

Responsible Large-Scale Land Investments in Uganda

Current Application and Potential Scope of International Safeguards



Tobias Vorlaufer *^a, Felix Schilling^b, Michael Kirk^a, Christian Graefen^b

^a Independent Consultant

^b Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Eschborn

Executive Summary

The recent decade has seen a sharp increase in large-scale agricultural land investments in countries of the Global South, accompanied by a fierce debate whether such investments are for the benefits of the local population. Agricultural large-scale investments can potentially foster technology and knowledge transfer, create access to markets and capital and generate employment for rural communities to diversify their livelihoods. However, large-scale land acquisitions can negatively affect livelihoods, if local communities lose access to land and other natural resources without adequate compensation.

A number of international initiatives have emerged to stipulate responsible large-scale investment in land and agriculture in Developing Countries (AfDB, 2014; CFS, 2014; FAO, 2010, 2012). In 2012, the Committee on World Food Security endorsed the “*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*” (VGGT) complemented by “*Principles for Responsible Investment in Agriculture and Food Systems*” (CFS-RAI) in 2014. The VGGT address multiple stakeholders such as national governments, Civil Society Organizations (CSO), international organizations and investors. As a consequence, investors face the challenge to operationalize and implement these rather broadly defined safeguards in very specific contexts. More recently, international organizations and donors have therefore published practical guides as support for investors. These documents outline which specific activities are required throughout an investment to assure compliance with the VGGT and CFS-RAI (AFD, 2014; FAO, 2015; New Alliance, 2015; USAID, 2015).

The underlying assumption of these safeguards is that investors face numerous risks related to land disputes due to informal, contested or overlapping property and land use rights. These include besides the direct costs of land disputes (e.g. disturbance of operations, litigation) also the risks for reputational losses. This could in turn create challenges for financing or marketing of the final product. Investors are hence assumed to have intrinsic motivations to responsibly acquire agricultural land in order to mitigate these risks.

Despite the central role of investors for the implementation of the above stated safeguards, few systematic attempts have been made to share the experiences and perspectives of investors regarding the implementation and operationalization of such guidelines and principles. This study focuses on how voluntary safeguards are operationalized by large-scale agricultural land investments in Uganda and whether the resulting activities successfully mitigate risks of (land) disputes. Moreover, barriers for the implementation of voluntary safeguards from an investor’s perspective are identified and potential interventions for governments, international organizations and donors to stipulate responsible agricultural investments in land are outlined. This report draws on two case studies of large-scale agricultural land investments in Uganda. One investment has been initiated prior to the emergence of

international safeguards in the early 2000s and is contrasted with a recent investment in Northern Uganda that was initiated in 2013. Primary data was collected during a field research in Uganda in August 2016. Key informant interviews were conducted with investors and various stakeholders such as community associations, the local government, CSOs, donors and national government agencies.

The study highlights four key findings. **First**, both investors and government agencies have indicated limited awareness for the risks of land disputes and potential mitigation measures. Examples however show that a comprehensive and participatory approach to land acquisition in line with international safeguards can successfully reduce the risks for land disputes. At the same time, land disputes in Uganda prove to be tenacious and long-lasting partly due to the slow juridical system. Investors predominantly focus on their own concerns, with little knowledge how other investors are affected by land disputes and which measures are potentially successful in resolving conflicts. Investors may be reluctant to participate in multi-stakeholder platforms, given that civil society remains a strong opponent of large-scale investments. Investors may have limited commitment to engage in broad and long-term policy-focused discussions. Creating an investor platform would most likely increase participation rates as discussions can cater for the needs of a specific audience by showcasing experiences of investments and initiating a joint learning process among investors.

Second, multiple stakeholders such as mature investors, CSOs and government bodies both at the national and local level have indicated little knowledge of international safeguards, in particular regarding the VGGT and CFS-RAI. Due to the multiplicity of safeguards and principles focusing on land-based investments, the existing national legislation may provide a superior entry point for the promotion of responsible large-scale land investments on the national level. A practical step would be to publish and disseminate an assessment which aspects of international safeguards are covered by Ugandan law and are hence required by investors and which measures can be considered as voluntary and additional. This would help not only national and local governments but also donors and CSOs to push for a broader application of relevant safeguards.

Third, a fundamental question with respect to the potential implementation of international safeguards by investors is whether following safeguards does in fact mitigate risks for land disputes. Irrespective of the legitimacy, former owners or occupants of land can make accusations that may have far reaching consequences for investors; especially if they are linked to markets with strong civil societies. This highlights a major challenge related to the implementation of international safeguards. Investors are assumed to have an interest in implementing these safeguards to mitigate financial and reputational risks related to land disputes. However, without accepted third parties that monitor the land acquisition and mediate in case of conflicts the risks for investors are not minimized. Certain national government institutions such as the Uganda Investment Authority and district governments are often heavily involved in land acquisitions of investors, hereby compromising their credibility to monitor such investments. The current monitoring could be improved by providing clear mandates for

government institutions at the district, regional and national level to monitor land acquisitions by investors and on-going farming operations (e.g. environmental impacts). At the same time, these institutions are likely to require additional capacities to fulfill this mandate. Lastly, transparency mechanism could be established to make monitoring procedures and results accessible to the public both at the local and national level.

Fourth, the direct land acquisition by investors is often accompanied by secondary effects on land markets in the respective areas. Land prices commonly increase after investors acquire large areas. Therefore, domestic investors often try to acquire land for speculation or medium-scale commercial agriculture. This directly increases the prevalence of land disputes also within communities, as individuals try to secure claims on land. Land disputes are especially widespread in Northern Uganda, a region heavily affected by a more than 20-year long civil conflict. While such indirect effects can seldom be linked to individual investments and relate to the broader land governance framework in Uganda, individual investors cannot be made responsible for addressing these issues. Key interventions by both the Government of Uganda and civil society would be to strengthen knowledge of land rights and providing financial literacy training for local communities, allowing to make more informed decision regarding land transactions. Further potential interventions include the strengthening of land rights (i.e. through registration of customary land titles) for vulnerable groups and providing dispute resolution mechanisms that are easier and less costly to access and provide faster results than the juridical system (e.g. through district land boards).

Abbreviations

CFS	Committee on World Food Security
CFS-RAI	CFS Principles for Responsible Investment in Agriculture and Food Systems
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
FAO	Food and Agriculture Organization of the United Nations
GoU	Government of Uganda
IFAD	International Fund for Agricultural Development
IFC-PS	International Finance Cooperation Performance Standards
KOPGA	Kalangala Oil Palm Growers Association
KOPGT	Kalangala Oil Palm Growers Trust
MAAIF	Ministry for Agriculture, Animal Industry and Fisheries
NAPE	National Association of Professional Environmentalists
NEMA	National Environment Management Authority
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OPUL	Oil Palm Uganda Limited
PRAI	Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources
UGX	Uganda Shilling
UIA	Uganda Investment Authority
USAID	U.S. Agency for International Development
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
VODP	Vegetable Oil Development Project

1. Introduction

The recent decade has seen a sharp increase in large-scale agricultural land investments in countries of the Global South, accompanied by a fierce debate whether such investments are for the benefits of the local population. Agricultural large-scale investments can potentially foster technology and knowledge transfer, create access to markets and capital and generate employment for rural communities to diversify their livelihoods. However, large-scale land acquisitions can negatively affect livelihoods, if local communities lose access to land and other natural resources without adequate compensation.

A number of international initiatives have emerged to stipulate responsible large-scale investment in land and agriculture in Developing Countries (AfDB, 2014; CFS, 2014; FAO, 2010, 2012). In 2012, the Committee on World Food Security endorsed the “*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*” (VGGT) complemented by “*Principles for Responsible Investment in Agriculture and Food Systems*” (CFS-RAI) in 2014. The VGGT address multiple stakeholders such as national governments, CSOs, international organizations and investors. Consequently, investors face the challenge to operationalize and implement these rather broadly defined safeguards in very specific contexts. More recently, international organizations and donors have therefore published practical guides as support for investors. These documents outline which specific activities are required throughout an investment to assure compliance with the VGGT and CFS-RAI (AFD, 2014; FAO, 2015; New Alliance, 2015; USAID, 2015). The conceptualization of investments in three phases and corresponding exemplary activities are illustrated in Figure 1.

The underlying assumption of these safeguards is that investors face numerous risks related to land disputes due to informal¹, contested or overlapping property and land use rights. These include besides the direct costs of land disputes (e.g. disturbance of operations, litigation) also the risks for reputational losses. This could in turn create challenges for financing or marketing of the final product. Investors are hence assumed to have intrinsic motivations to responsibly acquire agricultural land to mitigate these risks.

This report draws on two case studies of large-scale agricultural land investments in Uganda (see Table 1). One investment has been initiated prior to the emergence of international safeguards such as the VGGT. The Oil Palm Uganda Limited (OPUL) started operations in 2002. According to the Uganda Investment Authority (UIA), this investment is among the first large-scale agricultural investments in Uganda. With respect to this investment the study sets out to answer whether mature investments are aware of voluntary guidelines and if they apply them ex-post. Due to on-going land

¹ Informal property and use rights comprise besides customary tenure rights also legally not recognized use rights for land, for which ownership may or may not be statutory.

disputes, this study also explores to what extent prevailing land disputes are related to the land acquisition practices and whether international safeguards address the underlying drivers of these conflicts.

