

# Tenure and Investment in West Africa

## *Palm Oil and Improving Practice*

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*Disputes over land and resource rights create operational and reputational risks through delays, rising costs, and curtailed access to finance and markets. This paper looks closely at recent disputes in West Africa and investigates their impact on investment in land-based assets across the sub-region.*

*A pattern of dispute, financial loss, and reputational damage has pushed some palm oil companies to enhance their standards and practice around tenure and local engagement. In the process, the sector as a whole has become more aware of the risks posed in particular by governments with low capacity on tenure and local engagement, and therefore more discerning about where they invest.*

*Some companies and investors are now benefitting from a growing body of valuable guidance—from the VGGTs to the Interlaken Group Guidance Tools to the Ian toolkits—that help them negotiate the risks posed by unclear and insecure tenure rights. But real improvements in practice are largely confined to public-facing international actors. More work is needed to ensure that smaller companies and domestic actors across West Africa recognize both tenure risks as well as the availability of tools and support to help them manage these issues more responsibly and effectively.*

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## 1. Tenure Dispute in West Africa

This paper examines the causes and effects of tenure dispute at a project level.<sup>1</sup> On the basis of this analysis and consultation with leading experts, we discuss key trends in tenure and investment across West Africa.<sup>2</sup> This investigation will help companies, investors and host governments recognize what constitutes an attractive investment environment for land deals. It also provides recommendations for companies and investors on avoiding tenure disputes.

The study looks at the palm oil sector, where leading companies are increasingly aware of the business case for effective tenure diligence and local engagement. Experiences and stories of operational problems have encouraged these companies to become more familiar with the complexity of responsible investment in West Africa. According to Chris Brett, formerly Olam's Global Head of Corporate Responsibility and Sustainability, companies like Olam "have no option but to achieve high standards on tenure and local engagement. Our key buyers and investors demand it but it is also vital for smooth development of large projects."

The imperative for high performance leads these key actors to be more discerning in their selection of and interaction with host governments. Companies like Sime Darby and Golden Veroleum Liberia, whose projects in Liberia have been significantly disrupted by disputes with local peoples, are now less likely to rush into a situation without understanding whether the government can deliver on its commitments while avoiding social conflict. Leading companies increasingly work directly with local peoples, reducing their reliance on the host government.

However, it remains unclear whether these improvements will be embedded in other sectors, like rubber. At present, domestic actors and smaller, less well-known companies continue to drive significant tenure dispute. Their approach to doing business, which typically eschews consultation and agreement-making, creates operational risks at the project level. These risks provide real incentives for better tenure practice. But in the absence of public scrutiny, these stories remain isolated and do not significantly influence sector- or country-wide awareness of tenure risk.

After examining key macro-level trends in tenure risk, this paper examines the notorious cases that involve Bolloré. These examples emphasize improvements in the palm oil sector. However,

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<sup>1</sup> Our analysis is based on ten new case studies of tenure dispute, in addition to a further 27 cases from the Ian Case Study Database. Please see Annexes I for contextual analysis and Annex II for case study descriptions

<sup>2</sup> Our definition of West Africa includes Cameroon and Gabon, which are sometimes categorized as part of Central Africa.

overall this paper seeks to emphasize the importance of providing effective guidance to other sectors and less exposed actors.

## Causes for Concern

Our analysis of granular data on social, environmental, and governance factors around dispute sites suggests a relatively high likelihood of significant tenure dispute in West Africa. Population growth and pressure for land are particularly high, while government capacity to manage tenure issues and seek accountability for tenure abuses is especially low in West Africa.<sup>3</sup> High rates of poverty also appear to make it more likely that these disputes will be violent.

A concerted effort is required to raise awareness among both local elites and international laggards of the risks of tenure abuse and the value of effective local engagement. In particular, companies and investors need to send a clear message on their preference for secure and inclusive tenure policy.

Issues around tenure and tenure policy are more acute in some countries than others. Tenure disputes in Sierra Leone and Cote D'Ivoire, for example, continue to be mismanaged despite growing recognition by national and local governments of the need for effective tenure policy. Similarly, experiences in Senegal, Mali, and Nigeria suggest that a cavalier attitude to local rights can impair investments and opportunities.

## Reasons for Optimism

Project disruptions and international campaigning have increased awareness of tenure rights among international companies and investors as well as government actors in West Africa. Experts agree that key stakeholders have access to effective high-level guidance on tenure and tenure risk management.

It is likely that many more actors would adopt these tools if leading groups documented successful cases of their application.<sup>4</sup> Similarly, we have been told that widespread adoption would be more likely if these global tools were adapted to the requirements of different markets and regulatory environments.

In West Africa, some countries are further ahead in fostering improved practice on tenure. According to John Nelson (TFT), the palm oil industry in Liberia now provides some fairly positive stories where companies have had real problems with tenure but now recognize the need

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<sup>3</sup> See page 7 and Annex I of this report for more detailed assessment of contextual data.

<sup>4</sup> These opinions were shared by experts such as Chris Brett (Olam), Olaf Brugman (Rabobank) and Lorenzo Cotula (IIED). None of the experts consulted felt that high level guidance is lacking, but they do point to the need for additional support to companies struggling with local complexities.

for local engagement. But, as in other promising countries like Gabon and Ghana, it remains to be seen whether this can be backed up in national legislation. More must be done to help host governments create the enabling conditions for responsible investment, including support for legislation around land rights.

### Key Messages for Companies and Investors

Many of the basic tenets of doing business effectively in West Africa are intuitive, such as building trust with local communities and their representatives. But our examination of cases of tenure dispute suggests that a few issues need greater emphasis.

- 1) **Deferring to the host government for consultation, resettlement, compensation, or security can create and entrench local opposition.** Few governments, even in member countries of the Organisation for Economic Co-operation and Development, have the capacity or inclination to manage these processes effectively.
- 2) **Follow the higher standard where local laws and international guidance are misaligned or contradictory.** These misalignments or contradictions can be quite common; companies that adhere to the lower standard are commonly associated with disputes and negative financial repercussions down the line.
- 3) **Providing access to functional dispute resolution and grievance mechanisms reduces problems rather than creating them.** Failures in these dispute mechanisms are a common and critical feature in protracted and damaging disputes.

## 2. Palm Oil in West Africa: Laggards and Leaders

The experiences of palm oil companies in West Africa underline the way that operational and reputational risk have driven some actors to change the way they manage tenure. Disputes have created attention-grabbing operational problems for companies and investors, including slippage, project abandonment, and reputational damage.<sup>5</sup>

These problems have contributed to increased pressure for improved standards on tenure from reputationally exposed buyers, such as Nestlé, PepsiCo, Mars, and Unilever. These buyers are placing more and more value on social and environmental performance, particularly in areas where they have made commitments to protect land rights and prevent deforestation.<sup>6</sup> Similarly, key sources of finance for large projects in West Africa, such as the IFC, insist on high standards on tenure.

