

LAND RIGHTS AND SODA GIANTS
Reviewing Coca-Cola and PepsiCo's land assessments in Brazil

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Abstract

Coca-Cola and PepsiCo committed to ‘zero tolerance’ for land grabs in late 2013 and early 2014, respectively. Since, Oxfam has been monitoring the companies’ progress implementing their commitments and providing advice on how they can improve. Both companies have now taken an important step by assessing risks and impacts of their cane sugar sourcing on land rights in Brazil; Coca-Cola by conducting a baseline study, PepsiCo through audits. Assessment processes, when done well, help companies identify issues and steps to take to address them. Community-based human rights impact assessments are another helpful input. Oxfam commissioned an external evaluation of the companies’ efforts in order to understand their quality and ascertain how they can improve future practice. It found Coca-Cola’s baseline study was comprehensive in scope. Per a recommendation from the evaluation, Coca-Cola published elements of a plan for how it will address findings of its study, including steps to ensure suppliers adhere to its land policy. PepsiCo’s approach requires improvement, particularly around its scope, its stakeholder engagement, and disclosure. Per recommendations from the evaluation, PepsiCo recognized it needs to go further in Brazil and adopted a new approach for all future assessments based on good practice.

Key Words:

Community impact; Impact assessments; Land grabs; Private sector; Sugar sourcing

1. INTRODUCTION

This paper is based off a publication by the same name, originally published by Oxfam International and available at <https://www.oxfam.org/en/research/land-rights-and-soda-giants>. The original version is also available in Portuguese.

In 2013, Oxfam’s Behind the Brands campaign highlighted land rights risks and impacts on communities in Coca-Cola, PepsiCo, and other food and beverage companies’ commodity sourcing (Oxfam, “Sugar Rush”). With the support of approximately 200,000 people worldwide, Oxfam called for the companies to commit to ‘zero tolerance’ for land grabs. As part of these commitments, the companies would undertake assessment processes to understand and identify land tenure risks and impacts from their sugar and other commodity supply chains.¹

As of early 2016, both companies have published findings from assessment processes of their cane sugar sourcing in Brazil: Coca-Cola through a baseline study and PepsiCo through an audit. Oxfam commissioned Dr. John Wilkinson (called ‘the evaluator’ in this report) to conduct an external evaluation of the companies’ efforts.² This is the third external evaluation commissioned by Oxfam into how companies from the Behind the Brands companies are implementing campaign commitments.

Overall, the evaluator found that Coca-Cola made a strong effort, especially in terms of scope and the quantity of field interviews undertaken. Nonetheless, there are ways in which Coca-Cola can follow up on its efforts in Brazil and improve its approach for future baseline studies to better identify issues and action steps. The evaluator found limitations in PepsiCo’s efforts in Brazil, particularly around scope, stakeholder engagement, and disclosure.

Encouragingly, prior to the publication of this report, both Coca-Cola and PepsiCo made new commitments related to the findings of the external evaluation and the following recommendations, detailed below (LINK).

Based on the findings of the independent external assessment, Oxfam recommends:

Coca-Cola

1. Develop a public, time-bound plan for how it will address the findings of its Brazil baseline study.

1 Coca-Cola conducted a baseline study, looking at land rights and forced and child labor. It has committed to conduct 28 such studies by 2020. Its study in Brazil was among its first, following studies in South and Central America. PepsiCo initially adopted an audit approach that, in addition to land, also examines other social, environmental, and human rights issues. The company committed to publish a ‘summary of critical findings’ from each audit. It plans to conduct four (now more) of these assessment processes in various countries on various commodities.

2 Dr. Wilkinson is an Associate Professor at Universidade Federal Rural do Rio de Janeiro. He has thirty years’ experience as a lecturer and researcher on the agrifood system in Brazil and globally, and has consulted for government and international institutions, as well as civil society organizations.

2. Integrate recommendations from the independent external evaluation on best practice into future baseline studies.
3. Continue engaging stakeholders, including Oxfam, in the resolution of the Trapiche conflict.
4. Conduct analysis of the Agropecuaria Jayoro case, as highlighted in the external evaluation.