This case study is contrasted with a recent investment by Amatheon Agri Uganda Limited (in the following referred to as Amatheon). The company was registered in late 2013 and acquired first land leaseholds in Uganda in 2014. This case study focuses on how voluntary safeguards are operationalized by this investor and whether the resulting activities successfully mitigate risks of (land) disputes.



Figure 1: Investment Stages and Exemplary Activities Stipulated by the VGGT

Primary data was collected during a field mission in August 2016. Key informant interviews were conducted with the investors and other stakeholder such as community associations, the local government, CSOs, donors and national government agencies. Interview statements are cited according to Appendix A. The next chapter provides an overview of large-scale land investments in Uganda and summarizes the legal framework for land investments in the country. Chapter 3 provides an in-depth summary of the investments, their land acquisition process and on-going farming operations. Chapter 4 highlights key findings of the case studies. The study is concluded by a summary and recommendations in Chapter 5.

Table 1: Key Characteristics of Case Studies

Investment	Oil Palm Uganda Ltd.	Amatheon Agri Uganda Ltd.
<i>Investor</i>	BIDCO Ltd. (Kenya), Wilma International (Singapore), Kalangala Oil Palm Growers Trust (Uganda)	Amatheon Agri Holding N.V. (Germany)
<i>Year of Investment</i>	2003	2013
<i>Acquired Land</i>	8,000 ha	7,500 ha
<i>Land Under Cultivation</i>	6,500 ha	3,000 ha
<i>Type of Land Acquisition</i>	Lease from government agency	Lease/ Sub-lease from private individuals
<i>Former Type of Land Tenure</i>	Freehold, Mailo	Leasehold
<i>Government Agency Involved in Process of Land Acquisition</i>	Vegetable Oil Development Program (Ministry of Agriculture, Animal Industry and Fisheries)	District Authorities and Village Leaders
<i>Crops</i>	Oil Palm	Maize, Rice, Soy Beans
<i>Consolidated Farm</i>	No	No
<i>Out-Grower Scheme</i>	Yes (4,700 ha)	Yes (as buying scheme, no contracts)
<i>Smallholder Training</i>	Yes	Yes
<i>Employment</i>	1,500 employees (office staff and field workers) 1,600 out-growers	170 permanently 100 – 300 casual workers

2. Large-Scale Land Investments in Uganda

2.1. Taking Stock of Land Investments in Uganda

Reliable and comprehensive data on large-scale land acquisitions is hardly available on a global scale and in particular for Uganda. Land Matrix (2016), a database that collects global data on land-based investments, lists 6 national and 20 international investors with intended or concluded land deals since 2000. Currently, 22 investors are listed to have entered contractual agreements covering in total 189,441 ha. Approximately half of the area (90,000 ha) is earmarked for a private conservation project, while the remaining land is reported to be used for agriculture and forestry. Out of the 22 investors 15 are listed as in operation, four investments have not commenced yet, while one remaining investment is setting up operations. Data on two investments is not available. The number of large-scale land acquisitions and total contracted area by year is illustrated in Figure 2. Overall the two presented case studies comprise a total area of 13,030 ha², which represents 13% of the total agricultural investment area listed on Land Matrix.

² According to the Land matrix the investments cover 7,000 ha (OPUL) and 6,030 ha (Amatheon).

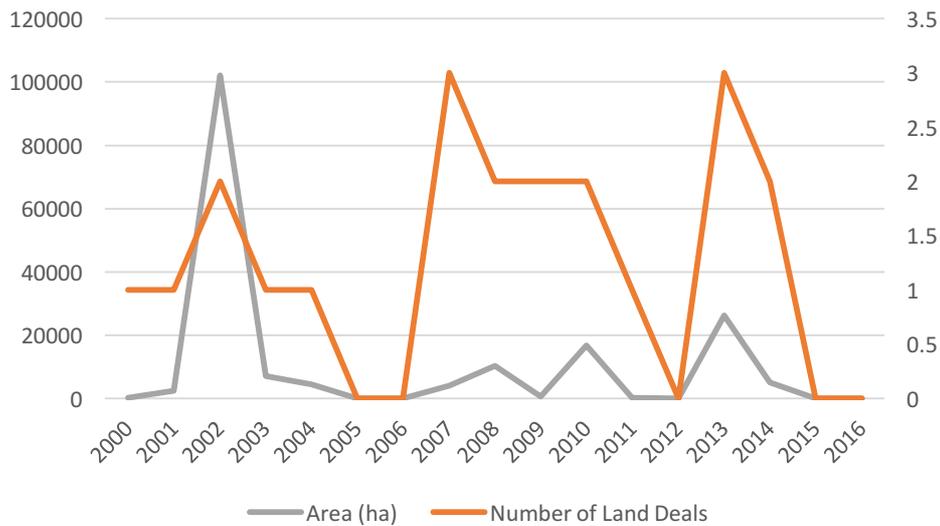


Figure 2: Number and Area of Large-Scale Land Acquisitions in Uganda 2000 -2016 (Source: Land Matrix 2016)

2.2. Historical Overview on Land Tenure in Uganda

The contemporary legal and institutional framework as well as geographical patterns of land ownership and tenure systems in Uganda have been heavily influenced by the country’s history. The introduction of individualized land ownership through the European colonialists marks a fundamental shift within the land relation system, which was mostly based on communal structures of ownership previously. The 1975 Land Reform Decree under Idi Amin further exacerbated the tensions by nationalizing all land and reducing the protection of tenants by law. Nevertheless, former tenure structures continuously coexist, resulting in a duality of formal and informal property rights systems and thus multilayered conflicts over the land between owners and occupants (MLHU, 2013). The enactment of the 1995 Constitution can be considered as the first endeavor to comprehensively reform the land legislation in Uganda by decreasing the central governments control over the land and strengthening the rights of the tenants. Article 237 of the Constitution declares that “Land in Uganda belongs to the citizens of Uganda and it shall vest in them” in accordance with different types of land tenure systems (RoU, 1995 Art. 237). Five years later, the 1998 Land Act came into force to clarify further terms of tenure rights and to cover several former gaps in the law (MLHU, 2013). The current legal framework recognizes customary, freehold, Mailo and leasehold tenure, which differ in terms of rights over land use and ownership. Major laws and policies affecting land governance in Uganda comprise the 1995 Constitution, the 1998 Land Act, the 2010 Land Amendment Act and the 2013 Uganda National Land Policy.

2.3. Land Tenure Systems in Uganda

Customary tenure provides “for communal ownership and use of land” and “is owned in perpetuity” either by individuals, households or communities in specific areas (RoU, 1998 Art. 4), The majority of Ugandan citizens hold land under customary tenure, which covers more than two-thirds of all land in Uganda, mostly in the northern and eastern regions (Stickler, 2012, p. 4). Land ownership and use under customary tenure is regulated by local rules and traditions if they do not violate the rights of vulnerable groups. Due to the diversity of Uganda’s ethnic groups, huge varieties exist between customary tenure systems (USAID, 2010, p. 5). To prove rightful claims over land, holders of customary land can acquire customary titles of ownership from the local land administration authorities. Those titles authorize the rightful owner to develop, sell, lease and subdivide the land. Nonetheless, customary tenure is often treated as inferior to other forms of registered property rights in practice (MLHU, 2013; Stickler, 2012) Furthermore, many land owners do not apply for titles due to limited awareness, lack of capital or weak capacities of the appropriate authorities (MLHU, 2013).

Freehold tenure enables the owner to hold “registered land in perpetuity or for a period [...] which may be fixed by a condition” (RoU, 1998). About 18 % of land in Uganda is under freehold (Stickler, 2012, p. 4; USAID, 2010, p. 5). The holder is provided with full powers of ownership of land. This includes utilization and development of the land as well as any transaction in connection with the land, including sale, lease and pledge. Considering the national land policy, freehold is regarded as most favored tenure type (MLHU, 2013, p. 19; Stickler, 2012, p. 4).

Mailo tenure is a customary form of freehold tenure which is mostly found in Central and Western Uganda and was formalized under colonial rule. It involves the holding of registered land in perpetuity and permits the separation of ownership of land from the right of utilization by legally recognized occupants. De jure the holder of a Mailo title is authorized to exercise all the powers of ownership such as selling and leasing the land. However, the owner must take the customary and statutory rights of the legally recognized occupants and their successors into account. As a result, any decision in regard to land management requires the consultation and consent of both parties. The Constitution differentiates between lawful and bona fide occupants (also known as Kibanja) and upholds their security of occupancy (RoU, 1995 Art. 237(8)). According to the Land Act a lawful occupant is (1) a person occupying land by virtue of repealed former land laws from the colonial times, (2) a person who entered the land with the consent of the registered owner or (3) a person who had occupied land as a customary tenant but whose tenancy was not acknowledged by the registered owner while acquiring a leasehold title. A bona fide occupant is a person who before coming into force of the Constitution occupied and utilized any land unchallenged by the registered owner since 1983. Persons who occupied land after that date are not protected by the law as well as illegal tenants, trespassers, licensees, lessees and people renting agricultural land or premises. The law obliges those to contact the registered land owner to negotiate further condition of occupancy (RoU, 1998). In practice the

relationship between land owner and occupant creates major conflict potential due to overlapping rights and interests on the same piece of land.

