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Transnational land investment web: land grabs, TNCs, and the challenge of global governance

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ABSTRACT

Despite international media's waning attention, research and political debates on global land grabbing have not subsided. We argue the importance of understanding the 'transnational land investment web' of corporate and state actors and institutions, which are not always immediately visible. Focusing on transnational corporations (TNCs) based in the European Union (EU), we examine five sets of actors and institutional spheres through which these actors are able to grab lands beyond Europe. It is crucial to understand these not as individual sets of actors or institutions, but as interconnected sets, comprising a web. These are EU-based: (1) *Private companies* using regular institutional platforms; (2) *Finance capital companies*; (3) *Public-private partnerships*; (4) *Development Finance Institutions*; and (5) *Companies using EU policies* to gain control of land through the supply chain. One implication of this complex web is that democratic governance in the context of land grabs becomes an even more daunting challenge.

KEYWORDS

European Union; land grabbing; land rush; finance capital; public-private partnerships; everything but arms (EBA)

Introduction

Research and political debates on global land grabbing have not subsided, despite the international media's waning attention to the phenomenon (Zoomers, Gekker, & Schäfer, 2016). Scholarly research has focused on four broad themes. First, the socio-economic and political conditions that have given impetus to the contemporary global resource rush. These debates include themes such as converging multiple crises, the related plurality of responses from states and capital, and 'drivers' of the global resource rush (e.g. Ouma, 2014; Zoomers, 2010). Second, the subsequent forms that land-based capital accumulation has taken (including where, when and how), is another major preoccupation in existing research (e.g. Edelman, Oya, & Borrás, 2016; Hall, 2013). Third, the implications of land grabs for ordinary people whose lives and livelihoods are disrupted in some way, why and how they react to their changed conditions, and with what outcomes (e.g. Borrás & Franco, 2013; Hall et al., 2015). Fourth, a range of 'actors' (e.g. state, corporations) and 'institutions' – meaning the informal and formal, state and non-state rules, norms and procedures that structure interactions within and between states and societies (Steinmo, Thelen, & Longstreth, 1992) – that are used to facilitate, expedite, smoothen or legitimize land grabbing (e.g. Wolford, Borrás, Hall, Scoones, & White, 2013).

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Of these four areas of research, we argue that the fourth one remains relatively under-studied. This area of study is important because it implicates partly the role of the state in the global land rush. Political economy studies on land grabs that looked into the role of the state (e.g. Levien, 2013; Moreda, 2017; Wolford et al., 2013) note the contradictory role of the state in terms of facilitating land deals (capital accumulation) while trying to maintain a level of political legitimacy (Fox, 1993; Harvey, 2005; O'Connor, 1973). Thus, the state is both an enabler of, and arbiter in, the global land rush. This makes the question of governing land grabs inherently fraught with contradictions.

We tackle this question in the context of the European Union (EU) and the challenge of transnational governance. The latter is a complex political question that was initially addressed in the 2013 *Globalizations* Special Issue 'Land grabbing and global governance: Critical perspectives' (see Margulis, McKeon, & Borrás, 2013). We identified and examined five broad institutional spheres that enable, facilitate and legitimize EU-based corporations and their engagement in land grabs. While acknowledging that some existing studies have discussed these institutions individually, we argue for the need to understand these five spheres – both in their totality and in an interrelated manner. The five actors and institutional spheres are: First, *private companies* involved in land deals via regular institutional platforms – both within the EU (van der Ploeg, Franco, & Borrás, 2015) and outside the EU (e.g. Locher & Sulle, 2014). Second, *finance capital* companies actively engaging in land-based overseas investments (Daniel, 2012). Third, *public-private partnership* focusing on investment in foreign resources. Fourth, *Development Finance Institutions* facilitating land grabbing. And fifth, companies using *EU policies* to gain control of land through the supply chain (e.g. Franco et al., 2010).

We argue that while it is important to understand the spatial and temporal dimensions of the land rush – as the dominant literature on contemporary land grabs has done – it is equally important to carry out a systematic examination of the structural conditions that created, and the institutional mechanisms that facilitated, global land grabbing and related forms of capitalist accumulation. For the reasons given above, it is important for our analysis of institutions to be embedded within a political economy perspective, and connected to the definition of land grabbing emerging from this perspective. Therefore, it is important to begin with a clear, albeit imperfect, definition of what we mean by 'land grabbing' or 'land deal'. The definition we use is not technical or legalistic, but rather political. It implies that not all land grabs are necessarily illegal or violate human rights. Thus, following Borrás, Franco, Gómez, Kay, and Spoor (2012, p. 851), we define contemporary land grabbing as: '[T]he capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms that involve large-scale capital that often shifts resource use orientation into extractive character ...' They further explain that: 'whether for international or domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital' (Borrás et al., 2012).

By focusing on the complexity of political actors and institutions constituting a transnational land investment web, we aim to capture social processes, political dynamics, and empirical dimension of the global land rush that have not been fully explored in the literature. In turn, this builds on, and extends the analytical reach of, existing relevant studies that implicate powerful countries in transnational land accumulation processes, such as the United States (e.g. Fairbairn, 2014), Canada (e.g. Desmarais, Qualman, Magnan, & Wiebe, 2017; Magnan, 2015), Australia (e.g. Larder, Sippel, & Lawrence, 2015; Sippel, Larder, & Lawrence, 2017), China (e.g. Borrás et al., 2018; Mills, 2018), BRICS countries (e.g. Cousins, Borrás, Sauer, & Ye, 2018), and more broadly (e.g. Clapp & Isakson, 2018; Ouma, 2016; Visser, 2017). What we are suggesting here, is that the notion of a 'transitional

land investment web', and the analytical tool that we aim to build from this notion of a web, may also be relevant when examining other contexts outside the EU. Certainly, the way such transnational land investment webs emerge and function in these non-EU contexts – within, for example, a single country like the United States, or in a cluster of countries, such as the BRICS – are likely to be different than the emergence and functioning of this web within the EU. This is partly due to significant differences in structural and institutional conditions across such societies. Finally, the concept of a transnational land investment web brings in an important perspective on the role of nation-states, not only within its national territory, but in the global functioning of capital and governance. A web that seems to be anchored in the EU is unlikely to have emerged if not for the role of capital coalition partners actively sought or embraced by a nation-state. Our discussion of the concept of a web here affirms the importance, and sheds more light on Wolford et al.'s (2013) analysis on the role of the state in global land grabbing.

