

The Belgian Investment Company for Developing Countries (BIO) as a Sustainable Development Actor

Independent study commissioned by

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INTRODUCTION

The present study on the Belgian Investment Company for Developing countries (BIO) has been jointly commissioned by 11.11.11, CNCD-11.11.11 and la Coalition Contre la Faim/Coalitie Tegen de Honger with the aim to assess the processes and possible implications of the way in which BIO undertakes its mission to: "support a strong private sector in developing and/or emerging countries, to enable them to gain access to growth and sustainable development within the framework of the SDGs".

According to the Terms of Reference, the aim of this research was to analyse the evolutions in BIO's mandate and legislative framework since its reform in 2016. The research seeks to evaluate to what extent these evolutions respond to recommendations raised by Belgian civil society organisations and whether the current structure and practices enable BIO to meet its objectives to reduce poverty and inequality. The areas of agriculture and climate change were earmarked as themes of particular interest and a specific request was advanced to the research team to examine whether BIO's investments in these sectors meet BIO's strategic objectives, including the reduction of poverty, food security, and affordable access to energy, as well as what their impact is on human rights of local communities.

Although our research focused on BIO, the process, findings, and recommendations may be relevant for the broader public of academics, policy makers, civil society organisations and Non-Governmental Organisations who are interested in the operations of national and regional development banks. This is particularly the case for individuals and organisations who are looking at the work of other national European Development Banks that, like BIO, are members of the Association of European Development Finance Institutions (EDFI), but also at the broader issue of development finance and the use of Official Development Assistance (ODA) to promote the consolidation and expansion of the private sector in the Global South. To our knowledge, the present study is the first of its kind not only in the Belgian context, but also at the European level. We thus hope that it would prompt conversations at different levels and be a term of reference for further studies and reflections on the past, present and future of National Development Banks.

The research team was composed of four independent international legal scholars who combined a diversity and complementarity of expertise and approaches to the issue of sustainable

development, human rights and socio-environmental justice*. The structure and content of the report reflect this diversity. Dr Giedre Jokubauskaite has several years of experience in researching Development Banks and their accountability mechanisms. She was supported in her focus on international human rights law by Prof. Koen De Feyter who is an expert on the right to development. Prof. Tomaso Ferrando and Dr David Rossati provide critical knowledge of the interactions between law, policy and the promotion of development projects in two specific sectors: sustainable food systems and the energy transition respectively.

Considering the Terms of Reference and the team's expertise, the following output does not aim to offer a traditional human-rights assessment (HRBA) of BIO's activities. Although we refer to the human rights that BIO, as a public entity that is entirely owned by the Belgian State, shall protect, respect, and fulfil, a HRBA would have required a bottom-up approach to their investments, the possibility of accessing sites where projects are realised and a different methodological framing. Similarly, the present study does not attempt a legal compliance assessment of BIO vis-à-vis international, national, and internal regulations. The research only refers to the complex framework of binding conventions and laws that BIO as a public entity is required to respect but does not centre either methodologically or substantively on assessing compliance with regulatory instruments applicable to BIO. However, we are aware of the complexity of legal compliance, its procedural requirements, and the limitations posed by their regulatory instruments which can lead to the possibility of becoming easily transformed into a 'ticking the box exercise' and have an impact on additionality of BIO's investments strategy.

BIO is a National Development Bank that utilizes Official Development Aid funds, thus the research team interpreted the Terms of Reference as mandating an assessment of BIO's structure, organisation, activities, and investments against the concept of 'development'. This does not mean that we are interested in concluding whether BIO is doing development or 'good development'. Similarly, to the HRBA, this would have required a bottom-up approach and the realization of an investigation that the Terms of Reference did not provide, and that covid-19 would have not allowed. On the contrary, we adopted a methodology that is mainly qualitative and allows us to unpack what BIO considers to be their development purpose, how their employees and management engage with the relationship between the public and the private nature of their institution; what cultural, legal, and political structures BIO takes into consideration, and how they result in specific investments. Despite the presence of financial data and considerations, our intention was not to assess the financial performance of BIO: BIO makes the financial performance assessment every year (including with the support of external consultants), while procedural and substantive non-financial considerations receive less attention.

We decided not to adopt a pre-determined concept of development and apply it to BIO. We engaged in a series of interviews to discover BIO's own vision, narrative, rhetorical devices and mapped how they are translated into concrete actions with social and environmental implications. We deployed a critical approach to development governance, its functioning and to the projects financed by BIO. We then juxtapose these findings to the relevant legal frameworks, the

* We are extremely grateful to our research assistants, Manou Watrin, Robin van der Lugt, and Indra Delbaere (University of Antwerp); Joshua Situmeang and Noemi Pizzi (Vrije Universiteit Amsterdam); and Onthatile Olerile Moeti (University of Glasgow). This research would not have been possible without their invaluable contributions.



political commitments of the Belgian State and BIO's mission towards sustainable growth, development, and the Sustainable Development Goals.

Our study is thus mainly qualitative, although it uses some quantitative data (in particular concerning portfolio and investments' distribution) to complement the analysis of perceptions and processes. More precisely, the research has been conducted during seven months and has combined the analysis of publicly available documents with semi-structured interviews. The interviews were conducted with 14 BIO's officers, 7 members of DGD, 3 members of BIO's Board of Directors, 1 representative of the Cabinet of the Belgian Minister for Development and Cooperation, 1 employee of Enabel, representatives of 2 Private Equity Funds that are clients of BIO, 1 SME that is a client of BIO (borrower), 2 NGOs and 1 academic from Sub-Saharan Africa to talk about specific investments, 1 member of the 2017 Agri Task-Force. We also organized 2 sectorial meetings with Belgian NGOs whose actions are relevant to our research.

In terms of structure, the study is composed of one introductory Chapter that depicts a general overview of the BIO, and four main Chapters, each one originally elaborated by one member of our team and then collectively re-elaborated. They are:

- **BIO as a development actor** (Chapter 2, Dr Giedre Jokubauskaite);
- **Investing in the Agri-Food System** (Chapter 3, Prof. Tomaso Ferrando);
- **Financing Climate and Energy Transition** (Chapter 4, Dr David Rossati);
- **Accountability** (Chapter 5, Dr Giedre Jokubauskaite).

Whereas each Chapter contains thematic reflections, findings, and considerations, in Chapter 6 we produce an extensive list of the **main recommendations** concerning the future of BIO in each area that we have researched. In addition, as an appendix to the document we also provide three Annexes that can help the reader access more detailed information on BIO's legal and financial structure (Annex I and Annex II) and five investments in the agri-food sector (Annex III). For the readers' convenience, we present our overall findings in the final part of this Introduction.

Challenges of the research

Our research has not only focused on BIO's governance structure or on specific investments. Inevitably, it has led to reflection on the easiness to access information in BIO's possession and on the transparency of its operations. We are grateful to the BIO's personnel for the time that they dedicated to our research, offering to participate to more interviews than we had originally proposed. This certainly is a sign of commitment to dialogue and openness, and we appreciate their support. We also recognise the difficulty of dealing with an external actor (our research team) at the time of covid-19 and in a moment that required much more attention, energy, and work than normal. We are particularly thankful to the External Relations Office, which provided us with a large volume of information and with detailed elements concerning both the portfolio and specific investments.

However, it is our opinion that the lockdown, the economic downturn, the increase in hunger and poverty, and the temporary suspension of ‘business as usual’ should not be labelled as unexpected and external crises that will be fixed. Like the climate emergency, they should act as a trigger for a public and systemic redefinition of the way in which development and cooperation is conducted, of its premises, its impact and its capacity of dealing with a world that is very different from the one that we had few decades ago and that development cooperation should also be changing if we want to guarantee environmental and social rights. In ancient Greek, ‘crisis’ means the moment of choice. We thus believe that the dramatic conjuncture in which our research is published represents the ‘best’ moment to open spaces of conversation, change and adaptation that are much needed. This is with regard to the role of National Development Banks and Development Finance Institutions as much as across the spectrum of development and cooperation.

Despite BIO's extensive participation in the research project, we cannot help noticing that most of the information we required were labelled as confidential, preventing us from using it or referring to it in our analysis. This included the content of Environmental and Social Management Action Plans (crucial documents to assess the development impact of BIO), the report of the 2017 Agri Task-Force (an essential piece of information to understand which conversations have been taking place and what have been the priorities in this sector) and annual overview reports that BIO is bound by law to submit to Belgian Government and DGD. In the case of the 2017 Agri Task-Force document, we were advised that the document could not even be shared nor discussed with the participants to the meetings, who happened to have received a copy of the document. In the case of the Management Action Plans, we were informed that we could not use information that had been shared with us during one of the interviews in support of one of the points that had just been made.

Although we recognise that BIO handles commercially sensitive information, we are also convinced that its nature as a public development bank should have a weight in favour of disclosure and transparency of decisions that are adopted in exercises of this nature. In our opinion, the default refusal to share or authorize the use of documents concerning the social and environmental performances of companies that benefit from Belgian Official Development Aid is not aligned with the purpose of BIO and with its commitment to be accountable to the Belgian State and Belgian citizens. As we discuss in the report, the drafting of BIO's ‘Transparency & Disclosure Policy’ started few months into our research project and was published few days before the completion of this document. It represents a step forward in the sense that it at least contains a clear set of indications, but it still prioritizes commercial interest over the right to information and public interest. As BIO had informed us about their intention to adopt such policy, we offered our support in advising and in commenting on the draft. However, no draft was shared with us and there was no involvement of stakeholders and interested third parties (such as civil society organisations) in the drafting process.

Main findings

As mentioned before, our research aimed at unpacking the way in which BIO perceives itself, its operations, and its relationship with the rest of the development and cooperation framework.

We paid particular attention to the changes and evolutions in BIO's mandate throughout the last decade, specifically in the aftermath of the 2012 report produced by Belgian civil society and the recent allegations of human rights violations by Feronia PHC, one of BIO's largest direct investments. Throughout our report, we observe how BIO has progressively complexified and strengthened its Social and Environmental policies, has increased the number of employees focusing on the non-financial impact of its investments, and has worked with Belgian stakeholders to develop an agri-strategy. Further we note that BIO has been dedicating an increased share of its portfolio to renewable energies and to the climate commitment. We also notice that BIO has progressively exited all investments from beneficiaries located in fiscal havens (although we acknowledge that the current situation is much more complicated). Moreover, BIO intends to decarbonize its portfolio (here too, the situation is much less straightforward than the policy would indicate). The Transparency and Disclosure Policy and the revision of the internal Grievance Mechanism are also (partial) improvements that we notice and discuss.

However, our analysis has also brought to light the permanence of some of the issues raised in 2012 and the emergence of new issues. They are often due to the combination of multiple factors, including the high number of countries in which BIO invests, the total amount of investments in its portfolio and the amount of investments that it aims at realizing every year (especially indirectly), the centralization of most tasks in Belgium (far away from the real life of the investments), and the lack of specialization in key sectors for BIO and the Belgian Development Cooperation. Some of the main critical findings are:

- the tendency to outsource a significant part of ex-ante E&S assessment (to consultants) and follow-ups (to clients);
- the adoption of a fluid notion of additionality (both financial and development);
- the lack of cooperation between BIO and the other Belgian Development Cooperation actors, which may also lead to a mismatch between BIO's investment portfolio and the national SDG strategy;
- a cherry-picking attitude towards the SDGs rather than the adoption of a holistic approach to the seventeen goals as interconnected and indivisible (this is evidenced by BIO's use of its own "BIO Development Goals", which privilege the economic aspect of the SDGs);
- an ex-ante and ex-post approach to gender impact that focuses mostly on improvements assessed through the quantitative lenses of the number of female employees, employers and consumers (i.e. 2XChallenge), with the recognition for the need to pay more attention to the subjective conditions on the ground and the gendered impact of direct (and especially indirect) investments;
- the aim to attain an annual gross return on the investment (around 5,5%) which increasingly pushes BIO towards investments in Private Equity Funds that promise 10-12% annual return;
- the lack of consideration on the possibility of reinvesting the profit generated in the South within the same geographies and communities, rather than using it to remunerate the Belgian State or to finance other investments in the South;

- the Code 8 (i.e. as public funds transferred to BIO with the prospect of financial returns)/ Code 5 (i.e. grant capital provided by the State with lower return and higher risk) dilemma, by which BIO's access to more Code 5 may be obtained by reducing funds available to other Belgian development actors;
- the 'subsidy' effect that may exist when Belgian ODA is invested alongside private investors via financial intermediaries like private equity funds or debt funds and reduces the cost of the private investment by lowering the risk. The 'double subsidy' effect that may exist in those (so far limited) cases where BIO's investment in a financial intermediary takes place at different conditions than private actors so that BIO takes more risk or is engaged for a longer period;
- a skewed understanding of human rights as only linked to visible violations (physical and/or environmental) and not enriched by the plurality of civil and political rights (including the right to information and the right to a meaningful participation) and economic, social, and cultural rights and the right to development and self-determination.

Chapter 2: BIO as a development actor

In this Chapter we provide a critical assessment of BIO's business model and examine the safeguards as well as policy priorities that guide BIO in choosing its investments. We find that financial sector is BIO's principal partner, with large percentage of BIO's funding invested in financial institutions and private equity funds (PEFs), mostly under a broad umbrella of 'financial inclusion'. Traditionally, financial inclusion is understood as financial empowerment and access to finance *by the poorest and most vulnerable people* in developing countries¹. BIO's understanding of financial inclusion tends to be broader, with an aim of increasing access to finance for MSMEs and individuals (through micro-credit) in BIO's countries of intervention *more generally*. Although not one of the original corporate purposes listed in BIO law, financial inclusion as access to debt and equity has now become a way of justifying BIO's interventions in almost any sector, provided that such investments can create jobs, economic growth, and enable investees to improve their environmental and social governance (ESG).

In light of this broad understanding of financial inclusion, BIO can justify investments in financial institutions such as local banks or microfinance institutions, therefore becoming a 'lender of lenders'. These investments promise to improve access to credit for the poor in some instances, but not always. Similarly, when access to finance for growth and sustainability becomes an end in itself, BIO can justify investments in the so-called 'generalist' private equity funds, which choose portfolio companies not necessarily based on their thematic focus or ability to support MSMEs with greatest development impact, but based on a wide range of business considerations (including a promise of generating high return). On the whole, for BIO, the focus on financial inclusion generates a pipeline of relatively high-return investments, and it significantly expands a pool of potential applicants.

¹ See, e.g., Anke F. Schwittay (2011), "The financial inclusion assemblage: Subjects, technics, rationalities", 31(4) *Critique of Anthropology* 381–401.

Investments in PEFs remain central in BIO's business model although they are not free from issues and challenges that stem from indirect financing. For example, although PEFs enable BIO to reach more companies with lower tickets, and although the presence of BIO has the potential to help fund managers improve their ESG and business performance, PEF-based funding seems to privilege companies willing to grow and generate high return for their investors. There are also issues of transparency surrounding funds' managers and operations, and an increase in intermediation between the territories and BIO, which can have negative repercussions in terms of information, accountability and access to justice. Moreover, while profit generated by portfolio companies is paid in the country where an actual economic value is created, most PEFs that appear in BIO's portfolio seem to be incorporated in 'tax neutral' jurisdictions (in case of BIO's investees, mostly in Mauritius or in Europe). This means that tax on profits made by fund managers and their investors (via dividends) are paid not in the developing countries where PEFs investments are realized. In some cases, they may not be paid at all, depending on the tax rules of the country of incorporation.

Another question underpinning BIO's choice to operate through financial sector and PEFs is *who* in BIO's countries of intervention can realistically access BIO's funding. BIO's portfolio is competitive, but BIO offers no training opportunities for entrepreneurs who are running promising new businesses yet have little knowledge of international financing. BIO also funds directly only those companies that fit under the European definition of an SME (≤ 50 million EUR turnover), but not micro enterprises; it also funds subsidiaries of multinationals, without prioritising companies that are 'home grown'. This investment model is conducive to successful applications being submitted by the highly educated and financially literate local elites and/or expats, who know the 'jargon' necessary to attract funding from the institutions such as BIO. While BIO measures its development impact not based on its clients' profile but rather on the profile of its final beneficiaries (i.e. the end customers of its clients), this implicit prioritisation of the wealthy and able is still problematic from a perspective of development cooperation and the aim to empower those who are in the most need of assistance.

Overall, our research suggests that BIO's business model reflects the classic tenets of economic development, and shows a narrow interpretation of how BIO should be contributing to environmental and social (E&S) goals. BIO has a 'constructive' approach to the E&S impacts of its investments and tends to view a majority of E&S issues as opportunities to improve the ESG practices of its clients. E&S flaws can lead to the decision not to invest, but investments are also realized in the presence of environmental or social concerns, with the expectation that they will be addressed in the course of the investment. Moreover, the risk mitigation hierarchy in the IFC Performance Standards, which BIO uses to assess the E&S impacts of its investments, ultimately enables companies to realise investments with a potential of causing social and environmental harm, if companies are willing to compensate for, or offset such E&S harms, and if it is financially viable and technically feasible to do so. BIO's approach to E&S is also not ambitious enough: BIO has no mandatory indicators in its development impact assessment that pertain to the natural environment, and it does not record or report on the negative environmental impact of its portfolio. BIO's policy objective of ensuring access to basic services also has no indicators on affordability, which would have a chilling effect on the pricing mechanisms that could effectively exclude the poor from enjoying such basic services.

Finally, BIO relies extensively on external consultants for the E&S aspects of its operations. Some of the consultants appear to be ‘repeating players’ in the E&S assessment for DFIs and their clients, which could pose issues of conflict of interest in light of past and future relationships. These consultants are appointed *ad hoc* and complement BIO’s internal expertise on financial aspects of investments. As a result, the core of decision-making at BIO rests in the hands of highly competent and capable yet relatively homogenous group of people. Overall, this risks to make it difficult for BIO to engage with such progressive development agendas such as human rights-based approach to development or socially sustainable and effective climate change mitigation and adaptation. In our reading, this permissive and unambitious approach to E&S is (at least partially) linked to BIO’s need to generate sufficient financial return to cover its own operational and transaction costs. As a consequence, BIO finds itself in the position of acting more as a bank and a commercial lender (to other lenders) rather than as a development institution.

Chapter 3: Investing in Agri-Food Systems

Investing in agri-food chains represents one of BIO’s strategic priorities, particularly agriculture and agro-industry as food producing activities. At the same time, the Management Contract and BIO’s strategic documents identify an increased attention to enterprises active along the agricultural value chain to guarantee consistency in the provision of development and contribute to food security. According to BIO, around 75% of the projects screened in 2019 and 2020 (project pipeline) were in the agricultural and food sector, although not all of them are funded. BIO is directly and indirectly invested all along food chains and through different sectors (from agroforestry to aquaculture, from digitalization of agriculture to large-scale food discounts).

If we look at the direct investments in Small and Medium Enterprises (SMEs) that BIO categorized under ‘agribusiness’ at the end of 2019, the sum of €37,337,082 represented the net commitment² to 17 agribusiness enterprises operating in 13 countries in Sub Saharan Africa, Latin America and Asia. This sum represented the 67,55% of BIO’s net commitment to SMEs in 2019. Such percentage would be even higher if we were to consider as an agribusiness investment also the sum of €8,264,00 that is still outstanding from an original 11,3m loan that BIO issued in favour of Indorama Eleme Fertilizer & Chemical (IEFC), a Nigerian group of companies, for the construction and operation of a 1.4 M MTPA Nitrogenous Fertilizer Complex, a greenfield project which is the world’s largest single train Urea – Fertilizer plant (see box 3.16 in Chapter 3).³

Along with direct investments, BIO invests in agri-food via financial intermediaries, e.g. Private Equity Funds and Debt Funds (See Table 2.1 in Annex II). Looking at the 2019 portfolio, we identified five specialized agri-funds in which BIO was investing equity of debt. However, generalist funds invest in agri-food companies too. Our research brought to light that at the end of 2019 the 20 funds were invested in at least 81 ‘clients’ operating in the food system. 81 companies

² Net commitment does not mean that all funds have been disbursed. At the same time, it does not mean that it represents the original investment, as equities change of value, loans are repaid and currencies fluctuate.

³ There is incongruence with figures, as BIO webpage reports €15M loan but also €11,3M. See <https://www.bio-invest.be/en/investments/indorama-eleme-fertilizer-chemicals-ltd>.

that indirectly received Belgian ODA for a total of 15,172,282 Euro. This involves at least 15 funds.

For the sake of this study, we divided BIO's investments in four categories: a) Connecting Small-holders to Value Chains; b) Agribusiness: Agri-industry and plantations; c) Agricultural inputs, digitalization, processing and trading; d) Retail and Consumption. Looking at the overall portfolio of investments, BIO's approach to agri-food can be summarized as follows: in a world that needs more food, BIO is investing at all levels of the value chain (i.e. From seeds to fork) and pays particular attention to the potential in terms of job creation, export revenues and economic growth. With the use of concrete case studies (see Appendix III) and access to public documents, we present an overview of the way in which BIO intervenes (directly or indirectly) at each level of the agri-food chain and discuss the rationale for investments and the potential impacts in terms of human rights and agri-food systems.

In this part of the research, we seek to establish whether sustainable development and human rights elements (such as the right to food, self-sufficiency, biodiversity loss, agroecological practices, and the thin line between productive and reproductive labour) are considered, assessed and accounted for both before investing and after investments in the agri-food sector are realized. Given the fact that large-scale agricultural investments (both agri-industry and plantations) have often been associated with land conflicts, we pay particular attention to this issue to highlight their incompatibility with the development objectives identified by the Belgian Minister of Development and Cooperation and the international obligations assumed by Belgium in terms of human rights and fight against climate change.

Our conclusion is that, not dissimilar from the *Agriculture for Development* approach adopted by the World Bank in 2008,⁴ BIO has embraced a 'dualistic' and parallel track to agri-food development. Large-scale, export-oriented, and mechanized farms are financially supported along with those smaller-scale forms of production that are financially and logistically feasible and that can be integrated into global value chains or are more apt to the implementation of technological solutions that increase efficiency and increase market potential (both in terms of production and logistic). Throughout our research, we wanted to understand *what is the notion of food security that BIO is implementing* and how is it reproduced into concrete practices and in the selection of the investments.

With regard to 'food security', we conclude that it is taken into consideration, but mainly in quantitative terms (availability) and as an indirect goal that can be obtained through 'strengthening employment (supporting and creating jobs)', stimulating rural economic development and the increase in domestic resource mobilisation (taxes and (gross) salaries paid, local purchases of goods and services, and any other (net) cash transfer from a BIO client to the local economy. This means that there appears to be a limited attention towards both the nutritional component, to the actual accessibility to nutritious food in the region where the investment is realized and to the capacity of the investments to guarantee long-term food resilience. With the use of concrete

⁴ The World Bank document is not explicitly referred or mentioned by BIO in its documents or strategies. However, clear similarities exist.

examples and the material collected in the interviews,⁵ we conclude that the future of BIO's agri-food investments should be defined by a clear and transparent strategy that puts food and nutrition security and human rights (in particular the right to food) at the centre. Moreover, the agri-food investments must recognise the indissoluble link between food systems, climate change and socio-biological diversity at the centre (for example, by financing agroecology and excluding investments in monoculture, GMOs and new genomic techniques).

For what concerns 'consistency', it is our opinion that BIO's intervention at different levels of the food chain may not be sufficiently informed by an understanding of power imbalances and uneven distribution of value. We note that the focus on productivity, export and competitiveness within the food chains may be contrary to the objective of 'not leaving anyone behind' (Principle Two of the SDG). Overall, we agree with the 2017 Agri-Task Force's recommendations that BIO's current approach to the agri-food sector would benefit from the increase in internal expertise on the social and environmental complexity of the agri-food systems, including on the risks behind the digitalization of agriculture, the investment in large-scale transformers, exporters and retailers, and in the 'new green revolutions'.

Chapter 4: Climate and Energy

With climate change gaining a central role in the Belgian strategy to Development Cooperation, we have analysed BIO's institutional framework and its investments under the climate finance lense. The latter is loosely defined as the transfer of financial resources in developing countries for the purposes of either reducing greenhouse gasses (GHGs) emissions or adapting to climate change. Climate finance can be understood as a form of international development, since it aims at creating better infrastructures, resilient environments and living conditions. But it has also the function of supporting developing and least-developed countries in embarking into ambitious and transformative pathways towards a gradual decarbonisation of human activities in line with the global goals which are today identified in international law under the Paris Agreement.

It is against this background that we assessed BIO under the following key dimensions: i) the means and extent to which it contributes to Belgian international climate finance under the UN Framework Convention on Climate Change and Paris Agreement; ii) the composition of its energy-related portfolio in terms of investment structures, project types and geographical distribution; iii) BIO's perceptions of and engagement with adaptation finance; iv) BIO's continuing support in projects promoting the fossil-fuel supply chain; and v) BIO's mainstreaming of climate in its development impact assessment, including its carbon mitigation claims.

As with Chapter 3 on agri-food investments, we used case studies and interviews with BIO's employees to capture some realities of BIO's direct and indirect financial structures in the renewable energy sector. Overall, the analysis arrived at the following findings:

⁵ See Appendix III. The cases that have received more attention are: Babban Gona, Fair Trade Access Fund, JTF Madagascar, RNTC Uganda and SLC Senegal.

Given its primary focus on SDG7 on affordable and clean energy, BIO's climate-related projects portfolio is almost entirely dedicated to renewable energy infrastructure with an overall outstanding of €186.5 million, about 30.5% of the entire outstanding portfolio. In terms of financial structures, BIO's portfolio is considerably skewed towards indirect investments via various vehicles and, particularly, private equity funds: out of 135 energy projects in 2019, only 19 are made of direct investments in the form of loans: of these, four consist of gas-fired or dual fuel (gas and diesel) power stations. This is related to BIO's strategic policies, which set climate action as a secondary SDG goal, despite the earmarked capital injections for climate and increased focus of previous governments on BIO as a climate finance delivery entity.

Given that the capital transferred in projects having a climate mitigation component is offered as loans or equity with the prospect of financial returns ('Code 8'), the substantive contribution of BIO towards Belgium's international climate finance efforts is considerably reduced. This is because, in line with reporting practices under the UN Framework Convention on Climate Change and the Paris Agreement, DGD applies a 'grant equivalent' methodology when reporting BIO's level of finance to the UN climate regime. This methodology seeks to extrapolate the grant component of each financial transfer made by BIO geared towards a climate-related purpose. Therefore, the overall amount accounted for as 'climate finance' is considerably less than the amount of the capital committed.

BIO finds it difficult to source viable renewable energy projects in the context of increased levels of concessional money entering the sector and in particular the Sub-Saharan region. It also struggles to directly engage with the lively reality of SMEs and start-ups active in production and distribution of clean rural or off-grid energy. There is recognition by BIO's employees and management that, while these projects are riskier, they can also deliver a higher development impact. Despite that, there has so far not been a strategic reassessment of ways that could further promote forms of direct, riskier, and more impactful engagement, apart from receiving increasing amounts or 'Code 5' capital from the government. More 'Code 5' capital could support BIO's transition towards riskier and more effective finance for the climate. However, the limited amount of 'Code 5' capital available from the government, raises issues of distribution between BIO and Enabel. Especially given Enabel's parallel track record and ambitions on climate finance, particularly in enabling environments for the private sector in least-developed countries, and technical assistance in climate adaptation.

With regards to the latter, BIO has so far left unfulfilled this part of its climate-related mandate under the Management Contract. Interviews with BIO and consideration of its Investment Strategy show that, while there is recognition and intention to progressively mainstream climate adaptation into BIO's activities, currently there is a minimalist understanding of BIO's potential to promote the resilience of local livelihoods and ecosystems through the work of local SMEs. BIO's current strategy focuses on assessing the climate risk and enhancing the resilience of existing clients. However more recent trends of climate finance in international development point at forms of financial support towards SMEs that work within circular economy strategies or can help stir new business in climate adaptation products and services.

The way in which BIO communicates its climate mitigation achievements via its energy portfolio are not sufficiently transparent. It is unclear how some public claims of GHGs emissions reduc-

tions from the energy portfolio are calculated, especially in relation to the actual level of BIO's commitment for each project. A clearly structured internal monitoring reporting and verification policy and processes seem to be missing, although there are initial and promising steps, including a comprehensive assessment of the climate-related impact and risk of the current portfolio.

Two case studies also reveal that, despite its elaborate internal process of pre-screening, development impact, as well as E&S assessment and monitoring, BIO's support to fossil-fuel and hydropower investments can contribute to a series of indirect impact or risks that should give cause for concern, because they contradict the very development aims that BIO has set for itself. The way in which BIO has participated in these case-study investments misses the wider context of indebtedness of the public sector, as well as the needs and struggles of people(s) directly impacted by these projects. BIO's current business model risks promoting the development of an unsustainable form of renewable energy production in least-developed countries. This ensures financial returns and expands the private sector at the expense of promoting sustainable energy distribution and tariff levels for the long term.

Chapter 5: Accountability

Overall, BIO sees itself as accountable to the Belgian state as its sole shareholder and to the Belgian taxpayers as its contributors. For BIO, accountability is enforced not by continuous control and coordination, but through the interventions of BIO's Board and through periodic reporting to the DGD, the Minister for Development Cooperation, and the Parliament. In practice, this means that BIO sees itself and acts as a highly autonomous institution, and that it is relatively isolated from other development actors in Belgium (e.g. Enabel, parts of DGD, civil society), as well as from external actors in its countries of intervention. There is much room for more openness and wider interpretation of BIO's accountability, to include the Belgian public and other external stakeholders, both at a policy level, but also at a level of individual projects. By sharing more information with the public and by making its decision-making less insulated, BIO would create more opportunities for dialogue, diversity of opinion, and ultimately, room for better decisions about its investments. This would reduce a 'chamber effect' that is created when means of ensuring accountability rest predominantly with the Board.

In terms of monitoring and compliance, we notice that after BIO has realized an investment, if a client does not implement its E&S obligations, BIO has a limited set of leverages to hold clients accountable and to guarantee the fulfilment of the E&S Action Plans (ESAPs). The leverages are mostly contractual and involve suspension of future disbursements, in case of loans, or exit, in case of equity and funds, where BIO effectively co-owns a fund or a company but often only has an advisory role in their governance, rather than a decision-making position. Thus, the main mechanism of accountability and compliance appears to be reputational and based on a circular logic: according to BIO, the clients would comply with the E&S requirements to safeguard their reputation among investors. However, BIO relies heavily on self-reporting by clients, and reputation cannot be damaged where investors do not know what is going on 'on the ground'. An increased role of independent observers would be paramount in ensuring that E&S commitments are met fully and in a timely manner.

With regards to transparency and access to information, our analysis shows that this remains a 'bottleneck' that prevents external observers from engaging in more detail with BIO's operations, and from holding it and its clients to account. BIO's new 'Transparency and Disclosure Policy' addresses this issue only to an extent, since it promises to release some information related to environmental and social (E&S) issues of its investments. Nonetheless, this new policy has serious limitations, including the fact that 'confidentiality' remains the norm and that BIO will not publish any investment-related information before the conclusion of the agreement with a client. This policy demonstrates that BIO continues to see its decision-making about specific investments – including related E&S aspects – as an internal process. This effectively precludes any external scrutiny of BIO's operations when it matters the most: at the time when a decision to invest in a given country or a sector is being deliberated and has not yet taken place.

BIO's accountability to final beneficiaries contains serious gaps. The Environmental and Social Plans (ESAPs) which set out the main E&S commitments towards local communities, workers, and environment in the project area, are confidential. When summaries of ESAPs are released by the client, they often only contain procedural obligations rather than promises to create wider social benefits (e.g. build schools, maintain roads, provide health care).

BIO also has created a Grievance Mechanism that is meant to ensure accountability towards affected communities, and which has received several complaints to date. Nonetheless, clients do not always mention BIO among its investors, and when or if they do, they do not mention BIO's Grievance Mechanism. This, combined with the fact that BIO does not engage in a systematic community engagement, means that Grievance mechanisms remains little known and underutilised.

1.

Introducing the Belgian Investment Company for Developing Countries (BIO)

Introduction

This part of the study ‘sets the scene’ for the analysis that follows. The aim is to situate BIO as a national development institution by providing some basic elements concerning its legal status, ownership, governance, financial structure, operational limits, and obligations under Belgian and international law. Most information in this part summarises and explains the core provisions of the 2001 BIO law,⁶ the 2003 Law of Development Cooperation,⁷ and the Second Management Contract between BIO and the Belgian state.⁸ These publicly enacted regulations represent the binding framework in which BIO and its employees must operate. The first three sections of this Chapter thus engage with BIO’s legal framework and relationship with both the Belgian State, Belgian national law, and the broader set of international law. In Section 1.4 we then focus on the financial structure of BIO, how it is funded and how public resources are allocated.

⁶ Loi 3 November 2001 relative à la création de la Société belge d’Investissement pour les Pays en Développement et modifiant la loi du 21 décembre 1998 portant création de la “Coopération technique belge” sous la forme d’une société de droit public, *Moniteur Belge* 17 November 2001. The law was amended on a number of occasions ; see : Loi 20 January 2014 modifiant la loi du 3 novembre 2001 relative à la création de la Société belge d’Investissement pour les pays en développement et modifiant la loi du 21 décembre 1998 portant création de la “Coopération technique belge” sous la forme d’une société de droit public, *Moniteur Belge* 13 February 2014; Loi 21 July 2016 modifiant la loi du 3 novembre 2001 relative à la création de la Société belge d’Investissement pour les Pays en Développement et modifiant la loi du 21 décembre 1998 portant création de la “Coopération technique belge” sous la forme d’une société de droit public, *Moniteur Belge* 11 August 2016 ; Loi of 25 October 2018 modifiant la loi du 3 novembre 2001 relative à la création de la Société belge d’Investissement pour les Pays en Développement et la loi du 23 novembre 2017 portant modification du nom de la Coopération technique belge et définition des missions et du fonctionnement de Enabel, Agence belge de Développement, *Moniteur Belge* 20 November 2018.

A translation in English of the consolidated BIO Law as currently applicable is available from the BIO website at <https://www.bio-invest.be/files/BIO-invest/About-BIO/Governance/BIO-law-Full-text-20181120-ENG-sworn.pdf> hereinafter: the BIO Law.

⁷ Loi du 19 mars 2013 relative à la Coopération belge au Développement, *Moniteur Belge* 12 April 2013.

⁸ See Arrêté royal 12 December 2018 portant approbation du deuxième contrat de gestion entre l’État belge et la société anonyme de droit public « Société belge d’Investissement pour les Pays en Développement » (BIO SA), *Moniteur Belge* 2 January 2019 ; hereinafter : Management Contract Royal Decree.

The legal context represents a pivotal element in the analysis of BIO because, as we will highlight in the rest of the Chapter and in Chapter 5, many aspects of BIO's operations are legally pre-determined. In fact, according to Article 7 of the Management Contract, BIO's interventions aim to contribute to the realization of the sustainable development goals within the framework of the national and international obligations that BIO and the Belgian government have agreed and assumed.⁹ Similarly, BIO has committed to several sets of private forms of governance, like the EDFI principles, that are also of relevance when it comes to the assessment of BIO's operations and investments. Certain changes to BIO's procedure and operations may thus not be allowed by the current rules, and some may necessitate amendments to the BIO Law or to the Management Contract (that expires in 2023). On the contrary, other changes appear to be required and/or suggested by a different reading of international law, international human rights law, and private regulations than the one that BIO is currently implementing.

1.1 The 2001 BIO Law: Ownership, Legal Status, Governance and Oversight

BIO was established by law (BIO Law) on 3 November 2001. Originally there were two main shareholders: the Belgian state and the *Société Belge d'Investissement International S.A.* In 2013, the Belgian state bought the remaining shares of BIO, thus becoming the sole shareholder. However, since 2001 the Law provided the opportunity for the participation of other shareholders. In addition, a reform of the BIO Law introduced in 2014 expanded the spectrum of possible investors in BIO. At the time of writing, the participation in the capital of BIO or the provision of other forms of financing is open to "Companies with specific experience in the field of foreign investment or companies with a specific experience in financing local enterprises or in the field of social economy in developing countries as well as organisations and companies whose corporate object includes the funding of local entrepreneurship in developing countries."¹⁰

At the time of writing, the Belgian state owns 100% of the shares and has full power over the selection of members of the Board of Directors of BIO. The Belgian state further appoints two Commissioners who attend the sessions of the Board of Directors and can exercise the right to veto on decisions made by the Board. Despite the close link with the Government, the BIO law seeks to guarantee a certain level of independence, which is translated in the specific clauses of the Management Contract concluded by the Belgian State and BIO. According to article 29, for example, the Belgian state commits to respecting the operational and decisional autonomy of BIO as entrusted to the BIO Board,¹¹ within the limits of the applicable legislation.

⁹ Art 7, Management Contract Royal Decree.

¹⁰ Art 2, BIO Law, as modified by Art 2, L 2014-01-20/09.

¹¹ See Art 29 Management Contract Royal Decree: "Dans les limites de la loi BIO, de la législation et réglementation applicables, du présent contrat de gestion et des statuts, BIO est libre de développer toutes les activités qui sont nécessaires ou utiles à la réalisation de son objet social. L'Etat belge s'engage à respecter l'autonomie de gestion de BIO et à ne pas s'immiscer dans la gestion de l'entreprise, qui est la responsabilité du conseil d'administration. A ce titre, BIO décide des ressources humaines et financières qu'elle met en oeuvre en vue de la réalisation de son objet social et de l'atteinte des objectifs établis dans le présent contrat de gestion".

From the point of view of Belgian law, BIO is a '*société anonyme de droit public*' (a limited liability company under public law), a public law entity. This is explicitly recognised in the title of the Royal Decree containing the current Management Contract. In addition, the Institute of National Accounts categorizes BIO as part of the public administration under the authority of the federal government.¹² Furthermore, the strong relationship with the Belgian State is also reinforced by Article 5(1) of the BIO law, which provides more specifically that "BIO comes under the supervision of the Minister competent for Development Cooperation and the Minister competent for the Budget."¹³ The definition of BIO as a public law entity has specific implications in terms of the applicable law and the relationship between private (commercial) and public interests.

In Belgium, legal persons with a public law form are established on the basis of a statutory act and fall under the scope of administrative law. Public law entities sometimes fulfil tasks also undertaken by private actors, when they are competing on the market and are not purely acting in the public interest. In this case, statutory law makers often opted for a hybrid form¹⁴ such as the limited liability company of public law. Examples of such companies include SNCB (the national railway) and BPost. These legal persons can conduct two types of activities, i.e. private and public. When they conduct activities of a public nature such as deploying Official Development Assistance funds in the framework of Belgian development cooperation, they serve the public interest, and their actions fall under the scope of administrative law. Hence, the Council of State has competence regarding these acts.

Another aspect to mention is that BIO as a public limited liability company conducting development cooperation activities falls under the Belgian administrative law including the Open Government Act, the Law on the Motivation of Administrative Acts, and the Law on the Federal Mediators. This set of laws entitles BIO's stakeholders the right to access information, transparency, and the filing of complaints with the Federal Mediators. Furthermore, BIO is directly bound by the international legal obligations assumed by the Belgian state, notably in the areas of environmental, labour, and human rights law. Consequently, a **failure by BIO to observe these international obligations triggers the international state responsibility of Belgium.**

For what concerns the role of BIO in the broader context of Belgian Development and Cooperation, the BIO law is clear in stating that BIO's actions are consistent with ("*s'inscrivent*" in the French version of the text) the general objective of the Belgian development cooperation - defined in the Belgian Development Cooperation Law as sustainable human development¹⁵ - and must satisfy the criteria set by the OECD Development Cooperation Committee i.e. relevance, effectiveness, efficiency, viability, impact and sustainability.¹⁶

Therefore BIO shall be seen as an instrument through which the Ministry of Development Cooperation promotes sustainable development in developing countries, disburses its Official Development Aid and contributes to its development targets. As mentioned above, both the **Minister**

¹² See, Institut des Comptes Nationaux, Contrat de gestion Etat-BIO - Implication en terme SEC95, 3 April 2014, available at https://inr-icn.fgov.be/sites/default/files/contrat_de_gestion_etat-bio_2.pdf.

¹³ Art 5(1), BIO Law.

¹⁴ For more details on limited liability companies of public law, see OPDEBEEK, I. & DE SOMER, S., *Algemeen bestuursrecht. Grondslagen en beginselen*, Antwerpen, Intersentia, 2017, 8, 264-269.

¹⁵ See Art3 Loi du 19 mars 2013 relative à la Coopération belge au Développement, *Moniteur Belge* 12 April 2013.

¹⁶ Art 8 BIO Law.

for Development Cooperation and the Minister for the Budget appoint a government commissioner each, who attend Board meetings, join some of the sub-committees and exercise control over BIO organs and activities.¹⁷ Among other powers, the commissioners can file a suspensive appeal of any BIO decision that s/he considers to be “contrary to laws, decrees, the articles of association, management contract, business plan or the general public interest.”¹⁸ After such an appeal, the Minister who appointed the commissioner is able to annul the suspended decision within a period of 14 days after the appeal.¹⁹

In terms of structure of governance, **BIO is governed by a Board of Directors**, the main decision-making body within the institution with the final say on all investment projects. The Board consists of twelve members and one observer, the Director-General for Development Cooperation and Humanitarian Aid (DGD). The BIO law provides that the membership will include persons from: federal government institutions; the business world; academia; civil society organisations, institutional and governmental actors, and international organisations. Decision-making in the Board builds on the assessments made in the Investment Committee, the Audit Committee, and the Human Resources Committee. Since its inception, the appointments in the Board have followed the composition and diversity of the Belgian political framework. The functioning of the Board is discussed in the next Chapter.

1.2 Management Contracts

Together with BIO Law, the Management Contract between the Belgian State and BIO provides the ‘rulebook’ for BIO’s operations. According to Art.2-quinquies (2) of BIO Law, “The management contract between the Belgian State and BIO determines the criteria for the management capacity that BIO must meet in order to fulfil these responsibilities, the applicable procedures for testing them and the consequences when BIO does not meet the aforementioned criteria.”²⁰ Thus, the Management Contract regulates the political framework, the mission and values of BIO, the strategic priorities of BIO’s investment policy in terms of geographical, sectoral and thematic concentration. It also determines the criteria of management capacity, which BIO must meet to honour its responsibilities, and the consequences if BIO does not meet the aforementioned criteria.

The Management Contract also sets out investment modalities and criteria for granting financing and the methods of financing BIO, both in the form of a contribution to equity capital and in the form of subsidies charged to the general expenditure budget of the Federal State. Failure to meet the Management Contract’s requirements results in a breach of contract, which can lead to financial sanctions. While the management contract governs BIO’s operations over a period of 5 years, it is assessed yearly and, if required, amended in accordance with the amendments in the legislation applicable to BIO and the developments in the sector in which BIO evolves, in accordance with an objective procedure and objective parameters set out in the management agree-

¹⁷ Art 5 BIO Law.

¹⁸ Art 5 (3) BIO Law.

¹⁹ Idem.

²⁰ BIO Law 2001, as modified by Art. 6 (006) W 2018-10-25/14.

ment.²¹ According to art. 4ter of BIO Law and Article 63 of the Management Contract, the change shall only enter into force after it has been approved by the King, by means of a decree issued after deliberation by the Council of Ministers.²²

The Management Contract and its contents are directly influenced by the Minister of Development Cooperation and have been adopted throughout the years to best reflect political priorities and to promote a better alignment with Belgian international obligations (see box 1.1 below). Since the introduction of the first Management Contract in 2014, a variety of substantial changes have been made that alter the way BIO conducts its usual business. As such, the Management Contract is far from an immutable agreement.

Box 1.1 – The most relevant changes to the Management Contract since 2014

One of the main changes concerns the **additionality requirement**, which regulates in which circumstances BIO can intervene with an investment. It has been changed substantially. Art. 2.4. (4) First MC (2016) stated that BIO must ensure that all its interventions are additional. This meant that BIO could only intervene when the financing fulfilled at least **one of the following criteria**: No private investors; Interventions of private investors are insufficient to meet the project's need; Private investors only offer conditional financing which are not adjusted to the needs of the project; BIO plays a specific role, (not exclusively) as a catalyst for the mobilisation of additional financing. The Second Management Contract now **specifies that at least two of these criteria must be fulfilled in order to pass the additionality test**.

Secondly, the **rentability requirement** was changed both in 2016 and 2018. Originally, art. 2.4. (6) required that BIO's interventions needed to be capable of generating **sufficient financial return**. Now, an intervention must only '**generate a prospect of sufficient financial return**'. In the Second Management Contract this provision was revised once more. Art. 11 now introduces a distinction between different funds that BIO manages. With regards to code 8, the Management Contract states that BIO's investments shall offer sufficient prospects of return and that BIO aims to striking a **balance between the development relevance of the intervention and its financial return**. For the Government, "investments should reasonably be able to generate a sufficient financial return to ensure their viability and sustainability."²³ With regards to Code 5 funds, i.e. *investments financed by capital grants*, it is stated that "BIO aims for **break-even**, as referred to in Article 20."

Thirdly, The Development criteria are vastly different in each MC. Where the 2014 contract makes explicit reference to art. 8 §2 BIO Law and the criteria of the DAC, as intended in art. 32 of the BDC Law, the Second MC only mentions the DAC criteria of relevance, effectiveness, efficiency, impact and sustainability. The Second MC provides additional objectives but **does not mention the requirement of explicit justification on the base of these criteria anymore**.

²¹ Art 4quater, BIO Law.

²² Art 63, Management Contract Royal Decree.

²³ Art. 11, Second Management Contract Royal Decree, 2018 (translated by the authors). Original: *Les investissements de BIO offrent une perspective suffisante de rendement. Lors de l'évaluation d'une proposition d'investissement, BIO recherche un équilibre entre la pertinence de développement l'intervention et le rendement financier. Les investissements doivent être raisonnablement capables de générer un rendement financier suffisant pour pouvoir garantir leur viabilité et leur durabilité.*

In regard to the relationship between BIO and the **environment**, a **new sentence was added in the latest version of the document**: Possible environmental risks that may have an impact on the sustainability of the investment shall also be taken into account. If necessary, BIO agrees action plans to correct any shortcomings.

1.3 International obligations

As already stated, BIO, as a public law entity must ensure that its activities comply with the international obligations of Belgium.

The Belgian Law on Development Cooperation²⁴ explicitly refers to several international norms and instruments that are deemed particularly relevant to development cooperation. They include:

- The United Nations Sustainable Development Goals (art.3);
- United Nations Human Rights instruments (art. 4 in conjunction with art. 2(18), art 8);
- The Decent Work Agenda of the International Labour Organisation (art.5)
- United Nations Principles, declarations and treaties on environment and development (art.8).

The Law on Development Cooperation equally provides that the gender dimension (incl. empowerment of women and achieving equality between men and women) and the protection of the environment (incl. combatting climate change, drought, and deforestation) are transversal themes that are to be integrated in all development cooperation interventions (art. 11(2)).

The current Management Contract provides that BIO should support companies that are prepared to respect high standards in fair trade, the environment, social and human rights, adopt inclusive policies including vis-à-vis the local population.²⁵ BIO's interventions should equally contribute to combatting climate change.²⁶

²⁴ The Law of Belgian Development Cooperation (BDC law) (in French: Loi du 19 mars 2013 relative à la Coopération belge au Développement, *Moniteur Belge* 12 April 2013).

²⁵ Art 7(2) Management Contract Royal Decree: *“en soutenant les entreprises capables de jouer un rôle dirigeant dans leur chaîne d'activité, qui sont disposées à respecter des normes élevées en matière de relations commerciales équitables, d'environnement, de droits sociaux et de droits de l'homme, qui appliquent des normes de qualité élevées et qui poursuivent une approche inclusive vis-à-vis de leurs parties prenantes, en ce compris la population locale et d'autres acteurs”*.

²⁶ Art7(4) Management Contract Royal Decree: *“contribuer à la maîtrise du changement climatique et à l'adaptation aux conséquences du changement climatique, en favorisant, entre autres, l'efficacité énergétique et l'énergie renouvelable qui réduit les émissions de gaz à effet de serre”*.

1.5 Private Standards: Following the DFI sector

BIO is part of the Association of European Development Finance Institutions (“EDFIs”), “a group of 15 publicly-backed institutions that provide financing and advice to private sector enterprises in emerging and frontier markets.”²⁷ EDFIs endeavour to contribute significantly towards the Sustainable Development Goals (SDGs) and the Paris Climate Agreement. According to their public statements, EDFI’s aim is to generate a positive impact and to ensure respect for human rights, and environmental and social sustainability. Moreover, they aim to cooperate to achieve shared goals, which are backed by common principles, tools, and practices. These include the EDFI’s Harmonised Environmental and Social Standards, which are related to the Environment, Social Matters and Governance in investment activities. EDFIs aim to cooperate to achieve shared goals, which are backed by common principles, tools, and practices. These include:

- Principles for Responsible Financing of Sustainable Development;
- Environmental and Social Category Definitions;
- Requirements for Environmental and Social Due Diligence, Environmental and Social Contractual Requirements and Monitoring and;
- an Exclusion List (see Box 1.2 below).²⁸

In addition, EDFI Members claim to adhere to several commitments, related to responsible financing, impact management and transparency.²⁹ Moreover, EDFI members need to comply with the legal and regulatory requirements in the jurisdictions where they operate. Furthermore, EDFI members recognise that their decisions and activities may be associated with negative environmental, social, and human rights impacts for local communities and therefore the investee companies are required, as applicable, to mitigate these risks and work towards relevant international norms and standards. Therefore, EDFI encourages investee companies to establish an open dialogue with their stakeholders on the environmental and social impacts of their business activities.

No real sanctioning power exists in EDFI if not the pressure from the organisation and the risk to be excluded. It is thus important to stress that the fact that BIO participates in EDFI and adopts their principles, tools and practices does not mean that BIO, unilaterally, could not expand its obligations and requirements in order to go beyond EDFI’s threshold. For example, there is no provision that forbids BIO (or the Management Contract) to add elements to the exclusion list or to require the adoption of ex-ante and ex-post human rights, environment, and gender impact assessments.

²⁷ EDFI, “EDFI Principles for Responsible Financing of Sustainable Development”, p. 1, <https://www.edfi.eu/wp/wp-content/uploads/2017/09/EDFI-Responsible-Financing-SDG-Principles-final-190515-1.pdf>).

²⁸ Id., p 2-3.

²⁹ Id., p 2-3.

Box 1.2 Sectors that BIO cannot invest in (i.e. EDFI exclusion list)

Annex 1 to the current Management Contract contains a list of excluded interventions that closely follows the Harmonized EDFI Exclusion List:

1. Production or activity involving forced or child labour.
2. Production or trade of any illegal product or activity under the laws of the recipient countries or under international regulations, conventions, or agreements.
3. Trade in animals, plants or any natural products regulated by CITES.
4. Fishing using a driftnet with a length of more than 2.5 km.
5. Any operation that causes or requires the destruction of a critical habitat and any forest project for which a plan for development and sustainable management is not prepared.
6. Production, use of or trade in hazardous materials such as unbound asbestos fibres or products containing PCBs.
7. Production, use of or trade in pharmaceuticals, pesticides/herbicides, products harmful to the ozone layer or any other hazardous product subject to international prohibition or phase-out.
8. Cross-border trade in waste, except for that accepted by the Basel Convention and supporting regulations.
9. Production of or trade in (a) weapons and/or ammunition; (b) tobacco; (c) strong alcohol intended for human consumption.
10. Game houses, casinos, or any similar enterprise.
11. Any trade connected with pornography or prostitution.
12. Any operation that causes a significant irreversible change or displacement of an important element of the cultural patrimony.
13. Production and dissemination of or participation in racist, anti-democratic media or media that encourage discrimination against a section of the population.
14. Operation of diamond mines and trade in diamonds if the Host State is not a member of the Kimberley Process.

In addition to the above, BIO's Environmental and Social (E&S) Policy³⁰ commits it to various standards that are currently applied by other DFIs, or that are widely accepted by the sector:

- the IFC Performance Standards;
- the World Bank Group Environmental Health and Safety Guidelines (WB EHS);
- United Nations Guiding Principles on Business and Human Rights (UNGPR);
- the Universal Standards for Social Performance Management in microfinance / SMART Campaign Client Protection Principles;
- the Responsible Finance Forum Guidelines for Investing in Responsible Digital Financial Services.³¹

³⁰ Such a policy is prescribed by Art 8 Management Contract Royal Decree.

From conversations with staff, BIO is taking these sector-level policy standards seriously, and has transposed them in BIO's internal policies, such as the E&S policy mentioned here, and has predisposed ad hoc forms that are used to collect relevant information from clients.

This reference to the best practices of the DFI sector and to safeguard policies of larger DFIs, has many advantages for BIO. It ensures that BIO's processes and sustainability requirements are in line with other DFIs, enabling BIO to co-invest with them more easily. It also means that BIO is 'up to date' in terms of following the trends of the DFI sector. Indeed, BIO is part of initiatives developing common DFI standards, as for instance, is the case with their participation in the creation of the human rights-focused guidance note by EDFI.

However, there is a downside to this 'copy-paste' method of relying on the IFC Performance Standards and other similar sector-specific policies. Once these policies acquire the status of 'industry standard', they also become less dynamic and less responsive to challenging development topics that emerge over time. To give an example, the IFC Performance Standards were last updated in 2012. These standards are therefore silent on important contemporary development issues such as gender-based violence or protection of whistle-blowers and human rights defenders. Similarly, the relationship of the DFI sector as a whole with human rights more generally has historically been contentious, thus making the DFI 'best practice' not always convincing from a sustainable development perspective.

Accordingly, there is an opportunity for BIO to have a more proactive role rather than relying on the consensus of the whole sector. By introducing more forward-looking policies in environmental and social governance BIO could contribute to distinguishing the Belgian model of development finance from other institutions and setting trends in the sector. For this to be possible, BIO would have to increase an overall number of people working on social and environmental issues, and develop more internal expertise in the areas of human rights, ecology, anthropology, and similar disciplines. This gap in BIO's expertise will be discussed in more detail in the subsequent parts of this study, but the need for this is clear when assessing the E&S staff-portfolio ratio of BIO.

³¹ BIO Environmental & Social Policy, available at <https://www.bio-invest.be/en/environmental-social-management>

1.6 Financial structure of BIO

Before we provide some information on the financial structure of BIO, it is important to mention that our research has been based on the 2019 annual report as communicated by BIO to DGD on May 2020.³² When looking at the data, one should distinguish between the overall size of the portfolio (i.e. the amount of resources that BIO manages), the funds that had been committed (i.e. disbursed), the sums that are outstanding (i.e. the loans that have not yet been repaid and the value of the equity investments in companies and funds) and the sums that had been approved for investment. In the analysis of the agri-food and energy investments (see Chapters 3 and 4 below), we use as reference the outstanding investments.

a. BIO's portfolio and size

Overall, at the end of 2019, BIO:

- Managed an investment portfolio of **1 016 000 000 EUR**;
- had committed **783 million** for investment,
- had approved the total of **865 million** for investment;
- ran the total of **141 investments** (80 loans and 61 equity investments in companies and funds).

Every year, BIO commits to new investments. BIO's portfolio can be replenished in two ways: directly from the Belgian state, and through the revenues that are generated by existing investments. In this sense, the financial return that BIO generates through loans and equity has a direct implication on the ability of BIO's portfolio expansion. This is one of the arguments advanced by BIO to justify the remunerative attitude adopted vis-à-vis the choice of investments (along with the regulatory requirements, discussed below). However, the use of revenues to finance new investments raise some fundamental questions that are not often asked or dismissed as radical. We thus briefly address this point in Box 1.3 below.

Box 1.3 Financing Development through Revenues from Investments

Although we recognise the importance of expanding the investment base to reach more clients and beneficiaries, we believe that the implications of generating profit through some investments in the Global South to finance other remunerative investments in the Global South should be critically reviewed. Is the purpose of Official Development Aid that of taking value away from where it is generated and move it elsewhere? Shall part of the value generated through labour and nature in the Global South be taken away from those regions and 'put at work' somewhere else? Or should BIO consider using the profit to finance social and environmental projects in the regions where the investments have been undertaken, to guarantee living income or to under-

³² Once a year, at the end of May, BIO is supposed to share with DGD a detailed overview of the state of its portfolio. Because most of our research was undertaken between November 2020 and June 2021, and because at the time of writing BIO had not yet communicated to DGD the state of the 2020 portfolio, we could only rely on the 2019 situation. An update of our financial findings would thus be welcome. However, a cross-check with the online data and the interviews demonstrate that the findings and reflections that we make in this report are still valid for 2020 and 2021. If anything, covid-19 has intensified some of the fragilities and vulnerabilities that we envisaged.

take any other non-remunerative activity? This would not imply abandoning the remunerative nature of investments, but reconsidering the use of the profit that comes with them. Moreover, it would reduce the pressure on finding high return investments.

In addition, it is important to notice that the annual contribution of the state to BIO is significant, and accounts to a percentage between 5% and 10% of the overall portfolio of BIO. In 2019, for example, the Belgian state injected **65 million** to BIO's capital, of which **25 million** was earmarked to combat climate change. Even if BIO only invested the annual funds received from the State and not its profits, this would represent a relevant addition of projects and the opportunity to generate the financial return that is needed for the organisation to operate. At the moment, however, BIO stretches its investments beyond the amount that is received from the Belgian state. In 2021, for example, BIO expected to fund **155mln** in new investments:³³ this ambition requires to generate profit in the existing investments and use it to fund other projects that will then generate other profit, etc. In this sense, what is financing the bulk of BIO's activities is the revenue that it generates by investing in developing countries. To an extent, we can thus say that economic activities in developing countries (i.e. people and nature) are the source of most of the development finance interventions realized by BIO.

In 2021 BIO has the total of **73 employees**, of which:

- **3** people work on environmental and social issues, and
- **3** people work specifically on development impact.

According to the World Bank: "In terms of assets, DBs can be categorized as small (less than US\$1 billion in assets), medium (US\$1 billion to \$9.9 billion), large (US\$10 billion to \$99 billion), and mega (more than US\$100 billion). In 2015, 38 percent of the surveyed DBs were categorized as small, 35 percent medium, 21 percent large, and 2 percent mega."³⁴ With a managed investment portfolio of a little more than 1 billion Euro, BIO is thus a small size National Development Bank in the global context. The limited size of the portfolio that BIO manages was mentioned several times in the conversations with its employees, mostly to stress the importance of working in consortia, through intermediaries, with the support of consultant and of not having multiple offices on the ground. At the same time, the investment ambitions, number of projects and countries that comprise BIO's portfolio seem to tell a different story than that of the 'small' and 'specialized' development bank.

b. Official Sources of funding

BIO receives three main kinds of funding from the Belgian Federal state. In addition, Article 6 of BIO Law provides the opportunity for BIO to subscribe to private loans on the national or international capital market, with the King who may grant state guarantees for these loans.³⁵ At the moment, and with the exception of the SDG Frontier Fund (see Section 2.1(c) below), BIO only manages public funds.

³³ Interview with BIO.

³⁴ Jose de Luna Martinez, 2017 Survey of National Development Banks, Washington: World Bank.

³⁵ Art 6 BIO Law.

The difference between different lines of funding received by BIO is reflected in the expected return on BIO's capital, and on how BIO can invest, depending on which category of funds BIO uses to achieve its corporate objectives. The conditions attached to each source of funding are outlined in the Table 1.1 below.

In 2018, the legislator amended the 2001 BIO Law in several aspects. One of the changes concerned the possibility of the Belgian State to allocate financial means by way of *capital subsidies* (Art. 9 (1) 3° BIO Law). As a result, the Second Management Contract changed in this regard. The new Art.20 of the 2019 Management Contract enshrines the possibility for BIO to use these capital subsidies to finance investments which have a significant relevance for development and sustainability, but are considered insufficiently rentable or too risky to satisfy, overall, the return objective as mentioned in Art. 9 (2) BIO Law. This possibility did not exist in the First Management Contract. Such capital subsidies must adhere to the rules as specified in Arts. 20-24 Second Management Contract.

Furthermore, as the new Art. 54 Second Management Contract specifies, the Belgian State will make non-capital contributions (as mentioned in Art. 9 (1) 2° BIO Law) by subscribing to profit shares (also known as development certificates), for a total amount of 60 million euros.

Source	Expected return	Overall amount	Amount per investment
Capital and non-capital contributions ³⁶ ("code 8")	"Sufficient prospect of return" ³⁷ (see box 1.2 below)	Majority of BIO's portfolio (circa. 95%) 60 mln. EUR for period 2019-2023. 40mln in 2019 and then 10mln per year in 2021-2022. Extra 50mln for climate projects received in 2019-2020	3-20mln. EUR
Capital subsidies ("code 5") ³⁸	"Break-even", excluding BIO's management costs ³⁹	50mln for period 2019-2023, with maximum of 12mln/year for investments in Code 5 ⁴⁰	500 000 -3mln. EUR ⁴¹
Subsidies ("technical assistance")	Fully concessional, not subject to target on returns ⁴²	10 mln. EUR (for period 2019-2023), max. 2 mln. per year	Max. 350 000 EUR (technical assistance) or max. 100 000 EUR (feasibility studies)

³⁶ Art 9 (1) (1) and (2); Art 9 (2) BIO Law; Art 53 -54 Management Contract Royal Decree.

³⁷ Art 11 (1) Management Contract Royal Decree.

³⁸ Arts 20-23 and Art 55 Management Contract Royal Decree; Art 9 (1) (4) and Art 4 BIO law.

³⁹ Art 20 (2) Management Contract Royal Decree.

⁴⁰ For the duration of the Management Contract.

⁴¹ Art 23 (1) Management Contract Royal Decree.

⁴² BIO law, Art. 9§5

The so-called ‘code 8’ investments are standard for BIO. They are larger in terms of size, and they also usually fund less risky projects and/or financial institutions that are regulated and have track record of financial performance. In practice, this means that it might be difficult for BIO to use these funds to finance small enterprises (due to a minimum amount of funding ‘ticket’ being too large), or to invest in the enterprises in the least developed and fragile states (due to financial and other risks being too high).

Box 1.2 BIO’s financial targets and investing in LDCs

By contrast with other actors of Belgian development cooperation, BIO is a largely self-sufficient entity. Moreover, if BIO generates a certain level of financial return, then, based on the European system of accounting, its portfolio can be considered an investment rather than an expenditure, which would add to the budget deficit of the Belgian state (Art. 9 (2) BIO Law). This makes BIO a particularly attractive institution for the government to fund and participate in, enabling Belgian government to meet its international targets of development assistance without creating too much strain on the state budget. This explains at least to an extent the rapid growth of BIO in 20 years since its creation, by comparison with other actors of Belgian development cooperation.

In practice, the expected return of most of BIO’s investments (code 8) remains on average 5%. According to BIO, there is no fixed number that the government has set for them in this regard, but there is a benchmarking exercise, which, among other things, compares BIO’s return to that of other financial institutions. Moreover, the return that BIO expects differs depending on the type of investment. By and large, private equity funds (PEFs) are expected to generate higher returns (8-10%) than direct investments in SMEs (3-4%). Overall, and notwithstanding the target set for BIO by the government, BIO aims to generate enough return to cover its own management costs (1.2%), currency fluctuations, and potential write-offs (all amounting to approx. 5%).

The 2012 study by 11.11.11 ‘Doing Business to Fight Poverty’ noted the issue with the 5% return target, highlighting that such high expectation on financial return might affect BIO’s ability to achieve its development objectives (p. 13). In particular, it stressed the difficulty that this would create for BIO to invest in the Least Developed Countries (LDCs). Our findings in this study show that fundamentally, the same issues that were identified in the 2012 study, persist to present day. One notable difference is the creation of the ‘code 5’ facility, which enables BIO to do smaller, more impactful investments, which are however more risky and more demanding in terms of BIO’s human resources.

Nonetheless, despite this notable difference, which seems to be a move in the right direction in terms of BIO’s ability to reach people who are most in need of development assistance, the question at the heart of BIO’s mandate remains: how to support private sector driven development in countries with limited or no financial capacity among the wider population, while at the same time generating profit for the private investors, and for the Belgian state? Put otherwise, how can markets be supported or created where they do not exist, if BIO is legally not allowed to take the financial risk required to enable them? The issue of sufficient return remains at the heart of this tension between profitable economic opportunity, and sustainable development objectives.

Code 5 facility is meant to address the limitations of code 8 investments. They are designated to be used for projects that have ‘significant development relevance’ and ‘high potential in terms of financial sustainability’, but which are considered insufficiently profitable or too risky under the ‘code 8’ rules. Due to higher risk margin, these funds enable BIO to finance projects with higher development impact, and to reach smaller enterprises in the least developed states. In other words, from a development perspective these funds are potentially the most impactful and have resulted in several projects that BIO staff have identified as positive examples of investments (e.g. Fair Trade Access Fund).

However, these funds currently represent only 5% of BIO’s portfolio, and at the moment according to BIO Law, this percentage could not be increased to more than 15% of code 8 funds that are managed by BIO.⁴³ For example, in the food and agricultural sector there is only one investment realised with Code 5, that is the €3m investment in Fair Trade Access Fund, an open-ended Private Debt Fund that in 2019 had 58 clients in Latin America and Africa who were receiving, on average, €1m loans (see Example 2 in Annex III). As we discuss throughout this report, despite the interesting opportunities provided by an increase in Code 5 funds and a reduction in the size of the tickets, there are constraints on the operational costs of BIO (1.2%)⁴⁴ and in terms of substantive/procedural dynamics that would make it difficult for BIO to finance and follow up a high number of small-size projects as they are often more demanding in terms of human resources, local knowledge and expertise. The opportunities behind different lines of funding and different financial expectations are the object of some further considerations along this report.

c. Financial additionality

By law, BIO’s interventions must be additional. According to current and previous Management Contracts, BIO can only invest if its interventions create financial additionality. BIO’s investments are ‘additional’ when private investors are either *not available*; *insufficient* to meet the needs of the enterprises; do not offer financing under *terms and conditions that fulfil the needs* of the target enterprise; or when BIO plays a specific role, such as *acting as a catalyst* for the mobilisation of complementary financing.⁴⁵ At least two criteria need to be fulfilled for BIO to pass the additionality test. BIO must ensure that all its interventions are additional, and to explicitly explain where its financial additionality lies.

The rules on financial additionality go together with the requirement on BIO to make investments ‘at market conditions’,⁴⁶ and with a view that BIO cannot replace or disrupt markets through its investments.⁴⁷ These are important considerations for BIO’s market-based development model, which also explains why BIO would be reluctant to provide concessional funding to private actors, other than to provide technical assistance to companies in which it invests.

There are several concerns with BIO’s additionality, which will be discussed in more detail in the subsequent three parts of the report. Firstly, and at least partially because of the need to gener-

⁴³ Art 9(4) BIO law. It is also noteworthy that the distinction between code 5 and code 8 investments is maintained due to the European rules on accounting, which means that the two cannot be mixed in a single investment.

⁴⁴ Art 57 (1) Management Contract Royal Decree.

⁴⁵ Art 15 Management Contract Royal Decree.

⁴⁶ Art 10 Management Contract Royal Decree.

⁴⁷ Ibid.

ate stable return, BIO often co-invests with other DFIs as a minority shareholder, and it rarely, if at all, acts as a pioneer investor in terms of initiating new investments, where private investors genuinely do not exist. This has been noted in BIO's external evaluations that mostly focused on BIO's participation in private equity funds and financial institutions⁴⁸ While we understand that BIO's official financial additionality requirement only apply vis-à-vis private investors, we do not see why financial additionality as a principle should not be applicable to (certain) co-investments with DFIs. After all, in spirit, financial additionality requirement is meant to facilitate the most effective and catalytic use of BIO's resources – which is an aim that is as relevant in co-financing with DFIs as it is in case of private sector investors.

Secondly, from a development perspective, sometimes markets do not exist in a given sector of a country, because they are not necessarily the best mechanism to fulfil the needs of the population. Investments in education, health, water, and in some instances access to energy, fall under this category. In certain instances, creation of markets might amount to privatisation of basic services and increase social and economic inequality, thus creating conditions for conflict. Certain sectors and areas of intervention therefore call for additional scrutiny in terms of a need for BIO's additionality. These, and other related issues, will be discussed in more detail in the next three sections, which deal with the substance and procedures of BIO's operations.

⁴⁸ LAC, Sub-Saharan Africa, East Africa

2.

BIO as a development actor

Introduction

The aim of this section is to explore BIO's business model and the way it is meant to contribute to 'sustainable human development'.⁴⁹ The focus is on how BIO distributes its resources across countries and sectors, through what channels, how it chooses its investments and how sustainable development is understood in BIO's policies. The analysis also highlights possible areas for improvement and a way forward – including how to adjust BIO's business model to new realities created by the Covid 19 pandemic.

Generally, our research demonstrates that BIO's operations target a wide range of countries, thus making it necessary for the institution to rely on external experts to understand the specific context of BIO's interventions. Thematically, BIO focuses extensively on the financial sector and financial inclusion, which is not part of the institution's original mandate as set out in BIO law, and which risks diverting BIO's resources and attention from its core thematic sectors (agriculture, climate, social enterprises). In terms of choosing where to invest, BIO has improved its selection process over the last decade by introducing an environmental and social (ES) policy and by developing a framework for assessing the development impact of its investments. This is commendable, as it gives an opportunity to reflect on the logic behind BIO's interventions, and on how BIO sees its role as a development actor. However, we find that BIO continues to place too much emphasis on economic growth and creation of jobs as indicators of development impact. Similarly, despite recent attempts to align its 'Theory of Change' with the SDGs, BIO's way of assessing development impact is not fully in line with the holistic understanding of sustainable

⁴⁹ BIO's mission is "to contribute to sustainable human development in the countries of intervention by supporting the private sector through direct and indirect investments in the development of target companies", Art 3 Second Management Contract.

human development set in the 2030 Agenda. We do not see sufficient evidence that BIO strives to ‘leave no one behind.’⁵⁰

We therefore argue that BIO can and should be more ambitious in its aims to protect natural environment, equality, social cohesion, and respect for basic human rights, and that it should endeavour to avoid ‘business as usual’ of unsustainable economic development. To achieve this, among other things, BIO should reflect on its in-house expertise in the areas beyond finance and economics, revise its parameters of assessing development impact, and adopt a more ambitious and better targeted E&S policy.

2.1. BIO’s business model

In addition to the Management Contract and BIO law discussed in Chapter 1, BIO’s business model and development relevance is explained in its ‘Theory of Change’⁵¹ and its Investment Strategy 2019-2023. The analysis below reviews BIO’s business model as set out in these two documents with the support of information on BIO’s operations that is available online and was shared with us by BIO’s staff.

a. Geographic coverage

In terms of *geographic scope of interventions*, according to the Management Contract, BIO can select up to **52 countries** to invest in,⁵² provided that they do not fall under the list of prohibited jurisdictions set out by Royal Decree.⁵³ Since 2019, the list of possible target countries includes the following four regions:⁵⁴

Table 2.1 BIO’s countries of intervention	
Asia	Bangladesh, Cambodia, India, Indonesia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Vietnam
Latin America & Caribbean	Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru
Middle East & North Africa	Algeria, Egypt, Iraq, Jordan, Lebanon, Morocco, Palestinian

⁵⁰ We agree with a recent ‘compass study’ that ‘Leave No One Behind’ agenda is at the heart of the SDGs. See S. Braye et al, ‘SDGs as a Compass for the Belgian Development Cooperation. Final Report’ (2020), available here <https://www.ngo-federatie.be/system/files/2020-03/PSR%20SDGS%20as%20a%20compass%20Country%20report%20Uganda%20EN.pdf>.

⁵¹ BIO’s Theory of Change is a short (14 page) document that gives a good understanding of how BIO sees itself as a development actor. It is currently not possible to trace previous versions of the Theory of Change, nor when exactly it was introduced in BIO’s operations. Because of that, it mostly can be understood as a visualisation and a systematisation of other regulation and policies within BIO, rather than an authoritative stand-alone document.

⁵² 14 of the countries on the list are also Belgian Development Cooperation ‘Priority countries’.

⁵³ In relation to prohibition of investing in tax havens, see Section 2.2 of this report for more details.

⁵⁴ Table taken from the BIO’s Investment Strategy 2019-2023 (hereinafter – Investment Strategy).

	Territories, Syria, Tunisia
Sub-Saharan Africa	Benin, Burkina Faso, Burundi, Cameroon, Côte d'Ivoire, Dem. Rep. Congo (DRC), Ethiopia, Ghana, Guinea, Kenya, Madagascar, Malawi, Mali, Mozambique, Niger, Nigeria, Rwanda, Senegal, South Africa, Tanzania, Uganda, Zambia

Countries in bold are the LDCs, according to the 2021 OECD DAC list.

In 2019, the MENA region was added to the list by the Board of Directors, to help 'stabilise the region economically', in line with EU and Belgium's foreign policy.⁵⁵ Egypt, Lebanon, Jordan, Iraq, and Syria were therefore added to BIO's geographical scope in 2019.

Generally, as seen from the above, BIO's geographical scope is wide. Currently BIO has 73 members of staff, of which 51 work directly with choosing and overseeing BIO's investments.⁵⁶ Thus, BIO does not have the designated 'country specialists' among its staff for all its countries of intervention. This makes it difficult for the institution to know, 'in house', the individual country context with sufficient detail and have the necessary sensitivity to its history, and political, social, and economic issues.

