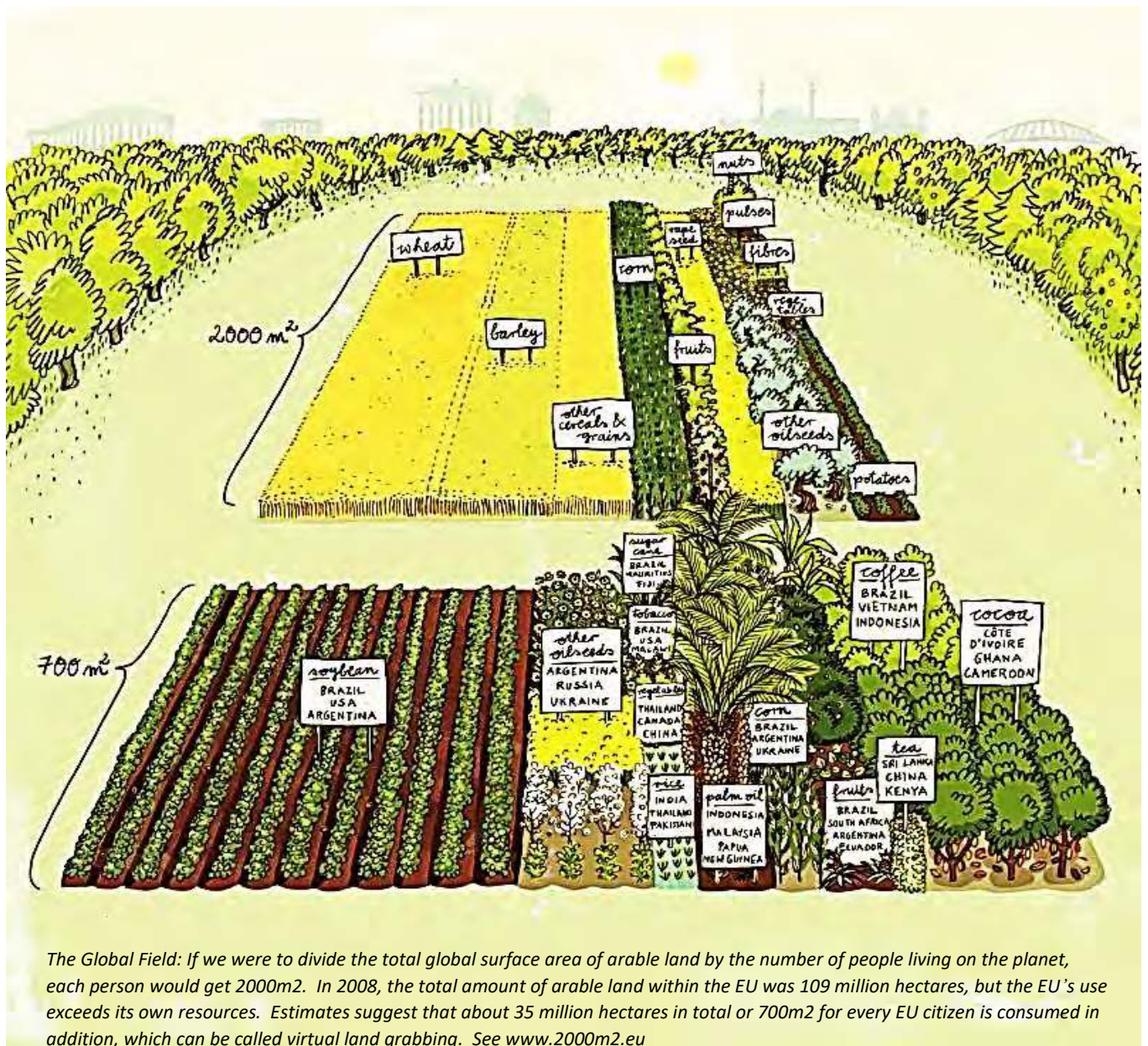


Securing the land rights of vulnerable communities:
How can EU institutions bring about change?

Workshop Report for Reflection, April 2018



This report is for sharing lessons and experiences from advocacy on land for wider reflection within the ACT Alliance network and other civil society organisations. It is based on valuable input received during a workshop held on 18 October 2017 in Brussels that was organised by the ACT Alliance EU Working Group on Food Security. It brought together Brussels-based NGOs who support vulnerable communities in their fight against land-based investments and business activities which threaten their legitimate use of land, forests and fishing waters.

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1-Introduction

Insecure land tenure is threatening the livelihoods of many vulnerable communities across Africa, Asia and Latin America. Across large areas of Africa, for example, the land communities are using to grow food, make a living or for cultural purposes is governed by customary tenure systems. As a result, their land use is often undocumented or even unrecognised, and hence unprotected by the formal legal system. In many customary tenure systems, unequal power relations mean that traditional leaders can sell or lease the land used by local households to outsiders against their wishes. Women who depend on land for their food, livelihoods and cultural expression are most vulnerable, given that they have far fewer of the albeit limited land rights enjoyed by men in these rural agrarian societies.

For these reasons, securing the land rights of vulnerable communities has been a long-standing advocacy priority of ACT Alliance EU (ACT EU) member organisations. Many ACT EU members support community and civil society-led actions in developing countries to secure the land rights of vulnerable and indigenous communities. This is also why ACT EU has prioritised this as a key issue in its advocacy targeting EU institutions. To gain a better understanding of how EU institutions can better protect community land rights, the ACT EU working group on food security organised a one-day workshop in October 2017. It brought together Brussels-based INGOs who support vulnerable communities in their fight against land-based investments and business activities which threaten their legitimate use of land, forests and fishing waters.

Drivers of global land rush at EU level

Drivers of global land rush are not just sitting in faraway countries. They are part of the decision-making processes in EU institutions. The pursuit of unlimited growth, the production and consumption patterns of us as affluent European societies, the unappeased hunger for energy, rent seeking investment funds and pension schemes, where we put our savings are turning into drivers of land use changes. A big part of governance responsibility for private and public finance, or for trade and investment policies lies at the EU level. Furthermore, our European consumption and production patterns (SDG 12) impact in many ways on imports and exports that rely on land and natural resources here and abroad and are governed and

regulated by EU institutions. The dominant growth model leads to land use changes and directly or indirectly to the depletion of natural resources, to land and water grabs, to loss of biodiversity, and to concentration in the seed and farming sector. The 'sacrifices' for the growth paradigm are huge; they include curbing policy space and subordinating the Right to Development to narrow and unsustainable pathways. Often, aid conditionality and foreign investment come along with market-based land reforms, changes to seed laws, trade liberalisation and market opening for private sector from abroad. Currently, EU public and private finance is subject to various different kinds of due diligence and accountability mechanisms which mostly fail to safeguard effectively against land (and water) grabs.

European food, agricultural and trade policies propose 'climate smart' and technological fixes as solutions to meet Paris Agreement ambitions, while they continue to avoid taking full responsibility for our own excessive consumption of food, feed, fibre, fuel and production models.