The EU's position in the global land grabbing web

It is difficult to track and record the exact extent of land grabbing committed by EU-based corporations, since many of these transactions remain in institutional grey areas that make it difficult to establish precise categorizations. For example, when a corporation buys commodities from reputable companies overseas, but those commodities originate from lands grabbed from villagers. The closest one can get to understanding the approximate extent of land grabbing, is to track data through the Land Matrix, established by the International Land Coalition (ILC) and a consortium of organizations, which is currently the world's largest land rush-related databanking initiative. However, even the Land Matrix keeps changing. For example, its categories for what counts as a land grab have been reduced, with the effect that a large number of land deals and the corporations involved are left out, so the actual extent of the phenomenon is underrepresented.¹ It is nevertheless a useful tool, as long as its limits are taken into account (see Anseeuw, Lay, Messerli, Giger, & Taylor, 2013).

As of early 2019, the Land Matrix reported EU-based companies being involved in 909 land deals globally, consisting of a total of 29 million hectares of land. Two-thirds of these deals (616) involve land outside of Europe, with a combined total of 23 million hectares. These deals are found throughout Africa, Asia and Latin America and are categorized for a wide range of purposes – including agriculture, livestock, biofuel production, forestry for carbon sequestration, and conservation projects. The broad category of 'agriculture' (which includes biofuels and food crops) is the most prevalent (data gathered from the Land Matrix, 2019). As already mentioned, available data is limited and therefore requires some focus in terms of which country activity can be sufficiently tracked. In this paper, we examine several cases that help to expose the flaws in large databanking initiatives like the Land Matrix, which tend to conceal the real extent of land grabs in terms of the corporate actors involved and amount of land implicated (e.g. the discussion of the Feronia case below). We also engage with important scholarly debates on the theoretical framing and methodological quantification of land grabs (e.g. Anseeuw et al., 2013; Rulli, Savioli, & D'Odorico, 2013; Scoones, Hall, Borras, White, & Wolford, 2013; Zoomers et al., 2016).

Below, we present an illustrative case that links us back to our main argument that the political dynamics of land grabs are better understood from an interconnected perspective, involving the five institutional spheres, and not from an isolated sectoral perspective. Corporations tend to engage in 'forum shopping', 'venue shifting' or 'space hopping' tactics to pursue their principal goal: to generate profit through large-scale land investments in foreign spaces and societies – making the challenge of governance even more complicated (Margulis et al., 2013; Wolford et al., 2013).

Understanding investment webs: the Feronia case

The issue of financing and actors' shareholding is both directly linked to financial investors, and indirectly to most private companies – exposing complex, cascading relations between them. This means that in one land deal, multiple actors may be involved, and thus certain distinct responsibilities and accountabilities can be attributed to them. As Blackmore, Bugalski, and Pred (2015, p. 2) explain:

Behind most large-scale agricultural projects is a web of global actors that make the project possible. These actors include banks and companies that are funding the project, and the companies that are buying the produce being grown or processed by it. All of these actors are necessary to the project's success, and all are aiming to earn a profit from it in one way or another.

This point is relevant to understanding the dynamics of land grabbing and illustrates some of the problems arising from certain forms of land deal quantification and databanking, in that it can obscure relevant EU-based actors (Edelman, 2013; Oya, 2013; Scoones et al., 2013). The discrepancy between the quantified land deal data and the involvement of financial actors can be highlighted by the case of DWS, the fund managers of Deutsche Bank AG. A 2010 study found that 'in the case of DWS ... at least €279,500,000 is invested through their funds in companies directly acquiring agricultural land. These companies actually hold a minimum of 3,057,700 hectares of agricultural land in South America, Africa and Southeast Asia alone' (FIAN Germany, 2010, p. 5). However, the data from the Land Matrix only shows 300,000 hectares acquired by German entities.

When looking at the investment chains of land deals, there are layers of different types of actors: business managers of the agricultural project; parent companies who (fully or partially) own the business managing the project (subsidiary or local branch); investors/shareholders who invest money in a company in return for shares; lenders who make loans to a project or a company (commercial banks, investment banks, multilateral development banks/IFI, investment funds (hedge funds, pension funds, private equity funds); governments who offer land to the business managing the project and allow a company to be registered and operate in their country or region; brokers who play a role in helping to secure business deals and communicating between or supporting different entities involved; contractors who carry out certain jobs on the ground on behalf of the project; and buyers who buy the produce grown or processed by the project (trading companies, processor/manufacturer, retailer) (see Blackmore et al., 2015; Clapp, 2013; Fairbairn, 2014; Isakson, 2014). These actors are not always based in one single country, which makes attributing accountability to only one state inadequate. EU actors can become involved at different points of the investment chain – or web. The case of Feronia Inc. is illustrative of this.

Feronia Inc. is a Canadian company registered on the Toronto stock exchange. In 2014, all of its operations were being carried out in the Democratic Republic of Congo (DRC) through its subsidiary, Feronia JCA Limited, which was registered in the Cayman Islands (GRAIN, 2016). At the time, Feronia JCA Limited held 76 percent of Congolese Feronia Plantations et Huileries du Congo (PHC) and 80 percent of Feronia PEK SPRL. As of 2016, Feronia JCA Limited had been dissolved, and Feronia Maia SPRL, a new Belgium-based subsidiary, had become the centre of the Feronia investment web (see GRAIN, 2016, p. 3). Feronia claims to legally control some 117,897 hectares of land in the DRC through both companies (107,897 and 10,000 hectares respectively).² As of March 2015, Feronia Inc.'s largest shareholders were the African Agriculture Fund (AAF, 32.44 percent) and CDC Group Plc. (27.43 percent), totalling 59.87 percent. AAF is a Mauritius-based private equity fund financed by bilateral and multilateral African Development Finance Institutions (DFIs).³ Its

Technical Assistance Facility (TAF) is funded primarily by ‘the European Commission and managed by the International Fund for Agricultural Development (IFAD). The TAF is co-sponsored by the Italian Development Corporation, United Nations Industrial Development Organisation (UNIDO) and the Alliance for a Green Revolution in Africa (AGRA)’ (AAFTAF, 2016, p. 1). CDC is the UK’s DFI, which is owned by the UK Government, and Deutsche Bank AG holds 1.27 percent.⁴

In addition, development banks from Germany, Belgium and the Netherlands, together with the PPP-fund EIAB, issued a loan of US\$49 million in 2015. In total, institutional investors control 77.7 percent of Feronia (Feronia, 2015). Although it appears to be a corporate entity, Feronia’s complex structure sparks various questions, including how to demand compliance to global governance principles and instruments, such as human rights. This creates a peculiar situation where one of the biggest palm oil players in Africa (based on its land pool) is owned and controlled mainly by DFIs, with eleven countries⁵ involved in the case (USA, Canada, Germany, Spain, France, Belgium, the Netherlands, Cayman Islands, Mauritius, UK, and DR Congo). This complex ‘multilayeredness’ can be seen as a characteristic case of land grabs that are even more pervasive than previously assumed. Based on this case, the term *investment web* becomes a more accurate description than investment chain (Figure 1).