PepsiCo

1. Commit to fully assess land and human rights risks and impacts of its sugar sourcing in Brazil, supplementing its original audit with a process based on best practice, and publishing the new findings by a defined date.
2. Commit to improve its approach to human rights due diligence (see **Box 2**), for example by supplementing upcoming assessment processes in Thailand, the Philippines, and Mexico with human rights impact assessments, and committing to conduct assessment processes in additional countries.
3. Continue engaging with stakeholders, including Oxfam, on the resolution of the Trapiche conflict.

Oxfam is interested in companies improving the implementation of their land rights commitments. Oxfam has been discussing the evaluator's findings and recommendations with Coca-Cola and PepsiCo over the course of several months. Oxfam commends both companies for making new commitments prior to the publication of this report.

Coca-Cola:

- Published elements of an action plan to address key findings, such as the absence of policies on land rights among its suppliers.
- Disclosed its baseline study methodology and sample mill and farm questionnaires.
- Committed to continue to improve upon its baseline studies, including by ensuring greater transparency, focusing on women's land rights, and publishing results and action plans in local languages (B. Wilton. Land Rights).

PepsiCo:

- PepsiCo recognizes that it needs to go further in Brazil. It is exploring how to take forward "an independent assessment of potential salient issues associated with sugar cane production in Brazil through a multi-stakeholder process in line with good practice" (PepsiCo, Commitments). PepsiCo should set a deadline for when it will complete this next assessment to make this commitment more credible.
- PepsiCo is integrating several recommendations of Oxfam and Dr. Wilkinson into all future assessments and ongoing processes in Thailand and Mexico, rather than relying on an audit approach, as it had originally committed to. It set new deadlines for these processes, March 2017 for Thailand, and the first phase of Mexico by the end of 2016, with a second phase completed in 2017. Encouragingly, these processes will include the participation of affected communities.

- Significantly, PepsiCo has committed to conduct an independent human rights assessment in Indonesia (which will also look at issues relevant to its Forestry Stewardship Policy), where palm oil is a high-risk commodity, in 2017 (PepsiCo, Commitments).
- PepsiCo should publish additional summary information of its audit process and findings in the Philippines, an important step toward greater transparency, by the end of 2016.

Oxfam encourages both Coca-Cola and PepsiCo to continue to improve, and will continue to monitor their efforts, provide advice, and hold them to account for ensuring their commitments are implemented across their supply chains.

This briefing note provides an overview of land rights risks and impacts, describes the external evaluation process, highlights a selection of the evaluator’s findings, and presents Oxfam’s full recommendations to Coca-Cola, PepsiCo, and all companies looking to assess and address land rights risks and impacts.

2. SUPPLY CHAINS AND LAND RIGHTS

For many women, smallholder farmers, and indigenous peoples, land is necessary to provide food, livelihoods, water, and for the expression of their identities and cultures. However, many lack secure rights to their land, despite their families having lived there for generations. The Rights and Resources Initiative, estimates that approximately 20 percent of land that is held, used, or managed collectively by communities and indigenous peoples is ‘formally recognized as owned’ by the people who depend on it (Rights and Resources).³ The millions of people without secure land rights are vulnerable to governments and private sector investors seeking land to cultivate sugarcane, palm oil, soy, or other commodities to feed into the value chains of multinational corporations.

Problems arise when investors buy, lease, or develop land without communities’ consent. They will often have official titles for the land, but in obtaining it, may have violated communities’ customary or usage land rights, and related human rights. There are well-documented cases of companies forcibly evicting communities, burning houses or bulldozing people’s crops to clear the land for commodity production. When companies don’t address these conflicts appropriately, they can even lead to violent outcomes like the murder of Berta Cáceres in Honduras.

Oxfam highlighted two land grabs in the sugarcane industry in Brazil in its 2013 Behind the Brands report “Sugar Rush”. It told the stories of people, including Maria Nazarete dos Santos and Edilza Duarte, two women

³ This statistic is used by Land Rights Now. (2016). *Why a Global Call to Action?* About page. www.landrightsnow.org/en/about.

from different states in Brazil who had both been forced from their land to make way for sugarcane production.⁴ The cases highlighted the devastating impacts of land grabs on women and communities, and connected the violations to Coca-Cola and PepsiCo's supply chains. See **Box 1** for the current status of those cases and the steps the companies are taking to help ensure communities have access to the remedy they seek.

Box 1: Ongoing land conflicts in Brazil

Oxfam highlighted two land grabs in the sugarcane industry in Brazil in its 2013 Behind the Brands report "Sugar Rush", and has been tracking the status of the cases since.