Leasehold tenure can be created by contract between a landlord and a tenant. Therefore, the lessee is granted with exclusive possession of land usually in exchange for payment of rent or specific conditions subject to the terms and conditions of the lease (RoU, 1998; USAID, 2010). Any registered owner of customary, Mailo or freehold land is authorized to lease land to somebody else for a period of 99 years.

2.4. Land Acquisition by Foreign Investors

Foreign investors are not allowed to hold land under customary, Mailo or freehold tenure in Uganda, but can acquire leaseholds for periods of up to 99 years (RoU, 1998 Art. 41). According to the 1998 Land Act a non-citizen can be either a person who is not a citizen of Uganda or a corporate body in which the controlling interest lies with non-citizens (RoU, 1998). Considering the national legal framework, foreign investors can acquire leasehold titles for agricultural investment through two different procedures. One option is to acquire land through direct negotiation with private land owners facilitated by a governmental authority while the other one is to acquire government land held by various government agencies (Stickler, 2012, p. 10). In both cases an investor first has to register and apply for an investment license which is issued by the Ugandan Investment Authority (UIA) (RoU, 1991 Art. 11).

If an investor acquires land from a private individual, the transaction has to be based on a willing buyer/ willing seller principle (RoU, 1998). Furthermore, rightful transactions of land requires the consent of all tenants household members, who depend on the particular piece of land (RoU, 1998 Art. 40). Especially leases on Mailo land are difficult to negotiate for investors due to the legal security of lawful and bona fide occupants. Therefore, the holder of Mailo land needs the consent of the legal occupants to lease the land. After the compensation of all legal occupants and a lawful agreement with the owner, the investor is authorized to apply for a transfer of the lease. Nevertheless, there is no clear legal regulation on compensation where investors acquire land directly from private individuals (Stickler, 2012, p. 12). Due to unclear land claims and difficult relationships between owners and tenants, investors often refuse to acquire land through direct negotiation.

An investor can also lease land held by a government agency, which is authorized to hold land on behalf of the citizens of Uganda. This also includes the UIA, which is legally empowered to acquire and hold property and thus to facilitate investor access to land through the 1991 Investment Code Act. Nevertheless, the Act does not provide any specific regulations for the process of land allocation and acquisition for agricultural investment through the UIA. In case a foreign investor expresses interest to acquire land for agricultural production, UIA identifies suitable land for the investment in cooperation with other appropriate institutions such as the Uganda Land Commission, District Land Boards or the

Ministry of Agriculture. Following this, the UIA supports the investor to acquire a leasehold for land, which is held under a governmental agency. As a part of the leasehold agreement an investigation is required to identify any occupants on the land to compensate or resettle them. In addition to this procedure the UIA also can acquire land by itself directly from individuals, communities and others to hold it for any interested investor. The purchase has to be based on the willing buyer/ willing seller principle because the Constitution prohibits compulsorily deprivation of property except it is in public interest (RoU, 1995 Art. 26(2a)). Furthermore, the transferred land has to be free of unlawful occupants, properly titled and free of conflict (RoU, 1965 Art. 42(7)). If the land is occupied the UIA identifies tenants qualified to receive compensation together with local authorities. The amount of compensation is based on a fair market valuation of affected crops and other property such as houses or other constructions (RoU, 1998; Stickler, 2012). Tenants will receive compensation for their crops and improvements on the land in addition of a disturbance allowance of 30 % of the value of the compensation. The amount of compensation is also influenced by the legal documentation of the rights of the tenant. Any decision regarding payment can be contested through a judicial procedure. According to the Land Acquisition Act the governmental authority shall pay compensation as soon as the time for any lodged appeals expires (RoU, 1965 Art. 6(4)). As a consequence, tenants are allowed to stay on their land until they receive compensation (RoU, 1998 Art. 42(7)).

2.5. Implementation of the Legal Framework

While the national legal framework recognizes various land ownership and use right categories, the actual position of land rights holders is severely compromised by the reality of land governance in Uganda. The Land Governance Assessment Framework³ (LGAF), developed by the World Bank and its partners, has been applied by the Uganda Land Alliance to assess the legal framework concerning land governance and its implementation status in Uganda. The assessment highlights three key issues that are relevant with respect to large-scale land acquisitions: a) lack of transparent land allocation and compensation procedures, b) low bargaining power of current land owners and b) inefficient dispute resolution mechanisms (Obaiko, 2014).

Transparency, especially the disclosure of information on land acquisitions, remains one of the major challenges in Uganda. Information on investments is not published due to a lack of regulation regarding the provisioning of information. It is difficult to analyze investment impacts because information requirements in the investor's business plans are insufficient and therefore appropriate authorities often cannot rely on comprehensive and consolidated information on spatial extent and duration of leases. The majority of contractual arrangements do not include information on benefit

³ LGAF “is a diagnostic tool for the evaluation of the legal framework, policies and practices regarding land and land use. The LGAF is based on a comprehensive review of available conceptual and empirical material regarding experience in land governance” (Obaiko, 2014, p. 6)

sharing. Furthermore, there is no clear regulatory framework for monitoring through independent third-parties and mechanisms to ensure compliance with safeguards do not exist (Obaiko, 2014, p. 154,163,164,167).

The deficient transparency also affects the bargaining power of land rights holders when it comes to compensation claims. According to LGAF there is no transparent process for the calculation of compensation rates and claimants depend on the ruling of the official government valuer. Challenges also exist with compensation of unregistered common rights such as grazing access or harvesting of forest products because there are no procedures to identify rightful resource users. Between 50 to 70% of expropriated land owners receive some type of compensation within one year. But access to independent, affordable and timely dispute resolution remains a challenge for those not receiving any or insufficient compensation (Obaiko, 2014, p. 132).

The bargaining power of land rights holders is further compromised by a lack of up-to-date and harmonized land registry/ cadaster systems. According to LGAF, less than 50% of ownership information in the registries reflect ground realities (Obaiko, 2014, p. 174). At the same time, procedures for registering land titles and customary certificates of ownership do not include any safeguards to prevent abuse. In addition, survey costs constitute a major obstacle for rural households to formally register their land (Obaiko, 2014, p. 167). Less than 10% of communal land has been demarcated and surveyed (Obaiko, 2014, p. 69) and less than 50% of individual land in rural areas has been formally registered (Obaiko, 2014, p. 58).

The situation of current land rights holders is further undermined by limited access to effective dispute resolution mechanisms. Roughly half of communities have access to formal, first-instance dispute resolution, while informal institutions may take over similar functions in other communities. Such informal (customary) dispute resolution is recognized by statutory law. But multiple dispute resolution mechanisms (including both statutory and customary), in which land related disputes can be pursued in parallel without a comprehensive information exchange, also contribute to the backlog of unresolved cases (Obaiko, 2014, p. 184).

According to LGAF more than the half of the overall cases in the formal court system are land related disputes, while the share of long-standing land conflicts is greater than 20 % of the total pending land related court cases. Despite this, a first-instance ruling is reached for more than 90% of land related court cases within six months (Obaiko, 2014, p. 192). The process to appeal ruling on land cases however is expensive and time consuming, especially to the disadvantage of the rural poor (Obaiko, 2014, p. 184).

3. Case Studies

3.1. Oil Palm Uganda Limited

Background

Oil Palm Uganda Limited (OPUL) was established in 2003 as Private-Public Partnership under the Vegetable Oil Development Project (VODP) of the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF). The project was initially funded by IFAD and supervised by the World Bank. The latter organization terminated its involvement in 2004 due to concerns that the project does not comply with internal forestry guidelines (IFAD, 2011). The Government of Uganda (GoU) conducted an international tender in 1997 for a nucleus oil palm plantation, combined with an outgrower scheme. BIDCO, a Kenyan vegetable oil company, eventually won the tender and partnered with Wilmar International, a Singapore-based oil palm company. The GoU holds a share of 10% in OPUL. The origins of the VODP go back to 1972, when the GoU started to setup oil palm research trials in four places in the country (I20). Bugala Island in Lake Victoria (Kalangala District) was identified as suitable places for oil palm production and the GoU committed to provide 6,500 ha for the nucleus estate. Already during the tender, it was envisaged to have an additional 3,500 ha of oil palm plantation cultivated by smallholders. (I3, I4, I6) The agreement with BIDCO included an expansion of oil palm production to the mainland in the second phase of development, under which GOU would provide 20,000 ha of land for a nucleus estates and facilitate development of 10,000 ha under a smallholder out-grower scheme. The development on the mainland has been hampered by challenges associated with land availability (see below). (I20)

Currently, the nucleus estate covers 6,500 ha in non-consolidated farm areas on the island, with an additional of 4,700 ha of smallholder estates (I4). Crude palm oil is produced by two mills on the island and then shipped to an oil refinery in Jinja on the mainland, which has been established by BIDCO (I4).