The DWS data, as well as the Feronia case, show that referencing databases like the Land Matrix has its limits, and is not sufficient for identifying EU actors. This data does not immediately and directly reveal links between Feronia and EU actors, despite the fact that (a) EU actors (either directly or through AAF) are the majority shareholders (owners) of Feronia Inc., and (b) a loan by development banks is linked to the distinct obligations of the related states. This leads to a *distancing of accountability* (Clapp, 2013), and makes it more complex to find adequate policy responses targeting EU private and financial investors. One possible implication of this for civil society organizations and their advocacy campaigns is that corporations can point fingers to other actors within the web and deny responsibility for their own actions, as some of the high profile campaigns on related issues tend to show (e.g. ABP in Brazil, discussed below). For the scope of this study and the data presented above, this also means that the involvement of EU companies in land grabbing outside the EU is likely to be even more substantial than the data discussed above suggest.

Five key sets of EU-based actors and institutional spheres

The ways in which EU companies are involved in global land grabbing may be understood in various ways. A land deal may involve diverse entities: financial and corporate, private and public – which are linked to each other in a variety of ways. These actors and institutional spheres emerge in specific contexts and may be linked to the EU in different ways. It is essential to understand the roles played by various institutional spheres, whether as mechanisms, facilitators, or legitimizing factors in global land grabbing. These five sets of actors and institutional spheres are now discussed in detail, alongside an illustrative case for each.

(1) *Private companies involved in land deals via regular institutional platforms*

In this institutional sphere, a company that has its headquarters or substantial business activity (or that of its controlling company) in one EU member state, is involved in a land grab. The company may be involved in a land deal at different points in the investment web. It can be a financial institution or company that is involved in the financing of a land deal (shareholder or loan), or a company that is involved in the operational implementation of a given investment project (coordinating

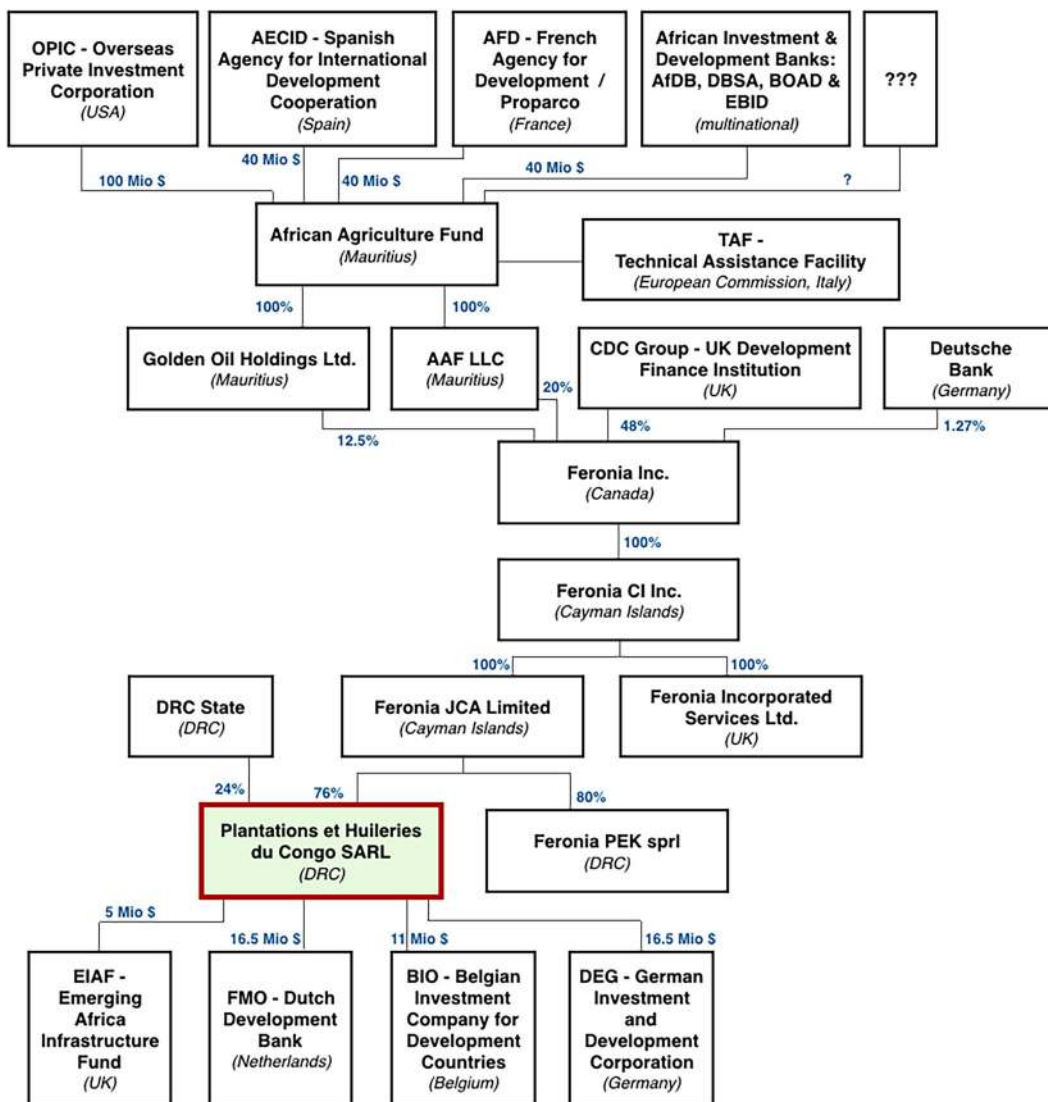


Figure 1. Feronia's investment web. Source: Authors' own elaboration based on available information.

