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Factsheet on Large-Scale Agri-Investments in Pujehun District, Sierra Leone



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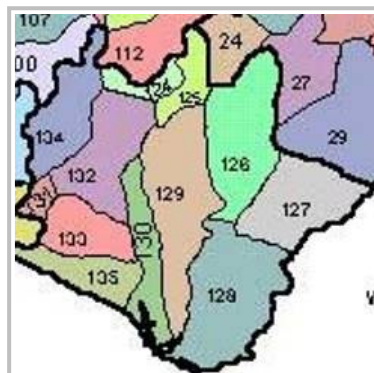
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Pujehun District at a glance:

Land area:	410,500 hectares (ha)
Arable land:	304,181 ha
Population:	228,392 (2004)
Farming households:	35,159 (2004)
Fallow period upland crops:	4.1 years (2004)



Affected Chiefdoms

- 124 Sowa
- 126 Barri
- 127 Makpele
- 128 Sorogbema
- 129 Galiness Peri
- 130 Kpaka
- 134 Malen
- 132 Panga Kabonde

Land leased based on registered lease agreements:

60,48 % of total area of Pujehun District, 81,64 % of arable land of Pujehun District

Leases vary in size from 6,575 ha to 47,567.7 ha

Total area leased: 248,294.06 ha (excluding 38,704 ha in Sowa chiefdom)

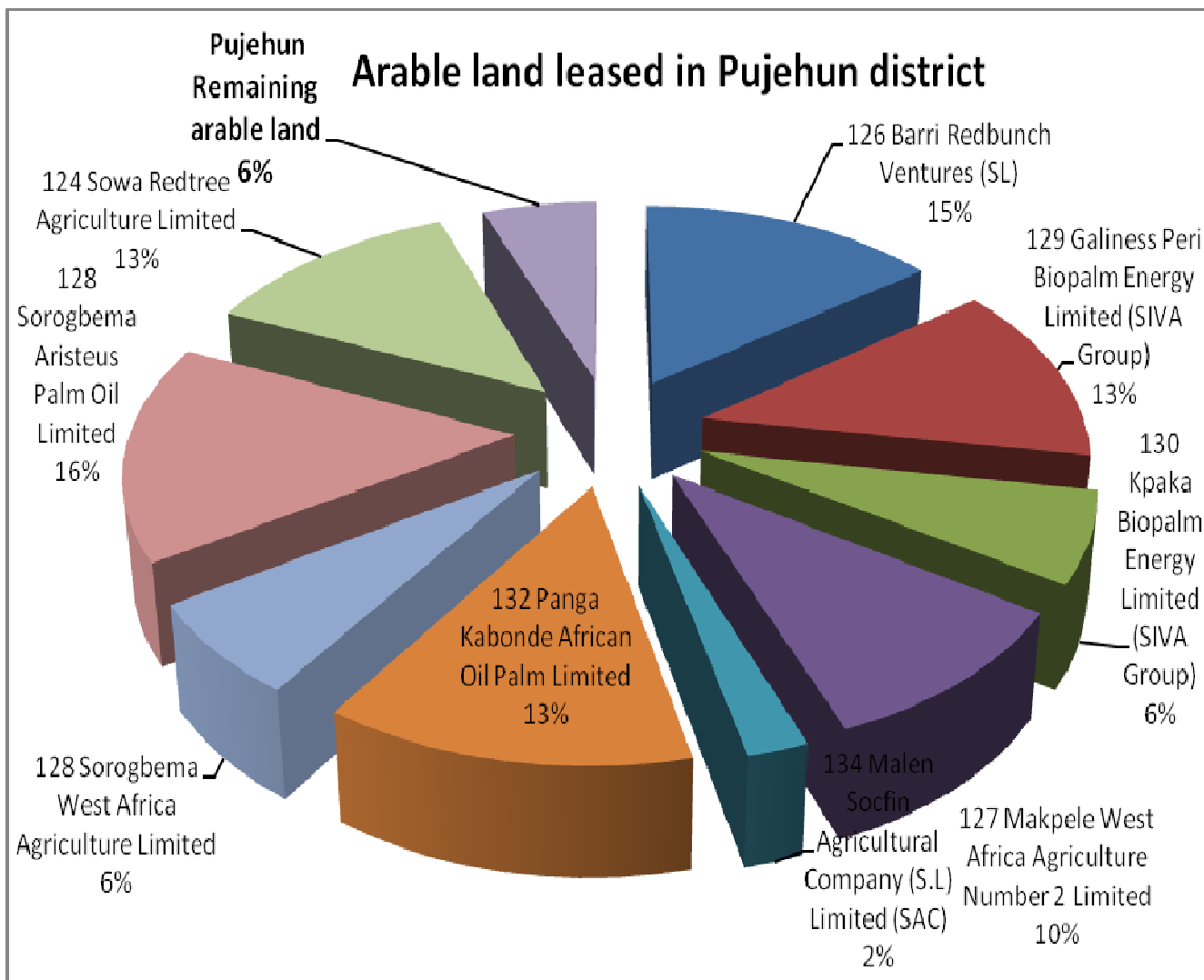
Investors:

African Oil Palm Limited, Aristeus Palm Oil Limited, Biopalm Energy Limited/SIVA Group, Agricultural Company (S.L.) Limited (SAC), Redbunch Ventures (SL), Redtree Agriculture Limited, West Africa Agriculture Limited, West Africa Agriculture Number 2 Limited

Chiefdoms: 8 of 12 chiefdoms in Pujehun District:

Chiefdom	Size (ha)	Investor	Lease registered?
Barri	44,882.38	Redbunch Ventures (SL)	yes
Galiness Peri	39,429.47	Biopalm Energy Limited (SIVA Group)	yes
Kpaka	19,723.62	Biopalm Energy Limited (SIVA Group)	yes
Makpele	30,700.00	West Africa Agriculture Number 2 Limited	yes
Malen	6,575.00	Socfin Agricultural Company (S.L) Limited (SAC)	yes
Panga Kabonde	39,320.98	African Oil Palm Limited	yes
Sorogbema	20,094.90	West Africa Agriculture Limited	yes
Sorogbema	47,567.70	Aristeus Palm Oil Limited	yes
Sowa	38,704.00	Redtree Agriculture Limited	No. Status not clear
Total	286,998.06		

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Registered lease agreements and accessibility:

Registered and accessible: Large land leases for chiefdoms of: Barri, Galiness Peri, Kpaka, Makpele, Malen, Panga Kabonde, Sorogbema (2)

Registered, but not accessible: Original Redbunch lease agreements appeared in the Index [Lease No. 30, Vol. 105, p 127, 11/3/2011 and Lease No. 31, Vol. 105, p 128, 11/3/2011]. But the documents were not found.

Not registered: In Malen Chiefdom, the Minister of Agriculture, Forestry and Food Security, on behalf of the Government of Sierra Leone (GoSL), leased 16,248.54 acres [6575.55 ha] of land directly from Malen Chiefdom Council. That lease agreement was originally ratified to commence on 5th March 2011, but it was not officially registered until 15th October 2012. The sub-lease, between the Minister of Agriculture, Forestry and Food Security and Socfin Agricultural (S.L.) Company Limited (SAC), was signed on 5th March 2011, but it was not found at the Registrar General’s Office in Freetown, where leases should all be registered.

Since SAC is already operating the investment has been taken into account in this overview.

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Despite an investment flyer advertising land available with Redtree Agriculture Limited for 38,704 ha in Sowa Chiefdom and the information that the company offers shares to potential investors, no lease agreement was located in the Index at the Registrar General's office.

Terms of lease agreements (selection):

Length of leases: 50 years up to 100 years

50 years with possible extension from 21 years up to 21+21+7 years (99 yrs).

GoSL and Malen chiefdom lease 50 years with extensions for 25+25 yrs (100 yrs).