Land Acquisition

Bugala Island covers an area of 29,600 ha (I20). Back in the 1930s large parts of the island's population were evacuated due to a Tsetse Fly epidemic. As a result, the island is relatively sparsely populated (I4, I6). While 3,800 ha of the island were public land, other areas were gazetted as forest reserves (6,400 ha) and the remaining areas were under Mailo tenure. Both public and Mailo land has however been settled by tenants and occupants, both legally recognized and not. In some cases, the formal Mailo owners were not living on the island, being unaware whether their land is occupied by local households. (I3, I6)

In line with the agreement, the GoU was responsible to provide 6,500 ha free of any encumbrances to OPUL in the form of leasehold (I3, I4, I6). In the early 2000s, the GoU therefore established a task force comprising several ministries and the local government. Land acquisition between 2000 and 2003 was mainly informed by the Ugandan laws, recognizing the willing buyer/ willing seller principle. (I3) Overall, the GoU negotiated with 40 individual land owners and acquired in addition to the 3,000 ha public land an area of 5,500 ha of Mailo land (MAAIF, 2015). Two reasons required to purchase in total 8,500 ha: First, the National Environment Management Authority (NEMA) required to maintain a 200-meter buffer zone on the shoreline (IFAD, 2011). Second, roughly 1,000 ha were acquired but remained with communities to avoid potential disputes on heavily populated and economically used Mailo Land. (I3, I19) According to OPUL, the company required that land is free of any disputes (I4) and adopted the principle that only land without economic activities is developed for the palm oil plantation (I19).

Due to the unclear status of occupants and overlapping land claims several land disputes emerged after acquisition through the GoU. According to the local government, some sellers realized that land prices significantly increased after the investment, creating the perception that they have struck a bad bargain (I6). National CSOs such as National Association of Professional Environmentalists (NAPE) and Friends of the Earth have been involved in advocacy work for the allegedly displaced occupants. In particular, conflicts between (former) land occupants and OPUL evolve around one land parcel (I3, I20). This 134 ha plot was Mailo Land and occupied by tenants. According to VODP, this plot was the only area where tenants have been compensated and relocated. Here, the landlord was responsible for the negotiation and compensation process (I20, cf Wilmar, 2015). An area of 25 ha on this plot is now under dispute (MAAIF, 2015) One tenant refused compensation and allegedly demanded 200 million UGX for compensation (52,800 € as of September 2016) (I6, I19). According to VODP, three other households have received compensation, but now claim that the amount was not sufficient (I20). In 2015, several households have taken their case to court, which is still pending.

In 2016, Friends of the Earth and NAPE have filed a complaint with the Social and Environmental Compliance Unit of the United Nations Development Program (UNDP). BIDCO Africa has been a member of the UNDP's Business Call to Action Alliance since 2015. The global advocacy platform aims to foster inclusive, pro-poor business models and accepted BIDCO Africa as member for its value chain initiative in Kenya. The complaint in particular accuses the UNDP to willfully ignore or have conducted insufficient due diligence concerning BIDCO's activities in Uganda. (UNDP, 2016) The Ugandan investment of BIDCO is accused of adverse environmental impacts (deforestation, water pollution), precarious labor standards (low employment from local communities), forced displacement and negative effects on food security. Accordingly, the investment has destroyed 3,600 ha of forest, formerly important for the livelihoods of local communities. It is stated that 90 people have lost access to their land without compensation. (FOE, 2016) While the investigation explicitly does not focus whether BIDCO has violated human rights, the draft report raises considerable concerns whether

resettlement of land occupants was voluntary and whether adequate compensation has been paid. Accordingly, the GoU predominantly negotiated with formally recognized land owners and left compensation of land occupants to the sellers. While some of the existing land and compensation claims may be rightful, other stakeholders perceive the existing claims of former land occupants as unsubstantiated (UNDP, 2016).

According to OPUL, the allegations of land-grabbing and environmental destruction have had no major impact on the operations. Since OPUL has acquired the leasehold directly from GoU, they see all responsibilities for land acquisition vested within the GoU. (I4) Both VODP and UIA stated that the land acquisition was in line with national laws and claims are unsubstantiated (I3, I16). Conflicting views arise however from the VODP, stating that the disputes have delayed the project expansion to other islands and generally discourage foreign investment in Uganda (I3).

Outgrower Model

The initial agreement between BIDCO and the GoU specified that an area of 3,500 ha is cultivated by smallholder farmers (I3). Currently, there are roughly 1,800 outgrowers cultivating a total of 4,700 ha (I4, I5, I19). The initial outgrower concept intended that farmers cultivate on average one hectare, which has now increased to three to four hectares per farmer (I5).

The Kalangala Oil Palm Growers Trust (KOPGT) has been established in 2005 as agency with support from the MAAIF to facilitate the outgrower model. KOPGT has received funds from the GoU, financed by an IFAD loan, to finance the establishment of smallholder farms. Individual smallholders enter a contractual agreement with KOPGT that provides seedlings and inputs as credit (with 10% interest p.a.) for the initial development of oil palms. OPUL on the other hand is providing seedlings and inputs (fertilizer) to KOPGT, assuring that smallholders receive the same inputs as the nucleus estate. The planted palm seedlings carry a first harvest after four to five years. After this period, individual farmers sell their produce via KOPGT, who also organize the transport to OPUL. Payments are channeled from OPUL through KOPGT to the individual farmers. KOPGT beforehand deducts 33% of the income for payback of the loan plus a fixed fee for transportation. OPUL consequently only deals with KOPGT, outsourcing the risk of credit default to KOPGT. On average, development costs are substantive with 7 million UGX/ac (1850 €) and farmers require on average six years to pay back their loans. In case farmers fail to repay the loan, KOPGT has the prerogative to take over the land and cultivate it until the loan has been repaid, before returning the plot to the farmer. Nevertheless, income opportunities for outgrowers are substantial with an average monthly income of 300,000 UGX/ac (78€) and costs of roughly 100,000 UGX/ac (26€)⁴. (I5)

⁴ According to the Uganda National Household Survey 2012/13 the average household income for rural Uganda was 163,000 UGX per month in 2013/13 (UBOS, 2014).

Smallholder farmers are not only obliged to sell to OPUL, but due to the remote location on an island, there are no viable alternatives for marketing of the oil palm seeds. The price paid to smallholders is determined by a pricing formula that is predominantly based on world market prices. Due to the import price parity model provided by the World Bank, the prices are however according to OPUL above market prices in Africa and other parts of the world (I19). A pricing committee consisting of farmer's representatives, OPUL and government representatives is overseeing the process. Some outgrowers continuously raised concerns about the pricing mechanism and explored alternative selling options, but realized that the market for oil palm fruits in Uganda is limited. (I5)

Smallholder farmers without ownership of land furthermore face land related challenges. First, property prices have sharply increased from 100,000 UGX/ac (26€) to 3 million UGX/ac (793€) since the investment came in (I3, I5, I6). Local community members with limited access to land are hence unlikely to directly benefit from the outgrower scheme. Second, Mailo land owners have started to collect a rent from traditional tenants accounting for 5 to 10% of the income from oil palms. This contrasts the past practice that tenants provide only symbolic rents to Mailo land owners. (I5)

Farming Operations

In total, 1,500 workers are employed on the nucleus estate. Initially, only 5% of workers were recruited from the island, but the share has been gradually increased to 20%. While most of the workers have a one-year contract, the payment for harvesting palm fruits is based on a piece rate. In the last three years, the annual wages were negotiated with a trade union. (I4)

Formalized forums for interactions or grievance mechanisms for local communities do not exist⁵. Monthly meetings with the Kalangala Oil Palm Growers Association (KOPGA) and KOPGT are conducted to address issues related to the outgrower scheme. During these meetings bloc leaders, elected by smallholders, report to OPUL. Meetings with the local district government are conducted need-specific and ad-hoc. (I4)

OPUL has not created any local capacities to address issues related to the environmental and socio-economic impact of the investment. Wilmar International has a sustainability department based in Singapore, which guides and coordinates the local management (I19). According to OPUL more than 1 billion UGX (264,000€) has been spent on CSR activities that involve financing a public clinic, support of schools and construction of infrastructure (roads, waterpoints). (I4)

Even though the GoU and OPUL stated that three EIAs (two by IFAD and the World Bank) have been conducted before the investment with public hearings in Kalangala and Kampala (I3, I4, I6, I19), public information regarding environmental monitoring and management plans is limited. (I2) In

⁵ According to OPUL the company has however a grievance management policy that assures that issues relating to the environmental and socio-economic impact of the project can be addressed to the company (I19).

2007, three environmental groups filed a civil suit against OPUL, BIDCO Uganda and the National Forestry Authority, alleging BIDCO to have coerced the Government through the National Forestry Authority to de-gazette forest reserves on Bugala Island for the growing of oil palms. In the judgment from September 2016 the High Court of Uganda ruled that no forest reserves have been de-gazetted as a result of the plantation and that the land leased to OPUL has not been de-gazetted forest reserves (RoU, 2016).