Notes: The following aspects must be considered: (1) The data are gathered from different sources and years. Thus, the figure might not reflect the precise current situation. However, this does not impede the purpose of the figure, which is to illustrate the complexity of the investment webs surrounding land grabs. (2) CDC shares are summarized from shares and 'benders', an instrument that can convert loans to shares. (3) Feronia's website mentions that due to negative perceptions, the Feronia entity in the Cayman Islands entered into voluntary liquidation. During an informational meeting in 2016 with Belgian NGOs, Feronia and BIO mentioned that Feronia would be registered in Belgium.

or exercising), or a main client of the produced goods. In some cases, the operations on the ground are managed and/or carried out by a locally registered company, usually a subsidiary of the EU-based company (the subsidiary may have other shareholders), but business operations are coordinated from the company's headquarters or parent company.

The land may have been acquired by the local company or by the EU-based company through purchase, lease or concession. It may have been acquired from communities, private landowners,

or the government of the host country. In the context of large-scale land deals, a state authority or agency is usually involved. The EU-based company may benefit from support from its home country, through intervention by the embassy, or through support to land acquisitions via development cooperation projects. In these cases, it is up to the EU and its member states to regulate and sanction business enterprises, where they are in a position to do so. For instance, where the corporation or its parent/controlling company, has its headquarters or main place of business in the country concerned (ETO Consortium, 2013, p. 9). The Luxembourg-based company SOCFIN is an illustrative case.

SOCFIN (Société Financière des Caoutchoucs) is an agro-industrial group specialized in oil palm and rubber plantations. The SOCFIN group is made up of a complex structure of cross investments and shareholdings. The group's financial holdings are based in Luxembourg; operational companies are based in Luxembourg, Belgium and Switzerland; and subsidiaries for the management of the plantations are established in a dozen Sub-Saharan and Southeast Asian countries (SOCFIN, 2016). Although SOCFIN is a very old company with its first operations dating back to the Belgian Congo, the company has experienced a significant expansion of its operations in recent years, benefiting from the growing world demand for oil palm for use in industrial foods and biofuels.⁶

As of end 2014, SOCFIN was managing 181,000 ha of plantations in Africa and Southeast Asia.⁷ SOCFIN largely relies on self-financing and commercial loans for the development of its operations, although it has on several occasions benefited from financial and technical support of DFIs, such as the International Finance Corporation (IFC) of the World Bank Group or the German DEG. It has also benefited from political and technical support from investment promotion agencies, which were supported by the European Commission. For example, in Sierra Leone, SOCFIN acquired its farmland through the Sierra Leone Investment and Export Promotion Agency (SLIEPA), which was decisive in identifying the area for the land investment and in facilitating the lease agreement between the company and national authorities.

Despite SOCFIN's membership to RSPO (Roundtable on Sustainable Palm Oil), and its publicity around CSR (Corporate Social Responsibility) projects, several reports from NGOs and international organizations have demonstrated severe environmental impacts (Greenpeace, 2016), and social and human rights impacts (FIDH, 2011; Oakland Institute, 2012; UN, 2006) from SOCFIN's land investments. In some countries, this has led to land conflicts, social unrest and criminalization of local leaders (FIAN Belgium, 2019; FIDH, 2016). Since 2010, a complaint has been submitted to three National Contact Points (NCP) by several NGOs, for the OECD Guidelines for multinational enterprises, about a case in Cameroon. Despite the elaboration of an action plan and several attempts of mediation, the NCPs deplored the lack of collaboration from SOCFIN, which has impeded the implementation of adequate solutions for the workers and neighbouring populations (Point de Contact National Belgique, 2015).

(2) *Finance capital companies engaging in land-based overseas investments*

Financialization of land, agriculture and the food system has been a key element of the contemporary global resource rush (see Clapp & Isakson, 2018; Fairbairn, 2014; Ouma, 2014, 2016; Visser, Clapp, & Isakson, 2015). Finance capital companies are diverse and include institutions such as banks, brokerage companies, insurances, financial services, pension funds, hedge funds, investment firms and venture capital funds. There is a clear trend of finance capital companies being increasingly involved in land deals since the beginning of the financial crisis and the food price spike in 2007–2008. Land became a target for financial capital investors who needed to diversify their investments in order to protect themselves against financial crisis-induced instability. Clear profits could be reaped due to the overall rise of land and commodity prices. Financial actors may not always be very visible

in a land deal, as they may be financing land grabs indirectly (e.g. when banks provide credit to companies involved in land deals, or when hedge funds and private equity firms buy stakes in overseas companies that control land) (FOE, 2012).

Some of the major financial capital company players involved in land grabbing are pension funds. At the end of 2016, total private pension assets in the 34 OECD countries were valued at US\$38 trillion, and managed mainly by pension funds (OECD, 2017). Pension funds are thus the heaviest players of the financial industry, and their movements typically generate far-reaching impacts. They are either public or private funds and, are therefore regulated under public or private sector law in the corresponding countries. However, in many cases, and similar to Development Finance Institutions, pension funds are constructed in a way that makes it difficult to clearly distinguish between public and private funds. Public pension funds are under direct public control and as a public body must avoid contributing to neither domestic nor extraterritorial human rights infringements.⁸ As for private pension funds, or more complex funds, EU member states have the obligation to regulate them in order to both prevent their funding from contributing to human rights abuses abroad, and to ensure effective remedy in case abuses do occur (ETO Consortium, 2013, p. 12). Illustrative of this is the involvement of several European pension funds in land grabbing in Brazil.

The Dutch Stichting Pensioenfonds, ABP, the second Swedish Pension Fund AP2, as well as the German pension scheme *Ärzteversorgung Westfalen-Lippe* (ÄVWL), are (as of 2019) involved in a huge land grab in the northeast of Brazil. All three have invested in two global farmland funds (TIAA-CREF Global Agriculture LLC, or TCGA, 1 and 2), which have been installed by the US-based pension fund TIAA. TCGA 1 and 2 have collected US\$5 billion from pension schemes around the world to acquire farmland in different countries⁹ – including 300,000 hectares in Brazil, almost a third of which is situated in the MATOPIBA region¹⁰ (FIAN International/Rede Social de Justiça e Direitos Humanos/Comissão Pastoral da Terra, 2018).