The above limitation becomes an important consideration given that among the countries on the BIO's list there are:

- Syria and the DRC, that are 4th and 5th on the Fragile State Index list respectively, and another 9 countries⁵⁷ that are among the 25 most fragile states in the world.⁵⁸
- 14 post-conflict states and/or countries that are experiencing some form of on-going conflict and/or violence in their territories.⁵⁹
- 20 Least Developed States, mostly based in Sub-Saharan Africa.⁶⁰

It is evident that BIO has an ambition to work in some of the least stable and poor countries in the world. In principle, this seems in line with its development mandate, but it also comes with a responsibility for BIO to recognise that specific knowledge and expertise is required for development actors to intervene in such fragile contexts, to avoid doing more harm than good for the local populations. Without such expertise and corresponding sensibilities, economic interventions, particularly those affecting land rights and resources such as water or forests, come with a high risk of causing relapse into (armed) conflict, and/or further exacerbating state and non-state

⁵⁵ Ibid. p.18.

⁵⁶ For the purposes of this analysis, BIO staff that work in Management, Communications, Internal Audit, Board Secretariat, Office Management, HR, and Finance and Special operations are not considered as working directly with BIO's investment selection and oversight process.

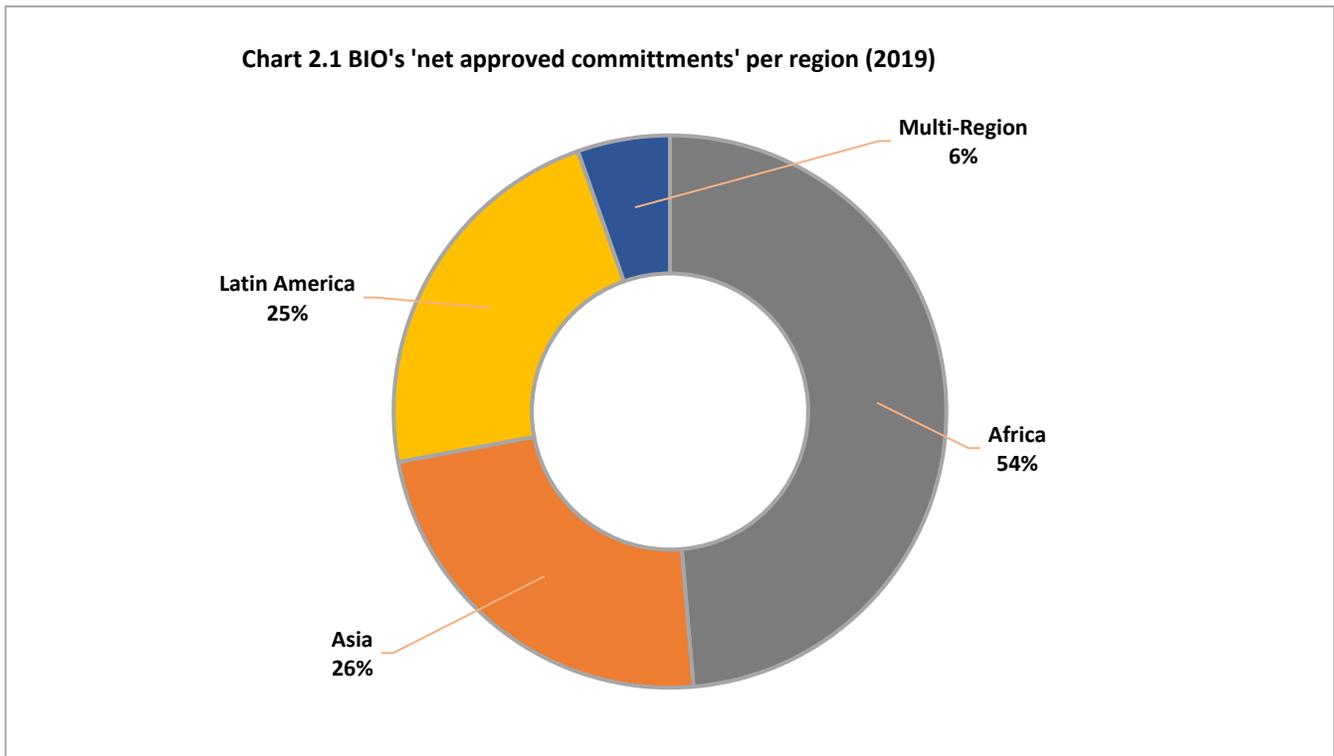
⁵⁷ Cameroon, Burundi, Nigeria, Guinea, Iraq, Niger, Myanmar, Uganda, and Pakistan

⁵⁸ Fragile State Index 2020 data, <https://fragilestatesindex.org/data/>

⁵⁹ Myanmar, Pakistan, India, Colombia, Iraq, Jordan, Lebanon, Palestine, Syria, Cameroon, DRC, Ethiopia, Nigeria, Niger.

⁶⁰ OECD DAC list 2020 <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC-List-of-ODA-Recipients-for-reporting-2020-flows.pdf>

violence,⁶¹ and potentially exacerbate conditions of unsustainable debt and economic dependence.



It is notable that by the end of 2018 circa 50% of BIO's portfolio was committed to Sub-Saharan Africa, and that percentage was due to increase in 2019 in line with BIO's approved commitments (see Chart 2.1 above).⁶² However, we found no information on what percentage of those investments in Sub-Saharan Africa was directed to LDCs.⁶³ It would be important for BIO to make explicit in its reporting what percentage of its investments go to the LDCs, in order to understand the extent to which its investments are reaching people in the most deprived geographical areas. This tracing of LDC investments would be particularly useful in case of indirect investments, since a recent study by the ODI found that a low level of investments in LDCs is one of the core challenges for institutions providing 'blended' finance, which BIO does through private equity funds.⁶⁴

⁶¹ On a risk of economic activities contributing to conflict see for instance, United Nations Department of Political Affairs (UN DPA) & United Nations Environment Programme (UNEP) *Natural Resources and Conflict. A Guide for Mediation Practitioners*, (UN DPA and UNEP 2015) available https://wedocs.unep.org/bitstream/handle/20.500.11822/9294/-Natural_resources_and_conflic.pdf?sequence=2&isAllowed=y; UN, The World Bank (WB) *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (WB 2018) available <https://openknowledge.worldbank.org/handle/10986/28337>.

⁶² Investment Strategy, p. 18-19

⁶³ Ibid.

⁶⁴ Samantha Attridge and Lars Engen, 'Blended finance in the poorest countries: The need for a better approach', Report for Overseas Development Institute, 2019, p. 26. 'Blended finance' is a broad term that covers multiple ways of using public and private sources of funding to achieve development objectives. In the context of BIO and this study, a term 'blended finance' is used to refer to investments in private equity funds. For a more detailed discussion on the terminology of 'blending' and its relevance in BIO's operations, see section 2.1. (d) and Box 2.3.

Accordingly, we recommend for BIO to make publicly available in its annual report the percentage of its funding that is committed to different categories of developing countries, with a particular emphasis on how much it invests in the LDCs, and in which sectors. This would create higher transparency vis-à-vis Belgian stakeholders about the extent to which BIO's interventions are reaching the countries where development needs are the greatest, and to what extent it is in line with the 'leave no one behind' principle.

With regards to the geographical distribution of BIO's investments, it should also be noted that according to BIO's strategy, in order to diversify its portfolio, BIO should not be investing more than 50% of its portfolio per continent.⁶⁵ Given that BIO's net approved commitment in Africa in 2019 was already at 54% (Chart 2.1), and also that a majority (16 out of 20) of LDC's that BIO works in is based in Africa (Table 2.1), this limit would create an internal barrier for BIO to increase its interventions in the LDCs.

Finally, there are certain jurisdictions that BIO cannot invest in because they are considered as tax havens by the Belgian authority (box 2.1).

Box 2.1. BIO and tax havens

Since 2016, the BIO Law (Art. 3quinquies) prohibits BIO from investing – directly or indirectly – in projects of which the final beneficiary, or the intermediate structure, is situated in the offshore financial centre (OFC), otherwise known as 'tax haven'. There is no universally agreed definition of a 'tax haven', but generally it refers to countries with a particularly favorable tax regime for foreign investors, coupled with refusal by state authorities to share tax-related information and cooperate on tax-related matters, thus creating conditions for tax evasion. The list adopted by BIO is the one set by the Belgian law (Art. 307 (1)(5)(b) of the Income Tax Code), and it uses the assessment by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes to determine which countries should be listed.

It is noteworthy that BIO is investing in a number of private equity funds domiciled in the countries that are considered as OFCs according to some criteria, such as Mauritius, London, or Luxembourg, but which do not fall under the list of prohibited jurisdictions under the BIO Law. This is justified by BIO based on the need for investors to be based in 'neutral jurisdictions'; the need for political and regulatory stability to enforce contractual claims; and the quest for 'tax neutrality'. See BIO's Policy on OFCs for more details.

b. Priority Sectors

BIO has four *sectors of intervention*:

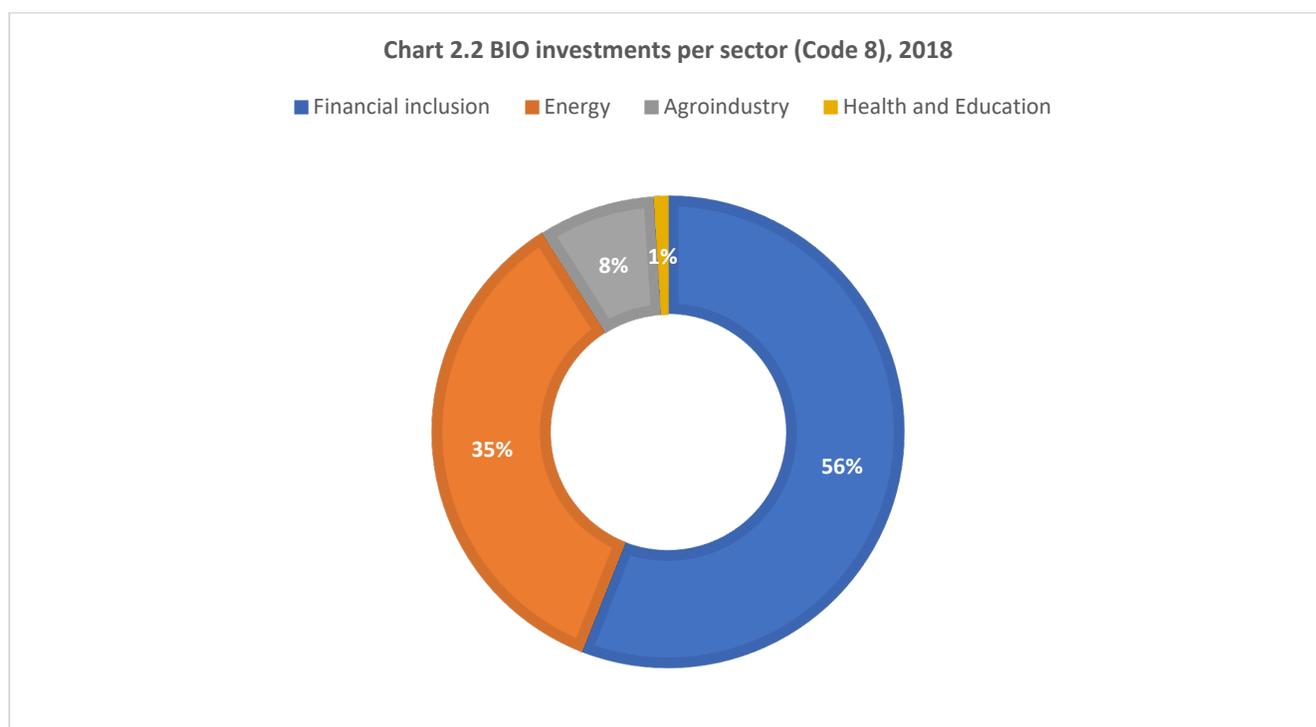
- Financial sector for financial inclusion;
- Energy with a focus on renewable energy and energy efficiency and the fight against climate change;
- The agricultural value chain;

⁶⁵ Investment Strategy, p. 26

- Health and Education.⁶⁶

Digital economy, another strategic area identified by BIO law⁶⁷, is an “overarching instrument that creates efficiency, expands access to products and services, reduces costs” in the four strategic sectors outlined above.⁶⁸

The chart 2.2 below shows the most recent available public data on the division of BIO’s portfolio by sector.⁶⁹ The 2019 Annual Report, from which we derive the data for most of this section, shows the distribution of commitments per BIO’s *operational unit* (enterprises, infrastructure, funds, and financial institutions). However, because investments in funds cover a range of sectors, it is not possible to use this data to ascertain a more recent distribution of funds across the four strategic sectors.



In the period between 2019-2023, BIO plans to increase its share of investments in agriculture and health/education, with energy investments intended to stay at around the same level (30-40%).⁷⁰

As seen from the chart, investments in the ‘financial sector for financial inclusion’ is a core area for BIO, to which it allocates more than half of its resources. This includes funding provided to banks, microfinance and other financial institutions, and some private equity funds that do not fall under any of the other three strategic sectors identified above.

⁶⁶ Investment Strategy, p.20.

⁶⁷ Art 3 (2) (ii) BIO law.

⁶⁸ Investment Strategy p. 20.

⁶⁹ Source: Investment Strategy, p. 36.

⁷⁰ Ibid.

It is noteworthy that ‘financial inclusion’ is *not* part of the BIO law, in particular Art. 3 that lists BIO’s corporate objectives. The original article in the BIO law lists specifically investments in “social economy enterprises” (para. 1); access to energy, digital economy and combating climate change (para. 2); agriculture (para. 3) and basic services (para. 4). BIO law only mentions a possibility of investing in financial institutions as one of the permitted *measures* that BIO can take to achieve its corporate objectives.⁷¹ However, the reference to financial sector and financial inclusion are part of the Management Contracts⁷² between BIO and the Belgian state, as part of BIO’s “strategic priorities.” According to BIO’s Investment Strategy, financial inclusion further extends “earlier focus [of financial industry] on microfinance institutions and microentrepreneurs”, in order to “offer a large range of financial services in an ethical and sustainable manner”.⁷³

It is important to note that ‘financial inclusion’ as a self-standing development objective is generally recognised in development practice and among DFIs, albeit in a narrower sense than viewed by BIO. Traditionally in development practice ‘financial inclusion’ refers to improving *access to finance by the poorest people*, often by using the tools and principles of pro-poor microfinance⁷⁴. Understood in this way, financial inclusion aims at fostering entrepreneurship and access to credit at a ‘bottom of social and financial pyramid’; based on an assumption that access to credit can help poor entrepreneurs to find their way out of poverty by doing business⁷⁵. While such specific understanding of financial inclusion and related assumptions are subject to debate and academic as well as policy scrutiny, its effectiveness in achieving development impacts is beyond the scope of this study. However, for the purposes of this study, it should be highlighted that the understanding of ‘financial inclusion’ by BIO, as outlined in its Theory of Change, Management Contract, and other operational documents, appear to be wider than this more traditional view that focuses on the poorest and most disadvantaged. BIO, instead, appear to view provision of finance at a micro level in developing states *to all entrepreneurs or other interested customers* as part of its financial inclusion objective, thus justifying BIO’s broad range of interventions in a financial sector and PEFs.

Accordingly, BIO’s quantitative and qualitative emphasis on financial inclusion is an operational-level addition to BIO’s strategic priorities that is not part of BIO’s original mandate. For that reason, and because of the large percentage of BIO’s investments in this area, the link between BIO’s corporate objectives, ‘financial sector and financial inclusion’ is not straightforward and should be open to public discussion.

BIO’s reasons for being active in financial sector are explained in its Theory of Change and linked to the Management Contract: as a funder of private sector with a particular focus on the support of Medium and Small-Medium Enterprises (MSMEs). BIO considers that it should also support the ‘ecosystem’ of financial services available to them. To a certain extent, this also creates a ‘multiplier effect’ for BIO’s capital, since supporting financial sector means that more financial resources are made available for a greater number of enterprises in the countries of interven-

⁷¹ Art 3 (3)- (5)BIO law.

⁷² Art 3 (1)(1) First Management Contract (2014) ; Art 14 (2) Second Management Contract.

⁷³ Investment Strategy, p. 21.

⁷⁴ See, e.g., Anke F. Schwittay (2011), "The financial inclusion assemblage: Subjects,technics, rationalities", 31(4) *Critique of Anthropology* 381–401.

⁷⁵ *Ibid.*

tion. Another reason for supporting the financial sector would be the expansion of a consumer base in the countries of intervention, including small-scale entrepreneurs, as injecting more capital at that level ensures that consumers and micro-entrepreneurs can participate more actively in the economy.

Nonetheless, even with these reasons in mind, a question arises whether BIO's high allocation of resources to this sector is fully justified under its development mandate. In other words, the concern here is the following: although there are potentially valid reasons for BIO to invest in financial sector, are those reasons compelling enough to draw away BIO's attention from its primary corporate objectives as set out in BIO law? Several points suggests that this is not the case.

Firstly, there is a question about the development impact of investing in a financial sector. Beyond specialised financial institutions such as Acceso Crediticio in Peru that provide credits to taxi drivers in Lima, many financial institutions that BIO supports are 'generalist' in nature. This means that they support MSMEs or entrepreneurs indiscriminately, notwithstanding their social status or potential role in creating development impact. An external evaluation of BIO's investments in a financial sector in Latin American Countries notes the ambiguous development relevance of such investments.⁷⁶ Similarly, BIO's external evaluations of its investments in a financial sector are generally limited in terms of assessing and reporting the experiences of the final consumers/entrepreneurs, and the extent to which their business opportunities and/or quality of life has improved after accessing credits supported by BIO.⁷⁷

Nonetheless, from an operational perspective of BIO, the more 'generalist' and the less specialised a fund or a financial institution is, the wider is the potential range of their clients or investees. A wider geographical scope also means less exposure to specific sectors or countries and their fluctuations – which generally means lower risk of an investment. This explains why BIO's investments through funds are set to increase in the coming years, and why it still has a large interest in 'generalist' funds and institutions, even if they do not contribute specifically to the core thematic sectors identified in BIO law, also despite the fact that the development impact of such interventions has at least on some instances been questioned by its external evaluations.

Secondly, it is noteworthy that financial sector has certain advantage over others in terms of available competence and expertise to seek BIO's funding. Arguably, banking and finance are some of the most profitable sectors in developing countries. They thus attract people who are highly educated, often in the universities beyond their home states. It is therefore fair to assume that people employed in a financial sector already have most of the necessary expertise to seek for funding from institutions such as BIO. This ensures that BIO has a pipeline of good quality applications from this sector, without BIO having to seek for investments proactively. This is not to say that BIO consciously chooses financial sector over all others; rather, that financial sector already has the advantage of 'speaking the same financial language' as BIO in terms of their ex-

⁷⁶ Carnegie Consult, "A case study of five BIO financial sector investments in Ecuador and Peru. Final evaluation report" p. 10 (Recommendation 4) (22 March 2019).

⁷⁷ The development impact assessment might improve once BIO starts using and reporting its indirect development impacts by using the Joint Impact Model (see <https://www.jointimpactmodel.com/>); provided that the methodology for this JIM-based reporting is created through robust consultations with civil society.

expertise. Put otherwise, the floor is tilted towards financial sector applications being ‘better quality’, more accessible and less risky, according to BIO’s standards and expertise. Therefore, with the view of reaching those who are in most need for support beyond a ‘funder of funders’ approach, and to help private sector to develop its competences of mobilising capital, it is important for BIO to safeguard the space to engage with sectors beyond finance.

Accordingly, we urge BIO to critically review the extent to which its **investment in a financial sector is a ‘marriage of convenience’ between a good financial return, low risk, and the high demand originating from highly competent applicants.** BIO should also assess whether such investments have sufficiently high development relevance, particularly when they are made not in BIO’s primary sectors of intervention.

Thirdly, there is a more elusive, yet key question, about the systemic impacts of BIO’s investments in financial sector on the future trajectory of economy in developing states. In particular, it should be underlined that increasing investments in this area, although it might create more access to financial resources for some people, also **risks contributing to the phenomenon of financialization of local economies and services**, which is subject to much debate and critical reflection.⁷⁸ Financialization is a complex phenomenon that is linked with the increase presence of financial institutions and financial capital in the real economy and is often associated with unsustainable consequences such as creating conditions for price fluctuation of basic commodities, favouring the privatization of essential services, or artificially increasing the value of land or housing, thus affecting their affordability and accessibility in a society. Financialization of the economy is not created by a single institution and thus will not be caused by BIO alone. However, it should be a responsibility of Belgian Development Cooperation to ensure that its interventions do not contribute to some of these well documented negative consequences.

Finally, concerning BIO’s investments in private **health and education**, we see BIO’s involvement in this sector as hardly aligned with the objectives and premises of Belgian Development Cooperation. Although BIO “believe[s] that the objectives of universal access to healthcare and to quality education require a combination of efforts of both the public and the private sector,”⁷⁹ we consider that there is insufficient evidence to support such a belief, and significant evidence to the contrary. There are numerous academic studies⁸⁰ and civil society organisations⁸¹ that are sceptical of the role of private sector investments in this area, and which argue that the impacts of public private partnerships in these areas are harmful in a long run. As the relevant studies show⁸², there is too high of a risk that access to basic services achieved through an introduction

⁷⁸ For general introduction see Natascha van der Zwan, 'Making Sense of Financialisation', (2014)12(1) Socio-Economic Review 99; for a more critical discussion in relation of financialisation in relation to right to food, see World Development Movement, 'Broken Markets: How financial market regulation can help prevent another global food crisis' (World Development Movement 2011), <https://www.globaljustice.org.uk/sites/default/files/files/resources/broken-markets.pdf>.

⁷⁹ Investment Strategy, p. 25

⁸⁰ See for instance, Andrian Zancajo, 'Education markets and schools' mechanisms of exclusion: the case of Chile'(2019) 27 (130) *Education Policy Analysis Archives* 1, (doi: 10.14507/epaa.27.4318); Miguel.A Pereira et al.), 'A critical look at the Portuguese public-private partnerships in healthcare'. (2021) *International Journal of Health Planning and Management* 36: 302-315. <https://doi-org.ezproxy.lib.gla.ac.uk/10.1002/hpm.3084>

⁸¹ See, for instance, 'Doing more harm than good. Why CDC must reform for people and planet'. Global Justice Now (February 2020) pp. 18-23. Available: <https://www.globaljustice.org.uk/resource/doing-more-harm-good-why-cdc-must-reform-people-and-planet/>

⁸² See above (Zancajo, Pereira)

of price mechanisms might increase inequality, and ultimately undermine the quality of basic services for the poor and disadvantaged.

BIO's investments in agriculture and energy will be discussed in the Chapters 3 and 4 of this study respectively, examining in detail BIO's achievement and development relevance in these sectors.

c. Investment channels

There are two main investment channels that BIO uses to invest: debt and equity.⁸³

Debt in many respects is more straightforward: BIO grants a fixed term loan to an investee, which it then has to repay with interest, over a set period of time. In 2019, an average interest rate that BIO would receive on loans was 4.7%,⁸⁴ and their duration varied from 4 years (for microfinance institutions, MFIs) to 18 years (for infrastructure projects).⁸⁵ Loans are usually based on a borrowing company providing a collateral, but one of the ways in which BIO can be financially additional is through adjusting its requirements for a collateral, thus enabling more companies to borrow (for instance, in case of MFIs, a collateral is not required).⁸⁶ BIO also participates in the so-called subordinated or "mezzanine" debts that are riskier because in such instance BIO is not a priority creditor in case something goes wrong with the investment. However, these loans have a higher return rate.⁸⁷

The repayment of both principal and interests guarantees BIO a return on the investment and frees up the capital for BIO to reinvest. The disbursement of development money in the form of a loan also enables BIO to impose certain conditions on the borrower (e.g., on financial sustainability, ES Governance (ESG)) prior to BIO taking the decision to grant the loan. When the sum is not entirely disbursed at the outset, the relationship between BIO and the borrower also enables BIO to monitor compliance with those conditions before each new disbursement of the tranches of the loan. The responsibility to resolve any issues related to the repayment of a loan rests with the borrowers, thus creating no burden of on-going participation in a decision-making by BIO. However, BIO often establish direct connections with the borrower to increase the financial and ES sustainability of the enterprise. The debt channel is mostly used by BIO to invest directly in SMEs, infrastructure projects, and in (part of) financial institutions. Because of these qualities (more stable and immediate return, less risk, lower responsibility, ability to impose conditions) debt is used more than equity, accounting for 68 % of BIO's approved commitments (2019 data).⁸⁸

Equity, on the other hand, means that BIO acquires shares in a given fund or a company, thus effectively joining the ownership structure of that company/fund.⁸⁹ Equity investments are not fixed term: BIO exits (sells its shares) when the company delivers sufficient development impact

⁸³ There are also the guarantees, but based on our analysis of BIO's portfolio, it does not appear that BIO is currently using it.

⁸⁴ Investment Strategy, p.36

⁸⁵ Ibid.

⁸⁶ Investment Strategy, p. 29

⁸⁷ Ibid.

⁸⁸ Information shared by BIO (Portfolio Summary 2019, net outstanding commitments).

⁸⁹ There are also the quasi-equity investments that BIO makes through private equity funds. Interview with BIO.

and/or reaches a certain target on financial return. In the case of the funds, the exit strategy is decided by the fund managers on a case-by-case basis at the level of their investees. By contrast with debt, equity generally does not have a clear repayment schedule and because of that, it takes longer for BIO to benefit from it (the so-called 'patient capital'). Since a return rate on an investment is attached to the value of companies in which BIO invests (usually through a fund, indirectly), the return is not guaranteed: a company might grow exponentially, thus bringing a high return, or its business plan might fail thus leaving investors such as BIO at loss. Equity is also more exposed to currency fluctuations because BIO cannot hedge on the exchange rates with local currency as it does with debt.⁹⁰ All of this means more risk for BIO than in case of debt.

For these reasons, BIO aims to be more involved in the governance of companies or funds where it holds equity investments. In the case of direct investments in companies, BIO generally ties its shares to a seat on the Board of Directors, that is "intended to be ceded to other shareholders, third parties or to the financial markets, once the company has reached a sustainable maturity."⁹¹ In the case of funds, BIO usually sits in on the advisory committee, which mainly consists of investors' representatives – although not on the investment committee that makes the core investment decisions.⁹² According to BIO, "if investors intervene too much, it dilutes the responsibility [of a fund manager]."⁹³

The equity channel also comes with a specific development risk, i.e., that private equity funds, which are typically in charge of direct investments in SMEs, will be keen to grow the value of their investees. This is so that they can then sell the investee shares at a chosen time with the most profit⁹⁴ – often with a risk of ESG or labour policies becoming secondary in this growth process. While BIO's involvement in the funds' advisory committee potentially allows them to see when fund manager's intentions are too skewed towards profit, given the level of confidentiality surrounding equity investments there is at least some cause for concern. In the course of this research we could not ascertain how much oversight BIO has on PEFs in this regard. According to BIO, 'BIO is provided with regular, extensive information through its board or advisory committee seats [however] good governance principles limit what can be shared with external parties.'⁹⁵ Due to strict confidentiality rules, we could not verify this claim. BIO's strategies to mitigate such challenges against rent-seeking are discussed in the next section that describes how BIO chooses and screens its investments. The business model of private equity funds is described in more detail in the next sub-section.

⁹⁰ Hedging in finance generally means offsetting the risk. In the context of currency exchange, it means fixing a future exchange rate or a limit on extreme currency rate fluctuations through buying a financial guarantee from the third party. Since BIO's portfolio is in Euros, fluctuations in exchange rate (between Euro and local currencies) can itself be a source of loss or profit.

⁹¹ BIO, Our Investment Tools, <https://www.bio-invest.be/en/investment-tools>.

⁹² Interview with BIO.

⁹³ Ibid.

⁹⁴ See, for instance, Christopher Schelling, Private Equity's Indisputable Problem, Institutional Investor (28 July 2017), <https://www.institutionalinvestor.com/article/b1505pkh1phyb/private-equitys-indisputable-problem>

⁹⁵ BIO's response to the initial draft of our study, email communication.

Chart 2.3 below illustrates how different investment channels of BIO fit together, also with BIO's thematic focus.

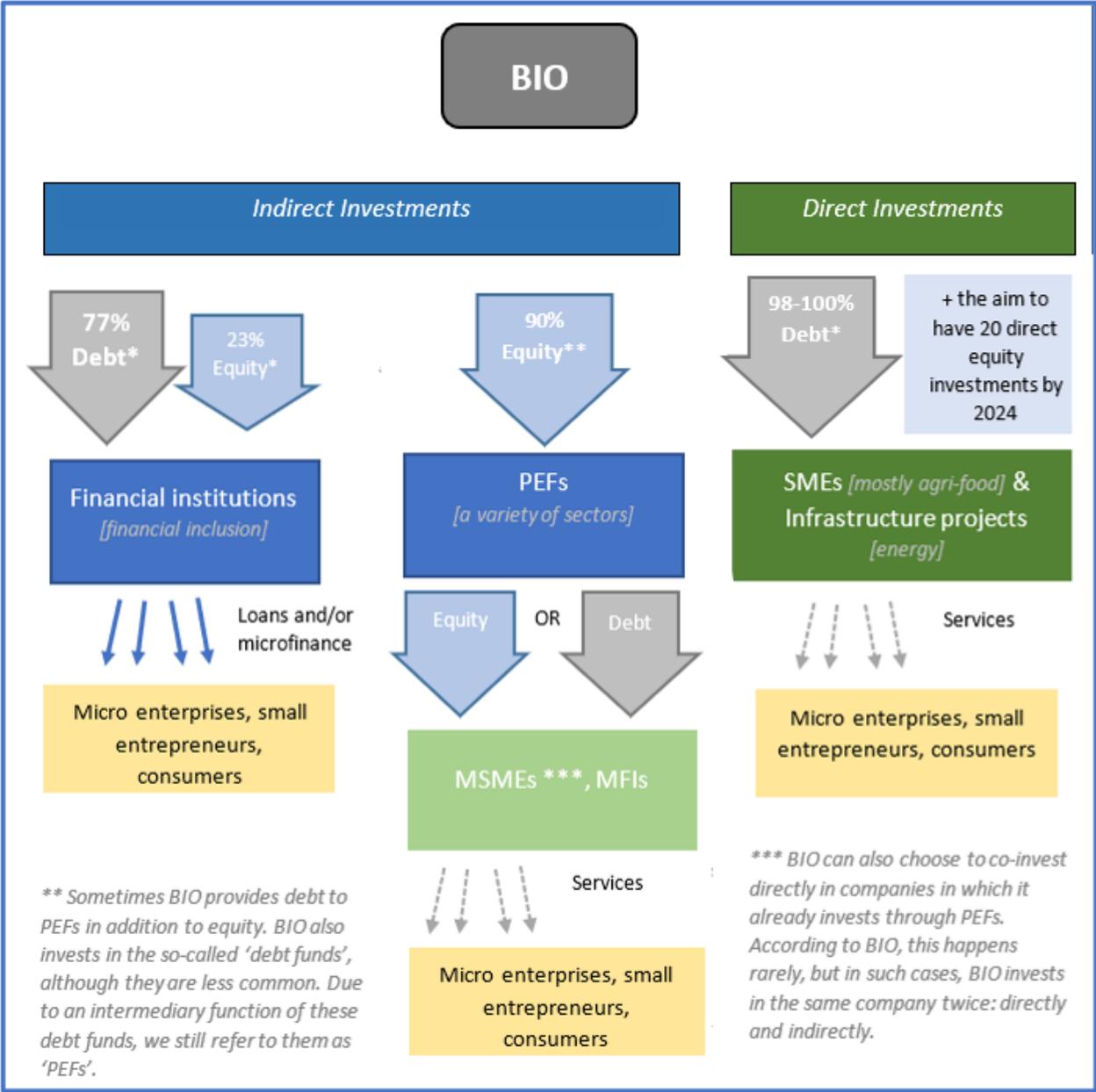


Chart 2.3: BIO's streams of investments – Elaborated by the author using BIO Annual report 2019, Investment Strategy 2019-23, interviews with BIO
 * Source: 2019 BIO Annual Report

In addition to the investment channels through which BIO mobilizes its own portfolio, BIO aims to mobilise additional finance. For that reason, it created the **SDG Frontier Fund**, the 'fund of funds' that aims to attract institutional investors, such as banks, mostly based in Europe, to co-invest with BIO in the PEFs, usually where BIO holds equity. In its first closing of the SDG Fron-

tiers Fund BIO raised 25.3 million from nine private investors.⁹⁶ These funds were invested through the SDG Frontiers fund in the four PEFs that are already funded by BIO.⁹⁷ The Fund has a separate management from BIO, but the latter provides a series of services to the fund, including the proposition of potential investments that have been approved by BIO, through a services agreement.⁹⁸ According to BIO, there is generally “a need in developing countries for a long-term capital”, and institutional investors are increasingly more interested in impact financing (understood by BIO as a promotion of ESG).⁹⁹ The ‘fund of funds’ structure is an attractive option in this context for both BIO and the private investors, because it is able to offer equity for SMEs in Africa and Asia (BIO’s focus), at the same time allowing for better risk diversification, thus making it a more suitable investment option for institutional investors.¹⁰⁰ This particular feature of BIO’s involvement in reducing the risk for private investors is discussed in more detail in the next section on PEFs.

The functioning of these investment channels will be discussed in more detail in the coming two sections on agri-food and energy. For the purposes of summarising the choices of investment channels, it is enough to say that both equity and debt give BIO a level of influence in the decision-making of its investees. However, the extent of the influence that BIO can exercise in the case of PEFs, where BIO on average holds between 4 and 10% of capital injected, is different and arguably less than in cases of direct investment. That is because in funding SMEs through debt, the contractual arrangement of the loan provides BIO with opportunities to steer the actions of their investee *directly*, whereas BIO’s participation in the Advisory Committee of a PEF allows it to be involved in the active governance of the fund, but not necessarily to guide the actions of portfolio companies directly. Accordingly, in BIO’s choice of investment channel **there seems to be a trade-off between potential return/risk of investment on the one hand, and BIO’s ability to ensure development relevance with sufficient level of influence and scrutiny on the other.**

Box 2.2. BIO’s thin red lines: creating markets that are not “artificial”

A key challenge for BIO in implementing its mandate is to financially support the private sector in developing states without distorting markets. According to BIO’s Management Contract, “BIO is not intended to replace the market but to complement it” (Art. 10). Yet, to support private sector, BIO must often invest in sectors and companies that do not have sufficient access to standard commercial lending by banks. When investing in such situations, BIO helps to “create markets”¹⁰¹ in the countries of its intervention; however, according to BIO, “it should not create an *artificial* market.”¹⁰²

As a starting position, when assessing the financial additionality (Art. 11 Second Management Contract), financial sustainability, and potential market distortions of its investments (sometimes of markets which do not yet exist), BIO benchmarks its own lending interest rates and decisions

⁹⁶ 2019 BIO Annual Report, p. 17.

⁹⁷ Two of the funds are African Rivers Fund III; Excelsior Capital Vietnam; *ibid.* In their responses to the first draft of this study, BIO highlighted that to date they have invested in 4 funds (August 2021). According to BIO, “The objective of the SDG Frontier Fund is to invest in around 10 PEFs.”

⁹⁸ Interview with BIO on investment strategy; corrected after BIO’s comments to the first draft of this study.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ A term used by BIO staff, interview with BIO on investment strategy.

¹⁰² *Ibid.*

vis-à-vis rates and capacity by commercial lenders, usually private banks. To guarantee additionality, BIO should select places and sectors that are not (yet) profitable for these private sector lenders and it should not be offering lower rates than these lenders would. Therefore, before deciding to invest, BIO always conducts the analysis of “local pricing,”¹⁰³ and then tailors its own rates accordingly. According to BIO, “our role is to disappear when private market will fulfil our mandate. We are not there to stay.”¹⁰⁴ This is at the heart of BIO’s approach to financial sustainability.

There are several mechanisms through which BIO approaches this challenge between financing and distorting. BIO might require no collateral on their loan, or a smaller collateral than commercial lenders. BIO might also lend more long-term than commercial banks, or they might provide equity financing instead of debt (usually through PEFs). BIO might also provide a standard debt to companies at the rates and conditions of a commercial lender, but in fragile economic contexts which private banks find too risky to operate in. Ultimately, BIO ensures its financial additionality without distorting markets by entering more risky investments than commercial banks or investors would or – when competitors exist like in the case of SCL Senegal discussed in Annex III – by providing better conditions than private competitors. It seems that these mechanisms help BIO to navigate the limits of its mandate, and to avoid a position of finding itself ‘between a rock and a hard place’.

Essentially, the thin red lines around BIO’s investments depend on BIO excluding concessional lending from its operations. Furthermore, BIO’s ability to exclude concessional lending depends on the distinction that BIO makes between ‘lowering the risk’ (for commercial lenders) and a non-dependency (of borrowing companies) on BIO’s funding.

However, the idea of reducing the risk for commercial lenders, enabling them to invest after BIO ‘disappears’ from a market, does not seem entirely in line with the “investing in market conditions”¹⁰⁵ requirement. That is because **risk reduction is a form of granting an indirect subsidy to commercial lenders along with companies as recipients of cheaper funds than they would access from non-development institutions.**¹⁰⁶ Even if BIO does not want to ‘create artificial markets’ or to ‘distort them’, by reducing the risk for the private lenders (in particular when BIO invests through a blended mechanism or provides a guarantee), BIO still engages in a form of subsidy for the financial sector and the companies by providing better financial terms than the existing ones (or creating conditions in contexts market actors do not want to intervene).¹⁰⁷

Moreover, many markets, for instance those involving new technologies and R&D, are often ‘artificially created’, in a sense that for those markets in certain sectors and countries to take off, they require support from a public sector, grants to test prototypes and products, and some concessional lending until the companies can mature and operate under “market conditions.”

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Bayliss, K., et al, The use of development funds for de-risking private investment, EP/EXPO/DEVE/FWC/2019-01/Lot3/R/01, May 2020 - PE 603.486.

¹⁰⁷ See Box 2.3 below for further explanation about how a risk reduction for financial sector, and an associated subsidy might be achieved.

Overall, it seems that BIO's approach to 'creating markets' assumes the connotations of creating favourable conditions for commercial banks and other private investors to operate in a low-risk/sufficient profit scenario¹⁰⁸. BIO assumes that concessions to SMEs, beyond technical assistance grants, would distort the market – whereas an indirect support for financial sector would not.

d. Private Equity Funds

What are PEFs and PDFs?

Private equity funds (PEFs) and Private Debt Funds (PDFs) are funds created by a fund manager for a specific purpose, usually with an investment strategy for 10 years, with a possibility of extending it.¹⁰⁹ Some funds, such as Fair-Trade Access Fund (FAF) (which is a PDF), may also be open-ended. These funds differ greatly in terms of their geographic scope and focus, sectors and investment strategies: some are specialised in a specific country and/or sector (e.g. Omnivore 2, which focuses on agriculture in India), while others are 'generalist' funds that invest in multiple countries in a variety of sectors (e.g. AfricInvest Fund II supporting a large variety of SMEs in West Africa).

Usually, the funds that apply for investment from the DFIs tend to 'target' DFIs in terms of their purpose and investment strategy and try to 'match' DFIs' development mandate. Generalist funds differ from other PEFs and PDFs in terms of their willingness to focus more closely on developing and supporting the companies that they invest in, including their financial sustainability and ESG standards.

This is not to say that DFIs are the only investors. To the contrary, one of the points of investing through intermediaries is to 'blend' funding from institutions such as BIO with funding from private investors – thus reducing the risk of investing in the developing states for the private investors. In other words, through diversification of their portfolio and publicly backed money from institutions such as BIO in the mix, funds become more attractive options for private investors than direct investments in a single company in an emerging market might be.

Factsheet: BIO & PEFs

- At the end of 2019 BIO was invested in **55 PEFs**.¹¹⁰

¹⁰⁸ It is notable that BIO disagrees with our finding on this matter. According to BIO, "Firstly, it is not clear if the authors are talking about debt or equity in this paragraph. Regardless, with regards to debt, BIO does not reduce the risk for commercial lenders, but rather is additional to them (if any). With regards to equity, BIO does not participate in the concessional part of a blended structure nor does it provide guarantees. BIO will always require a risk adjusted return on its investment." As explained later in this study (section 2.1 (d), in particular Box 2.3), we argue that being additional to private actors or co-investing with them is a form of risk reduction and therefore of public support for those (financial) actors (see also D. Gabor, 'The Washington Consensus' (2021)). While it is not part of the official definition of 'blending' by the EU, it falls under the functional definition of 'subsidy' as a form of support to the private sector. These considerations are valid for both debt and equity investments, and therefore an equity/debt distinction is not relevant for the purposes of this broader point.

¹⁰⁹ Some funds are open-ended, e.g. AfricInvest Financial Inclusion Vehicle LLC (FIVE).

¹¹⁰ Source: combining a list of BIO's PEF percentages (information received from BIO); adding PEFs investments listed BIO's website; adding PEFs investments that at the time of writing were not yet added on the BIO's website (information received from BIO).

- Investments in PEFs accounted for **36% of BIO's approved commitments** in 2019.
- Circa **740 companies** receive funds from PEFs in which BIO has invested.¹¹¹
- On average **BIO holds 9.56% of shares** in a PEF (equity investments only).¹¹²
- On average BIO expects a **10% return** per PEF (for Code 8 investments).¹¹³
- Usually, a fund manager charges **2% management fee**¹¹⁴
- Of the **41 PEFs on which we found information about their domicile** (Chart 2.4):¹¹⁵
 - **More than a half (56%)** are based in the top 15 countries on the Corporate Tax Havens Index¹¹⁶ (23 PEFs).
 - **A third (32%)** are based in the top 15 countries on the Financial Secrecy Index¹¹⁷ (13 PEFs).
 - **A quarter (24%)** are based in the countries that are in the top 15 countries on both lists (Corporate Tax Havens and Financial Secrecy) (10 PEFs).

¹¹¹ 2019 data. Source: BIO's investment list submitted to the DGD.

¹¹² Source: info provided by BIO (PEF percentages).

¹¹³ Source: interview with BIO on PEFs. In their comments on the first draft of this study, BIO added the following clarification on the 10% revenue expectation. According to BIO, When BIO assesses a fund, it estimates that - in theory - a return of 10% should be reachable. However, in practice, BIO has quite some funds that struggle to achieve this, making the average return on the PEF portfolio significantly below 10%. Also, an investor doesn't just receive a fixed coupon on a PEF like it would with a loan. The 10% is an anticipated Internal Rate of Return, that BIO hopes to achieve over time. Whether this IRR is achieved depends on the underlying exits, the timing of which is fully dependent on the investees, and not known in advance (email communication).

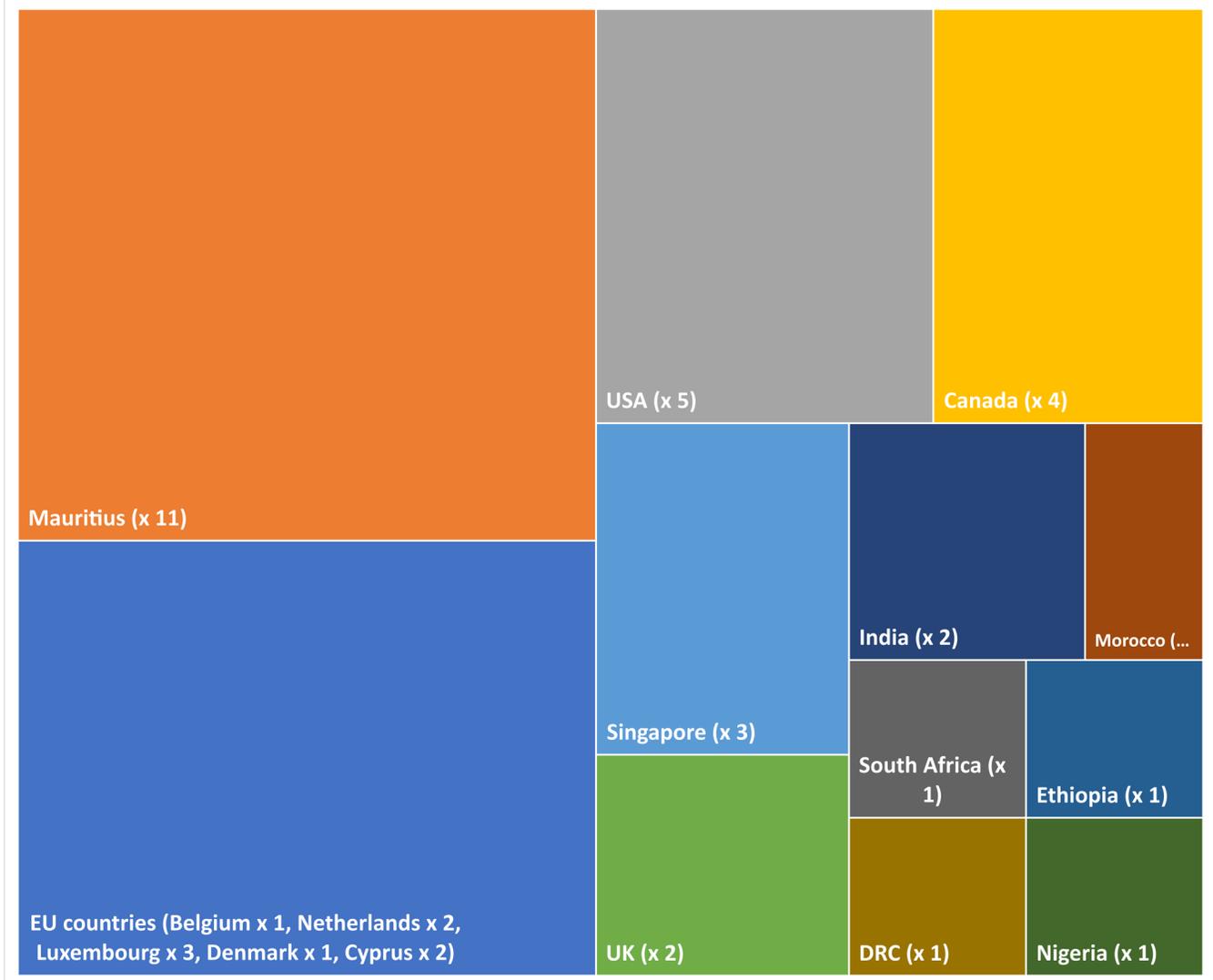
¹¹⁴ Ibid.

¹¹⁵ Information on the domicile of some PEFs is provided on BIO's website, some on the Fund manager's website. **We did not manage to find the domicile-related information on 14 PEFs.**

¹¹⁶ 2021 data. Published yearly by Tax Justice Network; available <https://cthi.taxjustice.net/en/>

¹¹⁷ 2020 data. Published every two years by Tax Justice Network; available <https://fsi.taxjustice.net/en/>

Chart 2.4 Domiciles of PEFs that BIO invests in (information based on 41 funds)



In the official vocabulary of the European Union, term ‘blending’ is only utilized when public funds are provided in the form of grants or with a higher level or risk than private funds. In the case of BIO, this does not seem to be a common approach: FAF is the only example from BIO’s portfolio that would fit this understanding of ‘blending’ as a concessional treatment of companies and private investors. Rather, in all other cases BIO invests *pari passu*, meaning, on equal footing with private actors. For BIO, investing *pari passu* with private investors is not seen as blending, but as something that concurs into private investments, like any other provider of equity or debt.

However, on the other hand, BIO also recognizes that one of the goals of investing through intermediaries (PEFs and PDFs) is to generate a catalytic effect vis-à-vis private capital, i.e. increase the amount of private capital flowing into specific sectors and investments. Although no empirical study has been conducted on this specific point, it appears logical that the ‘catalytic’ effect that BIO discusses is linked with a reduction in the costs of doing business for private capital. The presence of the bank as an equity or debt provider, for example, may reduce the costs of due diligence, increase the legitimacy of the fund, lower the likelihood of default, suggest

that other private and public resources may be trickling into that fund and therefore expand its scope, etc. Although not a direct form of 'subsidizing', **the reduction of the costs for private capital should be considered, in our opinion, an indirect way of blending and subsidizing.** When DFIs are providing capital at different conditions than the private sector, ODAs would thus be offering a double subsidy in favour of the private investors (see Box 2.3).

Box 2.3. Blended finance, riskier shares and double-subsidize for other investors?

BIO provides equity and debt to funds that attract private and public capital. This is the case with Fair Trade Access Fund (FAF), Omnivore Fund and several other of BIO's investees. According to a 2020 Study by the EU Policy Department for External Relations, the use of ODA in blended mechanisms under 'worse' conditions than other investors is – per se – a way of subsidizing capital (private or public, but invested at better conditions than the DFI).¹¹⁸ Similarly, a 2019 study by the Overseas Development Institute (ODI) stresses that "Official development finance is used to provide a subsidy to bring the risk-adjusted rate of return in line with the market, increasing the allure of the investment from a private commercial investor perspective."¹¹⁹ It can thus be said that ODA capital invested in a fund has a de-risking effect that automatically makes private investments cheaper than they would be in the absence of ODAs: at the end of the day, this is the 'leverage' and 'catalyst' effect that DFIs want to generate.¹²⁰

When asked about the 'subsidy effect' and whether "BIO invests in PEFs along with private actors and, in some cases, under different conditions than other investors (e.g., lower return and/or longer time)", BIO replied that "When investing in PEF as an equity investor BIO would invest *pari passu* with other DFI and eventual private actors, so that we do not subsidize private investors."¹²¹

This answer implies that BIO considers that it always positions itself in the same condition of any other investor, so that no larger risk or lower return is taken by BIO vis-à-vis the other participants in the fund. However, the specific case of the FAF, where BIO and other two DFIs are Class A shareholders with higher risk and longer-term shares than other private and public investors, seems to suggest that the *pari-passu* principle is not applied in all cases. Although we recognise the importance that Code 5 funds have in terms of increasing the development potential of BIO's investments, we wonder, as discussed above, if they do not provide an extra level of subsidies to private investments (and private returns).

At the same time, we mentioned already above that the catalytic role of a DFI vis-à-vis other sources of capital (and in particular private capital) appears to be closely linked with a benefit (financial, reputational, in terms of transaction costs or asymmetry of information, ESAP due diligence, etc.) that the other investors perceive. Empirical studies should be realized on the material impact of investing with DFIs (even in the *pari passu* condition). However, logic suggests that the attractive and leverage effect of DFIs is linked with a benefit for the investors. At the end of the day, is it not the creation of financial opportunities and the opening of new markets for private actors one of the objectives that BIO aims at fulfilling?

¹¹⁸ Ibid. n 103.

¹¹⁹ Attridge and Engen (n 62).

¹²⁰ Daniela Gabor (2021), 'The Washington Consensus', 52(3) Development and Change 429-459.

¹²¹ Email exchange with BIO.

Consequences of DFIs investing through PEFs

This dynamic of DFIs closely cooperating with PEFs in achieving their respective business objectives has several effects that are worth highlighting. Firstly, it means that usually multiple DFIs invest in the same PEF. We were told that BIO rarely invests ‘alone’, and that its participation in several PEFs started through an invitation of other DFIs. This raises some questions about BIO’s additionality¹²² when investing in PEFs, as we discuss below.

Another impact of this positioning of PEFs as core partners and clients of DFIs is that by making funding available to PEFs, DFIs enable fund managers to become a central part of development finance landscape, thus ‘privatising’ development assistance in terms of how it is distributed and governed.¹²³ The governance implications of this dynamic in case of BIO will be discussed throughout this study. Among other things, the implications extend to such issues as increased confidentiality of information, conceding a choice of investment decisions to a third party, and reduced external monitoring of E&S compliance by the investees.

Finally, through DFI involvement, PEFs become a crucial ‘middleman’ between investors and SMEs, which, on a plus side, enables SMEs to access funding that might otherwise be out of reach for them. It also allows SMEs to learn from the PEF fund managers and their investors. This ‘learning’ component is central to the model of PEF-DFI partnership, and PEF-based development financing more generally. That is because investees expanding their scale, increasing their efficiency, and growing in financial value is the ultimate objective of PEFs (thus guaranteeing a high return on their investments). Up to a certain point and in case of many companies, this is in line with BIO’s aim of supporting private sector. Put otherwise, there seems to be a strong alignment between the PEF aims, and some of the development objectives of DFIs such as BIO.

“Selecting the fund manager is important for us. We stay in close contact. [...] It’s a marriage”.

Interview with BIO

However, the flip side of this cooperation that ‘marries’ PEFs and DFIs in achieving their objectives is that many, especially smaller SMEs, are expected to work with PEFs to access development finance, thus increasingly making it impossible for these SMEs to access external finance without PEF involvement. This intermediary function comes with a higher dependency of SMEs on PEF’s purposes and investment strategy, also potentially with some power imbalance between the fund manager and the SME, as well as less ability for SMEs to make autonomous decisions. This issue might be particularly relevant in case of social economy enterprises¹²⁴ such as cooperatives, which might be more concerned with membership-based benefits than with maximising profit for its investors; unless a specific PEF or PDF (as in case of FAF) has a specific pur-

¹²² See Art 12 Second Management Contract for rules on additionality.

¹²³ For a general review of this trend and its governance implications see Celine Tan, ‘Audit as Accountability: Technical Authority and Expertise in the Governance of Private Financing for Development’, (2021) *Social & Legal Studies* 1. doi:[10.1177/0964663921992100](https://doi.org/10.1177/0964663921992100)

¹²⁴ Social Economy Enterprise is defined by the Second Management Contract as ‘enterprise whose mission has the following characteristics: purpose of providing services to members of the community rather than profit; management autonomy; democratic decision-making process; primacy of persons and labour over capital in the distribution of income; financial equilibrium. Examples include cooperatives, mutual societies, associations, and similar enterprises.

pose of working with cooperatives and other social economy enterprises that prioritise membership benefits over growth prospects and high return. It is therefore essential for BIO not to assume that all smaller SMEs in the target countries are able to access funding through PEFs (or financial institutions) that BIO supports indirectly, and thus to continue actively seeking for direct investments.

BIO's additionality in case of PEFs

Given that BIO is a relatively small player, with its average PEF investment being under 10% of total shares, also given that BIO usually co-invests with other DFIs, this raises a question about the extent to which BIO's investments are financially additional in these investments, as required by its legal framework.¹²⁵ Generally, in order to become operational, a fund has to reach a certain minimum amount of initial commitment that is determined by a fund manager as necessary for it to start implementing fund's investment strategy. It seems that before this minimal amount of commitments is reached, BIO's investment in PEFs might be justified in terms of financial additionality; because even if relatively small in terms of percentage of equity, BIO's contribution enables PEF to start its operation of investing in SMEs.

However, beyond this minimal amount required for a PEF to start its operations, the case for BIO's additionality becomes less convincing. BIO justifies its investments in such instances by the fact that most PEFs will have a 'target' amount of funding that they aim to reach, to ensure the *optimal* implementation of their investment strategy. For instance, their *minimum* target might be 100 million; but to achieve investment objectives and reach sufficient number of SMEs, the manager considers 150 million to be an *optimal* amount. Given BIO's limited resources, we are not convinced that investments that go beyond the minimum requirement are properly additional, since by the time a fund reaches its minimal amount, there are other investors that are willing to invest in the fund, under the conditions that are favourable to the fund. In other words, we do not see how investment in PEFs beyond their closing amount satisfies the criteria for BIO's financial additionality set out in its Management Contract.¹²⁶

A fulfilment of financial additionality requirement is arguably even less convincing in investments that take place years after the launch of the funds. Such investments are generally justified by the notion that more funds can help realise more investments; however, are these disbursements into fully functioning and established PEFs additional from the point of view of BIO's regulatory framework and mission? We could not identify sufficient reasons to answer this question in the affirmative.

General concerns surrounding PEFs: transparency, tax avoidance, corporate accountability

Private equity funds are often viewed with suspicion in the academic literature,¹²⁷ civil society reports,¹²⁸ media¹²⁹ and even in popular culture.¹³⁰ Among other things, this is due to their pow-

¹²⁵ Art 15 Second Management Contract. See Section 1.6 (c) on 'Financial additionality' (in this study) for more details.

¹²⁶ Ibid.

¹²⁷ See for instance, Omri Marian, 'The Other Eighty Percent: Private Investment Funds, International Tax Avoidance, and Tax-Exempt Investors' (2016) *BYU L Rev* 1715; Brad A. Badertscher et al, 'The Separation of Ownership and Control and Corporate Tax Avoidance' (2013) 56 *J. AcCT. & ECON.* 228 ; Sarah Bracking, 'How do Investors Value Environmental Harm/Care? Private Equity Funds, Development Finance Institutions and the Partial Financialisation of Nature-based Industries' (2012) 43(1) *Development & Change* 271. <https://doi-org.ezproxy.lib.gla.ac.uk/10.1111/j.1467-7660.2011.01756.x>.

erful intermediary position between businesses and investors, their ability to shape corporate decision-making including labour policies, their incorporation in ‘neutral’ jurisdictions that might lead to tax avoidance, and a range of issues concerning transparency of their operations. PEFs are therefore often seen as ‘black boxes’ that can operate without accountability, with no public scrutiny, and without paying taxes in jurisdictions where the real economic value of their investees is generated. While we recognise that PEFs and their fund managers differ, and that these concerns do not apply equally to all funds, this is the background of public distrust that is a relevant factor that BIO needs to counter as it invests indirectly through PEFs.

For instance, based on our search on the websites of various PEFs in which BIO invests, we observed that the funds rarely publish the core information about their operations, beyond an incomplete list of investees and various marketing tools aimed at attracting new investors. While in some instances it is possible to find information on the fund manager and people involved in running the fund, including some information on some of the companies in which they invest, matters such as PEFs’ size of portfolio, their complete list of investors and investees, their balance sheet, their pipeline of investments, and their tax status, are often obscure and out of reach for an external observer. This is one of the downsides of ‘privatising’ development cooperation that was noted earlier: with PEFs as intermediaries, the channels for public accountability about where ODA money is spent becomes extremely limited. This is fuelling the public distrust mentioned earlier on. Therefore, as a public actor that is implementing Belgian policy of development cooperation, BIO should counter this distrust with enhanced transparency about its investments through PEFs, and by using their financial leverage on the PEFs to increase the level of information about the companies in which Belgian public money is invested.

Why does BIO invest indirectly through PEFs?

Despite the concerns noted above, in 2019 more than a third (36%) of BIO’s committed resources concerned PEFs.¹³¹ This is considerably less than at the start of BIO’s operations,¹³² but nonetheless, it is a significant share. According to BIO, there are good reasons to invest through PEFs.

Firstly, according to BIO, **PEFs are geographically well-situated and more specialised than BIO**. As mentioned earlier, given a wide range of countries in which BIO invests, BIO has a limited internal capacity to know its countries of intervention in sufficient detail, and “supporting SMEs directly from Belgium with capital is ‘tough’”.¹³³ On the contrary, fund managers are seen by BIO as “better embedded”, as having better access to “local knowledge”, and as “more ‘close by’ and

¹²⁸ See for instance, Counter Balance, ‘Hit and Run Development’, (October 2010), available <https://counter-balance.org/uploads/files/Reports/Flagship-Reports-Files/2010-Hit-and-run-development.pdf>; Bretton Woods Project, ‘Follow the Money: The World Bank Group and the use of financial intermediaries’ (April 2014)

¹²⁹ See for instance, Will Hutton, ‘Private equity holds us to ransom. Now it wants us to bail out its losses’ (The Guardian, August 2020) <https://www.theguardian.com/commentisfree/2020/aug/23/first-private-equity-holds-us-to-ransom-now-it-wants-us-to-bail-out-its-losses>

¹³⁰ See for instance, a film by Steven Soderbergh, “The Laundromat” (2019).

¹³¹ Source: data shared with BIO (Portfolio Situation Summary 2019).

¹³² In 2006, the proportion of money invested through PEFs was at 73% of the overall portfolio; see 11.11.11, “Doing Business to Fight Poverty? An evaluation of the Belgian Investment Company for Developing Countries (BIO)” (2012); https://www.academia.edu/3834257/Doing_business_to_fight_poverty_An_evaluation_of_the_Belgian_Investment_Company_for_Developing_Countries.

¹³³ Interview with BIO (PEFs).

able to follow the project more closely”.¹³⁴ In other words, PEF fund managers are seen as local experts – which BIO staff are not, or at least not for all of BIO’s countries of intervention.

Although many PEFs are formally incorporated in the third countries (see the Chart 2.4 on PEF domiciles), fund managers often have offices in the region in which they invest. However, given that most PEFs operate in more than one country, these offices are not necessarily present in all the countries in which they investees are based. It is also the case that PEFs often have their ‘headquarters’ in Europe, Mauritius, or North America¹³⁵. Thus, while we see BIO’s argument that PEFs are more specialised and often more focused on specific countries and/or sectors than BIO, the claim that PEFs are ‘local institutions’ in a sense of having a local presence and subsequent capacity to directly engage with clients and monitor investments, is not always true. While it is true for some countries and some of the fund managers, it is not the case for all final investees and/or countries of intervention. Moreover, claims about PEFs’ ‘local presence’ could not be verified through their forms of incorporation.

Secondly, **PEFs play an important business function for BIO**. On the one hand, they help BIO to diversify its portfolio, because these funds themselves invest in multiple companies for the same reason of reducing risk through diversifying investment. Similarly, PEFs are expected to generate a higher level of return than other BIO’s investments, which means that they can ‘balance out’ some of the less profitable direct investments by BIO. In principle, this seems like a plausible reason to invest through PEFs, however, at the same time, it is important to recognise that these reasons are predominantly financial and are mostly for the benefit of BIO’s institutional stability and financial profile. **These reasons only have an indirect link with BIO’s development mandate**. Similarly, another important business function that PEFs play for BIO is that they enable BIO to cooperate with other DFIs in its core sectors. While we see that such cooperation can be helpful for BIO to learn and share best practices with other similar institutions, it also is not *in and of itself* a good enough reason to invest through PEFs.

Thirdly, an argument could be made that **PEFs help BIO to ‘multiply’ its development impact**, because they reach more companies with a limited amount of funding. As mentioned previously, through PEFs, BIO invests in more than 700 companies – compared to 42 investments in infrastructure and enterprises made directly by BIO in 2019.¹³⁶ This means that, rather than assessing investment applications for infrastructure projects and SMEs directly, BIO has an opportunity to make sure that its sustainability standards are adopted by fund managers – thus

¹³⁴ Ibid.

¹³⁵ In its response out the first draft of our study, BIO disagrees with this statement. They claim that: “While the legal entity of a private equity fund is indeed often incorporated or domiciled in one of these jurisdictions, this entity is an investment vehicle pooling funds from different investors and with no staff payroll. The fund is managed by a fund manager, who is in charge of sourcing the investments and monitoring them until exit. The fund manager is headquartered and has his team located in the country or region of operations (i.e. India, Kenya, Vietnam, Tunisia...). The local presence of the fund manager/team is a key point for us when considering an investment in a PEF.” Nonetheless, having visited publicly available information on the websites of several PEFs in the course of this study, we note that some PEFs appear to be based in the UK, the Netherlands, Mauritius, etc. We cannot verify BIO’s claim that these PEF’s are in fact headquartered (as opposed to ‘domiciled’) in the countries of BIO’s intervention, but the main contact details for these PEFs are provided for a country of domicile, or another third country based in Europe or North America. Therefore, we argue that despite BIO’s disagreement, this claim and the issue that it raises, continues to be relevant.

¹³⁶ BIO Annual Report 2019 p. 47. According to the report, in 2019 BIO had 23 direct investments in enterprises and 19 in infrastructure.

creating a positive effect across its entire investment chain. Indeed, BIO's contribution to high ESG standards of its investments in PEFs was highlighted to us by several PEF managers that we interviewed.¹³⁷ This promotion of high ESG standards among PEF investees is seen as an essential advantage of indirect investments: it enables DFIs such as BIO to attain their development objectives through an intermediary, which is not only capable to negotiate with and pass ESG knowledge to investees, but which is expected to continue after BIO's involvement has ended and after shares in the company are sold to other investors.

From our research, we acknowledge the validity of this argument to an extent and in case of some PEFs, such as Omnivore or Fairtrade Access Fund (FAF), because these funds have a clear focus on a specific sector and specific development purpose which fall under BIO's strategic objectives (e.g. agriculture for food safety, access to energy). We do, however, see less clear justification for this argument in case of 'generalist' funds, which invest in a range of sectors indiscriminately. For instance, African Rivers Fund invests in companies in the DRC and Uganda; two key countries for BIO and Belgian development cooperation more generally.¹³⁸ Nonetheless, African Rivers invest in sectors from pharmaceutical manufacturers¹³⁹ to retail chains¹⁴⁰ to cleaning services¹⁴¹, which do not fall directly under BIO's strategic sectors identified in BIO law Art. 3.

Since a contribution to these sectors cannot be justified in terms of their thematic coverage, there are two other possible justifications of including them into BIO's development mandate: a. through a reference to *financial inclusion* (a strategic priority for BIO under its Management Contract), or b. by claiming that these companies contribute to *digital economy* (a cross-cutting theme for BIO).

Concerning financial inclusion, this highlights the relevance of the earlier argument,¹⁴² to the effect that financial inclusion is *not* an original strategic thematic objective of BIO, but rather a 'placeholder' sector. This means that financial inclusion absorbs all other investments that BIO cannot justify under its prescribed thematic focus. Almost *any* investment in BIO's target countries could be justified under the banner of 'financial inclusion', if no boundaries are drawn to limit it.¹⁴³ Arguably, this opens BIO's development mandate too much, making it difficult, if not impossible, to ascertain when an investment does not fall under BIO's remit, and to hold BIO accountable. Therefore, as will be discussed in the later sections, **an improvement of ESG standards in a company and a creation of new jobs alone should not be enough to justify BIO's involvement and its development impact.** Accordingly, making sure that more companies adapt higher ESG standards is a good cause, but if not coupled with further justifications, it does not appear good enough for BIO to justify its investments in the 'generalist' PEFs.

Concerning the argument that investments in generalist PEFs might promote digital economy, this seems in principle a plausible claim, as many investments in SMEs aim to modernise these

¹³⁷ Interviews with two equity funds.

¹³⁸ They are both partner countries of Belgian Development Cooperation at a federal level.

¹³⁹ E.g., B.I.S.

¹⁴⁰ E.g., Maison Galaxy.

¹⁴¹ E.g., M&N services.

¹⁴² Section 2.1. (b) (Priority Sectors) in this chapter.

¹⁴³ The remit of investments would still be limited by the EDFI and the IFC Exclusion List.

companies through a better use of new technologies, innovation, and better connectivity, with a view of increasing their overall value. However, it is also worth noting that **not all digital technologies or innovations are financially and socially sustainable in a long run**. While they might increase the value of a company initially and in a short or medium term (thus making a company more profitable and able to generate a higher return), new technologies can also cause issues, such as reliance on intellectual property of companies based in the Global North, or on a dependency of those companies on the price of technological products that they adopt to increase their efficiency and productivity.¹⁴⁴ In the long run, through increased efficiency, technologies can also reduce the number of jobs available, or to create a situation where people are invited to work based on customers' demand. In other words, not all investments in digital economy generate desirable development impacts – although some do. These issues of market structure of digital economy and future dependencies might not be so well covered by the E&S policies and systems that BIO negotiate with PEF managers.

All in all, if issues of potential tax evasion, corporate accountability and transparency can be addressed (which is, arguably, a core responsibility for BIO as a development actor), we see good reasons for BIO to invest through some attentively selected, specialised PEFs. However, we urge BIO to recognise that investments in the 'generalist' PEFs, while potentially promising in terms of financial return and might contribute to better ESG policies among PEF portfolio companies, are diverting resources from BIO's thematic strategic objectives. These investments therefore support the kind of companies that can be described as 'low hanging fruit' in terms of their impact on poverty reduction and social inclusion. Significantly, it has been proven that reaching the poorest people in the most deprived situations through indirect investment requires carefully crafted and targeted investments, which generalist PEFs do not specialise in.¹⁴⁵

Questions concerning taxation and 'neutral' jurisdictions

As discussed at the start of this section, most PEFs in which BIO invests are based in the so-called 'neutral' jurisdictions. It is commendable that 7 PEFs that BIO invests in are based in the countries of intervention, such as Ethiopia, India, or Nigeria. However, such funds are for now a minority.

The question of PEF's domicile matters because generally, a fund manager charges an annual management fee, typically up to 2% of the committed capital of the fund. This 2% fee is in most cases internalised by the managers and not reinvested in the country of intervention. Moreover, while portfolio companies of the fund generate fiscal returns in the countries where they are based, the dividends paid to PEF's investors¹⁴⁶ are taxed (if at all) in the countries where those investors are based, depending on the rule of taxation in the country of a domicile of PEF. Although PEFs contribute to a value creation of a portfolio companies and their taxation and thus, indirectly, to growth of the national economies of countries where those companies are based,

¹⁴⁴ For a discussion on the role of digitalisation in the agri-food sector (and related issues), see Chapter 3 in this study.

¹⁴⁵ The issue of blended finance structures 'reaching those the most in need' is discussed in Attridge and Enge (n 62) p. 26.

¹⁴⁶ According to BIO, "At that time [of distributing the profits that are left after taxation], the fund manager often decides to reinvest these dividends, rather than distribute them" (email communication; BIO's response to the first draft of this study). We cannot not verify this claim by BIO, and this decision to redistribute profits to portfolio companies could not always be a way forward, given that BIO and other investors are seeking to get 10-12% revenue from their investments in PEFs. In any case, this leaves a decision about what to do with the profit in the hands of the fund manager.

this practice of remunerating investors located outside of the country of intervention can be seen as a form of value extraction from developing countries. This means that the economic value generated in one (developing) country leaves that country in a form of management fees and dividends, thus taking away from the creation of wealth in the country where the real economic value of the company is created. This also means that public development money that is invested along with other foreign capital contributes to the generation of value that is appropriated by private (or public) investors located outside the country of intervention, and thus it can be said that ODA contributes to financial benefits perceived outside of the geographical scope of BIO's mandate.

This seems to be an issue from a distributive perspective, but we also question the alignment of such financial flows with the principles of Belgian development cooperation, and with BIO's mandate. On this point we disagree with a study conducted by the consultants for the Belgian Government in 2012, claiming that arguments against investing in PEFs incorporated in tax havens are "mainly founded on ethical considerations".¹⁴⁷ We consider such a practice to be inconsistent with the principles of sustainable development and good governance set out in the Belgian Law of Development Cooperation.¹⁴⁸ That is because, even if the Belgian ODA is contributing to employment and economic growth in third countries, every part of the profit that is not paid in tax in the country of intervention (a) is internalised by the PEFs' managers and shareholders (including by BIO as a proxy of the Belgian State) and does not contribute to the income generation within the state of intervention¹⁴⁹. (b) It reduces the budget that a country of intervention can allocate for core public sectors, thus minimising access to services such as free healthcare and education. This, in fact, goes against BIO's mandate to support basic services.

Overall, BIO's decision to invest in PEFs that are not domiciled in the countries of intervention and are also investing in the areas that have little direct development relevance, appear to be the least effective way of using BIO's resources from a development perspective. Accordingly, to ensure the most effective use of its resources for development purposes, **BIO should focus its investments through PEFs on the specialised, thematic funds that are incorporated in the target countries.**

e. Supporting (M)SMEs

Ways of supporting SMEs

As noted earlier, "supporting the private sector through direct and indirect investment in the development of target companies" is the mission of BIO, and it is at the heart of what BIO does.

¹⁴⁷ Carnegie Consult, "Evaluation of the Belgian Investment Company for Developing Countries (BIO) - Phase 1 Summary" p. 7.

¹⁴⁸ Art 2 Law of Development Cooperation (2013).

¹⁴⁹ BIO disagrees with this claim. According to BIO, "The level of the PEF tax rate is generally low or even zero, as taxes have already been paid in the country of the investee (before dividends were paid out). PEFs are generally not based in developing countries because these do not have a legal basis for this, and/or because it is technically or administratively impossible. Thus, paying additional taxes in the country where the fund is domiciled wouldn't have a development impact." (email communication, BIO's response to the first draft of this study). Based on this comment, there seems to be a disagreement between BIO and the authors about the need to pay taxes at the moment of PEF generating profit from its participation in portfolio companies. We argue that portfolio companies paying taxes in their home jurisdictions does not remove the need for PEF and its investors to also pay taxes in those jurisdictions.

More specifically, BIO's Theory of Change identifies five ways BIO supports MSMEs. Besides financing, which has already been discussed at length, BIO sets out to help companies to:

1. Develop their ESG standards
2. Conduct development assessment
3. Monitor and evaluate their operations
4. Improve their governance through technical assistance grants.

Generally, BIO provides these contributions in a sort of “packages,” along the investment process, thus guiding BIO's client pre-, during, and to an extent, after the investment. These four supporting measures are mostly aimed at SMEs, rather than micro enterprises, because, as discussed below, only the SMEs of a certain size have an institutional capacity to implement them fully.

Concerning indirect investments through PEF, BIO has a requirement for them to help their investees to develop and implement E&S standards and improve their ESG. According to BIO's website, there are currently 7 PEFs¹⁵⁰ that benefitted from its technical assistance facility¹⁵¹ to support BIO's investees. While we learned that BIO works closely to support fund managers, it does not appear that BIO directly supports the portfolio companies of these funds, beyond the instances of technical assistance mentioned above. This is to note that a full range of SME support measures listed above and identified in BIO's Theory of Change is available to companies and financial institutions in which BIO invests *directly*.