The EU's response to global climate change and planetary resource depletion relies on models such as, for example, Agriculture 2.0 (push for digitalisation and big data), Bioeconomy (access to biomass and agricultural raw materials such as palm oil, soy, sugar, timber), Industry 4.0 (new biotechnology and geoengineering in agricultural production); all geared towards maintaining the EU's competitiveness and accessing new markets. This again, will impact global land use and livelihoods security.

Another response is the global CSO campaign for a UN treaty on business in relation to human rights, which should have primacy over trade and investment agreements. Likewise, the Right to Food movement works towards binding Tenure Guidelines on Land, Fisheries and Forests, and the adoption of the new UN Declaration on Peasant Rights. All of these are based on efforts towards realising the right to food based on approaches towards more food sovereignty and agroecological practices.

How can EU institutions bring about change?

At the Brussels level, some gains are made in EU legislation on sector or product specific regulations that may be used as precedents (illegal timber,

illegal fishing, conflict minerals, sustainable finance, etc) to enhance and insert binding and enforceable human rights provisions and due diligence into new or reviewed EU legislation. The objective is to push for commitments under EU human rights policies to deliver on new procedural rights for CSO, access to justice and remedies for affected communities.

Most Brussels based INGOs work already within CSO coalitions to strengthen impact, share competence and amplify outreach of specific land struggles, pushing for a change in EU regulation as pressure points and leverage to prevent, halt or reverse land grabs.

2-Overview of land rights advocacy targeting EU institutions

Table summarising the advocacy activities of NGO networks and coalitions, targeting EU institutions, which were presented and discussed at the workshop.

Driver of land (and other natural resource) grabs	Solution	Policy/legal change targets and actions	Who is leading?
1. EU private financial institutions: fail to systematically assess the risks to the land tenure rights of communities affected by their investments, they can still violate these rights even when following existing ESG schemes	Include land tenure risks in existing ESG risk instruments (either as part of a new overarching financial regulation, or in each of the eight existing financial regulations)	EU HLEG on Sustainable Finance detailing solutions. EU Parliament push for a new financial regulation	CSO Regulate Finance Coalition
2. EU aid and public financial institutions: DFIs, EIB, fund land-based investments that threaten community land rights (incl. European Fund for Sustainable Development/ European Investment Plan)	EIB, DFIs need to ensure effective HR due diligence and HR impact assessments. They should hold companies they finance accountable for impacts even after end of financial contract; implement Tenure Guidelines and FPIC as a pre-condition for responsible land-related investments under EIP.	Increase accountability, transparency, effectiveness of grievance and complaint mechanism; and safeguards (EU Trust Funds, EFSD)	CSO platforms on farmland, landgrab. Ad hoc coalition on EIB/ EIP; (CONCORD members).
3. EU trade and investment agreements: they facilitate EU investment and trade in land-based commodities that displace communities, use their water, pollute the environment, and destroy biodiversity	Communities should hold companies accountable through triggering Human Rights clauses leading to investigations into HR violations, through dispute settlement mechanisms that are accessible, accountable, transparent, and deliver justice.	EU trade deals trigger HR clause for investigations; Corporate privileges do not prevail over voice, access to justice and remedies for affected communities	Domestic Advisory Group for Change and EU Trade Expert Group members.
4. Transnational logging companies: illegal logging and unsustainable forestry management is threatening the livelihoods of indigenous forest communities	EU FLEGT Action Plan can stop imports of timber associated with land grabs. Countries enter into voluntary partnership agreements with EU. Timber imported to the EU can be traced, companies have to implement due diligence.		FERN
5. EU trade in conflict minerals: ensure supply chains do not fuel conflict	EU Conflict Mineral Regulation to be fully compulsory and cover wider number of companies to stop fuelling land conflicts.	Coalition of broad CSO and MEP support.	Global Witness
6. EU industrial fishing vessels which supply the EU market: threaten the livelihoods of fishing communities	An EU Plan of Action to regulate illegal, unreported and unregulated fishing activities.		CFFA
7. Tenure Guidelines on Governance of Land, Fisheries and Forests	Make Tenure Guidelines as international standards binding for EU: Promotes secure tenure rights and equitable access to land respecting all forms of tenure.	Provides frameworks for States to use for national legislation, policies.	Hands on our Land campaign (FIAN, TNI, ECVC...)

3- Drivers of land (and other natural resource) grabs

The following section introduces the respective EU regulation or initiative, and responds to some guiding questions as far as these were discussed: What is the status? Who is leading from the NGO/CSO sector? What land rights will this initiative protect if our advocacy is successful? What are the links to the global south land rights campaign, including the social movements?

3.1 EU private financial institutions

The CSO Regulate Finance Coalition¹ aims at increasing pressure and accountability on private investors to ‘keep their hands off our land’. The coalition works towards defining the specific natural resource and tenure-based risks associated with such investment for EU-based financiers; and towards introducing binding legislation within EU investor-based requirements for assessing and respecting environmental, social and governance (ESG) risks².

European-based investors rely on commodity-based certification schemes as a proxy for due diligence into land-tenure risk³, other investors look at lack of land tenure data used by financial markets. Only one out of 2,167 standards on ESG relate to land. The ESG criteria for lending was developed by the finance industry and remains dominated by voluntary, self-regulating initiatives, rather than the urgently needed binding regulations.⁴

The current focus of the coalition is on a set of different relevant EU financial regulations.⁵ A consideration is to push for one overarching piece of legislation, but any new legislation is likely to take 10-15 years before any results.

The High Level Expert Group on Sustainable Finance⁶ examines options for integrating sustainability criteria into the EU financial policy framework to mobilise finance for sustainable growth. Any proposal however, will not be binding on the Commission. The final report is expected in early 2018, to be followed up by a Commission Action Plan on Sustainable Finance. This means there is unprecedented attention on the issues, but it is unclear how much can be achieved before the new incoming Commission and European Parliament in 2019.

Risks	Opportunities	EU private financial institutions
	Make the case for environmental and social risks management as a way to reduce shareholders risk. ⁷	
Pushing on social and governance issues is very difficult and lacks political momentum	The political momentum currently is on climate change mitigation, so link of investment in land and impact on climate could be emphasised.	
Risk of tweaking rather than changing the system? In the Netherlands, the Dutch government engage NGOs in covenants with financiers to	Reverse argument, instead of compensation, investor should be made liable for failed investment and damage caused. When deals fail, and investors leave, damage is worse. Analysing failing deals is useful for EU advocacy, and request for exit	

¹ The members of the Regulate Finance Coalition included Friends of the Earth Europe, Global Witness, Fern, Action Aid and Rainforest Action Network. In January 2018, this coalition merged with the European Responsible Investment Network and now coordinates activities as the “EU Policy Group”, under the coordination of ShareAction.