ABP and the AP2 Fund were also part of a group of institutional investors that launched a set of ‘Principles for Responsible Investment in Farmland’, or ‘Farmland Principles’, in September 2011, with the stated objective of ‘improving the sustainability, transparency and accountability of investments in farmland’ (Andra AP-fonden, 2011, p. 1). However, local communities in MATOPIBA are facing severe social and environmental impacts related to the expansion of agribusiness on the lands owned by the TCGA funds, as well as land speculation in the MATOPIBA region. Civil society organizations (CSOs) have documented how local people are losing their land and facing disputes over the use of water, contamination of water, soils and animals by agrochemicals, alteration of rainfall in the region, more frequent droughts, increasing violence against community leaders, deforestation and loss of biodiversity. The consequences include the destruction of communities’ livelihoods, food and nutrition insecurity and community disruption, which in many cases are forced to migrate to the favelas of Brazilian cities. Women are particularly affected by ongoing land grabbing and environmental destruction, as they are no longer able to collect and process wild fruit from the dry forests, and face constant intimidation and physical violence from armed guards (FIAN International/Rede Social de Justiça e Direitos Humanos/Comissão Pastoral da Terra, 2018).

Land grabbing in the MATOPIBA region involves several actors. Often, local land grabbers violently evict local people from their lands, and afterwards sell the farms to land companies or agribusiness enterprises. Although European actors such as ABP, the AP2 Fund and ÄVWL may not be directly involved in the physical grabbing of land, nor in the operations on the farms owned by the TCGA funds, they are an essential part of the destructive business model applied in the MATOPIBA region by providing the capital required to facilitate such a system. Through their investments,

these pension funds are, firstly, financing and fuelling land grabbing and environmental destruction and, secondly, aiming to extract significant wealth from the region. Although these pension funds stress that they are not involved in land speculation, given that their mandate requires them to seek long-term investments with manageable risk, they directly profit from the rising land prices, as this increases the value of their farms and their portfolios. Thus far, AP2, ÄVWL, and ABP have refused any wrongdoing and refer to their internal corporate social responsibility (CSR) standards, but ongoing research highlights their direct or indirect involvement in the human rights violations of local people. More specifically, the funds were, or should have been, aware of violations by carrying out an appropriate due diligence process. They were investing in a region and sector with high risks, given that land conflicts and deforestation have been increasing in MATOPIBA for the last ten years. Since 2012, the funds have also been made aware of the impacts of their investments by reports in the media and by CSOs, but have not taken adequate measures to ensure that their investments do not lead to human rights violations and environmental destruction (FIAN International/Rede Social de Justiça e Direitos Humanos/Comissão Pastoral da Terra, 2018).

(3) *Public-private partnerships focusing on investment in foreign resources*

A public-private partnership (PPP) is generally understood as an agreement between a public sector authority and a private party, which is funded and operated through a partnership of one or more governments and private sector companies. The International Food Policy Research Institute (IFPRI) defines PPPs as ‘collaborative mechanisms in which public organizations and private entities share resources, knowledge, and risks in order to achieve more efficiency in the production and delivery of products and services’ (Hartwich et al., 2008, p. vii). In the context of land deals, PPPs often involve development cooperation agencies, public investment funds, or companies involved in land deals. In other cases, the public sector ensures an environment that facilitates land acquisitions and subsequent business activities by private corporations through specific policy interventions (e.g. New Alliance for Food Security and Nutrition) (Hartwich et al., 2008).

PPPs are presented by proponents as ‘win-win affairs’ since, in theory, they make it possible to profit from the capacities and resources of private entities and shift some of the risk of service provision, while solidly anchoring accountability in the public sector. In reality, however, PPPs blur the lines between public and private actors and mix up their respective roles and responsibilities. In this context, public goods are increasingly seen as private goods or market commodities, and thus entail the risk that the state will abdicate its public responsibilities, which has important implications for accountability. Indeed, accountability tends to disappear, while corporations manage to evade the bulk of the risks involved in agricultural investment by pushing governments to bend rules and regulations to their advantage. The case of Luxembourg-based African Agricultural Trade and Investment Fund (AATIF) is illustrative of this.

Agrivision Zambia (formerly Chobe Agrivision Company Ltd.) is a commercial farming company in Zambia owned by Mauritius based investment firm Agrivision Africa (formerly Chayton Africa). In 2009, the company signed an Investment Promotion and Protection Agreement with the Government of Zambia, which included tax breaks. The overall plan of Agrivision Africa is to aggregate 100,000 hectares of land in Zambia and its neighbouring countries (e.g. Botswana). By 2018, Agrivision had acquired approximately 7 farms in Zambia totalling 19,219 hectares. Research highlights that due to a surge of commercial farming activities, land related conflicts in and around the Mkushi farm block have increased. In addition, Agrivision promised 1,639 jobs, however, by 2014 only 165 workers were employed, of which 135 were permanent staff (AATIF, 2015). However, since the company took over existing farms, most of these jobs already existed and cannot be

considered as new jobs created by the investment. Rather, the takeover of existing large farms was accompanied by job losses due to mechanization (Herre & Ulbrich, 2017).

In August 2011, the AATIF invested US\$10 million in Chobe Agrivision via Africa Agrivision. The AATIF is an ‘innovative public-private financing structure’ (AATIF, 2015) based in Luxembourg and established by the German Ministry for Economic Cooperation and Development (BMZ and its financial assistance branch, KfW Development Bank) in cooperation with Deutsche Bank AG. The Fund’s stated mission ‘is to realize the potential of Africa’s agricultural production, manufacturing, service provision and trade for the benefit of the poor’ (AATIF, 2012, p. 8). By 2018, the fund disbursed US\$160 million (major shareholders include BMZ, KfW, DB and religious institutions) which generated US\$33 million in Luxembourg (FIAN Germany, 2018). Due to a cascading funding arrangement (via A, B and C shares), loss of profits first hit BMZ, then KfW, and finally Deutsche Bank (which manages the fund) and the other investors. In October 2012, the Norwegian Investment Fund for Developing Countries (Norfund, owned by the Norwegian Government) acquired 21 percent of Africa Agrivision for US\$10 million (Hands off the Land Alliance, 2013).

(4) EU Development finance institutions facilitating land grabbing

Development Finance Institutions (DFIs) are important actors in land grabbing, namely as financiers of land deals and investment projects. DFIs are specialized development banks that are mainly owned by national governments, and contribute to the implementation of the latter’s foreign development and co-operation policy. However, information on the activities of DFIs is not easily available to parliaments or the broader public. DFIs invest their own capital and may source additional capital from national or international development funds, and the private capital market. They also may benefit from government guarantees, which ensure their credit-worthiness. DFIs can thus raise large amounts of funds on the international capital markets and provide loans or use equity on very competitive terms, frequently on par with commercial banks. The scale of private sector financing from European DFIs has increased by a dramatic 57 percent in recent years, from US\$41 billion in 2012 to US\$ 65 billion in 2017 (Saldinger, 2019). This trend, sometimes referred to as ‘financial deepening’, is part of an on-going process of financialization, or the increasing importance of financial markets, financial motives, financial institutions and financial elites in the operation of the economy (Bretton Woods Project, 2014).

