

# LAND GRABBING AND DODGY TRANSACTIONS

THE CASE OF SENHUILE-SENETHANOL  
IN SENEGAL

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*This report includes findings of an extensive research carried out by Re:Common – both through external consultants, on the ground field visits, local organisation's activities and desk researches - in cooperation with local and international partners in the last two years about the controversial case of Senhuile-Senethanol's land investment in Senegal, with the involvement of the Italian company Tampieri. Given the sensitiveness of information included in this report, please refer to Re:Common for any further use or elaboration of its content.*

### 1. BACKGROUND

Land grabbing is not a new phenomenon. Over the centuries, the control of land and natural resources has been the *leitmotiv* behind colonial expansion, and entire countries were created after forcing people off their land.

However, over the last few years, after decades of forced globalisation, neoliberal regimes and widespread pillage of natural resources, a number of converging crises (food, energy, climate, financial) have produced a new global rush for land, with new and diversified drivers and actors<sup>1</sup>.

With no doubt the growing world-wide competition for biofuel and large-scale food production linked to the food and climatic crisis has been a strong push behind the skyrocketed demand for land for the past few years. But this is only one side of the story; in particular the 2008 financial crisis significantly contributed to turn land also into a strategic asset for new players other than the traditional multinational agri-business companies. Land turned into an extremely attractive investment opportunity also for the huge amounts of capitals fled away from traditional markets in search of new sources of profit after the financial crisis

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<sup>1</sup> “Land grabbers Italy’s involvement in the Great Land Grab”, Re:Common, June 2013 (eng. version) <http://www.recommon.org/eng/?p=2762/>

of 2007-2009, with a well-equipped army of investment funds, pension funds, private equity funds, hedge funds and insurance companies joining in the global land-grabbing spree<sup>2</sup>.

This led to a ever-growing number of leasing and purchasing land-deals being negotiated in almost every corner of the globe. What they all have in common is the veil of secrecy surrounding them and the lack of transparency, knowledge, consultation nor consent of the communities affected by the investments, who are unable to hold their governments and investors accountable for the losses and damages in terms of environmental, social and human rights violations.

As some have noted, this framework contributed to foster an environment where corruption and state capture becomes the norm, especially in countries where rule of law is weak, and the manifestation of deteriorating governance previously experienced as the resource curse in oil, gas and mining sectors<sup>3</sup>.

Linked to the above, concerns about the correlations between large scale land acquisitions and corporate crime, and the proliferation of dodgy transactions, whether carried out by private interests or public officials, started being raised by social movements in several countries<sup>4</sup>.

A typical example is that of Senegal where, since 2008, several companies have been trying to invest a total area of 145,000 hectares, which represents 3.8% of the total cultivable agricultural land in the country (3.8 million hectares, of which 2.5 million are already in use)<sup>5</sup>.

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2 "The vultures of land grabbing: the involvement of European Financial Companies in large-scale land acquisition abroad", CRBM and Merian Research, 2010.

3 Megan McInnes, "Corruption and large-scale land acquisitions: an analysis of the role high level corruption plays in enabling elite capture of land", paper presented at the international conference on Global Land Grabbing II, Cornell University, October 17-19, 2012, <http://www.cornell-landproject.org/download/landgrab2012papers/macinnes.pdf>

4 See Annex 1 – published in GRAIN, Re:Common, Cadre de Réflexion et d'Action sur le Foncier au Sénégal (CRAFS) "Who is behind Senhuile-Senethanol? Findings of an investigation into a land grab in Senegal, November 2013

5 ActionAid, Il pieno che lascia a secco i poveri. La politica europea sui biocarburanti e il suo impatto sulla sicurezza alimentare e l'accesso alla terra nei Paesi poveri, June 2012.

Among them, the Tampieri Financial Group Spa, a large family holding company headquartered in Ravenna, in the North of Italy, that produces edible oil and renewable energy from biomass<sup>6</sup>. Through its Senegalese subsidiary Senhuile, since 2011 Tampieri group has been investing in the north of Senegal to cultivate sunflower seeds. Senhuile represents the meeting of interests between Tampieri group and Senethanol, a firm set up by foreign and Senegalese investors with a complex and obscure corporate structure<sup>7</sup>, that since 2010, has been investing in the country for the production of sweet potato destined for agrofuels.

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6 <http://www.tampieri.com/>

7 Re:Common, GRAIN, Cadre de Réflexion et d'Action sur le Foncier au Sénégal (CRAFS), Chi c'è dietro Senhuile-Senethanol? I risultati di un'indagine su un furto di terra in Senegal, November 2013.

## 2. THE PROJECT'S STRUCTURE AND ITS DRIVING INTERESTS

The project<sup>8</sup> was initiated by Senethanol SA, a Dakar-based company set up by Senegalese and foreign investors in 2010. Senethanol signed the original lease for 20,000 ha with the rural community of Fanaye to grow sweet potatoes for the production of biofuel for the European market. However, political tensions within the community and against the project degenerated into a violent conflict on the 26 October 2011 that left two people dead, several dozens seriously wounded, and a country shocked. The project was quickly put on hold by President Abdoulaye Wade. Soon after, Macky Sall was elected president. By presidential decree, he re-approved and re-located the project to the Ndiel Nature Reserve, where he re-classified 20,000 hectares of forest land as agricultural land for use by the investors. Since then, the project has been implemented by Senhuile SA, a Dakar-based joint venture between Italy's Tampieri Financial Group and Senethanol SA.