² A call for action to ensure strong regulation of the financial sector to avoid environmental, social and governance risks (July 2017); see <https://www.globalwitness.org/en/campaigns/land-deals/why-strengthening-financial-sector-regulation-will-ensure-environmental-social-and-governance-esg-safeguards/>

³ See study in Profundo (2014) Opportunities for EU-regulatory reform concerning EU investments in non-EU agribusiness.

⁴ Friends of the Earth Europe, Global Witness (2016) Regulating Risk: Why European investors must be regulated to prevent land grabs, human rights abuses, and deforestation, see <https://www.globalwitness.org/en/reports/regulating-risk/>.

⁵ For example, these are the Shareholder Rights Directive, the Pension Funds Directive (IORP II), the Capital Market Union and Sustainable Finance Action Plan.

⁶ This group is set up by the Commission. For an interim report 2017 on Financing a Sustainable European Economy, see https://ec.europa.eu/info/sites/info/files/170713-sustainable-finance-report_en.pdf. SOMO, WWF and E3G are CSO members in group. The final version of the report was published at the end of January 2018, see https://ec.europa.eu/info/publications/180131-sustainable-finance-report_en.

⁷ For example, in Tanzania investors underestimated the risks and are using investor-to-state -dispute-settlement asking for compensation; see <http://www.actionaid.org/publications/take-action-stop-ecoenergys-land-grab>. Or for example, the Italian-Senegalese company Senethanol had invested in land which led to displacements in Ngith, Senegal and later on collapsed; see Action Aid Newsroom link at <http://www.actionaid.org/newsroom-0?page=7&width=970&height=290&inline=true>.

assist in respecting human right, while evidence suggests that we lose years and efforts with any new voluntary instrument and non-transparent process.	strategies can have a chilling effect on shareholders. ⁸ (This also applies to deals benefiting from aid or public finance).	
Burden of providing data and communicating in non-local languages (English, French) is put on local communities. The more toothless the instruments, the greater the burden. ⁹	What about making Tenure Guidelines compulsory in any new EU financial regulation?	
Increasing mix of public and private finance dilutes and ‘inflates’ standards and due diligence imposed by DFIs or private banks. Greener and more respectable investment may not halt land grabs.	Regulatory approaches may reduce investors’ appetite for high-risk investment projects but take a lot of time and energy. Hence, communities’ struggle to preserve their land rights must be supported on the ground, and the polarisation of CSO should be overcome.	

Many CSOs work on alternative models for food and agriculture and other community driven models for land management¹⁰ Stock taking on new trends and drivers (GRAIN Databank)¹¹ suggests increase in land grabs, moving away from food security projects to tripling return on investment in agribusiness operations, with new pension funds and DFIs embedded in private sector partnerships.

Regulations do not lead to a “win-win” situation as community members who oppose land deals are often criminalised and/or jailed. Even if a regulation allows for accountability (e.g. exit of an investor), the situation is not always solved for the communities as their land tenures can still remain insecure.

3.2. EU aid and public financial institutions

Many development and bank-watch CSOs¹² are working in various coalitions or platforms on public finance with a focus on due diligence and safeguards looking at national Development Finance Institutions, the European Investment Bank (EIB) or multilateral Finance Institutions (WB, ERDB, African/Asian Development Banks, etc). DFIs are in focus in respective campaigns on cases where they are directly involved. The EIB is in focus because of its nature as a fully public EU bank, but also because of the expanded external lending portfolio that now includes agribusiness pillar.

Recently, particular attention is given to the new European Investment Plan (EIP) which aims at leveraging private finance to create jobs and to stem migration. It will channel money through EIB and DFIs and other private financier and private banks. New intervention areas include sustainable agriculture and agribusiness investment including rural entrepreneurs, smallholders, cooperatives, SMEs and access to credit. The high expectation is that the EIP, made of 4.1 billion Euro public funds by 2020 in form of a new Guarantee Mechanism (for real or perceived risks, and removal of investment ‘barriers’) and blending facilities (subsidies to attract additional private funding) which is then matched by private investment – projected to amount to 40 billion Euro. The EIP is based on a new financial regulation, the European Fund for Sustainable Development. The NGO

⁸ See for example the Addax/Sunbird Energy case in Sierra Leone. The Addax project was certified by the Roundtable for Sustainable Biomaterials (RSB) but later on the project was closed down. Swedwatch, FIAN, Bread for All and Bread for the World are involved in a report on the damage caused by missing exit strategies. Often, the financial contracts between the bank and the company limit the possibility to challenge a company on the basis of performance standards; and a complaint can only be launched once damage is done and can be proven. . However, states are and remain accountable on protecting human rights and should guarantee that DFIs are not acting irresponsibly or independently. Another case is the Karuturi company of Indian origin which invested in the flower business in Kenya (300 000 ha) and in commercial farming in Ethiopia (3.3 mio ha). The Ethiopian government has challenged Karuturi for developing only 1.2 mio ha and in 2015, cancelled the investment and trade licence after which the investor exited the country (see https://www.grain.org/bulletin_board/entries/5817-karuturi-demands-compensation-from-ethiopia-for-failed-land-deal).

⁹ For example, large companies from Asia and Africa like Sime Darby invest in exports from third countries to the EU. Before a land grab case comes to the international level, local communities have engaged in a struggle and have put themselves at risk for example when engaging with the RSPO Contact Group or when gathering data. International NGOs are coming as a later stage as an actor on board putting the case to media and into the spotlight or facilitating access to the EU or international institutions.

¹⁰ For example, The Commons (Elinor Ostrom), Terre-en-Vue, Terre de Liens, alternative banking models, etc.

¹¹ <https://www.farmlandgrab.org/>

¹² Action Aid, Oxfam, Counterbalance, Eurodad, ACT Alliance EU (Bread for All, Bread for the World, Christian Aid), FIAN, Fern, various national NGOs i.e. Swedwatch.

coalition were successful in getting some issues of concern reflected in the EP vote on this regulation. In the future advocacy could better connect with Human Rights Development Network and draw on lessons from the EU Dialogue on Human Rights in terms of pillar 3 (political dialogue) of the EIP.

Risks	Opportunities	EU aid & public finance institutions
Experience shows that public finance can become a driver of land grabs (AGRA, G8 NAFSN) with donors unduly pushing for market-based policy reforms, bypassing and undermining democratic accountability and operating without any transparency.	CSO submissions to reviews of social, environmental human rights due diligence, safeguards against land grabs, complaint mechanisms etc directed towards DFIs, EIB or other IFCs.	
Increasingly, public donor frameworks are biased, considering farmers only as entrepreneurs, insisting on bringing farmers into the market, making them 'bankable', integrating them into global value chains; likely to lead to destroying their capacity in the market; often this is locked in by trade and investment deals.	Use and improve existing complaints mechanism and safeguards of EIB and other multilateral/international banks to present land grab cases. ¹³	
Increased funding portfolio seems to lead to reverse trend to less independent and more political guided decisions by EIB board on complaints mechanism.	Improve safeguards (revised EIB handbook on ESG standards include some safeguards against land grabs, FPIC, following consultations 2012/2013). Use consultations to insert Tenure Guidelines into EIB standards. ¹⁴	
Private financier Bill Gates has announced he will contribute to the EIP guarantee.	Use European Development Finance Institute (EDFI) platform or lead DFI for peer pressure.	
There is a big dilemma as we must wait for damage done to proof and complain which is timely, costly and not preventive.	CSO submission to review of EIB complaint mechanism (2017-18) with important requests supported by EU ombudsman. ¹⁵	
	Some leeway can be made on systemic changes when working with technical staff of finance institutions on specific technical issues relevant to land rights. Headways may be incremental but can be systemic. Public campaigns that run in parallel can make the difference to deliver tangible results. ¹⁶	
Increasingly difficult to divide public and private funds (see above).	Could gender angle be used as a door opener for our analysis (multifunctional, non-monetized values and benefits) and recommendations?	