Expansion to Buvuma Island

According to OPUL and VODP, the second phase of the project includes an extension of the model to Buvuma Island. The VODP is currently in the stage of land acquisition and has adapted their approach based on the experiences. While the willing buyer/ willing seller principle is followed as in the case of Bugala Island, a comprehensive, participatory stakeholder mapping is carried out, covering all land occupants prior to land acquisition. Before the land acquisition both owner and occupants must agree on the acquisition by the GoU. Besides the actual land size, permanent structures are listed and valued. Based on a valuation of properties at mainland rates, land owners receive 60% of the land value, whereas bona fide occupants receive the remaining 40%. Occupants both recognized by law and not are receiving in addition a compensation for structures and crops plus a 30% disturbance allowance. (I3)

Overall, VODP seems to be committed to learn from the past experiences and restructures the land acquisition process. Nevertheless, voluntary safeguards such as the VGGT or CFS-RAI are not systematically implemented. Instead, stakeholders perceive the national regulatory and legal framework as sufficient to assure responsible land acquisition (I3). In contrast, the UIA - that is continuing to acquire land for foreign agricultural investments - indicated no knowledge of either the VGGT or CFS-RAI. From their perspective, past land disputes are caused by individuals who want to maximize their benefits through false claims, instead of unclear or contested land rights that were not recognized in past land acquisitions (I16).

3.2. Amatheon-Agri Uganda Limited

Amatheon Agri Holding is a Germany-based investor that started farming operations in Zambia in 2012. In December 2013, Amatheon-Agri Uganda Limited (Amatheon) was incorporated under Ugandan Law as a local subsidiary. Due diligence for the Ugandan investment started in the beginning of 2013. Uganda was considered specifically interesting due to the bi-modal precipitation patterns; hence the possibility to have two season rain fed agriculture and a favorable environment for business (due to language and policy framework). (I10)

As of 2016, a total area of 3,000 ha is cultivated with maize, upland rice and soy beans. (I10) In total, Amatheon acquired an area of 7,500 ha. (I18)

Awareness and Application of Voluntary Safeguards

International safeguards with respect to responsible agricultural investment in land are considered and applied at two distinct operational levels of Amatheon. The Germany-based holding is aware of several international safeguards and guidelines such as the VGGT, PRAI, CFS-RAI and the IFC-PS and regularly engages in policy dialogues and events. In 2016, the World Bank has for example visited the Ugandan investment to conduct a best practice study on the application of the PRAI. Whereas on the ground in Uganda the IFC Performance Standards (IFC-PS) play the most important role, the German holding is incorporating the remaining safeguards within their general strategy and operations, which are then subsequently implemented by Amatheon Uganda. (I18)

During an interview with the sustainability department of Amatheon Agri Holding, two issues with respect to the implementation of safeguards have been raised. First, the company does not strictly implement any safeguards in a checklist manner. Due to the rather broad and general nature of the documents (in particular the VGGT), they understand the safeguards as a sensitization, which issues are to be incorporated in their general strategy and operations. Second, the existing safeguards are perceived as mostly detached from the issues relevant for investors, providing limited benefits for due diligence. From their perspective most investors want to derive clear recommendation when to stop investments (such as provided by New Alliance, 2015), rather than outlining general principles or stipulating positive impacts. Amatheon considers themselves as one of the few investors that has a broader interest in the global debate concerning large-scale land investments. While participation in policy events may create several indirect benefits, they also provide opportunities to explore options for public private partnerships. Moreover, Amatheon perceives their commitment to achieve a positive impact on the local level as a unique feature that provides a strategic advantage over competitors. (I18)

Due Diligence and Land Acquisition Process

In contrast to OPUL, Amatheon followed a bottom-up process of acquiring land. Initially, land owners with sufficiently large areas were identified with the support of local brokers. Surrounding communities, elders and elected officials at the local level (village and parish) were then involved to verify rightful ownership, which could be either formalized through leasehold titles or not. During this step, all occupants were identified, their land was mapped and assets were listed. At the sub-county level, area land committees then verified informal claims of the land. Finally, at the district and national level, formal land ownership was validated. Village representatives were furthermore involved in any land transaction as witnesses. Selling prices and leasing rates were negotiated with owners considering the local land market. (I10)

The area of the investment is in contrast to most areas in northern Uganda not entirely under customary tenure, but was a former game reserve that was de-gazetted in the 1970s. Since then, the area has been converted back to customary tenure, but some individual landholders acquired leasehold

titles. Due to the civil conflict in Northern Uganda, titling processes came to a halt between 1986 and 2010, resulting in some owners not finalizing the process. (I8, I9, I10) In case owners have gone through the titling and acquired leaseholds, Amatheon is sub-leasing the land until the leasehold expires (but for a minimum period of 15 years). In other cases, Amatheon acquired the land from the legitimate, yet not formally recognized land owners and applied for leasehold directly. (I10) Out of 12 individual properties that are currently leased by Amatheon, seven farms are sub-leased and five farms were acquired from formally not recognized land owners and leaseholds have been attained from the GoU (I18).

In case occupants either lawful or illegal were found on the land under consideration, Amatheon only acquired rights for the unoccupied areas. Hence, a major potential source of land conflicts due to overlapping or contested ownership was mitigated from the beginning. At the same time, Amatheon did not acquire all areas held by individuals to allow them to continue with agricultural activities. (I10) If the local stakeholder consultation indicated major disputes over the land area, Amatheon refrained from any further negotiations (I10, I11). These conditions set by Amatheon resulted in a number of negotiations to be stopped. Furthermore, it was not possible to acquire a consolidated farm block. In total, 12 individual properties were acquired, which are clustered in three areas with distances of up to 48km between them. (I10)

According to Amatheon land occupants of two acquired farm blocks have been relocated during the land acquisition process. In one case, family members that sold part of their leasehold to Amatheon requested to move to a fertile, uncultivated part of their land and sell their old fields to Amatheon. Due to the Amatheon's policy that every adult family member must give consent for land transactions, the relocation was part of the initial negotiations. Amatheon has compensated them for the relocation and opened up new fields for them. In another case a caretaker of a property was relocated and compensated by Amatheon even though the former land owner did not require this. (I10) The course of these events has not been verified with the relocated individuals, but community members and district officials did not raise any issues regarding those relocations during interviews (I9, I11, I13, I14).

In general, interviews with local communities and district government officials confirmed the bottom-up nature of the land acquisition process and no particular land disputes surrounding the investment have been raised to the research team (I9, I11, I13, I14). This underlines that the bottom-up land acquisition approach has – to our best knowledge - successfully mitigated risks for Amatheon, especially compared to the former case study. Even though the VGGT did not explicitly inform the land acquisition process, the procedures can be considered ex-post compliant with the VGGT.

Environmental and Social Impact Assessment

Environmental and Social Impact Assessments (ESIA) were further parts of the due diligence process of Amatheon. Due to acquiring twelve individual farm units, the investor was required to conduct 12 individual ESIA, which have been approved by NEMA as of September 2016. (I10) In particular, NEMA required Amatheon to develop an environmental management and monitoring plan and maintain buffer zones along water streams and rivers. Water and soil quality is sampled on a quarterly and biannual basis respectively. (I10)

Even though conducting EIAs is compulsory for any investor, district officials highlighted that Amatheon is one of the few companies conducting the EIA and complying with NEMA requirements. The weak presence of NEMA at the district level does not push investors to conduct or comply with EIA. (I9, I14).

Community Outreach

Due to the participatory land acquisition process, surrounding communities were early aware of Amatheon and their investment plans. Before starting operations, separate meetings were conducted for each plot to sensitize communities about the developments. Currently, there are fire sensitization meetings before each maturing season, highlighting the risk for Amatheon of bushfires. (I10) As a result of these meetings, Amatheon also receives warnings from community members about bush fires that threaten their crops (I18). Further meetings with communities and local leaders are conducted need-specific and ad-hoc. (I10, I14)

Amatheon established a community committee in 2015 that consists of ten elected community representatives, the Amatheon sustainability manager and district officials (i.e. Community Development Officer, District Environmental Officer). During quarterly meetings, the committee acts as two-way communication channel between communities and Amatheon. (I10, I11) Despite Amatheon providing a transport allowance for participation in the quarterly meetings, the day-to-day voluntary work and outreach of the community representatives is however strongly limited by funding challenges for transport and communication (I11). This issue highlights a fundamental dilemma for investors that face limited local capacities for monitoring investors. Even though Amatheon could pay a salary to community representatives, this would most likely compromise the integrity of the elected representatives.

While the committee has successfully resolved community concerns regarding pesticide spraying during high winds, other pertinent issues are more difficult to address. Surrounding communities are concerned that run-off from fields contaminates water sources. While the community representatives are aware of regular water quality monitoring, the issue remains debated within communities. On the other hand, the representatives continuously raise expectation of communities regarding agricultural support and construction of infrastructure (boreholes, roads) that can only be gradually addressed by

Amatheon. Especially in the beginning local communities had expectations regarding input provisioning and tractor services for the outgrower scheme that have not yet materialized. (I10, I11) According to Amatheon Holding similar experiences are made in other countries, whereby the company is confronted with often unreasonable high expectations from local communities (I18).