The effectiveness of BIO's support to a given SME depends mostly on the company's willingness to engage with questions such as ESG or monitoring and evaluation. For that reason, BIO informed us that, for direct investments, they usually invest in companies that show willingness to learn and adapt their management, policies, and decision-making. This willingness of clients to 'do the right thing' and improve is also a cornerstone of BIO's investment selection process discussed in the next sections on BIO's E&S standards and development impact.

A definition of an MSME

BIO's definition of MSME is set out in BIO law¹⁵² and follows an approach of the EU regulator¹⁵³ that sets the limits on an annual balance sheet and a turnover total. Only the enterprises below these limits are considered MSMEs by BIO. Within that, under the current regulations:

- **Medium** enterprises are ≤ 50 million EUR turnover, and 43million EUR balance sheet total.
- **Small** enterprises are ≤ 10 million EUR (turnover and balance sheet total);
- **Micro** enterprises are ≤ 2 million EUR¹⁵⁴ (turnover and balance sheet total).

¹⁵⁰ Agri-Vie Fund II, Kaizen Private Equity II, AgRIF, Zoscales I, Local Currency Microfinance Fund II, Adenia Capital III, Fairtrade Access Fund (Code 5).

¹⁵¹ In terms of Art 9 (5) BIO law it is currently titled 'Business Development Support Fund', and it is funded from subsidies.

¹⁵² Art 1 (1) BIO law.

¹⁵³ EU recommendation 2003/361.

¹⁵⁴ Ibid.

As noted above, BIO's direct and indirect investments are mostly in SMEs, as **BIO chooses to support micro enterprises and smaller entrepreneurs through microfinance institutions and banks.** The idea is that these institutions are best placed to provide credit to these smaller scale businesses, because BIO's 'ticket size' (that is, the minimum size of an investment account) is minimum 500 000 EUR for Code 5 investments, and 3 million for Code 8 – thus generally understood as too large for BIO to invest directly, and possibly indirectly, at the micro level. There is also an issue that BIO's investment selection process, as will be discussed shortly, requires from companies a level of ESG commitment, which smaller businesses do not have the capacity to guarantee. More specifically, BIO informed us that:

“For micro and small enterprises, [...] they usually are not directly ‘investable’ by a DFIs. They usually rely on one person to do the management, the accounting, etc. DFIs could kill your company if it comes to your business (for small enterprises). That’s why micro-finance and other financial institutions is a better way forward. It’s a different stage of life in the company. We worked in the past with very small companies, and very few were able to carry out the requirements that we asked them to carry out.”¹⁵⁵

We therefore recognise that the extensive requirements concerning ES policies, for instance a requirement to fully implement ILO conventions, might reduce BIO's possibility to invest in smaller enterprises that are rooted in an informal economy. This is particularly true of smaller social enterprises (e.g. cooperatives), whose members might rely on informal labour by family members and/or their wider social networks to maintain their business.

It should, however, be highlighted that a reference point of EU definition is potentially not the best reference for financial support, when it comes to supporting small businesses and entrepreneurs in the Global South. That is because 'small' in European terms (≤ 10 million EUR) would potentially be considered large in countries with a different income level, market size, and turnover possibilities. 'Medium' on the other hand (≤ 50 million EUR turnover) in some LDCs might be one of the dominant market players in a given sector, as for instance was the case with JTF Madagascar. Yet, because BIO's *minimum* threshold of ticket size (especially Code 8) can be as high as a third of the investee's turnover (in case of small enterprises), this entails that BIO must focus on larger players that can internalise its investments and generate significant revenues (able to service BIO's interest rates) as a result.

To partially address this issue of minimum size of investments, BIO invests indirectly through PEFs that might have smaller 'ticket size' than BIO and can therefore work with more and smaller enterprises. However, it is noteworthy that PEFs too, require for their portfolio companies to reach a certain economy of scale for those companies to be able to generate sufficient financial return (see the chapter on agri-food for more detail on this dynamic). This means that in case of PEFs, fund managers are incentivised to emphasise the growth of smaller enterprises for them to be able to generate sufficient return. Also, we note that in case of at least some funds, the 'ticket size' of investments in companies run by PEFs are bigger than the minimum size of BIO's invest-

¹⁵⁵ Interview with BIO (investment strategy).

ments – hence, the claim about PEF’s investing in more and smaller enterprises to overcome the ‘minimum ticket size hurdle’ is also not applicable in all cases.¹⁵⁶

It is also noteworthy that **businesses that cannot apply for funding from BIO or PEFs due to their smaller size and that are meant to use MFIs and banks to access credit, by and large must pay higher interest rates** and thus deal with higher burden to repay their debt.¹⁵⁷ They also receive less support than the SME investees. In other words, BIO does not tailor support to this small-scale level, and the only way in which this significant part of private sector is supported is through their ‘financial inclusion’, understood as general increase of available financial resources in the market. In case of micro companies and entrepreneurs this generally means being able to get credit at a high interest rate, with a prospect of having to borrow more to repay the initial loan.¹⁵⁸

We recognise BIO’s operational constraints in this area, especially given a limit of 1.2% on management cost set in its Management Contract.¹⁵⁹ This means that smaller investments would be difficult to implement because they would need an increase in operational teams and a more capillary outreach to the multiplicity of local realities. At the same time, the situation of leaving a majority of private sector in developing countries out of reach for BIO – beyond enhanced supply of microcredits – also does not seem a satisfactory approach. **We therefore urge BIO to reconsider how it might enhance its approach to micro enterprises and small entrepreneurs, for instance, by rethinking their access to and the ability to take advantage of BIO’s pool of subsidies.**

BIO and multinational corporations (MNCs)

Finally, BIO law and the management contract state that BIO cannot invest in large enterprises. However, BIO can and has invested in subsidiaries of multinational companies and in companies with large percentages of shares owned by large-scale multinational enterprises. We identified several such companies in BIO’s portfolio. Examples include KF Bioplants (shares by various multinational companies); Laitiere du Berger (20% owned by Danone), Tozzi Green (100% owned by Tozzi), Indorama Eleme Fertilizer & Chemicals, Rolfes Group (indirect investment through Phatisa II PEF).

Another manner in which BIO investments benefit MNCs is through its funding of infrastructure projects, whereby MNCs can be contracted by a project company that received BIO’s funds to do

¹⁵⁶ For instance, the Fair Trade Access Fund invests 1m on average, which is twice as limit of Code 5 for BIO. Incofin, Fair Trade Access Fund, 2019 Annual Report and Example 2, Annex III.

¹⁵⁷ Generally, BIO does not publish information on the interest rates charged by the financial institutions that it invests in. However, in one of BIO’s annual external evaluations from 2018 (MicroSave, “Final Report Case Study Evaluation of Six BIO MSME Financial Sector Investments in India” (April 2018)) we found that one of the financial institutions that BIO supported, FMPL, charged women entrepreneurs that it was lending to the interest rate of 22-26% per annum. It is difficult to say without extensive additional research how representative is this interest rate in relation to other MFIs supported by BIO, but it is clear that this number is considerably higher than the average of 4.7% that BIO charges the SMEs on loans that it provides directly.

¹⁵⁸ Ibid.

¹⁵⁹ Art 57, Second Management Contract

construction, thus channelling a large part of infrastructure investment towards multinational service providers (e.g. Tozzi Green in Madagascar).¹⁶⁰

When asked about this, BIO informed us that

“there is no policy, positive or negative, about multinational enterprises. We would neither favour or exclude them as such. If you invest in a company, you always have to ask ‘what is our additionality’?[...] If you can play a role in introducing impact objectives, ES standards that were not there before, or that even influences a holding company – that might be useful..”¹⁶¹

BIO’s position outlined above is understandable in some respect. By opening subsidiaries or investing in SMEs in the countries of intervention, MNCs might be well placed to provide the people in that country with know-how; MNCs might transfer some useful technologies; and MNCs usually have the most capacity to manage complex operations, such as in case of construction of infrastructure projects. Inclusion of MNCs in the context of support to SMEs is also in line with current EU regulations, which aim to support the largest possible scope of SMEs. It therefore allows for a definition of SME to include the so-called ‘partner’ and ‘linked’ enterprises,¹⁶² which opens the possibility for participation of MNCs in the SMEs, without those SMEs losing their SME status (in case of the EU that status usually enables SMEs to access funding disbursed from various EU funding programmes).

In practice, it might also be difficult for BIO to completely exclude or limit MNC-friendly investments (indirectly, but also directly), even if it were willing to do so. This is because local SMEs might target MNCs as investors to increase their capital base, or because some other investors in a company where BIO invests might sell their share of equity to an MNC after BIO had already made its investment decision.

Nonetheless, we argue that a completely neutral and non-critical approach to MNCs by BIO misses the bigger picture, and that it ignores the private sector reality in many developing states, which is that the relationship between local enterprises and multinationals can be that of competition for a market share (in those instances where such markets exist). There is also a risk of an MNC acquiring control over an SME, in case it threatens market position of an active subsidiary of a multinational company. BIO also appears to be aware of, but not necessarily able to influence, the fact that at least in some instances the leadership and boards of companies with strong presence of MNCs is often composed of expats, which risks creating further subordination of local businesses to European and North American capital and management.

Overall, we recommend for BIO to rethink its approach to multinational corporations, and although we recognise that it might be difficult or even undesirable to exclude MNCs from BIO’s investments altogether, financial, and other support to them should be minimised and

¹⁶⁰ See Chapter 4.s.x for a more detailed analysis of this investment.

¹⁶¹ Interview with BIO (CEO).

¹⁶² SME definition – EU user guide, 08/09/2020 p. 7 (partner enterprises are those where “holdings with other enterprises rise to at least 25 % but no more than 50 %”; linked enterprises are those where “holdings with other enterprises exceed the 50 % threshold”; available https://ec.europa.eu/regional_policy/sources/conferences/state-aid/sme/smedefinitionguide_en.pdf

avoided where possible. In our view, BIO would best maximise its development relevance by supporting 'home grown' enterprises, rather than those businesses that risk being moved to a different jurisdiction, if the profit maximising conditions in a country of intervention becomes less favourable for the MNC.

Recommendations on BIO's business model

There are many ways in which BIO's business model could be improved to make it more favourable to the MSMEs, and better aligned with the aim of 'leaving no one behind', as required by the 2030 Agenda. It is, however, not possible to give a complete list of potential ways forward, since ultimately, BIO business model depends on the public debate and political decisions about BIO's mandate, and how it should evolve. Nonetheless, in light of the analysis in this section, we propose for BIO to:

- **Be more principled in implementing its development mandate by prioritising the thematic sectors set out in the BIO law.** If *any* improvement of corporate environment pertaining to *any* enterprise in the countries of intervention is seen as contributing to development objectives of BIO, then such approach is not targeted or principled enough. It spreads BIO's resources too thin, and it makes it difficult to hold BIO to account.
- **Take a more critical approach to 'financial inclusion' as a sector of intervention,** recognising that investing in a financial sector (rather than in the MSMEs directly, or without prioritising the poorest and most disadvantaged groups in a society) might have indirect negative consequences, and that it might also be detracting BIO's attention and resources from the thematic sectors set out in the BIO law.
- **Avoid investing in the 'generalist' private equity funds (PEFs) and financial institutions** and instead focus on the fund that are specialised and have a clear alignment with BIO's thematic focus, thus adopting a more strategic and ambitious approach than generally promoting the good practices of the ESG of any SMEs operating in developing countries.
- **Prioritise investments that are domiciled in the countries of intervention;** avoid investing in the funds that are based in the jurisdictions that enable tax avoidance and financial secrecy, even if those jurisdictions are not explicitly prohibited by the Belgian government.
- **Increase transparency and access to information about PEFs that BIO invested in;** for instance, contractually compel PEFs to release more information on their portfolio, their balance sheet, investment pipeline and track record of performance, domicile and local offices, also corporate structure. BIO could also release more information on PEF and their portfolio companies on its own website.
- **Use BIO's base of subsidies to support micro enterprises or small entrepreneurs** and engage in a strategic dialogue with the government and other stakeholders about other ways that BIO could provide financial assistance and investments to micro and small-scale enterprises to the poorest and those who are most in need for such assistance, beyond providing general financial credit through microfinance institutions and local banks.
- **Where possible, avoid investing in multinational corporation (MNCs);** adopt a specific policy on specific cases and exceptions when investing in MNCs would be acceptable.

- **Focus on a smaller number of countries of interventions**, to be able to develop an in-house expertise on each country, especially in cases of countries with instances of conflict, fragility, and violence.

2.2. How BIO chooses where to invest

BIO's investment selection process has undergone significant changes over the last decade. Some notable changes include the new Environmental and Social (E&S) Policy in 2014 that was substantially revised in 2018, and the development of an internal tool for explicitly assessing BIO's development impact since 2016. While these changes appear promising as they introduce safeguards against investments that might do more harm than good (e.g. in mining, fossil energy and similar), we find that there is room for improvement, particularly in terms of **shifting the emphasis from risks to rights**. To understand BIO's choice of investments, the analysis in this section focuses on BIO's E&S policy, E&S manual, Theory of Change, IFC Performance Standards, and various assessment tools used by BIO. The section on BIO's idea of sustainable development will consider in more detail the concept of development that frames BIO's choices of investments, analysed in this section.

a. E&S framework

Since 2014, BIO has undergone a major shift in its investment selection process, by introducing a distinct E&S assessment framework to its operations. On a policy level, this signals BIO's willingness to tackle in a more direct manner the contentious elements of economic development. The first E&S policy was adopted by BIO in 2014, and it was a short document that had set out basic principles in this area, without providing much detail about how those would be implemented. The latest E&S policy, adopted in 2018, is still a relatively short document, but more comprehensive and provides a clearer sense of how BIO is meant to conduct its investment selection process, to avoid causing social and environmental harm. Generally, this shows that in recent years **BIO has matured as an institution, and that increasingly all aspects of its operations are subject to policy considerations, thus making it depend less on the preferences of individuals running BIO's operations**. This is a positive development in a long run. Nonetheless, the analysis in this section explains why the current approach in BIO's E&S framework leaves room for improvement.

The structure of BIO's E&S framework is relatively complex. At the core of it is the E&S Policy (E&SP, or the Policy), which consists of two parts: (a) a list of external reference documents that determine the principles of BIO's operations, and (b) a summary of an internal processes and procedures, explaining how the principles and reference documents listed in the first part of the E&SP should be applied and interpreted in BIO's operational practice.

The E&S 'Policy is part of a broader sustainability universe at BIO'.¹⁶³ This means that in addition to the content of the Policy, E&S standards for choosing investments involve numerous other documents, including:

- BIO's Theory of Change,
- E&S Investment Manual (publicly not available),
- Due diligence questionnaires and other assessment tools (publicly not available),¹⁶⁴
- Terms of reference for external assessment of investments (publicly not available),¹⁶⁵
- Contracts between BIO and its clients and E&S Action Plans (ESAPs) (publicly not available),¹⁶⁶
- Sustainable Development Goals (SDGs),
- Principles for Responsible Tax in Developing Countries,¹⁶⁷
- BIO's Grievance Mechanism Operating Rules.¹⁶⁸

We are grateful to BIO for sharing all these internal assessment tools and policies with us, thus enabling a relative comprehensiveness of this research into BIO's E&S standards.¹⁶⁹ We do, however, maintain – here, and in the rest of this study¹⁷⁰ – that these documents and the E&S standards should be made public (fully, or in part where full disclosure is impossible). First and foremost, that is necessary to ensure the transparency and accountability of BIO and its clients. Secondly, BIO has an obligation to be transparent and provide access to information as a public entity under the Belgian law. Thirdly, this would arguably improve the effectiveness of these E&S standards in practice because the monitoring and oversight of implementation could be done by numerous entities affected by or interested in BIO's operations, which would exceed and improve the E&S implementation that BIO can ensure alone, or by employing external consultants.¹⁷¹

The rest of this section discusses the aspects of BIO's E&S framework that explain the need for more transparency, and the difference in the E&S standards that apply to direct and indirect investments.

¹⁶³ Ibid.

¹⁶⁴ BIO had given us the opportunity to see the following assessment tools: E&S Due Diligence Questionnaire for Funds, Screening Questionnaire for Direct Investment, Gender Due Diligence Questionnaire (Funds), Development Assessment tool (Enterprises), Contextual Risk Assessment tool. All of these are considered by BIO to be internal and confidential documents. Therefore, only a general structure and approach set out in these documents can be discussed in this study, without relying on the concrete examples of how these tools are used and inform BIO's operation in practice.

¹⁶⁵ These documents are created on a case-by-case basis, often by using pre-existing templates (E&S Investment Manual).

¹⁶⁶ Contracts are created on a case-by-case basis, by using pre-existing standard contractual clauses (E&S Investment Manual).

¹⁶⁷ While BIO E&SP does not mention a specific document in the area of responsible taxation, as an EDFI member BIO would be bound by these Principles for Responsible Tax developed by EDFI; see https://www.edfi.eu/wp/wp-content/uploads/2018/05/EDFI-Responsible-Tax-Principles_Final-180509.pdf.

¹⁶⁸ Available here: <https://www.bio-invest.be/en/grievance-mechanism>.

¹⁶⁹ A notable omission in that regard are the sample contracts with clients and associated ESAPs (discussed later in this subsection).

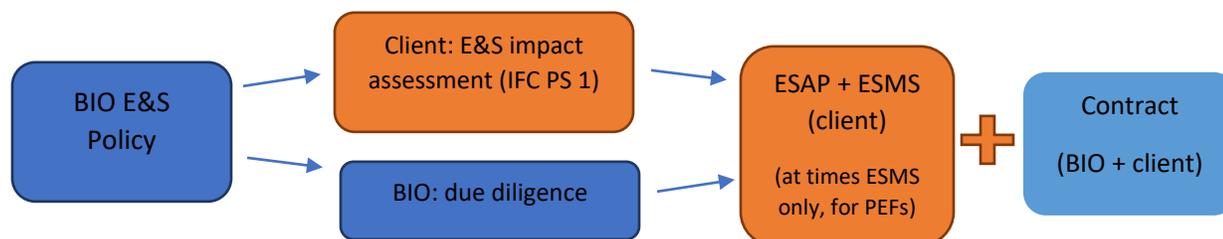
¹⁷⁰ For a discussion about BIO's current approach to transparency, see the discussion in Chapter 5 on BIO's accountability.

¹⁷¹ This is done in line with Art. 9-bis of BIO Law 2001 as inserted in 2016, according to which where BIO does not have the necessary expertise itself, it can call on third parties that have recognised competency, with a view to preparing investment decisions and supervising their implementation.

A significant role of contractual (and confidential) E&S standards

It should be stressed that only part of the E&S standards relevant to each investment are set in BIO's E&S Policy, or other operational documents by BIO. In practice, the core commitments related to E&S are agreed between BIO and its clients, and they become part of contractual framework that governs their relationship. This framework involves not only the contractual clauses related to enforcement of E&S obligations¹⁷² (for instance, the clauses that make disbursement of funding conditional on achieving certain E&S objectives), but also the **E&S Action Plans (ESAPs)**. ESAPs are not mandatory for all projects, but **if an ESAP is agreed between BIO and its client, it sets out the core actions that a client must implement in order to mitigate E&S risks**, identified during the impact assessment process and consultations with relevant stakeholders. The relationship between the E&S Policy, the contracts and the ESAPs is illustrated in the Chart 2.5 below.

Chart 2.5. A link between BIO's E&S Policy and contractual E&S standards



This contractual element is crucial from a perspective of E&S standards. That is because while BIO E&S policy is relatively vague and gives a lot of discretion to BIO and its clients to interpret national and international rules and best practices, ESAPs list concrete actions, and set out specific measures that the company ought to implement in order to make the investment desirable and feasible from the E&S perspective.

We asked BIO for both a sample of contracts with clients and a sample of ESAPs for some of the concrete investments. We received an answer that “[c]ontracts are confidential” and that “ESAPs belong to the client contract and as such are confidential, unless already in the public domain and with approval of the client.”¹⁷³ Following BIO's response, we looked for the ESAPs available online, and found that companies that do publish their ESAPs (a minority) usually only publish a summary of ESAP, rather than a full document. This is less useful from a perspective of accountability, as will be discussed in section 5, through a case study of Feronia.

Thus, the fact that BIO does not make public its contracts with its clients and has no mandatory requirement for the clients to publish ESAPs, seems like a significant omission from the perspective of E&S standards. While some information could indeed be commercially sensitive and could therefore be deemed to be not for public disclosure, the justifications for **withholding an entire set of contractually determined E&S commitments, at the stage and in a specific format where they matter the most, is unjustified**. It is not in line with various commitments to transparency

¹⁷² See E&S Policy p. 4 (compliance and support).

¹⁷³ Email exchange with BIO. For a discussion about BIO's approach to Transparency and Disclosure, see Chapter 5 in this study.

that BIO has as a public actor, including Belgium's obligations under the Aarhus Convention,¹⁷⁴ which requires for a public to have access to information about environmental decision-making, and which is also a core pre-condition for the public participation and access to justice in environmental matters.

External relevance, internal implementation

Although the aim of BIO's E&S Policy is to spell out BIO's commitments to the environment and to the social well-being of affected communities while aiding the feasibility of investments, in practice, the entire implementation mechanism of the E&S Policy is considered by BIO to be internal.¹⁷⁵ This assumes that BIO can decide, internally and with some expert advice, on what is good for the environment and the communities, without enabling public scrutiny of such assessment.

When we asked BIO why the E&S Manual and other assessment tools necessary to understand development and E&S impacts are not made public, we were informed that they were 'internal documents'.¹⁷⁶ Not only the E&S Investment Manual is not available online, but also no earlier versions of the E&S Policy are published by BIO, and it is not possible to trace how BIO's commitments to E&S evolved over time, i.e. what were the amendments in the current policy documents since they were introduced, if any.

All these features of BIO's E&S framework mean that **people affected by BIO's investments, also external observers, cannot know what E&S assessment BIO is conducting and when**, and what are the outcomes of those processes – including how to challenge those outcomes. The only way such processes can be challenged is through grievance mechanisms created either by BIO or its clients; although it is not clear how external challenges or feedback could be possible, given that people do not know when E&S assessment is taking place nor what has been decided in the process, unless they were explicitly informed about it by the client.¹⁷⁷ This means that unless a specific community or an NGO had been directly consulted by BIO during due diligence, or by the client if it appropriately applied the IFC Performance Standards,¹⁷⁸ people affected by development would experience BIO's investments as a *fait accompli*.

We therefore consider this 'internal' approach of implementing E&S standards inadequate, and not in line with BIO's nature as a public body. In terms of transparency, although Belgian administrative law (See the box 2.4 below) provides several opportunities for interested parties to get access to investment information managed by BIO, we agree with the Office of the High Commissioner on Human Rights when it opines that the right to information, the right to participation

¹⁷⁴ UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998).

¹⁷⁵ Interviews with BIO (multiple); various email exchanges.

¹⁷⁶ Ibid.

¹⁷⁷ BIO's grievance mechanism will be discussed in more detail in section 6 (BIO's accountability). More on the challenges of community and stakeholder engagement in the next sub-section on BIO's investment selection process (3.3(c)).

¹⁷⁸ The crucial role of IFC PS is discussed below (s. 2.2. d.)

and the right to development are not fully guaranteed if they are subordinated to commercial confidentiality.¹⁷⁹

Box 2.4. BIO and rights concerning access to information under the Belgian administrative law¹⁸⁰

The public nature of BIO opens multiple opportunities for civil society organisations and interested parties to obtain relevant documents and information that is not otherwise available online. One possibility is provided by the law of April 11th 1994 concerning open government (*Loi relative à la publicité de l'administration*).¹⁸¹ Art. 5 of this act sets out the procedure for requesting a copy of an administrative document. The request must be addressed to the competent administrative authority, with a clear indication of the relevant issue and, if possible, the relevant requested documents. The term 'written' means by letter, fax or mail. In this case, the competent administrative authority is BIO.

BIO can either accept this written request and publish the document or they can refuse the request based on the grounds of article 6 of the act. There are three types of refusal. First, there is absolute refusal, meaning that in theory no balance of interest needs to be made. Second, relative refusal, meaning that a balance of interest between BIO and the interests of the Belgian NGO has been conducted before denying the access to the documents. Last, there is procedural refusal mentioned in section 3: in this case BIO would be obliged by law to refuse the request. These grounds for refusal may be that:

- the publicity of the document could produce misunderstanding because it is not finished or incomplete; the request constitutes an advice or opinion, which was voluntarily and confidentially reported to the government; the request is manifestly unreasonable; the request is manifestly formulated too vaguely.

After the first refusal, the requesting party can file a request for reconsideration, based on art. 8 § 2, first section, of the Open Government Act. This request must be filed both to BIO and to the Independent Commission for access to and re-use of administrative documents, Public Access Department (*de Commissie voor de toegang tot en het hergebruik van bestuursdocumenten, afdeling openbaarheid van bestuur*).¹⁸² Both requests must be filed at the same time, which is a requirement for the admissibility of the request.

In case of further refusal, the interested party can appeal for reconsideration before the Council of State. In this case, the appeal document must be accompanied by the advice from the Commission.¹⁸³ In addition, all other information this appeal has to contain is stipulated in articles 2 to

¹⁷⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR), *Benchmarking Study of Development Finance Institutions' Safeguards and Due Diligence Frameworks against the UN Guiding Principles on Business and Human Rights* (OHCHR 2019) <https://www.ohchr.org/EN/Issues/Development/Pages/DFI.aspx>.

¹⁸⁰ Information for this box is prepared by Manou Watrin, Robin van der Lugt and Indra Delbaere (University of Antwerp).

¹⁸¹ Law of April 11th 1994 concerning public access to information), hereinafter 'Open Government Act', available at https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1994041151&table_name=wet.

¹⁸² Cf. art. 8 (1), Open Government Act and <https://www.ibz.rrn.fgov.be/nl/commissies/openbaarheid-van-bestuur/voorstelling-van-de-commissie/>.

¹⁸³ Art 8 (2), Open Government Act.

3bis of the procedural regulations of the Council of State (hereinafter ‘Procedural Regulations’).¹⁸⁴ Filing the appeal will cost €200.¹⁸⁵

Another way of appealing a negative response is represented by the procedure before the federal ombudspersons, under the law of March 22nd 1995 establishing the federal ombudspersons.¹⁸⁶ Based on Art. 1 para.1 and art. 8 (1), every interested party is able to file an oral or written complaint regarding the actions or the operation of the federal administrative authorities. The requesting party must seek satisfaction before the relevant administrative authority prior to filing a complaint to the federal ombudsperson.¹⁸⁷

The federal ombudsperson can refuse to investigate a complaint when: the identity of the complainant is unknown; the complaint relates to facts which occurred more than a year before the complaint.¹⁸⁸

The federal ombudsman must refuse to investigate a complaint when: the complaint is manifestly unfounded; the complainant clearly did not even attempt to receive satisfaction; the complaint is in essence the same as a complaint which already has been refused by an ombudsman and no new facts have occurred.¹⁸⁹

Moreover, BIO’s Transparency Policy adopted in May 2021 solves the structural issue between commercial sensitivity and right to information in favour of the former. We were informed during the interviews that BIO was preparing the policy and we recommended that BIO’s forthcoming access to information policy should address the entirety of the E&S standards, and that their implementation processes should be publicly available and accessible. However, this does not seem to be the case. The specific documents that result from the E&S assessment are confidential for commercial reasons (including the conditions that BIO attaches to their funding and the commitments undertaken by the clients), and the same is the case for the procedural steps taken and the overall progress of choosing investments, including the initial assessment of their E&S impact.

In our opinion, these should not be considered ‘internal’ nor kept secret from the rights-holders and external observers. This is particularly relevant in relation to E&S action plans, which are created as a result of these assessment processes. As the case of Feronia PHC reveals, a summary of the ESAP plan, which is what BIO commits to publishing, would hardly provide local communities, NGOs, and researchers with adequate information to exercise their rights and their role as watchdogs.¹⁹⁰ The disclosure of the full ESAPs, redacted to avoid sharing names and

¹⁸⁴ Regent’s Decree of 23 August 1948 regulating the procedure before the Administrative Jurisdiction Division of the Council of State (Besluit van de Regent van 23 augustus 1948 tot regeling van de rechtspleging voor de afdeling bestuursrechtspraak van de Raad van State) (hereinafter ‘Procedural Regulations’, available at http://www.raadvst-consetat.be/?page=proc_admin_law&lang=nl) (last accessed in 5 June 2020).

¹⁸⁵ Art. 70 (1), Procedural Regulations.

¹⁸⁶ Law of March 22nd 1995 establishing the federal ombudspersons (Wet tot instelling van federale ombudsmannen), hereinafter ‘Law Ombudspersons’, available at http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1995032232&table_name=wet (last accessed on 4 June 2020).

¹⁸⁷ Art. 8(2), Law Ombudspersons.

¹⁸⁸ Art 9 (1), Law Ombudspersons.

¹⁸⁹ Art, 9(2,) Law Ombudspersons.

¹⁹⁰ Issues with ESAP summaries in Feronia are discussed in Chapter 5.3.

sensitive information, would have a completely different weight and relevance and would represent a clear sign of BIO's commitment to accountability and human rights.

A different assessment for financial intermediaries and indirect investments

Many of the rules in the E&S framework only have direct relevance to BIO's *direct* investments. Most investments in financial intermediaries (e.g. microfinance institutions (MFIs), banks) and PEFs have a different *kind* of assessment than what is set in the IFC PS. The main difference is that rather than assessing the planned business activities and their impacts on the ground, BIO assesses the fund manager (in case of PEFs), or the financial intermediary that is in charge of handling and further investing BIO's funds.¹⁹¹ Since a large proportion of BIO's portfolio is invested this way, it is important to take account of what this different approach to E&S issues related to intermediaries and/or indirect investments means in practice.

Generally, this logic of not assessing *operations* 'on the ground' but rather *the people* who would be structuring and funding those operations, is in line with the logic of indirect investments and financial intermediation more generally. Under this logic, **BIO claims that it does not hold a direct responsibility for the oversight of PEF portfolio companies**, or the impacts of financial institution's operations on their end clients (e.g., small scale female entrepreneurs that borrow microloans). According to BIO,

*"[t]he responsibility to pick the investments lies with the fund manager. It's up to them to pick. It's not only theoretical; they have to know the enterprises. Only partners with regular communication with these enterprises will be able to select the best 'fit'. We do not intervene in the selection. Many DFIs don't want investors in the investment committee. If investors are involved, they are responsible."*¹⁹²

In practice, and from a perspective of E&S, this means that BIO expects the fund of a financial institution that it invests in, to develop and put in place an Environmental Social and Management System (ESMS).¹⁹³ ESMS is an internal policy of a company, which sets out the principles, responsibilities and procedures, on the basis of which an intermediary in question would be able to apply the same standards as those applicable to BIO's through its E&S policy.

The ESMS by intermediaries are sometimes published online, but it is at a discretion of a fund or a financial institution in question.¹⁹⁴ BIO has no specific requirement for the ESMS to be made public.

Since BIO has no obligation to consistently oversee the implementation of individual ESMS by the intermediaries, and since these policies are not subject to public accountability, E&S impacts

¹⁹¹ According to BIO, "Our responsibility is to select the fund manager. If they misbehave, we terminate the contract. That's why the due diligence is there. The fund manager needs to remain accountable. If the investors intervene too much, it dilutes their responsibility. We cannot control everything they do." Interview with BIO (investment Strategy).

¹⁹² Interview with BIO (investment Strategy).

¹⁹³ IFC PS 1, paras.1 and 5.

¹⁹⁴ For an example of an ESMS developed by a PEF that BIO currently invests in, see for instance the Amethis Maghreb Fund https://amethis.com/wp-content/uploads/2020/08/Amethis-ESG-ESMS_Policy_Manual_20190928.pdf. According to BIO, "these are internal procedures at our clients' level. Policies are sometimes published online by companies, but procedures never" (Email exchange with BIO).

of financial institutions and funds that BIO invests in can be known through the following four channels:

- **Self-reporting** is a default method for gathering information on the E&S impacts of indirect investments;¹⁹⁵
- **A yearly evaluation of five sample institutions and funds**, which BIO is required to conduct under its management contract.¹⁹⁶ This evaluation, however, relies on the criteria that are not E&S-focused, and only covers a small percentage of BIO's indirect investments.¹⁹⁷
- Before an investment decision is made, there is an option for BIO or an external expert to visit the potential fund manager, but only in case of the riskiest investments, and/or where there are highly compelling reasons to do so.¹⁹⁸ There is **no requirement to visit PEF portfolio companies** or assess the indirect impacts of BIO's indirect investments 'on the ground', through a site visit.
- In case of funds, **BIO's participation in PEF's Advising Committee** plays a key role in terms of acquiring an 'insider' information about what a given fund manager is doing.¹⁹⁹ Nonetheless, this information is only shared with BIO and cannot be made public – thus creating further issues in terms of flow of information between BIO, its clients, and its end beneficiaries.

We acknowledge that BIO alone has little ability to change practices and structural features of indirect investments, because it is a small institution that operates in a wider sectorial logic of development finance, in which lack of publicly available information and E&S oversight of intermediaries is an unfortunate 'industry standard'. We also recognise that if BIO intends to continue investing in PEFs and financial institutions, it is compelled to keep a certain distance from its intermediaries, and to allow them a level of autonomy, including in the E&S matters, and to show a level of trust in their decision-making and good faith.

Nonetheless, BIO could improve its initial assessment and on-going evaluation of investments in funds and financial institutions by reaching out more proactively to final beneficiaries, and by cross-checking the E&S reporting through communication with randomly chosen portfolio companies.²⁰⁰ We understand from an exchange with BIO that it can keep track of the activities of the fund and some of its portfolio companies through direct and ongoing communication with the fund manager. However, considering the predominance of indirect investments it can be said that **most interactions between BIO and portfolio companies are mediated by the fund manag-**

¹⁹⁵ BIO E&S Manual p. 23 (Portfolio Monitoring). There is no mention of a requirement for site visits for monitoring financial institutions; funds are required to 'assist the site visits upon request', but no specific requirement for site visits is mentioned.

¹⁹⁶ Art 32 BIO Management Contract.

¹⁹⁷ The criteria used for this yearly evaluation study are formulated by the OECD DAC (relevance, effectiveness, efficiency, sustainability, and impact). As will be shown in section 6, these evaluations tend to be highly limited in terms of their scope and their ability to inform BIO what is happening at the level of final beneficiaries.

¹⁹⁸ E&S Investment Manual, p. 12-13.

¹⁹⁹ Advisory committee tends to meet four times per year. As part of those meetings, the fund sometimes "invites some managers of companies in which the fund has invested". Interview with BIO (PEFs).

²⁰⁰ In the interviews, BIO mentioned that in choosing PEFs they hold 'interviews with beneficiaries' (interview with BIO (investment strategy)), and that they "normally go on the ground once a year" (interview with BIO (PEFs)). We were not able to confirm either a requirement of conducting interviews with beneficiaries, or a requirement of yearly visits, through the analysis of the procedural documents that were shared with us by BIO.

er, with limited active engagement and participation of BIO. This has an impact in terms of selection of the investments, but also in terms of assessment. For example, fund managers can put forward those companies that shine a more positive light on funds activities, and potentially keep the more problematic investments away from the spotlight of investors. Moreover, BIO admitted that in case of indirect investments it does not systematically engage with local communities directly affected by the portfolio companies and expect the client to conduct these interactions.²⁰¹

Finally, BIO's **Grievance Mechanism (GM) provides an avenue for challenging operations of funds and financial institutions.** This point will be more broadly discussed in Chapter 5. For the sake of this Chapter, it is worth highlighting that according to BIO, one complaint on indirect investment that was submitted to BIO's Grievance Mechanism to date, had potentially useful consequences for the complainant, and helped BIO to improve the investment:

“One of the complaints that we’ve received thus far was on the intermediaries. They had to share with us their E&S action plan. When we reviewed it, we brought the question of compliance on the table. We firstly asked them to say whether what was questioned was true or not (it appeared to be true). Then we asked them to action plan, to become compliant with time. They hired a labour lawyer, who identified how the company could become compliant with time. These recommendations then became part of the agreement, and of ESAP of the company. It’s a good example of how we can act through funds.”²⁰²

In principle, this seems like a positive example of how to ensure the implementation of E&S standards in case of indirect investments. Nonetheless, we maintain that **such a route for implementing E&S standards through a grievance mechanism is unlikely to be used often, if at all, given that workers and communities do not know the legal expectations contained under the ESAP/ESMS, which are often kept internal and confidential.**

Complaints to Grievance Mechanisms are also less likely to be submitted if insufficient guarantees are provided that a grievance raised against a fund will not result in repercussions to the workforce and/or a community, and that GM will be able to deliver positive outcomes to the end beneficiaries (beyond improving E&S procedures that funds might have in place).²⁰³ We do not see how such guarantees and such ability to invoke E&S commitments can be ensured in the current climate of confidentiality that surrounds BIO's investments in funds and financial institutions.

Altogether, these features of BIO's E&S standards highlight the key challenges that exist at the level of access to information, but also as part of the model of indirect investments. Together, they provide a significant structural background to BIO's investment selection process, which will be discussed next.

²⁰¹ Interview with BIO (PEFs). More on this in the following sub-section (3.4. 'Community Engagement').

²⁰² Interview with BIO (governance and accountability).

²⁰³ Discussed in more detail in section 6.

b. Project pipeline

BIO's project pipeline is highly competitive. According to BIO,

*"[w]e look at about 400 projects each year. Eventually, we go down to a small number of deals that we consider each year, and then we only fund a few. We're very selective. Doing business with us is costly because it is demanding for our clients."*²⁰⁴

To generate its project pipeline, BIO relies on applications submitted to it directly by prospective clients and investments identified through collaboration with other DFIs.

In terms of [direct applications](#), many are dismissed at very early stages, due to geographical restrictions related to tax heavens, and/or thematic limitations imposed by the EDFI/IFC exclusion list (discussed in the section 2.1 above). Arguably, however, the pre-existing knowledge of the applicants determine in large part a quality of the applications, and thus the likelihood of investment proposals succeeding in such a competitive screening process.²⁰⁵

In both direct and indirect investments, it is not uncommon that BIO provides more than one line of credit/equity to the same client (e.g. SCL Senegal and Feronia PHC). In some cases, BIO invests in the same company both directly and through financial actors. This issue of supporting 'returning clients' reveals the importance of consolidated interactions and poses some questions about the efficacy of the initial investments and the additionality of each successive investment.

In the meantime, it might be a challenging task for new potential clients to propose an investment that is mature enough for BIO to engage with. Also, while in principle BIO has a large pool of investment proposals to choose from, in some sectors, such as energy, there is a shortage of 'bankable projects' that reach the level of financial viability and development impact required by BIO.²⁰⁶

To facilitate the process of submitting good quality applications, BIO has in place support measures, for instance its Business Development Support Fund,²⁰⁷ and it undertakes several activities aimed at improving clients' ESG practices. However, any training and support provided by BIO to its potential clients starts at later stages of investment screening process, but not at the level of initial pre-selection.

A closer cooperation with local business associations and other actors on the one hand and Enabel on the other²⁰⁸ would create conditions for BIO to identify the concrete entrepreneurs and enterprises in the specific sectors and countries, whose skills could be explicitly targeted and improved through training, with a view of submitting better quality proposals to BIO. This would enable more applications from entrepreneurs who do not have the prior training or higher edu-

²⁰⁴ Interview with BIO (meeting on E&S).

²⁰⁵ As discussed in relation to financial sector and financial inclusion, see section 2.1. above.

²⁰⁶ Interview with DGD (energy and climate).

²⁰⁷ Art 3 BIO law.

²⁰⁸ See, e.g., a discussion on closer relationship with Enabel in Chapter 4 (climate and energy) and Chapter 5 (BIO's accountability).

cation in finance, business and/or economics, thus diversifying a range of people able to seek funding from BIO.

It is thus worth considering whether a greater part of the technical assistance funds managed by BIO could be used at the early stages of investment selection process, to nourish the pipeline of viable projects from applicants who do not have the initial know-how required to submit a strong investment proposal, rather than discarding those applications entirely.

In terms of potential [investments identified through other DFIs](#), according to BIO, DFIs often tend to have a mobilising effect in terms of attracting investors.²⁰⁹ This means that certain enterprises and/or funds can become the ‘common favourites’ of several DFIs. When one DFI chooses to invest in a given enterprise or a fund, other DFIs are likely to take that investment more seriously and it is more likely that such DFI-supported investment will be assessed more favourably in the initial stages of BIO’s selection process. For instance, following invitation from other DFIs, BIO decided to invest in the cases involving large-scale plantations such as Feronia (invitation by DEG-FMO) or JTF Madagascar (invitation by Finnfund).²¹⁰

This model of cooperation in finding investments serves several business functions for the DFIs. It enables them to pool together their resources and expertise in undertaking due diligence of a given investment. It also enables them to rely, at least partially, on the assessment of the same investment proposal by other DFIs, thus ensuring a more comprehensive and cost-efficient analysis and appraisal. This reduces the potential costs of the investment selection process because, as discussed below in relation to due diligence requirements, if BIO is not a ‘leading DFI’ in a given investment, it might waive its requirement for an on-site project visit for certain types of investments.²¹¹

There are, however, potential issues associated with this close cooperation with other DFIs in identifying potential investments. Firstly, there is a question of BIO’s additionality that has already been mentioned earlier in relation to PEFs:²¹² if BIO invests with other DFIs, then this is proof that there are other potential investors available, able and willing to provide funding.²¹³ Put otherwise, it becomes more difficult to see a clear justification for financial additionality according to the criteria set out in Art. 12 of BIO management contract, especially when BIO’s financial contribution to the investment is limited and when it is not in the driving seat of E&S procedures. In addition, from the perspective of opportunity costs, the choice of following other DFIs means that less resources are committed to investments where BIO could act as a catalyst in developing a given company, or a pioneer in a given sector/country.

Secondly, with multiple DFIs following each other in the area of development impact and E&S assessment, there is a risk of a situation in which an enthusiasm of a single DFI attracts others to an investment that is either financially not viable²¹⁴ or has a high chance of creating environmen-

²⁰⁹ Interviews with BIO (various).

²¹⁰ Interview with BIO (second thematic meeting on agriculture). For more information on these projects, see Chapter 3 on agriculture and Annex 1 (case studies).

²¹¹ BIO E&S Investment Manual (Approved by the Board 23.04.2019), pp. 12-13.

²¹² See section 2.1.d. in this chapter.

²¹³ Art 12, Management Contract.

²¹⁴ For example, the Rajasthan project in India.

tal and social harms.²¹⁵ In such situations, while each DFI is conducting its own assessment, there appears to be more willingness to give a ‘benefit of a doubt’ to the company, based on the initial positive approval of this company by another DFI. This might lead to situations where funding is provided to an investment that is ‘backed’ by another DFI, but which might have been ‘filtered through’ if it had reached BIO directly, without the involvement of other DFIs.²¹⁶ We were informed, for example, that BIO had discarded some investments and was then convinced to join and reconsider their initial assessment by other DFIs, which were looking for a partner in an investment.²¹⁷ Therefore, while we recognise that the collaboration with other DFIs in identifying potential investments might have benefits, and that in certain instances such collaboration can improve the quality of BIO’s project pipeline, **we see potential disadvantages of over-reliance on collective initiatives and syndicated lending and would recommend that BIO sets some operational limits and clear additionality requirements to such joint investments, where possible.**

It should be acknowledged that in certain areas BIO is taking a **more proactive approach** towards identifying potential investments. One notable area in this regard is climate finance, where some funding is allocated to BIO by the government and is marked as being designated for climate purposes.²¹⁸ This trend is discussed in more detail in chapter 4 on climate and energy.

Generally, however, it seems that with regards to BIO’s pipeline, there is room for a more active role by BIO in generating and attracting more impactful projects that have a high development relevance, and that also enable access to funds to those who are most in need for assistance. Beyond the possibility of organising training courses for entrepreneurs and representatives of enterprises – where BIO’s recently created offices in Abidjan and Nairobi could play a key role – there are also possibilities for greater cooperation with Enabel in this area. For instance, BIO could participate more explicitly in developing and implementing the country common strategic frameworks (CSFs) that actors of Belgian development cooperation are expected to adhere to in accordance with the law,²¹⁹ but which are now almost exclusively led by Enabel.²²⁰

Without these additional measures, BIO’s pipeline runs a high risk of financing the ‘usual suspects’, i.e. enterprises and people that are already in a position of power and privilege. Moreover, it may contribute to the crowding out of private money in those sectors and geographies that are on all of the DFIs’ radar, and it may keep essential investments off the table. While funding such enterprises might be desirable in certain instances, it is insufficient to do so to fulfil BIO’s development mandate and achieve such aims as reducing poverty and inequality, or ensuring local empowerment, set out in the 2030 Agenda.²²¹

²¹⁵ As arguably was the case in Feronia.

²¹⁶ Ibid.

²¹⁷ Second thematic meeting.

²¹⁸ Art 54 (2) Management Contract.

²¹⁹ Art 2 (6) and Art (20) Law of Belgian Development Cooperation.

²²⁰ See further discussion on this in Chapter 5 in this study. See also S. Braye et al, ‘SDGs as a Compass for the Belgian Development Cooperation. Final Report’ (2020), available here <https://www.ngo-federatie.be/system/files/2020-03/PSR%20SDGS%20as%20a%20compass%20Country%20report%20Uganda%20EN.pdf>

²²¹ Ibid.

c. E&S assessment process

A distinction between E&S and development impacts, and stages of E&S assessment

BIO's investment selection process consists of two parts: E&S assessment, and development impact assessment. These are done by two separate teams, coordinated, and overseen by the same unit.²²² BIO explains the difference between the two in the following way:

*"E&S is more assessing risks and impacts and making ways to mitigate or improve them with the client. [It's] more, let's say, 'on the ground', while the development officer makes a more general assessment on BIO's ex-ante contributions to BIO Development Goals (BDGs) and SDGs"*²²³.

Based on our research, it seems that in practice E&S assessment focuses more on the risks and potential *negative* impacts, whereas development impact assessment identifies potential *positive* impacts of BIO's investments. While development impact assessment attempts to quantify positive impacts by assigning indicators to them, the E&S is based on various sets of questions about potential issues and on a more qualitative analysis of relevant context.²²⁴ As such, **E&S assessment appears to be a distinct process that is not fully reflected in the exercise that generates a 'development impact story' of a given investment within BIO.**

A way through which E&S issues enter the 'ex ante' development impact assessment²²⁵ is if certain potential improvements to the E&S practices had been identified by BIO during E&S assessment as a 'development opportunity'. Such 'opportunities' are then included into development impact assessment as potential contributions to the BDGs.²²⁶ In other words, E&S assessment is used as a basis for development impact assessment, but only a limited and highly selective part of E&S issues are generally deemed to be relevant to BIO's development impact.

This separation of the overall selection process into two parts (development and E&S) is puzzling. It is difficult to see

"E&S and development are linked, but not fully. So, if a project is not fully compliant with E&S but potentially impactful, we would get involved in it to support E&S aspect, because the project is really impactful."

Interview with BIO

²²² Development and Sustainability Unit.

²²³ Interview with BIO (E&S).

²²⁴ This is not to say that no quantitative analysis is used in the E&S processes; rather, that the screening and due diligence questionnaires that BIO shared with us, often depend on the open-ended questions; for instance: "Does the company partially rely on informal, family based or complex supply chain (e.g. smallholders, waste pickers, minerals)? Please describe." (Screening Questionnaire for Direct Investment). The point to is to say that there is a difference in emphasis, not that one methodology excludes the other.

²²⁵ BIO's development impact assessment generally consists of three stages: ex-ante, monitoring and evaluation, exit (interview with BIO (Development impact)).

²²⁶ Notably, BDG 4 (Access to basic services and goods), 5 (Fight against climate change and preservation of natural resources) and 6 (Promotion of ESG best practices).

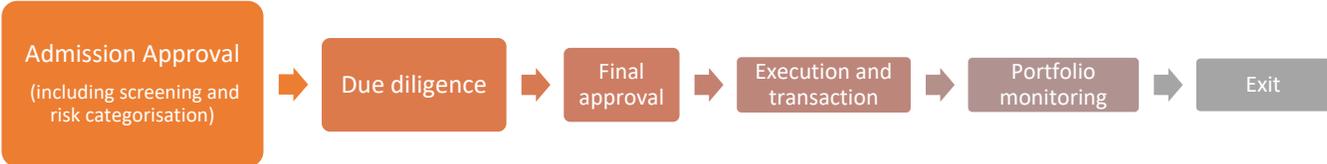
how this distinction can be justified²²⁷. However, it seems that the two processes are separate because they have been developed separately, are based on slightly different standards (IFC PS in case of E&S, and BDGs/SDGs in case of development impact), and are implemented by two teams with different expertise.

In practice, however, development impact should be able to capture the negative impacts of investments since the ‘on the ground’ experience and knowledge that originate from an E&S assessment are required to ascertain the development impacts of a given investment, and whether they are desirable or not. On the other hand, a holistic approach to SDGs should be guiding the E&S assessment. Moreover, **a practice of counting positive impacts while assuming the ability to mitigate negative impacts (thus potentially downplaying them), potentially skews the outcome of development impact assessment towards an unduly optimistic development narrative.**²²⁸

The rest of this section focuses on the E&S assessment and approval process within BIO. In BIO’s E&S Investment Manual, the assessment process is divided into 6 stages (see Chart 2.6 below).²²⁹ In this sub-section the emphasis is on risk categorisation, due diligence, and approval.²³⁰

As noted earlier, BIO has a competitive project pipeline, as it receives many investment applications and only funds a few. Therefore, predictably, a selection process works as a ‘funnel’, with many projects being screened out at the early stages of the process, and much fewer of them entering the later stages of the selection process. Due to the extensive assessments involved, it can be a lengthy process. It is also done in close cooperation with the client, and in coordination with other DFIs (in cases of co-investment and syndicated loans).²³¹

Chart 2.6. BIO’s investment lifecycle divided into stages



²²⁷ In response to this claim, BIO has made the following comment: “Rather than puzzling, the decision to separate E&S assessment and SDG impact evaluation is industry practice - common to all DFIs, MDBs and other private companies. The E&S due diligence assesses very different elements than the SDG impact evaluation. While the former assesses the direct project impacts in and nearby the project area (e.g. on labour conditions, wastewater, infrastructure risks, safety, etc.) the SDG evaluations are more macro-oriented (e.g. climate change mitigation, contribution to GDP, employment, etc.). However, for areas of common interest, E&S and development officers have frequent exchanges during the project due diligences, contributing to the quality of their respective evaluations (e.g. on decent job, supply chain, gender, etc.). These practices are also separated because IFC PS and IFC EHS guidelines, the law and ILO conventions offer clear benchmarks against which to assess investees while SDGs do not.” (Email communication. BIO’s comments on the first draft of this study). BIO’s comment seems to confirm our initial finding that the separation between the two processes has developed due to organisational pedigree and as a result of standard industry practice as well as different expertise of staff members.

²²⁸ More on this issue in the final section in this chapter on BIO’s idea of sustainable development.

²²⁹ Information in the scheme reproduces the investment lifecycle stages identified in the BIO E&S investment manual.

²³⁰ Monitoring and to an extent, exit, will be covered in Chapter 5 on accountability. Execution and transaction will not be discussed explicitly, because this is predominantly a contracting stage, and we did not have access to sample contracts in conducting this study.

²³¹ This is an explicit requirement in the E&S Investment Manual.

A categorisation of risk

The initial screening of BIO's selection process has been discussed earlier, in relation to BIO's project pipeline. As part of this initial approval process, potential investments are assigned a risk category according to the E&S impact that they are likely to create either high (A), medium high (B+), medium (B), or low (C).

This risk category determines the rest of the selection process and the scope of due diligence: high risk projects have more extensive requirements for field visits, external analysis, and reporting than those investments that are placed in the category of 'low impact'. Risk category also determines the extent of E&S mitigation measures that will have to be put in place. For instance, a project or investment might be required to develop an ESAP, but usually not in cases of 'C' projects. According to BIO, whether there is an ESAP or not depends on the risk category but also on findings of incompliances from the due diligence²³².

An assessment of a risk category determines how vigilant and detailed BIO should be in approaching the E&S performance of its investees. Therefore, **risk category matters in practice**, and in complaints submitted to independent accountability mechanisms (IAMs) of other DFIs, it often has been a contentious point and a source of disagreement between complaining parties, the IAM, and the DFI management. Given the role of risk categories for the implementation of an investment, it appears thus unjustifiable and a considerable omission that a risk category of BIO's investments is not publicised nor disclosed in the documents pertaining to each investment²³³. This would be important, so that it becomes possible to know what level of E&S standard can be expected and, if necessary, demanded in each case.

BIO's E&S Investment Manual identifies the 'risk criteria' that provides guidance on the content of all risk categories. The core elements of this categorisation are produced in the table 2.2 below.

Type of investment	A (high impact) ²³⁴	B+ (medium-high)	B (medium)	C (low)
Direct investments	Significant potential adverse E&S risks/impacts OR "risks that are diverse, irreversible, or unprecedented " ²³⁵	Limited potential adverse E&S risks/impacts that are site-specific and readily addressed through mitigation measures BUT having some specific features which can have significantly larger E&S impacts	Limited potential adverse E&S risks/impacts that are site-specific and readily addressed through well-known mitigation	Minimal or no adverse E&S impacts/risks.

²³² Email communication. BIO's comments on the first draft of this study.

²³³ A risk category of each new project funded by BIO will become available under the new Transparency and Disclosure Policy (2021). For further discussion on this, see Chapter 5 (section 5.2) in this study.

²³⁴ EDFI Harmonised E&S Standards are used as a default for assigning a risk category to an investment.

²³⁵ BIO's E&S Manual explains this through examples: heavy industry (or listed on the EDFI High Risk Sector List); large footprint, extended construction activities; significant economic or physical displacement; high conservation value areas.

		(generally covered by IFC PS 5-8).	measures.	
Financial institutions ²³⁶	Significant potential for E&S risks/impacts (> 20% exposure to High Risk E&S activity/sector ²³⁷)	n/a	Limited potential for adverse E&S risks/impacts (< 20% exposure High Risk E&S activity/sector)	Minimal or no adverse E&S impacts/risks (>80% portfolio focus on retail clients and micro businesses ²³⁸)
Private equity funds	Significant potential for adverse E&S risks/impacts that are diverse, irreversible, or unprecedented (> 15% portfolio in Category A projects)	n/a	Limited potential for adverse E&S risks/impacts (< 15% portfolio in Category A projects)	n/a

Source: BIO E&S Investment Manual.

Since BIO did not share project-specific documents with us or with the public, **it is not possible for us to establish the exact percentage of BIO’s portfolio in each risk category.** Nonetheless, from generally applying the criteria listed above, it seems that beyond infrastructure (which usually gets an A or B+ risk category in other institutions), many BIO’s projects would presumably fall under the B+, B or C category. Without further information on the risk categorisation of the current portfolio and given that the categorisation itself is vague and would have to be clarified through practice, it is not possible to say what is BIO’s approach to risk and how it compares to DFI industry practice. For instance, it is not possible to know whether BIO tends to assign higher or lower risks categories as a default position, and the extent to which it is risk averse (or not) in choosing a risk category for its due diligence requirements.

In addition to the risk categorization exercise listed above, BIO also has recently adopted a ‘**Contextual Risk Assessment Tool**’ (CRA tool), which provides a relatively comprehensive framework to understand the ‘contextual risks’ (meaning, social, economic, and political context) at the country, sector and project level. Since the CRA tool is confidential, it is not possible here to reproduce the full extent of the issues addressed therein. However, it should be noted that analysis produced by using this tool relies on information in existing indexes (e.g. Fragile States Index)

²³⁶ Certain elements, identified in the E&S Investment Manual, can ‘upgrade’ or ‘downgrade’ the risk category of an investment in a financial institution. ‘Downgrading’ happens, if, for instance, FI predominantly provides short term financing, or has “a small average size of loans of financial engagements (>25 000 EUR)”; E&S Investment Manual, p. 6-7.

²³⁷ Based on the EDFI High Risk Sector List.

²³⁸ “According to EDFI E&S Harmonized Standards, microfinance institutions are always C category. However, BIO recognises that in some instances, microfinance may have large scale impacts through their numerous clients (e.g. conversion of natural habitat for agriculture, exposure to chemicals, etc.). In this case, MFI risk rating should be upgraded one category.” (BIO E&S Investment Manual, footnote 6.).



to trace developments at the country level, and the databases, including of E&S conflicts (e.g. Environmental Justice Atlas), to understand E&S issues at the local and project level.

By and large, this is a step in the right direction towards embedding the analysis of E&S in the broader context of a region, and to move beyond the ‘usual suspects’ of E&S risks associated with productive activities (e.g. high value biodiversity areas, involuntary resettlement). Indeed, the narrow focus on an investment and its material impact on the ground is important, but it often prioritizes few issues without necessarily seeing the bigger context in which small changes can have long-lasting effects. In this respect, BIO’s CRA tool aims to create a more comprehensive understanding of the context in which its investments would take place.

Given that it is a very recent development,²³⁹ and because we could not see how the CRA tool is applied in practice, it is not possible for us to know whether this tool will impact BIO’s decision-making in a meaningful way or change BIO’s operations ‘on the ground’. **However, procedural steps should be taken to strengthen the value of the tool and its effectiveness.** Accordingly, BIO should:

- make the core parameters of the CRA tool public;
- create the possibility for the CSOs to input data on a given sector/local area. This could become a concrete opportunity for a closer collaboration between BIO and civil society, in terms of learning from DGDs’ knowledge and taking advantage of their partnerships with the grassroots organisations that operate ‘on the ground’.
- guarantee the possibility to provide external feedback on the information collected through this tool, and its interpretation in relation to a given project. This could either be done by the experts conducting due diligence, and/or by the representative of rights-holders who will potentially be affected by the project, or by the third parties, invited to provide independent opinion. The aim would be to diversify the sources of knowledge and perspective that inform BIO’s understanding of relevant social, economic, and political context. While in principle many facts can be collected through indexes and databases, information reflected in these sources can still be fallible, and there is a need to find ways to counter that.

We know that BIO has engaged in some feedback collection on contextual issues in the past, in isolated cases and during the process of due diligence (i.e. in the later stages of selection process).²⁴⁰ We would suggest that moving this type of discussions and consultations about contextual issues (e.g. land tenure regime) earlier in the selection process would enable BIO to (a) identify significant contextual risks early enough to tailor its due diligence processes accordingly; and (b) to pool together information from various projects per country/sector, and that way, to start building a more extensive institutional memory and information archive that can be useful in the future projects, and not only for the specific investment that is being considered at the time.

²³⁹ Based on the interviews, it seems that BIO adopted this tool in early 2021.

²⁴⁰ Interview with BIO (governance and accountability).

Due diligence

Due diligence is a key stage in BIO's selection process, whereby BIO staff and management formulate an informed opinion about whether a proposed investment merits BIO's funding. Given the volume of information and analysis that BIO aims to put together during due diligence, it is a demanding and potentially a costly process, especially for the projects within higher risk categories. This provides compelling reasons for BIO to only conduct due diligence for investments that look most promising, and according to BIO, "if the client is not receptive and interested in the process, we don't work with them".²⁴¹

The fact that not all investments in due diligence process will get funding from BIO also means that BIO must take cost efficiency into consideration when conducting the relevant assessments. For that reason, not all prospective investments have to be visited by BIO staff in person, or to undergo an external evaluation – this would depend on their risk category.²⁴² This also means that BIO must rely extensively on the analysis produced by a client and/or the consultants hired by a client (notably, their E&S Impact Assessment (ESIA), among other things). Working with other DFIs also provide good opportunities for DFIs, including BIO, to keep due diligence processes more cost efficient.²⁴³ Accordingly, there is a significant part of due diligence that is not so much a self-standing E&S assessment of a prospective investment, but rather an exercise that checks the studies already conducted by the client, and that attempts to identify gaps and shortcomings in those analyses.²⁴⁴

Due diligence is another strictly internal process. **For BIO, it is crucial to build a relationship of trust with a client at this stage of the investment and not give visibility to some of the issues that investments may raise.**²⁴⁵ This, according to BIO, helps to make sure that a client is willing to disclose issues related to an investment that it might not want to disclose if the assessment was made public.²⁴⁶

Given a strictly confidential nature of BIO's due diligence process and the fact that we were not given access to samples of E&S analyses produced during it, **it is not possible in the context of this study to make definitive comments on the quality of BIO's due diligence or its effectiveness.** Nonetheless, some of the specific issues with BIO due diligence will be discussed in Chapters 3 and 4.

The focus of this sub-section, on the other hand, is on the extent to which the due diligence procedure allows BIO to conduct a good level of 'reality check' of its potential investments. By 'reality check' we mean an ability of BIO to know what is happening 'on the ground' and what are the social and physical aspects of the project that would enable it to succeed (or not) and to be useful (rather than harmful or ill-fitted) in a given society.

²⁴¹ Ibid.

²⁴² E&S Investment Manual, pp 12-13.

²⁴³ Ibid.

²⁴⁴ Interview with BIO (food and agri).

²⁴⁵ Interview with BIO (E&S).

²⁴⁶ Ibid. This issue of 'trust' will be discussed in more detail in the Chapter 6 of this study in relation to accountability.

A list of potentially relevant factors to do ‘reality check’ is long. They range from more physical factors such as availability of transport infrastructure (quality of roads), reliability of water supply and/or sunshine for energy production or agriculture, reliability of internet and/or mobile coverage for digital services, soil quality and pace of regeneration for a change of land use, a location of neighbourhoods and communities adjacent to the project area, their density, and exposure of their livelihoods to the project activities. On a more social side (that can also be more difficult to establish through ESIA), factors such as motivation and (non)intimidation of workers, respect for female and vulnerable workers and customers, local market preferences, informal lending practices in a financial sector, etc. are important elements of ‘reality check’, among many others. **All these factors might contribute to (un)feasibility, (un)sustainability or (un)desirability of a given project**, and they might all be difficult, if not impossible, to ascertain, without extensive analysis and consultation that involve a substantial element of in-person inspection and exchange.

BIO currently conducts its ‘reality check’ through ‘site visits’ by BIO staff, or by hiring independent experts (consultants) to conduct certain aspects of due diligence for BIO. There is a range of ‘external experts’ that are contracted by BIO. They might either be based in a country where an intervention is taking place and be able to assess the ‘local context’ of an investment (the ‘local consultants’). Or they might be ‘international consultants’, often based in a third country, with a specialised knowledge of a given sector, crop, region, or similar experience, sufficient to conduct an appraisal of a certain aspect of investment. Many might fall into both categories. Nonetheless, the kind of analysis that these different types of consultants would produce, and the vantage point from which this analysis would be produced, can differ significantly.

In the past, onsite visits for direct investments would have been a standard option, but often combined with some participation by external consultants, to cover specific issue areas of the project (see a quote from BIO regarding selection of experts below).²⁴⁷ Requirements for site visits by BIO staff are still part of BIO’s E&S Investment Manual (approved in 2018).

Nonetheless, **a model whereby BIO staff are at the centre of due diligence process, with external consultants covering distinct areas of analysis to ‘fill in the gaps’, seems unrealistic in the midst of covid 19 pandemic and hard to implement for a constantly enlarging portfolio of investments.**²⁴⁸ That is because if BIO staff cannot travel and observe the site of investment directly, they would be unable to structure the analysis according to realities observed, and to assign distinct tasks to external consultants accordingly. The question of what due diligence analysis should entail, content-wise, would therefore be driven by abstract assumptions and/or be based mostly on the ESIA produced by a client, rather than the concrete issues and concerns observed by BIO staff ‘on the ground’.

Accordingly, a model of due diligence currently employed by BIO must be adjusted to new realities of limited international travel, whereby **external experts would hold more responsibility and more prominent role in assessing investments**, including possibly some role in liaising with

²⁴⁷ (n 253)

²⁴⁸ It also seems to be not a viable model in a long run, given that some form of travel restrictions (especially of international travel) are likely to be in place for a foreseeable future. Extensive travel to observe investments is also not in line with BIO’s commitments to climate change.

BIO's prospective clients. This challenge and resulting need for a more extensive role of experts was confirmed by BIO in the context of one of the interviews, where it was noted that "the question is whether we can delegate more of the due diligence to local people (because these projects require site visits)."²⁴⁹

The governance choice of delegating more responsibility for certain parts of E&S processes to third parties is not the only 'solution' available to BIO. **Alternatively, BIO could for instance significantly reduce the number of countries that it works in and establish a liaison office in each of them beyond the two that are currently existing in Sub Saharan Africa.** These liaison offices could be located within the Belgian (or EU) embassy, or within other similar institutions. However, for now there is no indication that BIO considers adopting an option such as this one, as reducing a number of countries of intervention would also reduce considerably a pool of potential investments – which BIO is not keen to do.

Generally, 'solutions' such as curtailing several interventions countries would require more than the tweaking of BIO's E&S procedure, but a more fundamental rethinking of BIO's business model. Unless the alternatives such as this one is taken seriously and considered by BIO, a move towards further 'outsourcing' of E&S responsibilities appears to be the most likely trend in the foreseeable future.

Outsourcing E&S responsibilities and the choice of external experts

Even though it might appear necessary from an operational point of view, the 'outsourcing' of responsibilities associated with E&S issues of investments creates both, advantages, but also challenges of governance.

On a more positive side, the ability to rely on external consultants can be beneficial to BIO because it is a highly adaptable model of engaging with E&S issues, as it enables BIO to hire highly specialised experts at a relatively short notice. That way, BIO can access a diversity of knowledge, depending on its operational needs at a time. It is also a more flexible and more demand-driven approach than having permanent presence of staff 'on the ground', or even relying on site visits of staff from Brussels. 'Outsourcing' E&S tasks can be more cost-effective and less demanding than employing someone in the country of intervention on a more permanent basis: as with all instances of outsourcing, it comes with less fiscal obligations towards experts providing services, and with less responsibility of BIO in terms of covering operational costs, liability for damage, potential incidents, among other things.

There are, however, **issues of governance** associated with outsourcing of E&S responsibilities, which should be the subject/objective of specific policies and procedural remedies, and which – as discussed below – BIO has not done thus far. These issues are well documented by academic

²⁴⁹ Interview with BIO (CEO). In BIO's comments on the first draft of this study, BIO also confirmed that "during the pandemic, BIO developed, together with the colleagues from EDFI, an ESG approach which provides guidance on how to continue performing quality E&S due diligence in the context of travel restrictions, amongst other by using local consultants and virtual due diligence methods." (email communication with BIO).

and policy research on expert-based governance and decision-making.²⁵⁰ Here we highlight several of these challenges, directly relevant to BIO:

- **Independence and the issue of ‘friendly experts’.** This is probably the most challenging issue of expert-based governance, widely documented in the relevant literature.²⁵¹ Generally, the idea is that to be an ‘expert’ in a given field, an individual should have worked in that field, or should have had some ‘insider experience’ in it. As a result, an individual might develop sensibilities and awareness of a sector that make them ‘an expert’ to compare to the general population, but it also often means that such familiarity can lead to certain ‘blindness’ to issues external to that industry or sector. This can be particularly relevant in such sectors as mining, agriculture, forestry, fisheries, and others, which come with negative externalities that would be viewed differently by someone who works as an outsider to the industry. As a result, there is a risk that the most knowledgeable experts are also ‘friendly’ experts in a sense that they might have sector-specific biases and are in a ‘club-like’ relationship with the key actors in the industry. Moreover, to secure future consultancy contracts with clients and funders, and to not upset key industry actors, such experts might be willing to issue more favourable and optimistic assessments than would be optimal from a sustainability point of view. Such experts would still be ‘independent’ in the formal sense (i.e. they are not employed by the client), but their E&S analysis could still be in many regards pre-determined by external past and future considerations that might interfere with the interests of BIO, the general public, and of the affected communities.
- **Personal safety and well-being of respondents, particularly human rights defenders.** Here the concern is the extent to which external consultants can be trusted by the respondents to ensure respondents’ safety and data protection. Of relevance here are respondents who have serious concerns about the investment and its potential negative impact on their lives, and who therefore might change BIO’s decision to invest. A company in which BIO is considering investing might already have an ability to impact the lives of these respondents (e.g. because they already work for the company, or if they live in the area where company’s security has control over the territory, or in cases of previous abuse or assault by the company staff). If such company has the ability to act with impunity (e.g. because it has support from the local authorities), then issues such as building trust and confidence of respondents would be crucial to acquiring an accurate information about the company’s good faith towards its employees and other stakeholders. External experts might not engage in that kind of exercise, as building trust might be time consuming; and, because respondents generally might have less trust in ‘a consultant’ who has no duty of care (with corresponding sanctions) towards them and their well-being.
- **A technical approach to complex, intersectional issues.** As mentioned earlier, experts rarely, if ever, engage with the entire scope of E&S due diligence. It is more common for

²⁵⁰ See, for instance, David Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton University Press, 2016).

²⁵¹ Ibid.

them to assess a specific aspect of E&S issues pertaining to investment. Those can range from hydrology to soil quality, customary system of land tenure, gender impacts to a quality of a national energy grid. While the focus of these assessments is radically different, they share a feature of being highly specialised. Generally, they can be divided into social, environmental (natural and human-made), and economic studies. The problem with this specialised approach is that often the key challenges of sustainable development are at the intersections of various issues. For example, a technical approach to water through focus on hydrology might identify the amount of water available in the area; but not necessarily how that water is currently being distributed among people through customary systems, or how an investment would affect water flows indirectly, impacting communities and businesses further away. It might also be unable to capture wider, political implications of investment design, for instance, its impact on the conflict dynamic in the region. For that reason, a good quality of expert assessment would have to have a level of comprehensiveness that would enable an expert to identify the issues that pertain to different disciplines and aspects of investment in an integrated manner. This might not be possible under the 'standard' approach to E&S assessment organised through narrowly determined terms of reference and take more of a 'piecemeal' approach.

- **An (un)equal footing with internal (financial) decision-making.** A more general issue with 'expert governance' and outsourcing is how it gets embedded within the wider governance of an institution such as BIO. More specifically, there is a question of the extent to which an E&S analysis produced externally can be interpreted and adequately inform the analysis about financial viability, which is done internally by BIO. Given that a majority of DFI staff tend to be trained as analysts in finance, business and economics, with an ability to interpret and appraise mathematical calculations and business models,²⁵² this raises questions about the extent to which BIO (i.e. the Board, the investment committee and the employees) can engage at the high level of knowledge with the E&S related matters. While most institutions have some internal expertise in this regard (e.g., ESOs in case of BIO), it is questionable whether those staff members would be able to cover the full breadth of topics and issues that need to be addressed in a process of E&S due diligence. This, ultimately, raises the question of parity between financial and sustainability aspects of decision-making, and the extent to which, internally, BIO has expertise to determine when E&S issues are too harmful or challenging to prevent engagement with projects that might appear attractive from a commercial and business point of view.

²⁵² According to BIO team working on direct investments, "[t]here are very few people who have a full range of expertise required for this job. We need to find an equilibrium between someone who can understand diverse business models, understand financial models/cash flows/financial statements, and also to work in a wide geographic area. They need to be good at analysis (with a good balance between attention to details and being able to keep the big picture in mind), managing intercultural environment, have a critical mind and be curious. They need to be able to identify area for which they need to call for external expertise, and to be able to communicate effectively with all internal and external stakeholders (such as E&S team, clients, local authorities, etc). For instance, recently we hired someone with the significant background of a credit analyst, speaking Spanish, used to cover various sector and with a very good interpersonal skill." (Interview with BIO (food and agri)).

- **A responsibility for the final decisions.** Finally, from a governance perspective, a responsibility for errors and misrepresentations in expert assessments, which in turn might lead to inappropriate decisions by an institution such as BIO, is a cause for concern. More specifically, outsourcing is known for its ability to evade responsibility of primary decision-makers. While in principle, BIO remains responsible for the quality of the final decision, in practice it could always claim that certain risk mitigation measures were not put in place because those were not ‘flagged by experts’. Experts, in return, could claim that they were not asked by BIO to assess those specific issues. A result could be a ‘football for responsibility’ where certain issues ‘fall through the cracks’ of analysis and appraisal processes, conducted by multiple entities and individuals with corresponding, but not entirely overlapping mandates.

How BIO chooses external experts. The question how the experts are chosen by BIO is central to understanding the nature of BIO’s due diligence and is likely to become more important in the future. Accordingly, we asked BIO how they identify the relevant experts to conduct due diligence of their investments. According to the team working on direct investments,

“[i]t all starts with identifying the eventual need of external due diligence. Indeed, during first level of approval, BIO screening committee (that gathers CEO, CIO, legal officers, E&S officers, development officers, portfolio officers, and investment officers) will determine the main items that needs particular attention during the due diligence phase and the need of support from external due diligence. Based on this, BIO will define terms of reference. [...]”