From testimonies collected on the ground the project apparently no

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8 Several reports assess the project itself. These include: IPAR et ActionAid, "Impact des investissements agricoles italiens dans les biocarburants au Sénégal", avril 2012, <http://tinyurl.com/nubwhv8>; COPAGEN, InterPares et RedTac, "Étude participative sur les acquisitions massives de terres agricoles en Afrique de l'ouest : État des lieux : Cas du Sénégal", forthcoming; and Oakland Institute, forthcoming (February 2014)



longer aims to produce biofuel, but sunflower seeds (for export to Europe), peanut seeds (for the Senegalese state, to help overcome a sudden shortage) and animal feed (for the local communities affected by the project).

The project continues to be a lightning rod of tension and conflict. Thirty-seven villages are directly affected by it. Some find themselves suddenly surrounded by the project and cut off from their grazing lands and water sources, feeling dispossessed by the state of their livelihoods and means of survival<sup>9</sup>. Others complain of harassment, eviction and poor compensation. In June 2013, three children lost their lives when they fell into a canal that was excavated to bring irrigation waters to the project's crops<sup>10</sup>.

The corporate structure behind the project is quite complex and obscure, and it involves individuals with a dubious business record. Moreover, the diversity of the actors involved proves how the potential interest behind this project are widely distributed at the Senegalese, Italian and global level.

*Senhuile*, the company currently implementing the activities, was set up in Senegal 2011 with a capital of 10,000,000 Francs CFA (about 17000 euro) with the mission of obtaining concessions for sunflower seed production for export to Italy. *Benyamin* (or *Benjamin*) *Dummai* and *Momath Ba* are the current managing Directors and *Gora Seck* is the President. *Dummai* is an Israeli-born and Brazilian-naturalised businessman. He has a 30-year, long experience of doing business in Latin America and Africa, in various sectors from energy to computers. In that process, he has run into conflict with the law. *Dummai* and his wife were found guilty of tax evasion in Brazil and he was charged by Brazilian authorities for financial fraud and tax evasion. *Dummai* has run various shell companies with partners who themselves have been implicated in a range of criminal ac-

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9 Testimonies collected by Enda Pronat and recorded in the video "Victimes de Ndiaël", 30 April 2013, <http://tinyurl.com/kqfwavz>. The people in the area are majority Fula, who are traditionally pastoralists.

10 Abdoulaye Sidy, "Mort par noyade de trois enfants à Gnith", Walfadjri, 7 June 2013, <http://tinyurl.com/o5rt3o8>

tivities.. In May 2014 Benjamin Dummai was fired by his board of directors and arrested by Senegalese authorities one week later.

*Gora Seck* is a Senegalese businessman with a long history in various sectors, especially mining. Chairman of the board of *Senhuile*, he is also CEO of more than half a dozen Senegalese firms, some co-directed by Seck and *Ibrahima Basse*, a high-level official in the Ministry of Mines and Industry. Seck is also director of *African Minerals Corporation*, a Senegalese mining company, and chairman of the *Friends of Africa Foundation Senegal*, which is carrying out the social component (reforestation, schools, health services, etc) of *Senhuile* project.

*Senhuile* is directly controlled by two main shareholders: the above mentioned *Tampieri Financial Group SpA* for the 51%, and *Senethanol SA* (49%).

*Senethanol SA* was set up in Senegal in 2010 with a capital of 10,000,000 Francs CFA (about 17000 euro). The company negotiated and signed the original lease for 20,000 ha in *Fanaye* to produce sweet potato, ethanol and animal feed. That agreement was shelved after the violent events of 26 October 2011. It is controlled by the Italian based company *ABE Italia SRL* (75%) and by private Senegalese investors (25%), with Benjamin Dummai as CEO, *Mario Marcandelli* as managing director, and with *Momath Bâ* serving as director of operations. The “senegalese investors” owning the 25% of *Senethanol* go unnamed. Even *APIX*, the senegalese agency for the promotion of investments refused to release these information. This kind of secrecy arouses many suspicions. However, Benjamin Dummai himself stated to the press that the 25% belongs to *Gora Seck*.

*ABE Italia SRL* was established in 2011, and it is fully controlled (100%) by *Agro Bioethanol Int. LLC* (*ABE Int. LLC*), *ABE Italia* originally had three board members: *Enrico Storti*, Chairman of the Board, *Binyamin Dummai* and *Fabrizio Piomboni*. After being exposed to media attention in Italy for the implication of *Senhuile* project on the ground (case of *Fenaye*), in May 2012 they resigned, and *Giampaolo Dal Pian* became the sole administrator of the company. In January 2013 *ABE Italia* was put in liquidation, with *Dal Pian* acting as liquidator.

After the liquidation of *ABE Italia*, *Agro Bioethanol Int. LLC* (*ABE Int. LLC*), which controlled the 100% of *ABE Italia*, is likely to be now the new owner of the 75% shares of *Senethanol*. *ABE Int. LLC* is a US registered com-