In response, some palm oil producers are beginning to be more diligent. Rather than relying exclusively on the limited protection afforded by basic legal compliance and good relations with government officials, a growing number of palm oil companies now recognize the value of direct and broad engagement with local peoples.<sup>7</sup>

This section summarizes tenure dispute at a macro-level before zooming in to look in greater depth case studies from Bolloré's problematic investments in Cameroon, Liberia, Sierra Leone, and Cote d'Ivoire. These trends are detailed at greater length in Annex I and are compared with other sub-regions in Africa and with the global average in a companion report.<sup>8</sup>

### Macro-level Trends

The evidence for this analysis is provided by 10 case studies of disputes that have started or reemerged in the last few years. These are reinforced with 27 West African cases in the Ian Case Study Database (see the map below for the distribution of these cases and Annex II for a description of cases).<sup>9</sup> Each of these cases has been quantitatively evaluated using geospatial data from Ian Risk and qualitatively evaluated through desk-based research, fieldwork, and expert consultation.

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<sup>5</sup> Sime Darby's problems in Liberia were profiled in a previous report by TMP Systems, which can be found here:

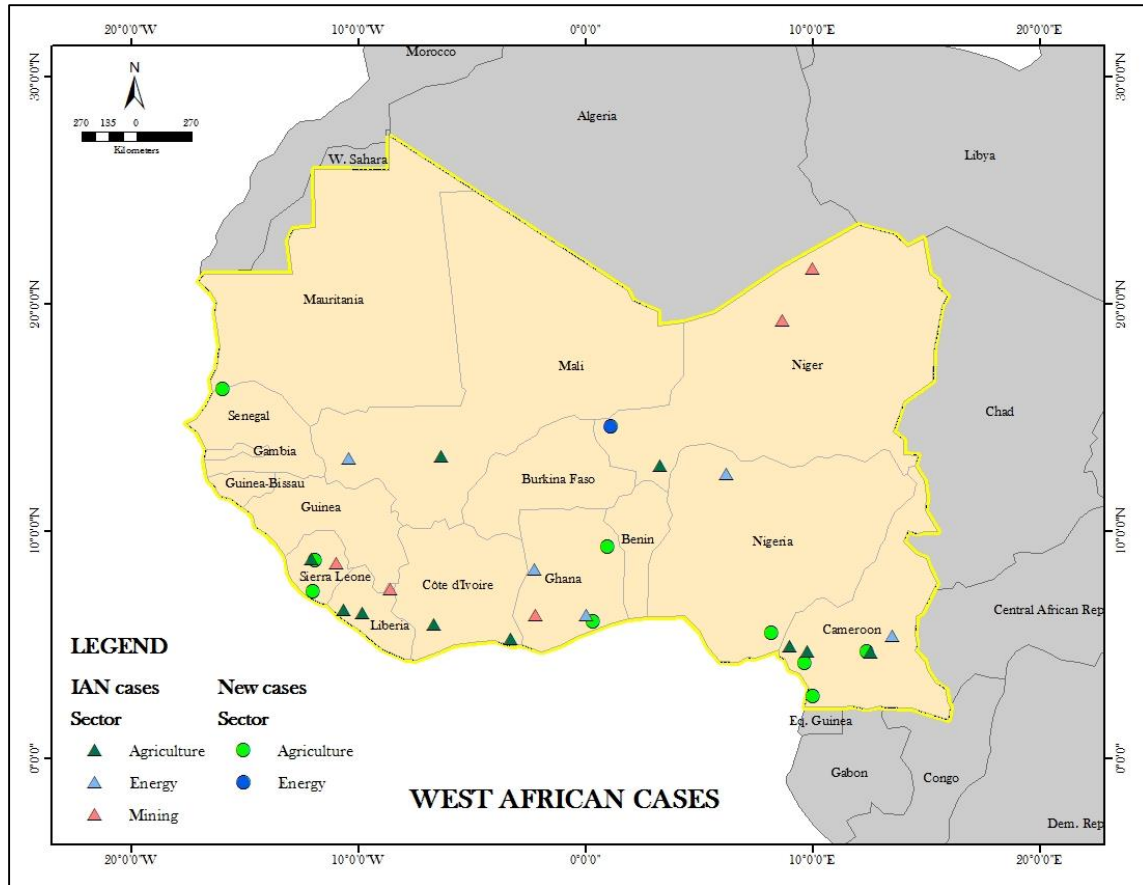
[http://rightsandresources.org/wp-content/uploads/2014/01/doc\\_5715.pdf](http://rightsandresources.org/wp-content/uploads/2014/01/doc_5715.pdf)

<sup>6</sup> Mars, for example, a leading purchaser of palm oil, has committed to purchasing 100 percent of this and other raw materials from independent certification programs such as the RSPO. <http://www.mars.com/global/sustainability/raw-materials>

<sup>7</sup> This opinion was offered by a number of experts, including Tony Hill (Proforest) and John Nelson (TFT)

<sup>8</sup> <http://rightsandresources.org/en/risk-conflict-to-peace-prosperity/#.WJOZyNcrLIU>

<sup>9</sup> These cases certainly do not represent all incidents of tenure dispute. But we believe that we have uncovered the majority of reported disputes involving international private actors.



In recent years, palm oil has driven more social conflict than sectors like coffee, rubber, cocoa, and extractives.<sup>10</sup> West Africa has been at the forefront of global growth in the sector, but producers seeking alternatives to dwindling opportunities for upstream expansion in Southeast Asia may be operating under faulty assumptions. Our research suggests that population pressure is, in fact, higher in West Africa than in Southeast Asia. This finding challenges the belief held by many investors that land is more “available” in West Africa than other palm origins.<sup>11</sup>

Geospatial analysis also reveals that many of our cases are in areas with a history of conflict. This is particularly apparent in post-conflict zones like Sierra Leone and Liberia. Land tenure has contributed to this history of conflict, and tenure violations risk rekindling latent tension. Learning this history and identifying “legacy land issues” can help companies and investors

<sup>10</sup> With eight cases between the Ian dataset and the new case studies, palm oil accounts for a larger subset of the disputes we analyzed than any other single product, and more than all other agricultural commodities combined.

<sup>11</sup> Our geospatial analysis of the buffer zones around dispute sites indicates that pressure on land is quite severe, as growing populations demand access to opportunity and certainly to their traditional land. On average, over a million people lived within 50 km of disputed projects; the average for the original Ian dataset is a little over 300,000 people. See Annex 1 for further details of this population data.

understand the risk of provoking conflict as well as the reasons for the deficit of trust that many ordinary people have in governments and national land policy.

Another key finding from our contextual analysis was that minorities and Indigenous Peoples are more likely to be involved in tenure disputes in West Africa than in other parts of the continent. According to Tony Hill (Proforest), this probably reflects the disproportionate number of West African disputes occurring in remote agricultural-forest frontiers where popular engagement with politics and the industrial economy is low.

However, these figures are still well below the global average because it is much rarer for these groups to win legal recognition in Africa than in, for example, Latin America. Companies and investors should therefore be wary of countries that do not have policies recognizing and engaging with these vulnerable groups.

Unsurprisingly, our analysis suggests that most disputes were primarily driven by involuntary displacement of local peoples (70 percent) or by compensation or resettlement arrangements (30 percent). These figures align with qualitative evidence of forest people and farmers in the region being pushed off their customary land and then inadequately resettled by governments to make space for private investment in commodities like palm oil.

Interestingly, compensation is a secondary driver in an unusually high proportion (60 percent) of cases. This underlines the fact that many major investments do not provide adequate benefits for local peoples. Oil palm plantations, for example, often generate a limited number of jobs of uncertain quality for those affected by resettlement or changing access to resources. Similarly, outgrowers understandably expect a better deal from new projects and may oppose projects that do not provide such deals.

