term contracts of the grass-cutters, some communities expressed other concerns related to the company's use of elephant grass. According to one of the communities, the company is not paying land lease for all of the areas in which elephant grass is cut as some areas are outside the company's estate. To protect the grass, the company has set up fire committees in all communities to prevent fires from destroying the elephant grass. According to Sunbird, the fire committees created as part of the elephant grass project have led to a 50 percent decrease in bushfires.⁹⁶ However, according to the community, the ban on fires affects their ability to engage in traditional farming, including clearing by fire, and charcoal burning, also on the land that is not leased to the company.

Male worker in Matero community:

"When our contracts terminate, we struggle very hard to find alternative means of subsistence as we are unable to save any money. The only available survival option for us is charcoal burning in distant communities outside the company's operations. There are no lands available for charcoal burning here. Even the scanty land areas that were left for us are now also used by the company to cut grass to support their electricity generation. Now the new company has said they can only employ us if we have a portion of land with abundant grasses. These portions of land that we are now asked not to cultivate were once used by the community to cultivate rice, cassava, potatoes and vegetables. There hasn't been any negotiation with the community about those portions of land. Once the grass around our community is cut, that is the end of our employment with the company because we are not allowed to cut grass in other communities."

4.3.2 Impacts on access to water

The risk assessment made before the Addax Bioenergy project started stated that the project's impacts on water would be moderate. The water needed to irrigate the sugarcane fields would be taken from the Rokel river and amounted to two percent of the annual river flow. In order to prevent the chemicals used on the plantations from polluting the water sources, a management plan for how to handle the chemicals in an adequate way was set up after the risk assessment.⁹⁷

However, some of the local communities started to report difficulties in access to water and a deterioration in the water quality shortly after operations started. The local organisation SiLNoRF has addressed the water problems in several of their monitoring reports of Addax Bioenergy.⁹⁸ In some communities, Addax Bioenergy constructed bore holes and water wells to mitigate these impacts, and in others wells were constructed as a part of the company's investments to improve sanitation and access to water in general. In two of the communities Swedwatch visited, water wells had earlier been constructed by Addax Bioenergy but were no longer functioning, and had not been repaired although the problem had been reported by the communities on several occasions.

In Tonka community, which is next to the Addax factory and has very little land left since most of it has been leased to the company, the community reported severe hardships during scale-down due to the lack of land and current issues related to water supply and water quality. According to the community, the company has informed them that the water in the nearby river is polluted and should not be used for household purposes. Swedwatch has not been able to confirm whether the pollution has been caused by the company but according to the community members of Tonka community, waste water from Addax Bioenergy's operations is released into the river. Similar problems have also been reported by the Romaneh community. According to an email by the company, sent to Swedwatch after the field study, there is no proof that its operations have polluted the water in Tonka community.⁹⁹

According to Tonka community, the water well that was built by Addax has also been polluted, leaving the water with a bad taste and colour. This was confirmed when Swedwatch met with MAFFS, which participated in a monitoring trip to Tonka before the scale-down. The water problems in Tonka started already before the scale-down and had been reported by the communities to the old management of Addax Bioenergy in 2014. After negotiations with the communities Addax Bioenergy started supplying the community with water tanks.

Since problems related to water reappeared after the resumed operations by Sunbird Bioenergy, Sunbird was providing the community with water tanks at the time Swedwatch visited Tonka in March 2017. According to the community, the water tanks were supposed to come every three days. However, the community members interviewed by Swedwatch stated that the water provided by the company was not enough to cover their needs and that they sometimes had to wait up to five days for the water to be delivered. This means communities have to use the polluted water from the river, which causes sickness including vomiting, diarrhoea and skin rashes. After the field visit, Swedwatch received information that the provision of water to the communities by Sunbird had stopped completely.¹⁰⁰

Yeabu Fornah, Tonka community:

"We used to fetch our drinking water from the river, and had never experienced any problem. But the company connected waste pipes into the river and later advised us to stop using the water because it contained some chemicals that can cause harm to our health. They promised to provide us with water wells at first, but later brought us water tanks."

Isata Sesay, Tonka community:

"As time went on, they started taking days or weeks to refill the tanks. So most of the time the tanks ran dry. Since we do not have an alternative source of drinking water, we just have to go to the river to fetch our drinking water. Two days ago, my child got sick with diarrhoea due to the river water he drank. I had to take him to the health centre and reported the matter to the company. But they did nothing."

The water tanks were provided by Addax Bioenergy, and later Sunbird, to the Tonka community after they engaged with Namati, a global network of grassroots legal advocates. Sonkita Conteh is the director of Namati in Sierra Leone.

Bringing tanks is a temporal measure and could easily be affected by fuel shortages or other problems. It is not a long-term solution. If Addax is supposed to be there for 50 years, they need to find another solution. We have told them that, but since Addax changed hands we haven't been able make progress on a permanent solution.

When Swedwatch contacted Sierra Leone's Environmental Protection Agency (EPA) after the field study, the EPA reported that it was not aware of the water problems in Tonka. According to the EPA, companies are responsible for reporting such matters. The EPA then investigates the matter and can either propose mitigation measures or withdraw the company's environmental licence.¹⁰¹

In Tonka, the community also complained about a persistent bad odour that was clearly noticeable throughout the village. According to the community it was caused by residue water from the project left on the roads nearby. In August 2017, Tonka community filed a formal complaint to the EPA about the environmental problems through the local organisation SiLNoRF.¹⁰² After receiving the complaint, EPA visited the project area together with the Office of National Security (ONS). According to SiLNoRF, the representative of EPA assured them that the complaint was taken seriously and that actions would be taken immediately. At the time of writing no further actions have yet been taken to Swedwatch's knowledge.