We always need to make a tender with at least 3 different experts. Experts invited to submit their offer are sourced directly (BIO might have already worked with experts in some specific field) or indirectly through our partners i.e. Enabel, other DFI’s, investment funds in which we have invested (e.g. Agri Vie, who specialises in agri), and other multilateral institutions or organisation such as FAO or IDH. This way through networking, we find people, send them our terms of reference, and eventually decide who to select.”²⁵³

We also inquired about the extent to which BIO is aware of the issue of ‘friendly’ experts noted above and how they address the issue of sectoral bias, if at all. According to BIO,

“No perfect answer to that. If you invest in mining and the consultant has never engaged with the topic or that type of project, it would be difficult to get a good assessment. Because you need a specialisation, a particular expertise. You need to relate to expertise, in order to gather knowledge and recommendations. In some instances, depending on regions, by lack of availability of international consultancies with expertise in IFC PS and DFI requirements, we contracted local consultants only. These are often less experienced in IFC PS and DFI requirements. They tended to be good on environmental law and non-compliances, but less on the ILO and IFC PS, in particular their social dimensions (labour, stakeholder engagement, etc.). It is an expertise per se to be able to cover all these as-

²⁵³ Interview with BIO (food and agri).

pects. [...] We try to do international and local consultancy partnership and try to diversify and make it impartial. That's not an easy task. Sometimes there are the same names coming back."²⁵⁴

Based on discussions with BIO, some of which are reflected in the quotes above, BIO seems to be generally aware of the challenge of impartiality and independence, associated with expert-based governance. However, at the moment BIO seems to have a **case-by-case approach to working with experts, which operates on the basis of experts hired to appraise specific elements of an investment rather than providing a comprehensive assessment of a planned project as a whole.** More specifically, it seems that BIO identifies the potential issue areas of a given investment based on the information provided to it by the client and/or collected during its desk-based initial risk assessment (by using its CRA tool), following which BIO puts together the terms of reference of a given consultancy.

To an extent, this approach is straightforward and well-established in the DFI sector. On the other hand, the issue with this approach is that it can hardly be maintained in the post-covid 19 world and that it does not systematically address the governance issues that come with outsourcing E&S responsibilities identified above (notably, independence, trust of respondents, comprehensiveness, institutional embeddedness, and responsibility).

In light of growing pressures from covid 19, and with a view of ensuring a fairer and more rigorous expert-based due diligence at BIO, one way of moving forward would be an in-between solution (between 'internal' assessment by staff members and a purely external assessment). Through this **BIO would create a public roster of experts to conduct the E&S due diligence for BIO, and also makes public the data concerning who assessed the project and their assessments.** This would strengthen the affiliation between BIO and 'its' experts, and which in the long run might foster expert independence, capacity building, a higher degree of responsibility, and their research ethics.

Independent experts could apply and be included in this roster based on the application procedure that is transparent, open to all qualified candidates and conditioned to the disclosure of conflict of interests, previous assessments, and other relevant features. Similarly, BIO should make public the motivation beyond the choice of the consultants or consultancy firm. **This would at least partially address the issue of relying on a narrow group of 'usual suspects' of consultants and would diversify the kind of knowledge and input available to BIO.**

Having such a roster, BIO would also be able to run more training courses concerning the most significant and contentious aspects of due diligence, such as security of respondents, comprehensive interpretation of terms of reference, way of communication and exchange with BIO staff at Brussels, and the like. This would not replace the need for BIO's site visits entirely, but it would go a long way towards nourishing a pool of independent, diverse, trained, and willing experts in a variety of countries and sectors, which BIO could build a relationship with and rely on in the long run. Most importantly, this would reduce BIO's reliance on clients and business partners in identifying and choosing its experts for due diligence. It would also ensure that these experts are

²⁵⁴ Interview with BIO (E&S).

familiar with the ethical, sustainability and institutional demands of BIO, making it easier and more effective to work with them over time.

Going back to the more general challenge of conducting due diligence, one final yet crucial issue concerns BIO's investments in the situations of **conflict, fragility, and violence (CFV)**. The question of how to choose experts and how to ensure their integrity, in particular a safety of respondents in such contexts, raises serious issues that BIO should be addressing urgently and explicitly, in a manner that is transparent and can be openly debated. From our conversations with BIO, we could not ascertain the extent to which BIO is able to do 'reality checks' on the ground in the countries of on-going armed conflict, or in the areas of increased state and non-state violence.

Final approval

In a final stage of investment selection process, all information collected during the initial screening, risk categorisation and due diligence, is submitted to the Investment Committee of BIO, and to the Board for official approval. At this point, the core findings of development impact, financial, and E&S assessments are synthesized and summarised into a single 'Investment Note' that is signed off by the 'Project team'.²⁵⁵ If successful and approved by the Board, the prospective client is issued with a 'letter of intent', which begins a phase of formal negotiation and the signing of the official investment agreement between BIO and the client.

The Board, and in particular its Investment Committee, plays a key role in this process. It is a central platform for discussions about the political and ethical appropriateness of BIO's involvement, and about how BIO's E&S standards should be interpreted in the context of specific investments. This dynamic was well explained by BIO in one of the interviews:

"In the investment committee there are six members plus two government commissioners, who have the mandate to check compliance with the law. [...] Of the 6 members, there is one investment expert; there is the DGD Director, and there are 4 members [of the Board]. They are not technical experts. But they bring the political sensitivity. They care for the public interest. They care for the E&S aspect, ethics, etc.. You have the financial (investment) expert, who is the 'counterpower' to our own internal investment expertise; and then you have this 'package' of people (other members of the committee) who are particularly concerned with the E&S, reputational aspects, and other such concerns".²⁵⁶

Given the time and effort that BIO spends on due diligence and initial negotiations with clients, and based on the conversations we had with Board members and those who had a chance to observe Board meeting, there appears to be a certain expectation on the Board not to block investments at this stage, unless there are clear reasons not to fund a given project. While we saw no evidence or indication that Board members are expected to approve investments once they are presented for voting, it seems appropriate to assume that **a decision not to fund an investment that has reached this stage of final approval would have to have a good justification and could not be taken lightly.**

²⁵⁵ E&S Investment Manual, p.20.

²⁵⁶ Interview with BIO (Accountability and Governance).

Accordingly, we tried to understand the extent to which BIO's Board is effective in scrutinizing potential investments and 'development impact narrative'²⁵⁷ presented by the client, and whether it can be the "counterpower"²⁵⁸ to the analysis and approach produced by BIO staff and external experts (see Box 2.5).

Box 2.5. How effective is BIO's Board?

In our discussions with BIO and its Board members, we sought to ascertain the extent to which decision-making by the Board is able to ensure the consistency of BIO's investments and their adherence to the regulatory framework and internal system of governance. Generally, **all those attending the Board meetings, including external observers, agreed that the Board contains a good mix of professionals, able and willing to challenge the most contentious aspects of BIO's investments.**

However, the wealth of information that the members have to engage with on each investment, and the breadth of sectors and jurisdictions involved in BIO's operations, can make it difficult for the Board members to engage with all the data in sufficient depth and detail. It is also notable that financial considerations are central in the Board's decision-making, while environmental and social (E&S) aspects, although extensively debated, are mostly decided based on the initial analysis of project staff and consultants. Accordingly, there seems to be space for more rigorous and systematic scrutiny of the sustainability of BIO's investments at this stage of decision-making.

At the moment, civil society has no direct representation on the Board, although BIO Law mentions civil society representatives as members to be appointed (Art.2bis). In line with this provision, several people in the Board have previous experiences in civil society organisations and one of the Board members currently works for several civil society organisations. However, there was general agreement that such persons participate in the Board in their personal capacity and thus have no mandate or an obligation to liaise with civil society organisations or to inform them about the core decisions taken therein.

In this regard and given the tensions that some of BIO's past and present investments triggered at the level of Belgian civil society, **we recommend creating a more direct channel of communication between BIO and Belgian civil society organisations working in the areas of poverty reduction, human rights, and sustainable development.** Working directly with local communities and organisations, these NGOs would be able to challenge the 'development narrative' presented by the investees at this crucial stage of decision-making. This would enable a good level of scrutiny of the most risky and contentious investments, thus minimising the possibility of 'another Feronia' in BIO's portfolio.

The current Board is also entirely composed of individuals based in Belgium and in some instances, other EU states. To move away from the Euro-centric model of development cooperation, **we recommend including in BIO's Board individuals and/or representatives of organisations from the Global South**, if not as members, then at least in an expert capacity. The aim of all these adjustments would be to diversify the membership and the types of knowledge in the Board, thus making it a more effective decision-making body. The need to diversify BIO's Board is further discussed in Chapter 6 on BIO's accountability.

²⁵⁷ A term used by one of the Board members (Interview with a BIO Board member).

²⁵⁸ A term used by BIO in the quote above (n 256)

d. BIO’s approach to the E&S issues

In this final section on BIO’s E&S selection process the focus of analysis shifts from form, access, and procedure of BIO’s E&S standards to their *substance*. The aim is to discuss the type of E&S impacts that BIO prioritises in its policies, how those impacts are meant to be addressed, and what is the threshold of the E&S harm adopted by BIO.

External sources that determine BIO’s approach to E&S

E&S Policy (E&SP, or the Policy) contains a list of external sources that determine the principles that are meant to guide BIO’s operations. The table below lists the reference documents that are explicitly mentioned by the E&SP. It also highlights some of the core international documents that are not explicitly listed in the Policy, including the areas of international cooperation and rights’ protection that they pertain to (Table 2.3). While the omission of these other sources does not necessarily mean that BIO disregards them, the inclusion of certain sources but not others highlight BIO’s policy priorities and legal guidance in terms of determining the scope of its E&S assessment.

Table 2.3. Reference documents in BIO’s E&S Policy, including some notable omissions	
International documents included in the E&SP	
EDFI Principles for Responsible Financing	
Harmonized EDFI Exclusion List	
IFC [International Finance Corporation] Environmental and Social Performance Standards (IFC PS, 2012) / Equator Principles	
World Bank Group Environmental Health and Safety Guidelines (WB EHS)	
International Bill of Human Rights and United Nations Guiding Principles on Business and Human Rights (UNGP)	
ILO Declaration on Fundamental Principles and Rights at Work and the eight core conventions	
Universal Standards for Social Performance Management in microfinance / SMART Campaign Client Protection Principles	
Responsible Finance Forum Guidelines for Investing in Responsible Digital Financial Services	
International documents that are not explicitly mentioned by the E&SP (some key examples)	
Convention on the Elimination of All forms of Discrimination against Women (CEDAW, 1979)	<i>Rights of women</i>

Convention on Biological Diversity (UN, 1992) ²⁵⁹	<i>General principles of conservation at the global level</i>
UN CCC (1992) and the Paris Agreement (2015)	<i>Core principles governing international cooperation and national policy making in the area of climate change</i>
Convention on Conservation of Migratory Species of Wild Animals (CMS, 1979) ²⁶⁰	<i>Standards of conservation with a focus on individual species</i>
Voluntary Principles on Security and Human Rights (2000)	<i>Key principles that guide companies in providing security for their operations while respecting human rights.</i>
The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007)	<i>The rights that “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.” (Art. 43)</i>
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT, 2012)	<i>Secure tenure rights and equitable access to land, fisheries and forests as a means of eradicating hunger and poverty</i>
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP, 2018)	<i>Rights of all rural populations</i>

A claim could be made that it does not matter that much whether certain international documents related to E&S are included in the BIO’s E&S Policy, because this Policy has a catch-all provision stating that BIO “requires that all clients comply with applicable environmental, social labour and human rights laws and international conventions in the countries they operate”.²⁶¹

However, not all sources that are omitted from BIO’s E&S Policy and that are listed above are part of national and international law in the formal sense. In the same way that EDFI Principles for Responsible Financing or the IFC Performance Standards (PS) are not ‘international conventions’ in a legal sense, there are other key sources, mostly in environmental and rights’ protection, that do not have a status of international convention, but hold a significant normative and policy value.

²⁵⁹ Harmonized EDFI Exclusion list excludes “Any operation that causes or requires the destruction of a critical habitat and any forest project for which a plan for development and sustainable management is not prepared”. According to the IFC PS, “critical habitat definition and requirements are also based on UNESCO Natural World Heritage Sites, UNESCO Man and the Biosphere Reserves, Key Biodiversity Areas, and wetlands designated under the Convention on Wetlands of International Importance (the Ramsar Convention)” (IFC PS6, requirement 20, footnote 17). However, this only covers a small proportion of the relevant principles set out in the CBD.

²⁶⁰ Harmonized EDFI Exclusion list excludes “trade in animals, plants or any natural products regulated by CITES” and “Fishing using a driftnet with a length of more than 2.5 km”. These are important limitations, but they do not cover the entirety of principles in the CMS.

²⁶¹ E&S Policy, p. 1



That is because many of these international documents, especially UNDRIP & UNDROP, and to an extent, VGGT, enjoy enhanced legitimacy from having been deliberated through a direct input of and/or with a strong participation of the rights' holders and local communities. As such, they go beyond the approach of funders and other formal institutions (such as IFC PS). While institutions such as IFC have a lot of experience with managing the processes of development cooperation, they do not necessarily understand the experience and the effects of development operations, as they are lived directly by the rights-holders. Accordingly, **standards such as UNDRIP, UNDROP and VGGT should be treated as benchmarks of best practice, and should have a more prominent, guiding role in structuring BIO's approach to the E&S issues, and to sustainable development more generally.**

In the rest of this section, we identify three core features of BIO's approach to E&S issues, which help us highlight the areas for improving BIO's E&S assessment process.

Piggybacking on the IFC Performance Standards

IFC Performance Standards (IFC PS, box 2.6), developed in 2012, are a common reference point for the DFIs investing in private sector development.²⁶² As a standard that is used by many DFIs, IFC PS help these institutions to co-ordinate their investment selection processes, and they create some level of harmonisation among the numerous funders operating in a field of development finance.

Box 2.6. IFC Performance Standards (PS)

- PS 1: Assessment and Management of Environmental and Social Risks and Impacts
- PS 2: Labour and Working Conditions
- PS 3: Resource Efficiency and Pollution Prevention
- PS 4: Community Health, Safety, and Security
- PS 5: Land Acquisition and Involuntary Resettlement
- PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources
- PS 7: Indigenous Peoples
- PS 8: Cultural Heritage

Nonetheless, despite having been widely applied and relatively stringent in terms of requirements that they impose on the companies, **IFC PS arguably remain insufficiently implemented on the ground on the one hand, and increasingly outdated on the other.**

The issues of implementation, discussed in the coming paragraphs, stem from the fact that the IFC PS are relatively comprehensive and require a lot of work from the companies that are funded by the DFIs – without necessarily matching those requirements with corresponding obligations of the funders to oversee their implementation. In that sense, in many instances IFC PS operate as an aspirational framework, rather than a set of rules that reflect the reality of consul-

²⁶² See generally, Kinnari Bhatt, *Concessionaires, Financiers and Communities: Implementing Indigenous Peoples' Rights to Land in Transnational Development Projects* (Cambridge University Press 2020). (chapters 2 & 3)

tation and inclusion on the ground.²⁶³ On the other hand, a lot has changed since 2012 (covid 19 and climate change being only a few of many significant contextual developments), which render a number of parts of the IFC PS if not outdated, then at least not deserving to be called 'best practice' in the sector of development finance.

To an extent, BIO recognises this issue in its E&SP, claiming that:

*"[i]f environmental, social or human rights risks or impacts are identified for a given investment, and BIO is of the opinion that the IFC Performance Standards do not sufficiently address them, BIO will refer to additional internationally recognised principles, standards or good practices, as relevant, to ensure that these risks or impacts are properly assessed and mitigated."*²⁶⁴

Nonetheless, this provision makes going beyond the IFC PS a discretionary choice of individual staff and/or of a project team at BIO. This is not helpful for people who might wish to hold BIO to account for applying the most stringent E&S standards, without which BIO's investments might have caused them social and environmental harm. In other words, it seems that introducing the 'we might go beyond what is expected' provision does not address the issue that the E&S standards themselves are not stringent enough.

The core attribute of the IFC PS is that it assigns most of the responsibility for assessing and dealing with the E&S issues to the client. In this set-up, BIO oversees the implementation of the IFC PS, but does not hold a primary responsibility for ensuring compliance with IFC PS. In this context, it seems significant that BIO is a considerably smaller institution than, for instance, the more resourceful IFC, with much less ability to monitor operations 'on the ground'. This raises questions about the extent to which BIO can realistically ensure the implementation of the IFC PS, or whether in BIO's case, IFC PS can ever only be an aspirational set of standards, due to BIO's limited institutional capacity.

When asked about this issue of institutional capacity, BIO told us that

*"[b]igger DFIs have a larger and riskier portfolio, and they would perform an E&S assessment by independent or in-house experts only with medium-high and high-risk projects, while at BIO we do it with all the projects by E&S experts. We are willing to make a difference with small deals as we invest in the SMEs, which is a niche market."*²⁶⁵

Moreover, according to BIO,

"[n]ot all the IFC PSs are applicable to all projects. So, if we invest in other financial institutions or PEFs, only IFC PS 1 and 2²⁶⁶ would apply. If you go for an operational SME, an existing one, with no major plan of expansion, then in addition to PS1 and PS2 you would

²⁶³ Ibid.

²⁶⁴ E&S Policy, p.2.

²⁶⁵ Interview with BIO (E&S).

²⁶⁶ PS 1: Assessment and Management of Environmental and Social Risks and Impacts; PS2: Labour and Working Conditions.

also look at PS3²⁶⁷ about how the company manages its waste and emissions. This is something standard and not so complex to do”.²⁶⁸

In other words, BIO’s take on the challenge of implementing IFC PS with BIO’s current institutional capacity is that on the one hand, with smaller project sizes than done by other DFIs, there are less operational challenges related to oversight and implementation (partially true). On the other hand, since only IFC PS 1&2 are applied across a full range of projects – while other standards would apply selectively and for a smaller portion of BIO’s portfolio – the pressures on BIO’s institutional capacity are less demanding than it might appear at first sight (partially false).

While it is certainly the case that smaller projects have less potential to create adverse environmental impacts or social disruption, and while it is commendable that BIO strives to assess all its projects ‘on the ground’, notwithstanding their size and risk category,²⁶⁹ **the challenge of BIO’s institutional reach in terms of ensuring sound E&S practices at the moment remains unresolved.** At the moment, BIO only has two small country offices and seldom rely on the Belgian embassies and external consultants to understand what the client is doing ‘on the ground’. More generally, due to travel constraints created by covid 19, the ability to oversee the application of the IFC PS by the client, is as limited as it ever has been. A lot is left to the processes of self-reporting and self-evaluation by clients, at least one of which strongly opposed the increase in E&S requirements and what it called the “bureaucratization of BIO” and its “transformation in the IFC.”²⁷⁰ Alternatively, BIO employs consultants based in the country of intervention, without BIO staff being present. As discussed above in relation to due diligence, BIO recognises this challenge, at least in the context of Covid 19 restrictions, and the need to address it.²⁷¹

Accordingly, BIO should adopt more of the self-standing E&S standards that are specifically tailored to BIO’s institutional capacity, and that go beyond the IFC PS. To be in line with the standards of best practice in sustainable development, BIO’s E&S standards should include more ‘state of the art’ rights’ instruments, which will be discussed in more detail in the following subsections. Moreover, the limited capacity of directly participating in the assessment, including of direct investments, should be a central element in future conversations around BIO’s business model, including the geographical scope and diversity of the portfolio, the total number of investments and the staff-portfolio ratio.

A risk mitigation approach

Risk is a central concept that drives BIO’s E&S framework. While in the initial paragraphs of the E&S policy there is more emphasis on the E&S *impacts, harms, or sustainability*, the rest of the Policy, the E&S Investment Manual, the IFC PS, and various assessment tools that were shared with us by BIO, all tend to approach E&S issues as *risks* that can and should be addressed and mitigated. Here, as previously noted, IFC PS is ‘setting the tone’ for BIO’s approach, as it high-

²⁶⁷ PS 3: Resource Efficiency and Pollution Prevention. Due to the time limit during an interview, we did not discuss how and to what extent *all* IFC PS standards are applied by BIO, and in which projects or circumstances.

²⁶⁸ Interview with BIO (E&S).

²⁶⁹ Although, as will be discussed later in relation to the assessment process, BIO does categorise its projects according to risk, and the low-risk projects mostly rely on the process of self-assessment.

²⁷⁰ Interview with SCL. See Example 5, Annex III.

²⁷¹ Interview with BIO (multiple).

lights particular areas in financing (such as labour, land rights, biodiversity, indigenous peoples), where risks might be particularly high, and which should therefore be addressed explicitly during the process of project screening and due diligence.

More specifically, IFC PS are putting in place the ‘mitigation hierarchy’,²⁷² which “favour[s] the *avoidance* of impacts over *minimization*, and, where *residual impacts* remain, *compensation/offset*, wherever technically and financially feasible.”²⁷³ According to this logic of mitigation hierarchy, avoiding negative E&S impacts is a priority but not a necessity. Where such ‘residual’ (i.e. unavoidable) impact to people and environment remain, a project can still be considered ‘feasible’ if an adequate risk mitigation strategy is in place, mostly in the form of payment of compensation for a loss of income, land, livelihoods, or biodiversity, coupled with offsets for environmental harm that has been caused²⁷⁴. In essence, risk mitigation can be seen as an idea that ultimately, most investments are permissible, if they are sufficiently profitable to pay for the E&S damages and/or for the relevant offsetting programmes, and if technically feasible.

IFC PS mitigation hierarchy is controversial. The fact that it has been used by the IFC and thus other DFIs, does not make it a universally acceptable standard that should be verbatim applied. There are many issues with a policy choice of approaching E&S impacts and harms created by investments as risks that can be ‘mitigated’.²⁷⁵ All of them cannot be listed here, but a few should be mentioned.

Firstly, **a risk mitigation approach potentially trivialises some irreparable harms that might be caused by BIO’s investments.** Impacts caused by investments can be particularly damaging in the projects and commercial activities affecting communal land rights, conservation of natural habitat and threatened species, and access to water and food security – all of which are the issues that are well documented as causes of conflict and vulnerability in many areas around the world.²⁷⁶ Such impacts can reshape cultural patterns and harm social relations. Arguably, approaching such serious potential harms merely as ‘risks’ is both irresponsible and disrespectful of the local realities in which communities live and sustain their lifestyles. **There should be clearer baselines of social and environmental harm (beyond the EDFI exclusion list) that BIO is unwilling to cross.**²⁷⁷

²⁷² IFC PS1 para. 14.

²⁷³ Ibid. (emphasis added). See also the second objective of IFC PS1.

²⁷⁴ In BIO’s comments on the first draft of this study, it was noted that “On IFC PS6, for example in case of impacts on critical habitat, the project developer must develop an offset program that demonstrates net gains on a similar habitat and ecosystem service. There are internationally recognized practices for that, e.g. for one protected flora specie that is affected, ten must be replanted, monitored for survival and every dead replanted species must be replanted three times to ensure this long-term net gain. This must also be on a similar habitat, species or ecosystem, meaning that one cannot offset an impact on one habitat by restoring another type. Projects have been effectively abandoned for the lack of solutions for offsets (e.g. absence of other degraded wetland to restore nearby).” (email communication) We would like to emphasize that offsetting does not remove social harms for the local groups but rather aims to move environmental ‘solutions’ to a different place; nor does it result in the environment that has the same level of biodiversity value; it takes many years to create an equivalent biodiversity value in a different place (also, only if an offset is successful).

²⁷⁵ See for instance, Radu Mares, ‘Securing Human Rights through Risk-Management Methods: Breakthrough or Misalignment?’ (2019) 32 (3) *Leiden Journal of International Law*, 517 on the relationship between the mitigation hierarchy and human rights issues.

²⁷⁶ See, for instance, [Banktrack](#), [Bankwatch](#), or [EJ Atlas](#) databases of projects.

²⁷⁷ More on this, including BIO’s take on having more stringent policies, in the section 2.4. on development impact (in this chapter).

Secondly, understanding harms caused to a community and/or to workers as ‘risks’ is also counterproductive in terms understanding the full development impact (both positive and negative) of a given investment. That is because a concept of ‘risk’ creates an impression of a *probability*, whereas often in reality certain negative impacts are inevitable and unavoidable – as indeed a risk mitigation hierarchy itself confirms. This distorts the understanding of an extent to which a given investment is beneficial and worth being funded through the ODA – an issue which will be explored in more detail in the section 2.4, focusing on BIO’s understanding of development impact.

Thirdly, there is an issue of perspective from which the E&S assessment is conducted. Seeing E&S issues as risks to *the project*, as BIO seems to be doing, places clients’ and investors’ perspectives at the centre of the E&S analysis. This arguably goes against the ideas of participatory and inclusive development that are meant to drive Sustainable Development Agenda. Thus, while IFC PS put a lot of emphasis on stakeholder engagement (IFC PS 1), a focus on risk as a focal point of analysis, and the idea of risk mitigation hierarchy, by default **leaves communities and other local stakeholders as bystanders to the risk analysis conducted by the company or the DFI such as BIO**. This means that local communities and end beneficiaries do not drive the agenda even if they are able to express some views about how an investment could be less harmful to them²⁷⁸.

While an idea of inclusive development can be viewed as mostly relevant to development projects funded through the public sector, it is arguably as relevant in a private sector driven development, as it is in public sector interventions. IFC PS generally seem to acknowledge this, but they leave more space for discretion by the client to determine how ‘inclusive’ their projects should be, than would be the case with most public sector safeguards applicable in development finance.²⁷⁹

One way to address these challenges and shortcomings of a risk mitigation approach in E&S is to place more emphasis on rights in the E&S assessments, thus shifting the operational logic of choosing investments more towards the rights-based approach to development.

Not a human rights-based approach to development

As noted above, IFC PS, which is at the core of BIO’s approach to E&S, is a risk management tool. IFC PS mention human rights, but only address them at a superficial level, thus leaving many human rights issues open to the interpretation by a client. In that regard, while we agree with a claim made in the BIO E&S Policy that “each of the IFC PS has elements related to human rights

²⁷⁸ According to BIO, “This statement is not correct. For projects with strong links to local communities (as they are either workers or potentially affected by operations, e.g. from traffic, land, etc.), community consultations are always part of the agenda of the site visit and the E&S evaluation verifies how IFC PS1 is applied (including in terms of stakeholder engagement, meaningful consultation, grievance mechanism, etc.). It is very important for BIO that projects have broad community support (BCS) or a “social license to operate”. When dealing with indigenous peoples (IFC PS7) BIO will also always verify their Full Prior Informed Consent as a condition to investing.” (Email communication, BIO’s comments on the first draft of this study). On this point we disagree with BIO, since the anecdotal evidence that we saw from interviewing NGOs and local groups provide some reason to question how the approach that BIO is describing translates ‘on the ground’. While BIO does indeed visit communities during its site visits (when such visits take place) and it aims to ensure that IFC PS1 is applied by its clients, this does not necessarily produce a community-driven agenda. For further analysis on this issue, see Chapter 5 (Accountability for the E&S impacts).

²⁷⁹ For example, the World Bank Environmental and Social Framework (ESF).

dimensions,”²⁸⁰ we argue that these human rights ‘elements’ are insufficient and too weak to guarantee a human rights-based approach to development (HRBAD, box 2.7).²⁸¹

Box 2.7. The human rights-based approach to development

In 2003, the United Nations Development Group adopted a Common Understanding of a Human rights-based Approach to Development cooperation (HRBAD) that aims to ensure that

“Development cooperation contributes to the development of the capacities of ‘duty-bearers’ to meet their obligations and/or of ‘rights-holders’ to claim their rights”.

In practice, the above suggests the following steps when applying a human rights-based approach in the context of donor interventions:

1. Collect and analyse information on the international human rights obligations of the State where the donor intervention takes place, and on how implementation of those obligations has been assessed by the United Nations human rights system (i.e. in reports by UN Human Rights Council bodies and treaty monitoring bodies - available from the OHCHR website);
2. In general, the emphasis of HRBAD is on selecting duty bearers (mainly government institutions) and rights holders (individuals and communities – mainly via their organisations) committed to human rights protection and subsequently on enhancing their capacity to develop and implement their own human rights-based strategies through donor support. Rights holders facing discrimination or marginalization, including based on gender, are of particular concern, as they often face the gravest violations.
3. From a HRBAD perspective, the ultimate aim of donor interventions is to ensure that the development activity invested in is based on the active, free and meaningful participation of affected individuals and communities, and that the benefits of the activity are fairly distributed (In line with Art. 2(3) UN Declaration on the Right to Development).
4. When the donor seeks to invest in the private sector in a recipient country, a human rights-based approach requires that:
 - a). An assessment is made of the capacity of government institutions and civil society organisations in the recipient country to ensure that private sector investments contribute to the realization of human rights, or as a minimum, do not entail adverse human rights impacts. If the capacity of domestic actors in this regard is found wanting, capacity enhancement should be offered by the donor (in a DFI context, this may require careful coordination with other ODA actors).
 - b). An assessment of the extent to which the private actor that the donor is considering to invest in is committed to human rights protection and has internal mechanisms in place 1) to avoid human rights harm and 2) to contribute to the realization of human rights of those affected by its activities (ranging from employees to local communities).

²⁸⁰ E&S Policy, p.2.

²⁸¹ According to BIO, “IFC PS aim at assessing main relevant human rights issues in its projects and providing a clear framework to support clients on how to apply appropriate measures or remedy actions” (ibid.). In our view, this statement is for most part incorrect, because while IFC PS cover some of the areas of development finance that pertain to human rights, they do not address human rights issues directly.

c). If the private actor shows commitment to ensure that its activities benefit human rights, but its capacity to deliver on its commitment is limited, capacity enhancement should be offered by the donor. Capacity enhancement should focus on designing the core activities of the private actor in such a way that they benefit the rights of those affected and, in any case cause no harm, and may also include support for CSR activities aimed at fostering a social license for the private actor's operations.

It should also be noted that BIO's E&S policy makes an explicit reference to the International Bill of Rights and the UN Guiding Principles on Business and Human Rights (UNGPs) among the standards that are meant to guide its operations. Nonetheless, from our discussions with BIO, and based on the BIO's E&S assessment tools that we were able to access, it appears that BIO makes little, if any, references to the ICCPR and ICESCR, i.e. the two main human rights covenants that form the core of the International Bill of Rights.²⁸²

BIO refers to the UNGPs, but the UN Principles differ from the two covenants (ICCPR and ICESCR) because they are more 'procedural' in a sense that they focus mostly on allocating human rights responsibilities between host states, home states and companies. UNGPs do not in and of themselves express a substantive, minimum level of human dignity and empowerment that is meant to be captured by the human rights regime, articulated in the International Bill of Rights.

The emphasis on procedural rather than substantive elements of human rights seems to be a key issue in BIO's current E&S framework. In practice, BIO considers that they are "adopting a HR-based approach, [b]ut [...] that there's room for improvement. That is why BIO joined the EDFI taskforce to develop a Guidance Note on human rights."²⁸³ BIO also views human rights issues as already covered by the current E&S principles and procedures, particularly those articulated by the IFC PS.

"If you compare IFC PS standards with UNGPs and their requirements of HR due diligence, [...] the IFC PS cover 98% of the human rights in question".

Interview with BIO

The issue, however, is that in the E&S frameworks discussed in this sub-section, including IFC PS, there is very little said about the substance of human rights obligations. BIO's E&S Policy, for instance, simply recognises that it might potentially be required to "adapt [BIO's] due diligence scope or third-party expertise to assess human rights related risks (such as for example labour, land tenure, health, safety, gender expert, etc.)."²⁸⁴ Similarly, with notable exceptions of prohibition of forced and child labour,²⁸⁵ and a requirement of decent living wage,²⁸⁶ there is no mention

²⁸² International Covenant on Civil and Political Rights (ICCPR, 1966) and International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)

²⁸³ Interview with BIO (Accountability and Governance).

²⁸⁴ E&S Policy, footnote 1.

²⁸⁵ Explicitly prohibited by the EDFI Exclusion list.

in BIO's E&S framework of how, if at all, BIO assesses the impacts (direct and indirect) of its investments on specific human rights, such as right to food, right to health, right to form trade unions, freedoms of movement, expression, and association, right to private and family life, right to development, right of self-determination, etc. Even for the human rights issues that are in a way part of the IFC PS (e.g. non-discrimination), there is a gap between the content of the standards themselves, and the operational mechanisms through which such rights-based assessment and oversight would be implemented in practice.

From an operational point of view, BIO's E&S Investment Manual sets out an investment selection procedure but does not mention human rights concerns at all: neither in terms of substance, or procedure. On the other hand, BIO's various assessment and screening tools that we had access to require that BIO's client and BIO staff in charge of due diligence provide details on the risk that the investment would represent with regards to certain social issues such as land tenure, health and safety, or gender and non-discrimination – but they do not identify specific rights and their limits, which BIO cannot and should not cross in order to respect and/or protect them. When investing in food and agriculture, for example, there is no ad hoc assessment of the right to food or the right to a healthy environment. When investing in energy projects, no ad hoc analysis is required on the right to access the energy produce by those investments. As part of a tool for analysing 'contextual risk' of its projects,²⁸⁷ BIO mentions 'human rights risks' in general, but not in terms of impacts on how a given investment would fulfil and/or protect concrete rights, and whether those impacts would be positive or negative.

According to the E&S Investment Manual, all analysis of social (and thus potentially human rights') aspects, are done by the E&S Officer (ESO). However, while E&S and human rights issues overlap, arguably they require different kind of expertise while conducting initial project assessment and its due diligence. Accordingly, **BIO should guarantee that at least several of its staff members that undertake the due diligence and development impact assessment are explicitly trained experts in international human rights law and policy**, able to provide a nuanced and realistic analysis of ways in which a specific investment might impact human rights of affected populations in substantive terms, both positively but also negatively. In parallel, BIO should ensure that its human rights' training becomes an essential requirement for its staff involved in investment planning and assessment operations.

All these concerns lead to another issue, concerning the extent to which BIO's E&S standards adhere to the UNGPs, which is a source that BIO seem to be willing to adhere to more readily. As a minimum, BIO should adhere to the UNGPs under the so-called 'Respect' pillar (Corporate Responsibility to Respect Human Rights). Moreover, as a public entity funded and authorised by the Belgian government, BIO should also strive to implement the 'Protect' pillar (The State Duty to Protect Human Rights); however, we recognise that the exact scope of Belgian obligations under the first pillar is open to further debate and interpretation. This should be subject to policy discussion, legal evaluation, and public scrutiny.

²⁸⁶ Art 8 BIO Management Contract, decent work was also mentioned repeatedly by BIO in various interviews.

²⁸⁷ 'Contextual Risk Analysis Tool (confidential).

While there is no doubt that the commitments under the ‘Respect’ pillar of UNGPs should apply to BIO, we could not confirm that BIO adheres to those commitments fully. For instance, according to the Principle 15 of the UNGPs “in order to meet their responsibility to protect human rights, businesses and enterprises should have in place policies and processes [...], including:

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.”

In terms of the requirement to have a policy commitment,²⁸⁸ as noted earlier, BIO’s E&S policy mentions some human rights documents, including references to UNGPs and the International Bill of Rights. It also highlights the relevance of the IFC PS in achieving human rights. However, as explained above, the key shortcoming is that **we found no evidence that BIO’s human rights commitments are “reflected in operational policies and procedures necessary to embed [them] throughout the business enterprise,”** as required by the UNGPs.²⁸⁹ Moreover, although BIO makes explicit in its E&S policy that its clients have human rights obligations, it is not clear from BIO’s current internal or policy documents what are “human rights expectations of personnel, business partners and other parties directly linked to its operations.”²⁹⁰ BIO told us that together with other EDFIs, they are in the process of developing a Guidance Note on human rights,²⁹¹ which might address these shortcomings. However, this Guidance Note would still have to be adapted to BIO’s institutional setting and implemented at the operational level, to fulfil the procedural requirements of the UNGPs noted above.

BIO currently also does not require from its clients or its staff to conduct human rights due diligence (HRDD) of potential investments.²⁹² Even if such HRDD requirement was introduced by BIO through the Guidance Note mentioned above, it remains the fact that human rights are a distinct area of expertise from ESOs and that they require targeted knowledge and training to implement it. It seems to us that BIO would benefit from further knowledge of human rights issues and challenges, in order to be able to require and oversee HRDD implementation by its clients.²⁹³

²⁸⁸ UNGPs Principle 15 (a).

²⁸⁹ Principle 16 (e).

²⁹⁰ Principle 16 (c) of UNGPs, E & S Policy.

²⁹¹ Interview with BIO (Governance and Accountability).

²⁹² UNGPs Principle 15 (b).

²⁹³ A difficulty of ‘mainstreaming’ human rights in the processes of development finance is known to be a common challenge for the DFIs, given that staff employed by the DFI sector often have training in (development) economics, finance, and business – all of which are necessary areas of expertise in terms of ensuring financial viability of DFI investments, but which do not tend to provide the necessary training to identify, trace and monitor human rights’ concerns. On this issue more generally, see Galit A. Sarfaty, *Values in Transition. Human Rights and the Culture of the World Bank* (SUP, 2012).

According to BIO, “BIO’s E&S staff have university degrees and trainings in Development economics, Agriculture, Environmental and Sustainability studies, Labour and working conditions, as well as long-term professional experience in E&S management. This goes far beyond a simple expertise in Finance and Economics, as is suggested in “a common challenge for the DFIs” in this footnote.” (Email communication. BIO’s comments on the first draft of this study). BIO’s described diversity of experts beyond finance and economics is

Thirdly, in Chapter 6 on ‘Accountability’ it will be discussed why BIO’s grievance mechanism also does not meet the UNGPs’ expectations for remediation mechanisms by the UNGPs.²⁹⁴

Finally, beyond human rights, and in order to be in line with the human rights-based approach to development (HRBAD), development actors such as BIO should also take into account other rights such as legitimate tenure rights (VGGT), water rights, collective rights (e.g. right to development), and rights of nature, where relevant (e.g. in countries of BIO interventions, such as India or Colombia, where these rights have been recognised in law).

All in all, it can be concluded that BIO does not implement the UNGPs in full; and it makes no explicit attempt to understand the relationship between its investments and the substance of concrete rights set out in the ICCPR and ICESCR (beyond forced labour). Put otherwise, at the moment BIO does not seem to have the awareness, nor the rights-sensitive language within its policy documents, to be able to meaningfully apply the HRBAD.

In addition, it is noted that HRBD is not merely a policy choice that BIO could choose to disregard, but it is currently being mainstreamed at the international²⁹⁵ and EU level,²⁹⁶ and in Belgian development cooperation.²⁹⁷ Concerning the latter, BIO would have to adjust its E&S assessment significantly, to implement the HRBAD, the way it is understood in the context of Belgian development cooperation. The Policy Note on ‘Introduction to a HRBAD’²⁹⁸ clarifies the operationalisation aspects of the Belgian Law of Development Cooperation and provides a valuable starting point to explain what this shift would entail (see Box 2.8 below).

Box 2.8. Human Rights Based Approach to Development according to DGD (2020)

“Adopting a HRBAD does not only have methodological or operational consequences for development cooperation actors and practices. It is a conscious political and strategic decision that implies a shift in perspective, a new vision, and a new theory of change, where SDGs and human rights are the cornerstones for the goals, the processes, and the outcomes of development cooperation (UN Common Understanding on HRBA, 2003). No sustainable development can be achieved without respect for universal human rights. The theory of change, sectors of interventions and partnerships may of course vary according to development actors’ specificities.

While traditional approaches to development focused and started from a needs-based perspective, under a HRBAD, local realities and population’s needs are analysed through the lens of long-term rights to be respected, protected, and fulfilled. In that context, the goal of the HRBAD is to empower and give voice to the rights-holders to claim their inalienable, interdependent, indivisi-

commendable. This comment, however, does not eliminate a larger point made in this section, which is that HRDD and human rights more generally is a specialised area of expertise that cannot be subsumed under the expertise of E&S management. Therefore, in order to implement HRDD in a meaningful way, BIO should ensure that there are designated and specifically trained human rights’ specialists among its staff.

²⁹⁴ UNGPs Principle 15 (c); Principle 22, also principles under the ‘Remedy’ pillar (Access to Remedy)

²⁹⁵ E.g. 2030 Agenda for Sustainable Development (2015).

²⁹⁶ E.g. ‘The New European Consensus on Development: Our World, Our Dignity, Our Future’. (Joint statement by the Council, the European Parliament, and the European Commission, 2017).

²⁹⁷ ‘Support to Human Rights Based Approach to Development’ (Policy Note, the Belgian Ministry of Development Cooperation, 21 October 2020).

²⁹⁸ Ibid.

ble, and universal rights and participate in their own development process and to strengthen the capacity of duty-bearers to respect, protect and fulfil those rights. A HRBAD therefore calls for taking into consideration both rights-holders and duty-bearers and their relations, promoting active citizenship. [...]

The State and public authorities, at all levels and branches of governance (including public development actors and bodies), are the primary duty-bearers.”²⁹⁹

Moving forward, it is our opinion that adapting a new EDFI Guidance Note on human rights would not be enough for BIO to achieve the HRBAD. At the operational level, BIO would be able to better mainstream human rights by hiring staff with specialized human rights expertise, revising its E&S assessment framework, and ensuring the implementation of the MEET principles outlined by the DGD Policy Note mentioned above.³⁰⁰ At a more foundational level, BIO’s development assessment would have to undergo a major shift from economic performance to rights, which will be discussed in more detail in the coming sections in this chapter.

Recommendations on BIO’s E&S framework for choosing investments

This section highlighted how BIO’s choice of investments had evolved since the adoption of the E&S Policy and since the related assessment framework had been put in place, including how the current approach to E&S assessment could be improved. Going forward, we recommend for BIO to:

- **Release information about the investment selection process** during decision-making process, and after a decision has been taken. This, as a minimum, should consist of:
 - Contractually agreed E&S standards (ESAPs and contracts with clients that do not release personal or strictly confidential information);
 - BIO’s E&S Investment Manual and all E&S assessment tools;
 - The parameters and criteria for BIO’s contextual risk assessment of its investments;
 - A summary of process used for appointing external experts by BIO, including ways of becoming an external expert for BIO;
 - A list of reasons for choosing a risk category of each investment.³⁰¹
- **Strengthen the reality check of all investments, and indirect investments in particular**, to ensure a satisfactory level of external oversight that would be able to verify how BIO’s clients implement the IFC PS and other relevant E&S standards.
- **Engage proactively in the search for new impactful investments**, support new and promising investees in their investment application process by providing training and financial support; rely less on other DFIs for identifying new investments to enhance BIO’s financial additionality and to diversify the profile of its clients.

²⁹⁹ Ibid. p 2.

³⁰⁰ Ibid. The MEET Principles are: meaningful participation; equality, non-discrimination and inclusion of marginalized groups; empowerment and capacity building; transparency and accountability.

³⁰¹ Since the adoption of Transparency and Disclosure policy in 2021, BIO commits to release the risk category of all its investments, but not necessarily the screening and/or appraisal that leads to a specific risk category being assigned to an investment.

- **Expand and open up the process of contextual risk assessment** to external observers, in order to cross-check BIO's in-house risk assessment at the investment screening stages. Early inclusion of external observers into a decision-making process would prevent BIO from engaging in a resource-intensive due diligence process of harmful investments.
- **Expand and diversify internal expertise** in the areas of human rights, environmental and rights' protection, conflict fragility and violence, and other aspects pertaining to E&S. Moreover, the geographical scope and diversity of the portfolio and the total number of investments should be adjusted considering the staff-portfolio ratio, and in particular the number of ESOs and other staff able to oversee the E&S impacts of investments.
- **Create a public roster of external/affiliated experts** for conducting due diligence and other forms of external oversight of investments; candidates interested in joining the roster should be added based on the application procedure that is transparent, open to all qualified candidates, and conditioned to the disclosure of conflict of interests, previous assessments, and other relevant features.
- **Ensure a comprehensive appraisal of E&S issues by external experts**, enable them to proactively revise the terms of reference of study to be able to provide a more comprehensive and integrated analysis of various E&S aspects pertaining to an investment; **avoid contracting 'friendly' experts**, and ensure a clear responsibility of experts for the safety of their respondents (the end beneficiaries of investments) as well as for any potential factual errors.
- **Avoid investing in projects that create E&S harms**; more specifically, avoid using the full breadth of mitigation hierarchy (offsetting and compensation), especially in the context of high and medium-high risk projects.
- **Ensure that E&S impacts and harms are identified from the perspective of end beneficiaries**, and not as risks to the client, BIO, and the planned investment.
- **Adopt BIO-specific E&S standards** that consider BIO's institutional reach and capacity, and that go beyond the E&S commitments in the IFC PS.
- **Adopt a human rights-based approach to development** and ensure a full compliance by BIO with the UN Guiding Principles for Business and Human Rights.³⁰²

³⁰² The Office of the United Nations High Commissioner for Human Rights (OHCHR) published a benchmarking study that highlights best practices on how DFIs could better comply with the human rights due diligence requirement in the UNGPs, see OHCHR (n 179).

2.3. Community engagement

While the IFC PS tend to use a more general term ‘stakeholder engagement’, the focus in this section is on a process of *community* engagement by BIO and its clients, which entails participation of local actors that are directly or indirectly affected by the (potential) investments. The process of community engagement is crucial for the realisation of inclusive sustainable development and is at the heart of human rights-based approach to development.³⁰³ It can also help to ensure the success of BIO’s investments in a long run, as it allows to identify and address the negative impacts and potential flaws of proposed business plans that may have a repercussion in terms of financial performance and legitimacy of BIO’s operations.

a. BIO’s approach to community engagement

In BIO’s E&S Policy and Investment Manual there is no obligation for BIO to engage with local communities. Community engagement is also not mentioned as a policy aim in BIO’s Investment Strategy. Only the client (rather than BIO) has the responsibility to ensure community engagement under the IFC PS. Of course, as with all other commitments under the IFC PS, BIO has the responsibility to *oversee* the implementation of consultation, participation and access to information requirements imposed on the client that are set out in the IFC PS. However, BIO does not explicitly require its staff to engage in community consultation, beyond the objectives in the E&S investment Manual to “confirm potential E&S risks and impacts based on site verification” and to “verify on site compliance with minimum E&S requirements.”³⁰⁴

This is not to say that BIO does not *at all* engage with local communities and other local actors. However, **BIO’s oversight of community engagement requirements set out in the IFC PS is not explicitly operationalised, which raises issues with regards to the space that communities’ engagement play in BIO’s approach to investments.** The only way in which BIO currently facilitates direct input from local communities is through its GM. This is a positive development, but arguably insufficient, since GM acts predominantly as a ‘troubleshooting’ mechanism for BIO, and it does not ensure a systematic community engagement by BIO, in terms of its effects.³⁰⁵

From our interviews, we know that BIO generally endeavours to consult local communities and some local NGOs, usually during its site visits during the due diligence process. According to BIO,

“If we go on site, we see a community (potentially) impacted, we always consult the community and we bring everyone for consultation, e.g. in order to understand what is the relationship with the project.”³⁰⁶

“[w]e do not consult NGOs systematically. [However,] during our site visits, or when our E&S consultants visits, we try, when useful, to contact local NGOs. An example: we re-

³⁰³ ‘Support to Human Rights Based Approach to Development’ (Policy Note, the Belgian Ministry of Development Cooperation, 21 October 2020).

³⁰⁴ BIO E&S Investment Manual, p. 12.

³⁰⁵ More discussion on the Grievance Mechanism is in Chapter 5 of this study.

³⁰⁶ Interview with BIO (E&S).

cently had meetings with local NGOs about land rights and land claims at a country level, which can have effect on the company and on the project. This meeting helped us to better understand the local context, what are the risks and what are the things that we can leverage on, and what are the things that are out of our control.”³⁰⁷

Similarly, in response to the questions about how BIO identifies local communities and NGOs to consult with, BIO said:

[concerning local communities:] “It’s an iterative process. At the start, when you don’t know about the project area, you start from Google Earth and ask clients, and you then try to approach the community via local consultants or experts. We remain in the background and ask the local consultant to cover any gaps. Identification is not too complex.”³⁰⁸

[concerning NGOs:] “[in this case] we asked the local consultant. And then we looked on Google. In the end, it was the Google search that helped us identify the relevant NGO.”³⁰⁹

It is notable that this process of consultation by BIO is mainly organised in a case-by-case manner, and it is mostly aimed at gathering information about local context and meeting the local community if BIO staff go on site. However, we see no indication that BIO aims to ensure, systematically, that a client has fulfilled the extensive requirements of stakeholder engagement set out in the IFC PS³¹⁰.

Indeed, IFC PS1 covers various aspects of stakeholder engagement in a relatively comprehensive manner (box 2.9).

Box 2.9. Elements of stakeholder engagement according to the IFC PS1 (Assessment and Management of Environmental and Social Risks and Impacts)³¹¹

- Stakeholder analysis and planning;
- Disclosure and dissemination of information;
- Consultation (in general);
- Informed Consultation and Participation (ICP) (in case of significant adverse effects on Affected Communities);

³⁰⁷ Interview with BIO (Governance and Accountability).

³⁰⁸ Interview with BIO (E&S).

³⁰⁹ Interview with BIO (Governance and Accountability).

³¹⁰ According to BIO, “[t]his statement is not correct. In its Terms of Reference for E&S due diligence BIO systematically reviews a project’s compliance against IFC PS, including IFC PS1 which covers stakeholder engagement. BIO’s E&S Officer and/or the external consultant review the client’s stakeholder engagement, their compliance with IFC PS1 and to which extent these are sufficiently institutionalized. When there are any gaps detected these are added to the E&S Action Plan.” (Email communication, BIO’s comments on the first draft of this study). The reasons why we could not confirm the above claims by BIO are explained in the following paragraphs of this section. Firstly, there exists no publicly available information at the level of individual projects in order to confirm these claims, and to hold BIO to account in that respect. Other reasons include issues such as BIO’s limited monitoring capacity resulting from staff-portfolio ratio and its limited institutional reach, and the absence of clearly set out procedural steps in in BIO’s internal policy documents that would guarantee follow-up (direct) engagement with communities.

³¹¹ IFC PS1, paras 25-36. These elements are further expanded and/or clarified in the IFC PS2-8.

- Indigenous Peoples (including Free, Prior and Informed Consent);
- Private Sector Responsibilities under Government-Led Stakeholder Engagement;
- External Communication (with general public);
- Grievance Mechanism for Affected Communities;
- Ongoing Reporting to Affected Communities.

Not all the elements contained in IFC PS1 must be implemented in full in each investment. According to the IFC document: “The nature, frequency, and level of effort of stakeholder engagement may vary considerably and will be commensurate with the project’s risks and adverse impacts, and the project’s phase of development.”³¹² Nonetheless, the stakeholder engagement requirements, and requirements for consultation with affected local communities, are demanding on a client. They apply from the early stages of potential investment until the end, which creates a corresponding responsibility for BIO to oversee their implementation – which too, could be equally demanding.

Here, as with many other IFC PS, **BIO’s ability to verify an actual scope of community engagement conducted by its clients depends on BIO’s institutional reach – which is limited.** The fact that BIO is a relatively small DFI with little presence ‘on the ground’ to oversee community engagement ‘first hand’, seems to be a significant concern. We shared this concern with BIO, to which we received the following response:

“[t]he PS requirement of engagement with communities is proportional to the complexity of the potential impact and the context [of an investment]. A company in the middle of an industrial area will have less need of stakeholder engagement than agriculture project. For greenfield or expansion projects, there is always an ESIA process with consultation. We verify that this is done. If it is not, we ask to go back to the community and update them.”³¹³

From the statement above, one could assume that BIO does not have many investments that are categorised as risky enough to have extensive requirements of community or engagement. However, this assumption cannot be verified, because, as previously noted, we do not have the information about the categories of risk assigned to BIO’s investments, nor is it possible to find out the percentage of high impact and high-risk (A or B+) investments in its portfolio. **Accordingly, it is not possible to ascertain how many of BIO’s clients are implementing low impact and risk (C) investments, with little need to conduct community engagement processes.**

Moreover, even if this assumption was true (i.e. most of BIO’s projects are indeed ‘low risk’ and require little or no community engagement), this still does not address the issue that during the pandemic, BIO staff cannot go for site visits, or can only conduct limited visits, and that there are clear constraints linked to the limited number of staff members vis-à-vis the extension of the portfolio and the amount of investments that BIO analyses on an annual basis. Therefore, BIO must rely on external consultants to implement the function of overseeing community engage-

³¹² IFC PS1, para. 25.

³¹³ Interview with BIO (E&S).

ment of its clients, which, as argued previously in relation to due diligence, come with a distinct set of challenges.

The issue with the second part of BIO's statement above is similar in terms of our ability to check it: BIO asserts that regarding stakeholder engagement by its clients, BIO staff can "verify that this is done."³¹⁴ Here too, **it is not possible to find out the extent to which BIO is overseeing the participation of local communities in its clients' decision-making.** That is because no information is publicly available, either on the processes of community engagement that take place, nor on BIO's actions of overseeing these processes. The only way in which we managed to ascertain something about these processes, albeit in a relatively superficial manner, is through discussions with local stakeholders of our chosen case studies, discussed in Chapters 3 and 4.

Generally, from conversations with BIO and a limited range of external stakeholders, it appears that BIO does not adopt its proper consultation plan with local communities affected by its operations. While according to the IFC PS1, the clients must engage in 'stakeholder engagement and planning', BIO does not have one that is specific to its due diligence process, and instead relies on the analysis conducted by the client, with some ad hoc instances of follow-up.

The reason why this is an issue is because from the practice of Independent Accountability Mechanisms (IAMs), it is notable that one of the most common disagreement in applying IFC PS and other similar E&S standards is whether a company has identified the relevant stakeholders correctly. This is usually because the company has left out some parts of a given community or did not foresee the effects of its projects correctly. Further disagreements about whether the consultation process by the company was adequate to the risks of the project are also very common; however, the latter issue often hinges upon the initial identification of relevant stakeholders by the company and/or DFI.

We could not verify the extent to which BIO is aware of this issue, but in any case, BIO should check systematically whether the client has in fact engaged with all affected communities – those directly affected by the project,³¹⁵ but also those in the project's area of influence.³¹⁶

It is a long learning process for any DFI to find the most appropriate and effective ways of identifying communities for consultation, and to implement the requirement of 'meaningful' participation and negotiation with local communities and workers.³¹⁷ The evidence for that are numerous complaints submitted to IAMs of other DFIs on these topics. Due to lack of access to information, **we could not ascertain the extent to which BIO takes this learning process on effective community engagement seriously, and the extent to which it monitors client's community engagement systematically.**

³¹⁴ Interview with BIO (E&S). This is a reference to a quote cited above (n 313).

³¹⁵ IFC PS para. 12.

³¹⁶ IFC PS1 para. 8.

³¹⁷ IFC PS1 para. 30 & IFC PS2 para.14.

On the other hand, the claim cited above that “[i]dentification is not too complex”³¹⁸ is a cause for concern about whether BIO’s institutional approach to community engagement is rigorous and therefore advanced enough in relation to best practice in this area.

b. Specific areas for improvement vis-à-vis community engagement

There are a few issues related to BIO’s approach to community engagement that are worth noting:

Firstly, community engagement is considerably more challenging for BIO to oversee in case of [indirect investments](#) via PEFs. According to BIO, “[t]he local community is ‘less covered’. We don’t proactively engage with the local community when we go onsite. We’d do it if certain issue arises, but otherwise we don’t do it.”³¹⁹ Generally, every PEF is meant to have their own staff responsible for E&S matters (including community participation), without BIO’s direct involvement. **To ensure that this issue is given sufficient attention by PEFs, BIO should create a system for periodically assessing the practices of community engagement by the randomly selected portfolio companies.** While BIO cannot and probably should not oversee community engagement processes of *all* companies supported through its financial intermediaries, a randomly selected assessment and targeted conversations with a few local communities would provide a good enough picture of PEF’s performance in these matters.

Secondly, community engagement is arguably more challenging and yet more essential in the [context of conflict and fragility](#). We asked BIO about community engagement in situations of on-going conflict, using Feronia as an example (which is an investment in a palm oil plantation, taking place in the DRC and thus against the backdrop of on-going conflict). BIO pointed that in that case the community engagement is done by Feronia rather than BIO, and that a company has “4-5 social officers” who “travel across the plantation” and that in the last years Feronia has also been “supported by the Earthworm Foundation.”³²⁰

BIO, or one of the other investing DFIs, go on site on average once per year.³²¹ They also get the updates *from the company* through participation in the PHC’s (Feronia) ESG committee, where all lenders have an observer status.³²² This case shows that **an oversight of community engagement in CFV situations such as this one is often mediated by the client and is not necessarily overseen directly by BIO.**³²³ To an extent this is understandable, given that travel in such areas can often be highly restricted, and at times not possible at all; and it might also put the safety of BIO staff or independent consultants at risk. Nonetheless, the current reliance mostly on client’s experts is not satisfactory, in terms of producing an accurate reflection of the situation on the ground – as indeed, Feronia’s case illustrates.³²⁴

³¹⁸ Interview with BIO (E&S).

³¹⁹ Interview with BIO (PEFs).

³²⁰ Interview with BIO (E&S).

³²¹ *Ibid.*

³²² *Ibid.*

³²³ More on the accountability challenges associated with self-reporting by client discussed in section 6.

³²⁴ For more extensive discussion on Feronia (PHC) and the E&S challenges highlighted by this investment, see Chapter 3 and Chapter 5 in this study; see also Human Rights Watch, *A Dirty Investment. European Development Banks’ Link to Abuses in the*

IFC PS4 (Community Health, Safety and Security) addresses this issue to an extent but is narrow its scope and in terms of issues covered. For instance, it does not address the possibility of indirect impacts of the project affecting conflict dynamics, i.e., a possibility that an investment could exacerbate conflict and violence, and how to avoid it. While IFC PS4 mentions a risk created by private security companies having extensive power over communities while protecting investments, and the potential role of government forces; it does not mention the possibility and risk of company working with, or cooperating indirectly, with paramilitaries and other unofficial armed forces. There is also no mention of protection of human rights defenders and possibility of reprisals against the people who object the investment – an issue which has more recently been addressed by the IFC in a separate Guidance Note, but which is currently not reflected at a policy level within BIO.³²⁵ **If BIO plans to continue working in CFV contexts, then BIO should considerably expand its policy framework related to community safety in such situations.**

Finally, at a more general level, BIO at the moment does not have a requirement for its clients to adopt a policy on **Corporate Social Responsibility (CSR)**³²⁶ with a view of compelling them to create more positive incentives for its workers and wider benefits for its stakeholders. Similarly, BIO also has no requirement for its clients to implement community development initiatives; however, there are some projects where such initiatives take place³²⁷ (see Box 2.10 below).

Box 2.10. CSR and community development at BIO

There is a general distinction in corporate governance, also adopted by BIO, between Environmental and Social Governance (ESG) and Corporate Social Responsibility (CSR). In practice there are some overlaps between the two areas, since they are both concerned with a relationship between a company and its workers and stakeholders. Many companies choose to adopt the ESG policies, aimed at ensuring compliance with national laws, and implementing good environmental and social practices (i.e. ‘doing no harm’). However, only the most well-off companies, usually from the Global North, are expected to have CSR policies, adopting a commitment to undertake an active, positive action towards improving the well-being of their stakeholders, (i.e. ‘to do

Democratic Republic of Congo's Palm Oil Industry(Human Rights Watch 2019) <https://www.hrw.org/report/2019/11/25/dirty-investment/european-development-banks-link-abuses-democratic-republic>.

According to BIO, “[t]his claim of exclusive reliance is incorrect. BIO also relies on, for example, the Earthworm Foundation, co-financed with Technical Assistance from [other DFIs]. Lenders also rely on their E&S advisor, who is an external consultant going on site for an E&S monitoring visit at least once a year. Whenever an E&S officer visits the site, either as part of their periodical visits or as part of a mediation process, community consultations are also held.” As we demonstrate in the final Chapter of this report, while reliance on external experts and their support is a plausible solution in principle, it is not without issues and its effectiveness depends on the frequency, level and kind of E&S support provided.

³²⁵ See IFC, “IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders” (October 2018), https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN_IFC_Reprisals_Statement_201810.pdf?MOD=AJPERES&CVID=mq8TI2z; also IFC, “Addressing Increased Reprisals Risk in the Context of Covid 19” (Tip sheet for IFC clients, June 2020), https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_tipsheet_covid-19_reprisals.

³²⁶ Interview with BIO (Development Impact).

³²⁷ Interview with BIO (Accountability and Governance).

good').³²⁸ The underlying idea here is that in order to engage in CSR, companies must have sufficient profit to redistribute it further, beyond its shareholders.

In its approach, BIO follows this general trend. It requires its investees to adopt ESG practices (considered part of BIO's development impact) but not to engage in the CSR.³²⁹ During the interviews we did not discuss the exact reasons why BIO takes this approach and focuses on ESG rather than CSR. However, this could be at least partly a result of an idea that "when investing in developing countries, [E&S] standards are different. Lower than in Europe, including standards on work."³³⁰

If that is indeed the reasoning behind BIO's decision to focus on ESG but not CSR, it contains several issues that are worth flagging up. First and foremost, E&S standards in developing countries are not always lower; they might simply be different (e.g. from those in Europe), for instance, due to a different role of businesses in a society, or because of a greater level of informality in the economy. This creates situations where people might become part of a corporate structure not necessarily because it guarantees them full-time employment, but because it offers them other, in-kind benefits (e.g. access to water, transportation, education, and similar.).

More specifically in relation to CSR, the focus on the E&S standards rather than on wider social benefits rests on three core assumptions. Firstly, the assumption that CSR is costly. Secondly, the idea that wider community benefits are secondary to company's internal functioning and ability to generate profit; and thirdly, that CSR is something that a company chooses to do, depending on its financial status and capabilities.

All these assumptions are debatable. Firstly, not all CSR initiatives are costly. For example, it is possible for a company to create a nursery to take care of children of its staff, without spending a lot of money (relative to its income), and by then incorporating such nursery running costs into its corporate expenditure. Secondly, the theory and practice of **corporate governance had evolved beyond the sole emphasis on profit maximisation, towards a greater focus on long-term corporate objectives, which involve embedding companies in their wider social context**, and seeing such process as integral part of business development. Thirdly, in many countries in Europe CSR indeed tends to be a choice of an individual company. However, in case of BIO's investments, the point is to fund companies that "contribute to sustainable human development,"³³¹ Thus, this context is different from 'business as usual', and **the fact that ODA money is used in supporting BIO's investments provide compelling enough reasons for BIO to take a more proactive approach towards CSR**, and towards facilitating companies to contribute actively to sustainable development in a manner that goes beyond stable income generation and creation of employment.

Community development initiatives are a significant aspect of CSR, and they usually take place in the context of projects that have a large physical footprint (e.g., infrastructure, agriculture), par-

³²⁸ The distinction between ESG and CSR remains contested in the academic literature. Some scholars argue convincingly that this is because ESG originates from financial domains and investors' demands, whereas CSR has different origins and is more associated with theories and practice of corporate decision making. This also explains why emphasis on ESG is more 'popular' among enterprises in developing states, and why BIO as an investor is more focused on the ESG rather than the CSR initiatives. See MacNeil, I. and Esser, I.-M. (2021) From a financial to an entity model of ESG. *European Business Organisation Law Review* (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3834529

³²⁹ Interview with BIO (Development Impact).

³³⁰ Interview with BIO (E&S).

³³¹ Art 3 BIO's mission, Management Contract..

ticularly in rural locations. BIO shared with us examples of projects that contributed to community development initiatives.³³² According to BIO, the content of these initiatives is usually not pre-determined by the client and/or the donors; rather, community development projects are chosen by the committees composed of company and community representatives, on a basis of community development plans.³³³ While we could not verify this claim directly with the relevant communities, in principle this approach is in line with the idea of inclusive and participatory development. **More initiatives of this kind in BIO's portfolio, not only in the rural locations and beyond large infrastructure projects, would be a welcome development.**³³⁴

However, it is notable that BIO's attitude to community development is that *"it's not something required by IFC PS, but it's a good practice for larger investments. We tend to see more of them [community development initiatives] when we are in syndication with other DFIs, and there are resources and willingness for them."*³³⁵ While the reasons for this attitude are understandable, they reflect the assumptions about CSR identified above; notably that CSR activities are expensive and voluntary, and that wider community benefits are secondary to corporate objectives of growth and profit generation.

We recommend that BIO revisits these assumptions in relation to CSR, and to community development. **For instance, the idea of benefit sharing³³⁶ could be mainstreamed through BIO's investments, with a view of embedding wider community benefits into the business model of BIO's investees,** particularly in agriculture and all forms of natural resource exploitation.

Recommendations on community engagement

Overall, to improve BIO's approach to community engagement and to put local communities and wider social benefits firmly at the centre of its decision-making, we recommend for BIO:

- To recognise the value of community engagement in sustainable development by adopting an explicit commitment to community benefits and engagement at a policy level, both for direct and indirect investments;
- To operationalise BIO's commitment to oversee community engagement by its client, and to make the responsibilities of BIO in this area explicit and systematic;
- To publicise the processes, output and outcome of community engagement oversight at all stages of investment cycle, and to share them with local communities;
- To introduce a periodic assessment of community engagement of BIO's indirect investments by reviewing a random sample of community engagement processes by portfolio companies of chosen PEFs;

³³² BIO shared with us two examples of large infrastructure projects, co-funded with other DFIs. Email exchange with BIO.

³³³ Interview with BIO (Accountability and Governance).

³³⁴ We could not ascertain the percentage of BIO's investments that currently contain this 'community development' element.

³³⁵ Interview with BIO (Accountability and Governance).

³³⁶ The idea of community benefit-sharing has been introduced by the Convention on Biodiversity (CBD), and has since been used in various other international documents. In practice, it is often operationalised through the 'benefit sharing agreements' between a company and a community. See for instance, M. Tysiachniouk et al. (2018), 'Oil and indigenous people in sub-Arctic Russia: Rethinking equity and governance in benefit sharing agreements' (2018) 37 Energy Research & Social Science, 140; Bhatt (n 262). (Chapter 7); doi.org/10.1016/j.erss.2017.09.004.

- To ensure a direct oversight of community engagement processes by BIO, particularly in the CFV contexts, and to adjust BIO’s policies to accurately reflect the issues of community safety in such situations;
- To revisit the reasons for not having a more proactive approach to the CSR policies of its investees, and to promote more CSR initiatives in its portfolio.

2.4. BIO’s idea of sustainable development

This section sets out to identify the core features of ‘sustainable development’ concept adopted by BIO, and to critically engage with the way that BIO had interpreted this concept in its policy and practice. The aim is to summarise some of the issues that had been identified in the previous sections, and to highlight the more contentious elements of BIO’s approach to sustainability. The section also lays ground for the analysis of BIO’s investments in agri-food and energy sectors, discussed in Chapters 3 and 4. This section focuses on BIO’s Theory of Change; BIO Development Goals (BDGs), and the tool used by BIO to assess its development impact and financial additionality (AME tool).³³⁷

a. BIO’s approach to sustainability and development impact

BIO’s policies on sustainable development

BIO’s contribution to sustainable development is a key reason why BIO can attract and spend Belgian public funds allocated for ODA. BIO’s approach to sustainability is therefore well embedded in BIO’s legal and policy framework, and it is governed by several national and international policy instruments (Table 2.4 below).

Table 2.4. Sustainable development in legal and policy framework relevant to BIO	
<i>International level</i>	“We resolve, between now and 2030, to end poverty and hunger everywhere; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the planet and its natural resources. [...] As we embark on this great collective journey, we pledge that no one will be left behind. ” (UN 2030 Agenda, 2015). ³³⁸
<i>Belgian Development Cooperation</i>	“‘Sustainable development’: development that meets the needs of the present generations without compromising the capacity of future generations to meet their own needs. Achieving it requires

³³⁷ Assessment, Monitoring and Evaluation framework (AME tool), currently not publicly available. It was shared with us by BIO, and explained in the interview on development impact.

³³⁸ UN General Assembly, “Transforming our world: the 2030 Agenda for Sustainable Development” ([A/RES/70/1](#)) paras 3-4.

	<p>a process of change that takes into account the limits and the need to preserve resources and adapts the allocation of investments, the targeting of technological development and the institutional structures to both current and future needs. To be sustainable, development must reconcile three major elements: social equity, environmental preservation and economic efficiency;</p> <p>Sustainable development also ensures a just transition to sustainable production and consumption methods, promotes equality between men and women, and guarantees people's access to basic public goods and services and social protection, as well as respect for their rights, including sexual rights and access to sexual and reproductive rights and health information and services" (<i>The Law of Belgian Development Cooperation</i>, 2013).³³⁹</p> <p>"Belgium's vision on the HRBAD [human rights-based approach to development] puts at the forefront the 'MEET' key principles. The acronym refers to the need of meaningful, non-discriminatory and transparent partnerships of empowered and accountable actors (MEET)" (<i>DGD Policy Note</i>, 2020).³⁴⁰</p> <p>"The following values are taken into account by BIO in all of its operations:</p> <p style="padding-left: 40px;">1° sustainability: BIO is forward-looking, aims to create value that benefits all its local stakeholders and carries out interventions whose positive effects continue after the end of its intervention" (<i>BIO Management Contract</i>, 2018).³⁴¹</p>
<p><i>BIO-specific policy</i></p>	<p>"BIO's vision: we aim to develop sustainable entrepreneurship in our countries of intervention and participate to create a world with No Poverty – SDG1: economic growth must be inclusive to provide sustainable jobs and promote equality. [...]</p> <p>The outcomes of BIO interventions lead to strengthened social inclusiveness, private sector growth and good environmental practices. At the level of outcomes, the Theory of Change refers to a limited set of SDGs, with a deliberate focus on:</p> <p style="padding-left: 40px;">- SDG 5 Gender & SDG 10 Reduced Inequalities for social inclusiveness;</p>

³³⁹ Art2(12).

³⁴⁰ 'Support to Human Rights Based Approach to Development' (Policy Note, the Belgian Ministry of Development Cooperation, 21 October 2020), p. 3.

³⁴¹ Art 3-4.

- | | |
|--|---|
| | <ul style="list-style-type: none"> - SDG 8 Decent Work and economic growth & SDG 9 Industry, Innovation and Infrastructure for private sector growth; - SDG 7 Affordable and clean energy & SDG 12 Responsible production and consumption for good environmental practice.” <p>(<i>BIO Investment Strategy, 2019</i>)³⁴²</p> |
|--|---|

As extracts from the documents above show, sustainable development is often seen as a ‘triple bottom line’, consisting of economic, social, and environmental dimensions. It also has a more long-term, aspirational quality. In this regard, especially since the adoption of Agenda 2030, sustainable development has become a holistic and comprehensive concept: often, as in case of its interpretation by the Law of Belgian Development Cooperation, it covers a range of aims such as inclusion, rights’ protection, inequality, peace. Overall, however, it is a relatively fluid and open-ended concept, the exact content of which often depends on the interpretation assigned to it by the concrete actors applying it in practice.

Arguably, the concept of sustainable development has been interpreted by BIO more narrowly than in the general policy and legal prescriptions highlighted above. As will be discussed shortly, in its policy and operations **BIO tends to focus more on the economic dimensions of the ‘triple bottom line’, with social and environmental aspects being interpreted more narrowly than optimal from a sustainability point of view, or at times mis-aligned, as will be discussed in Chapters 3 and 4.**

On the one hand, we recognise that BIO has a level of discretion to choose its interpretation of sustainable development. On the other hand, **we argue that BIO ought to consider the comprehensive interpretation of sustainable development by the Law on Belgian Development Cooperation when introducing its interpretations of sustainability.** Moreover, upon critical examination, we suggest that BIO’s current approach should be revised, to set more ambitious social and environmental goals for BIO’s investments, and to ensure that Belgian development cooperation remains at the forefront of the E&S practices in the DFI sector.

BIO’s development impact assessment

As noted earlier, *ex ante* development impact assessment is part of BIO’s investment selection process. BIO conducts this assessment by using the ‘Assessment, Monitoring and Evaluation’ (AME) tool, which is distinct from, but also closely linked to, BIO’s E&S assessment.³⁴³ According to BIO, AME tool has been developed for accountability reasons, but it is also used increasingly to inform BIO’s decision-making.³⁴⁴

The AME tool is structured around BIO Development Goals (BDGs, see Box 2.11 below). In practice this means that each BDG has a general list of development objectives that are associated with it, and that for each of these associated objectives, there are indicators that can be used to

³⁴² BIO Investment Strategy 2019-2024, p. 5.

³⁴³ See sub-section 3 (3)(c) on BIO’s investment selection process.

³⁴⁴ Interview with BIO (development impact). AME tool also assesses BIO’s financial additionality, which is not discussed in this sub-section.

count the units of positive contribution of BIO's investments to sustainable development (e.g., jobs created, farmers reached, power produced).

Box 2.11. BIO Development Goals (BDGs)

1. Local economic growth
2. Private Sector consolidation/innovation
3. Food security and rural development
4. Access to basic services and goods
5. Fight against climate change and preservation of natural resources
6. Promotion of ESG best practices
7. Gender
8. Financial inclusion*

It is notable that only the first seven BDGs are included in BIO's AME tool. The final goal (financial inclusion) is listed as a BDG on BIO's website,³⁴⁵ but is not part of the AME tool that BIO shared with us. We could not ascertain whether it is officially part of these goals or not, given that it is not part of the AME tool that we received from BIO³⁴⁶.