pany, incorporated in NY in 2009. The company's initial manager, until the first annual meeting of the actual managers – has been the Panamense Trustee Harmodio Herrera. The articles of organisation of ABE Int LLC rule that its management – until successors have been elected – has been the company Wallace (Oceania) Limited Auckland, New Zealand, which is owned to 100% by the trustee company Global Trustees (NZ) Ltd<sup>11</sup>. ABE Int. LLC address in New York coincides with the address of at least a dozen other companies. At the time, Wallace's sole director was Carolyn Melville who, together with her husband, directed thousands of shell companies in New Zealand and other tax havens around the world. Herrera was similarly registered as director of hundreds of shell companies in tax haven Panama, many of them including as director Ms. Lilian De Muschett and as agent the controversial Panamanian law firm Icaza, González-Ruiz & Alemán. In September 2011, the management of ABE Int was reassigned from Herrera to Benjamin Dummai. The shareholders of ABE Int, however, are not known, as this information is not accessible in the United States. Some of the individuals involved in the companies mentioned in the project's structure, namely *Dummai*, *Marcandelli*, *Storti*, *Piomboni*, *Dal Pian* are linked to a complex net of several companies also in Italy, involving always the same people which hold, each time, a different position in the named company. Each of the below-mentioned companies had a specific potential interest in the project, at least until the liquidation of ABE Italia, which might have meant a possible failing of the Italian connection. Some of these interests were declared and therefore confirmed and publicly available, some are still a supposition. Among them the most relevant:

*Agricom* set up in 2006, with *Enrico Storti* (also former director of ABE Italia) as current CEO, is an Italian consortium of 12 companies producing agricultural machinery. Since 2009 it was involved in the project (mostly in relation with Senethanol and ABE Italia) for an expected investments in agricultural machinery of 14 Mn EUR. According to Agricom's annual report 2010 the first tranche for the delivery of agricultural machinery was expected in June 2011, for a value of 700,000 EUR. However, the company's annual report 2011 (published on May 2012, so after the exposure of Senhuile-Senethanol project at the Italian television) doesn't mention the project in Senegal anymore. Either the delivery of machinery to Senethanol has not been eventually confirmed or the orders have been transferred to

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11 OpenCorporates, OpenCorporates on WALLACE (OCEANIA) LIMITED, 18 June 2013.

another company, in order to avoid any further media exposure.

*Development Agricultural Investment SPA - DAI SPA*, founded by the same *Enrico Storti* in 2011 to develop agro-industrial projects in developing countries. According to an Italian monthly magazine, DAI SPA and Enrico Storti were interested in the project for the cultivation of sweet potatoes. Beside Storti, also *Fabrizio Piomboni* (another former board member of ABE Italia) is among the current shareholders of DAI SPA, together with I&C SRL, a company belonging to *Stefano Goracci*. Goracci is also among the founders of *Energos SPA*, a renewable energy company owned by Solergo SA Luxembourg, which is owned by Climate Change Capital LP London, a private equity company, fully owned, since the beginning of 2012, by the agro-industrial US giant *Bunge* (specialised in the production and processing of biofuels and oils for the food and energy sectors).

*Best Energy SRL* established in Italy less than one year before the creation of ABE Italia SRL and just seven days after the incorporation of Senethanol SA in Dakar, was registered at the same Italian address of ABE Italia SRL, with the following first shareholders: *Giampaolo Dal Pian* (also sole administrator and now liquidator of ABE Italia SRL), *Mario Marcandelli* (also current managing director of Senethanol SA), and *Binyamin Dummai* (also current president and general director of Senethanol SA). Best Energy SRL is still existing but has never been really active. Dummai and Dal Pian have sold their shares to individuals linked to *Stefano Goracci*. Goracci, beside being shareholder of Energos SPA and Best Energy SRL, is also member of the executive committee of *Consorzio Sicily Biofuel*, a consortium created in order to participate in public tenders for biomass plants in Italy.

### **Main elements of concern linked to Senhuile-Senethanol**

Agro Bioethanol (ABE) Int. LLC, which is now likely to be controlling the 75% of Senethanol, was established through trustees society, with the Panamense trustee Harmodio Herrera as a first Director. Herrera is registered as the Director of hundreds (if not thousands) of shell companies in Panama<sup>12</sup>, and his name is connected to at least two high publicity scan-

dals involving the creation of shell companies in Panama<sup>13</sup>. *The non-existent public information available concerning ABE Int. LLC's current shareholders, investors and management group prevented us to unveil the reasons behind the establishment of the company via trustee companies. However, this unmotivated use of shell corporate boxes, the connection with dubious, obscure and controversial trustees and with convicted money launderers raise serious concerns on whose final interest this mechanism aims to cover up and why.*

Benjamin Dummai, Director of both Senethanol and Senhuile, has a controversial professional record. He has been accused of financial fraud in Brasil (and then discharged in appeal through a *statute barred* sentence). Moreover, together with his wife, he has also been declared guilty of alleged tax evasion in Brasil for irregularities in the process of liquidation of the company Enci Agroindustrial LTDA, carried out with the purpose of eluding taxes. The administrative justice court has required the execution of the sentence. Finally he has also been director of the Guinea Marketing Board from 1994 until 2000, which was then dissolved due to bankruptcy. *The direct involvement of such controversial individuals at the very top management of Senhule and Senethanol raise serious concerns about the companies's operations in the country*

*In May 2014 Benjamin Dummai was fired by his board of directors and arrested by Senegalese authorities one week later. Local media has reported that he has been accused of embezzling almost half a million dollars, confirming local communities and civil society's concerns about the murky international conglomerate behind Senhuile.*

Why APIX, the Senegalese investment promotion agency, didn't do their due diligence on Dummai before granting him a permit is a question still to be answered.

Just two weeks before Dummai's spectacular arrest, Senhuile's board had revoked his credentials and replaced him with the finance manager

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13 <http://mensual.prensa.com/mensual/contenido/2008/05/24/hoy/panorama/1358270.html>; <http://vozpopuli.com/actualidad/21157-barceñas-se-valio-de-9-empresas-fantasma-25-testaferros-y-un-bufete-para-ocultar-su-fortuna>

from the Italian headquarters of Tampieri Financial Group, who controls the majority 51% stake in Senhuile.