4.3.3 Lack of information

When Swedwatch visited the project area, some community members had been in contact with the new company, Sunbird Bioenergy, but only regarding their employments. All of the communities stated that they had very little or no information from the new company about future plans or mitigation measures for any impacts. The new company seems to be more reluctant to communicate externally than the former management of Addax Bioenergy.

The University of Makeni, UNIMAK, is responsible for organising the multi-stakeholder forums, meetings where communities and other stakeholders can express concerns to the company. According to UNIMAK meetings were held as usual even during the scale-down. However, several of the stakeholders interviewed by Swedwatch, including local authorities that used to attend those meetings before the scale-down, stated that they had not been called to any meetings in over a year. UNIMAK has not been willing to share any documents of the meetings with Swedwatch.

The local organisation SiLNoRF has been monitoring the project closely since its initial stages, and has published several monitoring reports addressing the human rights and environmental impacts. SiLNoRF has questioned the objectivity of the MSF, and believes the forum does not provide enough space for communities to discuss their concerns. According to Abass Kamara, Programs Coordinator at SiLNoRF, the new management of Sunbird Bioenergy has been less open to having a dialogue with SiLNoRF than the old management of Addax Bioenergy.¹⁰³ Kamara noted:

The old management used to meet with us to discuss our concerns. Sunbird has made it clear to us that they are not open to that and that the only forum where to discuss will be the MSF but SiLNoRF is often not allowed to speak there.

Kamara emphasises the importance of letting all the different groups within the communities express their views. Normally the village chiefs speak for the whole community, while women and land users are not allowed to have a say though they are more likely to be affected. Kamara continued:

During the civil war, we learnt the risks of not allowing people to talk. Participation is crucial for democracy to last. If you don't let people talk there is a risk that violence and conflicts will return.

According to Kamara, SiLNoRF has faced increasing pressure because of its role in advocating for people's land and food rights in Addax Bioenergy's operational areas. Local authorities see the network as inciters and anti-development. In 2013 the Government invited SiLNoRF to the State house to answer questions about its advocacy work related to Addax.

FACT

Human rights defenders and land rights in Sierra Leone

Land rights has become an increasingly contentious issue in Sierra Leone, not least in relation to business activities. In 2016 human rights defenders (HRDs) working on land rights reported an increase in threats and attacks where HRDs working on business and land rights were particularly targeted.¹⁰⁴

In 2015, the Human Rights Commission of Sierra Leone established a Business and Human Rights Unit due to the increased complaints on business and human rights related issues across the country.¹⁰⁵ The commission also recommended the Government to develop a National Action Plan on Business and Human Rights to guide the process of reviewing, developing and consolidating policies, laws and strategies concerning Business and Human Rights issues.¹⁰⁶ So far the Government has not expressed any intent to develop a National Action Plan on Business and Human Rights.

4.3.4 Sunbird Bioenergy's response to Swedwatch's findings

According to information sent to Swedwatch from Sunbird Bioenergy after the field visit, the FDS, which was supposed to facilitate the communities' transition to mechanised farming after the FDP, is now working in all three chiefdoms of the company's project area after being interrupted during the scale-down. In 2017, the FDS was provided to communities both within and outside the project area, with a total of 85 ha contracted for ploughing and other services.¹⁰⁷

According to Sunbird, the scale-down of the project did not affect local food security. It reported that regular monitoring of the project was conducted by the company also during the scale-down and that nutrition in the area has improved due to the agricultural programs and the improved infrastructure, which has helped to link the communities to markets in nearby towns. Swedwatch has asked Sunbird Bioenergy to share their internal monitoring reports but this request has not been answered by Sunbird at the time of writing.

The support programs initiated by Addax Bioenergy are currently being implemented in all of Sunbird's projects, according to the company website. The programs are funded as a percentage of locally produced profits. In Sierra Leone, the Village Vegetable Gardens project and the reforestation project, started by Addax Bioenergy, is still on-going according to Sunbird. In addition to that, the company is investigating proposals to assist with capacity-building in rural health clinics. Sunbird is also assessing the feasibility of a rural electrification program for the affected communities.¹⁰⁸

In Sunbird Bioenergy's email correspondence with Swedwatch it has stated that it is working in line with the original risk assessment, ESHIA, for the project and that it is now exploring how to expand and extend its social mitigation programs, which will be unveiled when it announces its full operations in 2018. The company has done an internal risk assessment of the new elements of its operations but there is no contingency plan or exit strategy in order to prevent impacts on local communities in case the project does not work.

The new cassava project was designed after consulting with local authorities such as the Ministry of Agriculture and the EPA, according to Sunbird. Some farmers have started growing cassava with the help of the company. Andy Gee is the transition manager at Sunbird and was interviewed by Swedwatch after the field study and stated that:

They see Addax as a saviour and they haven't seen anything yet. I think we can make this project work, but it has to pay for itself. The first thing we need to do is to make the project work and get it on sound economic footing. Cash constraints is currently our biggest challenge.