A new report by Fern¹⁷ makes an explicit link of public investment in forests and in land, demonstrating the gradual line where forests are cleared and turned into agricultural land for agribusiness investment and monocultures, affecting indigenous people and local communities. This analysis is thus inviting more joint work on policies and coalition building by indigenous forest people and food movement.

Campaigns can put local communities at the centre and forefront, supporting them with legal advice and assisting them in filing cases towards DFI/IFI (i.e. Haiti/IADB). Campaigns can make the case for supporting livelihoods that build on restoration of natural resources, on maintaining and increasing biodiversity and soil fertility. This is a valid and most needed alternative model to the bias of integrating all farmers into global

¹³ In the case of Haiti, the complaint mechanism under the Inter-American Development Bank was used to challenge concessions granted for a Caracol Industrial Park (250 ha). Legal support and training by CSOs for local communities meant that this case was accepted by the IADB Board and Accountability Council and the community received some compensation. This experience shared by Action Aid Italy shows that such interventions are costly and complicated and local communities are at the forefront. The entry point were Italian shares in the IADB, see <https://www.accountabilitycounsel.org/client-case/haiti-caracol-industrial-park/>.

¹⁴ http://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf

¹⁵ http://www.counter-balance.org/wp-content/uploads/2017/09/Joint-CSO-submission_CM-consultation_29-September-2017.pdf.

¹⁶ See Global Witness experience in Laos, Cambodia and Myanmar with World Bank, Deutsche Bank and specific companies which shows that while little headway is made some community processes are positive, and some recognition of human rights impacts and costs to financial business models have been made. While it's a long slot, with some incremental merits, it has the potential for systemic pick up.

See also Christian Aid 'The Big Shift' campaign and experiences on WB Doing Business Indicators, see <https://publications.parliament.uk/pa/cm200708/cmselect/cmintdev/memo/ucdfid/ucm0602.htm>.

¹⁷ Fern (2017) European DFI and land grabs: the need for further independent scrutiny.

markets driven by growth models based on resource exploitation rather than restoration. We don't have yet investment and trade deals that support sustainable economies.

3.3. EU trade and investment agreements

During the negotiations of the EU trade and investment deals with the US (TTIP) and with Canada (CETA), the importance of trade policies and investment protection on larger societal and socio-environmental concerns became paramount in European debates and civil society campaigns.

At the centre are three different processes: The EU's proposal for a new Multilateral Investment Court (MIC)¹⁸, the EU's evaluation of its Trade and Sustainable Development Chapters (EU TSD Chapter)¹⁹ in EU free trade agreements, and the review of the EU's preferential trade regimes (GSP, GSP+, EBA)²⁰.

An increasing number of CSOs and NGOs are working on these issues.²¹ Client Earth has submitted a proposal on a Formal Complaints Procedure²² open to CSO and affected communities applying to *all* existing EU trade and investment deals and investment courts. The proposal echoes the existing precedent of business privilege to use the regulation on Trade Barriers to Trade (TBT) to ensure redress in case of trade violations by third countries. Other stakeholders have made submissions that focus on enforceable provisions for social and environmental or human and labour rights commitments.²³ A new GSP Platform²⁴ calls for enhanced monitoring mechanisms on Human Rights to be expanded to *all* preferential trade regimes, including least developed countries and access to redress in case of HR violations and land grabs. Trade Unions have come with a detailed proposal for enforcement and pursue to violations of human and labour rights in Trade and Sustainable Development Chapters. Common to all those proposals is the call for the right for CSO to intervene, to present counterclaims, and the right of affected communities to be heard and recorded and for investigations to be opened.

Risks	Opportunities	EU trade and investment
Defining <i>trade related</i> impacts is difficult, but a prerequisite for activating human rights provisions or making use of dispute settlements (enforcement) in trade agreements.	Huge momentum following TTIP, CETA negotiations, MIC proposal, increased transparency, trade and sustainable development chapters in FTAs, and EU High Representative on Human Rights (new EU competences).	
Hype and momentum at Brussels level: EU policy making requires technocratic input and dedicated resources; while changes are systemic, they are still part of current EU free trade and competitiveness frameworks whatever improvement to HR and Right to Development.	Addressing governance issues aiming at systemic change, such as: sue EU FDI investors in case of human rights violations, allow for counterclaims; prevent, halt or redress violation of land rights (FPIC, Tenure Guidelines) using EU trade leverage. This (can) go hand in hand with exhausting and improving domestic legal systems to work for everyone.	
	EU Action Plan on Making trade work for HR	
	Broad cross-sectoral CSO coalitions at Brussels levels	
	Allows link to UN Treaty, which could provide for new procedural rights and allow for countervailing complaints.	

The case of land grabs in the sugar sector in Cambodia where companies operate based on government issued economic land concessions demonstrates how working at all levels is successful. Evidence from the ground is impressively well produced and collected, the line of argument has been consistent for years, and the case demonstrates how trade preferences can and have led to perverse incentives on which the EU has a responsibility to act. Ongoing struggles for land rights and remedies for affected communities go hand in hand with sustained partner support and joint lobbying at EU level. An initial promising EU initiative for a

¹⁸ http://trade.ec.europa.eu/doclib/docs/2017/september/tradoc_156042.pdf

¹⁹ https://europa.eu/newsroom/events/trade-and-sustainable-development-chapters-eu-trade-agreements-%E2%80%93-how-make-real-impact_en

²⁰ http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156536.pdf

²¹ Various CSO e.g. Client Earth, International Trade Unions, FIDH, ACT Alliance EU, political foundations, academics, etc.; In addition to CSO campaigns on alternative trade mandates, against TTIP, and CETA and on ISDS/MIC.

²² <https://www.documents.clientearth.org/wp-content/uploads/library/2017-10-27-a-formal-complaint-procedure-for-a-more-assertive-approach-towards-tds-commitments-version-1.1-ce-en.pdf>

²³ See for example, ETUC, FES, Warwick University, etc.