Meanwhile, the project is in the throes of growing troubles. From the dismissal of the CEO to the reduction of staff and activities in the project area in Ndiaël, the Senhuile project is unraveling. But the real scandal is that Senhuile/Senethanol still threatens the livelihoods and rights of 9,000 women and men in the North of the country, though more than 52,500 people from around the world have written personally to Tampieri demanding the closure of this project.

The reconstruction of the complex net of actors involved in the project, at the Italian, Senegalese and international level, unveiled several and sometimes conflicting interests behind the project, ranging from the still unclear actual productive drives motivating the project, to side business and personal interests linked to top senegalese officials and businessmen.

Tampieri Group, the majority shareholder of Senhuile, highlighted several times that the project's mission is the cultivation and exportation of sunflower seeds to Italy to be processed in Tampieri Group's oil mill to produce cooking oil, thus excluding any potential link with agrofuel production.

However, Senethanol has a large share of the project too and, namely, Senethanol's interest in the project rests in the production of agro-fuel. Since the times when the project was based in Fenaye, and also with its relocalisation in the Ndiaël Natural Reserve, following the dramatic events in november 2011, several conflicting information were reported by local and international media on the actual product being cultivated, ranging from sweet potatoe, to corn, to rice, to nuts.

Moreover, the diversity of the actors involved testifies the diversity of the interests behind a project of such kind: from agrofood productions (as Tampieri and Development Agricultural Investment SPA role would testify), to agrofuel production (as the establishment of Best Energy and other related Italian companies linked to biomass production and biomass power plant management in Italy would imply), passing through the sale of agricultural machineries with multi-millionaire contracts (as per the role played by Agricoma and Enrico Storti, before the liquidation of ABE Italia).

Now, with the liquidation of ABE Italia, and from the information gathered on the ground, the project seems to be changing again objectives and purposes, which are still unclear given also the obscurity of the interests behind ABE Int. LLC which is now controlling the 75% of Senethanol.

Now, whichever the real interests behind this project might eventually turn out to be, whoever it is that needs to hide behind trustee companies, whoever it is that will gain directly or indirectly, through legal or illegal means, profits thanks to the exploitation of Senegalese land, those whose interests have certainly not been taken into account are the Senegalese communities. These are prevented access and control of the land and resources they rely on for their survival, and their protests are often being silenced with violence and force. All the actors connected to this project carry the responsibility of what's happening on the ground and must be held accountable for the impacts this project is having in disrupting the life of hundreds of Senegalese farmers and their families.

### **What is driving this type of risky Italian investments in land abroad?**

From the analysis of the actors that have been involved, at different levels and at different times, in the project's structure, it clearly appears that, at least at the beginning, the issue of agrofuel production and the possible deriving benefits was the core driving force pushing many of the Italian stakeholders to get involved.

#### *Why?*

200 billions of euro as State incentives for the production of electricity from renewable sources are foreseen in the next 20 years, from 2013 to 2032 in Italy. This is the summary data emerging from the last incentive scheme for renewable energy introduced in July 2012<sup>14</sup>, which also refers to the energy produced from biomass, biogas and bioliquids.

Translated into concrete terms, this means an avalanche of money

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<sup>14</sup> Ministry Decree 6 July 2012 - Implementation of Art. 24 of the legislative decree of 3 March 2011, no. 28 establishing incentives for the production of electricity from renewable sources other than solar. (12A07628) (Suppl. No Ordinary. 143)

which, as it has been the case for at least 20 years in Italy now, strongly affects choices being made in the energy field, whose financial costs fall on the shoulders of the Italian electricity users with an added fee of 7% in the bills, but whose most dramatic social, economic and environmental consequences are being felt thousands of miles away.

Under the implementation of the 1997 Kyoto Protocol, the European Parliament and the Council approved in 2009 the Directive 2009/28/EC<sup>15</sup> on the promotion of energy from renewable sources.

This directive has set two binding targets by 2020: the first aims to meet with renewable sources the 20% of the consumption of energy, fixing for each Member State a specific national target (17% in the case of Italy). The second aims to meet the 10% of energy consumption from renewable sources in transport (biofuels).

As required by the EU Directive, in July 2010, Italy notified the European Commission with its National Action Plan for Renewable Energies, which was then implemented, in its current form, by the Legislative Decree No. 28 of 2011.

In Italy the production of electricity from renewable sources is financially encouraged by the State since 1992, but it's between 2007 and 2011 that the incentives' mechanism has assumed a prominent role, with the differentiation of financial incentives by type of source, thus granting to the energy produced from biomass/biogas/bioliquids a specific and increased support from the State.

With the 1999 Decree enacting the liberalisation of the energy market first<sup>16</sup>, and then with the Budget Laws 2007<sup>17</sup> and 2008<sup>18</sup>, new incentives' models have been introduced specifically to support the construction of facilities for the production of electricity through renewable sources, including biomass and biogas. Since then, hundreds of small-scale (less

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15 The 2009/28/EC Directive was approved after amendments were made to the 2001/77/CE Directive, the first one being approved by the EU after Kyoto on the promotion of energy from renewable sources

16 The so-called "Bersani Decree" - Legislative Decree n. 79 enacted on the 16 March 1999, in implementation of the EU Directive 96/92/CE of the European Parliament and the Council of 19 December 1996

17 Law 296/2006

18 Law 244/2007



than 1 MW) biomass power plants started being built all over the country, strongly favoured by the incentives' mechanisms, which allow infrastructures that cost some millions of euro to pay themselves back very quickly, and to make the industrial groups that build them earn much, with very little financial risk.