BDGs had been adopted as a basis of BIO's sustainable development framework before SDGs were launched in 2015. As such, BDGs need adjustment and alignment with the SDGs. Recently BIO has revised its Theory of Change (ToC). This revised version of ToC is more in line with SDGs and does not use BDGs as a core structure for BIO's objectives – as summarised by this diagramme below, taken from BIO's ToC (Theory of Change Diagramme).³⁴⁷

As a result, BIO's ToC at the moment seems to follow SDGs, while the internal AME tool that is used to assess BIO's development impact appears to be still in line with the BDGs, which are narrower in terms of topics that they cover, and they have a slightly different overall focus. **BIO has told us that they plan to eventually shift all their development impact assessment framework towards SDGs, but at the time of conducting this study this has not yet been done.**³⁴⁸

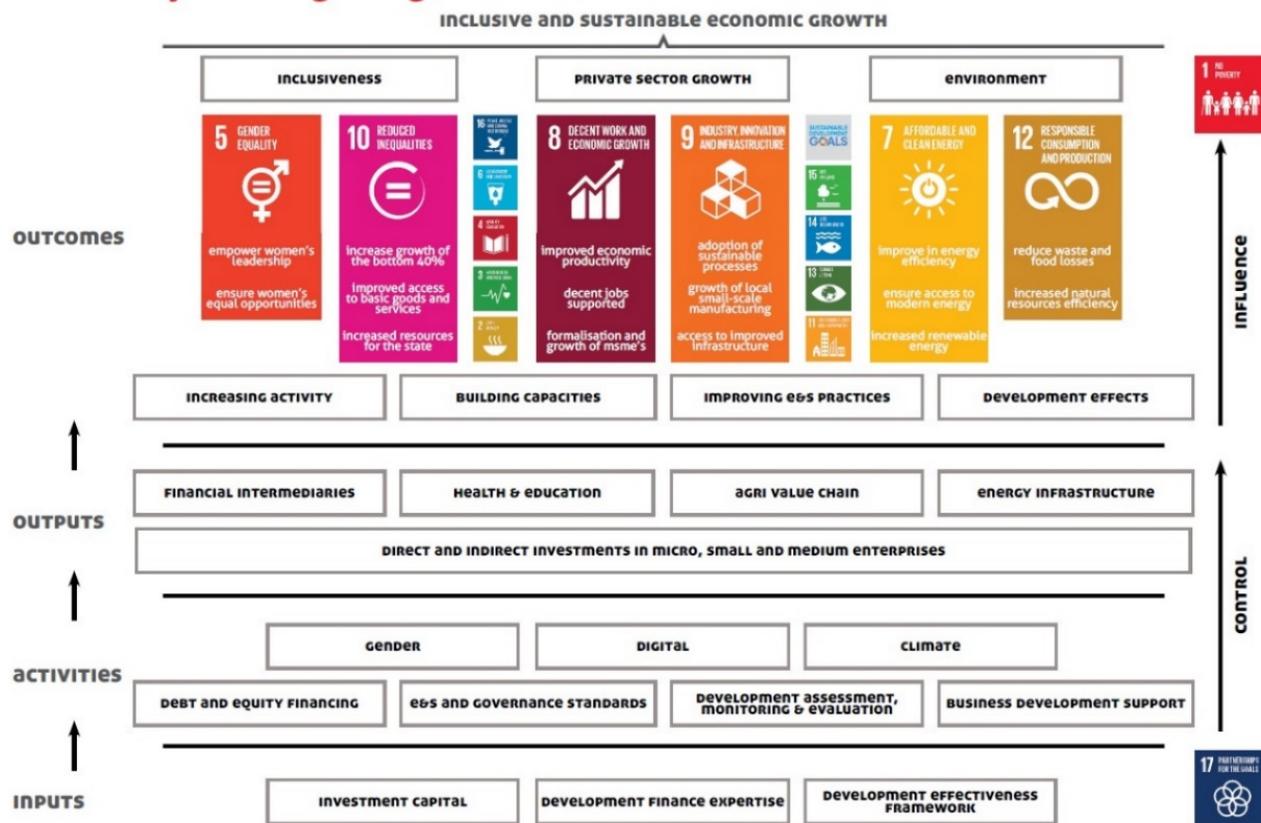
³⁴⁵ BDGs listed on BIO's website, <https://www.bio-invest.be/en/how-we-measure-our-impact>.

³⁴⁶ According to BIO's in response to the first draft of this study "All BIO Development Goals were set in 2015, as explained in BIO's Annual Report 2015, which is publicly available on the BIO website. The goal "financial inclusion" was adopted at the same time as the other BDGs and is fully part of the development assessment process." (Email communication) This clarification does not explain why financial inclusion is not one of the seven categories in the AME tool that BIO had shared with us (since all other seven categories are mirroring the BDGs).

³⁴⁷ An image from BIO's Theory of Change, available <https://www.bio-invest.be/en/theory-of-change>.

³⁴⁸ Ibid.

1. Theory of Change Diagramme



Overall, the approach by BIO to the SDG framework in the context of assessing the development impact of an investment appears to be that of cherry-picking SDGs, an approach that has limited coherence and enables BIO to justify its current business model. The way in which this ‘cherry-picking’ is taking place is through BIO choosing primary SDGs, and focusing on achieving them, including a set of specific indicators that are assigned to them.

The ToC Diagram visually demonstrates that the emphasis on six SDGs might be ‘pushing to the background’ some of the other, more environment-oriented and potentially more challenging SDGs,³⁴⁹ For instance, the two SDGs that BIO emphasises under its commitment to environment, SDG 7 (Affordable and clean energy) & SDG 12 (Responsible production and consumption), are ultimately about ensuring productive industry patterns. They do not contain targets aimed at direct protection of natural environment – which is the original meaning of ‘environmental’ dimension of sustainable development.

Up to a point, this approach seems to offer a pragmatic way of dealing with many goals and associated indicators, making their achievement more manageable for BIO and clients. However, this approach is also problematic. Arguably, **the core attribute of SDGs is that they are meant to be a**

³⁴⁹ The “deliberate focus” on these six SDGs is also made in BIO’s Investment Strategy. BIO Investment Strategy 2019-2024, p. 5.

holistic instrument,³⁵⁰ whereby all their aspects need to be taken into account by countries and relevant stakeholders, in order for development to be sustainable in a long run. As such, an emphasis on some production-focused goals, while quelling the SDGs that might have a more chilling effect on BIO's investments, seems like a **policy move that cannot be justified in light of the 2030 Agenda**.

Before moving on to specific dimensions of sustainability and the way that those are approached by BIO, it should be recognised that **over the last decade BIO has made a significant progress in trying to understand and assess its development impact in a more systematic manner**. We see some issues with BIO's development assessment framework in its current form (most notably, the fact that it only aims to capture the positive but not the negative development impacts; also that it is at the moment not holistic and human rights-oriented enough); however, the fact that development impact assessment *is* taking place makes it possible to have a debate about what kind of development impact from ODA allocated to private sector is desirable. It also makes it possible to discuss how better development impact that is aligned with the holistic nature of the SDGs can be achieved by BIO.³⁵¹ **We recommend that BIO creates more policy spaces for such public discussions about its development impact at a project and policy levels.**

b. Dimensions of 'sustainable development' at BIO

Jobs and economic growth as development impact

As a DFI focused on private sector development, it is understandable that BIO puts a large emphasis on economic growth and job creation. Nonetheless, at least since the 1992 Rio Declaration some of the classic attributes of economic development have been insufficient in terms of ensuring sustainable future for the people and the planet. While BIO acknowledges that "ensuring and promoting the environmental and social sustainability of its investments operations is an essential part of its contribution to sustainable growth,"³⁵² at the level of development impact assessment, BIO's objectives seem to be firmly on the side of economic development. More specifically, **all of BIO's 'mandatory development indicators'³⁵³ are concerned with either job creation, or governance and productivity of a company - which also include a gender dimension**. Those indicators reflect the main 'cross-cutting' benefits that BIO expects to see in its operations.

Several studies show why development impact assessment by DFIs based on job creation as a primary indicator is insufficient and unsatisfactory from a development perspective.³⁵⁴ There

³⁵⁰ Saartje Vandenbroucke et al, 'SDGs as a Compass for the Belgian Development Cooperation. Final Report' (2020 <https://www.ngo-federatie.be/system/files/2020-03/PSR%20SDGS%20as%20a%20compass%20Country%20report%20Uganda%20EN.pdf>).

³⁵¹ For instance, by introducing different and better indicators, or by doing more community engagement to understand whether the chosen goals had been achieved.

³⁵² Section 2, BIO E&S Policy.

³⁵³ These are the indicators that have to be used for every project funded by BIO. There are also project-specific and sector-specific development indicators that BIO tailors according to each investment. AME tool, Development Indicators – Guidelines.

³⁵⁴ The most extensive analysis of the assessment tools by DFIs, including on the question of jobs as a key indicator) is from 2011, which admittedly is somewhat dated given extensive developments in the DFI sector over the last decade, but still appears highly relevant, including to the structure of BIO's AME tool: S. Bracking and A. S. Ganho, "Investing in private sector development: what are the returns? A review of development impact evaluation systems used by development finance institutions in Europe" (Report 02/2011, Manchester University & Norwegian ChurchAid), https://www.kirkensnodhjelp.no/contentassets/c1403acd5da84d39a120090004899173/2011/nca_report_investing_in_private

are various reasons and arguments in that regard, which will not be repeated here in detail. The general idea is that not all jobs created by DFIs are sustainable: they might only be available short-term, or have negative health impacts, or their creation might disrupt social cohesion in a given community.³⁵⁵ Many jobs also do not guarantee minimum wage or might have been created anyhow, without DFI's involvement. The list of arguments is long and compelling, and it underlines that development narratives based only on jobs and economic growth cannot be defended without adding a number of other elements and success criteria to the equation.

With this, we do not say that BIO should not count how many jobs it creates, but that BIO's reporting on job creation should on the one hand be more detailed in terms of the quality of the jobs created, and on the other hand provide more information on the baselines and alternative scenarios, which BIO currently does not publicise.³⁵⁶ Moreover, it should be noted that BIO's focus on a creation of jobs and productivity as its priority objectives makes it difficult to question BIO's operations (both for civil society and external observers, but also for the local communities) because **all other reasons that might be introduced to not fund the investment become secondary to a potential positive impact on economic objectives.**

A good example of such argument playing out in practice is BIO's decision to invest in Feronia, which we discussed with BIO in the context of food security, and which is analysed in more detail in Chapter 3 below:

*"Food security' is not only about the food that you produce for the rural population. It's also about creating local job security. This happened in Feronia – it provides around 5000 permanent jobs, and a few thousand casual jobs. That's also how you create security around."*³⁵⁷

*"[N]o project rates well on all the aspects. Except, very rarely. For instance, in Feronia [...] the question was: did it contribute more positively and as much positively as it could to all dimensions of development? Was the 'net impact' positive or negative? These are the points for discussion. For BIO and for other partners, the call was positive. That the pros would have been more than the negative."*³⁵⁸

*"Because our goal is not only the food security, there are others, like: industrialisation, local job creation, ensuring tax are being paid by the companies, bringing your client to E&S standards etc. There are plenty of effects. We should not reduce the discussion to food security; otherwise, we will not have a discussion".*³⁵⁹

[sector development.pdf](#). A more recent study that discusses this topic extensively is 'Doing more harm than good. Why CDC must reform for people and planet'. Global Justice Now (February 2020). Available: <https://www.globaljustice.org.uk/resource/doing-more-harm-good-why-cdc-must-reform-people-and-planet/>.

³⁵⁵ As discussed extensively in Chapter 3 on agri-food investments.

³⁵⁶ This argument was also addressed at CDC in a recent study, 'Why CDC must reform for people and planet' Global Justice Now (February 2020), available <https://www.globaljustice.org.uk/resource/doing-more-harm-good-why-cdc-must-reform-people-and-planet/>.

³⁵⁷ Interview with BIO (food and agri).

³⁵⁸ Ibid.

³⁵⁹ Ibid.

The issue is that the recent HRW report has exposed the problems with working conditions in Feronia³⁶⁰ – dealing with what was mentioned by BIO as another reason why Feronia was accepted as a suitable investment by the DFIs.³⁶¹ Overall, this shows that even where jobs and economic growth are created in difficult contexts and are proposed by companies that give serious cause for concern from an E&S point of view, these economic objectives are still able to act as sufficient justifications and drivers for BIO's investments. **This 'heavy weight' and prioritisation of economic arguments in BIO's approach to sustainable development is arguably misguided,** given that the framework of development cooperation in Belgium has long shifted its focus from economic to sustainable development.

E&S issues as an opportunity

Improving the E&S track record of BIO's clients represent a key opportunity for creating development impact. This idea of contributing to sustainable development through ESG practices runs deep, and throughout all aspects of BIO's operations: it was repeated in all our interviews BIO, including in one discussion with the DGD.³⁶² Here is a statement that summarises the general idea:

“The dilemma for us is ‘what can we improve’. We could say: if the highest standard is not respected, we don't engage. That would be easy, but this would be counterproductive. We say that there are levels that cannot be discussed – they need to be respected. But there are other levels, due to the countries, where HR are not respected or in place. We want to enter into a dialogue [with a client] so that it's not only about no child labour, no slavery, but the client has also developed a policy in anti-discrimination, women empowerment, reaching people in the more inaccessible areas with their operations and inviting them to work, etc. It's things like that that are just as important. This 'development approach' is what drives us.”³⁶³

In principle, it is good that BIO is looking for opportunities to improve ESG practices, and that it is working closely with its clients to identify those opportunities. Also, as explained previously, this approach is central to BIO's business model, as by improving ESG, BIO helps to institutionalise SMEs and their operations, thus making its investments in these SMEs potentially more sustainable and financially more viable.

The issue that we see here is not so much with BIO's approach towards improvement of ESG, but more so with the fact that **this emphasis on ESG tends to create a misconception that most, if not all E&S issues, are in fact opportunities that could be seized and turned into E&S 'success stories', provided that a client is willing to cooperate and follow guidance of a willing investor such as BIO.** In other words, the emphasis on ESG plays an important role in discursively minimizing the gravity of certain social and environmental harms, which might be created by BIO's investments. This was discussed earlier in relation to risk mitigation approach of BIO's E&S

³⁶⁰ Human Rights Watch, *A Dirty Investment. European Development Banks' Link to Abuses in the Democratic Republic of Congo's Palm Oil Industry* (November 25, 2019).

³⁶¹ “Feronia Environmental and Social Assessment. Summary Report” (Digby Wells and Associates, 2015)

³⁶² Interviews with BIO (various); Interview with DGD (private sector development).

³⁶³ Interview with BIO (governance and accountability). The question to which this answer was given concerned the extent to which BIO is currently implementing HRBAD.

standards.³⁶⁴ As already noted, certain E&S impacts of BIO's investments are *not risks but definite future harms*, and the fact that IFC PS effectively permits harmful investments, as long as communities are compensated for those harms, is at the heart of the problem.

As most DFIs, BIO generally takes a pragmatic approach to the E&S issues and is unwilling to take on higher policy commitments than is required by its E&S Policy and the IFC PS. This is not to say that in each individual case BIO staff cannot or would not treat E&S issues to the best of their abilities. Rather, the red lines that create the 'no go' zones for DFIs from the E&S point of view (such as those included in the EDFI exclusion list), are generally not drawn easily or often, given that they considerably limit a pool of potential investments for the DFIs.³⁶⁵

Our proposal in this regard is for BIO to take a more principled approach, which would lead to higher development ambitions from an environmental and social point of view. A more principled approach would require an extension of a list of prohibited areas of investments on the one hand,³⁶⁶ and on the other hand, a more targeted and receptive community engagement during due diligence.

A narrow understanding of 'environment' and 'inclusiveness'

BIO's take on what 'environment' and 'inclusion' means in a context of its operations is closely linked to its pragmatic approach identified above. While BIO generally seems willing and eager to create positive impacts on the environment and/or a given society, it seems from the previous analysis, and the policy choice of indicators of sustainability and inclusion discussed below, that it does not readily accept far-reaching commitments in the other two areas of 'triple bottom line' – in case that curtails BIO's ability to attract new investments.

Although BIO's Theory of Change mentions both 'environment' and 'inclusiveness' as two of the three dimensions of BIO's approach to sustainable development (alongside private sector growth), those do not seem to translate into overly ambitious approach under BIO's development impact assessment. As noted earlier, BIO's AME tool, used for development impact assessment, does not count negative impacts, only the positive. According to BIO,

*"In our development assessment we take into account how much the company performs in addressing E&S risks. From a development perspective, the negative impacts on let's say the environment, we do mention them, but what we require is to manage and minimize the risks. **It will not end in the scoring except if the client is actively working on addressing the E&S risks**".³⁶⁷*

In practice, this means that BIO counts such impacts on [the environment](#) as 'CO2 emissions avoided' or 'water bodies/forests preserved'.³⁶⁸ However, it does not count how many rivers will have been polluted, forests cut down, or how many additional CO2 tonnes will have been pro-

³⁶⁴ Section s.2.2.(d) in this chapter.

³⁶⁵ For a discussion on this topic in relation to gas and fossil fuels more generally, see Chapter 5.

³⁶⁶ For instance, we propose to include investments in the large-scale monoculture plantations into BIO's exclusion list (see Chapter 3, final recommendations).

³⁶⁷ Interview with BIO (development impact).

³⁶⁸ BIO AME tool, Development Screening – Guidelines & Development Indicators - Guidelines.

duced³⁶⁹, for instance, when BIO supports a construction of a new factory, or an extension of an existing palm oil plantation.

Generally, it is important to note that the IFC PS 3 (Resource Efficiency and Pollution) and the IFC PS6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources), which are the core pillars of BIO’s approach to natural environment, are ‘the floor’ (i.e. the minimum acceptable ‘bottom line’) of E&S commitments for the DFIs and their clients. They neither represent the best environmental practice, nor the goals that BIO should strive to achieve within the environmental dimension of sustainable development. Hence, BIO’s references to IFC PS in its E&S policy does not set the principles of environmental protection that BIO could apply or aspire to, but rather a **relatively unambitious bottom line** for mitigating the environmental harms of investments to which IFC PS applies to.

BIO’s natural environment aspirations are set out in BIO’s Theory of Change (see illustration on the right). As discussed previously, **the SDGs that BIO has chosen to focus on under environmental dimension are mostly anthropocentric** and thus arguably not ambitious enough in terms of protecting natural environment and biodiversity. This can be seen, for instance, from the indicators and targets that should be used to measure the extent to which these goals have been achieved, also included in the illustration³⁷⁰. While



a **relatively unambitious bottom line** for mitigating the environmental harms of investments to which IFC PS applies to.



³⁶⁹ BIO seem to have started moving towards counting the CO2 emissions of its portfolio; see Chapter 4 for more details.

³⁷⁰ According to BIO, “it is important not to confuse what BIO is monitoring in terms of KPIs from a development perspective and what it assesses in terms of environmental risk and biodiversity. The latter are assessed as part of the E&S assessment, mostly based on IFC PS3”. (Email communication, BIO’s comments on the first draft of this study). As explained earlier (e.g. section 2.2(c)), for us, the moni-

BIO takes notice of the other four potentially relevant SDGs (the column on the left in the illustration), there are no specific indicators of success assigned to these goals, thus making their operationalisation in BIO's investments less likely, also making it less likely that BIO would be held accountable for action that impacts on these SDGs (either positively or negatively).

Inclusiveness in BIO's Theory of Change and other policy documents is interpreted in a peculiar manner that is idiosyncratic and unique to private sector DFIs such as BIO. This concept seems far removed from the discussions about 'inclusion' or 'inclusive development' that take place in relation to public sector development.³⁷¹ **In BIO policy terms, 'inclusiveness' means inclusion in the market, or ability to access (i.e. buy) goods and services.** In addition to the two SDGs (Gender Equality and Reduced Inequalities) that fall under the 'inclusiveness' (i.e. social) dimension of BIO's Theory of Change, there is also a specific BDG on the 'Access to basic goods and services' that also helps to capture BIO's intended contribution of inclusiveness. Energy, telecommunications, housing or construction materials, health products of services, education, and water are the services that, according to this BGD, BIO aims to create access to.³⁷²

However, BIO's goal of 'access to services', without further qualifications, is arguably a fairly basic standard that is lacking in ambition. For instance, BIO is currently investing in a private education provider in the context of countries with low rates of quality access to this service. Along with possible investments in private health, the decision to contribute to the privatization of an essential service has raised concerns in the past and has been identified by the Cabinet as one of the priority areas for future adaptations of the Management Contract.³⁷³ However, we believe that the same considerations would apply to investments that provide energy, education, and all other services mentioned on the list above. The question 'what access means' in the context of BIO's operations is key in understanding BIO's ambition in relation to reducing inequality, social inclusion, and basic services provision.

A more fundamental risk with BIO's understanding of 'inclusiveness' is that in a discourse about BIO's development impacts and objectives it might replace a more demanding and arguably more meaningful concept of 'inclusion'. In line with the HRBAD, 'inclusion' usually refers to an inclusion in decision-making, particularly those affecting one's life choices and opportunities. The emphasis on inclusion is arguably more in line with the 'Leave No One Behind' objective of the 2030 Agenda, because of the reasons explained below.

There are many differences between 'inclusiveness' (as understood by BIO) and 'inclusion' (as understood under the HRBAD), but the two fundamental differences are:

- **a concept of inclusion puts more emphasis on democracy, dialogue, and deliberation.** In the context of private sector development this would mean better and more extensive

toring of the overall development impact of BIO, and the E&S assessment of individual projects are two sides of the same coin, in terms of understanding development impact, and as such, cannot be meaningfully separated from each other.

³⁷¹ See, for instance, the MEET principles by the DGD, see 'Support to Human Rights Based Approach to Development' (Policy Note, the Belgian Ministry of Development Cooperation, 21 October 2020), p. 3.

³⁷² AME tool, Development Screening – Guidelines.

³⁷³ Interview with the Cabinet.

community engagement, not only as means of addressing high E&S risks, but as a more general principle of approaching sustainable development.

- a concept of inclusion usually means an ambition to guarantee access to decision-making, but also basic services and goods, for people with all levels of income, which means that any 'access to basic services' obligations that take inclusion seriously would require these services and goods to be affordable (or free) for all. While the energy-focus SDG 7 contain such qualification of affordability in its title (although not in the corresponding indicators), neither the BDG on the access to basic services, nor a similar target under the SDG 10 (Reduced Inequalities, see illustration above) currently contain indicators on affordability.

Overlooking the issues of economic dependence and the root causes of inequality

Given the policy and theoretical framework in which BIO operates, it is not surprising that BIO's policy documents are silent on a wider power dynamic in which private sector operates in developing countries, and which is often responsible for sustaining poverty and inequality in BIO's countries of intervention.³⁷⁴ In the context of private sector-driven development, inequality and economic dependence are two key issues to consider, in terms of trying to understand their 'root causes', and BIO's role in addressing those. We believe these considerations deserve specific attention in the context of private sector development because **unsustainable business can, and often do, contribute to social inequality and/or can create economic dependence.**³⁷⁵

BIO's approach to **inequality** in its Theory of Change currently includes 'Reducing Inequalities' SDG as one of BIO's primary SDGs, but BIO, the Board and the Belgian State could commit to a more sophisticated understanding of the relationship between inequality, financialisation and economic growth. For instance, critical studies show that a creation of capital markets, and using debt as a mechanism for distributing money and ensuring access to basic goods and services, can have negative effects on social cohesion, and that it can deepen existing inequalities.³⁷⁶ These studies are part of complex discussions in economics and social sciences that cannot be revisited in this study; however, they all provide sufficient evidence to claim that **certain types of economic development, particularly related to the expansion of financial sector, can be part of root causes of inequality.** The expectation here is not that BIO would engage with theories of economic development at a policy level. Nonetheless, BIO's Theory of Change and investments would benefit from a more fundamental discussion about the link between ODA, poverty, and inequality, and also from a more in-depth analysis of the root causes of poverty and inequality that often depend on the support to certain kinds of private sector development.³⁷⁷

The question of **economic dependence**, which includes a question of competition between local and international, small-scale, and large industrial actors in the market(s) supported by BIO, is important in the context of sustainable development. **It merits a separate analysis, including**

³⁷⁴ E.g. as shown in more general terms by Piketty or Graber (supra n 361).

³⁷⁵ As discussed in detail in section 3 on agri-food investments.

³⁷⁶ See for instance, Thomas Piketty, *Capital in the Twenty First Century* (Harvard University Press 2014); David Graeber, *Debt: The First 5,000 Years* (Melville House 2011).

³⁷⁷ For a discussion on a fundamental difference between the IFC PS risk management approach, and the need for analysis of root causes under the HRBAD, see Mares (n 275)

how the current business model of BIO contributes towards either addressing or resolving this issue.³⁷⁸ Economic dependence can be a legacy of colonialism, or it can result from unequal international trade deals, or be an outcome of unequal distribution of power in a global financial system. It can also be caused by a mix of factors, including European DFIs investing in unsustainable businesses.³⁷⁹ Generally, dependence occurs at the country level and in relation to other *countries*, but it is also relevant to private sector development. In this sense, **BIO has a role to play in breaking the patterns** (or alternatively upholding them) **of European control over business opportunities and natural resources in developing states.**³⁸⁰ This question is particularly relevant in the context of reframing BIO's approach to multinationals that was discussed earlier in this chapter,³⁸¹ and it will be relevant in the forthcoming section on agri-food investments by BIO.

'Cosmetic' human rights

It was argued earlier³⁸² that BIO's E&S standards only partially reflect a human rights-based approach to development. Human rights are mentioned by BIO's E&S Policy and IFC PS, but as was argued earlier, this inclusion is 'cosmetic' and does not change the risk mitigation approach, which is at the heart of BIO's approach to E&S issues. Human rights are also absent from BIO's AME tool, and BIO's Theory of Change mentions human rights only in the context of E&S standards, but not as part of its development aspirations.

We also asked BIO if human rights play a role in development impact assessment, and whether they are part of BIO's development objectives. According to BIO,

*"They are prominent. You have not seen them here [in the discussion about development impact assessment], because they are part of the E&S. The work with the Danish institute is informing us on how human rights can feed more in our processes. They are not in the development assessment as such. Within E&SG best practices there are also human rights."*³⁸³

This confirms that human rights protection and fulfilment is not currently part of BIO's aims and development impact assessment. This matters because **human rights-focused objectives, if formulated well and with a view of implementing human rights fully, can guarantee at least a minimum level of human dignity** in a variety of sectors and situations.³⁸⁴ Accordingly, human rights-based objectives would redefine and reframe most other objectives at BIO (including those used to structure development impact assessment), and they would be more explicitly

³⁷⁸ Section 3 provide such analysis in relation to BIO's agri-food investments.

³⁷⁹ Ibid.

³⁸⁰ Ibid. (of particular relevance is a discussion on the example of Feronia PHC, section 3.5 in this study).

³⁸¹ Section 2.1.(e) in this study (Supporting (M)SMEs).

³⁸² Section 2.2 (d) (BIO's approach to the E&S issues).

³⁸³ Interview with BIO (development impact).

³⁸⁴ Mares (n 275).

focused on the aim of 'Leaving No One Behind'³⁸⁵ than the Theory of Change of Change currently does.

Recommendations on BIO's approach to development impact

Overall, having engaged with BIO's idea of sustainable development, we propose that in its approach to sustainability BIO and/or the Belgian Government should make sure that BIO:

- Does not cherry-pick, for the purposes of its policy guidance, the SDGs that are already most closely aligned with its operations, but instead rises to the challenge of implementing a holistic concept of sustainable development, reflected in the 2030 Agenda.
- Does not use the arguments about job creation and economic growth in isolation, to justify its decisions to invest in projects that have little or no positive impacts on the other two dimensions of sustainable development. While perfect projects might not exist, each project that BIO supports should strive to increase social and environmental conditions on the ground (both in the short and long-term).
- Clarifies and sets more ambitious targets concerning access to basic services, and expands the content of inclusiveness-related objectives, for them to be more in line with the aspirations of inclusive sustainable development under the Law of Belgian Development Cooperation.
- Demonstrates more ambition in creating positive impacts on natural environment and commits to calculating and reporting the negative impacts in its development assessment process, and more principled in avoiding environmental and social harms.
- Analyses and considers the root causes of core development challenges that BIO aims to address, including better attempts to understand the causes of inequality and economic dependence.
- Revises its objectives and development assessment framework, to better reflect human rights concerns, and the aim to protect basic human dignity above other considerations.

2.5 Reflections and Recommendations on BIO as a development actor

In conducting this study, our numerous interviews with BIO and affiliated actors often gravitated around the questions how BIO should distribute its limited resources, given its operational constraints, travel restrictions and economic turmoil created by covid 19 pandemic, and the exten-

³⁸⁵ Sarah Braye et al, 'SDGs as a Compass for the Belgian Development Cooperation. Final Report' (2020), available <https://www.ngo-federatie.be/system/files/2020-03/PSR%20SDGS%20as%20a%20compass%20Country%20report%20Uganda%20EN.pdf>.

sive development needs within its countries of intervention. In the Annual Report 2019, the CEO of BIO has invited everyone to “challenge” BIO about how to better address these dilemmas:

“In trying to conciliate our aspirations with the harsh reality, BIO is confronted with [...] dilemmas almost every day, especially concerning the environmental, social and governance aspects of investments. Our strategy is to require basic standards, to be complied with at all times, like the eight ILO labour conventions, no major environmental pollution, etc. Then, on a case-by-case basis, we assess the potential for improvements over time, and seek to include these in our investment contracts. This means that, sometimes, we have to accept that, upon initial disbursement, a factory hasn’t stopped discharging dirty water into a river. That some workers only have temporary contracts. That in precolonial times local communities worked the land now owned by the company. Yet, our objective is not only to work with entrepreneurs who already tick all the boxes. We support all those who are trying hard to make a difference under dire circumstances, struggling to meet the highest standards. [...]”

We put our heart and soul in dealing with the dilemmas inherent to the struggle for real change. Thank you for your (critical) support in this endeavour. Please keep challenging us to find the best solutions to our dilemmas.”³⁸⁶

We recognise that there are dilemmas that BIO faces in making decisions about whether to invest in a given project, and that there are challenges that BIO faces from the financial perspective, particularly given the effects of covid 19 on economies around the world. It is also notable that BIO has a sophisticated business model, and currently has in place a complex system of assessing the E&S risks of its investments – even if we consider that there are significant shortcomings with the approach that this assessment is currently taking.

However, what BIO calls ‘dilemmas’ might in fact be uncertainties created by BIO leaving too many factors to be decided “on a case-by-case basis.”³⁸⁷ Maybe an existence of too many dilemmas signals a need for BIO to take a more proactive, more grounded, and a more principled approach, with a greater ambition for social cohesion and environmental protection? Overall, we propose that the probability of BIO taking successful decisions, and its ability to contribute to sustainable human development, would increase through an improvement of certain aspects of its decision-making process and of its business model.

Therefore, in these overall findings we at first highlight the issues that sway BIO’s decision-making towards certain type of investments that are not always optimal from a sustainability point of view, nor from a perspective of ODA spending. Secondly, in recommendations that follow, we suggest what changes should be made at the structural, policy and operational levels, for some of these issues to be addressed. Both the findings and the recommendations build on the more detailed analysis and interim recommendations in the rest of this chapter.

³⁸⁶ A word from Luuk Zonneveld, BIO Chief Executive Officer, BIO Annual Report 2019, pp. 36-37.

³⁸⁷ Ibid.

There are **ten issues** that we identified in BIO's approach to sustainable development and business model, which are either recurring across multiple topics and procedures, or the most significant in terms of their structural effects on BIO's decision-making:

- 1. Following the lead of the rest of the DFI sector.** The role of the (European) DFIs sector has been the background consideration of most topics discussed in this chapter. The 'trends' in this sector pre-determine and structure a wide range of BIO's operational modalities: from decisions on selecting investments being influenced by the assessments by other DFIs, to the choice of applicable E&S standards (IFC PS); to a harmonized approach to risk categorization at the EDFI level, to a shared position on disclosure of information, to benchmarking with other DFIs on financial return and 'ticket size', to a level of demands that can be realistically placed on the PEFs, to the terms and conditions informing a creation of a Grievance Mechanism. The 'pull' of the rest of the DFI sector on BIO's business model is so strong that it considerably constrains the policy space that BIO has, and the ability of the Belgian government and other stakeholders to influence BIO's operations, for those operations to be more in line with the preferences of the Belgian public. However, it is important to remember that BIO does not *have* to follow the DFI sector; it chooses to do so.
- 2. Too high expectation on the rate of financial return.** While it is not possible to say what is the exact rate that BIO is expected to generate from its Code 8 investments³⁸⁸, that rate is high enough to have a prohibitive effect on some of the more impactful investments. That is because having a 5% average return rate means that BIO must invest in more mature and larger enterprises with a relatively predictable turnover and financial flows, and in the 'generalist' PEFs and financial institutions. The expected return rate partially depends on the benchmarking with other DFIs, which means that it fluctuates all the time. This is not helpful in terms of BIO knowing how much of a financial return it needs, and which part of its profits could remain in the countries of intervention and for instance could be reinvested by the investees into CSR projects.
- 3. Ticket size is too big to provide sufficient support to small enterprises.** While according to BIO, its 3 million EUR minimum 'ticket size' for Code 8 of investments³⁸⁹ is smaller than many of the other DFIs, it is still too big for BIO to invest in the 'up and coming' enterprises in many of the developing states, and particularly in the LDCs. This means that BIO often must invest through financial intermediaries to reach those enterprises, which in turn means that BIO has less ability to support companies or entrepreneurs directly, but rather that it must operate through practices, terms and conditions, and governance systems of financial actors. BIO's operational constraints and limited operational costs are among the key reasons why BIO continues to have this prohibitive minimum ticket size, even though BIO considers its focus to be small enterprises and infrastructure projects.³⁹⁰

³⁸⁸ See Chapter 1 for a discussion on how the expectations on a return rate by BIO is fixed.

³⁸⁹ This accounts to approx. 95% of BIO's portfolio, see Chapter 1 for more details on ticket sizes.

³⁹⁰ Interview with BIO (E&S).

4. **Support for financial sector might be crowding out other investments.** Due to the constraints of ticket size noted above, but also because financial sector is less risky for BIO and uses the same professional investors' jargon as BIO thus preparing better quality applications, there are strong secondary reasons for BIO to invest in this sector that have little to do with its development mandate. Financial inclusion – BIO's strategic objective that is part of the Management Contract but not originally in BIO law – justifies this strong operational focus that BIO has on the financial sector. Accordingly, BIO has a large percentage of its portfolio invested in a financial sector, which at the same time is not being invested in BIO's core thematic sectors set out in the BIO law.
5. **Internal expertise is geared towards financial analysis.** Because BIO invests extensively in financial sector on the one hand and has a diverse portfolio in terms of geographical areas and sectors on the other, it employs a lot of people who specialise in business management, analysis of financial data, and investment and/or banking. While there are a few staff members, mostly in development and E&S impact assessment, who have a different profile, they are a small minority in the institution. This means that many of the E&S responsibilities but also decisions specific to countries or sectors must be 'outsourced' to external experts, and cannot be addressed internally, neither in cases of specific investments, nor at an operational policy level (before policies reach the Board). Situations of conflict, fragility and violence, and human rights impacts of BIO's investments, are the two areas of decision-making where this limited profile of staff is most important.
6. **'Private sector' is interpreted narrowly.** BIO's take on its role in supporting private sector – which also explains its support through financial sector – is to institutionalise companies and their governance, and to help them grow. Accordingly, BIO supports enterprises that would probably be likely to get funding in the European context, in terms of their size, business strategy, and capacity to generate profit. While this is the approach that works for some enterprises in the countries of intervention, it leaves out from BIO's remit many private sector enterprises that are might be pioneers in their sector or have a business with good potential for development impact, but which do not 'fit' the profile of a private sector described above. While BIO has some membership-based organisations and non-profits in its portfolio³⁹¹ we could not ascertain the proportion of such investments, and such investments also did not feature as prominently in our discussions with BIO as did the commercial, revenue-driven model of the private sector.
7. **A low level of ambition concerning the E&S, and a selective approach to SDGs.** This issue can be observed from looking at BIO's development impact and E&S assessment standards, and how they are operationalised in practice. BIO places a lot of emphasis on economic growth and jobs, but its environmental and social objectives are highly limited. The assessment of development impact also does not consider the potential negative impact

³⁹¹ BIO's comments on the first draft of this study (Email communication).

of investments, thus potentially enabling a skewed interpretation of development benefits of a given investment.

8. **A line between the E&S risks and harms is blurred.** BIO's policy framework mostly discusses 'risks and impacts' in parallel. Similarly, given that the IFC PS (the core E&S standards as applied by BIO) are structured around the so-called risk mitigation hierarchy, BIO has relatively few baselines on what investments are too harmful to be worth investing in. To an extent, the E&S baseline is set through the EDFI exclusion list that BIO also adheres to, but this list is arguably not extensive enough, and not nuanced enough to deal with some of the more challenging dilemmas about BIO's negative development impact, such as those mentioned in the quote from BIO at the beginning of this concluding section.
9. **Community engagement and 'reality check' are patchy.** While there is some engagement with local communities by BIO, and mechanisms to find out what is going on 'on the ground' exist for the more risky (mostly direct) investments, the oversight of clients' stakeholder engagement and also the due diligence (which is meant to ensure the 'reality check' of investments) both seem to be arranged on a case-by-case basis, and not necessarily in a systematic manner, while also relying a lot on the information provided to BIO by its client. This issue is most pressing in case of PEFs, which tend to have a lower risk category by default, and where BIO relies a lot on the assessment provided to it by the fund manager.
10. **Confidentiality is the norm.** This is probably the most commonly reoccurring issue in our analysis and is notable in most of BIO's operations. There is no doubt that many of the findings in this Chapter have been either limited or impossible to reach because of the lack of access to information; even though we were able to take advantage of multiple interviews with BIO staff, and a range of policy documents and tools that BIO disclosed for the purposes of this study.³⁹²

Following these main findings about areas for improvement, but also other issues identified in this chapter, **we recommend revising BIO's legislative, policy, and operational framework**, to introduce a more principled, targeted, and ambitious approach that is better aligned with the 2030 Agenda, and with the aims of the Belgian Development Cooperation.

At the level of BIO law and/or the Management Contract, we recommend to:

- **Reduce the minimum ticket size** of Code 8 investments, and to increase the proportion of Code 5 investments in the overall portfolio.
- **Revise the financial return targets** for Code 8 investments: rather than relying on the benchmarking with other DFIs or other financial variables, it would be most beneficial to

³⁹² BIO's approach to confidentiality and disclosure more generally is discussed in Chapter 6.

identify the minimum possible level, necessary for these financial flows to be considered 'investments' rather than subsidies or liabilities.

- **Expand the potential ways of using subsidies** provided to BIO, for the purposes of supporting new and promising enterprises that apply for investment from BIO.³⁹³
- **Revisit the 1.2% cap on the management costs of BIO**, provided that the average size of investment is reduced significantly, and if the overall ambition on the E&S issues and oversight is increased at the policy level and in practice.
- **Introduce a commitment to respect and fulfil human rights**, and to apply the human rights based approach to development. Similarly, introduce a requirement for an alignment of BIO's policies and investments with the **Paris Agreement**, and other international environmental agreements.
- **Remove the objective of 'financial inclusion'** from the Management Contract and replace it with more targeted and concrete development objectives concerning the role of financial sector. **Introduce a cap** on the size of a portfolio that can be invested in a financial sector and in the 'generalist' PEFs.
- **Introduce a requirement to prioritize 'home grown' MSMEs** in the countries of intervention, and not multinational corporations (MNCs) or their subsidiaries.

At the level of operational policies adopted by BIO Board, we recommend that BIO:

- **Revise the Theory of Change in a manner that would cover all SDGs holistically**, and to ensure that it tackles all three dimensions of sustainable development in a balanced manner.
- **Set more ambitious development targets and indicators** for assessing development impact of BIO; ensure that the development impact assessment combines both negative and positive impacts of investments.
- **Adopt a clear policy commitment to community engagement**, as a cornerstone for choosing investments; also adopt a roadmap towards a more systematic oversight of community engagement by BIO of its clients.
- **Take an active approach to nourishing project pipeline**, particularly in the countries and sectors that fit the strategic and thematic focus of the Belgian Development Cooperation. Create training courses and other resources for promising investees that would help them to attract BIO's investments in a long run.
- **Take a more active approach towards using subsidies**, beyond technical assistance and/or for feasibility studies. Explore how these subsidies could be used more broadly, to support private sector development and BIO's potential investees in strategic sectors.

³⁹³ This would also be done to review the possibility of supporting grievances by local communities, as discussed in Chapter 5.

- **Create an open and public roster of external experts** that would enable BIO to establish an on-going communication with these experts and create affiliation with them, and to simultaneously address the challenges of ‘friendly’ experts, comprehensiveness of E&S analysis, and the ethics and responsibility of experts.
- **Update the Transparency and Disclosure policy**, to enable more information on BIO’s investments, their E&S impacts, and investment selection process, to be released into the public domain and shared with the people affected by BIO’s investments.
- **Adopt a policy commitment to mainstream a human rights-based approach** to development (HRBAD), and to implement the UN Guiding Principles as a minimum.
- **Start assessing the negative and positive impacts of BIO’s investments on human rights.**

At the operational level of BIO, we recommend that BIO :

- **Diversify the in-house expertise of BIO**, in order to enable BIO to:
 - align itself more closely and fully with the full scope of SDGs;
 - take a more ambitious approach to the E&S issues;
 - develop a more advanced approach to dealing with situations of conflict, fragility and violence;
 - conduct human rights due diligence and other related human rights assessments internally within the institution.
- **Consult with external stakeholders**, in order to inform and ‘test’ the risk screening and the E&S due diligence of potential investments conducted internally by BIO.
- **Enter an on-going policy dialogue with more diverse stakeholders**, about how to improve a role of a national DFI and to create better synergies with other relevant actors in specific thematic sectors, but also at the level of overall ODA spending.
- **Avoid harmful investments**, even if they are permissible under the EDFI exclusion list or the IFC PS. Even if development impact of a given investment seems plausible from an economic perspective, it should not be used to justify harm to the local population and/or to the natural environment.
- **Introduce contractual clauses that compel PEFs (which BIO invests) in to release more information** about their portfolio, investment strategy, track record, corporate structure, and other relevant information that would increase transparency of their operations.

3.

From Seeds to Fork: BIO's Investments in Agri-Food Chains

Introduction

Investing in agri-food chains represents one of BIO's strategic priorities. This is particularly the case for agricultural production at the beginning of the food chain, but BIO's presence is increasing and extending to consumption. The centrality of the agri-food system for BIO is highlighted in BIO Law, in the Management Contract and in various strategic documents published by BIO in the last years. The agri-food sector was also one of the areas where significant social and environmental issues happened in the past, and therefore one of the areas of main interest for the NGOs that commissioned this report. Therefore, it was the objective of specific interviews both with BIO and other stakeholders.

Despite the centrality of the agri-food sector, an initial consideration is that BIO does not adopt a univocal categorization of all 'agri-food chain investment'. On the contrary, different labels are used to identify investments that occur at different levels of the chain or in different kinds of food chains (agribusiness, aquaculture, agroindustry, fast moving goods, etc.). In the absence of a common category, we gathered all the investments that were categorized as 'agribusiness' in the 2019 investment chart (which includes production of food, agri-forestry, provision of inputs, trade, etc.) and added also all those investments that are labelled differently but concern enterprises and actors along the whole food system (i.e. from seed to fork).

We believe our choice to be justified by the need to provide a systemic understanding of the approach that BIO adopts vis-à-vis the agri-food system (including agri-forestry and fishery) seen as the combination of people, corporations and natural elements that produce, distribute and consume food. As a matter of fact, the Second Management Contract makes direct reference to the whole food chain as a space for investments and BIO itself recognises that “it aims to invest in enterprises (including MSMEs) established in the intervention countries, active in the production, processing, trade or marketing of agricultural raw materials, agricultural products and food products, contributing directly or indirectly to the strengthening of food security in the intervention countries.”³⁹⁴ In our analysis, we thus brought all the investments together and discuss which agri-food system they are supporting, what is the potential and what may be the shortcomings.

The present Chapter does three things:

1. Briefly presents the **Belgian normative and strategic framework** with regards to Development and Cooperation in the food and agricultural sector;
2. Provides some elements to **understand how BIO defines and pursue its own approach to agri-food investments**;
3. Takes the reader along the food chain, from farm to fork, to combine case studies and our expertise in the elaboration of considerations that may help improving the role that BIO plays in local and global food chains.

Together with the sections below, the **readers are also invited to read Appendix III to this report**, where they can find the specific analysis of five case studies that have been analysed in detail through the realization of semi-structured interviews and the analysis of non-confidential documents: Babban Gona Franchise Scheme, Fair Trade Access Fund, JTF Madagascar, Rubaya-Nyabihu Tea Company and Société de Cultures Légumières. Although the findings concerning each of these examples were functional to the drafting of this Chapter and there are referred throughout it, we decided to add Annex III and provide longer reflections and considerations that may be of use for readers with an interest in specific agri-food chains or geographies. Annex III shall thus be considered as an integral part of the reflection and provides useful evidence and element to corroborate both the findings and the recommendations that are contained in the present Chapter.

3.1. Agriculture as a strategic sector for Belgian development cooperation

Investing in the agri-food sector as an anti-poor and pro-food security strategy represents one of BIO’s corporate objectives. This is evidenced by Article 3.6 of the Second Management Contract (2018), according to which:

³⁹⁴ Art 6.3, Second Management Contract, 2018.

“BIO’s objective is to invest directly or indirectly in the development of: MSMEs and enterprises established in the countries of intervention active in the production, processing, trading or marketing of agricultural raw materials, agricultural products and food products, thus directly or indirectly contributing to the improvement of food security in the countries of intervention.”³⁹⁵ If agri-food investments are one of the core activities of BIO, the same article suggests that an analysis of the agri-food investments shall not be dissociated from their direct or indirect impact on food insecurity in the country of intervention. Food security and agri-food investments must be, therefore, analysed together and go hand in hand.

The Management Contract does not operate in a vacuum. It is framed by the 2013 *Loi relative à la Coopération au Développement* and by two Strategic Notes on “Agriculture and Food Security” issued by DGD in 2011 and 2017. All these documents make clear the centrality of food and the agricultural sector for the Belgian framework for Development and Cooperation. Furthermore, in 2020 the Minister of Development Cooperation Kitir presented her general political plan to the Belgian House of Representative and indicated the central role that investing in sustainable food systems, production and consumption in the countries with high rates of hunger, supporting small-scale farmers as the producers of 80% of the world food, and guaranteeing access to food and water must play in the strategy to eradicate extreme poverty and deal with the intensification of socio-economic challenges posed by the Covid-19 pandemic.³⁹⁶

Furthermore, Articles 18 and 19 of the 2013 law on Development Cooperation dispose that:

18. Governmental cooperation is concentrated on a maximum of three sectors per partner country. [...].

19. In the choice of these sectors, governmental cooperation shall mainly focus on the following four sectors or their equivalent in the partner countries [...]

3° agriculture and food security;

Because **investing in “agriculture and food security” is a priority** that have been maintained throughout the years, it is thus important to reflect on how BIO aims to achieve them. In particular, our researched focused on the kind of agriculture that BIO is investing in, on the food chains that it is promoting and on the way in which defines and aims at achieving food security. All of these critical issues are not new in the Belgian context: they have been discussed across time and that have been given different meanings both at political level and within the Belgian Development and Cooperation Framework. The existence of different interpretations is, however, often underestimated.

If we accept that **‘agricultural development’ and ‘food security’ are not univocal terms** but assume different meanings in different places and time, we thus have to accept that **the way in which BIO operationalize them is neither neutral nor objective** but rather a choice that is polit-

³⁹⁵ “BIO a pour objet social d’investir directement ou indirectement dans le développement des: 3° MPME et entreprises établies dans les pays d’intervention actives dans la production, le traitement, le commerce ou la commercialisation de matières premières agricoles, de produits agricoles et de produits alimentaires, contribuant ainsi directement ou indirectement au renforcement de la sécurité alimentaire dans les pays d’intervention.” Art 6.3, Second Management Contract, 2018. Translation by the authors.

³⁹⁶ See Chambre des représentants De Belgique, Doc 55 2294/ (2021/2022), Notes de politique générale. Solidarité internationale Internationale Solidariteit.

ical in nature and that has social, economic and environmental repercussions. According to the definition of food security and agricultural development that BIO adopts, it will define the way in which a significant amount of Belgian Official Development Aid contributes to **shaping food systems in the Global South and at the global level.**

The existence of different trajectories is clearly visible in the last two Strategic Notes on Agriculture and Food Security published by DGD and in the way in which BIO interprets the role of agri-food systems in providing development and the companies that it invests in. In 2011, the DGD Strategic Note on Agriculture and Food Security opened with a clear and univocal message:

“Belgian cooperation supports sustainable small-holding farming” with the aim to contribute to peoples’ food security, generate economic growth and create decent jobs in the countryside. According to the document, ‘Family farming’ or ‘Small-holding farming’ is the kind of agriculture “characterized, on the one hand, by the predominance of work provided by family members and by the family-based organisation, and, on the other hand, by the existence of interdependence between production, domestic consumption and reproduction of the family.”³⁹⁷

In the document, the private sector is considered as an ally in the adoption of a chain-based approach to agricultural development. However, the main focus clearly is on small entrepreneurs and small-scale peasant organisations that guarantee production, transformation, valorisation and commercialization of products. Technical assistance, better access to market, better logistic, less dependence on international prices, the elaboration of policies of local provisioning and the empowerment of women through the access to the means of production are identified as the priorities for Belgian cooperation.

In the same document, **food security is defined with reference to the four pillars of the 1996 FAO definition:**

1. **Availability** of sufficient food of an appropriate quality through local production, import or food aid;
2. **Access** to adequate nutritional elements;
3. Consumption in the context of an **adequate diet**, including enough water for drinking, sanitation and care;
4. Presence of **stable and permanent access to adequate levels of nutrition**. This access to nutrition shall not be threatened by the emergence of sudden shocks or cyclical events. Stability means, therefore, creating a food system that is not dependent and that is reliable for people.

On the contrary, the 2017 Strategic Note focuses less on small-scale farming and local markets, and **more on farmers as entrepreneurs that shall integrate in agri-food chains and generate employment and economic growth.** In this ‘new’ vision for food and agricultural development,

³⁹⁷ DGD Note Strategique 2011.

the farmer is not seen any longer as part of a family or a specific social context but as an individual that shall be supported in economic upgrading and in accessing higher returns for their production. At the same time, **food security ceases to be a goal in itself and is transformed into the consequence of entrepreneurship and competitive participation in the market.** Despite this shift towards entrepreneurship and growth, the document underlines the importance of sustainable practices and the adoption of a human-rights based approach, which we consider to be inclusive of the right to food as recognised in international human rights law and as an essential component of the right to life.

In the 2017 text, we read that:

“Belgian development cooperation aims to stimulate sustainable entrepreneurship along the entire agri-food chain and thus improve food security, in order to contribute to the achievement of SDG2 (End hunger, ensure food security, improve nutrition and promote sustainable agriculture). Belgium's cooperation policy is based on two major policy axes: sustainable and inclusive economic growth and a human rights-based approach. As a social entrepreneur, the farmer occupies a central position and his or her capacities need to be strengthened.”³⁹⁸

The change in perspective between 2011 and 2017 is significant and characteristic of a broader trend in agri-food development that tend to **dismiss the pivotal role that family farming and territorial food systems** play in fighting against hunger and malnutrition while embracing the idea that development funds shall support food actors capable of being competitive, productive and players of the global food market. Small-scale subsistence farmers, that in the 2011 Strategic Note were seen as pillars, are thus **categorized between those who can become entrepreneurs and those who cannot**, with the former becoming those worth financial and technical support. The participation to markets (national, regional and international) and (global) value chains become one of the main areas of intervention, along with the support to research and innovation to boost productivity and economic return.

In the last years, however, the support to small-scale farmers and the creation of territorial markets where production guarantees access to food appear to be back on the Belgian political agenda for development and cooperation. The 2020 Government Agreement and Minister Kitir's general political plan make reference to food security, small-scale farming and a holistic approach to food systems as more than a matter of increasing production.³⁹⁹ In addition, the recent mention of **agroecology** in a public political statement,⁴⁰⁰ the first in the history of the Belgian Federal Government, adds one more reason to believe that a change has been ongoing vis-a-vis the 2017 position and that all the actors of the Belgian Development and Cooperation should

³⁹⁸ DGD, Note Strategique 2017.

³⁹⁹ For further info, see Van Haute, A., 2020, Accord de gouvernement : des engagements à concrétiser en matière de coopération au développement, CNDC/11.11.11, 20 October, available from <https://www.cncd.be/accord-gouvernement-vivaldi-engagements-cooperation-developpement>.

⁴⁰⁰ Ghijssels, A. 2021, Agroécologie : la ministre Kitir s'engage, place à la mise en œuvre, CNDC/11.11.11, 3 June, available from <https://www.cncd.be/agroecologie-belgique-la-ministre-Kitir-s-engage>

pay particular attention to those farmers and those food realities that may not be internationally competitive but produce 70-80% of the world food and who, thanks to agroecological production and local distribution, play a central role when it comes to feeding the planet and achieving the Sustainable Development Goals. If this is the regulatory and policy framework, **what is BIO's approach to the agri-food sector and where does it fit with regards to the multiple interpretations of 'agriculture for development' and food security?**

3.2 BIO's dual approach to the agri-food sector

BIO's overall approach to agri-food can be summarized as follows: in a world that needs more food (productivism),⁴⁰¹ BIO is investing at all levels of the value chain (i.e. From seeds to fork) with a specific attention to the companies' potential in terms of job creation, export revenues and economic growth (value adding). Consequently, our analysis shows that BIO directly and indirectly supports the consolidation of (international and local) value chains, both by investing in Small and Medium Size food enterprises that are directly active in the food system (production, transformation, distribution) and by investing in companies that provision financial and material services to small-scale farmers. In most of the documents we analysed and, in our interviews, the attention to agri-food chains is justified by making reference to the central role that **agricultural production plays in the economies of Least Developed Countries**, by highlighting the **pro-poor potential of policies that targets rural population who work in agriculture** and by referring to the link between the **agri-food sector, sustainable development and the end of hunger**.

According to BIO's theory of Change,

“Agriculture and agro-industry are key sectors for growth and poverty reduction in low-income countries (LICs). The agricultural sector still represents 25% of their national value added and accounts for 60% of jobs (2019). It also disproportionately benefits poorest populations who live in rural areas and work in agriculture. In addition to fostering its pro-poor growth potential, the development of the agri-business sector is needed to expand productive capacities. In particular, the increase in agriculture activities is specifically important for low-income countries as it is often associated with economic growth of rural areas, export revenues as well as jobs maintenance and creation. In some cases, it increases the local availability of transformed food products, allowing these countries to face a growing local food demand and reduce their increasing dependency on imported food products. To address these challenges and help the agricultural sector reaching its full potential, it is key to also support an innovative private sector with the capacity to develop and adopt more efficient process and new technologies. There is a strong need to support economically viable and sustainable agriculture production and transfor-

⁴⁰¹ Overall, the need for more production is never challenged, despite the numerous studies that indicate that the food system is in a situation of surplus and mis-allocation of food and resources that would rather need an investment in distribution and consolidation of farmers and workers' livelihoods rather than more food.

mation. Where possible, BIO also seeks to promote fair risk and cost/benefit sharing across the value chain and inclusive deals for smallholders, i.e. through out-grower schemes and contract farming.”⁴⁰²

The centrality of production, joining value chains and achieving food security is also highlighted in the Management Contract, where the Government identified the agricultural sector as one of the Strategic Priorities for investment. In particular, the State-BIO agreement disposes that “through enterprises active **along the agricultural value chain** – BIO would be particularly attentive to ensure the consistency of its approach for the full value chain and to contribute to food security.”⁴⁰³

The **dual focus on productivity and small-scale agricultural entrepreneurship** informs the whole 2019-2023 Revised Investment Strategy. According to the Strategy, BIO’s engagement in the agri-food sector specifically aims to “Promot[ing] rural economic activity and strengthen and expand agricultural and agro-industrial activity in general to feed a growing world population,”⁴⁰⁴ in particular by investing “in export-focused agriculture in view of the items mentioned above under conditions that it does not adversely affect the domestic market” and “Structur[ing] value chains.”⁴⁰⁵

Increase in quantity of production, quality of the food produced or efficiency of the agri-food system are thus the main goals identified in BIO’s investment strategy, with small-scale farmers being part of this process through “**outgrower schemes, contract farming (...) and fair risk and cost/benefit sharing between farmers and the other actors in the value chain.**”⁴⁰⁶ Food security is considered, but mainly as an indirect goal that can be obtained through ‘strengthening employment (supporting and creating jobs)’, stimulating rural economic development and the increase in domestic resource mobilisation (taxes and (gross) salaries paid, local purchases of goods and services, and any other (net) cash transfer from a BIO client to the local economy).

Until 2023, BIO’s investment strategy in the agri-food sector is thus based on:

- Support to aggregators to reach farmers and rural areas. These can be funds (e.g. FairtradeAccess Fund), financial institutions or direct projects (e.g. Babban Gona or Laiterie duBerger);
- Consider (agro) forestry projects with a strong link to local communities;
- Use the code 5 tool to expand the range of possibilities for our investments;
- Expand our prospection capacity through offices in Nairobi and Abidjan;
- Create a close collaboration with AgriFi, Incofin and other specialised players to identify opportunities;⁴⁰⁷

⁴⁰² BIO theory of change

⁴⁰³ Management Contract.

⁴⁰⁴ Bio Strategy.

⁴⁰⁵ Id.

⁴⁰⁶ Id.

⁴⁰⁷ We interpret this recommendation to engage with financial actors as a suggestion that the role of private financial actors should be increased in the agri-food sector. In this sense, ‘opportunity’ of investment means an opportunity to identify more agri-food projects that are appealing to private finance. According to BIO, this may not go to the detriment of local funds and the other actors of the Belgian development framework. In the absence of clear details on the shareholder composition of the companies in

- Create new learning opportunities for our teams through training and exposure in conferences.

At a first sight, at first sight the Theory of Change and the 2019-2023 Investment strategy seem to walk along the same pathway of the 2008 report on *Agriculture for Development* by the World Bank, where it is argued that the increasingly integrated nature of global agricultural chains is such that it is **only large farms or smallholder outgrowers who are hooked into large agribusiness nuclei who can compete and meet the kinds of standards required for successful export.**⁴⁰⁸ In the World Bank's document, a 'dualistic' and parallel track to agri-food development is thus envisaged according to which large-scale, export-oriented and mechanized farms are financially supported along with those smaller-scale forms of production that are financially and logistically feasible and that can persist through their direct connection with global value chains. On the contrary, local food autonomy and resilience to food shocks such as an "increase the local availability of transformed food products" is only an opportunity to be achieved "in some cases,"⁴⁰⁹ but not the main driver. The similarity does not imply a direct connection: no reference to the WB documents is explicitly made by BIO in the documentation that we have analysed, and BIO investment strategy does not include a direct connection with global value chains as a constraint or requirement. However, the study of the investment strategy and the investment portfolio suggests some similarities between the WB dualistic focus and BIO's interest in integrating production in the South with global value chains and investing in small-holder farms that are financially and logistically feasible, that is are low hanging fruits vis-à-vis the majority of smallholders with very limited access to land, means of production and markets. Even when local production is not integrated in transnational chains, like the case of Babban Gona discussed below and in the Annex, it appears that farmers are linked with global chains by means of the inputs (hybrid seeds and fertilizers) that they are provided by the scheme.

3.3 The 2017 Agri-Task Force and the future of Agri-Food Investments

In several exchanges that we had about agri-food investments, BIO mentioned the work of the 2017 Task-Force as a term of reference. The Task-Force, whose interactions and final report to the Board was marked as confidential, produced a set of recommendations whose titles (but not the detailed content and reasonings) are reported in the Revised Investment Strategy. These recommendations give a sense of where BIO's approach to the agri-food sector may be going in the future, but also the possibility to assess whether BIO is implementing them and following the advice received few years ago. Overall, the Task Force's recommendation stress the unique nature of agri-food projects, the risks behind direct investments and the importance of pursuing interventions that are high-risk, low-return and high impact.

which BIO invests through PEFs or along with private finance, it is our intention to highlight the risk of competition between global financial capital and local capital, and the way in which BIO's strategy in agri-food focuses on partnering with private investors and does not mention the possible synergies with the rest of the Belgian development and cooperation framework.

⁴⁰⁸ World Bank, *Agriculture for Development*: (World Bank 2008) INSERT LINK, PARA OR PAGE.

⁴⁰⁹ Ibid.

For what concerns direct agricultural investments, the Task Force seems to be stressing the risk that they pose both to the environment and to the existing farming texture. In its recommendations, it invited BIO to “take the farmers’ perspective during due diligence and implement a close qualitative monitoring”, to “prioritise ESG requirements for direct investments with strong developmental perspective” and, in the case of agro-forestry projects (see box 3.1 below), to consider them on a case by case basis (an invitation that we could also extend to large-scale agricultural projects).

Box 3.1: BIO’s investments in Agro-forestry

Agro-forestry as the production of trees (for paper, reforestation, carbon credits, bioenergy, etc) is a sector that local communities and civil society organisations have been looking with scepticism given the risks that it poses to land rights, use of water, biodiversity and the contribution to climate change. The Agri-task force suggested that BIO considers these projects on a case by case basis. At the moment, BIO is indirectly invested in four companies that develop agro-forestry and forestry projects: Mphome (730k, via Africa Sustainable Forestry Fund II) and Vuka Timbers (133k, via Africa Sustainable Forestry Fund II) are active in the sector of eucalyptus production in South Africa; Reef Hout (55k, through Afrinvest), the Cameroonian subsidiary of the Dutch-based Reef Hout Group is specialized in the “exploitation, production and distribution of FSC timber in Cameroon;”⁴¹⁰ BAFCO Invest AB (466k, through Cambodia Laos Myanmar Development Fund II) is a 95% Swedish-5% Cambodian “plantation and wood products manufacturing company, with its own sawmill, processing facilities and plantations. Burapha is the oldest foreign direct investment company in Laos” that in 2011 was acquired by Silvicapital⁴¹¹ and currently owns 8,400ha of land.⁴¹²

BIO’s investments in agro-forestry are guided by: the IFC Relevant Policies and, in particular, the IFC Sectoral EHS Guidelines for Forestry (Board and Particle-based Products (2007); Forest Harvesting Operations (2007); Pulp and Paper Mills (2007); Sawmilling and Wood-based Products (2007). Beyond that, BIO does not require companies to obtain specific certifications. However, for “each of a fund’s portfolio investments that is forestry dedicated, BIO will strive to ensure that the principles and criteria of the Forest Stewardship Council (FSC) are adhered to and that the fund assesses its potential investees during due diligence against these principles and seeks to obtain and maintain FSC-certification.

Although the Task Force concluded that BIO shall continue to invest directly into agriculture, it also recommends to **“increase the volume of indirect investments, both on PE Funds and FIs, MFIs with specific focus on agriculture and agribusiness.”**⁴¹³ This is justified, we believe, by the fact that BIO has a limited in-house capacity on the agri-food sector (as mentioned by the Task Force itself) and the assumption that intermediaries can help Belgian development money to be better invested because they can provide access to smaller players that the one BIO would directly invest in and have better access to all the information that is required when choosing

⁴¹⁰ The Reef Hout Group is an international player in the wood manufacturing with headquarters in Goor. Over 1800 people in Holland, Cameroon, Brasil and Guyana are working every day to deliver a high quality timber product for our customers. See here: <https://www.reggehout.nl/>.

⁴¹¹ For more info, see here: <http://silvipar.com/about.html>.

⁴¹² For more info, see here: <http://www.buraphawood.com/about-us/company>.

⁴¹³ Strategic Investment Note.

the investments. As in other sectors, given the absence of a larger scope for Code 5 funding and the structural limitations of BIO, an increase in intermediate participation in the agri-food system is presented as desirable, although in combination with direct investments. A higher percentage of intermediated investments raises the issues of high-level remuneration (10 to 15% annual) and limited transparency that we have presented in Section 2.d above and that we also discuss across this report with the use of some concrete examples. In addition, although the fact that each intermediary is invested in multiple companies increases the distribution of funds and the number of beneficiaries, it also leads to the significant expansion of BIO's portfolio, both in terms of geographies and sectors. A condition that increases the burden in terms of assessing, overseeing and guaranteeing compliance with the human rights and development goals of BIO.

Another level of recommendations raised by the Task Force concerned the identification of **investments that guarantee the direct participation of small-scale farmers in chains with high levels of added value**, with one point mentioning the need to further look for “aggregation points” to reinforce smallholders’ inclusiveness as well as external support for risk mitigation. Another recommendation suggests that BIO should invest in companies that enhance agriculture value chains and their actors’ functioning, and a third one that BIO shall make an “Enhanced use of the MSME Support Fund to support agro-industry projects including a strong focus on small-holder empowerment.” In line with the idea of ‘contract farming’ and ‘out-growing schemes’ (box 3.2), it was suggested that **BIO shall consider investing in value chains that do not affect access to land and the existing texture of the agricultural sector, looking rather into higher end crops and markets.**

Box 3.2 Contract Farming and outgrowing schemes

Contract farming and outgrowing schemes are vertical relationships in the food chains based on the adoption of institutional arrangement (contracts) under which an agribusiness firm (often a trader or a processor) contracts the production of agricultural commodities out to farmers.⁴¹⁴ This kind of chain relationship is often identified by mainstream food and development theories as an opportunity to address market failure (i.e. access to market) and to share the risk between different players who operate across the value chain. The trend towards contract farming is particularly evident in sub-Saharan Africa (SSA) where recent estimates suggest that about 5% of smallholder farmers are involved in contract farming arrangements and the number is increasing.⁴¹⁵

Contract farming and outgrowing schemes are often used to promote the adoption of new technologies, to enhance productivity by technical assistance, and to favour access to credit/debt by farmers. Rather than relying on the intervention of third parties (e.g. seeds providers, banks, etc.) contract farming arrangements are such that these services are provided by the same company that is eventually buying the harvest. Contract farming perfectly fits in BIO's vision of investing in food system by enhancing the activities of ‘aggregation points’, i.e. ‘middlemen’ that operate between the land and the ‘value adding’ phase of the chain, but that can also distribute credit and

⁴¹⁴ Bellemare, M.F., and L. Novak. 2017. Contract farming and food security. *American Journal of Agricultural Economics* 99, no. 2: 357–78.

⁴¹⁵ Reardon, T., T. Awokuse, S. Haggblade, T. Kapuya, S. Liverpool-Tasie, F. Meyer, B. Minten, et al. 2019. The quiet revolution and emerging modern revolution in agri-food processing in Sub-Saharan Africa. Alliance for a Green Revolution in Africa, Nairobi, Kenya.

increase use of new technologies. Given the diffusion of contract farming, and the number of critiques that have been raised, there is an increasing amount of scholarship that engages with CF schemes beyond the premises of productivity and integration with the market and that questions the socio-economic impact of these arrangements and their pro-poor potential.⁴¹⁶

Recognizing the existing limits of BIO's approach, the 2017 Task Force also recommended that BIO should "invest more in local currency, also through an external guarantee," that it shall increase its impact "with new financing instruments and/or an external guarantee" and that it shall "review the MSME SF scope to support PE equity funds with high risk, low return but expected high impact."⁴¹⁷ Rather than focusing on contract farming and out-growing schemes, these recommendations seem to suggest that BIO **shall support small enterprises that are locally rooted and that may have a less reliable financial profile**, maybe without providing direct capital (in the form of equity or debt) but guarantees and less rewarding indirect investments that can help these players accessing local finance and developing local and high impact activities. In all cases, BIO Law, the Management Contract and the broader Belgian development framework emphasise that BIO's investments must be aimed at increasing food security. What BIO means with 'food security' is the object of the next section.

3.4 Food Security as a Goal: What and For Whom?

When we think about the vision of food and agriculture that BIO is promoting, we must reflect on the **idea of food security that it is pursuing**. Is food security about availability, accessibility, stability, and adequacy, as mentioned by the 1996 FAO definition? Or is it about something else? We asked this specific question during our interviews and were told that, for BIO:

"Food security is not only about the food that you produce for the rural population. It's also about creating local jobs security. This happened in Feronia – it provides around 5000 permanent jobs, and a few thousand casual jobs. That's also how you create security around. If Feronia stops working tomorrow, there's a major pressure on the local population, especially in a region where some women have 15 children. There's a huge demographic pressure. [...] Because our goal is not only the food security, there are others, like: industrialisation, local job creation, ensuring tax are being paid by the companies, bringing your client to E&S standards etc. There are plenty of effects. We should not reduce the discussion to food security; otherwise, we will not have a discussion."⁴¹⁸

In another communication with BIO, we were informed that food security is not about "food autarky," but about "the **optimal combination of local production and import**, both in terms of sustainable and successful domestic agriculture and of access to adequate food."⁴¹⁹ What is

⁴¹⁶ Catherine Ragasa et alr, 'Limitations of Contract Farming as a Pro-Poor Strategy: The Case of Maize Outgrower Schemes in Upper West Ghana' (*World Development* 102 February 2018): 30–56, <https://doi.org/10.1016/j.worlddev.2017.09.008>.

⁴¹⁷ Investment Strategy

⁴¹⁸ 2nd thematic interview.

⁴¹⁹ Email BIO 16/04/2021.

“optimal combination,” to what extent other goals that are not food security can be prioritized over it and how BIO’s investment work in that direction are the issues that we have been engaging with during our research. In particular, by trying to embed these topics in the broader food system in which BIO is investing and that it is supporting. We have also used case studies, academic literature, and the work of the UN Special Rapporteurs on the Right to Food to better frame BIO’s position in ongoing debates and propose arguments for reflection.⁴²⁰

The public documents that we were given access to and the interactions that we had on specific investments (see Annex III) made us conclude that BIO’s **“optimal combination” for food security is one built around individual income** (if there is an income there is no food insecurity) and **increase in productivity** (if there is more food produced or imported in one country, therefore there is going to be more availability and less food insecurity). In addition, it’s a combination that **seldom (if ever) considers the nutritional aspect of food security** nor the effective experiences of food and nutrition insecurity.

Far from being neutral, **this approach to food security has material consequences**: it justifies **large-scale production** for export (see the case of SCL case study), it **privileges farmers who produce cash crops** (see Fair Trade Access Fund and DeHaat case studies), it invests in large-scale production for local consumption **without systemically addressing the actual impact on workers and communities’ food security** (as in the case of Feronia) and it also normalizes indirect investments in companies that are purely export-oriented, that are importing cheap products from third countries and distributing them through large-scale discounts, or that are investing in fast food and unhealthy eating habits. As such, the focus on productivity and income does not appear to be adequately supported by a clear analysis of the actual patterns of consumption and effective implications of the agri-food investments, being thus **oblivious of the interdependence between food security and nutritional security** that are highlighted in both the 2011 and 2017 Strategic Notes published by the DGD.

It is important to assess BIO’s agri-food investments having in mind that **other forms of interpreting and assessing food security exist and should be taken into consideration**. These are models where availability, accessibility, nutritious consumption, and stability of the dietary pattern are not deduced from the fact that individual income is growing, that more food is produced in the country or that food stuff are cheaper. For example, for several years the **FAO has promoted ‘The Food Insecurity Experience Scale’ (FIES) as a qualitative approach to food and nutrition security** that brings to light the actual experience of people and their effective capacity to satisfy their nutritional needs and their right to food.⁴²¹ This qualitative and quantitative method of assessment has been used for several years and is one of the pillars of the FAO’s annual State of Food Insecurity report (SOFI), and reveals that the experience of food insecurity is much more diffused than a mere quantitative assessment (e.g. increase in income, availability of calories or national availability of food) would indicate.

⁴²⁰ For example, the first report by the current UN Special Rapporteur on the Right to Food, Professor Michael Fakhri, identifies autarky as a guiding principle for governments, people, and institutions. See Michael Fakhri, *The right to food in the context of international trade law and policy*, A/75/219, 22 July 2020.

⁴²¹ According to the FAO: “This indicator provides internationally-comparable estimates of the proportion of the population facing moderate or severe difficulties in accessing food. The Food Insecurity Experience Scale (FIES) produces a measure of the severity of food insecurity experienced by individuals or households, based on direct interviews. The indicator will measure progress towards SDG Target 2.1.”

3.5 Agri-Food as a Pillar: is the Scaffolding Adequate?

Despite the multiple references to agri-food investments as central to BIO's objectives, and despite previous human rights and environmental issues, the sector does not receive the attention that it should. Even if agri-food is a priority, it seems that the surrounding 'scaffolding' of procedures and expertise is inadequate. The example of the 2017 **Agri-Food Task Force** is emblematic. **Rather than a permanent and open space of confrontation and dialogue, the purpose of the Task-Force was limited in time and confidential. Moreover, it mainly gathered inputs and suggestions from actors of the financial sector and had a limited representation of the diversity of actors, geographies and perspectives that are affected by BIO's investments in the agri-food system.** According to the report of one of the participants, no person from the Global South or from local communities impacted by BIO agri-food investments were invited, and only two representatives of Belgian civil society took part in one roundtable, feeling outnumbered and not relevant for the output of the conversation.⁴²²

Moreover, that the 'scaffolding' is not adequate was also highlighted in the Task Force's recommendations, where two points are evidenced: the lack of adequate expertise on agri-food chains and the detachment from the ground. For what concerns the first point, the Task-Force concluded that BIO should "Hire an agriculture investment expert and develop internal expertise."⁴²³ For what concerns the second point, the recommendation is that BIO needs **more local presence and more cooperation with public and private development cooperation actors**, potentially adopting more a role as technical advisor than investor and contributing to the creation of a systemic approach to the development of the agri-food sector in the countries where it operates. In the words of the Task Force, BIO should "Pilot local presence, specifically in Western and/or Eastern Africa," "Increase alignment & complementarities with other development cooperation actors. Business advisory, business development services and technical assistance to increase the pipeline of sustainable agri-projects," and aimed at an "enhanced coordination between private sector development actors and explore the opportunity of a projects pipeline platform/clearinghouse" and that it recommended to "Connect with CSAF and other networks of actors."