(According to SL law Land Act, Cap 122/4: 50 years. *Second or further terms not exceeding twenty-one years*)

Lease rent: USD 0.23 up to USD 12 (50% going to landowners)

Leones (SLL) 1000 per ha/per year (Redbunch/Barri chiefdom) to USD 12.35 per ha/year (Socfin, Malen chiefdom with 50% going to landowner)

Reviewed: Mainly after 7 years. Redbunch first review after 2 years. SAC lease review not exceeding 17.5% increase of lease rent when signed.

(According to SL law Land Act Cap 122/5: Revision every 7 years).

Payment procedures as stipulated in the lease agreements:

In Makpele and Sorogbema Chiefdoms the rent must be paid in advance into the office of the District Officer / Chief Administrative Officer of Pujehun District (article 2.1).

In Gallines Peri and Kpaka Chiefdoms the yearly rent should be paid to a designated account of the District Council for disbursement among those persons and entities entitled to share in the same as prescribed for the time being by the competent authorities (article 3.1).

In Panga Kabonde Chiefdom the annual rent has to be paid in advance (article 1 i) in the manner aforesaid (article 2.i).

In Malen Chiefdom the yearly rent should "be paid in advance on or before the execution of these presents (the receipt of which sum the Lessors hereby acknowledge and confirm) and the remaining rents for the unpaid term shall be payable every other **one year (1)** in advance..."

In Barri Chiefdom the annual rent has to be paid into a bank account named as "Barri chiefdom land owners account". It needs three signatories, two landowners and the Paramount Chief. (article 2.1). It is also mentioned that payments or investment in development projects related to Corporate Social Responsibilities will be publicized throughout the region (article 3.5).

Other benefits included in leases:

5% royalty from net profit yearly to be paid into community development fund in Makpele, Panga Kabonde, Sorogbema Chiefdoms.

Managed by: Paramount Chief, 1 Member of Parliament, local district councilors within the chiefdom, 3 other chiefdom councilors, 2 representatives of the company with no veto option but should be allowed to raise concerns with the chiefdom council over the manner in which such funds are utilized.

USD 2 per ha planted area for social welfare program fund in Gallines Peri and Kpaka chiefdoms.

Managed by: Board of Trustees which is appointed by the Lessee on the recommendation of the Paramount chief.

Purposes: Vague terms dominate

Mainly oil palm "but not limited to" this. In some of the leases it is also mentioned that existing oil palm plantations shall be rehabilitated rather than being destroyed.

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The use of the land in corresponding articles is defined as such:

... for farming and any agro-industrial development and any other purpose the Lessee may deem fit (article 2.2 Malen chiefdom)

..for agricultural purposes for the growing of oil palm and other agriculture and ancillary industries, including but not limited to agri-processing and logistics (article 2.4 Barri chiefdom)

.. for agriculture, agro-industry and other related purposes (article 2 (iv) Panga Kabonde chiefdom)

...for commercial agriculture and ancillary industries, including but not limited to agri-processing and logistics (article 2.4 Makpele and Sorogbema chiefdoms)

...for the purposes of agriculture and agro-industry including but not limited to planting oil palms (Whereas: 3. Gallines Peri and Kpaka chiefdoms)

How under such vague terms the free, prior and informed consent of communities can be achieved, as stipulated by international standards, is highly questionable. An Environmental, Social, Health Impact Assessment has to be carried out in Sierra Leone and a license has to be issued. This should be the basis of any informed decision making. But what if companies change their original intention of planting oil palm or rubber in a time span of 50 years? Does it require a new assessment and again the consent of communities?

Sublease, sublet or part: Consent of the Lessee is required

In all agreements the consent of the Lessor is required to assign, to sublet or part leased land. Articles in the documents vary whether the consent has to be prior, which authority – the *District officer*, the *Chief Administrative officer*, the *Provincial Secretary* – if at all has to approve such consent and if such approval has to be made in writing. In the leases of Panga Kabonde [article 2 (xvi)] and Barri [article 2.12] the condition is added *that in the case of a subsidiary or parent company of the LESSEE such consent shall be granted.*

Arbitration: Disputes must be solved mainly in Sierra Leone but also in London

According to articles in five of eight lease agreements disputes shall be solved according to the *Arbitration Act, Chapter 25 of the Laws of Sierra Leone from 1960 or any statutory re-enactment or replacement thereof.* This applies for the leases with Sorogbema chiefdom [article 4.8], Makpele [article 4.8], Panga Kabonde [article 4. (vii)] and Barri chiefdoms [article 4.7].