## Bolloré – Tenure Risk and Failures in Local Engagement

Bolloré is a family-controlled investment and holding company with interests in paper, plantations, logistics, media, and energy. Its engagement with palm oil in West Africa has become notorious after poor consultation and local engagement resulted in disputes, riots, and political scrutiny across the sub-region. As recently as June 2016, protests were held against Bolloré and subsidiaries in Cameroon, Cote d'Ivoire, Liberia, Sierra Leone, and Paris. These disputes and associated disruptions significantly impacted both the projects in question and the group's global image.<sup>12</sup>

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<sup>12</sup> Operational disruptions range from blockading bulldozers and obstructing surveyors, as occurred in Cameroon ([http://www.irenees.net/article265\\_en.html](http://www.irenees.net/article265_en.html)), to mass resignation of workers and the destruction of oil palm trees (<http://af.reuters.com/article/topNews/idAFKCN0VE1AH>). Protests organized in all the West African countries where Bolloré

Bolloré operates in the region through Belgian-based subsidiary Socfin (in which it owns a 38.8 percent stake), and further subsidiary companies (Socapalm and Safa Cameroun in Cameroon, LAC in Liberia, and SOGB in Cote d'Ivoire). These companies remain embroiled in ongoing problems because they rigidly stick to the position that legal compliance is a sufficient standard to address tenure risks and respect local rights. However, in many of the countries in West Africa, the law does not recognize the customary rights of Indigenous Peoples or local communities.

Bolloré should have been more attentive to these issues in tenure policy. They might also have called on standards like the VGGTs and guidance like the Interlaken Group Guidance Tool (IGGT), which are more reliable and more consistent than legal compliance with national laws. Instead, perceived lack of commitment to dispute resolution and preference for prosecution of opponents has eroded local trust in the operating companies and their investors. As we shall see, this naïve adherence to a legalistic approach in countries without legal and institutional frameworks recognizing local rights has been costly for companies.

### *Background – Cameroon*

Privatization of Cameroon's palm oil estates in the years between 2000 and 2010 resulted in expansion, forest clearance, and often displacement of farmers and hunter-gatherers living adjacent to the estates.

Bolloré's subsidiary Socapalm, for example, pursued involuntary resettlement of Bagyeli hunter-gatherers to unsuitable land.<sup>13</sup> There appeared to be little upside for affected communities, who were concerned by the damage the project was doing to forest and riparian resources as well as by the lack of jobs, the low quality of jobs available, and unfair pricing in outgrower schemes.<sup>14</sup> This sentiment is fairly typical of the reaction to Socfin and other Bolloré subsidiaries across the sub-region.

People affected by the expansion of Socapalm's plantations often responded angrily, with isolated reports of attacks on company representatives in 2006, 2009, and 2010.<sup>15</sup> The lack of meaningful dialogue or attempts to address grievances resulted in the involvement of

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operates have also had reputational impacts, as they were coordinated with protests outside a Bolloré shareholders' meeting in Paris (see next footnote). Socfin's activities in the region have also earned the Bolloré group unwanted attention via a high-profile Greenpeace campaign (<http://blog.greenpeace.fr/bolloré-zero-deforestation>).

<sup>13</sup> <http://www.wrm.org.uy/oldsite/bulletin/134/Cameroon.html>

<sup>14</sup> <http://www.palmwatchafrica.org/tag/kribi/>

<sup>15</sup> In 2006, people were heard bragging about thrusting a machete into the back of a white French executive in Mbommono, in the Dibombari plantation. In 2009 and 2010, villagers attacked Socapalm representatives who had come to take measurements for plantation expansion, in the first instance resulting in the severing of limbs of security officers who became involved in the dispute ([http://www.irenees.net/article265\\_en.html](http://www.irenees.net/article265_en.html)).



international NGOs,<sup>16</sup> and the evolution of a movement of protest and direct action which has touched all of Bolloré's operations in West Africa.

### *Triggers – Sierra Leone*

Bolloré's problems escalated significantly following a dispute in Sierra Leone in October 2011 connected to a new plantation. Local people were aggrieved by a combination of lack of clarity over resettlement and compensation along with significant pressure to sign agreements.<sup>17</sup> For example, security forces were present at all meetings and were seen as an intimidating presence.<sup>18</sup> In many other cases, both in West Africa and globally, we have seen that the decision to enlist state personnel to enforce security can create distrust and opposition.

Local communities felt that the tactics being employed were coercive; this negative impression was exacerbated by the perception that Socfin was attempting to collude with traditional authorities to cut people out of the deal.<sup>19</sup> According to Lorenzo Cotula (IIED), "As a general rule communities are heterogeneous and representation is complex. Companies that seek to coopt a limited number of stakeholders without attempting to get genuine consent are likely to create and entrench opposition and social conflict."

Since Sierra Leone lacked functioning justice systems or effective grievance mechanisms,<sup>20</sup> local communities employed direct action while the wheels of official channels spun ineffectively. In December 2012, the Malen Land Owners Association (MALOA) approached the Sierra Leone Human Rights Commission with their grievances, which included lack of compensation and

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<sup>16</sup> In December 2010, a group of four NGOs from Cameroon, France, and Germany, filed a complaint with the OECD regarding Socapalm's activities, requesting that Socfin and Bolloré use their influence to help resolve the problems. <http://www.tresor.economie.gouv.fr/File/426854>

<sup>17</sup> Green Scenery, a local NGO, was the first to note these grievances and the inadequacy of the response from government and company representatives (<http://www.greenscenery.org/index.php/our-concern>).

<sup>18</sup> In addition to other shortcomings of the lease-signing that occurred on March 5, 2011, the presence of police was reported to have intimidated a number of locals into signing ([http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI\\_brief\\_socfin\\_agricultural\\_company.pdf](http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_brief_socfin_agricultural_company.pdf)); Most participants in a survey of attitudes in Pujehun stated that there were no fora for discussing land acquisition issues. In the community meetings that did occur, people noted "they were stopped by local authorities from expressing their views". [https://www.sfcg.org/wp-content/uploads/2014/08/SLE\\_EV\\_Mar14\\_Baseline\\_SAL\\_OSIWA-Land-Rights.pdf](https://www.sfcg.org/wp-content/uploads/2014/08/SLE_EV_Mar14_Baseline_SAL_OSIWA-Land-Rights.pdf)

<sup>19</sup> Residents of Pujehun surveyed in 2013 overwhelmingly agreed with the statement that "authorities do not seek the interest of communities in land negotiations." ([https://www.sfcg.org/wp-content/uploads/2014/08/SLE\\_EV\\_Mar14\\_Baseline\\_SAL\\_OSIWA-Land-Rights.pdf](https://www.sfcg.org/wp-content/uploads/2014/08/SLE_EV_Mar14_Baseline_SAL_OSIWA-Land-Rights.pdf)).