One of the cases involved Coca-Cola and PepsiCo's supplier Usina Trapiche. Trapiche operates a sugar mill on the coast of Pernambuco, an impoverished state in north-eastern Brazil. It pushed 53 families from their homes in 1998; nearly two decades later, these families continue to fight to access their land. Since highlighting the case, Oxfam has been engaging with Coca-Cola and PepsiCo on how they can help resolve the conflict. Communities' preferred solution is not one that Coca-Cola or PepsiCo alone can provide: The communities continue to ask the government of Brazil to designate the area as an extractive reserve (RESEX). This solution would enable Usina Trapiche to continue growing sugarcane on its existing land, while giving communities an outcome they seek: long term rights to the land. While the companies can't create a RESEX on their own, they have a responsibility to use their leverage to support communities in their efforts to secure their rights and to work with their supplier to mitigate risks and address land-related issues. Oxfam commends Coca-Cola and PepsiCo's initial efforts to help resolve the case, and encourages them to keep working until communities are satisfied with the outcome.

The second case Oxfam highlighted involved the agricultural commodity trader Bunge and its Monteverde sugarcane mill. Both Coca-Cola and PepsiCo have sourcing ties to Bunge in Brazil (Bunge supplies cane sugar to Coca-Cola and soy to PepsiCo), though not to the Monteverde mill (R. Jackson, T. Koosed and C. Giacomozzi, 28-29 and PepsiCo, Commitments).

At the time that Oxfam published the report, the Monteverde mill bought sugarcane from five farms in the Jatayvary area of Ponte Porã, Mato Grosso do Sul state on land that the federal agency for indigenous affairs recognizes as belonging to a local indigenous community. The community had been forced from their land prior to Bunge's investment in the mill. Since, they have experienced ongoing issues around water contamination, allegedly due to fertilizer runoff, exposure to pesticides, and violence and intimidation. During the period that the Monteverde mill sourced from the farms, the community repeatedly requested

⁴ For their stories, see Oxfam, "For displaced families in Brazil, there's no sugarcoating the conflict over land", 28 Oct 2013, <https://www.oxfamamerica.org/explore/stories/for-displaced-families-in-brazil-theres-no-sugarcoating-the-conflict-over-land/> and Gluck, Caroline, "Brazil: Sugar rush destroys indigenous communities' way of life", Oxfam, <https://blogs.oxfam.org/en/blogs/13-10-16-brazil-sugar-rush-destroys-indigenous-communities-way-life>

Bunge terminate the relevant contracts.

Ultimately, Bunge did not renew the contracts; since the end of 2014, it hasn't sourced sugar or any other commodities from the farms, according to the company (Bunge, "Bunge response"). It also adopted a new commitment to respect communities' and indigenous peoples' land rights (Bunge, Commitment). While these are positive steps, the community is still unable to return to their land and hasn't received remedy for harms. Bunge has continued responsibilities to communities. It should use its leverage as a key stakeholder in the region to help the community formalize its land rights and address its role in benefiting from contested land from 2008-2014. Coca-Cola and PepsiCo's supply chain relationships with Bunge present opportunities for the companies to demonstrate leadership on land rights with a key shared supplier. They can encourage Bunge to help provide remediation for harms to the community in Jatayvary, further develop its land commitment, and publish a time-bound plan for how it will implement it.

Acquisitions and developments that violate human rights and flout the principle of free, prior, and informed consent (FPIC) have negative impacts on companies too. They often lead to conflicts with local communities, resulting in companies losing their social license to operate. In a recent study, TMP Systems found that land-related disputes have had a materially significant impact on investors in 54 percent of the cases included in a cross-sectoral analysis. They defined 'material impact' as being when 'valuable property or equipment is damaged or destroyed by arson and violent invasions; interruptions lasting five days or more; and fines costing above US\$500,000' (TMP Systems, 2). Risks to companies also include negative impacts on reputation, such as NGO campaigns and negative media reports, costly legal disputes, increased insurance premiums, and loss of legal licenses to operate (TMP Systems, 2).