In the lease agreements with Biopalm Energy and Gallines Peri and Kpaka chiefdoms disputes shall be settled *by arbitration conducted to the London Court of International Arbitration under ICC Arbitration Rules.* (articles 7.4 5 i)

In the agreement between the Sierra Leonean government and the Malen chiefdom council no special reference is made to dispute settlement.

Leases approved

All the accessible lease agreements were approved by the Chief Administrative Officer of the Pujehun District Council.

Biggest lease holders: With intention to implement Biopalm Energy Limited/SIVA Group

African Oil Palm Limited, Aristeus Palm Oil Limited, West Africa Agriculture Limited, West Africa Agriculture Number 2 Limited, Redtree Agriculture Limited seem to be run by the same small group of Sierra Leoneans and foreigners from the UK. This group holds under different company names land leases or options for leases in four chiefdoms with a total area of 176,387.58 ha (incl. 38,704 ha in Sowa chiefdom) which is 43% of the total area of Pujehun district or 58% of arable land in the district. The same actors appear in Port Loko.

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Redbunch Ventures (SL) Limited held a lease in Panga Kabonde but later African Oil Palm Limited succeeded in getting the lease hold which was then transferred to Biopalm Energy Ltd.

Agriterra announced on 1st of December 2011 that the company is broadening its portfolio of agricultural products through the acquisition of Shawford Investments Inc ('Shawford'), which in turn owns Red Bunch Ventures (SL) Limited ('Red Bunch'). In the announcement a 50-year lease (with an option to renew for a further 21 years) over approximately 45,000 hectares of brownfield agricultural land in the Pujehun District is mentioned (<http://www.agriterra-ltd.com/News.aspx?ArticleId=5178164>). It is highly probable that the lease agreement for Barri Chiefdom was transferred to Agriterra. This needs to be still confirmed by Agriterra.

These transactions to transfer land leases to other investors (primarily multinational companies) when the company that leased the land was sold for profit indicates speculation. The same trend of land acquisition (to sell the companies with the leases) is also known from another district.

Taking the company purchases / lease transfers into account, **Biopalm Energy Limited, which is registered in Singapore and part of Indian SIVA Group**, has apparently now become the biggest land investor in Pujehun District, with the intention of establishing oil palm plantations. The company holds three leases in three chiefdoms, for a total of **98,474.078 ha which is 23.9 % of the total area of Pujehun District**.

Companies purchased by other companies:

African Oil Palm Ltd, now under Biopalm Energy Ltd in Panga Kabonde Chiefdom. Confirmed. Alleged price paid: USD 1.5 million

Redbunch Ventures (SL), apparently now under Agriterra in Barri Chiefdom. Price: not known. (Waiting for Agriterra confirmation on transfer of Barri lease)

It was alleged that West Africa Agriculture Limited with its lease in Sorogbema Chiefdom had been taken over by Sime Darby, a company with a very large concession in Liberia. But Sime Darby responded to an email inquiry to refute this allegation: "Sime Darby Berhad has not acquired any land in Sierra Leone. We are always on the lookout for opportunities to expand and if we do make any acquisitions, we will be transparent and make the relevant disclosures." (20.04.2013). West Africa Agriculture Limited confirmed no intention to transfer leases but to implement their agribusiness (25.04.2013).