Moreover, in the same years, the discourse on the “short chain biomass” (produced within 70 km from the plant) made its appearance for the first time in the national legislation: the highest incentive was in fact supposed to be foreseen for the biomass produced close to the electricity production facilities or to the biomass produced through agri-food framework agreements. However, since then, for several years the Implementing Decree of the Ministry of Agriculture aimed at establishing criteria for traceability of the short chain did not see the light in the Italian legislation.

The strong push for biomass and biofuel development linked to the EU renewable energy target, and the lucrative Italian incentives' schemes, together with the Italian legislative gap related to the issue of traceability of the origin of the raw materials has opened for Italian companies an extremely lucrative business in the field of production of biomass to burn in the Italian power plants, or to be transformed and sold as biofuel.

After the enactment of the Decree of the Ministry of Agriculture, Food and Forestry in 2010 defining the requirements and procedures for the tracking and tracing of biomass for the production of electricity, granting higher incentives to the biomass from short chain, things did not seem to clarify so much, as Regional Authorities, who are supposed to implement locally the Decree, are (slowly) doing so with no coordination and in absence of a coherent national strategy, thus creating a very diverse scenario region by region.

### *The overseas impacts of the Italian Action Plan for Renewable Energies*

In this context, the fact that since 2007-2008 more than 20 Italian companies have laid their eyes on hundreds of thousands of hectares of agricultural land all over the globe, mostly in Africa, to start pilot tests to

produce biomass cannot be seen as a coincidence<sup>19</sup>. The companies themselves confirm this, with one example standing out strongly.

In August 2009, the head of development of the biomass sector at Tozzi Renewable Energy, an Italian company implicated in controversial projects for jatropha production in Senegal and Madagascar, explained that his company “initiated several projects for the construction of both solid and liquid biomass power plants in southern Italy. Since 2007, the need to develop our own biofuel supplies became strategic in order to deal with the growing price volatility [of raw materials]. With so much uncertainty, it had become very difficult to assess profitability and cash flows of the various projects and to negotiate any funding with banks.”<sup>20</sup>

Regarding its land deal in Senegal, the Tozzi representative spoke of all the advantages: “In Senegal, the picture is positive. We are about to obtain a 50,000-hectare concession (under a 99-year lease contract) (...). We will be able to export our oil production; the government has only reserved the right to purchase part of our production at market prices. The government has also allowed us to import the materials and equipment needed for start-up duty-free.”<sup>21</sup>

However, a few years later, evidence from the ground shows that both in Senegal and in Madagascar, Tozzi’s biofuel projects did not achieve much. In Senegal, after a failed attempt to relocate and re-launch the project, Tozzi decided to abandon the investment<sup>22</sup>. In Madagascar, where Tozzi aims to cultivate 100,00 ha by 2019 and currently has 6,558 ha, the communities’ opposition is on the rise and rumours about a “sudden change in the company’s business plan” have been spreading. Former project workers informed us that the jatropha project is being abandoned and that about five million jatropha seedlings were thrown away in the first

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19 For details on Italy’s involvement in the global land grab see Re:Common, “Land Grabbers”, June 2012 <http://www.recommon.org/land-grabbers-italys-involvement-in-the-great-land-grab/>

20 “Biocombustibili: in Africa l’Italia punta sulla Jatropha”, *Diplomazia Economica Italiana*, 7 agosto 2009, [http://www.notiziariofarnesina.ilsole24ore.com/archivio\\_newsletters/Newsletter\\_07082009.pdf](http://www.notiziariofarnesina.ilsole24ore.com/archivio_newsletters/Newsletter_07082009.pdf)

21 *ibid.*

22 ActionAid, “Il pieno che lascia a secco i poveri - La politica europea sui biocarburanti e il suo impatto sulla sicurezza alimentare e l’accesso alla terra nei Paesi poveri”, June 2012, [http://www.actionaid.it/sites/files/actionaid/il\\_pieno\\_che\\_lascia\\_a\\_secco\\_i\\_poveri\\_2012.pdf](http://www.actionaid.it/sites/files/actionaid/il_pieno_che_lascia_a_secco_i_poveri_2012.pdf)

months of 2013, as the *“plan is now shifting, possibly towards the exploitation of the rich subsoil of the area.”*<sup>23</sup>

The uneven and inconsistent Italian legislative measures promoting renewable energy are very likely playing a role in the apparently incoherent and contradictory behaviour of the companies abroad.

Back home, Tozzi chose the Region of Apulia, in southern Italy, as its preferred experimental field, where the company was aiming to build three large biomass power plants, largely opposed by the local communities concerned by the projects. In July 2008, the local authority in Apulia enacted a decree on the installation of power plants to produce energy from biomass.<sup>24</sup> It included norms on the traceability of raw materials to be burnt in such plants, imposing a mandatory minimum of 30% to be cultivated within 70 kilometres of the plant. While this left open the possibility for Tozzi to still import a significant amount of material from abroad, it offered financial and procedural incentives to use local biomass. Later on, Tozzi began pursuing production agreements with several local farmers' unions to secure a constant supply of crops to be burnt at the Sant'Agata Power Plant. In July 2013, this plant received authorisation from the regional government to get the highest possible public subsidy. Does this have anything to do with Tozzi shelving its plans to produce jatropha in Madagascar and Senegal?