During meetings with surrounding households and the committee members a general good relation between Amatheon and surrounding communities was confirmed. In contrast to other investors in the area Amatheon is perceived to interact with local stakeholders, implement CSR programs (for support of schools, roads and health), allows access to farm areas and provides training for smallholders. (I11, I13)

Smallholder Program

Currently, Amatheon has implemented a trading scheme through which local small and medium-scale farmers can sell their produce to eleven dedicated depots in the area. The model does not imply any contractual agreement between smallholder farmers and Amatheon, but instead Amatheon buys harvest for a variable market price depending on moisture content and thus the grain's quality. At the moment, Amatheon does not provide any inputs on credit or for cash payments. Overall, 1,500 farmers are organized in numerous farmer groups comprising 25 - 50 people each. These groups have been initiated by Amatheon and are led by 61 Lead Farmers who deliver basic training in agricultural practices and farming as a business. Only a fraction of 90 farmers are considered semi-professional with areas of more than seven acres. Among them, ten farmers cultivate areas larger than 100 acres. With the support of the Agricultural Business Initiative Trust (ABI Trust), Amatheon established 52 demo plots for rice cultivation to demonstrate the benefits of high input agriculture. These plots are maintained by farmer coordinators who are smallholder themselves but receive an additional incentive from Amatheon. Recently, Amatheon has initiated partnership with the NGO ZOA to increase their outreach in terms of training activities and market linkages. (I10) Despite the dedicated activities to support smallholders in the surroundings, the agricultural department at the district level indicated low awareness about these activities, resulting from limited interactions. (I12)

During meetings with the community committee and smallholder farmers, limited knowledge regarding the prices at the depots was raised. However, it is acknowledged that Amatheon pays higher prices than middlemen. Amatheon has thus increased local prices and hence positively affected marketing of products for local farmers. (I11, I13)

Employment

The farm employs besides 107 permanent staff between 100 - 300 casual workers for unskilled manual work such as maize removal, stacking, cleaning and weeding. While lower skilled staff can be recruited from surrounding communities, more qualified staff must be recruited at the regional or national level. For now, the permanent staff is not organized in any trade union. Each profession has

however appointed leaders who can forward grievances to the management and suggestion boxes have been established. (I10)

Target Market

The target market for the produce of Amatheon is mainly constrained to Uganda and East Africa. Most harvest is sold at the farm gate to middlemen or national millers, some of them exporting it to Rwanda and Kenya. Amatheon has furthermore won tenders of the World Food Program, which requires that at least 10% is produced by smallholder famers. (I10) Tapping into the local market for buying agricultural produce hence provides additional marketing opportunities for Amatheon.

4. Key Findings

4.1. Land Disputes and their Consequences

Out of the two presented case studies, OPUL faces continuing allegations that former occupants of the acquired land have been displaced and received none or inadequate compensation. These disputes have been in court for one year, creating direct costs for the investor. However, since OPUL is selling their produce directly to BIDCO, these allegations have not impacted their marketing. Investors who directly market their product in countries with strong civil societies and high consumer awareness are more likely to face higher financial risks due to land grabbing allegations. Consequently, those investors may have an interest in mitigating risks of land disputes and apply adequate safeguards. However, investors without linkages to those countries, either for financing or marketing, assumingly have lower motivations to adopt safeguards.

According to OPUL and the GoU (UIA and VODP) few individuals opposed both investments from the beginning. At the same time individuals who have allegedly received compensation have joined the spearheads of protests after realizing that land prices are ex-post higher than the compensation they received (I4, I6, I16). CSOs have now engaged in support of the former occupants. Irrespective of the legitimacy of these claims, investors and the GoU locate the underlying reasons for land disputes not in the informal land tenure system in Uganda. Instead, they disqualify any concerning claims as unsubstantiated. Individuals opposing relocation or compensation are commonly portrayed as agitators with selfish interests (I4, I6, I16). As a consequence, arbitration or mediation has not been successful or not been attempted. The current situation can be hence described as deadlock whereby both parties remain entrenched with their claims. Limited capacities in the judiciary result in long-term court cases, creating high costs for plaintiffs and investors.

At the same time investors in OPUL have been driven by the proposedly naive belief that they can outsource the land acquisition to the GoU, liberating themselves from responsibilities from the impact and outcome of land acquisitions. In the same manner, VODP and UIA have outsourced compensation

of land occupants to the former land owners. Considering the prevalence of incomplete contracts and institutional limitations for enforcement of contracts in developing countries, stakeholders such as investors and government agencies should realize that land disputes are likely to occur if part of the land acquisition is outsourced to third parties.

4.2. Monitoring of Land Investments

A fundamental question with respect to the potential implementation of international safeguards by investors is whether following safeguards does in fact mitigate risks for land disputes. Generally, land laws and policies in Uganda provide both tenants and occupants in theory with a minimum of rights with respect to land acquisition by third parties and compensation. However, even if investors followed the national laws and adequate compensation has been paid, this does not prevent former land owners or users to claim otherwise. Former owners or occupants may ex-post perceive the settlement as unfair, even when free, informed and prior consent was assured. Rising land prices due to the investment are likely to aggravate this issue (see Section 4.4). This highlights a major challenge related to the implementation of international safeguards such as the VGGT and CFS-RAI. Investors are assumed to have an interest in implementing these safeguards to mitigate financial and reputational risks related to land disputes. However, without accepted third parties that monitor the land acquisition and mediate in case of conflicts the risks for investors are not minimized, even if they presumably follow national legislation.

Given that certain government institutions such as the UIA and VODP are heavily involved in many land investments, they lack credibility to monitor land acquisitions. Vis-à-vis the national government that promotes agricultural investment in land, district governments feel to have insufficient leverage for monitoring, regulating and taxing land investments (I14). Limited institutional capacities, particularly at the district level, inhibit the monitoring of agricultural investments in operation. These challenges have emerged in the case of Amatheon. Even though Amatheon claims to monitor surface water quality of streams within and on the edges of their farms, community representatives are aware that the monitoring is not implemented by a neutral third party and consequently remain with doubts regarding the validity of the disclosed information. The local government and its representative of the Ministry of Environment lack capacities to monitor the impact independently and disseminate the information to surrounding communities. Even though NEMA is supposed to monitor and evaluate the environmental impact, these results are hardly accessible for local communities.

A key question consequently remains who can take over responsibilities for monitoring of land investments. First, clear and transparent mandates to monitor land investments during land acquisition and operations could be given to government institutions or agencies at the national, regional and district level. Second, these responsible institutions are likely to require both technical and financial

support that strengthen their capacities to effectively fulfill this mandate. Third, information and results of the monitoring could be made accessible for the public both at the local and national level. This may require different mechanisms such as information campaigns at the local level (e.g. through regular meetings/ events) or online platforms at the national scale.

4.3. Awareness and Implementation of VGGT and CFS-RAI

International safeguards such as VGGT have been established since 2012. Nevertheless, awareness among stakeholders remains at a low and basic level. OPUL is not aware of both the VGGT and CFS-RAI at the farm management level. Even though their investment has been initiated almost a decade before these safeguards have been published some measures can be implemented ex-post (e.g. grievance mechanisms, environmental and social impact monitoring). OPUL has also no dedicated staff in Uganda addressing responsible behavior and positive sustainable impact on local communities (I4).

Similarly, awareness of VGGT and CFS-RAI among GoU officials remains low. Neither interview partners at the UIA nor at the local district governments were aware of the existence and content of these safeguards (I16, I6, I9, I11). This is especially surprising since the UIA continues to acquire land for agricultural investments. In contrast, the VODP is following the international debate about responsible agricultural investment and has been informed about safeguards. However, both the VODP and UIA focus predominantly on national laws and their resulting legal obligations in the acquisition process (I3, I16). Despite land disputes in first phase of the VODP, UIA has not adapted major changes to its policies except increasing witnesses of local level elects during compensation (I16). Awareness that land disputes potentially have wider consequences for investors seem to be limited. On the other hand, VODP has now adapted their land acquisition for the second phase of the project based on their experience with OPUL (I3). To what extent these changes mitigate land dispute risks remains to be seen.

In contrast to the former investment, Amatheon is aware of both the VGGT and CFS-RAI and considers these safeguards in their general strategic and operational decisions. On the ground, the company has however predominantly focused on the IFC-PS as guiding principles. Their land acquisition process can be described as bottom-up and has led to overall good relations with surrounding communities thus minimizing risks for ex-post land disputes. However, this procedure creates significant costs for investors. During the land acquisition substantial effort and resources were put into due diligence that focused on consultation of surrounding communities and neighbors regarding land demarcation and claims. Despite this process Amatheon managed to acquire first areas within a relatively short time frame. The overall higher costs of this approach however are likely to materialize during operation. Due to their consultative approach, Amatheon acquired different land parcels within a larger area. As a consequence, Amatheon has 12 individuals plots, clustered in three

areas, which are located up to 48km from each other. Transportation cost, infrastructure (road linkages) and decentralized operations might outweigh the additional costs of their land acquisition in the long run. Depending on the specifics of the operations (e.g. crop, technology), investors may have different capabilities of adapting their production processes to these settings. Amatheon has for example created three distinctive farm clusters with decentralized operations, reducing the additional costs of a non-consolidated farm. It remains however questionable whether the majority of investors are interested in following this approach, especially if operations cannot be easily decentralized and adapted to a non-consolidated farm area.