Companies and Roundtable on Sustainable Palm Oil:

Geoff Palm Limited, approved member. Parent companies Biopalm Energy Limited and African Oil Palm Limited, <http://www.rspo.org/en/member/1147>

Socfin Agriculture Company SL Limited, part of Socfin group, approved member, <http://www.rspo.org/en/member/30>

West Africa Agriculture Limited, applied, not yet a member, <http://www.rspo.org/en/member/1185>

Why the Government must put a moratorium on large-scale land deals

It is no gainsay that there are a lot of dynamics in the sector and that it must be properly understood. There is need for the government to commission studies on the many issues Green Scenery and other international organizations raised. A moratorium will give space and time to the government to design policies, regulations, monitoring mechanisms and structures that will ensure safeguards for the communities and protect the state from unsecured revenue generation.

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The National Land Owners and Land Users Conference

In April 2012, Green Scenery and the Sierra Leonean Network on the Right to Food, with support from the Oakland Institute, organized the first-ever National Conference of Landowners and Land-users affected by Large-scale Agricultural Investments in Sierra Leone. Participants issued the following communiqué.

COMMUNIQUE FROM THE CONFERENCE OF LAND OWNERS AND LAND USERS

We the delegates from eight districts and twenty chiefdoms either affected or about to be affected by large scale land acquisition for agribusiness in Sierra Leone at a conference of land owners and land users at the Saint Edwards Pre-school hall in Freetown from 2 – 3 April, 2012, while:

Acknowledging that there is need for investment in agriculture to ensure food security and sustainable development;

Being aware of government's priority in agriculture, particularly with smallholder commercialization and attracting large scale investors in agriculture;

Being mindful of the right and access to land to support farming, access to traditional medicines, energy and water sources, cultural and social purposes, and further mindful of farming as a way of life and source of livelihood for the majority of Sierra Leoneans;

Recognizing the dire need for women to have secure access and rights to land and the challenges of land availability, given climate change and population growth, and further recognizing the need for sustainable and diverse ways of food production to reduce poverty;

Hereby wish to state our serious concerns about large scale land acquisition for agribusiness in Sierra Leone.

MAJOR CONCERNS

We are concerned that:

- there is a glaring absence of free, prior and informed consent in all the communities, and there is no transparency in the land deals;
- consultations on land acquisitions are poor, excluding women and other stakeholders;
- there are no binding regulations for large scale agro-investments and monitoring mechanisms in place;
- there is no national watchdog body to monitor large scale land deals and industrial investments in agriculture;
- there is no effective environmental management of land, water and vegetation in lease areas to prevent destruction of resources, water sources, native herbs and wildlife and to protect the livelihoods of those that depend on these;
- community understanding of negotiating for large scale land deals is weak or non-existent and farmers have no access to independent

RECOMMENDATIONS

- in the absence of free, prior and informed consent in all the communities, we call for a review of all the agreements relating to the land investments, and education of all stakeholders of the content of all the agreements;
- there must be full involvement of all stakeholders in the communities in all the consultations and negotiations on land deals, especially women;
- a system of monitoring mechanisms must be put in place, and the government should establish regulations to safeguard rural populations in the face of large scale land acquisitions and industrial plantations;
- appropriate environmental management systems must be put in place to protect land, water and vegetation in lease areas to prevent destruction of these resources, to protect the livelihoods of those that depend on these;
- support is needed to help communities build their capacity in negotiation for compensation

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legal representation to help them negotiate for their own interests, and to ensure fair compensation and content in the agreements;

- traditional leaders, especially paramount chiefs, are serving as poor gatekeepers and some prevent direct community negotiations with the investors;
- women that have lost their land and thus their livelihoods have no viable or safe alternative livelihood, and thus are the most vulnerable;
- the investors do not provide relevant assistance and support to affected communities

Thus, we call on the Government of Sierra Leone and all decision-makers at all levels(international, national, district, chiefdom and local), to implement the following recommendations:

and content of the agreements, and they should be provided with independent legal counsel;

- traditional rulers, especially paramount chiefs, should allow the full participation of their constituents, especially land owners and users, in the consultation and negotiation processes;
- women that are affected by loss of their farmland and thus their livelihoods must be provided with safe and healthy alternative livelihoods;
- the land investors should provide relevant assistance and support to affected communities;
- land investment for agro-business should be designed to increase food security, not decrease it.