<sup>20</sup> 70% of Sierra Leoneans do not have access to formal justice structures, and the FAO's 2016 report noted a number of limitations with non-judicial grievance redress mechanisms, including a lack of enforcement, a lack of record keeping which limits the longevity of judgements, and "limitations of customary and traditional dispute resolution mechanisms in terms of gender equality, fair hearing, evidence building and other human rights issues." Company-based mechanisms were described as leaving "a lot of room for improvement". <http://www.fao.org/3/a-i5908e.pdf>

harassment from the Paramount Chief, and asked the commission to mediate between all stakeholders. An inquiry took place in early 2013, but no mediation occurred.<sup>21</sup>

The response to protests escalated the problems significantly. The issue at this point was not the behavior of Socfin but rather the violence in the government response to social unrest, with police using tear gas and live ammunition, and making large numbers of arrests.<sup>22</sup> This violence and the intransigent position of the state served to embed local opposition rather than erode it. By relying on the host government so heavily, Socfin and Bolloré became complicit in their tactics and, as such, became the focus of international scrutiny.

### *Contagion – Cameroon, Cote d’Ivoire, Nigeria, and Liberia*

Bolloré—and to some extent the palm oil industry as a whole—suffered from contagion as CSOs and local peoples across West Africa recognized the opportunity afforded by increased attention. The NGO ReAct, which had been involved in organizing direct action in Cameroon and filed the complaint with the OECD in 2010, organized a protest in June 2016 in Cameroon, Cote d’Ivoire, Liberia, and Sierra Leone, as well as outside the headquarters of the Bolloré group in Paris.<sup>23</sup>

This activism built on a growing movement of increasingly coordinated protests in 2015.<sup>24</sup> In each country, Bolloré, Socfin, and their subsidiaries have persistently refused to acknowledge any culpability or commit to meaningful dialogue. By this point, the expansion of palm oil in West Africa was firmly in the public eye, and the lawsuit followed involvement of the NGO, Rainforest Resources and Development Centre, who reported environmental and human rights violations to the RSPO.

The contagion is not restricted to the oil palm sector. In Liberia, for example, Socfin’s subsidiary LAC responded to a 2006 UNMIL report alleging human rights abuses on LAC rubber plantations by describing it as “unfounded and baseless.”<sup>25</sup> But the resentments that informed the allegations in that report have not disappeared, and resurfaced in 2015 when residents from villages surrounding LAC plantations occupied company lands in protest against land acquisitions.<sup>26</sup>

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<sup>21</sup> <http://landjustice4wa.org/sierra-leone-organizing-against-palm-oil-investors/>

<sup>22</sup> Violent responses to protests occurred in December 2011 (<http://awoko.org/2011/10/07/conflict-in-pujehun-over-land/>) and December 2013 (<http://www.reuters.com/article/sierraleone-socfin-idUSL6N0JP45E20131210>).

<sup>23</sup> <http://www.africanews.com/2016/06/03/bolloré-criticized-at-anti-land-grabbing-protests-in-africa-europe/>

<sup>24</sup> <https://news.mongabay.com/2015/06/coordinated-protests-hit-socfin-plantations-in-four-countries/>

<sup>25</sup> [http://www.socfin.com/Files/media/News/INTERCULTURES\\_S.A./Unmill\\_Report\\_LACs\\_version.pdf](http://www.socfin.com/Files/media/News/INTERCULTURES_S.A./Unmill_Report_LACs_version.pdf)

<sup>26</sup> <http://www.farmlandgrab.org/post/view/24908>

In Cote d'Ivoire, conflicts between villagers and plantations have been met with a steadfast refusal to engage with aggrieved parties.<sup>27</sup> A letter from the President of an association speaking for affected communities to the president of Socfin in March 2015 notes no response to a demand for an independent assessment of land conflicts, and no response to a previous letter. The letter further notes that “the plantation managers generally prefer to deal with traditional chiefs and locally elected officials,” and that this “has until now prevented conflict resolution through platforms where dialogue can take place.”<sup>28</sup>

Pressure mounted when the RSPO indicated that Socfin's operations in Cameroon and by implication the rest of West Africa did not meet its standards on land rights. According to Olaf Brugman (Rabobank), this kind of RSPO intervention “automatically triggers concern among major investors and buyers in palm oil and may reduce market access.” In response to this risk, Socfin and Bolloré made a series of commitments in 2013 and 2014 to improve consultation and return land to customary owners. As noted above, these measures have not been successful and unrest continues to affect Socfin's plantations.

### *Diagnosis – Too legal, too late*

The fundamental problem has been that Bolloré's subsidiaries have made very little attempt to engage either local landowner associations or local communities more broadly. They believe it is in their best interest to limit the number of stakeholders they are engaging.<sup>29</sup> They also believe that if they are legally compliant they should be safe. This approach ignores the realities of doing business in the palm oil sector in West Africa, where tenure rights are often unclear or insecure.

There are some signs that the Socfin Group is starting to change its approach to focus on investment in smallholder farming, moving away from large-scale plantation expansion. In 2015, Socapalm increased the amount it pays outgrowers by adding premiums to the government-set price that they pay farmers, according to Socfin's Director-General.<sup>30</sup> But the overall approach to dispute resolution appears unchanged. In May 2016, following a documentary which aired in France in which Socapalm plantation workers alleged abusive working conditions, villagers

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<sup>27</sup> “Press Packet: international mobilisations by peasants and local communities of the Socfin-Bolloré plantations,” 2016 (from [www.grain.org](http://www.grain.org)).

<sup>28</sup> [https://www.grain.org/bulletin\\_board/entries/5191-global-resistance-to-land-grabs-by-bolloré-and-socfin](https://www.grain.org/bulletin_board/entries/5191-global-resistance-to-land-grabs-by-bolloré-and-socfin)

<sup>29</sup> In an interview with the Guardian in 2015, Luc Boedt, CEO of Socfin, said: “We deal with the real stakeholders. We speak with elected people and not some excited villagers.” (<https://www.theguardian.com/sustainable-business/2015/jul/27/palm-oil-boom-cameroon-land-ownership-protest>).

<sup>30</sup> <https://news.mongabay.com/2016/04/palm-oil-cameroon-blessing-curse-small-scale-farmers-2/>

claimed they were visited by journalists from Bolloré-owned TV networks, accompanied by bailiffs.<sup>31</sup>

Bolloré were too late to react to the growing crisis. Having opened the door for dialogue in 2014, Vincente Bolloré demurred and fell back on the argument that he did not manage Socfin and was merely a minority shareholder.<sup>32</sup> But the problem refused to go away. Bolloré has likely realized how intractable the disputes are, and their reputation has been significantly damaged.

## Beyond Palm Oil

Palm oil dominated our new case studies, and it is encouraging to see some improvements in practice among major players in West Africa. However, many palm oil companies, such as Socfin, continue to take a damaging approach to tenure rights. According to Peter Minang (ICRAF), many domestic actors, who are less vulnerable to reputational—and in some cases legal—risks, are also failing to respect customary land.

Improvements in practice in commodities like rubber, coffee, cocoa, and cereals have been limited. One commodity under increasing scrutiny is rubber. Bridgestone's decision to sponsor the Tokyo Olympics may serve to increase attention on the sector, particularly in dynamic production regions like West Africa.

As with palm oil, it is important to recognize that this scrutiny reinforces the growing business case for improved standards. Growing awareness of tenure issues among those involved in sectors like rubber will eventually lead to greater recognition of the competitive advantage afforded by robust local engagement strategies.