The involvement of DFIs in land deals can take different forms: either they give loans to companies, private investors or their projects; they give guarantees or they are involved as shareholders (equity participation) within projects; or enter into joint ventures. In some cases, involvement of different DFIs can result in the majority of a company’s shares being in the hands of DFIs. Although European DFIs usually have internal guidelines, or claim to follow the IFC performance standards to their investments as safeguards in order to ensure that they are not involved in land grabs, a large number of reported land grabs and related human rights abuses and violations involve one or more European DFIs (APRODEV, 2013).

It is important to note that DFIs increasingly invest in financial institutions, as part of an approach that sees the private financial sector as a development actor and bolsters it with public resources. Some European DFIs invest around half of their total portfolios in financial intermediaries, making it extremely difficult to know where this money is then used, and thus raising huge accountability problems.¹¹ While DFIs are financial actors, their position as a link between public and private actors and, often, being mainly owned and controlled by states, implies some specificities

regarding accountability. The case of DEG, the private-sector branch of the German Bank for Development (KfW) is illustrative of this.

In 2013, DEG announced that it would invest US€25 million in the Paraguay Agricultural Corporation (PAYCO) (DEG, 2013).¹² DEG holds 15 percent of the shares of the company, while Euro-American Finance S.A., a finance firm based in Luxembourg, holds the remaining 85 percent (Deutscher Bundestag, 2019). According to information provided by DEG, it has negotiated an environmental and social plan with the company that should give insight about how human rights risks are assessed. This plan is, however, classified as confidential under the investment agreement. By referring to this agreement, DEG has repeatedly refused to make this information available, despite the existence of the German freedom of information law. As the second largest landowner in Paraguay, PAYCO manages 144,000 hectares of land, on which 238 company employees produce cereals, soy and plantation wood. Part of the land is also used for cattle ranching and another part has been declared a natural reserve (PAYCO, 2018). Land conflicts involving peasants and indigenous communities, who are calling for agrarian reform, and large landowners in the country, are often violent and characterized by a significant imbalance of power between the two sides. Paraguay has one of the highest levels of land concentration in the world, and land investments are exacerbating this. Additionally, part of the land controlled by PAYCO is claimed by indigenous and peasant communities. Local people have complained about the indiscriminate spraying of agro-toxics in several of the company's holdings, resulting in health problems. Some of PAYCO's operations are carried out in the Chaco, an ecologically fragile region, which suffers from the world's highest deforestation rate. Information of one farm in the Chaco (Timboty) indicates that PAYCO is a substantive player in this deforestation. According to statements made by the company, PAYCO further aims to expand its operations (FIAN Germany, 2014).

(5) *Companies using EU policies to gain control of land through the supply chain*

The EU should not only be analyzed as a 'home state', where land grabbing actors are based. It should also be understood in regard to the manner in which it contributes to (facilitates/aids) land grabbing through its domestic policies and international agreements, as well as through its capacity to influence the conduct of non-state actors through these mechanisms. The following policies are particularly relevant to the context of land grabbing (see also Cotula, 2012).

Investment policies: Since the adoption of the Lisbon Treaty in 2009, the conclusion of international investment agreements has become, along with the common commercial policy (international trade), an exclusive EU competence (TFEU, 2007). The current international investment regime, as promoted by the EU its member states, contributes to an enabling international environment for land grabbing (TNI, 2015). One central concern is the imbalance between the protection offered to foreign investors and to communities negatively affected by foreign investments. Investment treaties are typically one-sided, and only investors can invoke treaty protections and issue claims against states – even using ISDS mechanisms to sue them.¹³ No similar mechanism exists at the international level for individuals or communities affected by land grabbing to hold foreign investors accountable. A second concern relates to the curtailing of public policy space and interference with measures aimed at the progressive realization of human rights. In recent years, the number of investment arbitration cases targeting public interest regulations has increased dramatically, causing a 'regulatory chill' extending beyond the states implicated. As shown by the Palmital and Sawhoyamaya cases in Paraguay, investment treaties (in this case between Germany and Paraguay) can present significant barriers to implementing measures, such as redistributive land reforms, that

address past injustices and play a vital role in the realization of land-related human rights (see Both Ends, 2015, for a summary of the cases; see also TNI, 2015).

Development policies: Like the external trade policy, the EU's development cooperation policy is part of its external actions. The stated primary objective of the EU development cooperation policy is 'the reduction and, in the long term, the eradication of poverty' (TFEU, 2007, art. 208). The *Treaty on the Functioning of the European Union* (TFEU) emphasizes that the EU and its member states will guarantee the coherence of this overall objective with its other policies and that they 'shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations' (TFEU, 2007, art. 208). Furthermore, since 2005, the EU has committed to Policy Coherence for Development (PCD), which is applied to 12 EU policy areas. In recent years, the EU has increasingly shifted towards a private sector-led approach to development, arguing that private sector engagement and funding is an indispensable complement to EU development assistance (EC, 2014). However, so-called 'partnerships' with the corporate sector carry major risks, particularly when conflicts of interest are not adequately addressed.¹⁴ Such partnerships tend to shift the focus towards interventions that are beneficial/profitable to the corporations involved, thereby diverting attention from the root causes and the strengthening of rights of the supposed beneficiaries. At times, they end up promoting precisely the actions that are at the core of the problem, such as the liberalization of land and seed markets, commodification of food, and promotion of the agro-industry. The private sector focus of EU development cooperation has also been criticized in the context of the New Alliance for Food Security and Nutrition, due to

speculation over land increases, and so does land concentration: foreign investors are mostly interested in developing large-scale plantations, that are relatively non-labour-intensive and contribute relatively little to rural development; and conflicts over land increase as land becomes a valuable asset. (De Schutter, 2015, p. 26)