²⁴ CSO GSP Platform statement, see http://actalliance.eu/wp-content/uploads/2017/12/20171124_GSP-Platform-Statement_FINAL.pdf.

comprehensive and independent land restitution or resolution process was eventually undermined and halted. The EU's commitments have not (yet) been (sufficiently) enforced, and any efforts and interventions during the 2018 pre-election campaign are subject to intimidation and co-option. Affected communities' access to remedies is seriously flawed and off the line of any international standards.²⁵

3.4. Transnational logging companies

FLEGT, the EU Forest Law Enforcement, Governance and Trade Action Plan was established in 2003 and aims at reducing illegal logging by strengthening sustainable and legal forest management, improving governance and promoting trade in legally produced timber. Its two main strands are the Voluntary Partnership Agreements (VPA) and the EU Timber Regulation (EUTR). The VPAs are negotiated between wood producing countries and the EU and aim to ensure that wood being exported to the EU is legal and that forest governance in the exporting country is improved. To date, six countries²⁶ have signed a VPA with the EU and are currently developing the systems needed to control, verify and license legal timber. One of these, Indonesia, is issuing FLEGT licenses. Nine more countries²⁷ are in negotiations with the EU.

The EUTR prohibits the placing of illegally harvested timber and products derived from timber. It requires EU traders who place timber products on the EU market for the first time to exercise 'due diligence' and allows for traceability of timber products and economic operators. EUTR applies to all markets and all operators, and therefore is WTO compatible and not discriminative. The EU timber sold on other markets has also to be checked for due diligence. WTO compatibility is based on grounds of public moral (WTO GATT XX) which allows measures to be taken to protect public moral abroad and at home. However, discrimination must be calibrated and proportionate to the harm in terms of administrative procedure and mechanisms, which in turn needs constant monitoring.

Fern and other environmental NGOs²⁸ have been instrumental in bringing this about. Fern in particular is actively involved in keeping political momentum for the FLEGT Action Plan at EU level and supporting civil society organisations in VPA countries to engage in the negotiations and monitor the implementation of the VPA agreements. In order to be successful, VPAs must be developed by consensus with the full and informed consent of all stakeholders and rights holders (social and environmental NGOs, community representatives, the timber industry and the government), tackle corruption, recognize communities' tenure rights over land, territories and resources and set up enforcement mechanisms. According to Fern, FLEGT VPAs will not solve the problems of illegal logging overnight but they are currently the most promising international tool for tackling the root causes of illegal logging (weak forest governance, unclear and unsecure tenure rights) and promoting lasting positive change in the forests.

Research commissioned by the European Commission in 2013 showed that an area of forest the size of Portugal was lost globally between 2010 and 2015 because of EU consumption of commodities grown on deforested land. Such destruction often violates the rights of local communities and indigenous peoples, causes massive biodiversity loss, and contributes to climate change²⁹. Fern's stolen goods report³⁰ went a step further by showing that the EU is also one of the largest importers of products resulting from illegal deforestation. The study estimates that in 2012, the EU imported EUR 6 billion of soy, beef, leather, and palm oil which were grown or reared on land illegally cleared of forests in the tropics – almost a quarter of the total world trade.

In 2013, in the context of the 7th EU Environment Action Programme, the Council and Parliament committed to develop an Action Plan on deforestation and degradation.³¹ A feasibility study on policy options to step up EU action against deforestation is due to be made public very shortly by the Commission, along with a decision on the next steps. Fern and seven other environmental organizations advocate for an Action Plan to Protect Forests and Protect Rights. It proposes new measures that build on and strengthen governmental and corporate

²⁵ See IDI and Equitable Cambodia (2013) Bittersweet Harvest: A HRIA of the EU's EBA Initiative in Cambodia. See also ACT Alliance EU and FIDH websites for joint lobby letters and actions towards the EU.

²⁶ Ghana, Republic of Congo, Cameroon, Indonesia, Central African Republic and Liberia

²⁷ Côte d'Ivoire, DRC, Gabon, Guyana, Honduras, Laos, Malaysia, Thailand and Vietnam

²⁸ Fern, Greenpeace, Global Witness, Client Earth, WWF etc

²⁹ <http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf>

³⁰ <http://www.fern.org/stolengoods>

³¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013D1386>

commitments for zero deforestation and respect for community rights.³² A binding due diligence regulation which would prohibit the placement on the EU market of high-risk forest products would be the most effective way of curbing this forest destruction.

Risks	Opportunities	Illegal logging
Complex legal system must be in place: European Commission must recognise the monitoring organisation that issues certificates. The Partner Country (various ministries) and EU Member States must designate competent authority to coordinate and enforce the regulation at importing customs authorities and define type and range of penalties. Economic operators must keep records of their suppliers and customers.	Allows for legal and governance reform on land rights in country, as VPA sign up includes domestic markets and supply chain, which is most useful. Reforms can address land laws, environmental laws, occupational health and safety laws (i.e. cancelling companies' logging permits, or compensation for affected communities). ³³	
To define 'legally harvested' timber, to establish and use licencing system and control of it can be challenging. Key concern must remain to address informal and customary land rights rather than to assess 'legality' of a forest product.	The EU seat in Voluntary Partnership Agreements can open CSO space for affected communities. Thanks to the EUTR regulation, CSO can present substantiated concern. ³⁴	
Getting the right people to sit on the multi-stakeholder body under the VPA can be a challenge due to power imbalances. The VPA process is also costly and time consuming. Commission is reluctant to support similar process for other products.	FLEGT has pushed individual EU MS to act on substantiated concern (eg Sweden prohibits timber imports from Myanmar; or the ongoing infringement process against, Greece, and Spain and Belgium).	
	Combination of supply and demand works well to halt deforestation and evictions.	
Regulating forest risk commodities need to look at and recognise customary land rights when assessing the legality of a forest products otherwise, we would miss the purpose of securing land rights of local communities.	Momentum: The EU Action Plan on Forests may propose a regulation on <i>Forest Risk Commodities</i> , which would open space for CSOs working on land and human rights addition to environmental NGOs. ³⁵	

There is a direct link to land rights campaigns and social movements in country as CSOs are directly involved in the Voluntary Partnership Agreements (VPA). However, it will depend on each country if social, forest and land movements are informed and able to take advantage of a negotiated VPA to advance the rights affected communities. Various case and country assessments on FLEGT were made by Fern, Greenpeace and Global Witness.³⁶

3.5. EU trade in conflict minerals

The new EU Conflict Minerals Regulation obliges a limited number of companies to take steps to ensure their supply chains are free from fuelling conflicts or violating human rights. The obligations include the upstream part, smelters and refiners, and the development of new reporting tools for downstream companies but does not apply to EU companies importing minerals as part of manufactured goods. The Regulation aims at curbing trade in conflict minerals and builds on OECD due diligence guidance for responsible mineral sourcing. It is the first EU Regulation that entails binding Human Rights Due Diligence.