We have seen a similar pattern of scrutiny improving awareness and standards in the extractives sector in West Africa. For example, Newmont has invested in developing close relationships with local groups in Ghana. According to Chris Anderson (Yirri Global, formerly Newmont and Rio Tinto), companies like Newmont now welcome the opportunity to deal with local peoples and their representatives directly, rather than relying on the government as an intermediary. Given these similarities in experience, sectors like rubber can learn from extractive industries and palm oil companies.

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<sup>31</sup> <http://www.info-cameroun.com/apres-documentaire-de-france-2-dg-de-socapalm-vire/>

<sup>32</sup> [https://www.grain.org/bulletin\\_board/entries/5191-global-resistance-to-land-grabs-by-bolloré-and-socfin](https://www.grain.org/bulletin_board/entries/5191-global-resistance-to-land-grabs-by-bolloré-and-socfin)

### 3. West Africa: Key Lessons for Investors in Land

In West Africa, we see that the business case for investing in diligence and local engagement is starting to make a real difference to palm oil investments. Significant problems in a relatively small number of investments have created broad sectoral changes that may soon be transposed to related sectors like rubber and to less exposed palm oil producers.

Leading companies and investors in land are benefiting from following the tenets set out at the start of this documents:

- 1) **Avoid relying on the host government, which can create and entrench local opposition;**
- 2) **Follow the higher standard where domestic and international guidance are not aligned;**
- 3) **Establish an independent dispute and grievance mechanism to reduce risk.**

Government support, at both national and local levels, is very important for large investments like palm oil plantations. But the experiences of companies like Socfin demonstrate that zealous support from officials with sharply limited capacity can be problematic rather than helpful for land-based investments. Instead successful companies are increasingly treating local populations, rather than government officials and a limited number of elites, as the most important counterparty in the deal.

Companies and investors now have access to effective high-level guidance on tenure. This support can be garnered from commodity- and sector-specific initiatives like the RSPO and ICMM as well as tenure-specific guidance from the Interlaken Group Guidance Tool, the New Alliance Due Diligence Framework, and the Ian toolkit. Adhering to these high standards and ignoring, where possible, contradictions with national legislation can provide a reliable way of forging effective agreements with local peoples and managing tenure risk.

Some companies suggest that it is easier to do business in West Africa than Southeast Asia. This may reflect the way land use is managed in countries like Ghana and Cote D'Ivoire where concessions are largely allocated, or Liberia where population pressure is very high and land distribution is a highly contentious political issue.

Experience from companies working closely with local peoples, customary representatives, and NGOs, as well as with the host government, show that such consultation can reduce risks and provide a valuable story of good performance. As buyers become more and more discerning over social standards, particularly around land, these experiences provide a concrete competitive advantage for both companies and host governments.

Companies and investors may have to accept that the regulatory solution to tenure problems will be slow and that they will undertake some functions that might be handled by the government in OECD contexts. But valid complaints about government capacity aside, it should be noted that even the Canadian and Australian governments struggle to effectively mediate disputes between the private sector and local communities. In these contexts, extractive industries also prefer to deal directly with local communities.

Leading agribusiness and mining companies now feel that they have no alternative to broad consultation and agreements based on Free, Prior and Informed Consent (FPIC) in West Africa. But according to companies, CSOs, and investors, there are many smaller and less exposed companies that continue to operate in a way that endangers their projects as well as the people affected by them.

Much more must be done to bring high-level international guidance to national and sub-national contexts. Improving the human and institutional infrastructure in West African countries will be vital to boosting long-term investment. This effort should include consultants, mediators, and customary authorities as well as bureaucrats, lawyers, and politicians. By building independent capacity and making it available to small and domestic actors, it is possible to improve social and financial performance beyond leading companies in the palm oil sector without demanding unrealistic changes.

## Annex I: Contextual Factors

This annex provides the results of geospatial analysis of the case study sites. Specifically, we have pulled indicator values from the Ian Risk database for a 50km buffer zone around each set of project coordinates. These indicators include a range of leading environmental and social factors which are typically linked to tenure dispute such as the presence of people, the availability of water and prevailing land use types.

The results of this analysis of West African cases have been compared with cases from East and Southern Africa, as well as from other regions like Latin America and Asia. Finally, we have looked at the results in the context of global averages as a means of picking out trends that are distinctive to the sub-region.

This process helps us to understand whether there are characteristic biophysical or social factors around problematic projects. But it also helps us to understand the dynamics of dispute in West Africa. Some of the key trends have been picked out in the main body of the text. This Annex provides more detail on our analysis and on the data we have used.

### Social Factors

#### *Population pressure*

The average population count for the areas surrounding the new West African cases was 1,040,470 people.<sup>33</sup> The population density issues are not isolated to West Africa – the average headcount for all the new cases in Africa is 852,509. But these numbers are well above the global average from the original Ian database, which was 319,426. When we look at Bolloré’s plantations, it gets even more extreme: the average headcount surrounding the three sites in Cameroon and Sierra Leone is 1,391,525 people.

#### *Conflict*

Surprisingly we did not identify a strong correlation between historical incidents of violence and tenure dispute in general. But when looking at Bolloré’s disputed concessions, two datasets reveal a telling context. The Armed Conflict Location & Event Data dataset<sup>34</sup> notes a high frequency of instances of armed conflict within a 50km radius of two out of the three sites: an average of 66.7 instances, in comparison to the Ian dataset average of 43.39. Similarly, the

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<sup>33</sup> For population data we used SEDAC’s Gridded Population of the World, v4.  
<http://sedac.ciesin.columbia.edu/data/collection/gpw-v4>

<sup>34</sup> ACLED records political violence and protest events in African countries from 1997 to the present day.  
<http://www.acleddata.com/about-acled/>

UCDP Georeferenced Event Dataset<sup>35</sup> gives an average of 35.7 instances within a 50km buffer of the case study locations (with the Ian dataset average at 25.0). These findings may help to explain the strong negative reaction of local people to the deployment of state security services, as well as their propensity to violent reaction.

### Poverty

West African case studies appear to be a little poorer than the Ian database average. This is unsurprising given prevailing economic conditions in the sub-region. However, data suggests that the Bolloré cases were in these locations with more severe poverty and deprivation.

Indicators of living standards illustrate this most clearly:

		Original Ian cases	Bolloré cases
<b>Percentage of population deprived in terms of access to:</b>	<b>Electricity</b>	26.26	40.52
	<b>Improved Sanitation</b>	30.53	45.12
	<b>Drinking water</b>	19.64	27.54
	<b>Floor</b>	20.84	35.22
	<b>Cooking Fuel</b>	34.66	47.40
	<b>Asset Ownership</b>	19.68	27.67

### Environmental Factors

There were two major sources of data that we focused on for information about the physical environment of the areas surrounding the new cases: water risks, and land use types

#### Water Risks

For water risk analysis, we used the Aqueduct dataset's assessment of water-related risks. A comparison of selected risks is highlighted in the table below.<sup>36</sup> These are all areas where we have noticed unusual or common trends among the broader sample of new case studies.

Indicator	Original Ian cases	All new cases	New West African cases	Bolloré cases
<b>Drought severity</b>	1.36	1.44	1.42	0.82
<b>Access to water</b>	3.04	4.55	4.52	4.46
<b>Media coverage</b>	2.55	3.62	3.45	3.49

<sup>35</sup> The Uppsala Conflict Data Program's Georeferenced Dataset ([http://www.pcr.uu.se/research/ucdp/datasets/ucdp\\_ged/](http://www.pcr.uu.se/research/ucdp/datasets/ucdp_ged/)) records location data on events of organized violence in which at least one person was killed, and covers Africa from 1989 to 2014.