4.4. Secondary Effects on Land Markets and Access

The direct land acquisition is often accompanied by secondary effects on land markets and values in the respective areas. Land prices commonly increase after investors acquire large areas. As a consequence, domestic investors either from the area or other regions of Uganda come in and try to acquire land for speculation or medium-scale commercial agriculture. This directly increases the prevalence of land disputes also within the community, as individuals try to secure claims on land.

Depending on the geographical location and the prevalence of other investors, it can be difficult to directly attribute such effects to individual investments. OPUL is located on an island of roughly 30,000 ha, of which currently more than one third is covered by either the nucleus plantation or smallholders. According to several estimates land prices significantly increased from 100,000 UGX/ac (26€) to 3 million UGX/ac (793€) throughout the investment phase (I3, I4, I5, I6). Between May 2015 and May 2016 land prices doubled from 1.5 to 3 million UGX/ac. These changes can be attributed to the investment and its indirect effect on the island's local economy.

Several large-scale investments have been realized prior and after Amatheon started land acquisition in Northern Uganda. The region has been heavily affected by the more than 20-year long civil conflict between the Lord Resistance Army and the GoU. Mass displacement has led to unclear and contested boundaries on customary land, now aggravated by large-scale land acquisitions in this region (I8). As such it remains unclear to what extent large-scale land acquisitions have further spurred land disputes, but increasing land prices indicate the growing "scramble for land" in this region (Serwajja, 2014). Land prices in Nwoya district increased from 150,000 UGX/ac (39€) in 2008 to 300,000 UGX/ac (79€) in January 2014 up to 1,000,000 UGX/ac (264€) in September 2014 (I9, I10, I14).

Current Donor Activities in Uganda

Currently, several donors implement activities to promote responsible agricultural investment in Uganda. In 2015, the FAO launched a national VGGT implementation workshop to support capacity development of key stakeholder in Uganda. Under this initiative, the FAO is also exploring how to support the distribution of certificates of customary ownership in Kasese district in western Uganda (GLTN, 2015). A pilot scheme will seek to provide security and access to land for the vulnerable poor and marginalized groups. The FAO and the UK's Department for International Development offer implementation and financial support to the pilot scheme while technical support comes from Ugandan academic institutions. A key component of the project involves establishing a digitalized records keeping and management system at the district level (MLHUD, 2016)

In addition to the previously mentioned LGAF, the World Bank is also funding several projects in the land sector such as the Uganda Sustainable Land Management Country Program. One of the program's objectives is to promote integration of smallholders in value chains by supporting collaboration between agribusiness, farmers, advisers and researchers to create viable, sustainable market and agribusiness linkages. Furthermore, the program aims to support an efficient execution of administration and the implementation of safeguard measures (World Bank, 2010).

Another donor activity is the USAID Supporting Access to Justice, Fostering Equity and Peace (SAFE) Project. The program targets several districts across Uganda aimed at strengthening the GoU's capacity with respect to peace building and mitigation of land conflicts. SAFE focuses on creating awareness of the land tenure and administration system enhancing the capacity of local actors and strengthening traditional dispute resolution mechanisms. The program operates through a grants scheme awarded to civil society organizations and other institutions to implement activities such as technical assistance, training and capacity building for local government structures, district land boards and area land committees (USAID, 2014).

In 2016, the German Agency for International Cooperation (GIZ) launched its global project Responsible Land Governance in Uganda, which is funded by the Special Initiative "One World no Hunger" from the German Federal Ministry for Economic Cooperation and Development. The project aims to secure access to land through enhancement of institutional frameworks and procedures. Supporting civil society's involvement in the implementation of responsible land governance is another component of the project. Furthermore, private investors and financial institutions are sensitized with international guidelines and the national land policy for a more responsible implementation of agricultural investments (GIZ, 2016).

Overall, we find tentative evidence that outgrower and grain buying schemes potentially provide higher benefits from agriculture and thus lead to higher land prices. This potentially further increases land disputes. Systematic studies are further needed to derive substantiated findings. Nevertheless, it is apparent that addressing and mitigating the secondary effects of investments on land markets is beyond the scope of investors. The broader institutional framework affecting land tenure and governance is the major underlying factor for mitigating and resolving land disputes. It remains therefore the predominant responsibility of governments to carefully evaluate the effect of investments on land markets and mitigate negative impacts.

5. Conclusions and Recommendations

Based on the presented case studies, we would like to summarize four key findings with practical recommendations for governments, CSOs and donors promoting responsible agricultural investment in land. An overview is provided in Table 2.

As in the case of Amatheon, a comprehensive and participatory approach successfully reduced the risks for land disputes. At the same time, following such an approach creates significant challenges that materialize beyond the land acquisition phase, if a consolidated farm blocks cannot be acquired. While some investments may be able to adapt their operational model to such settings, other investments are likely to incur significant, additional costs during operations. At the same time, land disputes prove to be tenacious and long-lasting partly due to the slow juridical system in Uganda. Investors predominantly focus on their own concerns, with little knowledge how other investors are affected by land disputes and which measures are potentially successful in resolving conflicts. Creating a platform that allows to share experiences of mature investments, not only with respect to success stories but also challenges, would also sensitize future investors for the importance of responsible land acquisitions. While multi-stakeholder platforms allow to facilitate exchange between sectors, investors may be reluctant to participate given that civil society remains a strong opponent of large-scale investments. Both governments and civil society furthermore consider the issue of large-scale land acquisitions as societal issue and consequently focus on governance-related questions. Investors may have limited commitment to engage in such broad and long-term discussions. Creating an investor platform would most likely increase participation rates as discussions can cater for the needs of a specific audience rather than engaging in broader policy debates.

Overall, stakeholder such as mature investors, CSOs and government bodies both at the national and local level have indicated little knowledge of international safeguards, in particular regarding the VGGT and CFS-RAI. Due to the multiplicity of safeguards and principles in the area of land investments, the existing national legislation may provide a superior entry point for the promotion of responsible large-scale land investments at the national level. A practical step would be to publish and disseminate an assessment which aspects of international safeguards are covered by Ugandan law and

are hence required by investors and which measures can be considered as voluntary and additional. This would help not only national and local governments but also donors and CSOs to push for a broader application of relevant safeguards.

Findings	Recommendations
Limited awareness of investors for the risks of land disputes and potential mitigation measures	→ Establishing an investor platform at national level for sharing experiences and engaging in discussions
Limited awareness of safeguards among various stakeholders, aggravated by the abstract nature of many safeguards	→ Sensitization of investors, national and local government as well as civil society regarding safeguards and operational guidelines → Compiling and disseminating a gap analysis outlining which aspects of the VGGT/ CFS-RAI are required from investors by national law and which measures can be considered additional
Lack of monitoring of land acquisitions and on-going investments	→ Providing clear mandates and creating institutional capacities at the national, regional and district level for monitoring land acquisitions and environmental impacts of farming operations → Creating transparency mechanism to assure that monitoring results can be easily accessed by the public at local and national level
Indirect effects of rising land prices and disputes due to investments in land	→ Sensitizing local communities about their land rights and provide financial literacy training → Strengthening land rights of vulnerable groups and access to affordable and fast dispute resolution mechanisms (e.g. through district land boards)

Table 2: Key Findings and Recommendations

Following national law does not necessarily mitigate risks for investors. Irrespective of the legitimacy, former owners or occupants of land can make accusations that may have far reaching consequences for investors; especially if they are linked to markets with strong civil societies. Creating monitoring and mediation both on the local and national level seems therefore crucial to successfully reduce the risks for land disputes. Amatheon has mitigated risks by closely involving

local stakeholders who act as informal monitoring parties. Certain national government institutions such as the UIA and district government are often heavily involved in land acquisitions of investors, hereby compromising their credibility to monitor such investments. The current monitoring could be improved by providing clear mandates for government institutions at the district, regional and national level to monitor land acquisitions by investors and on-going farming operations (e.g. environmental impacts). At the same time, these institutions are likely to require additional capacities to fulfill this mandate. Lastly, transparency mechanism could be established to make monitoring procedures and results accessible to the public both at the local and national level.

In the case of OPUL and generally in Northern Uganda, which has seen an influx of large-scale investments in the last decade, initial large-scale land acquisitions led to a vitalization of land markets with increasing land prices and increasing numbers of disputes, also between community members (Serwajja, 2014). Such indirect effects of investments are closely linked to the broader land governance framework in Uganda. Key interventions by both the GoU and civil society would be to strengthen knowledge of land rights and providing financial literacy training for local communities, allowing to make more informed decision regarding land transactions. Further potential interventions include the strengthening of land rights (i.e. through registration of customary land titles) for vulnerable groups and providing dispute resolution mechanisms that are easier and less costly to access and provide faster results than the judiciary system (e.g. through district land boards).