3. COMMUNITY-BASED HUMAN RIGHTS IMPACT ASSESSMENT IN BRAZIL

Oxfam approaches complex land conflicts from several different angles: influencing government so that land rights are guaranteed and enforced; influencing private sector actors so that they respect land rights and are not complicit in rights violations; supporting community based organizations in their efforts to document and systematize human rights and environmental impacts; and reinforcing organizations' capacity to engage with and influence public and private sector decision makers.

Comissão Pastoral da Terra (CPT) is a community based organization dedicated to the promotion of land rights and supporting land rights of communities and smallholder farmers. CPT has a religious origin, as do many organizations in Latin-America, and has operated in Brazil for 42 years. CPT has nation-wide reach and is embedded in the communities it works with.

CPT NE II, CPT's regional office for the Northeastern states in Brazil, has worked with the Sirinhaém communities for 14 years. After the Behind the Brands campaign, during which CPT supported Oxfam in connecting with community members, Oxfam supported CPT in the development of a Community Based Human Rights Impact Assessment ([COBHRA](#)).

The COBHRA study was carried out using a tool called [Getting it Right](#)⁵, which is an established methodology for human rights impact assessments that is currently promoted by Oxfam, FIDH and other organizations. Oxfam is a proponent of community-led approaches, so that those who are most directly affected — local communities — can intervene to enhance positive effects, avoid or mitigate negative impacts, and contribute to the fulfillment of human rights. At the same time, it is clear that even community-based methodologies cannot achieve desired outcomes without company participation. Community-based HRIAs carry the potential to completely change the nature of the dialogue between companies and communities affected by their operations. If communities come with their own evidence-based analysis, companies are more likely to acknowledge communities' perspectives and engage with them. Oxfam launched its COBHRA initiative in 2009.

It took CPT two years to carry out the assessment. The team conducted 60 interviews with community members and 26 interviews with local, state and federal authorities, private sector actors, civil society, academics, and members of the circuit courts. CPT also commissioned laboratory tests for water contamination and an extensive document review process. Among the documents it reviewed were: Scientific research papers, news stories (both contemporary and those dating back to the initial land acquisition), legal and administrative proceedings, documents prepared by government agencies, reports and dossiers of civil society organizations, and personal records and collections of individuals affected by the conflict.

The result was a report entitled "[Starving to Death Little By Little Every Day](#)" which documented the community's history, the history of the conflict, and systematized the rights violations that occurred. It also brings a series of recommendations for all the actors involved, including Coca-Cola, PepsiCo, and companies with business linkages to Trapiche.

SUMMARY OF RIGHTS VIOLATIONS DOCUMENTED IN "STARVING TO DEATH LITTLE BY LITTLE EVERY DAY"

The traditional fishing families who lived on the Sirinhaém islands were evicted from the area in dispute with Usina Trapiche between 1998 and 2010. CPT documented use of the following rights violations and tactics:

⁵ The *Getting it Right* tool is a dynamic participatory approach for analyzing the human rights impacts of private and public foreign investments. It enables communities and the organizations that support them to identify human rights impacts, propose responses, and engage government and corporate actors to take action to respect human rights. The tool focuses on local communities as experts and advocates. *Getting it Right* puts an incredibly powerful tool in the hands of communities. A distinct feature of the *Getting it Right* tool is its ability to engage all willing stakeholders at a profound level. To begin, the tool starts with educating communities about their rights and translating the language of human rights into the language of needs.

Related to **forced eviction**:

- Fake land leasing contracts
- “Exit” agreements were imposed that gave little time for community members to make an informed decision (e.g. in compliance with FPIC requirements) and provided limited compensation for leaving their homes
- Destruction of houses and crops by fire and demolition
- Death threats by armed personnel from the mill, and the criminalization of former residents and human rights defenders with the use of law suits and support from municipal-level security authorities.

Related to **environmental degradation**:

- Violation of environmental laws
- Lack of proper licensing
- Water pollution and contamination from vinasse (a byproduct from sugarcane production).

The environmental degradation combined with the eviction led to, according to CPT’s assessment, a third set of violations regarding the **right to food and food security**. Through its interviews and research CPT found that after leaving the area, the affected community members began experiencing hunger and food insecurity. They were no longer able to have a self-sustained lifestyle according to their traditional ways of living. Despite not being able to live in the area and difficulties in accessing it, several of the former residents periodically return to the mangrove to fish. However, water contamination and environmental pollution has affected the mangrove and the fish stock, with severe consequences on their livelihoods and health, particularly for women who fish in those waters.