<sup>36</sup> Aqueduct's ([https://www.wri.org/sites/default/files/aqueduct\\_water\\_risk\\_framework.pdf](https://www.wri.org/sites/default/files/aqueduct_water_risk_framework.pdf)) classification of risks is as follows: 0-1: Low; 1-2: Low to medium; 2-3: Medium to high; 3-4: High; 4-5: Extremely high.



The results showed that West African cases were, in general, at a similar level of risk from water shortage and drought, with water issues featuring a little less prominently in the media than in the other sub-regions. It should be emphasized that these risks are higher than in the globally-representative Ian data set, particularly in terms of access to water.

Interestingly, the Bolloré cases are not in areas where there are higher risks of intense drought, nor is access to water especially prominent in comparison to other regions. This accords with our finding that shortage of resources was not a major driver of dispute, though it bears repeating that access to water is still very significantly limited in a more absolute sense.

### *Land cover classifications*

The second major source of data was on land type classifications, using GlobCover’s land cover classification maps.<sup>37</sup> The breakdowns of different types of vegetation, and the percentage of the area surrounding the investment that they covered, is provided in the table below. The key finding here confirms that agricultural investments in West Africa are occurring in forest margins. In each of the Bolloré cases, and in most of the other cases from the agricultural sector, the primary land cover types surrounding the investment area are either forest, woodland, shrubland, or a mosaic landscape where these vegetation types predominate.

Case / Country / Sector (Case No.)	GlobCover V 2.3 Description	Percent Coverage
Magbass sugar / Sierra Leone / Agriculture (W001)	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	36.88%
	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	23.84%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	17.47%
	Open (15-40%) broadleaved deciduous forest/woodland (>5m)	15.14%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	4.87%
	Mosaic grassland (50-70%) / forest or shrubland (20-50%)	1.28%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	0.45%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	0.02%
	Bare areas	0.02%
Massan Kpaka palm oil / Sierra Leone /	Water bodies	0.02%
	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	29.66%
	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	24.96%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	14.80%

<sup>37</sup> [http://due.esrin.esa.int/page\\_globcover.php](http://due.esrin.esa.int/page_globcover.php)

Agriculture (W002)	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	13.65%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	7.63%
	Water bodies	7.40%
	Closed (>40%) broadleaved forest or shrubland permanently flooded - Saline or brackish water	1.30%
	Artificial surfaces and associated areas (Urban areas >50%)	0.59%
Fanaye biofuels / Senegal / Agriculture (W003)	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	19.16%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	17.10%
	Sparse (<15%) vegetation	15.72%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	14.53%
	Rainfed croplands	11.20%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	8.22%
	Bare areas	6.08%
	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	2.77%
	Water bodies	2.57%
	Closed to open (>15%) grassland or woody vegetation on regularly flooded or waterlogged soil - Fresh, brackish or saline water	1.64%
	Mosaic grassland (50-70%) / forest or shrubland (20-50%)	0.93%
Open (15-40%) broadleaved deciduous forest/woodland (>5m)	0.09%	
Biase palm oil / Nigeria / Agriculture (W004)	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	22.19%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	21.38%
	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	19.62%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	9.26%
	Open (15-40%) broadleaved deciduous forest/woodland (>5m)	9.09%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	8.28%
	Mosaic grassland (50-70%) / forest or shrubland (20-50%)	4.76%
	Water bodies	2.35%
	Bare areas	1.38%
	Closed to open (>15%) broadleaved forest regularly flooded (semi-permanently or temporarily) - Fresh or brackish water	1.27%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	0.30%
	Closed (>40%) broadleaved forest or shrubland permanently flooded - Saline or brackish water	0.08%
	Artificial surfaces and associated areas (Urban areas >50%)	0.03%
Kilombo I rubber and palm oil / Cameroon / Agriculture (W005)	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	39.34%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	17.46%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	14.69%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	11.81%
	Closed to open (>15%) broadleaved forest regularly flooded (semi-permanently or temporarily) - Fresh or brackish water	9.33%

	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	6.89%
	Closed (>40%) broadleaved forest or shrubland permanently flooded - Saline or brackish water	0.29%
	Water bodies	0.15%
	Artificial surfaces and associated areas (Urban areas >50%)	0.04%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	35.88%
	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	24.45%
	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	16.38%
Dibombari palm oil / Cameroon / Agriculture (W006)	Water bodies	10.23%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	4.65%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	4.39%
	Closed (>40%) broadleaved forest or shrubland permanently flooded - Saline or brackish water	2.20%
	Closed to open (>15%) broadleaved forest regularly flooded (semi-permanently or temporarily) - Fresh or brackish water	1.27%
	Artificial surfaces and associated areas (Urban areas >50%)	0.45%
	Open (15-40%) broadleaved deciduous forest/woodland (>5m)	0.11%
Kandadji hydropower/ Niger / Energy (W007)	Bare areas	26.99%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	20.94%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	19.54%
	Sparse (<15%) vegetation	14.89%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	7.69%
	Mosaic grassland (50-70%) / forest or shrubland (20-50%)	3.71%
	Water bodies	3.24%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	1.69%
	Rainfed croplands	1.22%
	Closed to open (>15%) grassland or woody vegetation on regularly flooded or waterlogged soil - Fresh, brackish or saline water	0.09%
Nanga-Eboko and Ndjore food crops / Cameroon / Agriculture (W008)	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	34.31%
	Open (15-40%) broadleaved deciduous forest/woodland (>5m)	25.22%
	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	11.58%
	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	10.40%
	Closed to open (>15%) broadleaved forest regularly flooded (semi-permanently or temporarily) - Fresh or brackish water	8.33%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	3.42%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	2.38%
	Bare areas	1.81%
	Water bodies	1.64%
Mosaic grassland (50-70%) / forest or shrubland (20-50%)	0.89%	
	Closed (>40%) broadleaved forest or shrubland permanently flooded - Saline or brackish water	0.02%

South Tongu and Lolita rice / Ghana / Agriculture (W009)	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	21.52%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	18.79%
	Open (15-40%) broadleaved deciduous forest/woodland (>5m)	18.18%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	14.76%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	12.79%
	Closed to open (>15%) broadleaved evergreen or semi-deciduous forest (>5m)	4.50%
	Bare areas	3.77%
	Water bodies	2.00%
	Closed to open (>15%) herbaceous vegetation (grassland, savannas or lichens/mosses)	1.85%
	Mosaic grassland (50-70%) / forest or shrubland (20-50%)	0.69%
	Sparse (<15%) vegetation	0.55%
	Closed (>40%) broadleaved forest or shrubland permanently flooded - Saline or brackish water	0.41%
	Rainfed croplands	0.18%
Artificial surfaces and associated areas (Urban areas >50%)	0.02%	
Northern region maize and jatropa/ Ghana / Agriculture (W010)	Closed to open (>15%) (broadleaved or needleleaved, evergreen or deciduous) shrubland (<5m)	34.96%
	Open (15-40%) broadleaved deciduous forest/woodland (>5m)	32.27%
	Mosaic cropland (50-70%) / vegetation (grassland/shrubland/forest) (20-50%)	15.04%
	Mosaic forest or shrubland (50-70%) / grassland (20-50%)	9.57%
	Mosaic grassland (50-70%) / forest or shrubland (20-50%)	7.98%
	Mosaic vegetation (grassland/shrubland/forest) (50-70%) / cropland (20-50%)	0.11%
	Bare areas	0.04%
Water bodies	0.04%	

## Governance

The indicators of governance effectiveness are all limited to national-level accounting. We have drawn upon two sources of data: the Corruptions Perceptions Index, and the World Bank's Worldwide Governance Indicators. Nevertheless, the regional averages are strongly indicative of the particular challenges faced in West Africa. The table below compares the average scores for each region with the average for the cases in the original Ian database.<sup>38</sup>

In every indicator, the West African countries in our sample are well below the average of the Ian case countries, and also below the average for the new African case average. Taking Cameroon and Sierra Leone together, the results are even more striking.