References

- AFD. (2014). *Guide to Due Diligence of Agribusiness Projects that Affect Land and Property Rights* (Technical Committee on “Land Tenure and Development”). French Development Agency.
- AfDB. (2014). *Guiding Principles on Large Scale Land Based Investments in Africa*. Addis Ababa, Ethiopia: African Development Bank and United Nations Economic Commission for Africa.
- CFS. (2014). *Principles for Responsible Investment in Agriculture and Food Systems* (No. CFS 2014/41/4 Rev.1). Rome, Italy: Committee on World Food Security.
- FAO. (2010). *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*. Rome, Italy: Food and Agriculture Organization of the United Nations.
- FAO. (2012). *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome, Italy: Food and Agriculture Organization of the United Nations.
- FAO. (2015). *Safeguarding land tenure rights in the context of agricultural investment* (Governance of Tenure Technical Guide No. 4). Rome, Italy: Food and Agriculture Organization of the United Nations.
- FOE. (2016). *Palm Oil Landgrab in Uganda: Wilmar International’s Violations in Kalangala Island* (Landgrabs, Forests & Finance: Issue Brief No. 5). Friends of the Earth. Retrieved from http://libcloud.s3.amazonaws.com/93/7b/3/3078/Issue_Brief_5_-_Wilmar_in_Uganda.pdf
- GIZ. (2016). *Project Description: Responsible Land Policy*. Eschborn: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Retrieved from <https://www.giz.de/en/worldwide/39918.html>
- GLTN. (2015). *Plan of Action: Country Level Engagement Uganda*. Global Land Tool Network.
- IFAD. (2011). *Vegetable Oil Development Project Interim Evaluation* (Report No. No. 2195–UG). Rome, Italy: International Fund for Agricultural Development. Retrieved from <https://www.ifad.org/documents/10180/cd48b4c8-5e25-4108-bd8b-bbf09335ce33>
- MAAIF. (2015). *Repudiating VODP-BIDCO, Kalangala Land Grabbing Allegations*. Ministry of Agriculture, Animal Industry and Fisheries, The Republic of Uganda. Retrieved from <http://www.wilmar-international.com/wp-content/uploads/2012/11/Press-Release-from-the-Ministry-of-Agriculture-Animal-Industry-and-Fisheries-Government-of-Uganda-Repudiating-VODP-Bidco-Kalangala-Land-Grabbing-Allegations.pdf>
- MLHU. (2013). *The Uganda National Land Policy*. Kampala, Uganda: Republic of Uganda: Ministry of Lands, Housing and Urban Development.
- MLHUD. (2016). *Implementation of VGGT Guidelines in Kasese In Partnership with FAO*. Kampala, Uganda: Republic of Uganda: Ministry of Lands, Housing and Urban Development. Retrieved from <http://mlhud.go.ug/implementation-of-vggt/>
- New Alliance. (2015). *Analytical Framework for Land-Based Investments in African Agriculture*. New Alliance for Food Security & Nutrition.
- Obaiko, E. (2014). *Draft Final Report of the Implementation of the Land Governance Assessment Framework in Uganda*. Uganda Land Alliance: Submitted by the LGAF Coordinator. Retrieved from http://siteresources.worldbank.org/INT/LGA/Resources/Uganda_Draft_Report.pdf
- RoU. (1965). *Uganda Land Acquisition Act*. Kampala, Uganda: Republic of Uganda.
- RoU. (1991). *Uganda Investment Code Act, CAP 92*. Kampala, Uganda: Republic of Uganda.
- RoU. (1995). *Constitution of The Republic of Uganda*. Kampala, Uganda: Republic of Uganda.
- RoU. (1998). *Uganda Land Act*. Kampala, Uganda: Republic of Uganda.

- RoU. (2016). *Judgement Civil Suit No 215 of 2007*. The Republic of Uganda: The High Court of Uganda (Land Division).
- Serwajja, E. (2014). *An investigation of land grabbing amidst resettlement in post-conflict Amuru District, Northern Uganda* (PhD Thesis). University of the Western Cape. Retrieved from <http://etd.uwc.ac.za/xmlui/handle/11394/4225>
- Stickler, M. M. (2012). *Governance of Large-Scale Land Acquisitions in Uganda: The role of the Uganda Investment Authority*. World Resources Institute. Retrieved from http://pdf.usaid.gov/pdf_docs/pa00k42v.pdf
- The Land Matrix Global Observatory. (2016). Concluded Land Deals by Target Country: Uganda. International Land Coalition (ILC), Centre de Coopération Internationale en Recherche Agronomique pour le Développement (CIRAD), Centre for Development and Environment (CDE), German Institute of Global and Area Studies (GIGA) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).
- UBOS. (2014). *Uganda - National Household Survey 2012-2013*. Kampala, Uganda: Uganda Bureau of Statistics, Government of Uganda.
- UNDP. (2016). *Investigation Findings and Recommendations In response to allegations of non-compliance with UNDP's social and environmental standards and other relevant policies in the context of UNDP's Business Call to Action Project Alliance Phase II 2014-2016 - PUBLIC DRAFT*. United Nations Development Programme – OAI, Social and Environmental Compliance Unit. Retrieved from https://info.undp.org/sites/registry/secu/SECU_Documents/Compliance%20Review%20DRAFT_For%20Public%20Comment_SECU000243eca501210247aab59f44f08b9544b6.pdf
- USAID. (2010). *Country Profile Uganda - Property Rights & Resource Governance*. Washington, DC: United States Agency for International Development.
- USAID. (2014). *SAFE Magazine Edition I*. Washington, D.C: United States Agency for International Development. Retrieved from <http://safeprogram.ug/publications/usaid-safe-program-magazine-ed-1/>
- USAID. (2015). *Operational Guidelines for Responsible Land-Based Investment*. Washington, DC: United States Agency for International Development.
- Wilmar. (2015, February 25). Wilmar Refutes Allegation of Land Grab in Uganda. Retrieved from <http://www.wilmar-international.com/wp-content/uploads/2013/01/Wilmar-Refutes-Allegation-of-land-grab-in-Uganda-25-Feb-2015.pdf>
- World Bank. (2010). *Uganda Agricultural Technology and Agribusiness Advisory Services Project*. Washington, DC: World Bank. Retrieved from <http://documents.worldbank.org/curated/en/381651468315313767/pdf/545040PAD0P109101OfficialUseOnly1.pdf>

Appendix A: Interviews

Date	Interview	Organization	Name	Position
1.8.16	I1	GIZ Global Project Responsible Land Policy - Uganda	Thorsten Huber	Team Leader
	I2	National Association of Professional Environmentalist	Frank Muramuzi David Kureeba	Executive Director Officer of Forests and Biodiversity
3.8.16	I3	Vegetable Oil Development Project; Ministry of Agriculture, Animal Industry and Fisheries	Connie Magomu Masaba	VODP Project Manager
			Kabuye Kyofa	VODP Coordinator
			Damanik Saridin	Group Estate Manager
4.8.16	I4	Oil Palm Uganda Limited	Vincent Adipa	Public Relationship Manager
			Diana Abwin	
	I5	Kalangala Oil Palm Growers Trust (KOPGT)	Nelson Basaalidde	Managing Director
	I6	Kalangala District Local Government	David Balironda	District Agricultural Officer
5.8.16	I7	Kalangala Oil Palm Growers Association (KOPGA)	Martin Lugambwa	Bloc Representative
8.8.16	I8	Land Rights Information Centre	Omara Joseph Sabiiti	Land Advocat
			Clare Adongo	Land Officer
	I9	Nwoya District Local Government	Alfred Kirama Odongopiny Gift	Agricultural Officer Commercial Officer
9.8.16	I10	Amatheon Agri Uganda	Nancy Akumu	Manager Sustainable Development
			Tom Rowles Nicholson	Agribusiness Development Manager
			Kenneth Bongomin	Sales & Marketing Manager
	I11	Environmental and Community Sustainability Committee	Community Representatives	
10.8.16	I12	Amatheon Agri Uganda	Nancy Akumu	Manager Sustainable Development
			Collin Oriem	Outgrower Program Manager
	I13	Smallholder Farmers Savings and Credit Group	Members and Chairpersons	
	I14	Nwoya District Local Government	Geofrey Akana	Community Development Officer
12.8.16	I15	Uganda Land Alliance	Edmond Malilo Owor	Executive Director
			Julius Businge	Communications Officer
	I16	Uganda Investment Authority	Lawrence Byensi	Director Investment Facilitation and Aftercare
15.8.16	I17	Centre for Basic Research	Juliet Kanyesigye	Director
23.9.16	I18	Amatheon Agri Holding NV	Jost Neumann	Sustainable Development and Communications Manager
24.10.16	I19 (E-Mail)	Oil Palm Uganda Limited	Janardhan Naidu	Financial Controller
5/6.12.16	I20 (E-Mail)	Vegetable Oil Development Project; Ministry of Agriculture, Animal Industry and Fisheries	Connie Magomu Masaba	VODP Project Manager