RECOMMENDATIONS

CPT’s human rights impact assessment offers several recommendations to a wide range of stakeholders. Most relevant to this report is CPT’s recommendation to companies sourcing from Trapiche:

“It is recommended to the companies that buy sugar from Usina Trapiche that they try to convince the sugarcane mill to stop posing obstacles to the creation of the Extractive Reserve (RESEX). Should it become impossible to move forward with the dialogue and the actions aimed at respecting the territorial rights of the traditional community, severance of commercial links is recommended, as such act would be consistent with the guiding principles adopted by large companies in their relationships with suppliers.” (Pastoral Land Commission)

4. EXTERNAL EVALUATION IN BRAZIL

Assessment processes, done well, help companies know where there are land and related human rights issues in their supply chains. They can also help them identify steps to mitigate risks and address existing violations.

Companies should design their own approaches to land rights assessments, so that they integrate with existing

risk management and human rights due diligence processes.⁶ However, there are several elements that are essential for all such processes, regardless of approach—such as commissioning content and context experts to conduct the assessment, focusing on the risk to people, and ensuring the participation of potentially affected communities (I. Tamir and D. Kearney).

Oxfam commissioned an evaluation of Coca-Cola’s baseline study and PepsiCo’s audit in Brazil to identify elements of best practice, and to understand:

- What was the quality of the companies’ land assessment processes, taking into consideration best practice, publicly available information, and their own land rights policies and commitments?
- Did the companies’ approaches result in enhanced knowledge of situations in which they and/or their suppliers have negatively affected or are at risk of negatively affecting land- and related human rights? Did they find what an expert would have expected them to find?
- Do the companies have plans to address issues they identified through their assessment processes?
- What can the companies learn from their efforts, and how can they improve going forward?

To carry out the evaluation, the evaluator developed indicators organized into three themes:

1. **Quality of research team, design and implementation** (e.g. the profile of the research team, independence from the company, and adequacy of their methodology)
2. **Land Assessment – coverage of relevant land issues** (e.g. the extent to which the company uncovered and assessed all relevant land issues desk research, field work and references considered, scope)
3. **Conclusions and recommendations** (e.g. the relevance of the companies’ conclusions and recommendations for steps taken to address their findings)

The evaluator then assessed each company’s process and findings, and made his own recommendations on how the companies could improve. The evaluator only considered information that the companies had made public by 31 May 2016 (Dr. J Wilkinson).

FOCUS ON LAND

Both Coca-Cola and PepsiCo assessed issues beyond land tenure as part of their process, such as labor rights. These issues can be connected to land, and Oxfam encourages companies to take a holistic approach to human rights due diligence, assessing all salient issues. However, Oxfam chose to only commission an evaluation of the land-related portions of the companies’ assessment processes. Oxfam’s reasons were threefold:

6 The United Nations Guiding Principles on Business and Human rights define human rights due diligence as a four-step, ongoing process: assess, integrate/act, track, and communicate. See Principles 17-21 of United Nations. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. Also see overview of the UN Guiding Principles by Shift, at <http://www.shiftproject.org/un-guiding-principles>

- Oxfam wanted to assess how companies are implementing the specific commitments on land following the 2013 Behind the Brands campaign activities;
- The two companies' assessments of land tenure risks and impacts in sugarcane sourcing in Brazil gave Oxfam a chance to evaluate the companies' efforts side-by-side; and
- Land tenure remains a largely under-explored human rights issue within companies' human rights due diligence processes. Oxfam therefore sought to contribute to defining best practice for land-related portions of companies' assessment processes.

Oxfam designed this project with the vision that other stakeholders could, in the future, use, adapt or reference the evaluator's framework to assess companies' efforts in other countries and contexts.

Women and land

One issue under-emphasized in both companies' assessment processes and the external evaluation is the connection between women's rights and land rights. Women are often less likely than men to hold formal titles to land given their unequal position in many societies, yet they depend on land to support themselves and their families. Furthermore, women from rural and traditional communities tend to be more vulnerable to rights violations, such as violence, when land conflicts do occur. Yet women often do not have a voice in consultation and consent processes with governments or private sector investors, and are often excluded from compensation processes, development programs, or smallholder schemes, unless companies take particular care to ensure they engage with and tailor interventions to the needs of women. Understanding and identifying particular risks to, and impacts on, women is a critical component of any comprehensive assessment process.