Altogether, though many of Sunbird's new plans for the Addax Bioenergy project sound promising, the transparency around the project has decreased significantly and the lack of external monitoring makes it difficult to know to what extent the project lives up to its commitments. The lack of communication and consultation with local communities regarding changes in the project plan is not in line with the international guidelines that the project was designed to meet.

4.4 Swedfund's and FMO's exit from Addax Bioenergy

Swedwatch has placed a particular focus on examining the responsibility of the DFIs Swedfund and FMO in connection with the negative impacts that occurred when the Addax Bioenergy project temporarily stalled and Swedfund and FMO exited the project. However, although not the focus of this report, the responsibility is shared with other parties involved in the Addax Bioenergy project such as the former majority shareholder AOG and the DFIs that were lenders to the project.¹⁰⁹

Swedfund and FMO joined Addax Bioenergy as minority shareholders in 2011 and they originally held 25 percent of the shares together, 8 and 17 percent, respectively. The need for new financing for Addax Bioenergy led to two new issues of shares – one at the end of 2013 and one at the end of 2014, in which neither Swedfund nor FMO participated. The second new issue reduced Swedfund's and FMO's shareholding to 1 and 8 percent, respectively. Swedfund lost its position on the board and was then represented by FMO. According to Swedfund, it still had a good relationship, and an on-going dialogue, with both the former majority shareholder AOG and the local company Addax Bioenergy.¹¹⁰

The project scaled down in July 2015, and remained stalled until December 2016. Addax Bioenergy's social and environmental team continued to be fully staffed and continued to conduct internal monitoring during the scale-down. Before the exit, Swedfund talked to the majority shareholder AOG about the importance of continuing with the FDS support program for farmers as planned. Swedfund and FMO were aware of the challenges of the mitigation measures like the FDP and that they had not managed to mitigate impacts on food security in all of the communities.

Swedfund and FMO sold their shares to the former majority shareholder AOG in December 2015. According to Swedfund its share was sold for one Euro. At the same time, AOG repaid its debts to the DFIs that were lenders to the project.

According to Swedfund, the main reason that it exited the company was that it was unable to increase its financial exposure. Swedfund stated that it chose to pull out of the project because its influence gradually diminished following the new issues of shares, and its influence was too small for it to have any real leverage over how the project evolved. Selling back the shares to AOG was a way of taking responsibility since it made it easier for a new majority shareholder to come in. According to FMO the rationale behind its decision to exit was the same. According to Swedfund and FMO, they did not know about the new investor, Sunbird Bioenergy, when they exited Addax Bioenergy. According to company managers who were working during the scale-down, finding a new investor was one of the greatest challenges during this period.¹¹¹

Despite being aware of many of the human rights risks, neither FMO nor Swedfund conducted adequate human rights due diligence prior to exiting the project. Swedfund conducted a renewed risk assessment of AOG before reselling its shares, but did not assess any human rights risks related to its exit or the project scale-down. Swedfund fully trusted AOG to retain the high sustainability profile of the project.

The new majority shareholder Sunbird Bioenergy has done substantial changes to the project design, introducing the use of elephant grass and cassava for production of electricity and ethanol.



In the first quarter of 2016, after the exit, an environmental and social review of the project was compiled on behalf of all the DFIs involved, commissioned by FMO. The report is not public, but FMO agreed to share some information from the report with Swedwatch. According to FMO, the objective of the review was to identify the environmental and social changes, both adverse and beneficial, that had occurred in the project area as a result of the construction and operation of the project. It did not analyse the impacts of future options of the project, such as decommissioning (a ‘no project’ situation) or a change in ownership with operations continuing with either a shifting focus or a maintained focus. In terms of food security, the report states that:

*Despite the success in growing enough edible rice for everyone via the FDP/FFLS [Farmer Field and Life School], the success of the [Village Vegetable Garden program] and the increase in local waged labor, the overall village-level experience and perception of the hungry months has not changed since the pre-project situation. Survey data show that for **each of the years of 2012–2014 most household heads (80–92%) considered that there had been hungry months in each of these years and that the severity had increased over time.** The reasons for this unexpected finding are not clear. It is tempting to blame Ebola for the 2014 situation (considered the most severe year), but it does not explain the situation in the previous years.*¹¹²

According to FMO, the aim of the review was also to properly document all the efforts (from capacity building of communities to the food security efforts) that had taken place in order to enable any new potential owner to continue with some of the existing programs. In the worst-case scenario where the company would not find a buyer and would not be able to continue, the report could be used by NGOs/Aid agencies to build upon the existing programs as per their own mandate.

Neither FMO nor Swedfund has assessed the human rights situation of the affected communities on the ground after the review. However, the environmental and social review made on behalf of the DFIs after their exit has been shared with Sunbird Bioenergy. According to FMO, it has continued to engage with local NGOs including SiL-NoRF on the various issues and concerns related to the project including after FMO’s exit, with the last meeting with SiLNoRF being held in November 2016. Swedfund has offered technical assistance to Sunbird Bioenergy to establish a new baseline of the human rights situation in the project area, which Sunbird Bioenergy has accepted. At the time of writing this work has not yet started, according to Swedfund

4.4.1 Changes in guidelines on due diligence and exits

Since their exit from the Addax Bioenergy project, both Swedfund and FMO have taken steps to strengthen their processes for HRDD. In 2016 Swedfund contracted an external consultant to verify its internal process and clarify procedures related to extended due diligence with regard to human rights.