Global Witness lead the campaign coalition with encouraging support from the European Parliament. Action Aid Netherlands actively engaged during and with the Dutch EU Presidency.³⁷ A problem faced during the campaign

³² <http://www.fern.org/NGOcallforaction>

³³ e.g. Ghana, Liberia, see http://fern.org/sites/default/files/news-pdf/impactreport_lowres.pdf

³⁴ See Greenpeace case study on Congo at

https://www.greenpeace.org/belgium/Global/belgium/report/2015/la_forestiere.pdf

³⁵ MEP Hautala is working on a self-initiated (INI) report on forthcoming EU Forest Action Plan with a proposal on forest risk commodities. The Amsterdam Group, composed of EU Member States (UK, NL, D, F, I, DK) is supporting this initiative. EEA member Norway is also on board, possibly, Switzerland may follow.

³⁶ See Global Witness and Transparency International (2017) Tackling corruption to protect the world's forests: How the EU can raise to the challenge.

³⁷ Greenpeace sued the Dutch government implementing agency on the EU Timber Regulation and won the case, which has led to The Netherlands' reluctance on the proposed Mineral Regulation negotiated under the Dutch EU Presidency.

was different legal opinions given by the European Council, the European Commission and the European Parliament. These proved detrimental to an ambitious outcome of the campaign.

The adopted Regulation is an important but half-hearted attempt to bring change to the sector, not least because many important companies are exempt, and the mandatory requirements only capture companies that import tin, tantalum, tungsten and gold in their raw forms, as ores or metals into the EU. It excludes companies importing products containing these minerals, such as laptops, phones or cars. Transpositions will not apply until 2021, which gives companies almost four years to start doing the basic supply chain check the law requires. The new Regulation will not bring prosperity and much-needed peace to local communities affected by opaque trade and is weak in securing land rights of affected communities in land conflicts.³⁸

Risks	Opportunities	Conflict Minerals
Due diligence only works if it is based on a specific sector with access to context specific data. Any umbrella or overarching due diligence approach is not very helpful.	EU Regulations apply directly to Member States, is very product specific and provides sector-based data which makes it useful.	
Due diligence is merely a first step.	Helps to change the narrative around conflict minerals, as recognition of problem increased.	
It is difficult to build a broad NGO coalition and get it going.	CSOs can ask for pro bono legal advice and technical expertise to ensure legal soundness of a case and to push counterarguments back.	
It may take 10-15 years of investigations into the conflict before a regulation can be proposed. ³⁹ Once you get a legislation it may not be implemented because it is deemed too risky.		
Risk of greenwashing an industry scheme. Ongoing monitoring is needed to prevent rubber stamping (check lists, specific timeframe, concrete steps). HR due diligence is a continuous process of improvement. The challenge is to capture companies and narrow them down on exactly what they do in their due diligence.	Make use of OECD sector wide and process-oriented guidance on due diligence (minerals supply chains, garment, and agriculture value chains).	
Binding regulation for a whole sector (vegetable oil) may lead to companies stop sourcing from countries altogether, which may have a detrimental impact on affected communities we want to support.).	Ensure sector wide regulations reward, not discriminate against efforts of domestic SMEs.	

The Conflict Minerals Regulations is based on the OECD due diligence guidelines which follow a sector specific approach with specific data. Other campaigns like the CSO campaign on a UN Treaty on business in relation to Human Rights build on general principles on environmental, social and governance criteria to regulate across different sectors. The French law on Vigilance imposes due diligence on a set of multinationals in their supply chains.⁴⁰ If successful, the Responsible Business Initiative in Switzerland will propose a measure on mandatory human rights and environmental due diligence in a binding referendum.⁴¹

The question was raised if different approaches complement each other or if they are in conflict with each other. Another question was how EU advocacy efforts and communities' own local land struggles relate and impact on each other. The risks and opportunities of different EU advocacy approaches need more discussions and exchange of views with global land rights campaigns and voice of local communities. If CSOs would lobby for an overarching EU legislation, what would be the consequences on the affected communities? What are the unintended or unexpected effects? Would sector-wide approaches potentially harm all producers indiscriminately, including those we would like to see supported (for example, regulating vegetable oil addressing palm oil may also impact on small-scale olive oil producers)? And, perhaps more fundamentally, is our priority goal to fix the system or to protect local communities?

³⁸ <https://www.globalwitness.org/en-gb/press-releases/responsible-companies-should-act-eu-mineral-law-now-not-drag-their-feet-four-year-phase-/>

³⁹ It may need a voluntary process in place before being able to advocate for a legislative piece; as for the extractive industries which took 15-20 years of investigation, checking individual company reports and arguing that they did not do their due diligence.

⁴⁰ The French law dd 23 March 2017 regulates the duty to care of the parent and the subcontracting company.

⁴¹ Bread for All is part of the Swiss Responsible Business Initiative, see <http://konzern-initiative.ch/?lang=en>.

3.6. EU fight against Illegal fishing

The EU Regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU)⁴² is an offspring of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing⁴³. In force since 2010, this means that all fishery products imported to the EU have to be accompanied by a catch certificate that guarantees that the product is coming from a legal source. The catch certificate is issued and validated by the State (EU and non-EU) that has flagged the vessel (as the origin of the fish depends on who catches it - i.e. a fish caught by a Spanish vessel remains a Spanish fish wherever it is fished). Along the supply chain, each operator is responsible for having a valid certificate. Overall, fisheries represent a rather small sector and there was not much resistance from the EU fisheries' sector who saw the IUU regulation rather as a way to weaken some of their competitors involved in IUU operations.

CFFA, the Coalition for Fair Fisheries Arrangements, has followed this regulation since its preparation in 2007⁴⁴. Under the IUU Regulation, the Commission can notify, and list countries suspected of not fighting illegal fishing (often designated as yellow-notification, or red-listing-cards). CSOs can provide evidence on which the Commission is obliged to investigate, and results and subsequent measures taken are made public. A yellow card triggers a 6-month dialogue with the country, with joint road map on how to solve the problems. In case there is no progress, the 'red card' is issued, and fish originating from the listed country is denied EU market access, and no EU vessel can fish in its waters. The red card comprises a review of a third countries' legislation which includes all relevant regulations on fisheries and management issues.⁴⁵

The IUU regulation is part of the EU Control Systems, together with the EU Control Regulation, and the EU Fishing Authorisation Regulation⁴⁶: all three pillars provide measures to control fishing activities. The regulation covers all vessels.

Risks	Opportunities	Illegal fishing
Bias of the system as the EU can de-list a country (after a yellow or red card) on unclear basis and lack of transparency. ⁴⁷	CSO can submit evidence on fraud and harm done to affected communities, which triggers an investigation.	
Information on fishing at sea is difficult to collect. Catch certificates are paper-based and prone to fraud because of weak verification.	EU can issue warning (yellow card) requesting progress report on national legislation. The EU can ban (red card) a listed country product from accessing the EU market.	
If the EU is perceived as biased in their use of the IUU, WTO members may attack the scheme as discriminatory and unfair trading practices.	A range of mechanisms can be put in place to prevent IUU. The IUU can also have a specific application for small-scale fishing.	