KEY FINDINGS FROM THE EXTERNAL EVALUATION

Coca-Cola's baseline study

Coca-Cola commissioned Arche Advisors to conduct its baseline study. Overall, the evaluator found Coca-Cola's study comprehensive in scope, but also identified several ways it could be improved.

1. Quality of research team, design and implementation

Coca-Cola performed well on indicators related to the experience, skills, and qualities of the research team; the range of stakeholders consulted; and the representativeness of its assessments. The research team visited 21 of 28 sugar mills from which Coca-Cola sources in Brazil, and interviewed 929 agricultural workers (R. Jackson, T. Koosed and C. Giacomozzi). However, there is still room for improvement. For instance, the evaluator found the research team's analysis of official data and secondary literature disconnected from the fieldwork, and in need of further analysis. Such work would help the company better understand how trends impact its suppliers' operations, and in turn, their suppliers' role in shaping the overall context. He also recommended that Coca-Cola publish the assessment team's questionnaires, which would provide external stakeholders greater insight into the quality and scope of the interviews.

2. Land assessment and coverage of relevant land issues

The study contains information on a range of important land issues, including traditional Afro-Brazilian communities (Quilombolas), the connection between the environment and land (especially the new Forest Code), and other forms of traditional possession and tenure (R. Jackson, T. Koosed and C. Giacomozzi). Here, the evaluator highlighted the need for further discussion around the implications of these and other trends—such as those affecting patterns of land occupations and the nature of land conflicts—on the sugarcane industry, Coca-Cola, and its suppliers.

Oxfam found three points from this section of the evaluation to be of particular note:

- The study importantly highlights specific cases of suppliers involved in land issues (Trapiche, Bunge, and Cosan), but Coca-Cola should also analyze issues involving its supplier in Amazonas Agropecuária Jayoro. Coca-Cola should ensure this supplier’s investments aren’t contributing to negative impacts on communities or the environment (Dr. J Wilkinson, 12).
- The study references cases of land conflicts, such as land squatting, on land near to, though not on, those supplying mills with sourcing ties to Coca-Cola. Coca-Cola should monitor mills and farms operating in high-risk areas closely. This is particularly important in states including Pernambuco, Alagoas, and Mato Grosso do Sul.
- The external evaluation highlighted the ‘inexistence of “policies in place on land rights related to land acquisition”’ among the mills (Dr. J Wilkinson, 12). Closing the gap between suppliers’ policies (and implementation of those policies) and Coca-Cola’s expectations is particularly urgent given the number of mills with recent or planned acquisitions.

3. Conclusions and recommendations

The external evaluation found the conclusions of the report to be ‘coherent with the analysis conducted’, and endorsed the recommendation that Coca-Cola promote wider adoption of its land guidelines among suppliers. It also noted the need for the third party to highlight additional issues that the company could integrate into a plan for action.

PepsiCo’s audit

PepsiCo wrote and published a short summary of the findings of its third party auditors, Control Union, offering the evaluator only limited publicly available information from which to evaluate PepsiCo’s process (PepsiCo, Summary). This in itself was a weakness of PepsiCo’s approach, which PepsiCo has addressed in its new commitments. Communicating efforts to stakeholders in an appropriate manner is a core element of a human rights due diligence process. A lack of transparency and disclosure precludes dialogue among a company, NGOs, communities and governments that could help the company more effectively address land and human rights risks and impacts. It is also important to assure external stakeholders of the efficacy of the steps the company is taking to assess and address the issues.

1. Quality of research team, design and implementation

The evaluator challenged the efficacy of an audit-based approach and highlighted limitations of the methodology. An audit ‘captures a given moment’, whereas ‘a strategic approach to the development of sustainable supply chains demands a broader assessment of the challenges facing the sector as a whole’ (Dr. J Wilkinson, 21). In addition:

- To ensure independence and credibility, the third party, not only the company and its supplier, should select mills for an assessment process;
- Mills should have been selected for the assessment process based, at least in part, on the existence of known issues (e.g. Usina Trapiche) and/or their location in regions of Brazil where land-related violations are prevalent; and
- The audit process did not include broad community engagement, which is important to help companies understand issues from diverse perspectives.