The fact that Italian companies took control of large swathes of land in Africa in 2007-2008 with a view to producing crops for biofuels is validated by facts on the ground. It is highly probable that this was driven by the incentive system set up under Italy's National Action Plan for Renewable Energies. It is possible that recent changes in the companies' business plans in several African countries stem from a recognition that jatropha is neither economically viable nor environmentally and socially sustainable. But it is also quite possible that companies are shifting away from large-scale agrofuel production in Africa, to be replaced by short

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23 Interview held in March 2013 in Antananarivo with former Tozzi project workers.

24 Regione Puglia, “Regolamento per la realizzazione degli impianti di produzione di energia alimentata a biomasse”, Regolamento regionale n.12/2008, [http://www.regione.puglia.it/index.php?page=burp&opz=getfile&anno=xxxix&file=N116\\_21\\_07\\_2008.pdf](http://www.regione.puglia.it/index.php?page=burp&opz=getfile&anno=xxxix&file=N116_21_07_2008.pdf)

chain local production, as a result of the patchy development of Italian legislation. The impact that this could have on other Italian biofuel land grabs in Africa, not to mention local substitution projects back home – which might turn out to be similarly problematic for their environmental and social impacts as well as links with illegal economies - must be closely monitored.

### 3. CONCLUSIONS

The Senhuile case shows that land grabbing is a problematic phenomenon not just because of its social, environmental, economic and human rights impacts. In fact, the need for Italian and European medium-size companies, with limited international experience to investment in land overseas due to a variety of reasons – including changes in biomass and biofuel legislations in the European Union – could move investors to link up with dodgy middlemen or co-investors acting in difficult and not easy to know business environment, such as that in most African countries. Therefore “exploratory” investments, despite limited in their size, could be structured via offshore jurisdictions for tax and secrecy reasons, thus shifting investments into a grey area which could easily turn into illegal activities and money laundering.

Recent criminal developments by Senegalese law enforcement authorities about the case as detailed in this briefing – developments which were quite unexpected and are very encouraging – show that there is more and more sensitiveness also in developing countries about the need to monitor how foreign investments are structured, in particular in those sectors which are of primary importance for local population, such as agriculture and land.

However questions remain about which actions should be put in place within the EU in order to prevent cases, such as the Senhuile-Senethanol, involving European investors to happen again. Addressing this issue

is urgently needed in order to achieve the policy coherence between on one hand European development policies and goals and objectives to fight corruption and money laundering in Europe and at international level and on the other hand the promotion of European investments worldwide and the international implications of other European sectoral policies (such as those on agriculture, energy and raw materials).

As a first step, specific red flags have to be raised by competent authorities as concerns investments in natural resources extraction and management, including agriculture commodities and biofuels, promoted by European companies abroad often with the aim of exporting resources from developing countries to Europe. Tracing raw materials flow would be a first step to identify key European corporate actors to be closely monitored by European authorities for their potentially controversial, and in some cases illegal, activities abroad. In this regard, the implementation of the country by country reporting for extractives and logging industries, as requested under the new accounting directive in Europe, if properly and thoroughly implemented could help expose tax avoidance and profit shifting practices through tax havens, dubious jurisdictions and investment vehicles and thus help oversight and law enforcement authorities to identify and eventually prosecute illegal economic and financial activities related to such investments.

#### 4. ANNEX 1: LAND GRABBING, CORRUPTION & CORPORATE CRIME<sup>25</sup>

*“The relationship between corruption and mismanagement of oil, gas and mineral resources has been well described within the broad literature on the “resource curse”. The relationship between corruption and the phenomenon of “land grabbing” however, is less well understood and its secretive nature limits estimations of corruption’s extension and characteristics.”*  
– Global Witness, 2012<sup>26</sup>

Concerns about links between large scale land acquisitions like Senhuile-Senethanol and business crime, whether carried out by private interests or public officials, have been raised by social movements in other countries.

In **Kenya**, the Indian firm Karuturi Global Ltd – which over the last few years has acquired long term rights over 300,000 ha of farmland in India, Kenya and Ethiopia for food and flower production – was found

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25 Abstract from GRAIN, Re:Common, Cadre de Réflexion et d’Action sur le Foncier au Sénégal (CRAFS) “Who is behind Senhuile-Senethanol? Findings of an investigation into a land grab in Senegal”, November 2013

26 Megan McInnes, “Corruption and large-scale land acquisitions: an analysis of the role high level corruption plays in enabling elite capture of land”, paper presented at the international conference on Global Land Grabbing II, Cornell University, October 17-19, 2012, <http://www.cornell-landproject.org/download/landgrab2012papers/macinnes.pdf> .

guilty of tax evasion in 2013<sup>27</sup>. While the dossier was only made public in 2013, the Kenyan revenue authorities had been investigating unpaid taxes linked to transfer mispricing by Karuturi for several years. Karuturi is one of the biggest landholders in Ethiopia, where it has been accused of many wrongdoings, from practicing poor labour standards to complicity in human rights abuses<sup>28</sup>. The finding of tax fraud in Kenya is not the only corporate crime on the company's scorecard. Top Karuturi shareholders were more recently found guilty of insider trading in India<sup>29</sup>. At present, Karuturi's existence in Kenya is reportedly under threat due to financial collapse<sup>30</sup>.