The small-scale fisheries, see for example, the Confederation of African Artisanal Fisheries organisations (CAOPA) are using both the Tenure Guidelines as well as the Voluntary Guidelines to secure sustainable small-scale fisheries (VGSSF) to defend their rights. This suggests that the Tenure Guidelines are a tool that can become a bridge for fisheries and peasants or indigenous and forest people in their struggle for the protection of their customary tenure rights.

3.7. Tenure Guidelines on Governance of Land, Fisheries and Forests

The Tenure Guidelines on Governance of Land, Fisheries and Forests promote secure tenure rights and equitable access to land respecting all forms of tenure: public, private, communal, indigenous, customary, and informal. It provides a framework that States can use when developing their own policies and legislation, or action plans.

⁴² https://ec.europa.eu/fisheries/cfp/illegal_fishing_en

⁴³ IPOA-IUU Rome 2001.

⁴⁴ As are Greenpeace, and Bread for the World.

⁴⁵ See, The Greens on environmental criteria to access fish markets looking at socio-economic situation.

⁴⁶ Called the Regulation for the Sustainable Management of External Fishing Fleets (SMEFF) since January 2018

⁴⁷ For example, Korea received a yellow card but was de-listed despite lack of satisfactory progress on changes in national legislation; Greenpeace was involved in this case. Cambodia, Comoros and Grenadines are currently banned (red card), but Chinese flagged vessels continue fishing in Cambodian waters and export it to EU. There is evidence of frozen fish in Spain originating from Guinea and, or China. China is not listed despite CFFA complaints and three submissions of evidence.

The Guidelines were endorsed by the Committee on Food Security in Rome in May 2012 and enjoy a broad and internationally recognised legitimacy. However, as of today, they are non-binding.

FIAN together with the Right to Food movement and other CSOs active in the Committee on Food Security are leading in the effort towards making the Tenure Guidelines binding.⁴⁸ An EP Resolution on the state of play on land concentration and access to land in the EU was adopted in 2017.⁴⁹

The European Investment Bank mentions the Tenure Guidelines as reference for their due diligence requests.⁵⁰ The Commission, DG DEVCO, provides legal support to governments in developing countries to translate the Guidelines into national legislative frameworks. However, this often goes hand in hand with attempts by donors and private sector actors, for example, under the Alliance on Green Revolution in Africa on land policy reforms that pave the way for policy reforms that facilitate the acquisition of land by the private sector.

Risks	Opportunity	Tenure Guidelines
Change will be in the medium or long term and requires specialist input to translate Guidelines into national legislation. Impact is indirect.	Upholds a rights-based approach on all forms of land rights, tenures on land, forests, and fisheries.	
Risk of capture of Guidelines by corporate interests making investment in natural resources a business case; neglecting HR issue and resulting in blurring the role and duty by the state to protect land rights.	Broad legitimacy and tool to realise Right to Food and other Economic, Cultural and Social rights for communities. Provides international guidelines to clarify land rights, and for land compensation.	
Risk of false or user-friendly interpretation. Companies pick & choose what suits them, i.e. best practice, minimising land risks, etc, which costs little or nothing because of lack of accountability. ⁵¹	EU lobby for Guidelines to become a condition for the new European Investment Plan as it relates to EIB, to loans, to blending and to bank guarantees.	
In specific country cases, the setting up of multi-stakeholder platforms or reference to the Tenure Guidelines still lead to detrimental impacts on land rights and communities access to land. ⁵²	Use Guidelines as vehicle, i.e. opportunity to make it binding. ⁵³ Guidelines could support FPIC and be used to work on investment criteria and due diligence. ⁵⁴	
	Builds on ongoing work by global food and land rights movement, direct impact on land rights protection. ⁵⁵	

The Guidelines are already used by the right to food movements to address land issues. A peoples' manual has been produced that translates the Guidelines into a support kit for local struggles, providing for adequate and legally sound provisions on tenureship and governance issues, or improving arguments in disputed land rights case.⁵⁶

⁴⁸ Others are for example, Action Aid, Bread for the World, Global Witness, etc

⁴⁹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0197+0+DOC+XML+V0//EN>. See also critic of the Tenure Guidelines in the new report by DG FISMA (internal market and stability) challenging Eastern European member states on their infringement of the internal market and market stability (freedoms of movement, capital) putting barriers to FDI on land acquisition.

⁵⁰ <http://www.eib.org/attachments/general/events/engagement-with-civil-society-2017%20highlights.pdf>

⁵¹ For example, Coca Cola, and Cargill endorsed the Tenure Guidelines.

⁵² See the case of Sierra Leone where Tenure Guidelines in country and multi-stakeholder platform did not prevent land grabs; or Burkina Faso where G7 New Alliance on Food and Nutrition Security programme refers to the Guidelines albeit observing negative impacts on the access to land by local communities.

⁵³ See also experiences with the Extractive Industries Transparency Initiative (EITI).

⁵⁴ See Action Aid who used the Guidelines to screen all Dutch external investment policies; but The Netherlands supports their use in development but not in trade and investment.

⁵⁵ See the case of Mali where CSOs used the Guidelines to introduce successful changes to national land legislation in favour of tenure rights by local communities.

⁵⁶ http://www.fian.org/library/publication/peoples_manual_to_guide_the_struggles/

4. Challenges, Opportunities and Outcomes for reflection - to protect community rights through EU institutions

Development NGOs have broad mandates that include implementation of programmes as their core task, whilst advocacy, campaigning and development education is also part of their raison d'être. Most ACT EU development organisations see themselves equally as an implementing and campaigning organisation. But this raises questions about the balance of resources going towards these activities, particularly in times of scarcer financial resources. However, development NGOs have a specific role to play because of their links to local communities. There is a clear need to articulate the kind of interactions and relations built and a need for work on domestic or European policy arenas. The big challenge is how to integrate the experiences and political projects of local communities supported by development programmes into advocacy targeting global and EU-level processes.

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Challenges for EU advocacy

High level of technical expertise: Lobbying for changes in EU regulations and policies to protect land rights often require rigorous technical knowledge – for example legal expertise, financial knowledge, or knowledge and analysis of specific subsectors of the mineral, fisheries and food and agriculture sectors. Not all organisations are able to secure resources to support this level of detailed analysis. One way of resolving this is to work in coalitions and pool expertise. While bridging across sectors can lead to more successful campaigns, we need to be aware that most well-functioning coalitions will have to focus on sector-specific action and change.

Long time-frame for change: Legal and policy changes, or the introduction of new laws and frameworks at the EU level could take up to a decade or more. This requires organisations to have a long-term perspective and time-frame and ensure that the resources to support this advocacy remain available over the entire time-period required for change to happen. This is feasible for single issue-based NGOs with clear mandates but is a real challenge for development NGOs.

Large investment of resources: Researching policy and legal frameworks, building knowledge of EU institutions, developing networks among EU institutions, and implementing a policy change strategy require focus and a large amount of dedicated time. Organisations need to assess and assume the responsibility involved when embarking on a strategy to change legal or policy framework. An analysis is needed of whether the resources required (staff time, technical knowledge) are considered worth the change we seek.