We fully agree with the Task-Force that the **adoption of a complex approach to the agri-food system and to investments in this sector requires, first of all, that this expertise and skills are present in BIO.** However, the profile of the organisation's employees is such that it currently lacks the specific and unique know-how of agricultural production, agronomy, food systems and food security. The absence of in-house expertise poses the risk that agri-food investments will continue be analysed, discussed, and assessed without perceiving the unique nature of agri-food systems as a complex interaction between people and planet, but also as the source of nutrients and life. In alternative, it may imply that these investments will be assessed according to the advice of an external expert, linking the final decision about investing public funds to the vision and perspective of someone who is external to the organisation and who will not be involved in the management and assessment of the investment nor is responsible for them. Of course, not all

⁴²² Roundtable with representative of Belgian civil society organisation.

⁴²³ BIO, Investment Strategy.

'agricultural investment experts' are the same and not all agricultural investments are alike (as we are discussing in this report), and the possibility also exists that BIO will be hiring a financial expert who has been actively engaged in the agri-food sector rather than an agri-food person to balance the existing financial expertise in the organisation. Still, it is worth noticing that **BIO still does not have in house ad hoc expertise in this whole sector and that they claim that this expertise is not needed.**

When asked about their own expertise and the Agri-Task Force recommendation, BIO replied that their "team members have been financing agri-projects and companies for more than 10-15 years. We decided not to have an in-house agronomist and to hire specialized consultants to support our diligence of agri-projects. This solution appears preferable to us as it allows to acquire the most relevant expertise in view of the type of project crops, geographies, and agri-processing projects."⁴²⁴ However, BIO's clients who are active in agri-food chain are equally convinced that "**hiring generalists does not work.** When we invest, we need to know how to work with farmers, how to understand whether the entrepreneurs we invest in are building relevant products/services for the farming ecosystem, what it means to do sustainable agriculture, how to process products, how to facilitate market linkages."⁴²⁵ Agriculture and food are key areas of BIO's portfolio and activities, and sectors characterized by great potential and strong tensions. However, despite the Task Force report of 2017, BIO has continued relying on general internal expertise and external private consultants.

In the analysis of the portfolio presented below, and in the case studies discussed in Annex III, we consider BIO's direct and indirect investments from the two questions of:

- **'what agri-food system is BIO supporting?' and**
- **'which food and nutrition security is BIO helping strengthening'?**

With the use of specific examples, we show BIO's relevant commitment to the sector and desire to make a difference, but also highlight the incongruence and potential risks that derive from the presence of some structural limits and the adoption of a theory of change for the agri-food system that excessively relies on the idea of the entrepreneurial farmer, the trickle-down effect of financial performance, and an a-critical approach towards digitalization and agri-tech innovation.

⁴²⁴ Email BIO 16/04/2021.

⁴²⁵ Interview with Omnivore Fund.

3.6. BIO's Agribusiness Portfolio: direct, Private Equity Funds, Financial and Micro Finance Institutions

According to BIO, around 75% of the projects screened in 2019 and 2020 (project pipeline) were in the agricultural and food sector. Of course, not all of them are financed. This has to do with the risk profile, the financial sustainability, or E&S considerations.⁴²⁶ When projects are accepted, there are **three main ways for BIO to invest in agri-food chains**: direct investments (mainly loans to Small and Medium Size enterprises); indirect investments through Funds (mainly Private Equity Funds); indirect investments through Micro-Finance Institutions (MFIs). The scope of our research was limited to the first two areas (direct investments and Private Equity Funds), but few considerations on MFIs will be raised towards the end of this section.

With regard to 'direct investments' (i.e. loans), our elaboration of the 2019 BIO Portfolio shows that 'agribusiness' represented the largest segment of the 2019 outstanding portfolio. If we look at the direct investments in Small and Medium Enterprises (SMEs) that BIO categorized under 'agribusiness' at the end of 2019, the sum of €37,337,082 represented the net commitment⁴²⁷ to **17 agribusiness enterprises operating in 13 countries in Sub Saharan Africa, Latin America and Asia**. This sum represented the **67,55% of BIO's net commitment to SMEs in 2019**. Such percentage would be even higher if we were to consider as an agribusiness investment also the sum of €8,264,00 that is still outstanding from an original 11,3m loan that BIO issued in favour of **Indorama Eleme Fertilizer & Chemical (IEFC)**, a Nigerian group of companies, for the construction and operation of a 1.4 M MTPA Nitrogenous Fertilizer Complex, a greenfield project which is the world's largest single train Urea – Fertilizer plant (see box 3.16 below).⁴²⁸ Despite the close link with the agri-food system, this investment is not categorized by BIO as agribusiness but as Oil, Gas, Mining & Chemical.⁴²⁹ If we consider IEFC, the total amount still directly committed to the agri-food system in 2019 was approximately 45,600,000 Euro, i.e. 82% of the total 2019 direct net commitment to Small and Medium enterprises. In chart 3.1 below, we thus leave the IEFC investment on a side.

Client	Type	Kind	Where	Country	Sector	Sub-Sector	Outstanding
Avi Niger	Loan	Code 8	Africa	Niger	Agribusiness	Chicken eggs	2.450.000
Babban Gona	Loan	Code 8	Africa	Nigeria	Agribusiness	Cassava	1.780.308
Banh Vang	Loan	Code 8	Asia	Viet Nam	Agribusiness	Agroindustry	1.964.286
Biotropical	Loan	SME Fund (SME)	Africa	Cameroon	Agribusiness	Fruits	340.000
Comptoir de Distribution de Produits Agro-alimentaires	Loan	SME Fund (SME)	Africa	Benin	Agribusiness	Chicken eggs	1.905.983

⁴²⁶ Second thematic meeting.

⁴²⁷ Net commitment does not mean that all funds have been disbursed. At the same time, it does not mean that it represents the original investment, as equities change of value, loans are repaid and currencies fluctuate.

⁴²⁸ There is incongruence with figures, as BIO webpage reports €15M loan but also €11,3M. See <https://www.bio-invest.be/en/investments/indorama-eleme-fertilizer-chemicals-ltd>.

⁴²⁹ The outstanding part of this investment is Euro 8,998,263 as part of the loan has been repaid.

Dornod Shim Agro	Loan	SME Fund (SME)	Asia	Mongolia	Agribusiness	Agroindustry	921.278
Emprede	Loan	SME Fund (SME)	LAC	Ecuador	Agribusiness	Fish processing	333.333
Industria de Alimentos del Oro	Loan	Code 8	LAC	Ecuador	Agribusiness	Aromatic herbs	824.390
JTF Madagascar	Loan	Code 8	Africa	Madagascar	Agribusiness	Agroindustry	3.750.000
KF Bioplants	Loan	Code 8	Asia	India	Agribusiness	Farm products (seeds, fertilizers,...)	1.260.000
Laiterie du Berger FOI 2	Loan	Code 8	Africa	Senegal	Agribusiness	Milk	2.350.000
Niche Cocoa Industry	Loan	Code 8	Africa	Ghana	Agribusiness	Cocoa processing	2.411.877
Plantations et Huileries du Congo (PHC)	Loan	Code 8	Africa	Congo, DR	Agribusiness	Palm oil	9.749.391
Puratos Grand Place Vietnam	Loan	Code 8	Asia	Viet Nam	Agribusiness	Cocoa processing	1.264.223
Rubaya - Nyabihu Tea Company FOI	Loan	Code 8	Africa	Rwanda	Agribusiness	Tea	2.602.014
SCL FOI II	Loan	Code 8	Africa	Senegal	Agribusiness	Sweet corn	3.280.000
Société de Distribution de Matériel Avicole FOI	Loan	Code 8	Africa	Senegal	Agribusiness	Mill	150.000
						Total Outstanding 2019	37.337.082
Indorama Eleme Fertilizer & Chemicals	Loan	Code 8	Africa	Nigeria	Gas & Chemicals	Petrochemicals	8.270.331
						Total Outstanding 2019	45.607.414

Table3.1: 2019 breakup of outstanding direct investments in agribusiness SMEs (Source: BIO Public Portfolio)

The lower amount (37,3m) would account to 4,31 % of the total net approved commitment for 2019. If we also consider the investment in Indorama, the figure would raise to €45,6m and represent 5,27% of the 2019 net approved commitment. In terms of the point of the food chain where BIO invests, this is not immediately visible: BIO only uses the term 'agribusiness' and provides some details in the webpage. Moreover, the annual breakdown indicates the 'sub sector' in which the investees are operating (e.g. agroindustry, cocoa processing, palm oil, etc.) but not a clear categorization. As such, the information contained online, and the simplified definitions provided in the annual breakdown of the investments only reveal part of the complexity of the projects and the link between individual projects and the broader food system.

Moreover, most of the relevant information (in terms of due diligence, Environmental and Social assessment, conditionalities and objectives) were labelled as confidential and therefore not sharable. We thus had to **look for other sources of information, analyse the online pages and collect information with interviews realised with academics and civil society organisations**

active on the ground. Then, we could construct a clearer picture of some of the most relevant direct investments and that we were able to elaborate the analysis that follows. We have divided the investments in four categories: 3.4 Connecting Small-holders to Value Chains; 3.5 Agri-business: Agri-industry (3.5.1) and plantations (3.5.2); 3.6 Agricultural inputs, digitalization, processing and trading; 3.7 Confectioning, Retail and Consumption.

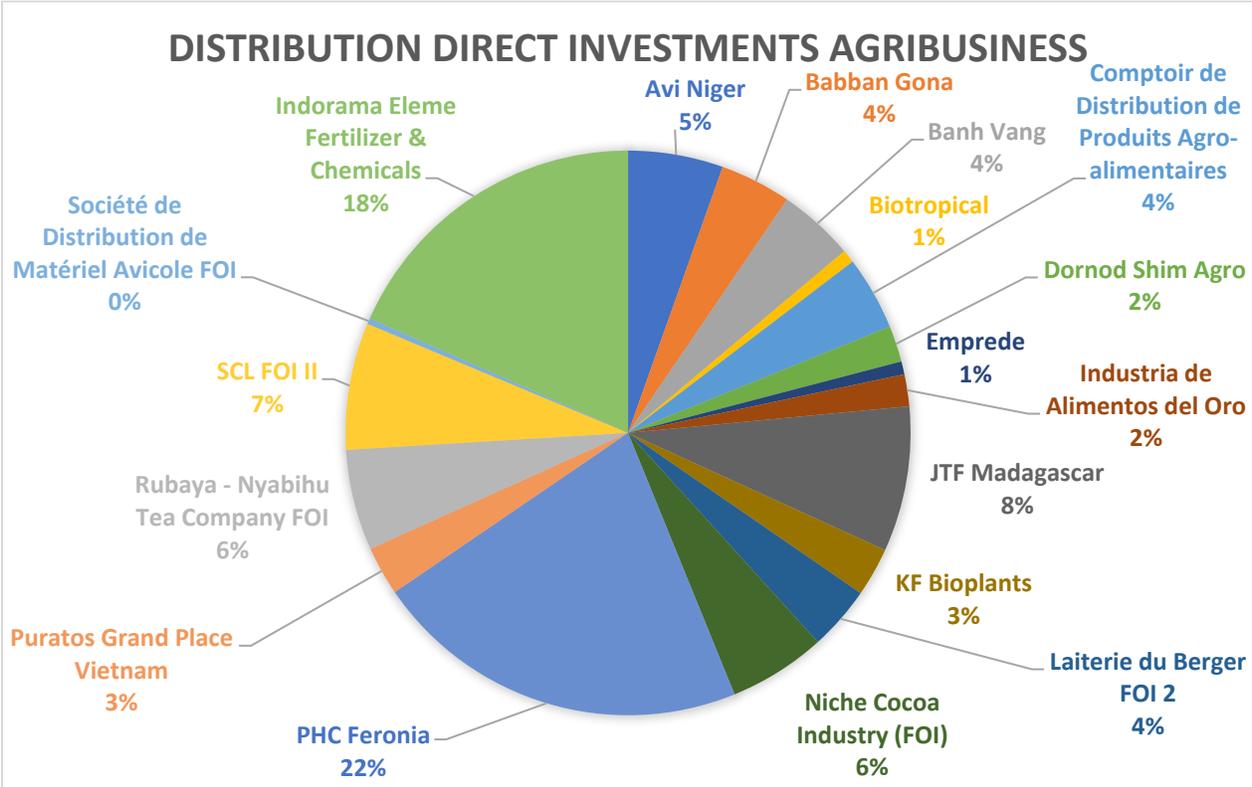


Chart 3.2 Distribution of Direct Investments in Agribusiness (elaborated from BIO)

In terms of weight of the individual investments, chart 3.2 above clearly shows the **predominance of the two loans provided to Feronia PHC and Indorama Fertilizer**, which accounted for 40% of BIO’s outstanding investments in the agribusiness sector at the end of 2019. If we were to assess how the investments distribute along the food chains and cluster them according to the four categories utilized in this report (small-scale farmers schemes, agri-business and plantations, services to agriculture and trade, distribution and retail) the scenario is that of a **significant investment in plantations**, i.e. systems of production where the **land is not owned by the farmers or the workers but by companies that hire (mainly temporary and daily) workers**. The second largest share is that of inputs (seeds and plants), while the third largest is represented by agri-food production as both large-scale agri-industry (JTF Madagascar and Darnod Shim Agro) and eggs and poultry production (AviNiger).

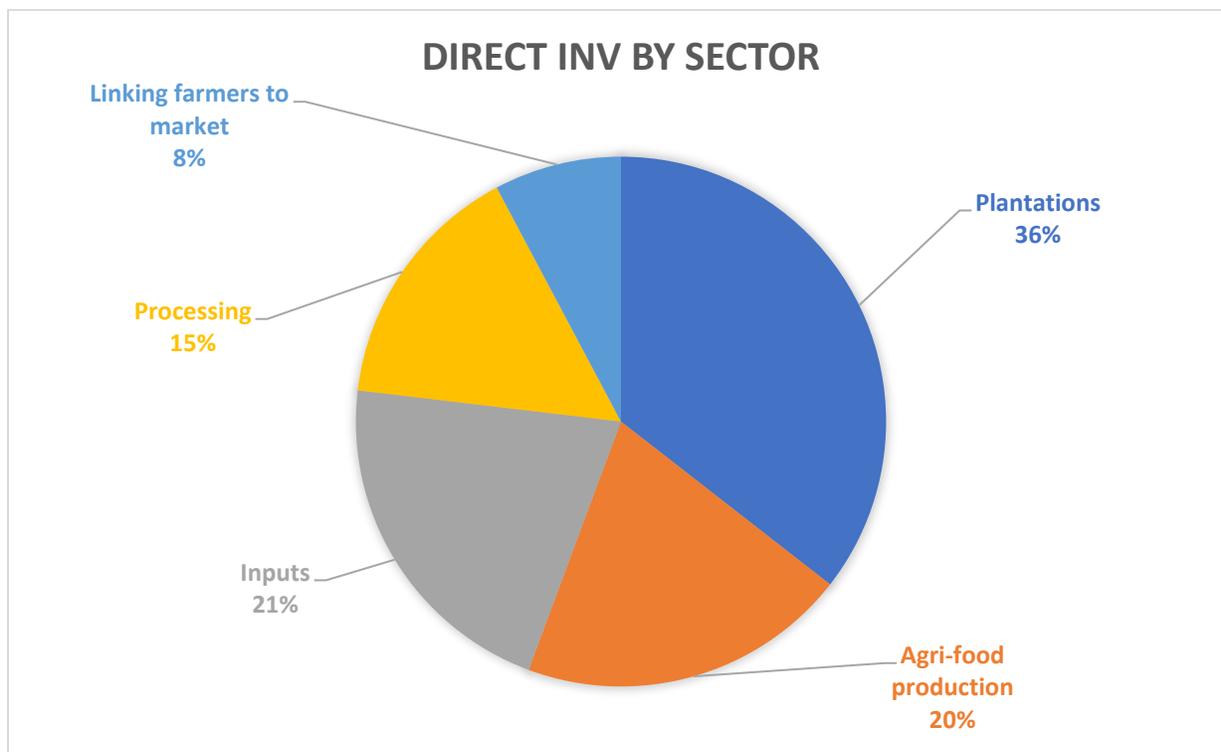


Chart 3.3 Agri-food Direct Investments by Sector (elaborated from BIO)

Along with direct investments, BIO invests in agri-food via **financial intermediaries** (See Table 2.1 in Annex II). At the end of 2019 **BIO was investing in 5 specialized agri-funds. However, if we consider the final investment (i.e. the companies that indirectly receive public Belgian development money) we identify other 15 generalist funds** (mainly Private Equity Funds and Debt Funds) **that target companies operating in the agri-food system.** Since 2021, BIO also invests in the specialized agri fund Phatisa II, bringing the total to 21.⁴³⁰

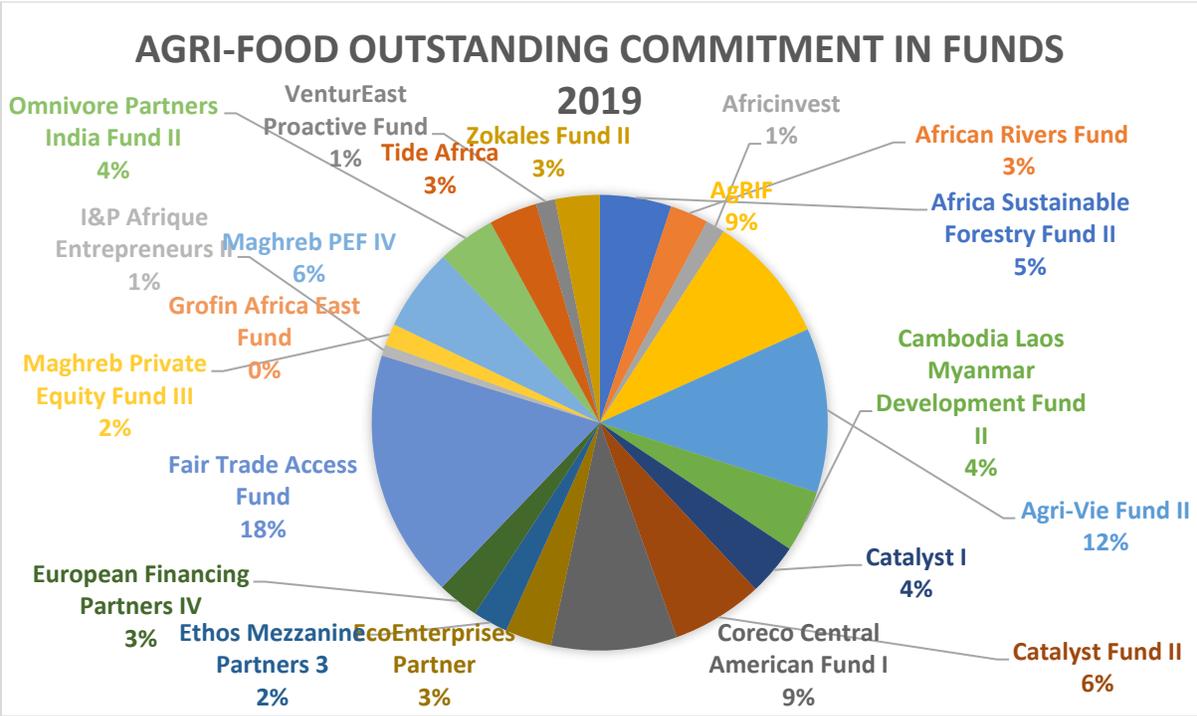
Both in the case of generalist and specialized funds, we compared public information with the 2019 Portfolio that we received from DGD. **BIO's website was not always reporting all investments that were indicated in the Portfolio.** According to BIO, this is because the website is updated only six months, still a pretty long time to add the name and a brief description of a company that receives millions of Belgian development money. **Online, BIO does not report the amount that each company receives from the funds.** Unless specific information is sought, the broad public cannot have a snapshot of the existing state of the private equity portfolio. Some of the investees are indicated as microfinance institutions, but a quick research online shows that they are cooperatives and/or traders (e.g. Cocosource and Coagricsal): it was thus hard to clearly detail the boundaries of the agri-food investments, and BIO decided not to confirm or amend the data that was elaborated from their Portfolio.

Our research brought to light that at the end of 2019 the 20 funds were invested in **at least 81 'clients' operating in the food system.** 81 companies that indirectly received Belgian ODA for a

⁴³⁰ We have added the two investments realised by Phatisa II to the chart in the annex. However, we have no information on the sums that have been committed to the specific companies that Phatisa II has invested in (Rolf Group and FES).

total of 15,172,282 Euro (see chart 3.3 below).⁴³¹ Of these recipients, 19 are investments realized by the Fair Trade Access Fund. The outstanding indirect investment in agriculture would increase **BIO's overall investments into agribusiness** (without considering the indirect investment in Indorama EFC) **to Euro 52,509,364**, i.e. around **6% of the overall 2019 portfolio of committed investments**.⁴³² Of this 52m, 29% is invested through Private Equity and Debt Funds. The total amount of agri-food companies receiving funds from BIO (directly or indirectly through PEFs and Debt Funds) is thus of at least 99.

In terms of recipients of the funds, Agri-Vie Fund II, with 16%, and Africa Sustainable Forestry Fund II, with 11%, represent almost one third of the PEF's investments in agribusiness. When it comes to the sub-sectors that are financed through indirect investments, in the chart below we use the categorization that is provided by BIO, although we believe (as we discuss below) that this it would be important to rethink it and make sure that investments are not excessively fragmented. For example, Forestry and Environmental Services are kept separated from Timber although BAFCO Invest AB is a "plantation and wood products manufacturing company" so it shall not be separated from Timber. Similarly, aquaculture is separate from agribusiness and the same is for flowers, milk, and cashew. Using BIO's sub-categories, the panorama of indirect investments appears very fragmented. For this reason, in our analysis we group them into the four analytical categories discussed before and show a prevalence of agribusiness (agri-industry and plantations) and of processing and distribution as the final moments of the agri-food chain.



⁴³¹ If we also consider the Euro 452,579 that European Financing Partners IV invests in Indorama Eleme Fertilizer & Chemicals, and the Euro 694,506 that Coreco invest in Tegu, a company that is specialised in wooden toys and thus is linked with the agro-forestry sector. In addition, the 2019 Portfolio mentions 19 beneficiaries of the Fair Trade Access Fund, however, it is not clear exactly which of these investees received the Euro 3,000,000 of equity invested by BIO.

⁴³² The sum and percentage would be lower if we were not considering Indorama and Tegu as agribusiness companies.

Chart 3.4: Outstanding value of investments in Agribusiness via PEFs and PDFs (elaborated from BIO)⁴³³

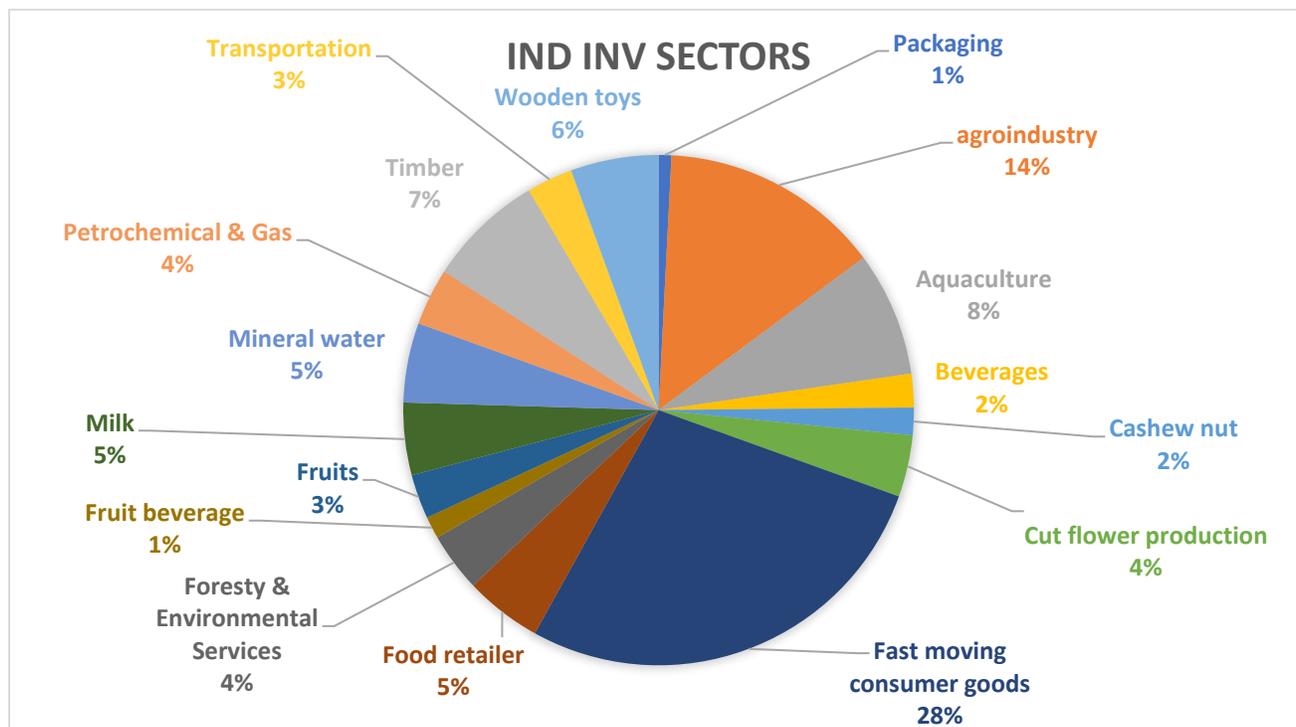


Chart 3.5 Agribusiness Investments via Fund divided by Sector (elaborated from BIO)

Along with direct and indirect investments, BIO also intervenes in the agri-food chain through loans that it provides to **Micro Financing Institutions and other financial institutions** (i.e. banks). By looking at the status of the 2019 portfolio, we know that in 2019 BIO had then €286,154,792 of outstanding commitment to financial institutions, €88,665,082 Euro of which invested in Micro Financing institutions, both through equity and loans. Investments in these financial actors are not categorized by the sub-sector in which the money is spent. Although we assume that some financial institutions are providing credit to the agri-food chain and although we know that some of the MFIs are also providing loans and financial services to actors of the agricultural sector (e.g. Financiera FDL in Nicaragua, FINCA Malawi, VisionFund Myanmar Co, Banco Visionfund Ecuador, the Acep Group – of which BIO is a co-founder-, and AgRIF Coöperatief), **the public information provided by BIO is not enough to offer a clear picture of what percentage of this sum is flowing into the agri-food sector.** It is impossible to know who is receiving loans from these financial institutions (MFIs and banks alike) and what is the final developmental impact that this money has. **From our interviews it also emerged that BIO itself does not have all the information that is needed in order to provide a detailed account of the impact of these funds.**

⁴³³ It is noteworthy that the percentage is calculated on the basis of the outstanding amount in 2019 and not on the total amount of funds that the fund received. Funds may have repaid part of the investment received or not invested what they had received. Other funds may have been receiving funds after December 2019. For example, Omnivore Fund in the 2019 Report only accounted for 670k €. According to BIO's official webpage, however, BIO invested €4,367 million euro in Omnivore. Moreover, BIO's official webpage does not report the amount of equity or debt that each company receives out of the total amount that BIO is investing, and the list of investees is updated only every 6 months.

Now that we have depicted the overall picture, in the next Sections we follow BIO's investments from farm to fork. As already discussed, we decided **not to analyse direct and indirect investments separately, but to follow the food chain from farm to fork and organise the investments according to the 'ring' of the agri-food chain where they are occurring and the kind of food system that they support.** This choice has been done because we believe, as BIO does, that direct and indirect investments – although different in size and modalities – are just two different ways of achieving the same goals and invest public funds. We have identified **four sub-categories** of agri-food investments:

- a. **support to small-scale farming,**
- b. **agribusiness (agro-industry and plantations),**
- c. **services to agriculture (agricultural inputs and logistic),**
- d. **transformation, distribution, and consumption.**

For each of these sectors, we reflect on the rationale behind BIO's investments and their development and food security potential. With the use of specific case studies, for which we have collected qualitative information and a wider amount of information than what is available on BIO's website, we also point at some criticalities and opportunities for improvement.

3.7 Support to small-scale farmers through intermediary companies: credit and linking to (mainly global) value chains

We have mentioned above that BIO's approach to agribusiness is characterized by a dichotomy, with one of the prongs being represented by the provision of loans and equity to companies and funds that provide support to small-scale farmers who have the potential to become entrepreneurs and/or join food value chains. Although we are aware that most of the direct support to small-scale farmers is realised through Micro-Financing Institutions, the lack of detailed information did not allow us to obtain a clear idea of the weight and impact of this kind support. We thus limited our analysis to the direct investments and the investments realised through Private Equity Funds and Debt Funds. In none of these investments farmers or farmers' organisations are BIO's clients. However, some of the investments support companies that buy from farmers and/or provide them with services.

Across the 97 agri-food actors who directly or indirectly received funds from BIO in 2019, we consider **that the following investments fall in this category:** the direct investments in **Babban Gona in Nigeria** (1,78m Euro, code 8) and **La Laiterie du Berger** (3.2m Euro, code 8), the indirect investment in the **Fair Trade Access Fund** (3m Euro, code 5, Latam and Sub Saharan Africa), two indirect investments realised by the **Omnivore Partners India Fund II** (DeHaat, 130k, and Bijak, 37k, code 8), the indirect investment in the company **Twiga Foods** in Kenya (570k, code 8) and two investments realised by Agri-Vie Fund II (**Capital Fisheries**, 364k, and **Frostan**, 117k). Although different, these projects are characterized by one or more of these purposes:

- Increasing farmers' **productivity** by reducing costs of inputs, supporting the adoption of more efficient technologies, pre-financing the purchase of inputs, etc.;
- Leveraging the **economy of scale** and reducing costs of production;
- Creating **new markets** by means of digital technologies or logistic;
- Establish **outgrower schemes** (this is the case of Frostan, which procures from outgrower farmers located around Dar es Salaam);
- **Integrate farmers into existing value chains**, whether local or international, including chains for certified products.

Differently from the 'plantation' projects discussed below, **these investments do not directly target clients that produce food, but rather intermediary companies that provide small-scale farmers with financial or different forms of technical support** (seeds, technical assistance, logistic, training) **and/or that buy from small-scale farmers**. In the case of Babban Gona, BIO's client directly interact with small-scale farmers who become their **franchisees and receives loans** and different forms of material and technical support from the company (see Example 1, Annex 3) and the Alliance for a Green Revolution in Africa (AGRA) (see box 3.8 below). Similarly, "Capital Fisheries procures from local farmers across the country (fish & chickens – recently-). The company has trained farmers to assist them to improve quality, efficiency and their income, but there is no guarantee that their revenues match a living wage. Frostan procures chickens from outgrower farmers located around Dar es Salaam."⁴³⁴

In Senegal, La Laiterie du Berger (LdB) is buying milk from 800 semi-nomadic livestock herders living along the Senegal river and then transforms it in the LdB's factory in Richard Toll (North of Senegal) and then sells it on the local market, mostly in Dakar (see box 3.4 below). In Madagascar, Soafiary (invested through I&P Investisseurs and Partners) has established a system of contract farming with farmers that receive inputs and access to 4,100 Ha of land that does not belong to them but to the Diocese of the Vakinankaratra region.⁴³⁵ In the sector of cocoa, **Puratos Grande Place Vietnam** (Vietnam) and **Niche Cocoa Industry** (Ghana) are two companies that buy raw materials from local smallholders, transform it into an added value product (chocolate) and sell it internationally.

In all the other cases, **BIO's clients establish financial and technical assistance interactions with intermediaries actors (cooperatives, producers organisations, MFIs or small-scale enterprises) that then engage with small-holders whether as service providers (including logistic and loans) or buyers of products**. For example, the Fair Trade Access Fund (FAF) provides financial and technical support to Producers Organisations, SMEs and MFIs in 20 countries in Latin America (12 countries) and Sub Saharan Africa (8 countries). Their investments, which in 2020 accounted to 128m Euro and that amounted to an over 300m Euro since 2012,⁴³⁶ are connected with value chains that involve more than 250,000 smallholder farmers. However, farmers are not the direct recipients of FAF's financing as the loans agreements are concluded with the Producer Organisa-

⁴³⁴ Email exchange with BIO.

⁴³⁵ This is an unusual way of defining contract farming as farmers are not working their own land but are given access to someone else land that is thus put to value and improved. If the financial and agricultural risks stay with the farmers rather than with the company, it appears that the choice of contract farming is a way of reducing costs of production rather than truly empowering local producers.

⁴³⁶ Incofin response to the first draft of the report.

tions (this means that FAF receives data on the premiums received and the payments that are made to the farmers by the client, not by the individual farmer). Similarly, Omnivore Partners India Fund II's investments have reached more than 600,000 smallholders in India: however, these farmers are not directly interacting with the fund but with small-scale enterprises (like DeHaat and Bijak) that Omnivore Fund invested in.

Box 3.4 La Laiterie du Berger – 2,35m, direct investment, Senegal⁴³⁷

The Laiterie du Berger (LdB) is a private company created in Richard-Toll (Senegal River Valley) in 2006. It is based on a system of local milk collection to complement the use of powder milk in the production of dairy products for the local market. Locally, LdB offers a package to herders including “the purchase of milk at a constant price, veterinary support, the provision of feed on credit in the form of cereal-based concentrates and the maintenance of personal links with producers.” In addition, the “economic and social partnership includes subsidies for digging wells and the provision of feed through a cooperative promoted by the LDB on a local social matching basis.” The dairy encourages each group of nearby settlements with shared family or social ties to form a milk collection unit and, differently from other systems in place like one established by Nestlé, LdB collects at home.

The LdB was indicated by BIO as a virtuous example of investment where “the success/achievement of the business plan generates strong developmental impact and E&S management practices/system” and is often indicated as a success story in the reduction of Senegal dependence on import of powder milk and in the empowerment of local herders. Undoubtedly, the €15m of annual revenues generated by LdB in 2019⁴³⁸ represent a financial success, and the company has a significant economic impact on the life of the 600 families that are part of its local procurement system and that receive around €1100 a year for their supply of milk (4,4% of the total annual revenues of LdB).

However, because the LdB is indicated as a success story, we consider that it shall be also critically assessed. Few issues arose during our conversation with BIO and two Senegalese actors (one academic and one member of a civil society organisation) that are worth being shared:

- As mentioned by BIO during our interviews, the fact that the **Senegalese government implemented a revision of the fiscal system** with the aim of significantly lowering the costs of milk production and processing has a significant positive impact on LdB's business. This is also recognized by international analysts. For Bourgoing and colleagues, this regulatory change was one “of the saving measures for the development of the local milk sector in dairy basins such as the LdB.”⁴³⁹ Their statement, which mentions LdB but is applicable to the whole Senegalese dairy sector, demonstrates the need for public and private cooperation in the creation of local alternatives and opportunities. We recognize the importance of the governmental measure to rebalance

⁴³⁷ This case study has been developed with the use of secondary sources and through the realization of two interviews with Senegalese actors (one academic and one member of a local NGO involved in the study of the impact of importing powder milk in the national market). We reached out to the LdB for an interview and asked BIO to facilitate it. But we did not receive any reply. We are aware that a bottom-up empirical collection of qualitative and quantitative data is needed to provide a clearer case. Our aim is, therefore, to spotlight some areas of interest that emerge from the analysis and previous experience of the authors. For info, see Jérémy Bourgoïn et al, *Atlas des dynamiques observées dans le bassin de collecte de la Laiterie du Berger*, CIRAD <http://agritrop.cirad.fr/591173/>

⁴³⁸ See <https://www.vudaf.com/business/senegal-la-laiterie-du-berger-produit-un-revenu-de-15-millions-deuros-par-an/>.

⁴³⁹ Bourgoing et al, n 437.

the unfairness vis-à-vis subsidized European powder milk (among which, potentially, there is also Belgian milk), and we welcome the intervention of the government in the strengthening of local economy and local production. However, we consider this to be an evidence of the necessity to better coordinate development policies across the public and the private sector, and that the market is the product of public interventions and absences that cannot be dismissed.

- secondly, LdB is mainly owned by the transnational dairy corporation Danone (20%),⁴⁴⁰ the Danone Foundation (20%), the Fondation Grameen Crédit Agricole and Crédit Agricole de Franche-Comté. The founder, his family and some management members (28,8% all together). Since 2017, the investment fund Amundi provided a loan.⁴⁴¹ BIO's first loan was provided in 2017 and the second one in 2019. The financial and development additionality of BIO's participation has been raised with BIO and the answer was that: "Considering LdB does not have proper collateral to a commercial bank to secure a loan, BIO is amongst the only route for LdB to secure non-equity funding. Their next location will be closer to the city, so they will have a collateral and so they will be able to take a commercial loan. Providing LTB debt to companies/entrepreneurs such as LdB, represents a strong contribution to economic empowerment of local entrepreneur as it enables them to not have to raise perpetually equity to allow for their growth."⁴⁴²

- the third consideration is that the LdB continues utilizing imported powder milk and only combines it with the milk locally sourced. We are aware that this depends on the lack of sufficient provision of local milk (in particular during the dry season). However, it is important to question the implication of expanding production – and therefore importation of foreign powder milk – rather other forms of supporting the local dairy economy, such as by investing directly in the production of milk to close (as much as possible) the existing gap. Our concern is linked with the ongoing expansion of LdB that was financed by BIO with a 2019 loan. This does not include the establishment of plants for processing local milk into milk powder. In the exchanges with BIO concerning LdB, we were told that "All the fresh milk produced by the local farmers is converted into fresh dairy products by LdB and it should remain a priority. Why add an extra, unnecessary step, turning fresh milk into milk powder, to then turn this powder into dairy products?"⁴⁴³ The dependency on powder milk – and therefore on imported milk - seems to be embedded in the business model of the LdB and the expansion – without ex ante addressing the availability of the raw material – may intensify this situation. In our correspondence, BIO also suggests that "it will likely never be viable for African companies to produce milk powder, as energy and other resources needed for producing milk powder are lots more expensive in Africa."⁴⁴⁴ Financing the expansion of a dairy company before financing the increase of annual production seems so to imply the financing import of powder milk. A choice with trade and development consequences that should be made clearer when presenting the case, we suggest.

- the fourth consideration concerns the need to undertake a socio-economic impact and food security impact of the project. According to BIO, "all milk produced by local farmers is converted

⁴⁴⁰ Danone's revenues in 2018 were \$29.113B.

⁴⁴¹ See <https://www.credit-agricole.com/chaines-d-infos/toutes-les-chaines-d-info-du-groupe-credit-agricole/communiqués-de-presse/amundi-apporte-de-nouveau-son-soutien-a-la-laiterie-du-berger-pour-accroître-sa-production>.

⁴⁴² Second thematic meeting.

⁴⁴³ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO's Response, 30 August 2021.

⁴⁴⁴ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO's Response, 30 August 2021.

into LdB products” and that the litre of milk is paid Euro 0,50, a higher rate than in Europe.⁴⁴⁵ According to BIO’s website, this **generates a €1100 annual income for the herders’ families.** However, the fact that all milk is sold to LdB means that **families are now selling raw milk to a collector rather than transforming products and selling them to the local market.** After our exchanges with local Senegalese actors, we wonder what is the impact that this change has on local consumption and on the generation of income for the herders’ families? For example, Bourgoing et al. indicate that “selling to the dairy deprives women of control over the income from the milk”⁴⁴⁶ and that “involves negotiation within the family collectives about which cow to milk, how much to supply and where to sell the milk, as there may be different views between men and women about where to sell it.”⁴⁴⁷

In our interviews with BIO we pointed out that “[we were] told that [Laiterie du Berger] has a negative gender impact. Basically, because all the milk from those 800 acres is now sold to Laiterie du Berger. [we were] told that the women who used to collect some of this milk and produce other products, are now unable to do that. So they basically lost their income.”⁴⁴⁸ To this, BIO replied that **“I am not aware of this issue. This has never been mentioned to us. We would love to get more info on this to be able to research this. At least from what I’ve seen is that LdB employ women in the processing plant and head office. Women are producing a kind of yoghurt, and they do it without any industrial production means. Also, at the small-farmer. At least in case of the farmer (that I’ve visited), it was women who were in charge and who were doing the job, at least when it comes to milking of the cows (I’m not sure if they are actually the ones receiving income for that).”**⁴⁴⁹ In a follow up exchange, BIO recognized that the business model had created gender issues, and that LdB had intervened. According to BIO “Years ago, when LdB noticed that it was the men who were collecting the income from the milk, a role traditionally reserved for women, it immediately changed its way of working to pro-actively target women. Milk income is now given directly to the women in 49% of the cases. Trainings and workshops are now targeting 100% of the women for the incubation program at the pilot farm of LdB/KSDE. This prepares the herders to acquire a more efficient farming system (a “mini farm”) thanks to a 4-year credit given by a local Agricole bank and a national program called “DER”. More than 80% of these mini farms are owned by women.”⁴⁵⁰

We appreciate the active change in approach by LdB and the extra information that BIO collected and that was shared with us. Given the importance of gender in the developmental vision of BIO (and the Belgian State) and given the centrality of women labour in the milking of cows and transformation of milk into dairy products, we consider it relevant to further investigate whether this was a central element in the definition of the business plan and the E&S commitments of BIO at the time BIO financed the project and whether BIO thoroughly investigated and assess the gender impact of the project and its developmental consequences.⁴⁵¹

⁴⁴⁵ We could not find this element on publicly available documents or online. Thus, we cannot confirm it.

⁴⁴⁶ Bourgoing et al, n 437

⁴⁴⁷ Ibid.

⁴⁴⁸ Second thematic meeting

⁴⁴⁹ Second thematic meeting.

⁴⁵⁰ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO’s Response, 30 August 2021.

⁴⁵¹ In our exchanges, BIO suggests to have a look at the video realized by the NGO GRET, that has been working on the North zone for 10 years, and that effectively shows the progress that has been made locally to make women more autonomous: <https://www.facebook.com/GretSenegal/videos/915384502526234/>. Whether the NGO GRET and BIO have a joint strategy around a project and an area where BIO has committed several millions of Belgian ODA has not been mentioned and would be worth further investigation. Similarly, it is not mentioned if the improvement in the condition of women would have happened at

The way in which the financing is realised and the structure of the chain determine the possibility to assess **of the actual impact of the investments** and the **effect that Belgian ODA has on farmers' lives**. Both FAF and Omnivore, for example, do not directly finance farmers but intermediary organisations (POs, the SMEs and the MFIs). Thus, they **base their development impact assessment on data that they receive from their clients** and on the combination between the economic performance of their clients (the POs, the SMEs and the MFIs) and the establishment of transparent and positive forms of governance (to avoid appropriation of funds by the CEOs of the producers' organisations or the SMEs, for example). However, surveys are organised to combine the quantitative data with some qualitative components. As Omnivore told us:

“You rely on the info from the company. You rely on activities that companies track. Then you take a big sample of farmers, and then you ask them. You have 200, 300 or 400 farmers and then you mix with what you know on transactions. You cannot survey 600 000 farmers directly. Neither Belgium surveys 600,000 Belgians when they are trying to predict a poll election.”⁴⁵²

Overall, a large fraction of BIO's investments is informed by the idea of financing a new 'green revolutions' (mainly for Africa) by means of hybrid seeds, new technologies, change in farming practices and integration in higher-end food chains. Some of the main consequences of this approach and some specific cases (e.g. Babban Gona and Omnivore Fund) are discussed in the Reflections and Recommendations at the end of this Chapter. In general, what is important to stress at this stage is that changes in agricultural practices may have a significant impact on biodiversity, cultural ties and access to market for smallholders. As De Schutter reported in his 2014 reflections on BIO and the agri-food system, this is even more the case when this transition towards new agricultural practices and contract farming is financed with debt.⁴⁵³

Along with a renewed and more complex understanding of the multiple ways in which BIO could support small-scale farming, we also consider essential that BIO engages in an ex-ante and ex-post assessments of the impact that these investments have on the life of farmers. Although this may be hard for BIO itself, **this could certainly be an area of collaboration between BIO and the rest of the Belgian cooperation and development sector**. In our opinion, this shall not only concern the farmers themselves, but the impact that a change in food dynamics may have on communities and their food security. Moreover, the change in farming techniques and the shift towards cash crops shall also be assessed through the lenses of farmers' autonomy, contribution to biodiversity, preservation of traditional agricultural knowledge, and the long-term socio-environmental transformation. At the end of this Chapter and in Annex III, we analyse some concrete investments (e.g. Babban Gona, Omnivore Fund, Fair Trade Access Fund) to highlight the potential of providing direct support to smallholders and to underline some risks that lie underneath investments that may rely excessively on financial considerations without understanding the unique nature of food for people and the planet.

the same pace and in the same way without the support of third parties (like the NGO GRET) and what was the gender plan that BIO developed with regards with the LdB.

⁴⁵² Interview with Omnivore Fund.

⁴⁵³ “One of the main negative impacts of contract farming for farmers is its potential to trap them in cycles of debt.” Olivier De Schutter, 'Investing in Sustainable Agriculture: Key Challenges. Lessons from the BIO Workshop of 10 July 2014, UCL, 10 October 2014.

3.8 Investing in Large-Scale and Mechanized Agricultural Production

A second sector of investment for BIO is represented by **large-scale and mechanized agricultural production**. In the absence of a clearer categorization, BIO's investments in this area could be divided into: a) large-scale agri-food investments; b) fishing companies; c) eggs and poultry investments. Because the original scope of this study, both the investments in fishing and in eggs/poultry production have not been the object of a thorough scrutiny but are simply reported in boxes 3.5 and 3.6 below. However, we realised that no reference to these kinds of investments is made in the 2017 Agri-Task Force or in the BIO 2019-2023 Investment Strategy and we considered it essential to raise the readers' attention given the multiple risks that have been already highlighted when it comes to animal rights, overfishing, use of agricultural land for the production of feed, food safety, outgrower schemes in the poultry industry and the socio-environmental impact of intensive animal production. Along with the broad panorama of the investments, we suggest the establishment of an open, transparent, and participated discussion about the best way of integrating these food-related investments in the future of BIO and the Belgian development cooperation framework.

Box 3.5 - Fishing and Aquaculture as an agri-food investment

It is worth noticing, although it goes beyond the original scope of the study, that BIO is also investing in companies that are active in **along the fish chain, including in fishing, aquaculture, processing and distributing**. We asked about the presence of **ad hoc requirements and standards for fish, fisheries and aquaculture investments**. The response was that BIO is following the IFC performance standards that include elements about this industry.⁴⁵⁴ The presence of means that no specific internal ad hoc standards have been developed with regards to fisheries.⁴⁵⁵ Moreover, fishing and aquaculture do not appear among the recommendations of the 2017 Agri Task Force, indicating that the topic may not been discussed. However, fishing and aquaculture are increasingly scrutinized because of the risks in terms of **biodiversity loss, food insecurity, loss of economic opportunities for local communities**, etc. Given that BIO recognises the potential of investing in connecting small-scale fisherfolks to local or global value chains and/or financing large-scale aquaculture for both economic reasons and to provide proteins. In 2019 BIO was directly invested in Emprede (Ecuador, fisheries, €333k),⁴⁵⁶ and indirectly invested in other four companies. The indirect investments span from Capital Fisheries (Zambia, €364.747, through Agri-Vie Fund II), which "owns and manages the largest frozen food wholesale network throughout Zambia," to the Terrasan Group (South Africa, € 774.705, through Agri-Vie II) which "consists

⁴⁵⁴ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO's Response, 30 August 2021.

⁴⁵⁵ The IFC Standards apply to all projects (i) located in modified, natural, and critical habitats; (ii) that potentially impact on or are dependent on ecosystem services over which the client has direct management control or significant influence; or (iii) that include the production of living natural resources (e.g., agriculture, animal husbandry, fisheries, forestry). According to section 26: "26. Clients who are engaged in the primary production of living natural resources, including natural and plantation forestry, agriculture, animal husbandry, aquaculture, and fisheries, will be subject to the requirements of paragraphs 26 through 30, in addition to the rest of this Performance Standard." None of the standards is tailored on the specificity of fishing and fisheries.

⁴⁵⁶ We could not find any information on BIO's website nor online.

of various subsidiaries with interests in pelagic fishing, the aquaculture industry and property,” and whose fishing activities relate to the farming, catching and further processing of sardine, anchovy, pilchard, mussel,⁴⁵⁷ abalon⁴⁵⁸ and canned fish more broadly.⁴⁵⁹ In addition BIO is also supporting the activities of Omega Azul (€210k, through EcoEnterprises Partner), an aquaculture company that is farming *Seriola rivoliana* (Almaco Jack) in the waters outside of La Paz, Baja California (Mexico).⁴⁶⁰ **Along with a permanent, multi-stakeholder and transparent task-force on agri-food investments, it will be essential for BIO to organise a consultative and meaningful exercise around the fish sector.**

When it comes to agri-food projects, they mainly assumes two forms: a) investments in **highly industrialized and capital intensive agro-industry** (JTF Madagascar and Dornod Shim Agro); b) investments in **plantations as large-scale but labour intensive agricultural production** (Biotropical, Plantations et Huileries du Congo (PHC), Rubaya - Nyabihu Tea Company, and SCL Senegal). In the pages that follow, we provide a general overview of these two sectors and utilize concrete case studies to highlight how the ongoing investments align with BIO’s strategy and with the broader approach of the Belgian development cooperation to the development of agriculture as an anti-poverty, pro-food security and human rights-based strategy.

Box 3.6 - Eggs and poultry – Vertically Integrated and Out-growers schemes

In 2019, BIO was directly invested in three companies also involved in the direct production of eggs and/or poultry and/or in outgrowing schemes. The development rationale is that of increasing local offer of fresh products and reducing the cost of these proteins for the poorest segments of society. The first investment is **AviNiger** (€2,4m, Niger), a company in Niger where BIO co-invested with Injaro to “build a state-of-the-art eggs production farm with an annual capacity of more than 35 million eggs. This investment would make AviNiger the largest egg producer in Niger. Powered by solar energy, the farm will produce more than 2,000 metric tons of manure that will be distributed as fertilizer to farmers. The investment features a 30,000 MT feed mill that will supply other forms of feed aside from poultry feed. Animals starve to death during the dry season in the country and AviNiger shall supply feed beyond its own need and provide a market for smallholder farmers producing sorghum and maize.”⁴⁶¹

This investment seems to address shortage of feed as one of the critical problems for the success of outgrower schemes that is normally identified. However, from a right to food perspective it would be important to map the value chain before the mill and to make sure that the increase in poultry production is not leading to a reduction in food security and availability of food on local markets for the poorest segments of the population. In addition, AviNiger was identified as a project that was even “harder than anticipated mainly due to some technical issues and a flood in

⁴⁵⁷ As the largest South African producer, Blue Ocean Mussels supplies over 70% of the South African market and with an aggressive growth strategy aims to displace imports and be the preferred supplier of a wide variety of mussel products. See <https://www.terrasan.co.za/about-us/>.

⁴⁵⁸ Aquinion is one of the world’s leading abalone farming businesses. See: <https://www.terrasan.co.za/about-us/>.

⁴⁵⁹ Saldanha Bay Canning Company is a recognised force in the canned fish industry. Saldanha Protein creates one of South Africa’s favourite canned fish products, Saldanha Pilchards. In addition to this, the factory which produces canned fish products for the South African market also produces high quality Fish Meal and Fish Oil for local and export markets. See <https://www.terrasan.co.za/about-us/>.

⁴⁶⁰ Find more information here: <https://www.omegaazul.com/bajakanpachi>.

⁴⁶¹ For more info, see here: <https://www.bio-invest.be/en/investments/avi-niger>.

Niger,”⁴⁶² demonstrating the importance of factoring in climate change resilience and adaptation in the investments decisions that BIO realises.

The second one is the **Comptoir de Distribution de Produits Agro-alimentaires**, that in 2013 received 3 million euros to expand the activities of its subsidiary Agrisatch, a company with two production sites (in Tori and Herviè) that have a “total capacity of 100,000 spawning heads that allow the company to produce 90,000 eggs per day and 4,000 bags of food. Eggs represent 80% of the turnover for a total value of 1.9 billion CFA francs. Poultry represents 16% of sales and is broken down into three products: poultry meat, chickens, and ready-to-lay chicks. The first two products are made from hens that have completed their egg production cycle.”⁴⁶³

BIO also finances a company involved in an outgrower scheme in this sector. It is **FSDCo**, a Tanzanian company that is the outcome of the merge between Frostan Ltd, a Dar es Salaam-based poultry and ancillary foods business, and Mtanga Foods Ltd, a red meat operation with activities in Southern Tanzania and Dar es Salaam. According to BIO, FSDCo “procures chickens from outgrower farmers located around Dar es Salaam. Farm workers stay on the farm for 3-6 months and are provided with adequate accommodation, ablutions, potable water, staples, land to grow food and transport allowances. This is not to say that they earn the minimum official wage, but they can quasi save all the money they earn during this 3-6 month period. With regard to Frostan, it can be said that they apply for a BIO Technical Assistance grant to train outgrower farmers to improve farming, quality etc. and which would allow them to better assess the fairness of current farmers conditions.”⁴⁶⁴

Given the highly specialized nature of this outgrower scheme, it would be important to assess whether the participation in this chain benefits the most vulnerable (because of its capital intensive nature) and whether these activities are developed at the expense of local needs such as food security and local markets. Especially in the case of coexistence between small and large players. A 2018 study realised in China, for example, showed that “small producers, though not passively excluded, usually opt out of contract farming due to limited profitability when large producers are coexistent.”⁴⁶⁵ In addition, a 2019 study realised with regards to poultry farming in Nigeria pointed out at some positive impact on families’ livelihoods but also at the extent nature of problems such as “Deferred payment on the part of contract firm, no reimbursement in case of production failure, bridge of agreement, biased terms, cheating, high defaulting rate.”⁴⁶⁶

a. Large-Scale Industrialized Agroindustry

Alongside agro-forestry, BIO is directly investing in agriculture via two direct investments in **large-scale industrialized and monocultural production: Dornord Shim Agro (DSA)** (See box 3.7) was established in 2014 by Belgian, French and Mongolian investors and utilizes large-scale non-tilling machinery to farm 30,000ha of land for monocultural production of wheat and canola

⁴⁶² Second thematic meeting

⁴⁶³ For more info, see here: <https://www.bio-invest.be/en/investments/comptoir-de-distribution-de-produits-agro-alimentaires-s-a-r-l>.

⁴⁶⁴ Email exchange BIO

⁴⁶⁵ Ze-ying Huang et al., 'One Size Fits All? Contract Farming among Broiler Producers in China'(2018) 17(2) *Journal of Integrative Agriculture* 473 [https://doi.org/10.1016/S2095-3119\(17\)61752-0](https://doi.org/10.1016/S2095-3119(17)61752-0).

⁴⁶⁶ Luke O. Adebisi. et al, 'Effect of Contract Farming on Poultry Farming Households Food Security in Osun State, Nigeria' (2019) 18 (1) *Journal of Tropical Agriculture, Food, Environment and Extension* 45.

oil. **JTF Madagascar** (see example 4 in annex III) is a company that was established by the Italian renewable energy company Tozzi Green SpA in 2010 and was financed by BIO in 2019. The financed project concerns a surface of 7000ha of land that was previously used by herders and that is now industrially farmed mostly to produce maize and soybeans for animal feed, and precious bourbon oil for export. Each investment raises different issues on the narrative behind the support to large-scale agricultural projects and the objectives that they aim at achieving. Whereas we provide some information about DSA in the box below, in the case of JTF Madagascar we elaborated a longer analysis contained in the annex to this report.

Box 3.7 – DSA: 30,000ha of “abandoned land” in Mongolia

DSA was set up in 2012 by a group of French, Belgian and Mongolian actors. At the moment of BIO investment in 2016, “Dornod’s major shareholders were Achit-Erdene Darambazar (a Mongolian who founded MICC, the first investment bank in Mongolia, with 35% of shares), Gilles de Dumast (40%) and Alexandre Gelbard (25%), two French business partners.”⁴⁶⁷ The purpose is that of redevelop 30,000ha of “derelict” or “abandoned” farmland and sell its wheat to the local mills, producing flour for local food consumption.” At the same time, DSA produces canola oil for export, which “generates a source of hard currency income. In 2016, the year when BIO provided Euro 1 million in loan, it also received funds from the Mongolia International Capital Corporation (MICC), the oldest full-service financial advisory firm in Mongolia, which has “closed more deals than any other advisory firm in Mongolia having advised on over 30 transactions worth over USD 1 billion in total. The firm’s clients have included some of the largest companies in Mongolia, as well as various foreign and multinational companies and institutions.”⁴⁶⁸

Detailed information on DSA have been asked to BIO along with the contacts of the company, but not received. According to the few public source available,⁴⁶⁹ these are some concerns that arise: a) the privatization of 30,000ha of land, the fertility of the soil and the water, to remunerate international financial capital with no clear indication of the number and quality of employment that is generated; b) strong presence of non-local people in key positions of the company, including in operational positions; c) support to monocultural, oil-based and capital intensive production, although through the use of non-till techniques; d) the rhetoric of ‘available’ and ‘abandoned’ farmland; e) the lack of any other agricultural investment by BIO in small-farming in the same region/country; f) the lack of any reflection on the way in which the project is affecting the existing local food system beyond the fact that it will be increasing productivity; g) no reflection on the gendered impact of the large-scale project; h) no indication concerning the land rights acquired by the company.

Both investments seem to **share the narrative that foreign capital and the support of DFIs allowed investors to transformed ‘unused’ and ‘idle land’ into a productive asset** and to finally modernize and ripe the benefits that other forms of agriculture had not been capable of harvest-

⁴⁶⁷ Email exchange with BIO.

⁴⁶⁸ Global finance’s interest in the company is also evidenced by the fact that in 2016 the Chairman of the Company was a Sciences Po graduated who had previously funded Frontiers Capital and Frontiers Capital Mongolia, and worked as Deputy General Manager and Global Head of Coverage and Investment Banking at Crédit Agricole CIB, but also head of Corporate Finance France with Deutsche Bank, co-head of Credit Suisse First Boston France and member of the bank’s Global Executive Board in New York.

⁴⁶⁹ See <https://vimeo.com/147093300>.

ing. This paradigm has been challenged for decades by agricultural and land scholars such as White, Hall and Alden-Wily, who have underlined how the idea of ‘abandonment’ or ‘voidness’ is typical of a Western and modernist approach to land as a factor of production that does not see as valuable land that is not farmed or not-arable, so that any other use (such as herding or cultural functions) is of secondary relevance if even considered. This is premised on a superficial reconstruction of the complex socio-cultural history of land and land rights in Sub Saharan Africa.⁴⁷⁰

This ‘**monocultural’ vision of agriculture** and the future of the food systems had already been criticized by De Schutter’s reflection as a follow up to a meeting organised by BIO.⁴⁷¹ For De Schutter, then UN Special Rapporteur on the Right to Food: “The modernization of food supply chains, together with the implementation of agricultural policies focused more on the production of commodities than on food, have led to the marginalization of local food systems over recent years.”⁴⁷² Investing in large-scale agribusiness is thus a **trend that should and “could be reversed, in order to provide small-scale food producers with greater opportunities to sell on the local markets which they can more easily supply without having to be dependent on large buyers.”**⁴⁷³

However, small-scale agricultural realities that BIO is financing through PEFs and MFIs are not part of a coherent and co-defined food strategy that identifies synergies and tensions between small-scale and large-scale investments. **If large-scale agribusiness projects promoted by BIO are marginalizing some local food systems, we believe that it is not enough to say that other local food systems are supported.** The loss of diversity and the ‘depeasantization’ of parts of one country is not balanced by the support to peasants and local markets elsewhere. Especially if the two investments are not part of a common framework and do not dialogue.

We can use Olivier De Schutter’s words to reflect on BIO’s approach. For the UN Special Rapporteur, by presupposing that large-scale agri-industry investments “can be desirable under certain conditions, provided they are well managed, we **underestimate the opportunity costs involved in giving away farmland that is considered ‘idle’ to promote a type of farming that will have much less powerful poverty-reducing impacts than if access to land and water were democratized for the local farming communities.**”⁴⁷⁴ To adapt the words that Canfield, Anderson and McMichael utilize to define the oncoming Food Systems Summit, the investments in large-scale monocultural modernization represents BIO’s choice to “focus on those “levers of change” from which multinational corporations can profit, rather than the indigenous and agroecological food systems that have never contributed to today’s environmental problems and even help to restore degraded ecosystems.”⁴⁷⁵

Large-scale monocultural projects run by global corporations like Tozzi Green and DSA are thus **just one of the possibilities, and they come with a socio-environmental opportunity cost.** The

⁴⁷⁰ Ben White et al., *The New Enclosures: Critical Perspectives on Corporate Land Deals* (Routledge, 2013).

⁴⁷¹ Olivier De Schutter, (n. 453).

⁴⁷² Ibid, p.16.

⁴⁷³ Ibid, p.16.

⁴⁷⁴ Olivier De Schutter, “How Not to Think of Land-Grabbing: Three Critiques of Large-Scale Investments in Farmland,” *Journal of Peasant Studies* 38, no. 2 (2011): 250, <https://doi.org/10.1080/03066150.2011.559008>.

⁴⁷⁵ Matthew Canfield et al., ‘UN Food Systems Summit 2021: Dismantling Democracy and Resetting Corporate Control of Food Systems,’(2021) 5 *Frontiers in Sustainable Food Systems* 1, <https://doi.org/10.3389/fsufs.2021.661552>.

choice of this agricultural model concerns **food security** because soil, land and other natural resources are used – at least in the case of JTF Madagascar – to produce animal feed and oil for exports rather than food staples that can directly feed Malagasy people. This is despite the fact that Madagascar is one of the countries with the highest level of food insecurity in the planet, that consecutive years of drought in the South have left at least 1.35 million people in urgent need of emergency food and nutrition assistance.⁴⁷⁶

Finally, the size and ‘greenfield’ nature of these projects raise issues concerning land rights and the relationships with the traditional and customary tenure system. Land rights represent a point of tension all over the world, and at least one project financed by BIO (Feronia PHC, see below) has been strongly criticized for being insisting on traditional and customary land that was not recognised. In the case of JTF, we were told that BIO’s participation in the consortium along with FinnFund required the investee to adopt a clear policy concerning land rights and the interaction with the herders’ communities who would have been negatively impacted by the project. We know that specific requirements vis-à-vis land rights, and in particular the ‘willing seller – willing buyer’ principle, were introduced in the Environmental and Social Action Plan (ESAP) that BIO and Tozzi Green concluded. However, **this document is confidential and there is no access to the specific agreements that were concluded between BIO and JTF. Online, it is possible to find JFT Land Use Policy and JTF’s E&S policies** that, we assume, reflect the content of the ESAP.

The Land Use Policy was signed in 2019 and contains the main principles guiding land acquisition or lease and use by JTF. The E&S Policy was released in September 2020, after BIO granted its loan. **The commitments are noteworthy. In particular JTF indication that it will undertake a socio-economic baseline study, periodically monitor the impacts of its operation and the evolutions in local livelihoods. JTF also committed to promote the dissemination of its policy within the company and stakeholders ‘to increase its contribution towards sustainable and inclusive agriculture’. However, two years down the road no follow up document is available on JTF website nor on BIO’s website. For an external observer (and the Belgian public) it is thus hard to know what the current situation is and the extent to which JTF Green is complying with those requirements.**⁴⁷⁷ On the contrary, we have been informed of at least one controversy concerning land rights that took place on April 1, 2020, between the community of Ambatolahy and Tozzi Green.⁴⁷⁸ Therefore, in the absence of resources and time to conduct adequate fieldwork, there is not the possibility to know where the company is actually standing and whether the ESAP represents an actual deterrent and if the commitments are respected.

Moreover, no document is currently available that presents at least a summary of the legal, social and environmental conditions at the time BIO disbursed its grant. Even in the presence of the company’s policies, there is not enough data publicly available to clearly identify the rationale behind such investment, and, more broadly, behind investing in large-scale monoculture. Furthermore, it is not clear what is the role of BIO in enforcing these commitments, beside, we as-

⁴⁷⁶ UN News, Madagascar edges toward famine, UN food agency appeals for assistance, 21 April 2021 <https://news.un.org/en/story/2021/04/1090922>; Al Jazeera, Starving Malagasy forced to eat leaves, locusts for survival, 30 April 2021, : <https://www.aljazeera.com/amp/news/2021/4/30/famine-looms-in-southern-madagascar-uns-food-agency-says>

⁴⁷⁷ The Land Use Policy is available here: www.tozzigreen.com/en/project/agriculture-and-sustainable-growth/.

⁴⁷⁸ CONFLICT FONCIER entre le Fokonolana (communaute’) et Tozzi Green – IHOROMBE, 8 Avril 2020. Document with the authors.

sume, the deployment of its internal grievance mechanism. Overall, as we discuss in appendix III, the way in which the commitments are drafted raises some concerns regarding the capacity of the policies to represent an effective guarantee of human rights (such as self-determination, development and the Free, Prior and Informed Consent of local communities).

The commitments contained in the two policies – like most of similar commitments that other investors may be realizing - are voluntary promises of respecting local communities and the environment, and promises of mitigating the negative effect of the investment. They are not an Environmental and Social Impact Assessment, but ex post remedies and considerations. As such, they do not offer elements to reflect on ‘why’, but only a term of reference to hold the company accountable (through its internal mechanism of grievance and through the grievance mechanism of BIO) in case it does not comply with its own voluntary commitments. This is not in line with the **strong, visible and proactive role that the funding States** (and its development agencies) **should have in the ex-ante assessment, the monitoring and the consolidation of the long-term life of the project.** All with the highest level of transparency and accessibility.

The definition of the baseline and the impact of the project cannot be left to third parties or the investors themselves. The negotiations and rationale cannot be kept confidential. The presence of ex-post voluntary commitments (such as JTF’s policies) cannot be considered enough to avoid socio-environmental tensions, especially in the absence of publicly available baselines, meetings’ reports and documentation. This is required by the commitments that Belgium has undertaken at the international level when endorsing the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (in particular principle 12), but also by the broader human rights obligations and by the Principles on Responsible Investments in Agriculture. Therefore, the complexity of the tenure system must be adequately and publicly addressed ex ante and the findings must be respected, even if it means that certain projects cannot be financed. Moreover, the funding for legal support of local communities must be provided, consent obtained in a free, prior and informed way, and the development of local agriculture and local economies put at the centre of the project. Finally, it is essential that the public (including local civil society and Belgian organisations) has **access the pre-investments assessment of land rights that have been realised or commissioned (if any), that land titles are made public, that agreements concluded with local actors are equally available, that deadlines.**

At the same time, we agree with Professor De Schutter that large-scale investments in land are projects with a very high **opportunity cost** and shall be abandoned by a public development bank that wants to effectively contribute to the objectives of rural development, food and nutrition security and support smallholders and local markets as the **kind of private sector that has the highest potential of making countries and people sustainable** from a social, environmental, nutritionally and economic point of view. This is confirmed by the analysis of JTF Madagascar contained in the annex, and in particular by a reflection on its opportunity costs and the role of small-holder farmers in providing much more than food to the Malagasy economy. Rather than a system of ex-ante assessment and ex-post control to try to ‘manage these projects well’, BIO and the Belgian framework of development cooperation shall reach the conclusion that **supporting this kind of projects is not an effective and human rights-compliant way of engaging in agriculture as a way of supporting the poorest segments of society, increase availability of food, stimulate local economies, and contribute to climate change adaptation and mitigation.** Especially

when they are realized by transnational corporations like Tozzi Green that have access to credit, logistic, markets and a strong presence in the sector in which they are operating. For these reasons, we argue for **large-scale agri-industrial projects to be added to BIO's exclusion list as a financially risky, controversial and ineffective way of contributing to rural development, human rights and local food security.**

b. Investing in plantation

Along with investments in large-scale industrialized forms of monoculture agriculture for local consumption (whether of food or feed), BIO is also providing loans to enterprises whose business model reproduces – with different intensity – the **model of the plantation**.⁴⁷⁹ The most evident case of all is that of the **Plantations et Huileries du Congo** (PHC, Congo) – also known as Feronia PHC –, a €9.749.000 loan provided to an international company interested in relaunching the production of palm oil in a 110,000ha concession in the Democratic Republic of Congo that had been established at the time of Leopold II and abandoned for few decades (see box 3.8 below). According to the original objectives, the investment would have “created 5000 permanent jobs and a few thousands casual jobs,” a flow of palm oil into the market of the capital Kinshasa and would have been supported by a set of sustainability objectives and the implementation of community-oriented plans (like the establishment of rice production for local consumption and an upgrade of dated basic service facilities in the plantation area). From BIO's perspective, the support to Feronia PHC meant to finance “the single biggest employer in the region” in one of the poorest provinces along the Equator and it would have contributed to food security by means of salaries.⁴⁸⁰

Box 3.8 Feronia, Plantations et Huileries du Congo S.A. (PHC) and revamping colonial plantations

The case of Feronia and PHC has been at the centre of multiple national campaigns, parliamentary debates and a 2019 report by Human Rights Watch. Since 2013, six EU national development banks including BIO, and the US development finance institution had been directly or indirectly investing a total of nearly US\$150 million in the palm oil company Feronia and its subsidiary Plantations et Huileries du Congo S.A. (PHC) to relaunch an oil palm plantation spanning over 100,000 hectares in northern Congo: “Boteka,” “Lokutu,” and “Yaligimba.” BIO provided a € 9,741,280.77 in 2015. The plantation dates back to 1911, when the founder of PHC and co-founder of the global food company Unilever, British industrialist Lord Leverhulme, turned their palm groves into industrial oil palm plantations. Feronia bought PHC from Unilever in 2009.⁴⁸¹

The project has been severely criticized for its negative social and environmental impact and the lack of adequate control by the Development Banks. The 2019 Human Rights Watch report concluded that: “that lack of proper oversight by the banks has enabled Feronia and its subsidiary PHC to commit abuses and environmental harm that infringed upon health and labor rights. These abuses include exposing more than 200 employees to toxic pesticides without adequate

⁴⁷⁹ According to the Oxford English Dictionary, a plantation is: “An estate on which crops such as coffee, sugar, and tobacco are grown.”

⁴⁸⁰ 2nd thematic meeting

⁴⁸¹ BIO, Plantations et Huileries du Congo, PHC is an established oil palm business in the DRC <https://www.bio-invest.be/en/investments/plantations-et-huileries-du-congo>

protection; not providing employees exposed to hazardous materials with the results of medical examinations; and engaging in abusive employment practices that place many workers under the extreme poverty line. The plantations' palm oil mills also routinely dump untreated industrial waste and may have already contaminated the only drinking water source of local communities."⁴⁸²

In addition, nine communities have filed a mediation request through the DEG grievance mechanism to challenge the validity and legality of the concessions on the basis of which PHC is operating, claiming that they insist on traditional and customary land that has been forcibly taken from them at the time of Leopold II's occupation of Congo and that their consent and never been asked nor obtained when the concessions were transferred, renewed or modified. Which is what Congolese land law requires. In particular, at the time when the EU development banks entered into the picture, the three large historical concessions managed by PHC had been fragmented into a multiplicity of small concessions, an operation that Feronia claimed did not modify the nature of the concessions themselves, but that had implications in terms of collateralization of the debt and length of the concessions.⁴⁸³

BIO's account of the reason why they decided to provide the loan reveals the way in which European DFIs operate as a group, the belief in the developmental potential of large-scale agricultural production as an engine of economic growth (even if that means revamping colonial structures of land occupation and economic dependency), the idea that food security is also about income and the weakness of socio-environmental conditionalities. According to BIO "at that time [when BIO invested] PHC was nearly extinct as a business, after having suffered years of underinvestment and disruption caused by conflict in the DRC. In 2013, Feronia could not find funding in the markets, no one was willing to finance them. So the DFI community mobilised to help out (with CDC, DEG and FMO), to support the sponsor willing to put equity and needed other sponsors."⁴⁸⁴

For BIO, Feronia-PHC "is beautiful project with a very good developmental potential but in a difficult environment [...] It's one of the poorest provinces along the equator, there isn't much there, and Feronia is the single biggest employer in the region. Many problems for communities in the area."⁴⁸⁵ The fact that the problems may also be linked with the occupation of a large tract of land for 110 years, the establishment of a plantation system that creates dependence on market and mostly provides 'low-skilled daily works', appears not to be an element of consideration.

Similarly, the opportunity cost to use 70,000ha of land for palm oil production rather than for food production and the consolidation of a local market appears not to be a concern, because "there is a case to source oil from the plantations and to sell it locally, for the national purposes (the oil is transformed into edible oil and hygiene products)." However, "if you have a problem on the international market and the prices go down, then you have an issue because the revenue flows dry out – that's more or less what happened here."⁴⁸⁶ The link with the international price and the integration of the local territory into a globally competitive sector proved to be much harder than theories in support of export-led agriculture tend to portray.

⁴⁸² HRW, DR Congo: Development Banks Linked with Palm Oil Abuses, 25 November 2019, available here: <https://www.hrw.org/news/2019/11/25/dr-congo-development-banks-linked-palm-oil-abuses>

⁴⁸³ One of the authors of this report met with Feronia representatives in their offices in London and was showed the maps and concessions. The end date of the fragmented concessions was at a later date that the original concessions would have been.

⁴⁸⁴ Second thematic meeting.