2. Land assessment and coverage of relevant land issues

The third party relied heavily on the verification of legal ownership and official documents in its process. However, land conflicts do not necessarily register in official land title documents. For instance, many communities, especially those managing their land in communal arrangements, lack formal titles for their land. In addition, Oxfam notes that there is a historical and prevalent practice in Brazil called ‘*grilagem*’, which involves falsifying historical land title documents by making them appear old. PepsiCo’s audit process could not have caught these types of issues. One positive step of the process was the analysis of maps by the Brazilian agency for indigenous peoples (FUNAI) to check for competing land claims.

3. Conclusions and recommendations

PepsiCo’s approach did not result in the company gaining adequate knowledge of land tenure risks and impacts in Brazil.

In October 2016, PepsiCo committed to new principles to guide all future assessment processes, including focusing on high risk areas. It has also redesigned its approach for upcoming assessment processes in Thailand and Mexico, committed to conduct a human rights assessment in Indonesia, and is exploring how to continue its assessment efforts in Brazil, based on a process that incorporates good practice (PepsiCo, Commitments). To take these commitments further, PepsiCo should publish a timeline for its continued efforts in Brazil, and publish additional information on its efforts in the Philippines. Oxfam will be closely monitoring the company’s implementation of its new commitments, and encourages the company to continue to improve.

5. RECOMMENDATIONS

Based on the evaluator's findings and recommendations, Oxfam recommends the following.

COCA-COLA

1. Develop a public, time-bound plan to address findings

Develop a public, time-bound plan for how it will address findings of the Brazil baseline study, which includes:

- Ongoing monitoring of and engagement with suppliers, to hold them accountable to Coca-Cola's requirement of respect for land rights (which should include, as outlined in Coca-Cola's Human and Workplace Rights Issue Guidance, adherence to the principle of Free, Prior, and Informed Consent and ensuring the presence of grievance mechanisms) (Coca-Cola, *Sustainable* and Coca-Cola, *Global*).
 - Coca-Cola should prioritize monitoring of and engagement with mills that are: operating in regions of Brazil with high prevalence of land issues; although not involved in land conflicts themselves, located near to existing cases of occupation or conflict; have plans to expand land under cane;
 - Engagement should include discussions about the importance of land rights for women, and how women in particular experience land conflict.
- Publish baseline study and plan in Portuguese

2. In future baseline studies or assessment processes, Coca-Cola should:

- Assess and address particular land and human rights risks to and impacts on women;
- Improve analysis and use of desk research; research should inform fieldwork and analysis of the implications of trends on Coca-Cola and suppliers;
- Publish interview questionnaires and information on the full team responsible for field work and research;
- Develop and publish plan in languages and formats accessible to local stakeholders on how Coca-Cola plans to address findings and monitor suppliers' adherence to its land and human rights requirements over time.

3. Continue engaging with stakeholders, including Oxfam on the resolution of the Trapiche conflict

4. Conduct analysis into the Agropecuaria Jayoro case, as highlighted in the external evaluation

PEPSICO

1. Commit to fully assessing land and human rights risks and impacts in sugar sourcing in Brazil, supplementing the original audit with a process that follows other recommendations in this section

PepsiCo should publish new findings by a defined date.

2. Commit to improve its approach to human rights due diligence (Box 2), such as by supplementing upcoming assessment processes in Thailand, the Philippines, and Mexico with human rights impact assessments, and committing to conduct assessment processes in additional countries (PepsiCo, Commitments). The new approach should:

- Follow guidance in the UN Guiding Principles on Business and Human Rights for human rights due diligence, including selecting locations for assessment based on high risk to people;
- Integrate land-specific elements into the assessment process, based on the external evaluation and framework;
- Ensure independence of the third party contracted to conduct each assessment process, and that the third party has expertise on the salient issues;
- Ensure engagement with a wide range of stakeholders in the process, including women and community members (see Box 2);
- Include a commitment to publish findings in a format and language accessible to local stakeholders by a certain date (including by a defined date for the supplemental processes in Thailand, the Philippines, and Mexico);
- Develop a time-bound plan, in a language and format accessible to local stakeholders, for how PepsiCo plans to address findings of the assessment and monitor suppliers' adherence to land and human rights requirements over time.