According to the 2016 integrated report, Swedfund should ensure that human rights impact assessments are carried out, at least in high-risk situations, and prioritise actions to address potentially serious impacts. Assessments should be made at the

start of a project, and then continuously throughout an investment cycle, including at an exit-stage. Furthermore, the integrated report states that Swedfund should identify and define high-risk situations that require an in-depth investigation of human rights, such as investments in repressive regimes, dictatorships, post-conflict areas, or areas affected by starvation or drought. In 2017, Swedfund will begin to map high-risk situations followed by the implementation of a number of human rights impact assessments during different phases of the investment cycle among its portfolio companies deemed to be at the highest risk of violating human rights. Swedfund will also identify salient risks in its business as a whole.¹¹³

FMO launched an updated Sustainability Policy in early 2017 after an extensive consultation process. The new policy includes more extensive due diligence requirements for high-risk projects that have a significant impact on local stakeholders. Among the new policies is an update of FMO’s Human Rights Position Statement.¹¹⁴ FMO has also implemented a disclosure mechanism that allows interested parties to provide feedback on the environmental, social and governance aspects of the projects before contracting.¹¹⁵ Apart from this, FMO has an independent complaint mechanism, that it shares with the German DFI DEG.¹¹⁶ However, the complaint mechanism is not open for complaints related to projects that FMO has divested from.

5. Relevant guidelines

Existing policies and guidelines regarding business, human rights and environment focus primarily on risk and impact assessments during initial stages of a project, and do not provide much guidance on how to identify and address risks in the event of a temporary or permanent project shutdown or in the event of an unplanned exit (divestment).

To address the issue of stalled or abandoned projects and exits, and in the absence of more explicit guidelines, Swedwatch uses the UN Guiding Principles on Business and Human Rights (UNGPs),¹¹⁷ which Swedfund, FMO and Addax Bioenergy have all committed to. The UNGPs clearly state that HRDD should be on-going and account for changes that may occur over time. This report argues that continuous HRDD is crucial to understand the risks and responsibility of businesses and investors, both when a project stalls and at an exit. In addition to the UNGPs, as the Addax Bioenergy project is an agriculture-based project, an overview is also presented of guidelines relevant to large-scale land-based investments.

5.1 The UN Guiding Principles on Business and Human Rights

The UN Human Rights Council unanimously endorsed the UNGPs in June 2011. Although not legally binding, they constitute a global norm for what can be expected of states and businesses in efforts to prevent business operations from having negative

impacts on human rights as well addressing actual impacts through remediation. The principles do not create new rights, but clarify the different roles of states and businesses in upholding existing rights. After the adoption of the UNGPs, several other guidelines have been updated in line with these principles, including the OECD Guidelines for Multinational Enterprises,¹¹⁸ the IFC Performance Standards,¹¹⁹ and the tools and resources of the UN Global Compact.¹²⁰

5.1.1 What can be expected of states

According to the UNGPs, states should set out clear expectations on businesses within their territory, and provide effective guidance to businesses on how to respect human rights throughout their operations. In 2014, the UNHRC called on all Member States to develop National Action Plans on Business and Human Rights (NAPs) to promote the implementation of the UNGPs within their respective national contexts.¹²¹ By September 2017, 17 Member States had produced NAPs and many more were in the process of doing so.¹²² In Sierra Leone, the Human Rights Commission established after the civil war has recommended the Government to develop a NAP, following the conflicts with local communities caused by land-based projects but so far, no such intention has been announced by the Government.

According to the UNGPs, state-owned or state-controlled businesses should take additional steps to protect against human rights abuses, including requiring human rights due diligence to be conducted.¹²³ This applies to DFIs, such as Swedfund and FMO, that are partly or wholly funded by the state.

5.1.2 What can be expected of businesses

The concept of human rights due diligence is a central part of the UNGPs. It refers to the process a business must have in place to identify and address actual and potential impacts on human rights that its operations are causing or contributing to.¹²⁴ It is comprised of four steps: (1) assess, (2) integrate and act, (3) track and (4) communicate.

In situations with a heightened risk of severe human rights impacts it is critical for businesses to conduct effective HRDD. A heightened risk might arise from, for example, an operational context including conflict, corruption, and weak governance or business relationships with suppliers, partners or customers with a bad track record. It could also arise from business activities commonly associated with human rights impacts such as land acquisition, resettlement and extensive water usage, or the presence of groups that are particularly vulnerable to business impacts due to political, social or economic marginalisation.¹²⁵ The operating environment of Addax Bioenergy includes several of these risk factors.

According to the UNGPs, HRDD should be an on-going process, and recognise that human rights risks may change over time as the business enterprise's operations and operating context evolve.¹²⁶ Any decision that could have a negative impact on human rights (such as the decision to exit/divest from a company) should first be subject to a human rights risk assessment as part of a business's due diligence. Any potential impacts should be assessed and addressed prior to a new activity or relationship

(such as a new majority shareholder or changes in the project plan), major decision changes in the operations (such as the decision to scale down all operations), in response to, or anticipation of, changes in the operating environment (such as Ebola), and periodically throughout the life of a project or relationship.¹²⁷

FACT

Cause, contribute or linked to?