⁴⁸⁵ Ibid.

⁴⁸⁶ Second thematic meeting.

If the project fails because of macro-economic circumstances and local resistance, the people suffer and go hungry. This is because the project is about income and not food security given that “Food security’ is not only about the food that you produce for the rural population. It’s also about creating local jobs security. This happened in Feronia – it provides around 5000 permanent jobs, and a few thousand casual jobs. That’s also how you create security around.” Moreover, this is because this kind of projects – as recognised by BIO – create dependency and a deadlock situation where Feronia has to continue: “If Feronia stops working tomorrow, there’s a major pressure on the local population, especially in a region where some women have 15 children. There’s a huge demographic pressure.”⁴⁸⁷ However, what other forms of entrepreneurial organisation (workers cooperatives, for example), what other forms of production (a combination between local markets and trade for Kinshasa) and what other forms of land arrangements were and are still possible that have not been taken into consideration and that would have not generated this dependency?

Finally, Feronia is also the example of the weaknesses of Environmental and Social action plans (ESAPs) and of the lack of an adequate procedure for exiting investments. According to BIO, there “was an ambitious ESAP with Feronia,⁴⁸⁸ which was the key reason why this project was looked at. There were also community projects on the side that included cooperation programs with a number of NGOs on crop production (a.o. rice) and economic development. These programmes have been challenging for many reasons. Including for community reasons. It’s too easy to judge now. But it was a good lesson learned for this kind of project. If risks are too high, we should not do it. But it does raise interesting and important questions about DFIs’ business model and generally how we can prevent some of these issues in the future, while fulfilling our mandate and mission.”⁴⁸⁹

We are sure that BIO has learned a lot from Feronia (although the investment in JTC Madagascar was subsequent to all the critiques and challenges that were raised). However, it is our opinion that Feronia shall represent an opportunity for BIO to also learn that:

- the respect of land rights and the support to a project that has local support shall be priorities for any investments in realise;
- large-scale agricultural projects that depend on the market pose a significant risk on the people that are involved in it as workers without giving them any true opportunity of resilience and empowerment, and that
- it is not enough to sign ESAPs with clients to be sure that they will implemented and that in the absence of transparency, communication and adequate oversight.

Feronia PHC is not only a ‘beautiful project’ that did not work, but a symptom of structural and substantive issues regarding BIO’s approach to development through agri-food investments and the lack of an adequate consideration of food as different from other ‘commodities’.

Feronia is not the only case where BIO is providing direct loans to large-scale agricultural operations with the intention to contribute to the generation of economic growth and employment. Differently from Feronia PHC, the other cases were set up by the companies with the intention

⁴⁸⁷ Ibid.

⁴⁸⁸ The plan we officially asked to BIO in several occasions, but was not disclosed.

⁴⁸⁹ 2nd thematic meeting.

to produce high-value crops for export. These investments are: **Biotropical (Cameroon, see box 3.9); Rubaya - Nyabihu Tea Company (RNTC, Rwanda); Société de Cultures Légumières SA (Senegal); Marginpar Group (Netherlands, Kenya and Ethiopia).** Similarly to Feronia, all these projects are generally characterized by the presence of one company that operates vast tracts of land (leased or bought) and by the predominance of seasonal (in most cases, daily) labour. In some cases, like Biotropical and RNTC, the project is a combination of purchased land and contract farming. Of the five investments, three are in food-stuff whereas Marginpar is in cut flowers production (see Example 5, Annex)

Box 3.9 - Biotropical (Cameroon) – Exporting bio products to Europe (340k, code 8 loan)

Although the investment in Biotropical does not appear on BIO website, it appeared as a direct loan in the 2019 communication to DGD. According to the available information, the company was funded in 2001 by Jean-Pierre Imele as a business project for the production and processing of organic tropical products for the European market. The project shall involve nearly 400 hectares of plantations concentrated in the coastal part of Cameroon and scattered on the island of Mbanjo. The funder “invested to increase organic production through the acquisition of new land, the planting of thousands of fruit trees and the supply of seedlings to farmers.”⁴⁹⁰ Since 2007, European partners have entered the capital of Biotropical, both through Private Equity Funds and as individual (Patrick Font, a French entrepreneur, with 15%). Thanks to this, the company's financial weight and production have doubled since 2010. Part of the funds provided by international investors like I&P in 2007, was to reduce the dependency on small-scale farmers and increase the amount of production directly under the control of Biotropical.⁴⁹¹

An investigation conducted in 2012 by the association Planète Entrepreneurs recognised that “Seventy-seven percent of the farm workers have been able to increase their income since they started working for the company” but “the relationship between Biotropical and these producers needs to be strengthened, as their situation of dependence may put them in difficulty if Biotropical is unable to buy.”⁴⁹² Ex-ante and ex-post assessments of the projects realised by BIO would be useful to evaluate the impact that Biotropical had on farmers’ living conditions, ecological equilibrium of the area and food and nutrition security of the farm workers and farmers involved in the contract farming scheme.

When asked about the reasons behind BIO’s direct support to the expansion of largescale horticultural export sector, we were referred to a 2017 short paper by Van den Broeck et al. on “*Global value chains, large-scale farming, and poverty: Long-term effects in Senegal.*”⁴⁹³ In a presentation that BIO gave to a group of Belgian NGOs, they also referred to a 2016 short paper by two of the same authors entitled “*Moving Up or Moving Out? Insights into Rural Development and Poverty Re-*

⁴⁹⁰ Agri Mutuel, Jean-Pierre Imele exporte 80 % de sa production de fruits bio camerounais, 10 February 2017, available at: <https://www.agri-mutuel.com/cultures/jean-pierre-imele-exporte-80-de-sa-production-de-fruits-bio-camerounais/>.

⁴⁹¹ I&P, Biotropical, available here: <https://www.ietp.com/fr/content/biotropical>.

⁴⁹² Marjorie Cessac, Cameroun : Biotropical porte ses fruits, Jeune Afrique, 12 June 2013; <https://www.jeuneafrique.com/19294/economie/cameroun-biotropical-porte-ses-fruits/>

⁴⁹³ Goedele Van den Broeck et al., 'Global Value Chains, Large-Scale Farming, and Poverty: Long-Term Effects in Senegal' (LICOS Discussion Papers, LICOS Discussion Papers (LICOS - Centre for Institutions and Economic Performance, KU Leuven, 2016), <https://ideas.repec.org/p/lic/licosd/38016.html>).

duction in Senegal"⁴⁹⁴ which relies on the same surveys and database of the 2017 paper. The papers have a specific focus on the Senegal River Delta Region (where one of BIO's investments is operating since 2006), and conclude that large-scale agricultural investments for export contributed to a "rapid income growth and poverty reduction through employment creation, and has played a major role in the development process of the area."⁴⁹⁵

In BIO's public communications, these two articles are utilized to promote concepts like "Investments in large-scale commercial farming and vertically integrated enterprises entail the highest potential for pro-poor agricultural-led growth."⁴⁹⁶ For BIO, the pro-poor and pro-income performance of these investments are demonstrated by these academic articles and by their conclusions that exported agricultural investments have positive implications on households' income, a conclusion that they consider "in sharp contrast with the view that globalization increases inequality and with the idea that food export sectors need to be smallholder based in order to contribute to poverty reduction."⁴⁹⁷ For the articles, "the development of a rural labor market is crucial—whether employment is created from investments in agricultural or non-agricultural sectors is likely less important—and that growth effects might be strongest where large-scale and small-scale sectors co-exist."⁴⁹⁸

Although these are statements that are contained in the articles, we believe that the reading provided by BIO is incomplete and inaccurate on some of the other points that are raised by the authors, in particular with regards to methodology, non-universality of the findings and coexistence between small-scale farming and large-scale export-oriented enterprises. Given the importance that BIO gives to these two academic papers, we thus decided to quote here below few key passages contained in "*Moving Up or Moving Out?*" and add a short comment to better frame the issues and to weigh BIO's conclusions. The following paragraphs report quotes from the article in question on the social impact of large-scale plantations and read it through the lenses of food security, human rights and sustainable development.

- **Purely monetary assessment of the issue:** the authors write that "we mostly focus on monetary income and poverty measures at the household level, and do not (or only very briefly) consider non-monetary dimensions of wellbeing and intra-household livelihood issues."⁴⁹⁹ As such, the paper is exclusively looking at economic upgrading through participation in global value chains, with a partial assessment of the social upgrading, i.e. a focus on income but not on the rights and living conditions of all the people impacted by this new project (including those who are negatively impacted by the expansion of the agricultural surface, the reduction in availability of local food, the competition for resources, etc.) nor on the dependency that is created by relying on international markets and large-scale pri-

⁴⁹⁴ Goedele Van den Broeck and Miet Maertens, 'Moving Up or Moving Out? Insights into Rural Development and Poverty Reduction in Senegal,' (2017) 99*World Development* 95 <https://doi.org/10.1016/j.worlddev.2017.07.009>.

⁴⁹⁵ Ibid.

⁴⁹⁶ BIO presentation to NGOs, 10 May 2021. File with the authors.

⁴⁹⁷ Ibid, 106.

⁴⁹⁸ Ibid, 106.

⁴⁹⁹ Van den Broeck, "Global Value Chains, Large-Scale Farming, and Poverty" (n 493); Van den Broeck "Moving Up or Moving Out?" (n 494).

vate employers for personal and collective development.⁵⁰⁰ Because of DGD and BIO's commitment to human rights and the effective improvement of living conditions, a study that only assesses income and monetary conditions shall not represent the term of reference for an investment strategy.

- **Local benefits may be for the poorest segment of the population (less assets and bigger families), but not equally distributed:** Van den Broeck and colleagues continue stating that "We find that households who moved into wage employment had fewer farm assets (less land and livestock) but more family labor and have experienced the sharpest income growth and poverty reduction, indicating that moving out is indeed a valid strategy to escape poverty for resource-poor households. However, such a moving-out strategy is importantly determined by household location close to employment opportunities."⁵⁰¹
- **Some parts of the population are worse off:** the article affirms that "Although livestock is kept by more than half of the households in the Senegal River Delta, it plays a small role as income-generating activity, except for households of LSlivestock. They derive a substantial share of total income from livestock (34.2% in 2006 and 23.8% in 2013) but average revenues from livestock production declined."⁵⁰² This shows that each project, including those that increase income, have winners and losers. It is thus important to combine a quantitative assessment with a qualitative analysis of the short, medium, and long-term impact of any project from the perspective of agriculture as a complex sector whose contribution to poverty alleviation goes far beyond than income.
- **Findings are determined by the way of looking at land and water, and are context dependent:** the author recognize that "Our findings are obviously specific for our study region, which complicates drawing more general conclusions. Land and water are relatively well accessible, and the region succeeded in attracting substantial foreign investments in horticultural export production. Effects might differ in other regions where the conditions for expansion of a large-scale farm sector differ. In regions where demographic growth creates pressure on land and other resources, expansion of a large-scale sector might limit growth in the smallholder sector and result in less inclusive growth."⁵⁰³ We consider that the idea that the Senegal River Delta has accessible land and water shall be challenged, in particular in light of the fact that Senegal imports almost 70% of its food.⁵⁰⁴ As also discussed in an one of the interviews with BIO, the support to large-scale export oriented agri-business activities cannot be delinked from the impact that the use of natural resources for export has on food security and the existing socio-economic texture.
- **Small-holders had almost the same contributions to poverty alleviation, even without public financing nor productivity increase:** according to the authors, "Agricultural transformation

⁵⁰⁰ Ben Selwyn, 'Social Upgrading and Labour in Global Production Networks: A Critique and an Alternative Conception'(2013) 17(1) *Competition & Change* 75, <https://doi.org/10.1179/1024529412Z.00000000026>.

⁵⁰¹ Ibid, 105.

⁵⁰² Ibid.

⁵⁰³ Id, 106.

⁵⁰⁴ ActionAid USA, Improving Food Security for Farmers in Senegal, available at: <https://www.actionaidusa.org/work/food-security-farmers-senegal/>

and poverty reduction in the Senegal River Delta have been driven by both the smallholder sector and the large-scale farm sector. Our results imply that about 9.0 percentage points (pp) poverty reduction comes from LS-crop (15 pp poverty reduction among 47% of the sample) and LS-livestock (18 pp poverty reduction among 11% of the sample), and is associated with small-scale agriculture, livestock rearing, and non-farm businesses. Likewise, about 10.2 pp poverty reduction comes from LS-transition (40 pp poverty reduction among 20% of the sample) and LS-wage (9 pp poverty reduction among 22% of the sample) and is associated with large-scale farming and farm and non-farm wage employment. [...] Yet, we find that the smallholder farm sector has been important in contributing to poverty reduction as well. No important productivity increases emerged in small-scale crop production and livestock rearing but farm incomes increased as a result of public investments in irrigation and consequent rice area expansion, price increases, and herd size expansion.”⁵⁰⁵

- **Opportunity costs must be considered:** the analysis continues with the recognition that “Rice is the main cultivated crop, grown by 36% of households in the area, but farmers increasingly produce other crops as well, such as tomatoes, beans, and onions. Increases in crop income mainly follow from rice area expansion and rice price increases, and not from yield increases. The average rice yield decreased over time, from 4.72 ton/ha in 2006 to 3.26 in 2013. These yields are comparable to the average of 3.62 ton/ha in irrigated rice cultivation in SSA, but far below potential yields that can mount up to 9–12 ton/ha.” In our interpretation, this means that – in the case under analysis – direct support to small-scale farmers and territorial markets had the potential to address food insecurity and increase income even more significantly than by investing in large-scale export.
- **Central role of public intervention and structural reforms:** the article continues pointing that “The government has played an active role in attracting foreign investors in the sector—through the investment promotion agency APIX established in 2000; in establishing cold storage facilities at the airport and the main harbour in Dakar, laboratory testing of food quality and safety aspects; and the establishment of the label Origine Senegal in 2010 as a tool to promote fruit and vegetable exports from Senegal. The sector also received some donor support, e.g., assistance from the Cole ACP-PIP program financed by the EU.”⁵⁰⁶ The findings of the paper suggest that the development of large-scale private initiatives cannot be dissociated with the establishment of the adequate conditions. This aligns with BIO’s approach to export-led agribusiness, where it highlights that “Private Investments MUST go hand in hand.”⁵⁰⁷ However, what the paper and BIO do not discuss is the opportunity cost of investing public and private resources in this kind of agricultural development rather than in other forms of rural support, such as irrigation, logistic and consolidation of local markets for smallholders.
- **Wages are higher than minimum wage but flat, and work is uncertain and does not transfer high skill know-how:** for what concerns working conditions, the article states that “workers

⁵⁰⁵ Id, 105.

⁵⁰⁶ Id, 103.

⁵⁰⁷ BIO presentation to NGOs, 10 May 2021. File with the authors

are hired on average 136 days in 2006 and 163 in 2013, but employment in the horticultural export companies remains mainly seasonal. The majority is hired on a daily basis (61.2%), while seasonal (11.2%) and yearly (27.7%) contracts are also common. Average daily wages did not change over time, but wages are 66.7% higher than the national minimum wage of 1,500 FCFA per day [equivalent to Euro 2,29). Employees perform jobs that require few skills; they work on the fields for harvesting and weeding, or in the plants for washing, sorting, and packing of the produce.”⁵⁰⁸ The temporary form of employment (which often has daily nature) generates dependence, uncertainty and very little improvement in terms of know-how, socio-economic stability and long-term perspectives. As such, we do not believe that this kind of investment can be considered aligned with DGD and BIO’s development objectives to strengthen autonomy, resilience, and transfer of knowledge towards the most marginalized.

- ***Even if coexistence was possible, it would need clear and transparent land transactions:*** in their conclusions, the authors state that “Our results imply that agriculture-led growth is particularly strong when small- and large-scale sectors (or export and staple food sectors) co-exist. Important prerequisites for such a coexistence are that land acquisition occurs through a transparent, clear process and that competition for land and water is minimal. These prerequisites have been met in the Senegal River delta, as land and water are (currently) relatively well available and land lease deals are arranged at the rural community level, rather than being imposed top-down from the national level.”⁵⁰⁹ This statement stresses the importance of adopting an approach to tenure rights and land transactions that goes beyond ticking boxes and the formal respect of the legal requirements. Especially in light of the multiplicity of tenure structures in the countries where BIO is investing and given the tensions and risks that exist when it comes to the relationship between customary rights and formalization. To prove this need, in Annex III we enter into the details of SCL Senegal, one of BIO’s investees, to highlight details of the land transactions that are taking place in the Senegal River Delta Region and the critiques that have been raised by local and international scholars.

In addition to the points that arise from the academic articles that BIO utilizes to justify its strategy vis-à-vis export-led large-scale plantations, it is important to mention that **there is extensive academic literature that has reached opposite conclusions when it comes to the socio-economic impact of wage labour in large-scale export-led intensive agricultural projects.** This is also the case with regards to the establishment of contract farming and out-grower schemes that link peasants to the global market. As discussed by Pegler in 2015, for example, it’s enough to adopt a ‘human security’ indicator to the whole process of linking peasants to global markets to realise that economic upgrading for some households (e.g. higher income), **monoculture and local power trends can negatively impact the same families and the produce insecurity and social downgrades.**⁵¹⁰ The authors of the two papers quoted by BIO are aware of this diversity of opinion and mention that “some studies point to low wages, insecure employment contracts and

⁵⁰⁸ Id, 105.

⁵⁰⁹ Id, 106.

⁵¹⁰ Lee Pegler, 'Peasant Inclusion in Global Value Chains: Economic Upgrading but Social Downgrading in Labour Processes?' (2015) 25 *The Journal of Peasant Studies*1, <https://doi.org/10.1080/03066150.2014.992885>.

inferior working conditions; and expect expansion of high-value exports to lead to increased vulnerability of poor households.”⁵¹¹ **The predominance of contradictory evidence and the literature that criticizes this model of agricultural development shall not be overlooked but rather taken seriously and accounted for when it comes to the definition of the agri-food investment strategy of a national development bank like BIO.**

Finally, the two papers are characterized by three gaps that are extremely relevant for the holistic approach to sustainable development that is adopted by Belgian development cooperation:

- they adopt an **anthropocentric approach to livelihood** and do not make any reference to the environmental and biodiversity impact of large-scale monoculture agriculture;
- they **contain only one reference to food and nutrition security** as an outcome of higher income, but do not assess the effective impact that the investments had on the local population.
- They give **no consideration to the gendered nature of the society and the economy, nor of the impact that the development** of large-scale agri-enterprises may have on productive and reproductive labour provided by women. As we discuss in the example of SCL, the lack of an adequate engagement with the gendered impact of these projects is such that women may be employed (and are employed) but they only count as a number and not as providers of specific (unpaid) work in the context of their families and communities, that can be positively or negatively affected by the shift away from small-scale farming to wage labour.

In light of these premises and the overall framework of investments in plantations, BIO's policies and the objectives of the broader Belgian development cooperation framework, in the Annex 3 we provide the analysis of three investments realised by BIO: the Rubaya-Nyabihu Tea Company (RNTC) in Rwanda, the Marginpar Group (Netherlands and Kenya) and the SLC investment in Senegal. The first one is a combination of large-scale tea plantation and contract farming linked with the international market; the second is a cut flower value chain that is established in East Africa and serves three world regions (including Europe); the third is a business constructed around large-scale tracts of land obtained in concession by the company to produce vegetables mainly for the European market (87% of the value of production).

In light of the combination between existing literature on the topic, the interviews, and the analysis of the case studies, it is our **opinion that the overall support to large-scale plantations as an instrument of economic growth and employment** – both through plantations and large-scale industrialized agribusiness – **shall be re-assessed by BIO and the Belgian Ministry of Development Cooperation.** We thus suggest that these investments are added to the exclusion list.

⁵¹¹ See, e.g., Stephanie Barrientos et al., 'Decent work in global production networks: framing the policy debate' (2011) 150 *International Labour Review* 297; Anne Tallontire et al. 'Reaching the marginalised? Gender, value chains and ethical trade in African horticulture' (2005) 15 *Development Practice* 559.

There are several issues that appear under-considered or missing in BIO's approach to plantations:

- **Food, agriculture, and land are closely interconnected with climate change and biodiversity loss.** According to the International Resource Panel of the United Nations Environment Programme, "Land use (mostly agriculture) and land-use change is associated with 13 per cent of carbon dioxide emissions, 44 per cent of methane emissions and 82 per cent of nitrous oxide emissions" while "The number of local varieties and breeds of domesticated plants and animals and their wild relatives has, however, been reduced sharply as a result of land use change, selective breeding for increased productivity, knowledge loss, market dynamics and large-scale trade."⁵¹² As such, **monoculture (including sustainable intensification) is not a valuable and effective way to make sure to achieve the goals set by the IPCC.**
- The academic literature on 'connecting workers' to global value chains is much broader and less homogenous than BIO seems to suggest and increasingly points out at the way in which '**economic upgrade**' leads to '**social downgrade**'.
- There is an increasing recognition that 'coexistence' between large-scale and small-scale farming, if possible and desired, requires in any case that **both forms of agri-food production are supported within the same context.** Supporting only large-scale export in an area can create significant imbalances and inequalities within the local context, a rush to resources and a loss of food resilience;
- Investments in large-scale agribusiness (agri-industry and plantations) clash with the 2017 Task Force recommendation to achieve an "**Enhanced use of the MSME Support Fund to support agro-industry projects including a strong focus on smallholder empowerment;**"
- The complexity of the local context (socio, economic, land rights, availability of land, quality of the contracts, proximity to the project) is such that **development impact must go beyond increasing income** and that projects must be assessed through the broader lenses of the right to development, the right to food and the rights of those who are not involved;
- There is a **high risk of conflicts between large enterprises, small-scale farming** and other rural practices, including herding, in direct contrast with the goals of DGD and the Belgian development cooperation;
- The support to large-scale agribusiness and plantations may contribute to the **concentration and privatization of productive assets/land** to the detriment of smallholders ownership, access to land as a pro-poor strategy, and economic/financial autonomy;

⁵¹² International Resource Panel of the United Nations Environment Programme, Global Resources Outlook. Summary for Policymakers, United Nations Environment Programme: Nairobi, 2019, available at: <http://www.resourcepanel.org/report/global-resources-outlook>.

- The support to these value chains **increases the use of scarce resources** (land, water, soil, etc.) to **satisfy the needs of people who are removed from the local context**;
- The shift from smallholding to large-scale monoculture practices has a significant **environmental, biodiversity and ecological impact** that cannot easily be mitigated;
- Supporting wage labour or mechanized practices rather than smallholding agriculture are 'developmental choices' that have a significant **gendered impact** that goes beyond employment and **redefines the boundaries between productive and care labour**;
- Export-led projects lead to the reproduction of an economic and trade system where the **Global South is exporter of raw material (lower value) and the Global North adds value and captures most of it**. This reproduces the ecological uneven trade relationship between the North and the South, 'shifting environmental and social costs'⁵¹³ to the South and appropriating value in the North.⁵¹⁴
- The use of ODA to fund these projects entails a significant opportunity cost when they divert funds from other forms of private entrepreneurship that links land and people to territorial markets.

3.9 Agricultural inputs, digitalization, processing, and trading

Along with investments in the phase of agri-food production, BIO is also investing upstream and downstream, i.e. in the provision of services/goods to agribusiness and in logistics that connects food production to the value chains. The '**vertical expansion**' of its investment strategy aligns with the recommendation of the 2017 Agricultural Task Force to "invest in companies that enhance agriculture value chains and their actors' functioning". This has been implemented by BIO through a set of investments in favour of companies that produce **chemical fertilizers** (e.g. Indorama and Rolfes Group – in 2021), develop **new plant varieties** (KF Bioplants, India, box 3.10 below), provide **seeds, fertilizers, bags and/or technical assistance** to farmers (e.g. Babban Gona, DeHaat and PPLH), sell **machinery for agro-industry** (e.g. FES – in 2021, see box below 3.11), develop and implement **digitalized agriculture** (e.g. Banger Tech Private Limited; Intello Labs Pvt Ltd; Krishnacharya Technology (Bijak); Tartansense Aerial Sense Tech Private Limited and Wolkus Technology Solutions Private Limited), connect **farmers to market through digital platforms** (e.g. De Haat and Twiga), are **processors for national markets** (e.g. Britannia Foods Limited and Banh Vang) or for **export** (e.g. FLP Colombia, TerraSan, CapitalFisheries, Niche Cocoa Industry, Puratos Grand Place Vietnam), and are experts in **international import and export of food stuff** (e.g. Qualicoff and ETG).

⁵¹³ Christian Dorninger et al., 'Global Patterns of Ecologically Unequal Exchange: Implications for Sustainability in the 21st Century' (2021) *Ecological Economics* 179 106824, <https://doi.org/10.1016/j.ecolecon.2020.106824>.

⁵¹⁴ Roldan Muradian and Joan Martinez-Alier, 'Trade and the Environment: From a 'Southern' Perspective' (2001)36(2) *Ecological Economics* 281, [https://doi.org/10.1016/S0921-8009\(00\)00229-9](https://doi.org/10.1016/S0921-8009(00)00229-9).

Box 3.10 – KF Bioplants (€2,1m – India)

In 2014 BIO has granted a EUR 2.1 M loan to KF BIOPLANTS (KFB), an Indian Company established in 1997 as a Joint Venture between FLORIST from the Netherlands and Indian shareholders, with the initial objective to propagate the Gerberas designed by Florist and address both the export markets and the Indian domestic market. FLORIST provides KFB the mother plants, which are then multiplied in India. KF Bioplants is India's largest plant biotech company, a global provider of quality floricultural and ornamental plants, forestry plants and fruit plants. 80 million plants annually for commercial cultivation in India and to 30+ countries in worldwide.

According to BIO, the comparative advantage of KF Bioplants resides in the fact that “In India, where wage scales are lower than in developed countries” thus “plants are being produced at much cheaper rates” and in the fact that “most of the operators are women. It is quite unlikely that the process could be automatized in the future. KFB employs almost a thousand workers out of which 85% women.” In a nutshell, the company appears as a foreign direct investment that uses the cheaper nature of Indian labour to reproduce patented plant varieties owned by a Dutch company. As such, it raises questions of distribution of value, separation between high-value and low-value phases of the value chain and access to nature (given the patented nature of the plants that are propagated).

Like the rest of BIO’s portfolio, investments in this area are realised both directly (Indorama and KF Bioplants) and indirectly. However, two elements that these investments seem to have in common are the aim to **increase in productivity** (through the production and/or diffusion of ‘innovative’ or modern farming inputs, tools, and practices) and the **consolidation of international value chains** as the best opportunity to tap into hard currency and higher prices for the products.

Box 3.11 – FES Group (Malawi, via Phatisa II Fund)

One of the latest agricultural investments realised by BIO has been in the FES Group, a Malawi company that is a regional leader in the sale of tractors, implements, spare parts, workshop services, lease hire, irrigation and land preparation/ contracting.⁵¹⁵ Their goal is to “Mechanising African agriculture, ensuring food security and enhancing profitability.”⁵¹⁶ This investment has been realised through the Phatisa II fund.

According to the company’s website, “FES is evolving. It's not just about equipment anymore; it's about integrated agricultural solutions, providing services which support our customers at every step on their mechanised journey, be it farming, construction or industrial industries. From roadway and ditch maintenance to land clearance, land preparation, irrigation schemes and contracting.”⁵¹⁷

Beside the promotion of mechanized agriculture as the sole option for food security, the investment in FES is noteworthy for three reasons:

- Phatisa was already shareholder of the company with its first fund. Phatisa Fund II is thus providing more resources to a company that had already access to international capital to

⁵¹⁵ Email exchange with BIO.

⁵¹⁶ FES, available at <https://fes.africa/>.

⁵¹⁷ Ibid.

Phatisa Fund I. along with the development additionality, the way in which BIO's contribution is 'financially additional' beyond providing capital for the expansion of a company, may thus be explored.

- the **current management team** was handpicked by the fund manager before BIO's investment in Phatisa II and "will remain in place during the holding period of the Phatisa Food Fund 2 and [...] they have demonstrated their commitment to do so as they [i.e. the managers] own 9% of FES' shares)."⁵¹⁸ **Only 2 out of 6 members of the current management team are Malawians**, as the remaining members are UK nationals. According to BIO, this does not mean that they are not rooted in the region, as they have all worked in the region for a substantial time. In our opinion, the lack of a clear policy on the nationality of the managers of companies in which BIO is directly or indirectly invested, along with the lack of a clear policy on knowledge transfer and empowerment of local managerial figures require to be addressed.
- **FES provides services to tobacco farmers** such as sale of tractors, implements, spare parts, workshop services, lease hire, irrigation and land preparation/ contracting. Given that tobacco is in the EDFI's exclusion list, we asked BIO and we were told that "FES provides services to tobacco farmers for less than 10% of its revenues and that this is aligned with the EDFI exclusion list, which does not allow companies to be substantially involved in tobacco services, i.e. for more than 10% of its total revenue. Revenue from tobacco customers has been below 10% of the total revenue over the past few years and are declining."⁵¹⁹

The rest of this section is thus dedicated to reflecting on three areas that have not yet been addressed: a) **the production of chemical fertilizers**; b) **the support to digitalization of agriculture**; c) **the support to large-scale exporter and importer of food**.

a. Expanding the production of oil-based chemical fertilizers

One of the ways in which BIO plans to contribute to agri-food development is by promoting the adoption of more efficient forms of production that can increase they yield for farmers (both small-scale and large-scale). This is assuming the opposite form of small 'tickets' investments into start-ups like the Indian Tartan Aerial Sense Tech Private Limited (TartanSense),⁵²⁰ which is "developing small robots for small farms, leveraging image analytics, computer vision, and machine learning linked to precision sprayers to conduct weed control, insect control, and disease control," and the large and direct investment in Indorama Eleme Fertilizer & Chemical for the construction of the world's largest single train Urea - Fertilizer plant in Port Hacourt, Nigeria, that transforms natural gas into nitrogen-based fertilizer (see box 3.16 below).

Box 3.12 - Indorama Eleme Fertilizer & Chemical, Nigeria (11,3m Euro direct and 452k Euro indirect)

In 2013, BIO invested €11,3m in Indorama Eleme Fertilizer & Chemicals Limited (IEFCL), a group company of the Indorama Corporation, a global manufacturing conglomerate operating in over

⁵¹⁸ Email exchange with BIO.

⁵¹⁹ Ibid.

⁵²⁰ The outstanding commitment towards TartanSense was of €34,000 in 2019.

25 countries across Asia, Europe, Africa and North & South America. Of the initial loan, €8,3m were still outstanding in 2019. IEFCL is one amongst the ambitious green field projects of Indorama in Nigeria and is the world's largest single train Urea – Fertilizer plant, commissioned in June 2016. The company, a total fertilizer solution provider, is situated on 38 hectares of land in the expansive Indorama Complex, Eleme, Port Harcourt, Rivers State, Nigeria.

The Plant has a production capacity of 4000 metric tons (MT) of nitrogenous fertilizers per day or annual production capacity of 1.4 MT. The world-scale plant has been built with an investment of USD 1.5 Billion, a huge Foreign Direct Investment, funded by the International Finance Corporation (IFC) and a consortium of 15 European & African Banks and financial institutions. The Fertilizer Plant includes 2,300 Metric Tons Per day (MTPD) ammonia plant, 4,000 MTPD Urea granulation plant and associated offsite and utilities. The fertilizer plant is well supported by port terminal at the nearby onne (sic) port, and a gas pipeline of 83.5KM for gas supply.”⁵²¹ We read in the EIA realised by the European Investment Bank that the plant is supposed to transform into Urea natural gas that would be otherwise flared. According to the EIB, this represents an improvement vis-à-vis climate change, because at least the gas would have a use.⁵²²

The investment raises some specific issues: is the establishment of this large factory maintaining the dependency on extracting oil and reducing the possibility of local decarbonization/mitigation for Nigeria? BIO supported Indorama both with a €11,3m loan (that still accounted for 18% of its direct investments in the agribusiness sector in 2019), but also indirectly with a €452 investment through the European Financing Partners IV Fund. How additional is BIO's participation given the total 1.5 Billion cost of the project? And how additional is the €452k investment realised via European Financing Partners IV Fund? Moreover, there is no doubt that the investment in a highly risky enterprise that could be the epicentre of a social and environmental disaster. Finally, attention must be paid to the realization of a 83KM pipeline to supply the plant, its impact on local land titles and the long-term implications for communities, animals and the increase in environmental hazard

The specificities of the Indorama project raise several concerns that, according to one of our civil society interviewees, were already flagged to the Cabinet before the loan was realised. The project raises some specific issues concerning the extension, additionality, and socio-environmental impact (as mentioned in the box). However, it also triggers broader considerations regarding the support to chemical and petrochemical companies that operate in the agricultural sector and may contribute to the consolidation of non-organic and oil-based food systems. This is not only the case of Indorama, but also of a 2021 indirect investment that BIO has realised (through the Phatisa II fund) in the South African Rolfes Group, a holding company that produces 28 varieties of organic fertilizers (through Rolfes Agri) but also owns Rolfes Chemicals, the “leading distributor of an extensive range of high-quality raw materials for the manufacturing sector” including agriculture.⁵²³

More details shall be obtained to assess the rationale and coherence of BIO's decision to invest in companies that are active in the chemical and petrochemical sector. In particular, it would be

⁵²¹ Indorama Corporation, available at <https://www.indoramafertilizers.com/article/15/overview.html>.

⁵²² See Sections 4.2-4.4 below for a critical assessment of BIO's investments in fossil fuels and the way in which they are (not) accounted towards the Paris' commitments.

⁵²³ See Rolfes Chemicals, available at: <https://www.rolfeschemicals.com/>.

important to gather information concerning the possible role that BIO is playing in directly supporting private actors that are contributing to the global and rapid increase in the use of nitrogen-based fertiliser, an issue that has raised significant concerns at the European level and the response to which represents one of the core elements of the Farm to Fork and the EU Biodiversity strategy. In the Biodiversity strategy, for example, it is clearly reported that “The strategy calls for the elimination of pollution from nitrogen and phosphorus flows from fertilisers by 2030. Fertilizer use should be reduced by at least 20% by 2030.” In the Farm to Fork, the ‘battle’ against the use of nitrogenous-based fertilizers and the need to reduce their presence in the environment is even clearer. According to the European Commission:

The excess of nutrients (especially nitrogen and phosphorus) in the environment, stemming from excess use and the fact that not all nutrients used in agriculture are effectively absorbed by plants, is another major source of air, soil and water pollution and climate impacts. It has **reduced biodiversity in rivers, lakes, wetlands and seas**. The **Commission will act to reduce nutrient losses by at least 50%, while ensuring that there is no deterioration in soil fertility**. This will reduce the use of fertilisers by at least 20% by 2030. This will be achieved by implementing and enforcing the relevant environmental and climate legislation in full, by identifying with Member States the nutrient load reductions needed to achieve these goals, applying **balanced fertilisation and sustainable nutrient management and by managing nitrogen and phosphorus better throughout their lifecycle**.⁵²⁴

When the investment in IEFCL and to the production of oil-based non-organic fertilizers were raised with BIO, the reply was that the investment happened some time ago (2012/2013), and that there was a long discussion in the Investment Committee that considered whether the negative impact of using oil was superior or inferior to the positive impact of producing a fertiliser in a part of Africa where these products are extremely missing and that would really increase productivity. As in other cases, the response is that the negative implications of an investment have been taken into considerations and that employment, economic growth and productivity were deemed to be more significant than the downsides. Even if the downsides may be incompatible with the current European framework and the international obligations that Belgium has subscribed (after the investment was signed).

b. Supporting the digitalization of agriculture

The use of digitalization in the context of development and cooperation are increasingly present in the strategies and positions adopted by DGD and the Belgian Government. This is evident in a 2016 DGD Strategic Policy Note ‘Digital for Development’ (D4D) for the Belgian development cooperation, where it is stressed the role that **big data, technologies and digitalization shall play in ‘increasing the impact’ of Belgian development cooperation, create inclusive societies** (maximize the number of beneficiaries of an intervention and to lower the threshold for vulnerable groups to enjoy democratic rights, to have equal access to basic services, to participate in public

⁵²⁴ European Commission (COM), *A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system*, (COM2020) p. 7.

life, and to be financially and economically included in society) and be a “positive force to create (self-)employment and to promote socially responsible entrepreneurship.”⁵²⁵

For DGD:

“The world around us is changing at an unprecedented pace. Not only here in Belgium or in the West, but everywhere in the world. The ‘International Telecoms Union’ (ITU) calculated that 95% of the worlds’ population lives in an area covered by a mobile cellular network. The potential of going digital is massive. At the European level, Belgium is a frontrunner when it comes to Digital for Development. Belgium was behind the initiative to bring together 17 European Member States to put Digital for Development on the European Agenda. In a common letter, we invited High Representative Mogherini and Commissioner Mimica to embrace the opportunities the digital revolution offers for development. The goal is to come to a Concept Note which would anchor this topic at the European level.”⁵²⁶

The new attention to digitalization for development is also reflected both in the BIO Law and in the current Management Contract (art. 14 §7), where it is foreseen, that **BIO shall finance companies that have “digital” as core business, or that integrate a digital or digitalisation element in their activities.** In line with the Contract, BIO has started investing in the process of digitalization of its clients, but also in venture capitals and funds with a specific target in developing new digital tools and platforms. The **digitalization of agriculture represents one area where BIO has already invested and that they appear to look with great interest at.** So far, the main investment is happening through a €4,36M equity investment in the **Omnivore Partners India Fund 2**, the second fund of Omnivore Partners India, a Venture Capital fund that invests in start-up technology companies active in the sectors of food, agriculture, and the rural economy in India. However, other investments have been realised by BIO in companies that are promoting e-commerce and digitalization, like **Twiga Foods in Kenya** (see box 3.17).

Omnivore defines itself as a pioneer in the sector of agricultural investments in India that is promoting the adoption of new technologies “not just for India, but also for the 500mln smallholders worldwide.”⁵²⁷ For BIO, “technology companies can significantly improve the lives of farmers and rural communities across India as they typically offer solutions that improve the farm productivity, reduce expenses, reduce hard labor, improve offtake, and reduce exposure to risks.”⁵²⁸

Box 3.13 Twiga Foods (€580k through TIDE Africa)

Twiga Foods is one of the several agri-tech startup companies seed-funded by Microsoft’s 4Afrika programme. “It was founded by Grant Brooke, a food economist, and Peter Njonjo, a Coca-Cola executive, founded Twiga Foods in 2014. The goal, as reported by BIO, was that of connecting farmers directly to small vendors, bypassing the powerful cartels. Reducing interme-

⁵²⁵ DGD, Digital for Development’ (D4D) for the Belgian development cooperation, 2016.

⁵²⁶ Ibid

⁵²⁷ Interview with Omnivore Fund.

⁵²⁸ BIO, Omnivore Partners India Fund 2, available at: <https://www.bio-invest.be/en/investments/omnivore-partners-india-fund-2>, last accessed 10 May 2021.

dations to increase direct access. The company has attracted the attention of Bain & Capital, a consulting firm that works with private equity funds interested in the digital economy, that has recently written about its success and business model. The scaling up and the focus on consumers has led to a shift towards large-scale sourcing. According to “Recognizing a unique opportunity, as an aggregator aimed at making fruits and vegetables more affordable and available to the low-income urban consumer. In the years since its founding, Twiga has become an important partner to thousands of smallholder farmers, the source of its bananas. But Twiga’s mission is to serve urban consumers. As a result, its engagement with smallholder farmers has been a by-product of its business model, not a central pillar of it, and as it expands and raises commercial capital, Twiga has started buying more from larger commercial farms to reduce costs.”⁵²⁹

The company is analysed in detail in the 2021 report by GRAIN on Big Tech and agriculture. Twiga was backed by the World Bank, Microsoft and some other venture capital, to build up “a fleet of trucks to source foods from farmers outside of Nairobi, to then be delivered directly to a network of small vendors in the city. All of the transactions are organised through cell phones, payments included, and are run on Microsoft’s digital platform and Azure’s cloud services.”⁵³⁰

According to GRAIN, Goldman Sachs and the French family that owns the Auchan supermarkets took major stakes in the company.⁵³¹ Through TIDE Africa, BIO invests almost €580k. Along with Microsoft, Twiga also partnered with IBM to pilot a digital banking scheme with its vendors. Most recently, Twiga formed a partnership with Kenya’s top e-commerce retailer meaning that Twiga is now selling foods directly to consumers; cutting out the small vendors it plans to “leverage” Auchan’s rapidly growing supermarket network to expand into West Africa.

In 2018, the company has also announced its intention to combine digitalization, big data, and provision of credit. Through a partnership with IBM Research, Twiga foods is creating digital profiles of informal small-scale kiosks traders - to be stored in a blockchain - to help them access credit.⁵³² In the words of Mr Wanjau, then technology officer at Twiga Foods: “Seventy percent of Kenyans work in the agriculture sector but only 2% get credit from banks. We want to create an immutable - trustworthy - database of the vendors and suppliers we deal with to help them, and banks to have access to information they can use to negotiate credit.”⁵³³ All over the world, however, the use of AI in order to define credit-worthiness and access to services (including loans) has been criticized for the high risk of discrimination, the lack of transparency and the profiling of participants.

For GRAIN: “Twiga may have created some efficiencies in Kenya’s food distribution system, but those savings are not being passed on to farmers and vendors. Twiga’s more significant impact is that it has refashioned food distribution, using pretty much the same work force, to enable corporations to insert themselves in the middle and extract wealth.”⁵³⁴ With regards to this last

⁵²⁹Vikki Tam, Dodla Dairy, Twiga Foods and Babban Gona: Three Model Farmer-Allied Intermediaries, 22 September 2020, Bain & Capital, available at <https://www.bain.com/insights/dodla-dairy-twiga-foods-and-babban-gona-three-model-farmer-allied-intermediaries/> [last accessed 20 September 2021].

⁵³⁰ GRAIN, Digital control How Big Tech moves into food and farming (and what it means), GRAIN, January 2021

⁵³¹ “Twiga Foods entices France’s richest family”, 12 June 2019, <https://www.dhahabu.co.ke/2019/06/12/twiga-foods-entices-frances-richest-family/>

⁵³² IBM, IBM and Twiga Foods Introduce Blockchain-Based MicroFinancing for Food Kiosk Owners in Kenya , 18 April 2018 <https://www.ibm.com/blogs/research/2018/04/ibm-twiga-foods/>

⁵³³ Dickens Olewe, Why Kenya hopes blockchain can end land grabbing, BBC News, 5 May 2018, available at: <https://www.bbc.com/news/world-africa-43640885>

⁵³⁴Ibid.

sentence, BIO reacted by stating that “is not clear on what basis the (original) authors are claiming this, nor to what corporations they refer”⁵³⁵ and invited us to take into account Twiga’s official response. Twiga has been reached by email for our study but never replied. Given the lack of clarity about the actual impact of Twiga vis-à-vis small-scale farmers, the change in its procurement strategy (as discussed by Bain & Company) and the attention that digitalization has been receiving in BIO’s portfolio, we consider that it is up to BIO to share the information at its disposal and the assessment that clarify the actual development impact that Twiga is having and prove the alignment between this investment, its social objectives and the broader food and nutrition security commitments of the Belgian state.

Omnivore’s theory of change is based on four pillars, that are used to screen their investments:

- a. “Radically increasing farmer income” by using economy of scale to reduce costs of inputs, to link farmers to more remunerative markets and to introduce farming techniques that can decrease the use of costly products like fertilizers;
- b. “Increasing the resilience of farmers” through products like insurance, loans and including farmers into supply value chains “where they have a right incentive that ensure that there is a buyer at the end of it.”
- c. “Sustainability” by tackling issue of soil depletion, food spoilage and water usage.
- d. “Catalysing climate action” by finding ways to combine technology, remunerative investments and mitigation/adaptation strategies.

By the end of 2019, Omnivore Fund II had already realised seven investments in Indian SMEs and start-up companies with a strong focus on the provision of digital tools and services for agriculture, the creation of digital markets (mainly business to business), and the provision of other agricultural services (including loans, seeds and warehousing). Since 2020, Omnivore Partners Fund India II has realised other seven investments, bringing to fourteen the total number of Indian agri-tech and agri-food companies that BIO is indirectly supporting.⁵³⁶

Portfolio Companies	Activity	Investment date	Ticket (INR m)	Ownership stake
TartanSense	Small robots for small farms (analytics, etc.)	feb/19	65.75	13.50%
DeHaat	Tech platform offering services to farmers (distribution, financial services, market linkages, farm advisory)	feb/19	334	10.70%
Intello Labs	Digital Quality Assessment of agri products	mrt/19	187.93	19.65%

⁵³⁵

⁵³⁶ This information is contained in an email exchange with BIO.

Aqua Connect	AI platform integrating farm management tools and omnichannel presence for aquaculture	aug/19	64	15.9%
Fasal	AI-powered IoT-SaaS platform for horticulture with sensors delivering advises to farmers	okt/19	54	10.5%
Bijak	B2B commodities platform with logistics and WC assistance	nov/19	212	3.6%
Farmley	Specialty B2B marketplace with supply chain for high value agri commodities	dec/19	81	10.1%
Clover	Greenhouse Agritech Platform	feb/20	140	11.00%
Arya	Supply chain services (warehousing, receipt financing, collateral management, etc.)	mrt/20	344.94	11.41%
AgriM	B2B trade platform for agri inputs	mei/20	55.13	11.56%
Krishitantra	IoT-based soil testing and advisory	okt/20	38	14.50%
Animall	Peer to peer cattle trading marketplace with various services including financial inclusion	nov/20	74	4.00%
Agri10x	Agri trading platform for farmers	dec/20	56	12.50%
Reshamandi	Supply-chain platform for the silk industry	jan/21	73	17.10%
Pixxel	Precision agriculture - earth imaging satellites	mrt/21	101	4.90%
Dvara	Financial inclusion at rural levels, facilitated by data & technology	apr/21	36	10.00%

Chart 3.6 BIO's investments through Omnivore (source BIO's email exchange)

Although different, the companies seem to share a similar attitude towards the combination between digital services and the provision of other forms of support to farmers so that they can reach the four goals discussed above. For example, **DeHaat** provides cheaper access to seeds, loans and fertilizers, along with the possibility for farmers to be integrated into a B2B platform where they can sell cash crops to commercial buyers all across India rather than in the local markets. At a different level of the chain, **Arya** has established a system of private warehouses where farmers can stock their products and provides direct micro-loans to farmers. Other companies, like **Farmley**, seem to be focusing on linking farmers to high ends markets through a B2B digital platform, while **Dvara** is a Research Centre that is promoting financial inclusion “to ensure that every individual and every enterprise has complete access to financial services” and that “strongly believes in the deeply transformative power of finance in unlocking the potential of individuals, households, enterprises and local governments.”⁵³⁷

⁵³⁷ Dvara Research, available here: <https://www.dvara.com/research/>.

Other companies are focusing more on **agri-tech and digitalization of agricultural practices, developing and distributing precision agriculture services, greenhouse agritech platforms, AI-powered platforms and sensors, AI platforms for aquaculture, digital quality assessment of agri products and small robots for small farms** such as BrijBot, a weed spraying robotic solution for smallholder cotton farmers (most of cotton farmers in India use genetically modified BT cotton seeds) which aims to reduce spraying costs by 70%. Given the multiple areas of investment, we cannot talk about a homogeneous process of digitalization of the agri-food system. We thus believe that a **bottom-up analysis would be needed to better understand the way in which each innovation is transforming the social and economic foundations of the food system, the lives of farmers and their families, and the lives of all the other people who are directly or indirectly linked with the food system in which farmers would participate.** A

Already in 2018, the contributors to the *Right to Food and Nutrition Watch* raised several concerns with regards to the increasing role of digitalization in the food system, highlighting the risks that it poses in terms of democratic control, participation, access, concentration of power, competitiveness and distribution of food. For the authors of “When Food Becomes Immaterial. Confronting the Digital Age” warned about three intertwined dynamics – *dematerialization, digitalization and financialization* – that “are now altering the nature of both tradable goods and the markets where they are exchanged.”⁵³⁸ For them, the so-called 'innovative thinking' “proposes a fusion of technologies that is blurring the lines between the physical, digital, and biological spheres. This presents a new narrative which all of us must engage in to confront the threats that lie ahead.”⁵³⁹ India represented one of the case studies for assessing the transformation of the retailing sector and reflecting on the implications in terms of right to food, production and distribution.

One year later, in 2019, GRAIN issued a report on the digitalization of agriculture that highlighted the fact that: “In India, for example, these traditional markets [of foodstuff] are the second most important source of livelihood after agriculture. However, in recent years, we have noticed that these markets are facing increasing competition from new forms of retail trade, sometimes called “e-commerce” or “e-grocery”⁵⁴⁰ and this poses issues of competition, access to market, livelihood for those farmers who do not participate, availability of products in the street markets, dependence on the platform and issues of quality. **Digitalization and digitalization of agriculture are not neutral processes and lead to social and economic redefinitions of society.** Following Leach and Scoones approach to the “Slow Race”,⁵⁴¹ we believe that before any form of innovation (in particular AI, big data, logarithm, etc.) is conceived and deployed as a solution for poverty and disenfranchisement, it is extremely important to ask a series of questions:

- **Which rights are enhanced** by the deployment of an innovation and which rights (i.e. privacy, control over personal data, customary land rights, right to self-determination, etc.) are compromised?
- **What are the needs that these technologies aim at satisfying** and can they address them. Are these the needs of the poorest and most marginalized smallholders, those of the low hanging fruits farmers, those of the developers or those of the consumers or those of the investors?

⁵³⁸ Available here: <https://www.righttofoodandnutrition.org/when-food-becomes-immaterial-0>.

⁵³⁹ Ibid.

⁵⁴⁰ Cedric Leterme, Digitalization of agriculture: what are the risks for farmers and populations in the Global South?.

⁵⁴¹ Melissa Leach and Ian Scoones, *The Slow Race. Making technology work for the poor*, Demos, 2006.

- **Are these innovations defined by and embedded in the diversity of local realities and to local definitions of the problem and the solutions?** Shall something developed in India (or elsewhere) be transposed in Sub Saharan Africa or elsewhere?
- **Who owns the technology? How accessible is it?**
- How is the **technology governed?** Who makes decisions? What is the role of users and/or beneficiaries in orienting the development, use and application of that technology?
- What is the **life cycle impact of that technology**, from the raw materials that compose it to its use?
- What kind of **food system is the technology promoting?** How is it enhancing food and nutrition security for the poorest and most marginalized? What practices are going to be lost?
- Are Belgian development actors **engaging with broader questions about how science and technology agendas are framed, the social purposes they serve, and who stands to gain or lose from these?**

DGD is aware that rolling out of digital technologies and the support to the digitalization of the economy **may have negative impacts on people and the planet, including on their rights**. The 2016 Strategic Policy Note on Digital for Development contains the principle of ‘**Do not harm**’ that recognises that the risk for unintended consequences is particularly high and it is important to prevent or properly manage those that have a negative impact.”⁵⁴² The need for a careful approach vis-à-vis the deployment of digitalization is evident when it comes to data and privacy, an area where DGD assumes a strong position and uses the vocabulary of rights. For DGD, personal rights are at risk both of abuse by government (with the establishment of a ‘Surveillance Society’) and non-state actors (i.e. corporations), which may abuse data for the purposes of land-grabbing, violent conflict and other. For this reason, the DGD document recommends that “**digitalization needs to go hand in hand with the promotion of human rights**, rule of law and the establishment of institutions, legislation, policies and procedures that will guarantee these rights and protect people’s privacy. It also involves the need to invest in skills development for data protection practices.”⁵⁴³

However, outside of the privacy concerns, the rest of the **negative impacts are interpreted as risks to be managed rather than rights that can be violated**. Therefore, the 2016 strategy tends to outweigh concerns with the belief in the potential of innovation and does not require the same level of caution, legislative engagement, and institutional consolidation when it comes to problems of power concentration, dependency, accessibility, and environmental footprint. For example, in the document we read that “The automation of processes and technology’s fast evolution also mean that some people are not able to follow and lose their jobs. Technology, however, also allows for the creation of new jobs and can be powerful to facilitate new opportunities for entrepreneurship.”⁵⁴⁴ In this sense, the role of development agencies is not to abstain from supporting certain forms of technological transformation, but to provide “beneficiaries with the necessary support (e.g. skills development, incubators and other support to start ups, job fairs, etc.) throughout the disruptive transformation of their economy.

Similarly, the Strategic Note mentions that “There is a need to understand the growing carbon footprint of the ICT sector itself, but also the opportunities it creates to reduce carbon emissions

⁵⁴² DGD, Strategic Policy Note.

⁵⁴³ Ibid.

⁵⁴⁴ Ibid.

in other sectors and to improve natural resource management through smart applications (e.g. ICT application in climate smart agriculture). Investment in ICT material and infrastructure will eventually also lead to an increase in e-waste for which the necessary recycling and disposal strategies need to be planned. Effective recycling of e-waste can be ensured, for example, via recycling capacity building and/or extended producer responsibility.”⁵⁴⁵ This appears as a representation of what Leach and Scoones call ‘techno-optimism’ where technology is at the same time the source of socio-environmental problems but is capable of bootstrapping itself and providing the solution.

Another example is the section of the Policy Brief on “New forms of exclusion.” DGD recognises that “Even whilst specifically aiming to foster greater inclusion in a certain area, the introduction of digital tools may also create new barriers and lead to exclusion in another area. Digital illiteracy can lead to a widening gap between the beneficiaries that can use the digital tools to their advantage and those that cannot.” However, rather than questioning the possibility that certain technologies may not be inclusive (for example because of their cost, because of the market that they want to satisfy, or because the impossibility of adapting to certain local context), the Policy Note calls for the complementation of “digital interventions with offline strategies that help ensure that no one is left behind.” The problem is not technology and the digital divide that is inherent in the fact that technologies are deployed for certain sectors of society and certain markets (see box 3.18), but that not everyone can access it.

Box 3.15 - Digitalization and the digital divide in Agriculture

In January 2021, GRAIN published a report on Big Tech’s move into Agriculture. One of the sections explores the concept of digital divide and provide a different perspective than the one contained in the DGD report: the divide is not about not having access, but about the vision of agriculture that ‘digital solution’ represent and reproduce. The distributive and socio-economic impact of digitalization has been discussed for several years, within and without the agri-food sector. A human rights approach to technology and digitalization, we believe, would require a proactive role by BIO and the Belgian government in assessing the risks of intensifying inequality and negatively affecting farmers that are most in need of support. This may not be the case of all investments realized by BIO. But we believe that BIO should develop an ad hoc human rights and socio-economic assessment of technological innovation and digitalization that is informed by ongoing critical stands on technology and digitalization.

According to GRAIN: “All of this [Big Tech moving into Agriculture] may sound quite disconnected from the realities and needs of the 500 million or so small farm households in the world who produce much of the world’s food. High-tech applications, like driverless tractors and pesticide spraying drones, are clearly not being developed for them. More importantly, the quality of the information that digital platforms provide to farmers is only as good as the data collected. So, **for farms in areas where there is a lot of data collection** (regular soil tests, field studies, yield measurements, etc) and **for farms that can afford new technologies that collect data** (like new tractors, drones, and field sensors), tech companies can collect large volumes of high-quality, real-time data. They have been developing algorithms to process and analyse the data and claim they can provide these farmers with advice on fertiliser application, pesticide use, and harvest times

⁵⁴⁵ Ibid.

that are fairly specific and useful to their farms. Nevertheless, it also makes a huge difference if the farms in the area are doing **monocropping**, because this makes it vastly more simple for data collection and analysis, as well as for recommendations. Small farms, however, tend to be located in areas where there are minimal to no extension services and hardly any central collection of field data. These services have been gutted across the Global South through decades of structural adjustment. Nor can small farms afford the high-priced data gathering technologies that bigger farms can use to feed information to the cloud. **As a result, the data that tech companies collect on small farms will inevitably be of very poor quality.**⁵⁴⁶

However, it is DGD's take on '**Market concentration**' that represents the clearest evidence of this risk-based approach to digitalization that discounts the potentially irreversible impacts of these new technologies regards rights and distribution of resources. According to DGD: "**Vested business interests**, regulatory uncertainty and limited contestation across digital platforms can lead to **harmful concentration** in many sectors and the emergence of **info-monopolies**, involving the risk that data are increasingly in private hands and become too expensive to access. Digital technologies could potentially **increase dependency on certain providers and certain patents on digital applications can be very costly.**"⁵⁴⁷ For DGD, market concentration is limited to data and their management. Thus, there is a need to manage this risk when collaborating with private sector companies and to ensure a level playing field between actors. However, the deployment of digital solutions and the harvesting of big data not only cause issues about data-monopolies, they **pose issues about the real economy** and, in particular, the **intensification of the power inequalities, the replacement of old 'middle-men' with new 'middle-men'** (see the case of Twiga Foods, box 3.17 above), the **'depeasantization'** of the rural areas, the abandonment of local markets, the **homogenization of agricultural practices** and the generation of a **lock-in effect of both farmers and farming practices**.

We thus believe that BIO should adopt a **systemic and right-based approach to digitalization (in particular of agriculture)** and that **BIO Management Contract shall be amended in order to recognise both the positive and negative potential of digitalization**. At the moment, however, BIO appears to be embracing digitalization without any concern. For them, "Digitalisation is now on the agenda across the industry. Starting with improved financial services reaching out to the population through mobile, efficient information systems to monitor the activities of the institution, over digitalisation tools effectively processing loans, to the use of Artificial Intelligence to streamline credit decisions. As a result, there is a rising number of technology companies specialised in financial services ("fintechs")." This was also evident during the interview with Omnivore, where we asked questions about the impact on local markets, farmers' access to technology, involvement of large agri-players as shareholders in the companies (see box 3.19 below), creation of new forms of dependency and transformation of existing agricultural practices were asked, and received responses that stressed the positive transformative potential of digitalization, the increase in efficiency, the higher incomes for farmers who participate, the fact that no one is forced to adopt the technology and at the presence of a rigorous policy on data protection.

⁵⁴⁶ GRAIN, Digital control How Big Tech moves into food and farming (and what it means), GRAIN, January 2021, pag. 5

⁵⁴⁷ Ibid, para 76.

Box 3.16 – Large Agri-Chemical company investing venture capital with BIO

BASF, a German multinational chemical company and the largest chemical producer in the world, is one of the investors in the **Omnivore Partners Fund II**. The BASF Group comprises subsidiaries and joint ventures in more than 80 countries and operates six integrated production sites and 390 other production sites in Europe, Asia, Australia, the Americas, and Africa. When asked about the role of BASF in DeHaat, Omnivore replied that “BASF is very active in investments around the world in new agri technologies and digitalization. All the big four are facing more public pressure to develop sustainable technologies. There’s a growing global backlash. All these companies are making significant investments in **diversifying portfolio**. Purchasing bio input companies to accelerate their organic offerings for farmers. They know that they cannot keep selling the way they have been selling.”⁵⁴⁸

By investing in Omnivore Capital Partners Fund II, BIO is thus investing in a fund that is also participated by BASF and that may be used by the company to enter the ‘new’ era of digitalized food systems and maintain a relevant role in the future of the food system through the promotion of proprietary technologies and businesses that generate high rents for investors. In an era where only a few corporations hold unprecedented control over data, communications, and the food system, the use of ODA to support this kind of investments and this kind of actors appear as a way to contribute to the reinforcement of monopsony, power and positions of dominance. We wonder if that is aligned with the development objectives of the Belgian state and with the additional role that a DFI shall play.

The Belgian government, DGD and BIO are giving a lot of attention to digitalization as the future of development and cooperation. This is justified by the potential that certain innovations have in terms of efficient management use of resources, creation of new markets and addressing some of the structural shortcomings that characterize low-income countries. **However, technologies are not neutral devices and digitalization is a transformative process that may have significant implications in terms of human rights and the environment.** Civil society organisations and academics have already raised several concerns about the development and deployment of technologies that are not built around the needs of the ‘poor’, that are not accessible, that are not democratically governed and that reproduce existing structures of inequality and power.

When it comes to the **agricultural sector**, **digitalization poses multiple risks** not only because of the accumulation of data and the risks to privacy, but because of the intensification of competition among farmers, the shift to monoculture and cash crops, the impoverishment of territorial markets, the exclusion of the most marginalized, the creation of new gate keepers, the deepening of dependence and the reproduction of positions of economic dominance. For all these reasons, the role of BIO in promoting digitalization for development and the digitalization of the agri-food sector shall be attentively scrutinized and shall **lead to the elaboration of a clear strategy that goes beyond the recommendations contained in the 2016 DGD Policy Note**. At the moment, this does not seem to be the case. Having analysed some of the investments and having spoken with some of the actors involved, the risk that BIO may be contributing to regressive and irreversible changes in the agri-food system is not irrelevant.

⁵⁴⁸ Interview with Omnivore Fund.

c. Financing the globalization of the food system or self-dependence?

In 2014, Olivier De Schutter offered BIO with a reflection on the political discussions that took place in the last decades on the scales of food systems and the best way to address people's food and nutrition security. According to De Schutter, after decades of reliance on international trade:

“In contrast to past approaches that emphasized the expansion of volumes of agricultural commodities to be produced for the benefit of the food processing industry, and addressing hunger and malnutrition in developing countries by a combination of subsidized exports and food aid, the focus shifted then in three directions: First, there was an insistence on **strengthening the ability for poor countries to feed themselves**. [...] the focus shifted then in three directions: general agreement that international markets will be more volatile in the future, and that **countries should not take the risk of being excessively dependent on imports to feed themselves**; resilience, instead, requires that they **invest in domestic food production**; and this is also a means to increase productivity in regions where productivity has remained low hitherto, as a result of a lack of interest of both private investors and governments in strengthening such production.”⁵⁴⁹

Similarly, in his first report as UN Special Rapporteur on the Right to Food, Professor **Michael Fakhri** addressed the link between trade and the right to food and concluded that a **change in perspective and aims is needed**. International trade in food shall not be an end in itself, and self-sufficiency shall be the qualitative and principled guidance to governments, people and institutions:

“Under the current trade system, because economic growth is the underlying value, people meet each other primarily as sellers and buyers in their everyday exchanges. [...] The trade system should no longer only treat people as “buyers” or countries as “importers” in the narrow commercial sense. The right to food means that everyone is entitled to be in a position to receive goods and services in the spirit of equality and grace. Everyone's particular set of cultures already includes shared, informal rules about how one is supposed to share foods through practices of conviviality and hospitality. [...] As it relates to the right to food, self-sufficiency is a value that can provide qualitative and principled guidance to governments, people and institutions with regard to their decision-making and strategic planning across the different policy contexts that have an impact on the right to food, including trade policy.”⁵⁵⁰

The risks behind **international dependence and the need for a redefinition of the territorial scope of the food system have been particularly visible during the covid-19 pandemic**, when producers and countries relying on export have been facing hurdles in accessing income and when consumers dependent on imports have been struggling with accessing nutritious and sufficient food. Even Pascal Lamy, a historical supporter of free global trade in food, has recently recognised the unique nature of food and the role that the precautionary principle shall play in

⁵⁴⁹ Olivier De Schutter, (n. 453).

⁵⁵⁰Fakhri (n 420).

reducing free trade in food when this can negatively affect food security and the environment.⁵⁵¹ We believe it is essential for BIO and the Belgian Government to clarify what is BIO's position vis-à-vis the space of international trade in food in achieving the sustainable development goals and ensuring the respect of essential human rights (see box 3.21 below)

More than ever, **ODAs in the area of agri-food systems shall be utilized to reduce the dependency on global markets and to guarantee the resilience of the regional food systems, if not the highest level possible of autonomy and self-sufficiency.** Old theories of comparative advantage and trade for food and nutrition security have been proved not to be capable of facing shocks and to repeatedly disfavour the most marginalized players in the food system. Thus, from a human rights perspective, a development point of view and in terms of food and nutrition security, **it makes a difference whether funds are invested in territorial food systems or the global food systems.** Yet, our analysis reveals that BIO does not have a clear strategy vis-à-vis international trade in food. If any, **it considers global value chains as opportunities for higher income and to economically upgrade (as discussed above with regards to the investment in export-led plantations and in linking farmers to high end global value chains).** This is even more evident if we consider that BIO is also investing in trading companies that are exclusively focused on promoting the export of raw materials from the Global South to the North (e.g. Qualicoff, box 3.20 below), and, although with a very limited ticket left, in one of the largest players in agribusiness trading and processing in Africa (Export Trading Group, headquartered in Mauritius).

Box 3.17 - Qualicoff (€463k through African River Fund)

Qualicoff is a coffee trading company based in Kampala, Uganda, which has been operating since 2010 and exports Robusta green beans to Europe and the United Arab Emirates. The company is owned and managed by Andrew Ssettimba and family, and currently employs some 11 staff. Qualicoff is one of a wide range of coffee traders in Uganda, who in total exported some 288,000 tonnes of coffee in 2016 or about 4% of global coffee exports. After Ethiopia, Uganda is the second largest coffee exporter in Africa and the eight largest in the world. Qualicoff buys coffee from small holders using a network of small local merchants and ensures quality by cleaning, sorting and bagging this green coffee for export. African River Fund financing has been in the form of a long term working capital loan to enable Qualicoff to significantly increase export volumes. Coffee is grown in various regions in Uganda and is the country's largest export product, as well as the biggest contributor to employment and foreign currency reserves. While the coffee export market is dominated by the larger commodity trading houses, smaller Ugandan exporters struggle to compete as they have limited access to finance.

On the other hand, BIO is promoting some investments (like JTF Madagascar and PHC Feronia) because they are increasing the amount of agri-food that is locally produced and locally available (although JTF produces feed for livestock and PHC Feronia produces palm oil for the market of Kinshasa, that distances more than 2500km from the plantation, slightly less the same distance that exists between Oporto and Sofia). In light of this incongruence, we engaged with BIO to better understand their position vis-à-vis export, trade and food and nutrition security and it was confirmed that there is not a specific position vis-à-vis this crucial point. Rather than precise strategy, the investment committee pursues a combination of financial and non-financial oppor-

⁵⁵¹ Pascal Lamy, Intervention in online webinar organised by IFPRI, 01 May 2021.

tunities that lead to the co-existence in the portfolio of investments with opposite rationale and justification.

Box 3.18 - What is BIO's position vis-à-vis international trade in food?

We asked two precise questions to BIO about their position vis-à-vis international trade in food and whether or not they think that there are possible tensions between supporting global value chains, export-led agricultural production and achieving food security in the countries where it invest. In our opinion, the exchanges that we have suggest an overall support of international trade in food, seen as an opportunity to stimulate productivity, seize the opportunity of value chains and connect local territories with consumers who are willing to pay a higher price. In one of our interviews, it was mentioned that the support to export-led agriculture should also depend on whether or not there is a scarcity of natural resources in the country of origin (such as water or land) and whether supporting export would affect local availability of food, but this point was not identified in any of the official documents that BIO has published with regards to its position on agri-food chains. On the contrary, the academic literature produced around the case of the Senegal River Delta (discussed above in the case of SCL) was presented as a clear evidence that export-led agriculture has an overall positive impact on local communities.

BIO's answers suggest that BIO's investment strategy vis-à-vis global trade in food is disconnected from the conversations around food and nutrition security and the right to food that have been going on for decades on the risks of treating food as any other commodity and that have been recently strengthened by the UN Special Rapporteur on the Right to Food Michael Fakhri. In particular, concepts like 'food scarcity', 'land availability' and 'economic upgrading' are addressed in generic terms and through the lenses of state performances, rather than being embedded in the specific reality of the places where BIO is investing and in the material implications of the projects. At the same time, investments in agri-food projects are only seen as micro-bubbles of water, land and communities management that is delimited by the geographical scope of the investment and not embedded in a broader ecosystem that has social and environmental components. A right to food and system-based approach to international trade in food and agriculture, on the contrary, suggests that each phase of the food chain is a piece of a more complex networks of people and nature and that building production for trading has an impact that goes beyond the immediate access of food in the local areas. It affects the quality of the production, the food that is produced, the logistic, the competition for resources, and also the availability of food. The entirety of the system, and not its individual elements or the mere economic performance, is crucial to the construction of food and nutrition secure communities and the fulfilment of Belgian extra-territorial obligations vis-à-vis human rights and the right to food.

We appreciate that BIO is recognizing the complexity of the topic and asked questions regarding its approach to international trade in food. However, it is our conviction that the answer to this question shall not be left to consultants or confidential conversations. On the contrary, it shall be put at the centre of a **public and transparent debate involving not only financial actors and a limited number of NGOs, but beneficiaries, civil society and groups in the Global South**. If we were to provide a short answer, we believe that the role of BIO and ODAs is **not to support food chains that reproduce historical patterns of market dependence, monoculture, price volatility, poverty, reliance on powerful intermediaries and food and nutrition insecurity**. This does not mean to stop its support to small-scale farmers who produce cash crops. However, it requires

contributing to the establishment and consolidation of local production and territorial markets. As long as export-led agri-food production (both in the scale of plantations and the scale of smallholders) is incompatible with these goals, BIO's investments are in conflict with the right to food and the goals of Belgian development cooperation.

3.10 Confectioning, retail and consumption

We mentioned at the beginning of this chapter that BIO is investing in all phases of the food chain, from the provision of agricultural inputs to consumption. With regards to the last phases of the food system, i.e. its distribution to the consumers, BIO is mainly relying on Private Equity Funds to inject liquidity (through equity or debt) into companies that are distributing food and that are running restaurants. At the end of 2019, only one outstanding investment was directly realised by BIO. This was a **French-style bakery in Vietnam established by French expat, i.e. the €1.964.286 loan to Banh Vang, which could also be categorized as a 'processing investment'**. When BIO presents its portfolio, these investments are sometime presented as 'Agroindustry', but mostly labelled as 'Food Retail' and 'Fast moving consumers goods'. Given that both these activities fall in the perimeter of food systems, and often represent the part of the food systems that is most visible to consumers, it is our opinion that they have to be assessed along the lines of BIO, DGD and the Belgian government's strategy vis-à-vis food (and nutrition) security.

Among the companies that are indirectly financed by BIO and operate in these sectors, there are: Jumbo Brands, Yes Brands Foods and Beverages, Directores Estrategicos (Save-A-Lot), Chibuku,⁵⁵² Joruth Enterprise Ltd, Afribon, AJP (Valencia), Land d'Or, Goli VadaPav and Ahadukes Food Products S.C. They are active in different countries and have different business models, and in 2019 represented outstanding commitments that varied from tens of thousands of Euro to more than one million (Britania Foods Limited).the question that needs to be asked is how these investments in the food system contribute to food and nutrition security and if they were assessed through the lenses of investments that may have a transformative impact on the food system and/or on consumption habits.

Four main areas of interest arose from our analysis, all of which were explicitly raised during our interviews:

- a. **BIO's investments in bottled water,**
- b. **BIO's investments in companies that also produce junk food and in funds that also invest in alcoholic drinks;**
- c. **BIO's investments in large-scale discount retailing;**
- d. **BIO's investments in fast food chains.**

⁵⁵² BIO claims to be an excluded investor in the case of Chibuku, but the company's name was contained in the 2019 Portfolio that we received from DGD.

a. Investments in bottled water

With regards to **bottled water**, our engagement with BIO was based on the consideration that the support to a market for bottled water may stimulate privatization of such a precious resource and have a negative impact on accessibility. The investments in Yes Brands Foods and Beverages (Ethiopia)⁵⁵³ and In the context where BIO claims to be interested in avoiding agricultural investments where there is not enough water available, we thus asked “*How is [investing in bottled water] compatible with [BIO’s] idea of what should be a commodity and what should be a market product and what shouldn’t? Should water require a specific consideration somehow, in terms of its inclusion in the market?*” In response, we were told that:

“[We] don’t think that bottling water is bad in a manner that you suggest. **It won’t create a lack of access to water to other people in the area.** Instead, we need to look at the bigger picture here. The question is: is it better to do that, vs importing bottled water? Are you creating Manufacturing competencies in these countries? And is it better than importing those same bottles of water from abroad? I think it’s better. By financing production line of bottled water you probably do not contribute to solve/ensure ‘access to water’ to the lowest-income population but it does contributes to local production, job creation, know-how transfer, etc. “

The answer **recognised that investing in water bottle may not solve the problem of access to water to those who most need it.** Although BIO follows IFC standards and requires funds to follow them too, we are not sure that the assessment process adequately recognizes the essential nature of water and the implications that bottling water may have on access to water and the right to water of local communities. In its answer, BIO seems to still justify the investment by moving away from the issue of water as a human right, by posing a false dichotomy (importing or producing local bottled water – rather than non-investing in bottled water or investing in forms of water provision that guarantee access), by adopting a systemic approach to the overall national context that blurs the actual impact of the investment, and by repeating the economic argument about income and job creation. As we mentioned to BIO, it is our opinion **that the right to water should represent a red line in the investment strategy of BIO and that the privatization of water as an essential public good should not be financed, even if water is not yet added to its exclusion list.**

b. BIO’s investments in company producing also junk food and funds that also invest in alcoholic drinks

For what concerns investing in **junk food or children and alcohol**, the point of view that we adopted is that **ODAs shall not be used to promote the consumption of goods that are not healthy and nutritious** and that could create addiction. On the one hand, **Jumbo Brands** is a South African company founded in 1985 and initially manufactured ice popsicles under the name Jolly Jumbo. Today, Jumbo Brands manufactures and distributes several products including

⁵⁵³ Yes Brands is the leading manufacturer of mineral water in Ethiopia. The company’s products, sold under the name Yes are sourced and bottled at its manufacturing facilities near Wechecha Mountains in Sebeta, Oromia Region 25km from Addis Ababa. <https://www.cdcgroup.com/en/our-impact/fund/catalyst-fund-i/>.

shakes and crisps. According to Jumbo Brands “The Little Elephant became part of **several children’s parties** and has grown into a symbol of love for South African families – a fact that Jumbo Brands is extremely proud of.”⁵⁵⁴ For BIO, this investment does not prevent people from having a healthy diet, and Jumbo Brands has a products basket that “covers a mixture of products, including coffee, fruit juice concentrates, squash, lemon juice, vinegar, corn chips.”⁵⁵⁵ Although we could not investigate the nutritional and consumption impact of Jumbo Brands’ products, we wonder if the decision by Agri-Vie Fund II to invest in these products and this market was scrutinized through the lenses of food and nutrition security and if there was a right-based approach to the impact of an expansion of this company in the South African market.