<sup>38</sup> The CPI score (<http://www.transparency.org/research/cpi/overview>) is graded from 1 as the lowest and 100 as the highest. For the Worldwide Governance Indicators (<http://info.worldbank.org/governance/wgi/index.aspx>), the worst possible score is -2.5, with 2.5 as the best.

	<b>Ian cases</b>	<b>All new cases</b>	<b>New West African cases</b>	<b>Bolloré cases</b>
<b>CPI score (2014)</b>	36.95	30.28	31.00	28.33
<b>WGI: Voice and accountability</b>	-0.16	-0.45	-0.72	-1.13
<b>WGI: Political Stability and absence of violence</b>	-0.54	-0.60	-0.67	-0.40
<b>WGI: Governance Effectiveness</b>	-0.23	-0.69	-0.99	-1.20
<b>WGI: Regulatory Quality</b>	-0.16	-0.55	-0.76	-1.02
<b>WGI: Rule of Law</b>	-0.39	-0.74	-0.89	-1.08
<b>WGI: Control of Corruption</b>	-0.42	-0.84	-0.98	-1.23

## Annex II: Case Studies

### Case W001

*Location:* Magbass, near Magburaka, Tonkolili district, Sierra Leone

*Sector and commodity:* Agriculture, sugar

*Start date:* 2008

*Total land size involved (hectares):* 1,845

*Parties involved:* Complant, Sierra Leone Labor Congress, two competing landowner's committees, political parties, Sierra Leone Network on the Rights to Food

*Violence:* No

*Minorities:* No

#### *Synopsis*

- The government negotiated a deal with Complant for them to rehabilitate the sugar complex following end of the civil war in 2002. The rent that Complant paid was supposed to be distributed to landowners, but villagers complained in 2007 that the money never reached them “once politicians had taken a share” (Brautigan, 2015)
- The contract also stipulated that the government deliver a further 800-1,000 ha of ‘unencumbered’ land, but this had not occurred by 2007. Quarrels about rents, compensation, and earlier agreements on the land were taken up by two competing landowners’ committees, which had aligned themselves with the two major political parties.
- A consultative meeting in 2012 gave land owners an opportunity to air grievances relating to water pollution and poor soil conditions alleged to be the fault of the sugar complex, as well as poor pay conditions, and complaints that they were not involved in development and signing of the original agreement. The meeting also allowed Magbass to respond to these issues.
- Some of the disputes were resolved by 2013, with Magbass expanding slightly to 1,845 ha (from 1,000 in 2004). But in 2012, a local chief still felt compelled to urge his community not to burn the cane fields or steal from the company.
- This case has many of the features of other major land disputes – local users ignored in awarding a concession, concerns over pollution arising as evidence of encroachment of rights, dissatisfaction with the way in which benefits from the development (e.g. employment, rents, community benefits) are distributed.
- This is in an area which has recently emerged from major internal conflict. But the disputes have remained relatively low-level, with no popular protest or major legal challenges to the company, suggesting that conflicts over land are not especially widespread or major.

## Case W002

*Location:* Massan Kpaka, Malen chiefdom, Pujehun District, Sierra Leone

*Sector and commodity:* Agriculture, oil palm

*Start date:* 2011

*Total land size involved (hectares):* 17,724

*Parties involved:* MAFFS, Socfin (member of Bolloré), Malen Land Owners and Users Association (MALOA), Massan Kpaka

*Violence:* Yes – police opened fire on an “armed protest” in December 2013, and Socfin employees were shot at in January 2015.

*Minorities:* No

### Synopsis

- The contested land was awarded by the government to Socfin. This contradicts the existing laws in Sierra Leone, specifically CAP 122 of 1927 Protectorate Land Act, which states that land cannot be bought or sold in the provinces (outside the Western Area).
- Since the US\$100 million palm oil project has started, there have been multiple protests launched against the project. Communities affected by the project cited lack of consultation and insufficient compensation.
- In response to these protests, government ordered the arrest of some of the members of the communist group Malen Land Owners and Users Association. The group represents villagers from about 30 communities whose land was taken for the Socfin project. A group of six people were convicted for destroying 40 palm oil trees belonging to Socfin in the Pujehun District, but the company was saying a thousand trees were destroyed.
- A civil society organization called Coalition of Civil Society Organizations raised some funds to help the release of the two of the convicted activists.
- In 2012, Bolloré group, which owns 39% of Socfin, sued the publishers of a small alternative news weekly, for defamation over the publication of a 2012 article on the company’s investments in Sierra Leone.

## Case W003

*Location:* Originally Fanaye. Relocated to Ndiael Nature Reserve, St Louis region

*Sector and commodity:* Agriculture, biofuels, sunflower seeds

*Start date:* 2011

*Total land size involved (hectares):* 20,000

*Parties involved:* Senhuile, Senethanol SA, Tampieri Financial Group

*Violence:* Yes – two villagers killed following protests in Fanaye in 2011

*Minorities:* Yes – Peul / Fulani

*Synopsis*

- This case demonstrates a clear example of the serious repercussions of ignoring local tenure in obtaining large concessions for agriculture.
- In the first location, two protestors were killed at a demonstration against the concession obtained by an Italian/Senegalese venture. The backlash against these killings caused the government to intervene and temporarily revoke the concession.
- The government then granted 20,000 hectares in a location 30km away, by reassigning forested parkland to the agricultural venture. This land is inhabited by Peul cattle farmers, who found themselves cut off from grazing lands.
- The scandals resulting from both acquisitions, and the fierce resistance by local communities, shone a light on the company's murky financial backing and connections with political leaders. These scandals ultimately led to the firing and arrest of the director of the company managing the project, and it still appears to be on rocky ground, having paid a fine for customs fraud of \$1.7m and facing numerous other lawsuits, while only operating 1,500 ha of the allocated concession.

**Case W004**

*Location:* Biase, Cross River, Nigeria

*Sector and commodity:* Agriculture, oil palm

*Start date:* 2012

*Total land size involved (hectares):* 30,000

*Parties involved:* PZ Wilmar, local government, Friends of the Earth (NGO)

*Violence:* No

*Minorities:* Yes – indigenous communities referred to in agreements made with Wilmar

*Synopsis*

- This case shows how an exclusively top-down approach in acquiring land can become risky for a company.
- In this case, Wilmar, who signed a no-deforestation policy in 2013, violated existing land rights of the affected communities by claiming their land in a deal with the government, only after the deal was made.
- NGOs were able to organize the communities and defend their pre-existing land rights by taking Wilmar to court.
- This is also a case where the government breached pre-existing agreements it had with communities regarding their land rights. In this case, the communities had an agreement to lease their land from the Nigerian government dating back to 1963. The deal the government made with Wilmar completely ignored the lease, the required EIA and the people themselves.