3. Continue engaging with stakeholders, including Oxfam, on the resolution of the Trapiche conflict

Box 2: Community voices in assessment processes

The United Nations Guiding Principles on Business and Human Rights stipulate that companies should conduct human rights due diligence⁷, an ongoing process that involves:

1. Assessing risks and impacts;
2. Integrating the findings of the assessments into the company's management and decision-making processes, and acting to prevent and/or mitigate adverse impacts;
3. Tracking the effectiveness of the company's response; and

⁷ See Principles 17-21 of United Nations. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

4. Communicating these efforts to stakeholders.

Too often, Oxfam finds companies' efforts around the first element are based on limited methodologies—and only the company's perspective. Human Rights Impact Assessments (HRIAs) are an effective way for companies to focus on risk to people, not only the company, and to integrate internationally recognized human rights standards into their due diligence processes. Fundamental to HRIAs is engagement with potentially affected communities. Oxfam's report *Community voice in human rights impact assessments* discusses the importance of HRIAs and offers recommendations for how companies should approach them.

Source: <https://www.oxfamamerica.org/explore/research-publications/community-voice-in-human-rights-impact-assessments/>

GENERAL RECOMMENDATIONS

For any company seeking to assess and address land tenure risks and impacts, Oxfam recommends that they:

1. Adopt comprehensive assessment methodologies

Companies should use methodologies that promote better understanding of issues and emphasize action. They should follow the aforementioned best practice suggestions for Coca-Cola and PepsiCo.

2. Integrate the management of land rights risks and impacts into core operations

In addition to improving the quality of their efforts to assess land rights risks and impacts, companies should ensure they are effectively integrating management of land issues into their core business activities, in part by:

- Educating key employees, such as buyers, on land issues and the importance of FPIC⁸, and effective, operational-level grievance mechanisms; and
- Integrating land and FPIC-specific KPIs into performance measurement.

3. Engage suppliers on land rights risk and impacts

Companies can do this by:

- Publishing commitments and requirements on land rights in relevant languages;
- Ensuring suppliers have effective policies in place to address and manage the issues, as well as public and time-bound plans to implement them;
- Integrating land rights into supplier performance measurements; and
- Using and increasing leverage to ensure suppliers appropriately remediate land and related human rights violations.

8 Oxfam has published several documents on FPIC. For example: Oxfam Australia. (n.d.) *FPIC Guides*. Online repository in numerous languages. <http://resources.oxfam.org.au/pages/search.php?search=%21collection145&k=0edfe94f91>. E. Greenspan. (2013). *Free, Prior, and Informed Consent in Africa: An emerging standard for extractive industry projects*. Oxfam America research backgrounder. <https://www.oxfamamerica.org/publications/fpic-in-africa/>

4. Advocate for governments to tackle land grabbing and support responsible agricultural investments

Companies should use their leverage with governments to support land reform efforts, the protection and formalization of community and indigenous land rights, and the efforts of smallholders and communities to secure land titles. Oxfam recommends that companies:

- Publicly advocate for governments to implement responsible agricultural investment policies;
- Call for governments to implement the Voluntary Guidelines on the Responsible Governance of Tenure of Land, which includes protecting and promoting the land rights of all potentially affected communities (FAO); and
- Engage with communities and local civil society organizations to identify opportunities to help communities and smallholders secure their land rights.

CONCLUSION

Oxfam recognizes that it will be a learning process for all companies to effectively assess land tenure risks and impacts, integrate findings into their broader sustainability efforts, and address the issues. Oxfam commends Coca-Cola and PepsiCo for adopting ‘zero tolerance’ for land grabs commitments, and for taking steps to put these policies into practice in Brazil and elsewhere. Oxfam will be continuing to engage with and monitor Coca-Cola’s efforts to follow up on its findings in Brazil, PepsiCo’s efforts to continue the assessment process in Brazil, and both companies’ efforts in other countries.

One of the challenges companies face in assessing and addressing land rights risks and impacts is the context-specific nature of the issues, which vary even between regions within a country. The evaluator’s framework includes elements of good practice relevant to all contexts, such as ensuring the assessment team has the right content and context expertise, selecting the right locations for assessments, and engaging with diverse stakeholders (Dr. J Wilkinson). Yet the framework and analysis also contains elements that are specific to Brazil. Companies looking to assess land rights risks and impacts in a particular context must adapt their approach accordingly. Oxfam encourages other stakeholders to adapt the evaluator’s assessment framework to monitor companies’ land-related assessment processes in other countries.

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