Opposition from vested interests: Companies operating in the fisheries, food and agriculture and minerals sectors could sometimes be allies (i.e. EU fishing companies in the example above) but are often opposed to the changes we seek – for example the financial sector which does not want more regulation. They can invest a lot of resources in their own analysis and lobbying of EU institutions and are often invited into spaces for consultation which are not open to civil society.⁵⁷

Proliferation of voluntary environmental, social and governance frameworks: Investors and their financiers are signing onto many different frameworks, guidelines, codes and standards to regulate their social, environmental and governance impact. Many are voluntary, which investors prefer, and specific to a subsector, for example the Roundtable on sustainable palm oil. These frameworks, however, do not offer real protection to communities, either because investors choose not to implement the guidelines, or because the guidelines or standards are inadequate, i.e. the IFC performance standards do not require investors to enter into meaningful consultation with communities when they exit a project. In contrast, EU regulations can result in compulsory human rights obligations and enforcement for all actors in trade of a particular good or result in increased access and transparency.

Greenwashing: Many EU agri-business companies are now using the Tenure Guidelines to 'greenwash' land-based investments in developing countries, which should never have gone ahead to begin with, given that they are not in keeping with the spirit of the guidelines, which are to protect and

⁵⁷ See CEO figures on lobby context at EU level: the corporate lobby industry is estimated to employ about 25 000 lobbyists that capture Brussels policy making. Conservative estimates suggest that over 1.5 bn Euro is spent every year on lobbying targets of EU institutions.

promote the right to food of vulnerable communities. Again, a more stringent and binding EU regulation could change such corporate capture of voluntary guidelines without teeth.

Options for Action

Stocktaking of failed land deals: take stock of failed investments.⁵⁸ Expose damage done to communities' livelihoods of both public or private finance deals that were terminated. Failed investments may be due to bankruptcy, liquidation, vanished financiers or idleness. Other causes for abandoned projects may include incompetence, hubris, inexperience or poor planning. Whatever the reason, the request is for liability for damage done by failed large-scale investments and lack of exit strategies.⁵⁹

Forest risk commodities: Support advocacy work already started on a binding due diligence regulation for forest risk commodities (palm oil, soy, cattle products, timber products). The context is the preparation of the 7th EU environment action programme and the NGO recommendations for an EU Action Plan to Protect Forests and Respect Rights. Several European governments call for action to halt deforestation in the Amsterdam Declaration.⁶⁰

CSO complaint mechanism: Support advocacy work calling for a formal complaint mechanism that gives CSOs the right to complain and communities' access to remedies. Develop the concept and pertaining elements further. Draft a list of key asks on securing community land rights to be part of such a complaint procedure. Some analysis and legal proposals or model chapters by CSOs have already been tabled.⁶¹

Binding Tenure Guidelines on Governance for Land, Forests and Fisheries: Target all-important EU institutions and agreements to ensure that, where applicable, they refer to and implement the Guidelines in standards and practices. The Guidelines have broad legitimacy as an international standard. This could be used as a basis to develop more sector or product specific provisions to ensure feasibility and reach out into specific EU regulations.

EU Non-Financial Reporting Guidelines: use as hooks to increase accountability and transparency on tenure rights. These EU guidelines require large companies to disclose certain information on the way they operate and manage social and environmental challenges and helps to evaluate the non-financial performance of companies.⁶²

Paris Agreement: Use momentum to reach out to climate communities sensitive to land right issues of vulnerable communities. Use EU commitments under the Paris Agreement and EU Gender Action Plan 2016-2020 to make the case for protecting peasant women and local communities' tenure rights.

New EP interparliamentary Working Group on Responsible Business Conduct: Explore and use lobby space set up in 2017 that aims at increasing accountability on prevention of HR violations, on the duty to care, and above all on access to remedies.⁶³

Outcomes for Reflection

Work through coalitions: Given the high level of expertise and time investment required for some change processes, working in coalitions can ensure that NGOs with different capabilities can pool their

⁵⁸ Forthcoming GRAIN stocking taking report in first half of 2018. See also link to GRAIN (2016) Discarded land deals 2016 at

<https://www.grain.org/article/entries/5492-the-global-farmland-grab-in-2016-how-big-how-bad>.

⁵⁹ See Bread for All & Bread for the World (2016) The Weakest should not bear the risks - Holding the DFIs responsible when private sector projects fail: The case of Addax Bioethanol in Sierra Leone; <https://brotfueralle.ch/content/uploads/2016/06/The-Weakest-Should-not-Bear-the-Risk.pdf>.

⁶⁰ Fern is planning to organise a workshop on this issues in mid-2018.

⁶¹ Various actors have already made submissions in response to the 2017 non-paper by the Commission on the Trade and Sustainable Development Chapters, the newly set up EU Trade Expert Group, or in the context of

enhanced monitoring measures to ensure compliance under the EU's Generalised Schemes of Preferences. See for example Client Earth, FES, ITUC/ETUC, or research by J. Harrison & B. Richardson from Warwick university, or the members of the GSP platform FIDH, ACT EU and Clean Clothes Campaign, etc.

⁶² see EU Directive 2014 /95/EU; CSOs working on this are Global Witness, Fern, ECCJ, etc

⁶³ The Working Group is led by MEP Heidi Hautala. The event on 11 April 2018 on Access to remedy for victims of human rights abuses: The role of the brought together MEPs, HR activists, Commission officials, or experts from the EU Fundamental Human Rights Agency, the UNHCR and OECD. Besides, FIAN's work on Extraterritorial Obligations (ETO) with the EP Subcommittee on Human Rights is also relevant here.

resources and strategies for the best outcomes. At the same time NGOs need to be and are aware that working in coalitions often requires in itself a huge effort.

Engage with grassroots land rights movements:

The analysis, messages and strategies we pursue at an EU level to protect the land rights of vulnerable communities have to start with the lived experience and expressed wishes for change of these communities. Often, they are already connected to wider movements in developing countries to stop land grabs. These movements are important interlocutors, as INGOs and Brussels-based NGOs are often not able to communicate directly with communities.

Plan with appropriate time frames: Political realities mean that change processes, especially when trying to push for new mechanisms, will take longer than the usual three to five-year NGO planning cycle; and change processes will be rather complex. This needs to be factored in from the beginning of joint engagement in change strategies.

Ensure continuity and clarity of role: Seeking continuity in a commitment on policy change can become an incentive for development NGOs to go beyond rather short-lived campaign and fundraising cycles. Being part of a global movement or a specific long-term advocacy coalition can invite development NGOs to regain political profile and to better understand their limits and strength, refraining from overstepping clout and space (often due to ‘disproportionate’ financial means and power). Furthermore, a process-orientation could use a step-by-step or rotational element to embrace the role of NGDOs as part of broader coalition building and social movements.