## Case W005

*Location:* Kilombo I, Nyamabandé, Kribi region

*Sector and commodity:* Agriculture, rubber, oil palm

*Start date:* 2008

*Total land size involved (hectares):* 45,000

*Parties involved:* Hevecam, Socapalm (Bolloré), Bagyeli hunter-gatherers, GMG Global, Sinochem

*Violence:* No

*Minorities:* Yes – Bagyeli hunter-gatherers

### *Synopsis*

- The displacement of the Bagyeli and other groups was profiled by RRI in 2014. We are also in contact with local experts on this case from the Cameroonian NGO Cameroun Écologie through our Dryad project.
- Forest dwellers were relocated from their land so that it could be leased for rubber and oil palm plantations. A number of these inhabitants are members of minority groups who rely upon forestlands--much of which have been cleared to make way for the plantations—for their livelihoods.
- The locations offered for resettlement did not enable hunter gatherers to practice their traditional livelihoods, and others found that the new land did not enable them to sustain themselves through agricultural practices. For some of the land returned to communities, the company only conferred usage, rather than ownership, rights.
- This case is particularly interesting because it highlights the ways that local land regulations mediate disputes and the ways in which communal resources are used. The community had been previously moved by a timber concession, but retained access to the land – the major dispute appears to have been initiated when the rubber and oil palm plantations began to clear the forest and deny access to the land.
- The interaction between this critical factor and “long-standing feelings of injustice due to inadequate compensation for land” reveals a great deal about how company-community conflicts can be avoided and resolved.

## Case W006

*Location:* Dibombari, Cameroon

*Sector and commodity:* Agriculture, palm oil

*Start date:* 2011

*Total land size involved (hectares):* 6,000

*Parties involved:* Socapalm (subsidiary of Bolloré), Socfin, Relufa

*Violence:* Yes – rumors of an attack on a French executive in 2006, and Socapalm workers attacked on other plantations in 2009 and 2010

*Minorities:* No

*Synopsis*

- Socapalm used to be state-owned. As part of the government plan to privatize the palm oil sector, Socapalm was sold to a conglomerate of private companies, with the majority interest held by the global agribusiness Socfin in 2000.
- Before its privatization, Socapalm only developed about one third of its total concession in the country, which did not present a problem for the communities. Community resentment started when the ownership changed. According to the company “the new contract obliges them to expand within the boundaries of the concession” which include community land of some of the villagers in Dibombari region.
- Communities protested through blockades in 2011 and more recently in 2016. Negotiations are ongoing but the dispute with the villagers is a reason why Socfin has had trouble getting membership with the RSPO.
- Villagers, laborers and NGOs have also complained about poor living and working conditions in the Socapalm plantations, a lack of maintenance of local infrastructure, and pollution.

## **Case W007**

*Location:* Kandadji, Niger

*Sector and commodity:* Energy, hydropower

*Start date:* 2012

*Total land size involved (hectares):* 28,160

*Parties involved:* World Bank, African Development Bank, Global Water Initiative

*Violence:* No

*Minorities:* No

*Synopsis*

- For this hydropower project, a huge number of people – 38,000 – needed to be resettled.
- From early on, problems with the new resettlement sites caused significant delays and concern amongst those still to be resettled.
- It is alleged that the consultant who prepared the feasibility report never verified the government’s assurance that there was sufficient arable land available.

- There are particular problems relating to the status of the new land (publicly owned by the government), land valuation methods, and the new methods of cultivation that resettled communities will be forced to adopt.

## Case W008

*Location:* 1) Nanga-Eboko, 2) Ndjore District, 3) Santchou, Cameroon

*Sector and commodity:* Agriculture, rice, maize, soybeans, cassava

*Start date:* 2011

*Total land size involved (hectares):* 10,000

*Parties involved:* Shaanxi Agriculture Group, Yingkao Agricultural Development Co. Ltd. (aka Sino-Cam IKO)

*Violence:* No

*Minorities:* No

### *Synopsis*

- This case is particularly relevant because the government and land users maintain conflicting claims to the land, compounded by uneasy relations between investors and local workers.
- Villagers living on lands that the government wished to cede to Chinese investors in an agricultural project were unwilling to relocate.
- One man claimed customary rights to 1,015 ha of land, and was arrested for protesting a decision by the government to give some of this land to the concession.
- Local politics and history have fed into concerns of land users that their ancestral lands must be given up, that they would not receive adequate compensation and that they would permanently lose access to common grazing and foraging lands

## Case W009

*Location:* 1) Aveyime and Mafi Dove, South Tongu District, 2) Agorta, near Lolita, Lower Volta Region, Ghana

*Sector and commodity:* Agriculture, rice

*Start date:* 2008

*Total land size involved (hectares):* 3,270

*Parties involved:* Prairie Volta Rice Company Ltd (owned by the Government of Ghana, Prairie Texas, and Ghana Commercial bank), Bakpa Tademe (community which declined resettlement), Mafi Dove (land-owning community)

*Violence:* No

*Minorities:* Unknown

*Synopsis*

- The transfer of Mafi Dove land to the government was made by decree in 1977, with no compensation paid to land owners.
- The matter of compensation remained unresolved and was not pursued until Prairie Volta undertook to purchase the land from the government, prompting ten land owners to file a suit against the company.
- Many land users were concerned with the displacement that they would be subject to; irrigation and a lack of available land nearby were clear concerns for those being displaced. Compensation was another driver of the legal dispute.
- The company was allowed to cultivate the contested land by the owners while the legal dispute was being settled.
- In spite of this apparent conciliation, the farm sought \$30m in 2012 to support further development, and by 2014 the development was closed down.

**Case W010**

*Location:* Kpachaa, Jashe, Tugu, Kpalkore, Joro, Chegu and Tijo, Northern Region, Ghana

*Sector and commodity:* Agriculture, maize, jatropha

*Start date:* 2008

*Total land size involved (hectares):* 13,800

*Parties involved:* Solar Harvest Ltd (formerly Biofuel Africa Ltd), Dagomba (migrant community), the Yaa Naa (chief) of Yendi, the Divisional chief of Tijo

*Violence:* No

*Minorities:* Unclear

*Synopsis*

- A previous jatropha project by some of the owners of Solar Harvest had failed and suffered financial collapse, in large part due to accusations of corruption (although their reputation was also tarnished by accusations of land grabbing).
- There were two groups of affected people: commuter farmers from Tamale and resident farmers. Some commuter farmers were relatively rich people based in the nearby town, who called local and international attention to the issue, effectively instigating a campaign against the company.
- When Biofuel Africa first ran into financial difficulties, the urban commuter farmers organized a large demonstration against the company, drawing on dissatisfaction relating to the relocation of a number of villagers, and the potential for further relocations.
- Solar Harvest went bankrupt after taking loan of \$2.5m, largely due to flooding.