The UNGPs define three different types of responsibility. When a business is causing the human rights abuse it is the principal actor in the breach of human rights – either by its actions or its lack of action (omission). If a business is enabling, encouraging, or facilitating human rights abuses, it is said to be contributing to the problem – sometimes through or together with a third party. When a business is neither causing nor contributing to human rights abuse, it can still be directly linked to the human rights impact through its operations, products, and services via a business relationship.¹²⁸ Where businesses have caused or contributed to adverse impacts, they should provide for or cooperate with other actors in legitimate remediation processes. Businesses that are linked to adverse impacts are not required to provide remediation directly, though it may take a role in providing remedy for the harm caused.

Addressing human rights impacts involves taking adequate measures to prevent, mitigate and – when appropriate – remediate the impacts.¹²⁹ What is considered an appropriate action varies according to whether the business causes or contributes to the impact, and whether the impact is linked to its operations, products, services or business relationships. When the business has *caused or contributed to* impacts, it should provide for, or cooperate, in their remediation. When a business is *linked to* the impacts, it is not responsible for providing remediation but can play a role in doing so.¹³⁰ How this apply to Swedfund and FMO is discussed in chapter 6.

The action also varies according to the leverage the actor has in addressing impacts. A business has leverage if it can effect change in the harmful practices of an entity. If the business has leverage to prevent or mitigate impacts it should exercise it, or otherwise seek to increase its leverage.¹³¹ If a business is unable to increase its leverage, it should consider ending the relationship with the entity causing harm, but only after assessing the possible negative impacts of doing so.¹³²

In order to verify whether the negative impacts are adequately addressed, businesses should track the effectiveness of their response, particularly regarding impacts on individuals from vulnerable or marginalised groups.¹³³ The process should involve meaningful consultation with affected groups, and businesses should externally communicate how they address the impacts.¹³⁴

Responsibility when a business changes hands

When a business changes hands, like in the case of Addax Bioenergy, responsibility for human rights issues may sometimes seem unclear. Even if a business is able to avoid legal liability, it may still be responsible for negative human rights impacts under the UNGPs. During an acquisition the buyer needs to consider how to address past harm and address on-going or future harm. During an exit the seller needs to consider how to address harm that the business has caused or contributed to that has not yet been remediated. The seller should also build leverage during the negotiations to minimise the risk that the company's new owner will use the business in a way that harms people.¹³⁵

5.1.3 Access to remedy – a common responsibility

According to the UNGPs, both states and businesses have a role to play in realising access to remedy for victims of business-related abuse. Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and/or punitive sanctions. It may also include prevention of harm through injunctions or guarantees of non-repetition.¹³⁶

Effective judicial mechanisms are crucial to ensure access to remedy. States should take appropriate steps to investigate, punish and redress abuses when they occur. They should ensure the effectiveness of domestic judicial mechanisms and reduce legal or practical barriers to access remedy.¹³⁷ However, non-judicial grievance mechanisms can also be useful, given that they are perceived as effective and credible by those for whom they are intended.¹³⁸ Businesses should establish or participate in effective operational-level grievance mechanisms that provide a channel for those directly affected by business operations to raise concerns, and allow grievances to be addressed and impacts to be remediated at an early stage.¹³⁹ Businesses should also have processes in place to enable the remediation of any impacts they have caused or contributed to.¹⁴⁰

5.2 Land investment guidelines

A number of voluntary international guidelines have been adopted that address the human rights and environmental risks related to large-scale land-based investments, following the rise in interest for farmland from international investors during the past ten years. These guidelines are non-binding and are seen as a complement to any legal obligations of states or businesses.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

In May 2012, The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security (VGGT) were adopted by the Committee on World Food Security (CFS) after an extensive consulta-

tion process including representatives of the public and private sectors, civil society and academia in 133 countries.¹⁴¹ The VGGT seek to improve the governance of tenure of land, fisheries and forests with an emphasis on vulnerable and marginalised people that often lack formal land rights. The guidelines recognise that the eradication of hunger and poverty, and the sustainable use of resources, depend in large measure on how people access land and other natural resources. Especially livelihoods of the rural poor, are based on secure and equitable access to these resources and requires secure and equitable tenure rights.

Most of the guidelines of the VGGT are directed towards states but the guidelines also include recommendations for investors.¹⁴² According to the VGGT, business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others. They should include appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights. States should take additional steps to protect against abuses of human rights and legitimate tenure rights by business enterprises that are owned or controlled by the state, or that receive substantial support and service from state agencies.¹⁴³

The Principles for Responsible Investment in Agriculture and Food Systems

In October 2014, the Committee on World Food Security endorsed the Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI). The Principles recognise that responsible investment in agriculture and food systems is essential for enhancing food security, and state that responsible investments in agriculture should, among other things, contribute to food security and nutrition (See Annex for an overview of the principles).¹⁴⁴

The Guiding Principles on Large-Scale Land-Based Investments in Africa

In November 2014, the Guiding Principles on Large-Scale Land-Based Investments in Africa were launched by the African Union, following years of dialogue between the member states on how to make sure that large-scale investments in land contribute to inclusive and sustainable development.¹⁴⁵ The principles are in line with the VGGT and the CFS-RAI and contain six fundamental principles (See Annex for an overview of the principles).