In **Romania**, the Lebanese holding company Maria Group – which recently got control of 20,000 ha of Romanian farmland to produce cereals for export to the Middle East – also has a criminal record. According to Eco Ruralis<sup>31</sup>, Agro Chirnogi, a subsidiary of Maria Group, has been involved in financing election campaigns and then getting access to state land under the tenure of the successfully elected officials. Agro Chirnogi has also funded other political campaigns as well as football teams (same as Karuturi in Kenya). Its shareholders have been accused by the Romanian government itself as being responsible for tax evasion, smuggling and money laundering by the Group. These corporate crimes run parallel to the social, environmental and economic problems suffered daily by people around the project area (pollution, manipulation, etc).

In **Colombia**, land grabbing has become “one of the leading strate-

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27 Tax Justice Network et al, “Karuturi guilty of tax evasion”, 22 April 2013, <http://www.grain.org/e/4698>

28 See for example Human Rights Watch, “Waiting here for death”, January 2012, <http://www.hrw.org/reports/2012/01/16/waiting-here-death>.

29 Press Trust of India, “Sebi imposes Rs 40 lakh fine on Karuturi Global's entities”, 3 July 2013, [http://articles.economictimes.indiatimes.com/2013-07-03/news/40352044\\_1\\_entities-karuturi-global-p-k-kuriachen](http://articles.economictimes.indiatimes.com/2013-07-03/news/40352044_1_entities-karuturi-global-p-k-kuriachen)

30 Constant Munda, “Firm wants Karuturi Flowers wound up”, The Star, Nairobi, 7 September 2013, <http://www.the-star.co.ke/news/article-135151/firm-wants-karuturi-flowers-wound>

31 Judith Bouniol, “Scramble for land in Romania: Iron fist in a velvet glove”, in “Land concentration, land grabbing and people's struggles in Europe”, TNI, 2013, <http://www.tni.org/briefing/update-land-concentration-land-grabbing-and-peoples-struggles-europe>.



gies” for laundering drug money, according to researchers and human rights courts<sup>32</sup>. In the 1980s and early 1990s, narcotraffickers channelled profits from the booming cocaine trade into massive land acquisitions for agribusiness development<sup>33</sup>. From the 2000s until now, this has continued, with expansion into cattle ranching and, due to new “green” business interests around climate change, oil palm plantations. By 2003, the government’s own Court of Audits estimated that drug traffickers had bought four million hectares of fertile farmland, 48% of the country’s total, worth at least \$2.4 billion<sup>34</sup>. The court pointed out that given the rampant use of “front men”, the real figure is probably double (\$4.8 billion). In the Lower Atrato valley, in Chocó, much of the money laundering via oil palm plantations has been occurring through the improper acquisition of land titles – from disputable transfer of usufruct contracts to outright falsification of deeds – in which both legal and political authorities are considered complicit<sup>35</sup>.

In **Brazil**, the National Rapporteur for Human Rights in Land, Territory and Food says that proceeds from drug trafficking and money laundering are being ploughed into land grabs in the Amazon<sup>36</sup>. The case of Brazilian banker Daniel Dantas, who has a very checkered history, is one example<sup>37</sup>. Dantas is the founder of Opportunity Asset Management, a

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32 Jacobo Grajales, “Speaking law to land grabbing’: land contention and legal repertoire in Colombia”, Land Deals Politics Initiative, LDPI Working Paper 17, February 2013, [http://www.iss.nl/fileadmin/ASSETS/iss/Research\\_and\\_projects/Research\\_networks/LDPI/LDPI\\_WP\\_17.pdf](http://www.iss.nl/fileadmin/ASSETS/iss/Research_and_projects/Research_networks/LDPI/LDPI_WP_17.pdf)

33 Teo Ballvé, “Territory by dispossession: Decentralization, statehood, and the narco land-grab in Colombia”, paper presented at the International conference on global land grabbing, University of Sussex, 6-8 April 2011, <http://www.ids.ac.uk/files/dmfile/teoballv.pdf>.

34 Agence France Presse, “Colombia: los narcos, dueños de la mitad de la tierra fértil”, 03-09-2003, <http://edant.clarin.com/diario/2003/09/03/i-02601.htm>

35 Jacobo Grajales, op. cit.

36 Sérgio Sauer, “Land grabbing in the Brazilian Amazon: a global perspective”, Land and Rights, Netherlands Organisation for Scientific Research, June 2012, [http://landsandrights.blog.com/files/2012/09/2012\\_06\\_Land\\_grabbing\\_in\\_the\\_Amazon-Sauer.pdf](http://landsandrights.blog.com/files/2012/09/2012_06_Land_grabbing_in_the_Amazon-Sauer.pdf) and <http://landsandrights.blog.com/files/2012/07/report-LAR-conference.pdf>

37 See his profile on Wikipedia: [http://en.wikipedia.org/wiki/Daniel\\_Dantas](http://en.wikipedia.org/wiki/Daniel_Dantas)

shareholder in Agropecuária Santa Bárbara Xinguara, one of the largest cattle ranchers in Brazil with more than 500,000 ha. The company has been accused of environmental crimes, slave labour, land grabbing and money laundering<sup>38</sup>. Dantas himself has been convicted of attempting to bribe the police in relation to an investigation of his connection to money laundering and sentenced to prison.

In **Argentina**, Jorge Capitanich, a former government official in Buenos Aires and current provincial Governor of Chaco, was a founding partner of Fondagro, an investment fund which bought up lease rights to 22,000 ha of farmland for soybean, cotton and maize production<sup>39</sup>. In 2001, Capitanich's partner in Fondago, Aldo Ducler, was investigated by the US Senate for laundering \$12 million in drug money, with the help of various US banks, for Mexico's Juarez cartel. Other political and business personalities have also been accused of money laundering through Argentina's massive soybean industry, a subsector aptly referred to as the "black soybean" market.