Bioenergy policies and the EU Renewable Energy Directive (RED): The RED aims at reducing greenhouse gas emissions by significantly scaling up forms of energy classified as renewable, such as agrofuels. It states that the incentives it lays out encourage increased production of biofuels and bioliquids worldwide. Agrofuels and biofuels have long been identified as playing an important role in the global land rush, and recent studies have found that oilseed crops for agrofuels are one of the central drivers propelling renewed interest in land deals, especially in Africa. European companies and financial investors have been key actors in land deals for agrofuel production (Cotula, 2012; Franco et al., 2010). Civil society organisations (CSOs) have repeatedly flagged the direct link between land grabbing, documented the human rights impacts stemming from the EU's biofuel policy and its mandates, and highlighted the involvement of European companies in related land grabs (see *EuropAfrica*, 2011), urging the EU to drop its biofuels target and to exclude bioenergy from the next EU Renewable Energy Directive. However, since RED's 2009 adoption and 2010 implementation, the EU its member states have not taken concrete measures to ensure that their biofuel policy does not cause negative social, environmental and human rights impacts. This becomes even more concerning in the context of the political economy of some of the key feedstocks used for agrofuels, 'flex crops and commodities', meaning crops that have multiple, flexible and interchangeable uses (e.g. food, feed, fuel, industrial and commercial) (Borrás, Franco, Ryan Isakson, Levidow, & Vervest, 2016).

Trade policies, including the EU's Everything But Arms Initiative (EBA): The most recent EU trade and investment strategy, 'Trade for all. Towards a more responsible trade and investment

policy’ (EC, 2015), specifies that one of the aims of the EU is ‘to ensure that economic growth goes hand in hand with social justice, respect for human rights, high labour and environmental standards, and health and safety protection’ (EC, 2015, p. 22). A key concern stems from EU trade agreement incentives for large-scale land acquisitions in non-EU countries, intended for the production of crops for the EU market. Currently, there are no adequate mechanisms in place to assess and monitor EU trade agreements with regard to their potential and actual adverse effects in land investment sites. An illustrative example of how trade policies can act as a driver for land grabs is the EU’s Everything But Arms Initiative (EBA). Adopted in 2001, the intention of this initiative was to promote development in the world’s least developed countries (LDCs) by granting duty-free and quota-free access to the European market. Market access for sugar was fully liberalized by October 2009, which is particularly important because the EU guaranteed a minimum sugar price higher than the world market price. The EU has claimed that the EBA has had positive effects, but the case of Cambodia shows that this initiative has been a driver of land grabbing and human rights violations in Cambodia (Equitable Cambodia, 2013, p. 20).

According to the companies involved in sugar cane plantations, the EBA has been a primary motivator for their land acquisitions and operations in Cambodia (Equitable Cambodia, 2013, p. 22). While sugar cane holdings were insignificant before the EBA was implemented, by 2015 around 100,000 hectares of land are under agro-industrial sugar cane production, with 100 percent of exports being directed to the EU by 2012 (see Table 1) (Hands off the Land Alliance, 2014).

Since 2010, affected communities, together with national and international CSOs have been calling on the European Commission to investigate the human rights impact of the EBA.¹⁵ When the Commission rejected these calls,¹⁶ CSOs did their own comprehensive human rights impact assessment, concluding that at least 10,000 people were negatively affected by the expansion of sugar cane plantations (Equitable Cambodia, 2013, pp. 25–29). The systematic human rights violations documented included forced evictions, loss of land and water, and criminalization of human rights defenders. While Thai sugar TNCs and national Cambodian elites are the dominant actors in this sugar cane expansion, through its fund managers DWS, the German Deutsche Bank Group held US\$12.9 million in equity shares in the Thai Sugar Company Khon Kaen Sugar (KSL) via three different funds (FIAN, 2010, p. 11). In 2013, 200 affected villagers from Koh Kong, with support from CSOs, filed a complaint at the United Kingdom High Court of Justice against the UK-based company Tate & Lyle Sugars (sold in October 2010 to the US sugar titan ASR Group), which signed contracts with a KSL subsidiary to purchase its output from Cambodia (Equitable Cambodia, 2013).¹⁷ After ten years of struggle in which villagers and CSOs called attention to this issue, the European Commission finally launched a formal investigation into human rights violations related to the sugar concession in February 2019 (EC, 2019).

The Thai Human Rights Commission investigated the case and found out that that in Koh Kong Province alone, 456 families owned land on the concessions granted for sugar cane plantations, and yet were not informed or consulted about the project. In 2006, villagers came under attack when demolition workers with bulldozers and excavators, accompanied by armed and military police,

Table 1. Cambodian sugar exports to the EU.

	2008	2009	2010	2011	2012	2013
Total sugar exports to EU, in thousands of dollars	28	51	3,851	13,229	10,614	51,615
Sugar exports to EU compared to total sugar exports, in percentage	6.5%	30%	90%	94%	100%	–
Sugar exports to EU, in tons	–	–	10,000	22,500	15,501	64,917

Source: Hands off the Land Alliance (2014).

arrived without warning and began clearing their land and crops. Most of the farmers lost all their vegetable land holdings, and the two community forests, totalling 1,800 hectares were completely destroyed. During the following months, land clearances continued, with some villagers being injured or shot, and one community activist being murdered after documenting and protesting against the evictions. Only 23 families were compensated (ranging between US\$75 and \$750), and local communities have lost significant access to water due to local resources being blocked, polluted, or overexploited for irrigation on the new plantations (Equitable Cambodia, 2013, p. 64).

What this discussion of EU policies, and specifically RED and EBA, partly shows is that the already complicated task of tracking responsibility and accountability within the global commodity chain has become even more complex with the rise of flex crops and commodities, because this allows commodities to be labelled or relabelled as food, feed, fuel, industrial or commercial to fit different circumstances (Borrás et al., 2016). Tracking responsibility and accountability via a single global commodity chain has become limited, as what has emerged is more of a chain of chains – or a web – which requires more complex approaches to (global) governance. Thus, in the case of oil palm and the widespread land grabs occurring from Colombia to Indonesia, and Myanmar to Nigeria, debates about the complicity of RED and EBA in human rights violations in these places remains highly relevant. The EBA case is indicative of the complexity of ongoing processes and mechanisms involving flex crops globally, such as in the case of sugarcane production in Cambodia (McKay, Sauer, Richardson, & Herre, 2016).