According to these principles, states should require investors to disclose comprehensive project information in accessible form to parties affected by the investment, including about investment plans and expected risks as well as assessment and mitigation of potentially negative impacts. The principles recognise that States have a key role in establishing effective institutions to handle such public disclosure and to promote multi-stakeholder involvement in the processes of these institutions.¹⁴⁶

Buchanan Renewables

The report ‘Cut and Run’ published in 2013 by Swedwatch, SOMO and Green Advocates Liberia highlighted the importance of exit strategies when investors divest and when projects stall. The report follows the investments of Swedfund and the Swedish company Vattenfall in the company Buchanan Renewables in Liberia, which aimed to rejuvenate rubber farms and create sustainable and renewable energy by producing biofuel from old rubber trees to be used in a Buchanan Renewables-constructed power plant.

The report focuses on the decision of Swedfund and Vattenfall, which were minority shareholders in the company, to divest from the company and the impacts of that decision on the smallholder farmers engaged in the project when it stalled in 2012. Following the exit of Vattenfall and Swedfund, Buchanan Renewables ceased operations, laid off 600 workers and terminated contracts with local smallholder farmers growing rubber trees for the company. In 2013 the company was bought by a group of unnamed investors, but operations have not yet resumed.

The smallholder farmers and charcoal producers interviewed for the report claimed that they were left worse off than before the project was initiated. The report highlights the lack of HRDD by Vattenfall and Swedfund before their decision to divest and the companies’ lack of an exit strategy. The report recommended that Swedfund:

“As part of the due diligence process, ensure that appropriate exit policies and procedures are in place to guarantee that responsibility to respect human rights and the environment are met. Conduct a post-divestment evaluation of the impacts of the BRF project, including interviews with impacted smallholder farmers and a mapping of the options available to assist the farmers in overcoming the negative impacts they have experienced.”

Since the exit, Swedfund has done an internal follow-up report, but no follow-up on the ground has been conducted.

In 2014, Green Advocates and the U.S.-based organisation Accountability Counsel helped affected farmers, charcoal producers and workers to file a complaint with the U.S. Overseas Private Investment Corporation (OPIC), which invested in the project, demanding remedy for the negative impacts of the project. In September 2014, OPIC’s Office of Accountability released an independent investigation report which confirmed that all groups of complainants had suffered harm from the project and identified gaps in OPIC’s ability to identify and protect vulnerable groups. However, no remedy has been provided to affected stakeholders.¹⁴⁷ According to Green Advocates Liberia, the people who were impacted by the shutdown of the project are still struggling for their livelihoods.¹⁴⁸

6. Analysis and conclusions

This report focuses on the case of Addax Bioenergy in Sierra Leone and the negative impacts on local communities during the 1,5 years that the project stalled. This predicament is not uncommon and communities across Sierra Leone and Liberia are currently struggling with similar situations after projects have stalled, for example within the mining and biofuel sectors.

Operating in a high-risk environment implies managing rapidly changing circumstances and threats. Yet many investors fail to plan for a project shutdown or a premature exit. International guidelines offer limited guidance on how to exit a project responsibly. Social and environmental impact assessments are usually carried out before the start of a project and address risks related to the business operations, not risks that can arise if operations cease. However, according to the UNGPs, human rights due diligence should be an on-going process, recognising changes in operations or in the operational environment. In high-risk areas, solid processes for human rights due diligence are even more important.

The lessons learnt from Addax Bioenergy show that risk assessments and mitigation measures need to include an exit perspective, take into account human rights risks in case of an unexpected project failure, and be financed from the beginning. They should not be left to depend on a project’s commercial success.

Before the scale-down and changes in ownership, Addax Bioenergy implemented ambitious local community sustainability plans. Yet when the project stalled and the DFIs pulled out, mitigation measures that were meant to guarantee food security failed and caused a negative impact on local communities’ food security. External monitoring, needed to hold the project accountable for its impacts, stopped, and transparency and dialogue with the communities regarding the project significantly decreased.

Addax Bioenergy’s efforts to continue internal monitoring and pay permanent workers a partial salary during the scale-down were positive, but did not prevent adverse effects experienced by most community members. Just as before, vulnerable groups within the communities such as elderly women and land users were more heavily affected during the scale-down when competition over natural resources such as firewood increased. The hardship experienced by the affected communities also led to other indirect impacts such as children having to leave school.

In this report, Swedwatch has paid particular attention to the role and responsibility of Swedfund and FMO as minority shareholders of Addax Bioenergy. The report shows that neither Swedfund nor FMO adequately addressed human rights risks and impacts before exiting the Addax Bioenergy project. Despite having at least some leverage and information about the situation on the ground, they did not conduct any HRDD of the impacts on local communities before their exit, nor did they use their leverage to make sure that negative impacts would be prevented and mitigated after their exit.

Ebola clearly contributed to the negative impacts on food security and livelihoods during the scale-down. During the Ebola outbreak, Addax Bioenergy provided substantial help to the local communities in handling the disease, and were still operating after many other businesses had closed due to the outbreak. The epidemic was impossible to foresee, and its impacts cannot be blamed on Addax Bioenergy. However, the dramatic changes in the operating environment undoubtedly increased the need for a new risk assessment, which could have resulted in shifting priorities and more informed interventions.

As DFIs provided credibility to the company's sustainability profile, the leverage of Swedfund and FMO was not limited to their role as minority shareholders. Even when their shareholding was reduced, it seems reasonable to assume that they still had some power to influence how the human rights situation was handled. Swedfund and FMO should have done more to make sure that mitigation measures were upheld until a new investor was found. If needed they should have contributed to the financing of such mitigation measures together with other involved parties.

