

Mr. Nanno Kleiterp, Chairman of EDFI

Mr. Søren Peter Andreasen, General Manager of EDFI

Cc: To the EDFI secretariat and EDFI members

20 September 2018

Dear Madams and Sirs,

We are writing to you to address a number of concerns regarding the impacts of land-based investments supported by European Development Finance Institutions that are part of EDFI. Large-scale land-related projects are often associated with significant human rights and environmental impacts for local communities that need to be properly identified and addressed at an early stage.¹

We believe that EDFI members, as government-financed and/or government-owned institutions should act as role models for sustainable business and take proactive steps to prevent negative long-term impacts for local communities. EDFIs should conduct enhanced human rights due diligence in land-related investments and ensure better exit strategies and increased access to adequate remedy for communities that have been negatively affected by EDFI-financed projects.

We closely monitor several land-related investment projects together with local partners and we report on the consequences regularly. Such investments often lack adequate human rights due diligence and long-term compensation mechanisms. One example is the Addax Bioenergy project (currently majority owned by Sunbird Bioenergy) in the Makeni District, Sierra Leone, that used to be financed by several EDFI members. At an early stage, the Addax project caused diverse negative consequences for local communities related to food insecurity and lack of access to land.² When the project stalled, the negative impacts worsened, and the local communities remained at risk.³ A responsible exit strategy, including access to remedy for the affected communities, was lacking when the participating EDFI members divested.⁴

Communities elsewhere have also been affected by similar projects. Globally, land-based investments are increasing in many areas with the highest risks of severe human rights impacts. These areas are often characterised by weak land rights, food insecurity, corruption, conflicts, and/or violent attacks on environmental and human rights defenders. A study by Fern of nine cases, eight of which were partly financed by EDFI members, called for more independent research into these projects and more scrutiny of the DFIs.⁵

¹ By land-based we refer to projects that involve a change in ownership or access to land such as agribusiness, infrastructure, mining or renewable energy projects.

² SiLNoRF and Bread for All (2009–2017), regular monitoring reports, e.g., 'Monitoring report on the operations and the scale down of Addax Bioenergy in Makeni, Sierra Leone (July 2014–June 2016)' (https://brotfueralle.ch/content/uploads/2017/07/1606_MonRep-Addax.pdf)

³ Bread for the World and Bread for all (2016), 'The Weakest should not bear the risk – holding the development finance institutions responsible when private sector projects fail. The case of Addax Bioethanol in Sierra Leone' (<https://brotfueralle.ch/content/uploads/2016/06/The-Weakest-Should-not-Bear-the-Risk.pdf>)

⁴ Swedwatch (2017), 'No Business, No Rights – Human rights impacts when land investments fail to include responsible exit strategies. The case of Addax Bioenergy in Sierra Leone' (http://www.swedwatch.org/wp-content/uploads/2017/11/86_Sierra-Leone_NY.pdf)

⁵ FERN (2017), 'European Development Finance Institutions and land grabs – The need for further independent scrutiny'

There has also been a worrying increase in serious human rights and environmental impacts related to renewable energy projects. Swedwatch recently called attention to the lack of exit strategies and access to remedy for local communities affected by the Buchanan Renewables project in Liberia.⁶ Likewise, the alleged human rights abuses committed by Feronia Inc. against the local population in the Democratic Republic of Congo have been well documented and reported on by civil society organizations in the DRC and Europe. The project, funded by several DFIs, has sparked violent land and labour conflicts in a context that lacks transparency and adequate remedy.⁷

As many of the projects in which EDFI members invest are land-based and located in high-risk areas, the EDFI secretariat and EDFI members should ensure the address of long-term effects and impacts of supported projects. We urge EDFI to take joint measures to strengthen policies and processes for human rights due diligence and access to remedy in all land-based investments and projects in order to comply with internationally recognized standards.