Concluding remarks

Placing a transnational land investment web at the core of the analysis of global land grabs allows us not only to see the engagement of more political actors (e.g. class or social groups) and institutions, but also the ways in which such actors and institutions enable and shape one another. Overall, we affirm a more historical-institutional perspective on institutions as being a crucial basis for understanding most direct and concrete connections between social actors and social structures (Steinmo et al., 1992). This is significantly different from, or contrary to, a new institutional economics perspective on institutions. The latter is anchored on the fundamental assumption about a profit or utility maximizing, individual economic agent who is expected to act rationally given the ‘right’ institutional conditions (North, 1991). Indeed, a critical political economy view understands institutions as an important *context* for such interactions between structures and actors, that they often become a critical *object* of political contestations (Fox, 1993; Steinmo et al., 1992). Our study has important implications for research and political activism around the global land rush.

First, a political economy framework allows us to see the relationship between state and capital, a relationship that is marked by alliances and contradictions between the two, making states both enabler of and arbiter in the global land rush. It is only possible to make visible the connections between political actors and institutions in the land investment web when we see it from the perspective of the political economy of state and capital relations. While this has been explored in the land rush literature, the transnational dimension has been relatively less studied.

Second, taking the political economy of a transnational land investment web as the unit of analysis, and building on the definition of land grabs as ‘control grabbing’, allows us to see a wider range of land grabs, which are not always tracked and captured by large-scale land deal databases. Because of this, we believe that the extent of global land grabs may be significantly more than what is quantified in databases.

Third, our study may shed light on the character of multilateral and international institutions that are implicated in global land grabbing. This is due to the EU (as both a union and the individual

member-states therein) being deeply embedded and highly influential in terms of their funding contribution, and thus, politically – within these international institutions and processes. For example, the EU is a critical supporter of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT) (Seufert, 2013), Climate-Smart Agriculture (CSA), the United Nations Framework Convention on Climate Change (UNFCCC) Conference of Parties, and so on. These are all global instruments that have very different political histories within the EU, and very different meanings as interpreted by and within the EU. For example, several EU member states were among those who actively supported the endorsement of the VGGT which, while despite some weaknesses, is a promising progressive global governance instrument that can be (re)interpreted from various competing perspectives (Franco & Monsalve Suárez, 2018). At the same time, the EU and some of the other state supporters of the VGGT, are key actors supportive of the problematic notion of CSA (Borras & Franco, 2018; Clapp, Newell, & Brent, 2018) and/or maintain a position within the UNFCCC Conference of Parties that leans towards pro-corporate framing of climate change mitigation and adaptation. This approach involves governance initiatives that have global implications, such as the EU's mandatory biofuel blending policy, which have resulted in 'green grabbing' – or the intersection of land grabs and corporate-shaped climate change mitigation and adaptation measures (such as biofuels) (Fairhead, Leach, & Scoones, 2012; Franco & Borras, 2019; Tramel, 2016). In combination, this contributes to the alarming realization that the EU has problematic institutional frameworks that may have advertently or inadvertently facilitated global land grabbing. At the same time, this should alert those who see potential in some of these global governance instruments on how these governance tools can be used more effectively (Franco & Monsalve Suárez, 2018; Franco, Park, & Herre, 2017).

Fourth, the analytical or administrative-procedural divide between states and corporations – insinuating that states are neutral arbiters in society – may be more of an artificial divide than a real one. In reality, the line between state and corporations has been blurred. This is relevant whether we are referring to the EU in general and its member states, or the nation-states in developing countries. As Fox (1993), following O'Connor (1973), reminded us, modern nation-states in capitalism have two permanent and contradictory tasks: to facilitate capital accumulation, on the one hand, and to maintain a minimum level of political legitimacy, on the other hand (see also David Harvey's, 2005 treatment of the same question). This poses a difficult challenge for those seeking redress for the negative impacts of land deals, or demanding accountability for state and corporate actions related to the unfair and undemocratic recasting of access to and control over natural resources.

Notes

1. Information is accurate as of early 2019 when referring to the Land Matrix during the finalization of our manuscript for this article.
2. The legitimacy of these land claims are contested by local communities, as well as Congolese and international NGOs (GRAIN, 2016).
3. Including: USA (OPIC), France (AFD/ FISEA), Spain (AECID) and African development Banks (AfDB, DBSA, BOAD and EBID).
4. Information gathered from the Bloomberg database.
5. Multilateral banks and the financiers of the Technical Assistance Facility of AAF (especially the European Commission and Italy) are excluded from this list.
6. The import of oil palm for biofuels in the EU has increased by 365 percent between 2006 and 2012 (Gerassimchuk & Yam Koh, 2013).
7. This represents only a small part of the land controlled by SOCFIN, as only 45 percent of their concession is currently planted (SOCFIN, 2016).

8. See for example CESCR (2013), in which the Committee recommends, ‘that the State party ensures that investments by the Norges Bank Investment Management in foreign companies operating in third countries are subject to a comprehensive human rights impact assessment (prior to and during the investment)’ (sect. C).
9. ÄVWL has invested US \$ 100 million in TCGA I, ABP has invested US \$ 200 million in TCGA II, and the AP2 Fund has invested a total US \$ 1.2 billion in TCGA I and II (FIAN/Rede Social de Justiça e Direitos Humanos/CPT, 2018).
10. MATOPIBA is the acronym for a land area of 73.173.485 hectares (h) expanding across the Brazilian States of Maranhão, Tocantins, Piauí, and Bahia, located in the north-eastern and northern region of the country. The region is part of the *Cerrado*, an ecosystem covered by savannahs, scrubland and forest.
11. For example, the German DEG who invests 54 percent in financial intermediaries (DEG, 2018, p. 29), along with the World Bank’s 62 percent (FIAN Deutschland, 2014, p. 7).
12. In 2013, PAYCO was called PAC.
13. Which are decided by private arbitrators outside the official court system in inequitable proceedings, since within the scope of Investor-State Dispute Settlement (ISDS) mechanisms, states may at no point sue a company for the latter’s human rights abuses (see Olivet & Eberhardt, 2012).
14. For a discussion on conflicts of interest in the context of public-private partnerships, see Marks (2014), Peters and Handschin (2012).
15. Demands have first been formally raised in a letter from 30 August 2010 to the EU Delegation to Cambodia. This was followed-up by meetings with them and a first letter on 7 January 2011 directly asking Trade Commissioner De Gucht for an investigation.
16. In early 2015, the EU delegation to Cambodia and the government, launched an audit process to assess all claims of people affected by sugar cane concessions. This process is contested among the affected communities and its outcomes are unclear.
17. Claim submitted on 28 March 2013. Defence and Counterclaim submitted on 2 May 2013 (see Business & Human Rights Resource Centre, 2016; Davies, 2013).

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