When they exited, Swedfund and FMO did not know of the new majority shareholder, Sunbird Bioenergy, that entered the project nine months later. In fact, there were no guarantees that a new investor would be found. Still, the risk of a permanent shut-down was not identified or addressed in the summary report that the DFIs conducted after exiting, after the project had been stalled for almost a year.

In order to live up to their commitment to the UNGPs, Swedfund and FMO should have (1) made sure HRDD was conducted before the project scale-down and (2) conducted HRDD before their divestment from the company. Based on the findings, an exit strategy and a follow-up plan should have been created for how to prevent and mitigate negative impacts.

Linkage or contribution?

The investment by Swedfund and FMO facilitated the Addax Bioenergy project and directly links them to the impacts that occurred through their business relationship with Addax Bioenergy. The UNGPs state that a business that is linked to a negative impact is not responsible for providing remediation but can play a role in doing so.¹⁴⁹ Swedfund and FMO should have used their leverage, and taken steps to increase their leverage, to make sure impacts were addressed during the time that they were invested. Swedfund and FMO failed to conduct human rights due diligence before their business decision to divest, despite that their investment in Addax Bioenergy clearly represented a high-risk context and that many of the impacts on local communities were severe and foreseeable. While it was known at the time that mitigation measures such as the FDP and FDS had not satisfactorily addressed the threats to food security, these weaknesses were not managed properly. In that context, the failure to conduct a HRDD must be seen as a substantial omission. A case could be made that Swedfund and FMO by this neglect could be seen as having contributed to adverse human rights impacts, although this conclusion is a topic of debate within the business and human rights community.

Regardless if Swedfund and FMO are found to be linked or contributing to the negative impacts, as state-funded institutions with sustainable development as the overarching goal, they should assess how they could constructively assist in the remediation of the impacts caused by the Addax Bioenergy project stalling.

Of course, the responsibility for the situation that occurred and the responsibility to remedy impacts do not lie solely with Swedfund and FMO, and must be shared with other involved parties, especially AOG, and the other DFIs that were lenders to the project and exited at the same time as Swedfund and FMO. All the DFIs involved should have an interest in putting right the harm caused by the Addax Bioenergy project, and make sure to conduct human rights due diligence, also in relation to exits, planned or unplanned, in future projects. Clear requirements for human rights due diligence and exit strategies should also be promoted by the Association of European Development Finance Institutions, EDFI.

Swedfund and FMO have already taken some important and welcomed steps. Swedfund has committed to conduct enhanced HRDD in high-risk areas and to strengthen its procedures related to exit strategies. Swedfund has also offered Sunbird Bioenergy technical assistance to establish a new baseline of the human rights situation. FMO has shared with Sunbird Bioenergy, the environmental and social review made on behalf of the DFIs after their exit. FMO has also continued to engage with the local NGO SiLNoRF on the various issues and concerns related to the project also after FMO's exit. The next step for Swedfund and FMO should be to conduct a more extensive assessment of the human rights risks and impacts outlined in this report, and then decide the appropriate action based on the assessment's findings. Such an assessment should include visits to the project area and meaningful consultation with affected groups, in cooperation with other involved parties. All actors should be prepared to take action that would entail a financial undertaking to remediate negative impact caused or worsened by the Addax Bioenergy project.

All stakeholders seem relieved that the Addax project has managed to gain new financing and is finally operating again. To make sure that the project contributes to the development that local communities, and investors, have waited for, further steps must be taken that are crucial to its future sustainability. Such steps include a HRDD process for the new components of Sunbird Bioenergy's business plan, as well as measures to increase transparency around the project such as external monitoring and strengthening of the MSF. All voices of civil society, even the most critical ones, need to be heard and acknowledged when concerns are discussed.

It is promising that Addax Bioenergy is continuing the different programs under the new majority shareholder Sunbird. However, it is deeply problematic that these programs are dependent on the commercial outcome of Addax. The programs were developed to mitigate threats to local livelihoods and food security caused by the Addax Bioenergy project. If the project stalls again and there is no commercial viability of the project, these risks are likely to worsen and the mitigation programs therefore need to have their funding secured. Ideally, in the future, such mitigation measures should not be financed from a project's revenue or profits, but financed at the inception of the project by diverting a fair amount from the investment capital, as conceptually a form of insurance.

Human rights related weaknesses in current project design and mitigation measures need to be addressed so that they build on recognised models of sustainable livelihoods and take into account that livelihoods are comprised of many aspects and are only sustainable when they can cope with – and recover from – stresses and shocks.¹⁵⁰ Food security can only be achieved when food is available, accessible and adequate.

Furthermore, impacts on the affected communities' drinking water must be addressed immediately and risks related to fire outbreaks and fire prevention should be added to the original risk assessment. The changing demographics through migration to the project area, which under good circumstances can be argued to be conducive to local economic development, has shown that under stress it poses threats to young women. Therefore, strengthening the analysis and mitigation measures from a gender perspective is necessary.