We believe that the EDFI should strengthen its Principles for Responsible Financing (2009), which are not in line with internationally recognized guidelines such as the UN Guiding Principles on Business and Human Rights (UNGPs) or the Voluntary Guidelines on the responsible Governance of Tenure of land, fisheries and forests (VGGT). In order to align these with the UNGPs and the VGGT, the EDFI should work to ensure that all of its members strengthen their handling of human rights concerns, including by:

- **Conducting adequate human rights due diligence, particularly in land-based investments.** As part of this process, all existing and future investments should have responsible exit strategies. This is of particular importance in investments which have a heightened risk of increasing the vulnerability of local communities, or other projects that affect communities' access to natural resources. Exit strategies should address all risks and impacts on local communities related to the project, especially the effects on women, youth, indigenous people and other marginalized groups from its temporary or permanent shutdown, and include the mitigation of identified risks in the event of stalled or failed projects or a change in investors. Furthermore, exit strategies must be planned and financed at the initial stage of a project, and be regularly updated.
EDFI members that have been involved in the Addax Bioenergy project in Makeni should analyse and address the human rights, social and environmental, as well as peace and conflict impacts caused by the project and the exit of DFIs. They should fulfil their responsibility and offer support to ensure that the project lives up to its original commitments, including by offering support to continue and improve the mitigation measures to increase local food security, which is currently at risk.
- **Considering fragile and conflict-affected contexts.** Clear risk assessments and conflict analyses should be conducted as part of an ongoing human rights due diligence process and throughout the project cycle (planning and implementation phase), as the conditions in fragile contexts often change very rapidly. Conflict sensitivity and Do-no-Harm principles need more attention. Appropriate, legitimate, accessible and uncorrupted conflict resolution mechanisms have to be strengthened and/or set in place. Human rights due diligence should address risks specific to such contexts, especially inequity, and work to ensure that the project does not undermine peace and human security in the project area. Identified risks should be discussed thoroughly with the local communities at an early stage. Specific attention must be dedicated to ensuring gender equity and free, prior and informed consent by all groups.
- **Enhancing grievance mechanisms and access to remedy for local communities, workers and others who have been negatively affected by EDFI-financed projects.** The current complaint mechanisms of EDFI members do not address complaints related to projects from which the DFIs have already

⁶ Swedwatch (2018), 'Human rights impacts of the exit of Swedish investors from Buchanan Renewables Fuel in Liberia: an update' (https://www.business-humanrights.org/sites/default/files/documents/Liberia_update.pdf)

⁷ RIAO-DC et al. (2016), 'Land conflicts and shady finances plague DR Congo palm oil company backed by development funds' (<https://www.grain.org/article/entries/5564-land-conflicts-and-shady-finances-plague-dr-congo-palm-oil-company-backed-by-development-funds>)

divested. Therefore, people who have been negatively impacted by the investments without complaint mechanisms when EDFI members exit or if negative impacts are caused by the exit. Grievance mechanisms thus need to be available for all affected stakeholders and complaints addressed, regardless of whether the DFI is still invested. Complaints must be investigated independently, and upon consultation with the affected communities. Furthermore, all EDFI members should have effective remediation processes in place. The DFIs should create funds during the lifetime of the project that will allow remedy after an exit if necessary.

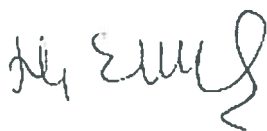
- **Improving transparency and dialogue with civil society in both home and host countries and ensuring that all voices are included in project-specific stakeholder dialogues and that human rights defenders can carry out their work without fear of retaliation.** It is a concern for us and other civil society organizations that we often lack access to social and environmental risk assessments that the DFIs or their clients conduct prior to or during a project. These assessments should be made transparent and discussed with the affected communities. In this context, we are concerned about the growing tendency of EDFI towards intermediary lending, a form of indirect financing that makes it difficult for third parties to monitor where money is being invested and thus to monitor compliance with human rights regulations.

We believe these measures are critical for EDFI members to live up to their ambitions to be responsible investors and to contribute toward the achievement of the Sustainable Development Goals of Agenda 2030. We hope these recommendations serve as a starting point for a continued dialogue on these important issues and look forward to hearing from you soon to hear more about how you intend to address them.

Yours sincerely,



Alice Blondel, Director of Swedwatch



Hilal Elver, UN Special Rapporteur on the Right to Food

For questions please contact Malena Wåhlin at Swedwatch: malena@swedwatch.org

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