In Paraguay, several well known business and political leaders have been accused of being involved with a combination of narcotrafficking, landgrabbing and money laundering. Horacio Cartes, the current president, is one of them. Cartes, a millionaire who made his fortunes from tobacco and ranching, has served time for currency fraud, been questioned over links to drug smuggling and in 2010 was the subject of a money laundering investigation. In an April 2013 parliamentary session, a few months before taking office as President, he was accused of misappropriating public lands earmarked for agrarian reform beneficiaries<sup>40</sup>.

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38 Guilherme Zocchio, "Crônica de um assassinato no campo", Repórter Brasil, 14 August 2013, <http://reporterbrasil.org.br/2013/08/cronica-de-um-assassinato-no-campo/>.

39 Nicolás Wiñazki, "Un jugador de pool a dos bandas", Crítica de la Argentina, 06.06.2008, <http://www.criticadigital.com/imprensa/index.php?secc=nota&nid=5687>

40 See Wikileaks, <http://wikileaks.org/cable/2010/01/10BUENOSAIRES5.html>, Rebelión, <http://www.rebelion.org/noticia.php?id=165335> and Agencia Pública de Periodismo Investigativo, "Offshore Leaks: por qué ligan con lavado de dinero al banco paraguayo de Horacio Cartes", America Economía, 3 May 2013, <http://tinyurl.com/ontg6f7> and "Involucran a colorados con tierras fiscales", ABC, 3 April 2013,

In **Cambodia**, a social movement is challenging the enormous land grabs by domestic political elites and their international counterparts and promoters. More than two million hectares or 12% of Cambodia's total land area has already been licensed to private companies for agro-industrial plantations, much of it in contravention of laws and standards in just the last few years. One notorious example is Ly Yong Phat, a tycoon and central figure in Cambodia's sugar industry as well as a Senator with the Cambodian People's Party, close to Prime Minister Hun Sen. Ly, who controls ten sugar and rubber plantations plus a special economic zone spanning 86,000 ha, has been systematically skirting Cambodia's Land Law. The law limits land deals to 10,000 ha per concession, and restricts the total amount of land any one operator can hold to 10,000 ha<sup>41</sup>. In another well known case, more than 3,500 families living around Boeung Kak Lake in Phnom Penh have been evicted from their homes when the land was taken over by a company belonging to another Senator with the ruling CPP<sup>42</sup>. Even more recently, a land titling campaign initiated by Hun Sen himself has been severely criticised for being politically driven<sup>43</sup>. Members of the international community refuse to act despite the regime fostering this culture of impunity around land grabbing. Cambodia's donors, who provide half of the country's budget, have declined to bring any pressure to bear, and the European Union refuses to withdraw the unilateral trade privileges that drive some of these deals.

In **New Zealand**, the Hong Kong Chinese investors Jack Chen and May Wang, who tried to take over the country's 8,000 ha Crafar Farms, have been charged back home with bribery, money laundering and fraud<sup>44</sup>.

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<http://m.abc.com.py/nacionales/diputado-acusa-a-cartes-y-afarade-poseer-tierras-de-la-reforma-agraria-556446.html>

41 See Human Rights House, <http://humanrightshouse.org/Articles/18306.html> and Equitable Cambodia, [http://equitablecambodia.org/newsarchives/docs/Bittersweet\\_Harvest\\_Final.pdf](http://equitablecambodia.org/newsarchives/docs/Bittersweet_Harvest_Final.pdf).

42 See LICADHO, [http://licadho-cambodia.org/tag/%20boeung\\_kak\\_lake](http://licadho-cambodia.org/tag/%20boeung_kak_lake)

43 See Human Rights Watch, <http://www.hrw.org/news/2013/06/12/cambodia-land-titling-campaign-open-abuse>

44 Fiona Rotherham, "Would-be Crafar farm buyers lose court bid", Business Day, 2 September 2013, <http://www.stuff.co.nz/business/industries/9116081/Would-be-Crafar-farm-buyers-lose-court-bid>

In **France**, in August 2013, Tracfin, a government anti-crime unit, raised red flags about possible money laundering by Russian, Chinese and Ukrainian investors buying up French vineyards<sup>45</sup>.

Links between business and crime are not new. What is new, and disturbing, is the emerging link between today's large scale agricultural land deals – which are almost always presented as delivering food security, jobs and development -- and corporate crime. It exposes how criminals are not only using farmland as a financial asset and agroindustrial enterprises as legitimate business operations, but using farmers, landless workers, herders and other usually very poor rural citizens to conduct illegal and often unpunished activities. And as the 2008 financial crisis and its aftermath showed us, these illicit dealings -- the amassing of ill gotten wealth, tax evasion, fraud, corruption and money laundering -- form a hidden but significant part of today's global economy.

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45 Mathieu Hervé, "De l'argent sale russe et chinois dans le vignoble français ?", Sud Ouest, 2 août 2013, <http://www.sudouest.fr/2013/08/02/vin-de-l-argent-sale-russe-et-chinois-dans-le-vignoble-francais-1130585-713.php> and Anne-Sylvaine Chassany, "French vineyard sales leave bitter taste amid laundering fears", Financial Times, 18 August 2013, <http://www.ft.com/intl/cms/s/0/8d419366-0683-11e3-9bd9-00144feab7de.html>.