A contingency plan for how to prevent a similar situation from reappearing in case of a shutdown of the Addax project needs to be a priority for both Sunbird and the Government of Sierra Leone. For future land-related projects, requirements on human rights due diligence and exit strategies that takes into account human rights risks should be put on businesses to make sure local livelihoods and food security are not jeopardised. These risks tend to increase when a project stall, if they are not properly identified and addressed at an early stage. If affected communities are left with the negative social and environmental impacts but without the promised development outcomes, it can contribute to instability in the region. If these investments are to contribute to long-term development and peace, governments must increase their capacity to monitor the projects, put clear requirements on companies and investors and ensure that human rights defenders can carry out their work safely.

Annex 1

National Action Plans

In 2014, the United Nations Human Rights Council called on all Member States to develop National Action Plans (NAPs) to promote the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs) within their respective national contexts. This development followed similar requests to Member States made by the EU in 2011 and 2012 and by the Council of Europe in 2014. Since 2011, a number of individual States have developed and published NAPs on business and human rights, and many more are currently in the process.

A NAP should outline priorities and help coordinate efforts on business and human rights across different government sectors. In order to be effective, it needs to build on a broad engagement with other sectors such as civil society.

According to the UN Working Group on Business and Human Rights the following criteria is indispensable for an effective National Action Plan on Business and Human Rights:

- NAPs need to be founded on the UNGPs and should adequately reflect a State's duties under international human rights law to protect against adverse business-related human rights impacts and provide effective access to remedy.
- A NAP needs to promote business respect for human rights including through due diligence processes.
- NAPs must be underpinned by the core human rights principles of non-discrimination and equality.
- NAPs need to be context-specific and address the country's actual and potential business-related human rights abuse.
- NAPs need to be developed in inclusive and transparent processes with relevant stakeholders,
- NAP processes need to be reviewed and updated regularly.

For more info, please see: https://businesshumanrights.org/sites/default/files/documents/UNWG_NAPGuidance_Version2%200_final_print_09112015.pdf

Annex 2

UN Guiding Principle 31

Effectiveness criteria for non-judicial grievance mechanisms

In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- (a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms; Operational-level mechanisms should also be:
- (h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

For more info, please see: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Annex 3

THE SUSTAINABLE DEVELOPMENT GOAL 2:

End hunger, achieve food security and improved nutrition and promote sustainable agriculture

Targets:

- 2.1, By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round
- 2.2, By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons
- 2.3, By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment
- 2.4, By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality
- 2.5, By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed
- 2.A, Increase investment, including through enhanced international cooperation, in rural infrastructure, agricultural research and extension services, technology development and plant and livestock gene banks in order to enhance agricultural productive capacity in developing countries, in particular least developed countries
- 2.B, Correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round
- 2.C, Adopt measures to ensure the proper functioning of food commodity markets and their derivatives and facilitate timely access to market information, including on food reserves, in order to help limit extreme food price volatility

For more info, please see: <https://sustainabledevelopment.un.org/sdg2>

Annex 4

Principles for Responsible Investment in Agriculture and Food Systems

According to the Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI), endorsed by the Committee on World Food Security in 2014, responsible investments in agriculture and food systems should:

- Contribute to food security and nutrition
- Contribute to sustainable and inclusive economic development and the eradication of poverty
- Foster gender equality and women's empowerment
- Engage and empower youth
- Respect tenure of land, fisheries and forests, and access to water
- Conserve and sustainably manage natural resources, increase resilience and reduce disaster risks
- Respect cultural heritage and traditional knowledge, and support diversity and innovation
- Promote safe and healthy agriculture and food systems
- Incorporate inclusive and transparent governance structures, processes and grievance mechanisms
- Assess and address impacts and promote accountability

For more info, please see: <http://www.fao.org/3/a-au866e.pdf>

Annex 5

Guiding Principles on Large Scale Land Based Investments in Africa

The Fundamental Principles of the Guiding Principles on Large Scale Land Based Investments in Africa:

Fundamental Principle 1: Large Scale Land Based Investments (LSLBI) respect human rights of communities, contribute to the responsible governance of land and land-based resources, including respecting customary land rights and are conducted in compliance with the rule of law.

Fundamental Principle 2: Decisions on LSLBI are guided by a national strategy for sustainable agricultural development which recognises the strategic importance of African agricultural land and the role of smallholder farmers in achieving food security, poverty reduction and economic growth.

Fundamental Principle 3: Decisions on LSLBI and their implementation are based on good governance, including transparency, subsidiarity, inclusiveness, prior informed participation and social acceptance of affected communities.

Fundamental Principle 4: LSLBI respect the land rights of women, recognise their voice, generate meaningful opportunities for women alongside men, and do not exacerbate the marginalisation of women.

Fundamental Principle 5: Decisions on the desirability and feasibility of LSLBI are made based on independent, holistic assessment of the economic, financial, social and environmental costs and benefits associated with the proposed investment, throughout the lifetime of the investment.

Fundamental Principle 6: Member States uphold high standards of cooperation, collaboration and mutual accountability to ensure that LSLBI are beneficial to African economies and their people.

For more info, please see: https://www.uneca.org/sites/default/files/PublicationFiles/guiding_principles_eng_rev_era_size.pdf

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127 UNGPs, Commentary to Principle 18.

128 *ibid.*

129 UNGPs, Commentary to Principle 11. The most severe impacts should be addressed first. The severity of impacts should be assessed based on how grave the impact is (scale), how widespread it is (scope), and how hard it would be to put right the resulting harm (its irremediable character).

130 UNGPs, Principle 22.

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