On the other hand, the list of investments that we have received from DGD indicates that BIO’s equity is invested in the Ethos Mezzanine Fund, and that Ethos Mezzanine is invested in **Chibuku**, a Zimbabwe-based company owned by the Delta Corporation Limited (Zimbabwe), a beer and drinks company that dates to 1898, when Louis Susman and Adolph Rosenthal arrived in Salisbury, **Rhodesia**, and founded the Salisbury Lager Beer Brewer. According to Ethos Mezzanine Fund, **Chibuku is a market leader in the traditional African beer** and sells two main products, the Chibuku Scud a non-carbonated beer and the Chibuku Super which is a carbonated sorghum beer brewed with the finest maize and sorghum locally grown in Zimbabwe. **Chibuku beer is 4% alcohol and sold across Africa in bottles of 1l, 1,24l and 1,5l.**⁵⁵⁶

In the comments to the first draft of this report, BIO responded that “While BIO is an investor in Ethos Mezzanine, has opted out of contributing to the investment in Chibuku. The technical term for this is that BIO is “an excused investor”. For this reason, the Chibuku project is also not mentioned on BIO’s website.”⁵⁵⁷ We certainly trust BIO’s knowledge of its own portfolio. However, we are puzzled by the incongruence of the information that has been circulated and we are also conscious that money is a fungible good and that ‘opting out’ may not be enough when funds are provided and facilitate the operations of the fund.

In addition, we want to highlight that we specifically asked BIO about Chibuku before the first draft of this document was ready. Then, we asked whether the nature of an “investment in alcoholic beverages led to a more stringent due diligence, considerations of impact? If so, of what kind?” The answer, very straightforward, was that: “**Beer and wine are not excluded from the EDFI list, so there are no different processes.**”⁵⁵⁸ In case BIO was invested, we think that this **reductive approach** to the social and nutritional implications of alcoholic beverages would not be enough. Especially in the context where its consumption is rapidly expanding, and non-aligned with the premises, objectives, and obligations of ODAs. This is particularly true given the presence that Delta Corporation Limited seems to have in Zimbabwe and the broad cultural campaign that they promote to increase the consumption of their products among younger

⁵⁵⁴ Jumbo Brands, see: <https://jumbobrands.co.za/about-us/>.

⁵⁵⁵ Email exchange with BIO.

⁵⁵⁶ Ethos Mezzanine Fund, Chibuku, see here: https://www.ethos.co.za/invest_portfolio/chibuku-products/

⁵⁵⁷ Email exchange with BIO.

⁵⁵⁸ Email exchange with BIO.

generations (including organizing a competition like American idols).⁵⁵⁹ In case BIO was an excluded investor, we nonetheless highlight the confusion in the communication and the fact that BIO's funds in Ethos Mezzanine still contribute to the operational costs of a fund that is not aligned with BIO's vision.

c. BIO's investments in large-scale discount retailing

The third kind of investments that was raised with BIO is that in '**large-scale food discounts**', and in particular the €607k investment in Directores Estrategicos (Save-A-Lot) that was still outstanding in 2019 and that was realised through the investment fund CoreCo in 2019. 'Directores Estrategicos S.A.' is a Guatemala company that has the **licence to operate large-scale retailers of the USA brand 'Save-A-Lot'** (owned by Supervalu Inc) in Guatemala and in the whole region of Central America. Supervalu Inc. is one of the **largest food discount retailers in the United States**, with annual sales of \$17 billion. Save-A-Lot is the largest discount chain in the United States. According to CoreCo, the investment in Directores Estrategicos S.A. will allow the company to fill the current need for food products imported from the United States.⁵⁶⁰

When we read the description of the business and its finality, we cannot overlook the **significant impact that it may have in the present and future of the food system in Guatemala**. More imported and cheap food from the United States may be associated with a higher availability of goods, but – as the case of Mexico has amply demonstrated – it is likely to lead to an increased consumption in unhealthy processed food with significant consequences in terms of health of the individuals and public budget.⁵⁶¹ Moreover, the case of Mexico also demonstrates that an easier access to imported food products also leads to an increase competition for local producers, the entrance in the picture of a strong intermediary with significant bargaining power, and, indirectly, to the loss of agricultural jobs or – in the best case scenario – a transformation of the agricultural texture into monoculture.

We thus asked BIO a specific question: "**How is investing in large-scale retailing that aims at increasing the amount of foreign products distributed in Guatemala justified according to your food and agri strategy and the DGD strategy on food and agri-investments (healthy, local farmers, etc.)?**" The answer, once more, was a repetition of the economic argument and adopted an interpretation of food security completely disconnected from the social and environmental complexity of food environment, from the environmental impact of internationally transporting goods, from the role of large-scale discounts in transforming territorial food systems, and from

⁵⁵⁹ Delta promotes its brands through cultural activities including the Jikinya Dance Festival, the Chibuku Neshamwari Traditional Dance Festival and the Chibuku Road to Fame competition which is similar to reality tv shows such as American Idol and the Gulder Ultimate Search in Nigeria, sponsored by Nigerian Breweries. They also host the Lion Lager campus nights meant for university students and Lion Lager beer festival.

⁵⁶⁰ CoreCo, Coreco Private Equity announces investment in Directores Estrategicos, 28 October 2019, available from <http://www.corecoholding.com/coreco/2019/10/28/coreco-private-equity-announces-investment-in-directores-estrategicos-s-a-save-a-lot-guatemala/>

⁵⁶¹ Gerardo Otero, 'Eating NAFTA: Trade, Food Policies, and the Destruction of Mexico,' (2020) 49(1) *Contemporary Sociology* 45, <https://doi.org/10.1177/0094306119889962>; Elisa Pineda et al., 'The Retail Food Environment and Its Association with Body Mass Index in Mexico,' (2021) *International Journal of Obesity* 1 <https://doi.org/10.1038/s41366-021-00760-2>.

the power dynamics and multiple effects of connecting territories with transnational food chains (in particular with the highly subsidized USA production).⁵⁶² For BIO:

“The investment in this fund aimed to provide equity, and therefore patient capital, to SMEs in Central America and therefore did not target specifically the agri-sector. To address your question, it may be justified by the jobs created and economic growth promoted in Guatemala, and in terms of improving food security, for example if products are not locally available or not of an acceptable quality/price. Food security is not about food autarky, but about the optimal combination of local production and import, both in terms of sustainable and successful domestic agriculture and of access to adequate food.”⁵⁶³

d. Investments in fast food chains

Along the same lines, we believe that BIO’s indirect investments in fast food chains reveal the need for a holistic redefinition of its agri-food strategy to align it with the Sustainable Development Goals and with the requirements of food and nutrition security as indicated by the Food and Agriculture Organisation, by the Belgian government and DGD. For example, through VenturEast Proactive Fund BIO is investing in Goli Vada Pad,⁵⁶⁴ “a quick service food chain providing local Indian food.” For BIO, Goli Vada provides a relevant contribution to the local economies by sourcing local content, job creation, etc. and by provide “access to local, affordable food and employment.”⁵⁶⁵ For us, the investment in a fast food chain that serves cheap fried food in 300 stores across 90 cities and 20 states of India shall be assessed through the lenses of nutritional security and from the point of view of the bargaining power that it exercises with providers in order to maintain low prices. Although the investment may not “prevent the local population to have a healthy diet,” as stated by BIO, they are likely to promote eating habits and consumption patterns that do not align with the 1996 FAO definition of food security nor with the 2017 Strategic Note on food and agriculture issued by the DGD.

Of course, it is always possible to state that investments are generating employment and economic growth: but can they be disconnected from the implications that they have on individual life patterns, human rights and the broader food system?

⁵⁶² Pineda et al., 'The Retail Food Environment and Its Association with Body Mass Index in Mexico YEAR, VOLUME, JOURNAL NAME, PAGE; Catherine L. Mah, Gabriella Luongo, Rebecca Hasdell, Nathan G. A. Taylor & Brian K. Lo, "A Systematic Review of the Effect of Retail Food Environment Interventions on Diet and Health with a Focus on the Enabling Role of Public Policies" Current Nutritional Reports, 8, 411-428, 2019, available at <https://link.springer.com/article/10.1007/s13668-019-00295-z>.

⁵⁶³ Email exchange with BIO.

⁵⁶⁴ See here: <https://m.golivadapav.com>.

⁵⁶⁵ Email exchange with BIO.

Reflections and Recommendations on BIO's investments in agri-food systems

The present section reflects on the Chapter and presents a set of considerations and recommendations relating to the way in which BIO engages with the agri-food system and with three specific kinds of investments that are particularly prominent in BIO's portfolio namely: a) connecting small-holders to market, b) investments in large-scale agri-industry activities and c) investments in export-led plantations. The purpose of this section is to trigger reflections on both substance and process and to invite BIO, the Belgian Government, and other interested stakeholders to take concrete steps that may improve the quality of BIO's interventions and align it more with the systemic nature of the Sustainable Development Goals. We have thus collected a set of findings and (extended) recommendations that expand the more generic recommendations identified in the previous chapters.

Thirteen Points on Interest BIO's agri-food portfolio

- 1. There are limited code 5 investments:** Firstly, it must be noted that according to the 2019 Portfolio that we received from DGD, the sole code 5 investment in agriculture was the 3m Euro invested in the Fair Trade Access Fund.⁵⁶⁶ **Almost the totality of the investments is realised with code 8**, with few investees that receive funds from the SME and the climate funds. This has implications in terms of remuneration, risk and the projects that can be funded.
- 2. Aligning investments in agri-food sector with 15% commitment:** Secondly, it is important to compare this area of investments with Belgian cooperation and development's 2017 **commitment to dedicate at least 15% of Official Development Aid every year to the agricultural sector**, which was mimicked by the 2019-2023 BIO Investment Strategy, which pledges that at least 15% of the new deals approved every year shall have an 'agri-feature'. The fulfilment of such commitment would imply a significant change in the operations of BIO, given that in 2018 it had invested only 7% in agriculture.⁵⁶⁷ In the absence of a 2020 report, given the lack of specifications in the 2019 report and given the impossibility to refer to confidential document, we used public information accessible online to elaborate an estimate of the percentage of investments in agriculture realised in the last two years. Our estimation is that 16m out of 199m invested in 2019 went to a company linked to the agricultural sector (8.04%). In 2020 and 2021, years significantly affected by the pandemic and by an intensification of the struggle of farmers and small-scale food enterprises, we could only identify some indirect investment in agri-food realised by Omnivore Partners Fund II.

⁵⁶⁶ According to BIO, in 2021 there is also a code 5 investment in Alterfin, which was not reported in 2019.

⁵⁶⁷ BIO, *Rapport annuel 2018 au Ministre de la Coopération au Développement*, 31 Mai 2019, document shared with the authors.

3. **From ‘agribusiness’ to ‘food systems’ investments:** The third point concerns BIO’s categorization of the investments. On the one hand, it would be important for BIO to **adopt a systemic definition of ‘agribusiness’ investment that reflects the fact that BIO is increasingly investing along the value chain, including in the areas of transformation and consumption.** The definition of ‘Agribusiness’ does not embrace the totality of the agri-food chain, so that investments like IEFC are not included in this category and indirect investments in the final phases of the food chain are categorized as ‘Food retailer’ or ‘Fast moving consumer goods’. A wider ‘agri-food’ category shall be introduced and allow the observer to have a more holistic sense of all the investments that have an impact on the food system (including inputs and fast foods).
4. **Scrutinize generalist funds:** Fourth, when BIO invests in **generalist funds** that are also active in the agri-food sector, these investments should be subject to the same ex-ante and ex-post considerations in terms of their compatibility with the aims and objectives of Belgian development cooperation in food and nutrition security. When asked about BIO’s indirect investment in Directores Estrategicos (a Guatemala company that has the **licence to operate large-scale retailers of the USA brand ‘Save-A-Lot’** (owned by Supervalu Inc) in Guatemala and in the whole region of Central America), we were told that “The investment in this fund aimed to provide equity, and therefore patient capital, to SMEs in Central America and therefore did not target specifically the agri-sector.”⁵⁶⁸ Although we were not provided with the ex-ante assessment of this specific investment, we wonder whether the **‘non-specific’ nature of a fund is such that the impact of their investments on food and nutrition security is adequately assessed.**
5. **Integrate personnel with knowledge of food systems:** Fifth, it is noticeable that most of the investments in this sector are not embedded in the broader context of the food system in which they intervene. Connections to market, income generation and employment are important elements that BIO stresses in most of its interventions. On the other hand, issues such as the implication on availability and accessibility of food locally, perceived, and actual food security of households, competition between large-scale and small-scale farmers, dependency on the fluctuations of the market, concentration of land, etc. seldom appear to be at the centre of the analysis. As indicated by the 2017 Agri-Food Task Force, we believe that it is essential to **integrate these skills and to increase the diversity of perspectives and opinions** when it comes to assessing agri-food investments. At the moment, BIO seems to be lacking a holistic and clear vision of the way in which its investments shape food systems, territories, and lives. In our opinion, the **adoption of a complex approach to the investments in the agri-food system and their impact require, first, that this expertise and skills should be present in BIO.** However, the profile of the organisation’s employees is such that it currently missing the specific and unique know-how of the diversity of food systems (beyond commodity-based and long-distance trade), multiple forms of agricultural production (from sustainable intensification to agroecology), agron-

⁵⁶⁸ Email exchange with BIO.

omy and a qualitative approach to food security. In our opinion, the “mix and breadth of expertise due to its combination of internal expertise with targeted interactions with NGO, local communities, international institutions such as FAO, other DFIs, technical experts and consultants” is not enough as the internal expertise is – as mentioned by the Agri-Food Task Force – not sufficiently diverse and not sufficiently embedded in ongoing conversations around agri-food systems and issues.

6. **Adopt a clear commitment to the right to food, agroecology and a comprehensive definition of food and nutrition security:** from the interviews, the analysis of the investments and the engagement with the public documents published by BIO, it appears clear that BIO does not recognise the right to food as a guiding principle and that it adopts a narrow definition of food security as an indirect consequence of income generation. Given that Belgium is a signatory of international conventions that recognise the right to food (like the International Covenant on Social, Economic and Cultural Rights), it is our opinion that the food and agriculture strategy shall be aligned with the requirements of protecting, respecting, and fulfilling the right of all people to have access to adequate, available, stable, and culturally acceptable food that is produced in the respect of the planetary boundaries. At the moment, it cannot be said that all BIO’s investments align with this, nor its ex-ante or ex-post Human Rights Based Assessments.

Moreover, BIO shall adopt (or the Belgian Government require the adaption) an up to date definition of food and nutrition security and adequate methodologies for assessing it. The integration of the ‘nutritional’ element, that the Food and Agriculture Organisation has been doing for decades, is essential to avoid promoting investments that are just about production and availability, without considering the nutritional quality of the food and its accessibility. On the other hand, BIO shall also adopt (or be required to adopt) an assessment methodology such as ‘**The Food Insecurity Experience Scale**’ (FIES) as a **qualitative approach to food and nutrition security** that brings to light the actual experience of people and their effective capacity to satisfy their nutritional needs and their right to food.⁵⁶⁹ This qualitative and quantitative method of assessment has been used already for several years and is one of the pillars of the FAO’s annual State of Food Insecurity report (SOFI). The SOFI reveals that the experience of food insecurity is much more diffused than a mere quantitative assessment (e.g. increase in income, availability of calories or national availability of food) would indicate.

7. **Establish a permanent, diverse and transparent Agri-Food Task-Force:** in line with the previous point, our analysis has revealed the importance that the 2017 Agri-Food Task Force meeting had in defining BIO’s ongoing agri-food strategy. However, that meeting

⁵⁶⁹ According to the FAO: “This indicator provides internationally-comparable estimates of the proportion of the population facing moderate or severe difficulties in accessing food. The Food Insecurity Experience Scale (FIES) produces a measure of the severity of food insecurity experienced by individuals or households, based on direct interviews. The indicator will measure progress towards SDG Target 2.1.”

was close, invitation only, without representatives from the countries where BIO invests and with a limited participation of other public Belgian development actors, CSOs and NGOs. Moreover, it was a once-off exercise that reduced the possibility of constantly receiving feedback, suggestions, and reflections on the agri-food strategy. For this reason, we think that the Belgian Government shall ask for the establishment of a permanent, diverse, and transparent Agri-Food Task Force integrated by a plurality of actors carrying the expertise and the insight that BIO is currently lacking. For example, the Government may want to institutionalize the role in policy making and goal setting of The Agriculture and Food Security Platform (PASA), a group that is coordinated by DGD and CCF and brings together development cooperation actors and academics who work on the subjects but that currently has an informative character.

8. **Rethink the premises and invest in territorial food systems:** the combination between new in-house expertise and the work of the permanent Agri-Food Task shall first aim at rethinking the premises that BIO uses as a basis for its investments. Throughout the report, we have presented that BIO and its clients tend to adopt a homogeneous vision of what is the food market and what who are private actors. This **vision tends to favour complex value chains, distant trading, cash crops and more sophisticated actors who already have access to these markets**. Consequently, there is the risk to overlook local and territorial markets, and not to reach the most marginalized farmers and smallholders. However, local markets are markets, and smallholders who feed local communities are commercial private actors. In addition, also the World Bank and UNCTAD recognise that **these food actors are those that mostly need access to finance and development money** (although with smaller tickets than those that BIO can provide directly).⁵⁷⁰ A more complex and diversified understanding of the food market and of food actors is thus needed to guarantee a diversity of investments that does not leave anyone behind.

9. **Add Genetically Modified Organisms (GMOs) and New Genomic Techniques (NGTs) to the exclusion list:** GMOs and NGTs are strictly regulated in the European Union, but they may not receive the same treatments in countries where BIO is investing. To our knowledge and the exchanged that we had with BIO during our interviews, GMOs are not currently present in the exclusion list (see box 1.2 above). However, after the publication of the first draft of this document BIO wrote that “The production of GMOs is already excluded from BIO’s investment mandate, just like its usage is excluded in primary agriculture projects or in smallholder schemes.”⁵⁷¹ If it was the case, we would appreciate this new information, but would invite BIO to extend the exclusion to the processing of GMOs and the provision of services to the production of GMOs. If GMOs are excluded, it should also be excluded the possibility of providing technical support, services or any good to companies or entrepreneurs producing, transforming or trading in GMOs. Therefore, the

⁵⁷⁰ Ferrari, Aurora. 2007. Increasing Access to Rural Finance in Bangladesh : The Forgotten "Missing Middle". Directions in Development, Finance. Washington, DC: World Bank.

⁵⁷¹ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO’s Response, 30 August 2021

Government and/or BIO shall add investing in the promotion, support, use and development of GMOs and NGTs from the exclusion list.

- 10. Align food, agricultural and climate policies:** the Belgian Government, the Belgian development cooperation and BIO are promoting a systemic and interconnected vision of the investment and development agenda. However, when it comes to the investments in the agri-food system, it does not seem that they are necessarily aligned with Belgium's climate commitments and to the need for supporting agricultural practices that are both reducing GHG emission and restoring social and biological diversity. To this extent, it is telling that BIO is not directly financing any agroecological activity. On the contrary, most of the investments are monocultural and – to some extent – connected with long trade mobility of goods. Given the role that agroecological farming plays in tackling climate change and promoting social and biological diversity, agroecology must be prioritized.

The alignment between climate policies and development policies also concerns the re-definition of BIO's investments in meat and dairy products. It is renowned that livestock (whether intensively produced or extensively produced) significantly contributes to GHG emissions and climate change. BIO shall adopt a clear and coherent policy on livestock investments, making sure that the carbon and climate implications are accounted for.

Similarly, it is widely known that monocultural production has significant impact on biodiversity loss and capital-intensive agriculture is oil intensive. This is contrary to Belgian commitments and the European Commission's Sustainability Strategy. Monocultural production, therefore, shall be structurally scrutinized with regards to their negative environmental and climate impact. This datum shall not be then transformed into a risk to be internalized or managed, but clearly accounted for in the climate performance of BIO and, indirectly, in the climate performance of Belgium (as a negative contribution to the Nationally Determined Plans).

- 11. Agroforestry:** The 2017 Agri-task force suggested that BIO considers these projects on a case-by-case basis. In light of the social and environmental problems that are often associated with forestry and agro-forestry, our recommendation is that future investments in this sector require a much higher level of transparency, clarity and ex-ante/ex-post assessment than it is currently the case. Existing investments shall be the subject of an attentive human rights and land rights assessment to guarantee their compatibility with international obligations assumed by the Belgian state. For the future, large-scale investments in agri-forestry shall be added to the exclusion list.
- 12. Aquaculture;** At the moment, BIO follows the IFC performance standards in this sector, **without internally developed ad hoc requirements, guidelines and standards for fish, fisheries and aquaculture investments.** Moreover, fishing and aquaculture do not appear among the recommendations of the 2017 Agri Task Force, indicating that the topic may

not been discussed. However, fishing and aquaculture are increasingly scrutinized because of the risks in terms of **biodiversity loss, food insecurity, loss of economic opportunities for local communities**, etc. Along with a permanent, multi-stakeholder and transparent task-force on agri-food investments, it will be essential for BIO to organise a consultative and meaningful exercise around the fish sector.

13. **Elaborate a HR-based approach to digitalization of agriculture:** digitalization poses multiple risks to existing food systems and social relationships. This is not only because of the accumulation of data and the risks to privacy, but because of the intensification of competition among farmers, the shift to monoculture and cash crops, the impoverishment of territorial markets, the exclusion of the most marginalized, the creation of new gate keeps, the deepening of dependence and the reproduction of positions of economic dominance. For all these reasons, the role of BIO in promoting digitalization for development and the digitalization of the agri-food sector shall be attentively scrutinized and shall lead to the elaboration of a clear strategy that goes beyond the recommendations contained in the 2016 DGD Policy Note. At the moment, this does not seem to be the case. Having analysed some of the investments and having spoken with some of the actors involved, the risk that BIO may be contributing to regressive and irreversible changes in the agri-food system is not irrelevant.

In the rest of this section, we provide separate **reflections on two of the most relevant agri-food areas of investment for BIO** that are also closely linked with the political position adopted by the Belgian Federal Government in the last two years: connecting smallholders to food chains and large-scale agri-food investments (both agro-industry and plantations). Given the relevance and the close connection with the realization (or failure) of human rights and the SDGs, these two areas of investment need particular attention in the way forward.

Connecting farmers to food chains: handle with care

- a) **Not all food chains are the same:** BIO's strategy vis-a-vis small-scale farmers is primarily based on the intention to support companies that link smallholders as producers of raw and primary material for local and international commodity chains. On the side of the farmers, this often implies the decision to change existing agricultural patterns and produce cash crops rather than (or along with) other food stuff. Although we are aware that certain food chains, in particular certified chains that guarantee a premium, can increase farmers' income, we are also aware that **this way of linking farmers to value chains can also create dependence on that specific chain, reduce farmers autonomy and reproduce an uneven allocation of value between producers and other phases of the chain.**

It is widely accepted among food systems' scholars and organisations that changing production patterns in favour of cash crops and income and subsequently linking farmers to distant markets means that the **wellbeing of farmers will be dependent on changes in consumption patterns and the fluctuations of prices for that specific commodity.** As

recognised by several scholars and food organisations, **it is not enough to ‘connect farmers to value chains’ as the providers or primary (raw) material, because this may place smallholders in an onerous situation.** According to the Food Security and Nutrition International **Civil Society Mechanism (CSM)** at the Committee on World Food Security, there are **significant risks in tying farmers to value chains through contract farming arrangements (or out-growers schemes) “where the terms and conditions are set by buyers, and producers have to bear a significant share of the upfront costs and production risks.”**⁵⁷² In most of these arrangements, “small-scale producers are required to use standardized technological inputs that may not address particular ecosystem needs, and may compromise precious local producer knowledge.”⁵⁷³ “Perhaps not surprisingly,” the CSM continues “given the risks and demands involved, the profile of those that do tend to benefit from such arrangements are generally the better-off, more resource-rich farmers, able to exploit agri-inputs at scale and earn the designation of ‘entrepreneur’. They are very rarely women.”⁵⁷⁴

In our exchanges, BIO recognised part of the problem and the importance of asking whether BIO as a DFI and the whole DFI community **shall finance “projects that are heavily exposed to international commodity market/price fluctuations or refrain from those markets such as palm oil, cocoa, coffee, etc.?”**⁵⁷⁵ To this question, BIO provided a price-based response, i.e. that they “would not put forward a project that has a great impact but that would face a significant risk of bankruptcy when/if prices go down by a small percentage.”⁵⁷⁶ However, we believe that it is **not only a matter of avoiding investing in production that is highly exposed to price fluctuations, but also of production that is exposed to demand fluctuation, that is not sufficiently diversified to guarantee resilience in case of partial crop failure, that requires farmers to adapt their production to the needs of third parties, and that locks farmers up into the mechanisms and dynamics of international trade because their market is external to their context (this is, for example, the case of the FAF). Rather than a mere price-based analysis of the risk, we believe that it is important for BIO to conduct a broader consideration of the multiple risks (financial, crop, resilience, loss of autonomy, etc.) that smallholders would face when entering the schemes promoted by their clients.**

More importantly, we believe that BIO shall **reflect on its understanding of ‘market’ for smallholders and whether it thinks that smallholders who do not participate in formal agribusiness value chains are not embedded in markets and therefore does not represent opportunities of development for the private sector.** On the contrary, most smallholders around the world do engage with territorial markets and are therefore private entrepreneurs who need support in strengthening existing logistic and creating markets that work best for them and for the people in their communities. However, these territorial markets and these private enterprises “are often not visible to, or prioritised by, policy-

⁵⁷² Silvia Kay, *Connecting Smallholders to Market*, Civil Society Mechanism, Rome: Committee on World Food Security, 2018

⁵⁷³ Ibid.

⁵⁷⁴ Ibid.

⁵⁷⁵ Second thematic interview.

⁵⁷⁶ Ibid.

makers,”⁵⁷⁷ a condition that often leads to simplistic solutions such as proposing ‘market integration’ as the one-size-fits-all approach without considering what type of market and on what conditions. There are many different types of markets with very different characteristics, and it would be important for BIO to rethink the assimilation between ‘market’ and ‘the formal agribusiness and value chains market’, an approach that is oblivious to the reality on the ground of millions of smallholders who are actors in private markets and need support to consolidate existing market access rather than entering into new markets.

- b) ***The multiple limits of contract farming and out-grower schemes:*** on July 10th, 2014, the UN Special Rapporteur on the Right to Food, Professor Olivier De Schutter, attended a workshop organised by BIO. Afterwards, he published a document entitled ‘*Investing in Sustainable Agriculture: Key Challenges. Lessons from the BIO Workshop of 10 July 2014*’⁵⁷⁸ where he reflected on BIO’s approach to agri-food systems. Among the different points he mentioned, De Schutter focused on contract farming and outgrower schemes and stated that they are desirable and viable forms of rural development **if and when they contribute to the establishment and consolidation of local food systems**, not when they link farmers to international chains.⁵⁷⁹ In line with the position of the Civil Society Mechanism at the UN Committee on World Food Security, the former UN Special Rapporteur concluded that: “under certain conditions, contract farming can help in the development of localized food chains, for instance by linking farmers’ cooperatives to the local food-processing industry or to local fresh produce retailers serving urban consumers. However, farmers can easily become disempowered by the process.”⁵⁸⁰ As discussed in the annex with regards to the RNTC investment (see example 3, Annex), outgrower, and contract farming schemes for export that are dependent on commodity prices and that increase farmers’ dependence may **pose significant risks for farmers and increase vulnerability rather than improving their livelihoods, biodiversity and food security**. Along with large-scale agri-food projects, contract farming must therefore be embedded in a new strategy for investments in food and nutrition security that recognise the unique social and environmental nature of food.
- c) ***Living income/living price:*** another point of interest is that of the price that is paid to farmers for their products. Although BIO’s policy is that of minimum wage in all the companies that they invest in, **there is no policy concerning the minimum price that shall be paid to farmers that sell their products to BIO’s clients**. At the moment, the price of the commodity is defined by the clients themselves and BIO is “not aware of any clients or investees guaranteeing a living wage – which is generally not concretely defined – but many strive to pay wages that enable a decent living.”⁵⁸¹

⁵⁷⁷ CSM, Connecting Smallholders to Market, CSM-CFS: Rome, 2016. Available here: <https://www.csm4cfs.org/connecting-smallholders-markets-analytical-guide/>.

⁵⁷⁸ Olivier De Schutter, (n. 453).

⁵⁷⁹ Ibid, p. 6-7.

⁵⁸⁰ De Schutter (ibid).

⁵⁸¹ Email exchange with BIO.

In the case of the FAF, farmers who are certified Fairtrade will receive the minimum price that is guaranteed by the scheme. In addition, farmers who are certified UTZ or Rainforest Alliance (mainly in the case of coffee) would receive the premium linked to that set of certifications. **The risk is that the payments (including of a premium) will not guarantee that farmers are receiving what is needed guarantee their rights, that they improve their personal and family conditions and achieve their socio-economic aspirations.** How to define the correct farm gate price and pay the living income is certainly a controversial topic that is gaining an increase level of attention and suggestions from civil society organisations and non-governmental entities.⁵⁸² Recent studies by Le Basic for specific cocoa show **how distant certified value chains are from guaranteeing a fair distribution of value and living conditions for farmers.**⁵⁸³ BIO has demonstrated interest in learning from experiences that pay a living income to farmers and we believe that this shall be an area of collaboration between BIO and the rest of the Belgian development and cooperation sector. As a Development Bank, **BIO could play a catalyst role in supporting existing or first-of-its-kind pilot cases where the farm gate price and the distribution of value along the chain are such to guarantee living income for farmers and a true positive impact in their lives.**

- d) ***Farmers' Food and Nutrition Security and Right to food:*** a fourth point of reflection concerns the impact that these investments and value chains' schemes have on **farmers' food security and right to food.** As we mentioned above, BIO adopts an income-based approach to food security and development, considering that employment generation and higher income are preconditions for food security. This approach is also embraced by Omnivore Fund, according to which "Food security depends a lot on the income, not just the ability to grow food. Securing income in terms of amount, but also how regular it is."⁵⁸⁴ Because the investments in support of small-scale farmers have the objective of increasing their capacity to produce and trade cash crops and to participate into (local or international) value chains, and given that BIO recognises and respects all human rights obligations undertaken by the Belgian State (including that to the right to food as contained in article 11 of the International Covenant on Social, Economic and Cultural Rights), when we interviewed some of its clients involved in these investments we posed targeted questions regarding the impact that these investments may have on local availability of nutritious and adequate food, and on its accessibility.

From the interviews, it clearly emerged that there is a separation between investments in agri-food chains (that is the objective of the investments) and the production of food for local markets (that is not supported or only supported with a fraction of the overall investment). This tension is particularly visible in the case of the FAF, which aims at **integrating farmers into international value chains for tropical crops like coffee and cocoa.** For FAF "The mandate and the story of the fund is not to address food security. We cannot do more than 10% [of investments in diversification and local food production]. Be-

⁵⁸² Voice Network, Necessary Farm Gate Prices for a Living Income, 2020. [Here](https://www.fairtrade.net/news/response-cocoa-farm-gate-prices-for-a-living-income) the response from Fairtrade international: <https://www.fairtrade.net/news/response-cocoa-farm-gate-prices-for-a-living-income>.

⁵⁸³ Studies available here: <https://lebasic.com/en/our-publications/>.

⁵⁸⁴ Interview with Omnivore Fund.

cause the mandate and the objective of the fund was to support ‘sustainable agriculture and value chains producers’, we cannot do more of local production.”⁵⁸⁵

The possible tension between ‘linking to agribusiness market’ and food security also arose in the case of the investments realised by Omnivore Fund, given that 98% of the food produced is sold to businesses and not consumers.⁵⁸⁶ In all these cases, **BIO’s funds are invested in a change in the relationship between food producers and market** that may have consequences on the overall availability and accessibility of food, as already identified by De Schutter in 2014 with regards to the risks of indebting farmers and incentivizing the adoption of a form of agriculture that is not compatible with their livelihood and rights.⁵⁸⁷ The need for diversified production⁵⁸⁷ and more resilient local food chains that are less dependent on international and formal market dynamics has clearly emerged during the covid-19 pandemic and has been strongly emphasised by the Fair Trade Movement and Fairtrade International.⁵⁸⁸ We believe that this consideration shall be internalized by BIO and put at the centre of its future investments.

Of course, this does not mean that local farmers are starving or that local people have less access to nutritious and accessible food. However, **the impact on local food and nutrition security that is produced by smallholders’ shift to monoculture, cash crops and distant markets represents an issue that must be assessed both in the ex-ante phase of an investment and that shall be closely monitored in the aftermath of a disbursement.** At the moment, this is not happening, and neither Omnivore nor FAF could provide us with qualitative data on the condition of food and nutrition security of farmers and of the local communities where they live in. In the case of Omnivore, we were told that in India, “50% people in rural areas produce what they need for food. They will not stop eating in order to sell. There is no incentive for them to go hungry and sell food”⁵⁸⁹ and that – even though DeHaat links farmers’ cash crops with new markets (sometime in different States of India) – this does not have any impact on local availability and accessibility of food and, therefore, on food and nutrition security of the people who used to be fed by those farmers. In the case of FAF, we were told that “We are working on another fund for that purpose, a nutrition fund with an NGO called GAIN. It is a different story, with a different impact assessment”⁵⁹⁰ as a demonstration that food and nutrition security cannot be taken for granted any time that an investment is realised in the food system and that BIO shall adopt an impact assessment that integrates the quantitative assessment of income

⁵⁸⁵ Interview with Incofin staff related to FAF.

⁵⁸⁶ Email exchange with Omnivore Fund.

⁵⁸⁷ UN Special Rapporteur De Schutter urged to pay attention to the fact that investments that are made possible through borrowing can often only be reimbursed by selling against cash on the market. This raises questions “about the pressure on producers to enter more capitalized forms of agricultural production, by providing them with credit at sustainable (or even attractive) conditions, thus guiding them towards certain forms of agricultural production that may not, in fact, be in the best interest of local food security and improved nutritional outcomes for the family.” As De Schutter mentioned, no one is forced to take a loan, but microcredit and small-loan schemes may crowd out other forms of support provided to small-scale food producers, thus significantly narrowing the choice left to farmers as to which type of agricultural production to practice. See De Schutter, (n 453).

⁵⁸⁸ See, e.g., Fairtrade Partnership Secures More than €15 Million in Covid-19 Relief and Recovery Funding for Producers, Fairtrade International, 2 November 2020 <https://www.fairtrade.net/news/fairtrade-partnerships-secure-more-than-15-million-in-covid-19-relief-and-recovery-funding-for-producers>.

⁵⁸⁹ Ibid.

⁵⁹⁰ Interview with Fairtrade Access Fund.

generation with a quantitative and qualitative assessment of local food and nutrition security.

- e) ***Productivity at what environmental and social cost?*** Babban Gona, DeHaat and other companies/funds that are supported by BIO pay particular attention on productivity and the provision of material and technical support to higher yields. Depending on the actor, this support takes different forms. It may be about **agronomic assistance and the provision of cheaper and more performative inputs** (hybrid seeds, machinery, Artificial Intelligence, fertilizers, and other chemical products). Although we recognise that productivity is one option that farmers have to increase their income, we want to stress the **multiple risks that exists in promoting a transition away from traditional farming practices and traditional/locally embedded seeds**. A 'new green revolution' like the one that AGRA is promoting in Sub Saharan Africa, can lead to **changes in social ties, in the loss of culturally embedded agricultural practices, and in the implementation of farming techniques that are dependent on the provision of inputs (like seeds) that are privately owned, favour monoculture and are not embedded in the socio-economic context in which they are utilized** (see box 3.19 below).

Another issue that arises when we talk about the enhancement of productivity has to do with the **use of debt as development strategy in the rural context**. The financial and social implications of leveraging credit were already raised by Olivier De Schutter in his 2014 reflections to BIO. For him, the link between indebtedness and a transformation of the agri-food system away from the farmers' needs represent a likely risk that must be taken into account, because: "investments that are made possible through borrowing, can only be reimbursed by selling against cash on the market."⁵⁹¹ The risks behind rural debt and indebting farmers are not new nor understudied. Already in the 70s, authors like Banaji⁵⁹² and Roseberry⁵⁹³ illustrated that **high interest debt pushes peasants into being increasingly dependent on credit to reproduce their households**. Fer years later, in 1979, Bernstein⁵⁹⁴ elaborated the idea of 'simple reproduction squeeze' to point at the situation where external demands and ecological conditions push **poor peasants into more dependency on credit, which leads the need to frequently mortgaging their land**.⁵⁹⁵ In the worst case scenario, those who cannot make it may eventually become full proletarians if they fail to generate sufficient income by supplying (cheap) labour and/or commodities. In this scenario, that Bhaduri calls 'contractual interlocking', peasant indebtedness gives rise to an exploitative system of 'forced commerce'.⁵⁹⁶

Debt provisioning to farmers, including in the form of debt associated with better trading conditions for farmers, is enshrined in several business models that are supported by BIO (directly – e.g. Babban Gona -, or indirect – DeHaat). The case of the FAF is somehow dif-

⁵⁹¹ Ibid.

⁵⁹² Jairus Banaji 1977. 'Modes of Production in a Materialist Conception of History' (1977) 6 Capital and Class1.

⁵⁹³ William Roseberry, 1978. 'Peasants as Proletarians' (1978) 3 (11) Critique of Anthropology 3.

⁵⁹⁴ Henry Bernstein 'African Peasantries: A Theoretical Framework' 1979 6 (4)Journal of Peasant Studies 421.

⁵⁹⁵ Julien-François Gerber, 'The role of rural indebtedness in the evolution of Capitalism' (2014) 41 (5) *The Journal of Peasant Studies* 729 DOI: 10.1080/03066150.2014.921618

⁵⁹⁶ Amit Bhaduri, *The Economic Structure of Backward Agriculture* (Academic Press 1983).

ferent, as credit is not provided directly to farmers but to producers' organizations. According to FAF, the fund does not indebt farmers. We agree that, technically, the fund is not indebting individual farmers. Most of its operations are linked with the financing of international trade in commodities (they loan money in situations where producers organizations have already concluded trade agreements with international buyers), and when the fund lends money, it is done to producer organizations. However, we consider it important to reflect on the relationships that the issuance of credit (both for export and to support investments) may trigger between producers associations and farmers. If credit is provided only in the case of international trade, members of the PO will have an extra incentive to produce for export and adapt to the quality/procedural requirements of international trade. On the other hand, when loans are provided to PO to finance constructions, improvement of the logistic, etc., the PO will have to repay the loan and will be likely to rely on the activities of individual members to generate the income needed to repay the loan. This does not mean that individual farmers are indebted (unless the PO is also lending money to members), but that the conclusion of a loan agreement between FAF and the PO may have repercussions on individual practices and lives not dissimilar from those discussed by De Schutter.

As we discuss below with regards to the adoption of new technologies and the digitalization of farming, we encourage BIO and the Belgian development and cooperation framework to look carefully at the risks behind the 'modernist' approach to farming and food security and take seriously the critiques that are raised by academics and farmers' organizations against a transformation of agricultural practices that prioritizes quantity over diversity, equality, and sustainability.⁵⁹⁷

Box 3.19 – Hybrid Seeds, patenting and dependence

One of the issues that often arise when discussing the use of hybrid seeds is that of patenting and the dependence that they create vis-à-vis the patent owners, both because of legal provision and performativity of the saved seeds. We mentioned this possible risk during the interview with the Omnivore Fund and we were told that their companies mainly provide open-pollination seeds to farmers because it is their preference. For Omnivore, India does not "have rigorous patent law or patents in India with respects to seeds. There's public concern about saving seeds. We have a mild 'plant variety protection'. A farmer is allowed to save as much as they want. The public sector has solved that. In any crop you will find a mix of hybrids of OPVs. The farmers are free to choose. Hybrid is more expensive, but with a lot higher yield. Some sectors are solely OPVs."⁵⁹⁸ However, this does not seem to be the case of all companies that are involved in farmers' schemes. In addition, regulations and the approach to intellectual property can easily change and increase the dependency of farmers from patented seeds. Moreover, and more importantly, the dependency on the private sector may not come through regulation but through the diffusion of hybrid seeds.

⁵⁹⁷ See, e.g., Timothy A. Wise et al, False Promises: The Alliance for a Green Revolution in Africa (AGRA), Rosa Luxembourg Stiftung, 2020: <https://www.rosalux.de/en/publication/id/42635>.

⁵⁹⁸ Interview with Omnivore Fund.

Taking India as an example, its farmers rights legislation is increasingly rendered irrelevant given the current seed market and technology trends. More than 80% of seeds in the market are hybrid varieties, thereby leaving little or no incentive for the farmer to save, exchange and sell his/her own varieties. The rise in hybrid varieties has increased drastically,⁵⁹⁹ thereby decreasing the incentive of medium and small farmers to carry on such a practice. In this context of rise in scientific methods of breeding replacing traditional ones, rights over traditional knowledge and compensation/benefit for use of such knowledge have increasingly been forgotten.⁶⁰⁰ Given the risks that the rapid diffusion of hybrid seeds represents in terms of social and biological diversity, abandonment of agroecological practices, farmers' dependency, cultural and long-term soil resilience, we believe that BIO shall adopt the precautionary principle and develop an adequate policy with regards to the ex-ante assessment, approval and monitoring of investments based on hybrid and patented varieties.

- f) **Who is supported? Cooperatives, franchises or individuals?** There is a clear difference in the way in which BIO's funded companies interact vis-à-vis smallholders. FAF only disburses to Producers Organisations and SMEs. Babban Gona has established a system of franchisee where individuals create their own networks of farmers. DeHaat only works with individual farmers and does not work with cooperatives ("Cooperatives in India have not been successful outside the dairy industry (see box 3.20 below). They have become very political"),⁶⁰¹ so it acts as a hub among thousands of smallholders and utilizes the economy of scale of the thousands of farmers that interact with them to obtain cheaper costs for the inputs. Each of these mechanisms has different premises and different implications, in particular in terms of collaboration and competition among farmers. Without focusing on the details of which model has a higher development impact or is more aligned with the Belgian vision for agricultural development and food and nutrition security, we believe that BIO shall undertake a qualitative and quantitative analysis of the different schemes to identify which pattern is most aligned with its theory of change and utilize its know-how and network to facilitate its reproduction.

Box 3.20: Green AgRevolution Private Limited ("DeHaat"), 130k, via Omnivore Fund II

"DeHaat is a technology-based platform offering end-to-end agricultural services to farmers, including distribution of high-quality agri inputs, customized farm advisory, access to financial services, and market linkages for selling their products." In its description of DeHaat, Omnivore Fund told us that: "They solve 4 problems for farmers. They help farmers access input more cheaply, they ensure that farmers are buying a good product. So it's about economy of scale. Second, they aggregate the produce of those farmers. They then sell it to larger buyers eliminating significant number of middlemen. Third, they provide strong advisory from a technical perspective about how to improve production. Finally, they are helping farmers to borrow from

⁵⁹⁹ Depending on the different sectoral crops, the share of commercial hybrid seeds vis-à-vis open pollinated traditional seeds is 70-88 %. Academics report that the use (and consequently the incentive to keep using) of traditional varieties is shrinking.

⁶⁰⁰ Filing of an Agreement for Benefit Sharing (ABS) is possible and incentivized by local authorities and national regulations, but it is underused. See Manisha Singh and Vijaya, Choudhary, Indian Biodiversity Act and Model ABS Agreement-related IPR issues, LexOrbis, March 2020, <https://www.lexorbis.com/indian-biodiversity-act-and-model-abs-agreement-related-ipr-issues/>.

⁶⁰¹ Interview with Omnivore Fund.

banks for a much lower rate. The bank struggles to lend to the individual farmer. DeHaat helps to access them funds collectively.”

Similarly to Babban Gona, DeHaat is based on facilitating access to inputs (seeds, fertilizers and pesticides) and agronomic support. Differently from Babban Gona, DeHaat does not provide credit to small-scale farmers, but provide them with cheaper access to financial credit. As for Babban Gona, DeHaat shows farmers that there are other possibilities than what they have historically done and provides them with the option of buying their cash crops to sell them in formal markets that farmers may have not had access to. In the words of Omnivore Fund: “Let’s say we are in central India, where a farmer has been growing wheat for 10 years. That’s because the person in the market buys wheat and wheat only. Then he is given fertilizer on credit. That’s the baseline. DeHaat can look all over the country, and aggregate supplier and aggregate demand. That how they can help them reduce reliance on the local credit providers with bad interests. They also help them to find other buyers. This means that you can now cultivate mustard, rape seeds. This means that they can earn more overall.”⁶⁰²

- g) **Which Approach to Gender?** empowering women is one of the priorities of both BIO and the Belgian development cooperation’s strategy for the future. In most parts of the world, agriculture and food are feminine activities. Because of this, investments in agricultural production and a redefinition of the local food systems (by incentivizing export, by changing production patterns, by relying more on patented or private seeds, etc.) may have a significant and uneven gendered impact. This has been mentioned with regards to the case of the Laiterie du Berger and highlighted when we discussed the potential negative impact of increasing the percentage of certified production and the way in which agriculture is undertaken. **Rather than a quantitative approach to women employees and employers, we believe that the area of small-scale farming requires a qualitative approach to gender** that goes beyond income generation and takes into consideration the way in which investments address the systemic causes of women’s marginalization (such as access to land and the ‘monopoly’ of reproductive labour) or intensify them (for example, by taking away from women the management of the money received for the milk or by increasing the amount of work needed on the land without addressing the distribution of reproductive tasks). As such, a quantitative approach cannot grasp the interconnectedness between farming, food provision and society. Thus, BIO’s approach to gender and small-scale farming investments shall be improved and duly implemented in ex-ante and ex-post assessments of the investments.
- h) **ODAs shall go beyond the low-hanging fruits:** finally, the investments that have been analysed more in details (FAF, DeHaat and Babban Gona) seem to be characterized by the risk of favouring low hanging fruits rather than those farmers and families that are mostly in need of development support. This has to do with the **vision of ‘market’** that is reproduced in these investments (the formal agribusiness market and not the territorial market, as suggested by the Civil Society Mechanism at the UN Committee on World Food Security), the **cost of participating in export-led schemes** (as in the case of FAF invest-

⁶⁰² Interview with Omnivore Fund.

ments), the need to have a **strong social capital in order to participate in the programme** (as in the case of Babban Gona’s franchisee model) and the fact that **very small-holding and self-subsistence farming is incompatible with a theory of change that requires to convert part of the production to the needs of the demand** (sometime for several years, like in the case of coffee and cocoa). This is aligned with BIO’s theory of change vis-à-vis smallholders, which is shaped around the idea of helping farmers to become entrepreneurs and that recognises that not all smallholders can take that step. However, is Belgian ODA best invested to support these farmers or a truly additional intervention in support of the development of the private sector shall look at strengthening access to territorial markets, improving ecological practices according to local needs and socio-environmental contexts, and making sure that no one is left behind as required by the 2015 Sustainable Development Goals?⁶⁰³

Box 3.21 AGRA’s involvement in Babban Gona

In 2012, “the Alliance for a Green Revolution in Africa (AGRA) provided initial support of US\$300,000 to Babban Gona, which helped it to take the first step toward its vision “to improve the income and livelihood of one million smallholder farmers by 2025.” Later, Babban Gona received support from various organisations in the form of grants/donations, loans, guidance, services, and expertise support.”⁶⁰⁴

According to AGRA’s support to the project covers two key areas. First, supporting the development of a comprehensive training and development program called “Farm University”, increasing the capacity and scale up of Babban Gona extension officers – known as MIKs – to ensure farmers get access to good agronomic advice during the growing season. In addition, the Farm University program invests in increasing the capacity of the leadership of Babban Gona Trust Groups, increasing their capacity to lead their grass roots level farmer cooperatives. Second, support the establishment of 50 farmer-learning centers, where farmers can learn about Integrated Soil Fertility Management (ISFM), best-practice use of organic and mineral fertilizers and the benefits of improved seed. In addition, the learnings from these farmer learning centers are integrated into enhanced agronomy programs and new crop programs, enabling members to diversify their farming operations.

Given AGRA’s role in the Food Systems Summit, the company was recently the target of a letter sent to the President of the UN General Assembly, where 176 organisations from 73 countries stated that: “Founded by the Bill and Melinda Gates Foundation and the Rockefeller Foundation, AGRA’s efforts have centered on capturing and diverting public resources to benefit large corporate interests. Their finance-intensive and high input agricultural model is not sustainable beyond constant subsidy, which is drawn from increasingly scarce public resources. Since 2006, AGRA has worked to open Africa – seen as an untapped market for corporate monopolies controlling commercial seeds, genetically modified crops, fossil fuel-heavy synthetic fertilizers and polluting pesticides. This is an ill-conceived approach focused on mono cultural commodity production by large agribusiness at the expense of sustainable livelihoods, human development, and

⁶⁰³ See, e.g., <https://unstats.un.org/sdgs/report/2016/Leaving-no-one-behind/>.

⁶⁰⁴ Ibid.

poverty eradication. Ignoring the past failures of the Green Revolution and industrial agriculture, AGRA continues to promote the same, orienting farmers into global value chains for the export of standardized commodities. Vast power imbalances in these global chains means multinational grain traders, silo owners, transport companies, feed manufacturers, and financial institutions extract and retain the majority of value for themselves, while farmers remain trapped in cycles of poverty and debt.”⁶⁰⁵

Large-scale agri-business investments: for a human rights-based shift

In 2017, the Agri-Food Task Force invited BIO to consider agri-forestry investments on a case by case given their risk and multiple impacts at the local and international level: this recommendation has ex-ante and ex-post implications that shall be transformed into binding requirements both for agri-business and plantation investments. Not to make BIO more bureaucratic and reduce the flexibility of clients, as one of BIO’s investees was worried about, but to guarantee a human rights-based approach to development, to use agri-food investments to actively contribute to the achievement of third countries’ and Belgian **commitment to the Paris Agreement, to holistically realizing the SDGs** and to making sure that Belgian development intervention is **truly equitable, inclusive and sustainable**.

It is our opinion that **investments in large-scale, monocultural and industrialized agriculture are incompatible with the purposes and objectives of Belgian development cooperation and with international obligations both in the area climate and human rights**. They are also contrary to De Schutter’s 2014 recognition that there is by now “a recognition of the need to design agricultural policies that would support the incomes of small-scale farmers, in order to ensure that these policies would contribute to rural development and to the reduction of rural poverty.”⁶⁰⁶

In that sense, large-scale investments are characterized by a **high opportunity cost** and the reproduction of the narrative of ‘idle land’ and productivism. With regards to **the plantation model of agri-food investment**, what discussed in this report shows that it **equally presents significant incompatibilities** with the need to develop a local private sector that empowers communities and to support territorial food systems that empower people and guarantee food and nutrition security. **In the same way that BIO has committed to decarbonization, it shall commit to abandon large-scale agri-food projects (both industrialized agriculture and plantations).**

While moving towards the exclusion of these investments, there are already interventions that shall be adopted in the short-term. Some specifically concern these investments strategy and other are broader (and discussed also in the final part of this chapter). First of all, BIO shall commit to **maximum transparency, visibility and accessibility to at least the documents produced to screen and assess the project** (i.e. third party consultancies), the **E&S due diligence, the ESAPs and all the reasonings and justifications behind the approval of existing and future projects**. In addition, BIO shall (in coordination with the Belgian actors of development and cooperation):

⁶⁰⁵See: https://www.oaklandinstitute.org/revoked-agra-agnes-kalibata-special-envoy-2021-un-food-systems-summit?utm_source=land_rights&utm_medium=email&utm_campaign=advocacy&utm_content=lower_callout.

⁶⁰⁶ De Schutter (n 453).

- organise an effective and transparent procedure to guarantee the **expression of the people's right to self-determination and development**;
- implement the **highest standards in terms of Free, Prior and Informed Consent** of the local populations; to realise an **ex-ante human rights and gender impact assessment**;
- make sure that the support to **de-carbonization, agroecological practices and biodiversity regeneration** are priorities for future agricultural investments;
- guarantee that food and agricultural investments are defined, understood and financed in the context of the complex **food, land, water, agricultural and energy nexus**;⁶⁰⁷
- **involve local communities and Belgian civil society in the definition of the ESAP**;
- **introduce the contractual obligation to pay living wages to farm workers and living income to contract farmers and outgrowers**;
- **exclude from funding companies that have been previously responsible for proved violations of land and human rights** in light of the risk of replication of past patterns and the reputational risk of being associated with an investor who has been already criticized internationally.

With regards to the ongoing investments, the risky and conflictual nature of large-scale investments in land must be tackled by a proactive attitude by BIO and the **collaboration with local actors and the overall Belgian development cooperation framework**. All relevant actors must be **actively and meaningfully involved in the relationships between the company and the communities**, that cannot be delegated to the former. In **the process of defining its exit strategy from this sector, it should at least have a dedicated staff** capable of recognizing the legal, cultural and food risks behind these projects, properly engage with local networks and with the overall Belgian development and cooperation network, and developing a divestment strategy that is based on the obligation to redress all existing human rights and environmental issues and on the obligation to legally ensure the same level of commitment by future owners and/or creditors. Including with continuous access to BIO's grievance mechanism and with BIO's joint responsibility in case this is not obtained.

If the fulfilment of human rights is the priority for BIO and the Belgian Government, and if BIO wants to uphold them for the whole life of a large-scale investment in land in which it is already involved, BIO should:

- engage with local communities and actors to define a clear, adequate and legitimate exit strategy that recognizes BIO's responsibility as an investor and puts human rights, land rights, and food and nutrition security at the centre;
- live up to the standards of **full transparency and access to all the relevant ESAP information in its possession**;
- commit to a **continuous interaction with the local communities**;
- conduct **regular ex-post human rights and gender impact assessments**;
- publish the company's **performance assessment vis-à-vis the contractual conditionalities**;

⁶⁰⁷ United Nations Environment Programme (UNEP), *Making Peace with Nature* (UNEP 2021) <https://www.unep.org/resources/making-peace-nature>.

- request that all **land transactions, contracts and arrangements with local communities are realised in respect of the international human rights standards, communicated to the local communities, published on the website of the company and published on the BIO website, and;**
- establish an internal **task force on large-scale agri-food investments** with the aim to develop a **human rights-based exit strategy from all existing investments of this kind.**

This may be costly, but financial constraints shall never be used as a justification not to implement the highest standards of international human rights obligations.

Finally, it is of extreme importance to expand the sight from land-based large-scale farming to projects supporting **fishing and fish farming**. At the moment, there is an **absence of ad hoc requirements and standards for fish, fisheries and aquaculture investments**. However, fishing and aquaculture are increasingly scrutinized because of the risks in terms of **biodiversity loss, food insecurity, loss of economic opportunities for local communities**, etc. Given that BIO recognises the potential of investing in connecting small-scale fisherfolks to local or global value chains and/or financing large-scale aquaculture for both economic reasons and to provide proteins.

4.

Energy investments and climate finance

Introduction

In the last decade BIO has made significant efforts to align its actions with the interest of federal governments to include climate change as a key theme of Belgian development cooperation. This has primarily resulted in a range of projects on renewable energy production and a transition away from projects in the fossil-fuel supply chain, which is still incomplete.

Being a cross-cutting issue affecting virtually all sectors of the economy and many human activities, it has always been difficult in international development policy to pinpoint exactly what source of finance and type of actions could 'count' as viable ones to address climate change. Yet, 'climate finance' as a concept generally defines the use of additional financial resources from the Global North to support developing and least-developed countries in dealing with the climate crisis.

A general distinction is made between development projects that aim at either reducing or avoiding greenhouse gases emissions ('climate mitigation') or that support livelihoods and ecosystems to build up resilience against the negative impacts of climate change ('climate adaptation'). This is also recognised in the 1992 UN Framework Convention on Climate Change (UNFCCC), and the following 2015 Paris Agreement,⁶⁰⁸ which together work as the only global international legal instruments that aim to scale up and enhance coherence in international climate finance.

⁶⁰⁸ United Nations Framework Convention on Climate Change (adopted on 9 May 1992, entered into force on 21 March 1994) 1771 UNTS 107; and Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016), UNFCCC 'Decision 1/CP.21, Adoption of the Paris Agreement, UN Doc FCCC/CP/2015/10/Add.1 (29 January 2016) Annex.

As an agent of the Belgian state, BIO's climate-related finance must be contextualised within the broader international obligations that Belgium holds as a state party to these two treaties. Since its inception in 1994, the UNFCCC requires developed countries to offer new, *additional*, adequate, and predictable financial support to those still in the process of development to implement projects reducing GHGs emissions or adapting to climate change.⁶⁰⁹ These obligations are considered the bedrock of international climate finance and find further elaboration in the Paris Agreement and other decisions of the Conference of the Parties to the climate treaties.⁶¹⁰

The unequal impacts that climate change has on societies, the different historical responsibilities of states in having contributed to the climate crisis, and the need of all states to participate in cooperative action of climate change make the transparent, adequate, and predictable provision of climate finance to the Global South a pillar of the Paris Agreement.⁶¹¹

There are two aspects to clarify on the international legal nature of climate finance. First, its rationale includes but also goes beyond the more traditional forms of support to the right to development of countries: this is because climate finance, as a form of inter-state financial support, is considered as a necessary element to help all countries to achieve compliance with the Paris Agreement⁶¹² and, consequently, to contribute to reach a zero-carbon and resilient society by 2050. At the same time, this finance is also aimed at specific contexts, peoples, and their environments. To sum this up with the words of the Executive Secretary of the UNFCCC, Patricia Espinosa: 'when it comes to climate change, finance is about more than money. It's about helping people impacted by climate change. It's about reducing their suffering. And, in some cases, it's about saving lives.'⁶¹³

Second, states have willingly construed an ambiguous set of rules to determine the nature and, therefore, to account for such form of finance. This creates tension between those who view the provision of additional and new amounts of ODA as the primary form of eligible climate finance, and those who rather argue that, in order to achieve the Paris Agreement's goals, private capital should also be considered and accounted for. This is reflected in a key provision in the Paris Agreement where developed states such as Belgium '[...] should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds, through a variety of actions.'⁶¹⁴ Thus, while the provision of public finance is considered crucial, the international legal framework has come to an acceptance of the necessity to mobilize the actions of the private sector.

Against this background, this chapter evaluates BIO's approach to energy investments and climate-related features of its portfolio by looking at its internal policies, processes, and their implications. As the Belgian development cooperation on climate change is undergoing a process of reflection and re-envisioning, the analysis will first situate BIO as a climate finance actor of Bel-

⁶⁰⁹ Art 4 (3) and Art 11 UNFCCC.

⁶¹⁰ Art 9 Paris Agreement.

⁶¹¹ Art 2 Paris Agreement.

⁶¹² Daniel Bodansky, et al. Jutta Brunnée and Lavanya Rajamani, *International Climate Change Law* (Oxford University Press 2017) 14–16.

⁶¹³ UNFCCC, 'Patricia Espinosa: "Climate Change is about Saving Lives"' (18 October 2018), <https://unfccc.int/news/patricia-espinosa-climate-finance-is-about-saving-lives>.

⁶¹⁴ Art 9 (3) Ibid, Art 9(3) Paris Agreement.

gian state under the framework on the UNFCCC and the Paris Agreement. Thereafter, the chapter will offer an overview of BIO's portfolio on energy investments according to project types, financing structures, and geographical distribution.

The analysis highlights and expands on three critical aspects:

1. BIO's lack of engagement in climate adaptation;
2. BIO's struggles in offering a transparent assessment of the carbon mitigation impacts from its energy investments; and
3. BIO's continued involvement in fossil-fuel energy production.

These criticalities have emerged from the series of interviews with BIO's management and officers, but also from a set of documents made available by BIO and DGD. In addition, we have relied on information available on BIO's website, and conducted doctrinal research on scholarly and grey literature on climate finance and energy investments.

The analysis will also delve into two case studies of investments: one concerning a direct loan to build and expand the Azito gas-fired power plant in Ivory Coast, and the other the indirect participation of BIO via a private equity fund in developing hydropower capacity in Madagascar. The case studies will serve as examples of how BIO's decision-making process, its regulatory framework and funding structure used to finance energy infrastructures lead to underestimate indirect negative impacts of crucial significance: such as favouring the unsustainable public debt of the host state to ensure private sector profitability, and supporting fossil fuel energy production to boost energy exports. As exemplificatory examples, the case studies are not representative of BIO's performance across the whole energy portfolio, but they should serve as indications of criticalities to consider in future reforms.

Finally, we also offer recommendations and indicate opportunities which could unlock BIO's potential as a climate finance institution that will stand at the forefront of innovative climate mitigation and adaptation finance for SMEs and emerging markets in clean energy and climate adaptation.

4.1 BIO as a climate finance actor

a. BIO's vision and strategy on climate change and climate finance

The Law on Development Cooperation identifies the 'fight against climate change' as a cross-cutting theme of the Belgian international aid agenda, while the Management Contract between the Government and BIO specifies that such climate action should translate into financial streams to SMEs that aim at mitigating carbon emissions or adapting to climate change impacts.⁶¹⁵

⁶¹⁵ Art 11(2) Law on Development Cooperation; and Art 7 (4) Management Contract 2019-2024, <https://www.bio-invest.be/files/BIO-invest/About-BIO/Governance/BIO-Management-Contract-FR-NL-2018-12-11.pdf>.

While these are the general directions set at law for BIO's climate action, the current Minister of Development Cooperation and Urban Policy, Meryame Kitir, has further outlined in her political statement the new Federal government's strategic directions on climate finance and its understanding of BIO's future in that context. The 'General Political Note' of November 2020 states the intention of increasing the budget for international climate finance, with climate change becoming a cross-cutting issue across all areas of action in the Belgian international development cooperation.⁶¹⁶ With regards to BIO, the *exposé* of political orientation by Kitir sets the following:

*"Sub-Saharan Africa remains far behind when it comes to access to electricity, with all that this implies for businesses, but also for families who continue to cook on fossil fuels, causing health problems. BIO has an important role to play in this necessary economic and ecological transition."*⁶¹⁷

We regard this statement as significant for the analysis of this section both for the geographical focus on Sub-Saharan Africa and the stress on the two-sided goal of support to clean forms of energy production and guarantee to access to electricity as pivotal to the role that BIO shall have in the future of climate finance.

BIO's attempt to rationalise action on climate change within its broader landscape of goals and impact can be found in the Theory of Change.⁶¹⁸ This document situates 'climate' in the array of three core activities (the others being 'gender' and 'digital') that should lead to sectoral outputs, including energy infrastructures, contributing to a set of specific UN SDGs. Thus, in the words of a BIO officer:

"Within the SDG perspective, we are looking at climate finance activities as contributing to SDG 7 by increasing access to energy, and its reliability, with particular focus on investments in clean energy. This is done also under the prism of SDG 13 (climate action). As a result, we invest in renewable energy and energy efficiency projects, as well as sustainable agriculture." (BIO officer)

These words reflect BIO's current understanding of its action on climate, which seems built more to making coherence of its existing work on energy and agri-food than exploring new dimensions of action for climate finance. In particular, the **Theory of Change enlists SDG7 on affordable and clean energy and SDG12 on responsible consumption and production being the key environment-related SDGs in terms of development impact, with SDG13 on Climate Action featuring as one of the three activities which should lead to the achievement of the SDGs above.** Moreover, in the Theory of Change, climate action is explained as comprising activities towards new clean energy infrastructures, efficiency, as well as forestry. There is also a loosely defined aim to support 'climate smart technology that improves the use of natural resources',⁶¹⁹ which appears to

⁶¹⁶ Chambre des Représentants de Belgique, 'Exposé d'Orientation Politique de la ministre de la Coopération au développement, chargé de Grandes villes' (5 November 2020) Doc 55 1610/18.

⁶¹⁷ Ibid. 14 [translated from French by the authors].

⁶¹⁸ BIO ToC is an internal strategic document that attempts to give coherence to BIO's activities and goals, with the aim of demonstrating how it generates development impact. BIO, 'Theory of Change' (undated), https://www.bio-invest.be/files/BIO-invest/Our-Impact/ToC/ToC_Digital_V3c.pdf.

⁶¹⁹ BIO, 'Theory of Change', 6.

work as a justification of continuing investing into more energy efficient fossil-fuel energy production.

While this way of framing priorities might appear just as an internal exercise to improve the coherence of operations within BIO, it also ends up giving to climate action and, consequently, to climate finance a secondary role against the primary objectives of promoting affordable clean energy and responsible consumption and production. As seen in Section 2,⁶²⁰ this is an instance where BIO seems to have selected certain SDGs that would better reflect its status quo, instead of using them as a framework to explore new pathways finance and climate.

While the Theory of Change gives the impression that climate finance has a secondary role, interviews with BIO officers and BIO's latest Investment Strategy (2019-23) clearly put climate change at the core of BIO's activities not only in terms of energy-related financing, but also in relation to climate risk assessment of its portfolio. Put it in perspective, BIO aims to invest at least €150 million in fifteen 'clean energy projects' between 2019-2023. These projects would target 'efficient and low-priced access of energy to all' and a 'large clean energy component mitigation climate change'.⁶²¹ In the same document, BIO sees its future activities related to climate adaptation consisting of a climate-risk assessment of BIO's existing portfolio; an audit to identify 'higher-risk clients' and adaptation actions; and extend its ES process to climate-related considerations.⁶²²

The strategy already reflects two key struggles that this public development bank is facing when re-imagining itself within a coherent strategy of bilateral development cooperation on climate change. The first concerns the fact that BIO's key mandate is to promote the development of a sustainable private sector in areas where markets are weak or not yet emerging, thus necessitating BIO's additional role.⁶²³ However, **there is recognition by BIO's management that the renewable energy infrastructure sector –almost the only 'climate sector' where BIO's has invested the so far– is saturated for the type of capital that BIO can offer.**⁶²⁴ Both the Theory of Change and the Investment Strategy do not indicate how to overcome this issue.

The second struggle concerns BIO's strategic vision on climate adaptation: the current Theory of Change envisions climate adaptation as a part of a 'transversal development approach', which projects a picture of **BIO's minimalist view of its role in climate adaptation, while the Management Contract requires BIO to be active also on this dimension of climate action together with climate mitigation.**⁶²⁵ Both these aspects will be further explored in the following sub-sections.

b. BIO's negligible contribution to Belgium's international climate finance efforts

It is difficult to clearly state whether BIO is an entity which delivers the type of climate finance as recognised under the UNFCCC/PA framework. This eventually depends on a case-by-case as-

⁶²⁰ See Section 2.4.

⁶²¹ BIO Investment Strategy 2019-2023, https://www.bio-invest.be/files/BIO-invest/How-we-invest/Revised-Investment-strategy-2019-2023_VF-EN.pdf, 22.

⁶²² Ibid., 14. Also confirmed by an interview with BIO employees.

⁶²³ Art 3 and 7 Management Contract.

⁶²⁴ Even the BIO Investment Strategy reckons that "there is a lot of public money chasing a few birds" (p.22).

⁶²⁵ Art 7 (4), Management Contract.

assessment of each financial instrument and types of projects funded. However, given that BIO mainly channels capital with expected financial returns, this already creates limitations in the amount of climate finance that Belgian state will report to the Paris Agreement.

The Paris Agreement states that '[...] developed country Parties should continue to take the lead in mobilizing climate finance from a wide **variety of sources, instruments and channels**, noting the significant role of public funds [...]'.⁶²⁶ This provision assigns a 'soft obligation' on Belgium to source and channel climate finance both via public and private means.

The Belgian government has full discretion in choosing the institutional channels for sourcing and disbursing climate finance, as well as how much finance should be mobilized. Such a prerogative, however, plays within the confines of a collective political pledge by developed countries under the Paris Agreement, which sets a total collective goal of a floor of 100 USD billion per year of climate finance from 2020.⁶²⁷ What is more, under the same Agreement, developed states are now obliged to report the amount of climate finance transferred to what country and for what purposes.⁶²⁸ Yet, there are no clear agreed definitions and indicators on exactly what streams should account as climate finance support under the Paris Agreement: each developed state relies on its own methodology and we are yet to see a common practice emerging.⁶²⁹

Box 4.1: BIO, Enabel and BIO's 'Climate' budget

Within the governance of Belgian development cooperation BIO and Enabel are the two Government's agencies active on bilateral climate finance. They have a different nature, function, and set-up. Generally, while Enabel acts as a bilateral agency offering technical assistance in least-developed countries, BIO is an investment vehicle of the Belgian state targeting returns from impactful capital mobilisation towards small-medium enterprises and across a larger set of target countries than Enabel. In the context of an increasing commitment at the federal and regional level to climate finance, BIO has benefited from additional capital injections from the Belgian State earmarked for climate mitigation and adaptation.⁶³⁰ This amount, which came from the budget of the Belgian development cooperation, includes €50 million of subsidy in capital towards more innovative projects. Instead, as stated in an interview with employees, Enabel at times faces budgetary restraints to include climate-related components in its projects.

Overall, the choice over the distribution of public resources between BIO and Enabel is a political question, whose answer depends on the values and visions framing Belgium's support to the Global South on climate change.

It is from these reporting obligations of Belgium that key features of BIO's business model come to relevance. First, **BIO's model of indirect finance makes it difficult to account for the specific climate mitigation/adaptation components of its portfolio**. Because BIO is a minor contributor of private equity funds and other institutional vehicles, its financial support ends up being diluted

⁶²⁶ Art 9 (3) Ibid.

⁶²⁷ UNFCCC COP Dec 1/CP.21, para 53, <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf#page=8>

⁶²⁸ Paris Agreement, Art.9 and Decision 12/CMA.1, https://unfccc.int/sites/default/files/resource/cma2018_03a01E.pdf.

⁶²⁹ Romain Weikmans and Timmons J Roberts, 'The International Climate Finance Accounting Muddle: Is There Hope on the Horizon?' (2019) 11 Climate and Development 97.

⁶³⁰ BIO, 'Investment Strategy 2019-2023', 2.

with those of other institutional actors. Therefore, the extent of its contribution to any climate impact stemming from each investment is also proportionally diminished. **However, on its website, BIO often claims the full climate mitigation impact from projects promoted through its PEF investments.** This approach should be adjusted for matters of transparency to the public. For instance, on its website, BIO claims that from its equity investment in the African Renewable Energy Fund, projects are estimated to “...allow for a yearly reduction of CO2 emissions of 200,000 tons a year compared to brown energy alternatives.”⁶³¹ Yet, there are no details as to the percentage of BIO’s contribution to the fund, nor about the climate impact estimates through the internal development impact modelling. Based on documents shared by BIO, its stake in this PEF is less than 5% in the fund.⁶³² Therefore, it is questionable how much tons of avoided GHGs emissions per year BIO is contributing to. This makes third-party assessments extremely difficult and claims by BIO to be ‘fighting against climate change’ somehow weak.

Going back to the relationship between BIO’s business model and climate finance accounting, the DGD adopts a conservative approach to climate finance reporting under the UNFCCC/PA framework. The DGD uses the OECD-DAC Rio Markers as accounting standards, which include only ODA-eligible finance and offer taxonomies to report climate-related components of each project by avoiding double counting of emissions.⁶³³ This is commendable in the context of an unclear accounting framework.⁶³⁴ However, it also leads to a **weakened recognition of BIO’s capital mobilization under the framework of the Paris Agreement.** As reported by DGD officials, BIO does not use grants or concessional loans, as typical ODA instruments, in its practice. Therefore, DGD asks BIO to report its contributions, mainly in energy infrastructure, by applying a formula that reports the ‘grant equivalent’ of its finance, which is otherwise transferred via debt or equity instruments at market condition. In the words of DGD officials from our interviews: ‘... we report [BIO’s finance – NDR] as fixed commitment, and only a grant equivalent. If we report the face value of the loan, it’s a problem. We’d have to track the investment throughout its life span, at some point the loan would be repaid, and then we’d end up with subtraction of millions every few years. That’s why we report the grant equivalent.’ We could not access the exact figures of how much ‘grant equivalent’ finance from BIO has been reported by Belgium in its latest report under the UNFCCC, since the data submitted does not report the institutional source of each funding voice.⁶³⁵

Regardless of the role of BIO in the national share of public climate finance and the Paris goals, **its role in mobilizing capital towards sustainable climate mitigation and adaptation should also be seen as the one of a catalyst for Belgium’s contribution to a North-South cooperation towards a carbon neutral and climate resilient society.**

⁶³¹ <https://www.bio-invest.be/en/investments/africa-renewable-energy-fund>.

⁶³² On file with the authors.

⁶³³ See ‘Belgium’s Fourth Biennial Report On Climate Change’ (2020) 66.

⁶³⁴ Weikmans and Roberts (n 629).

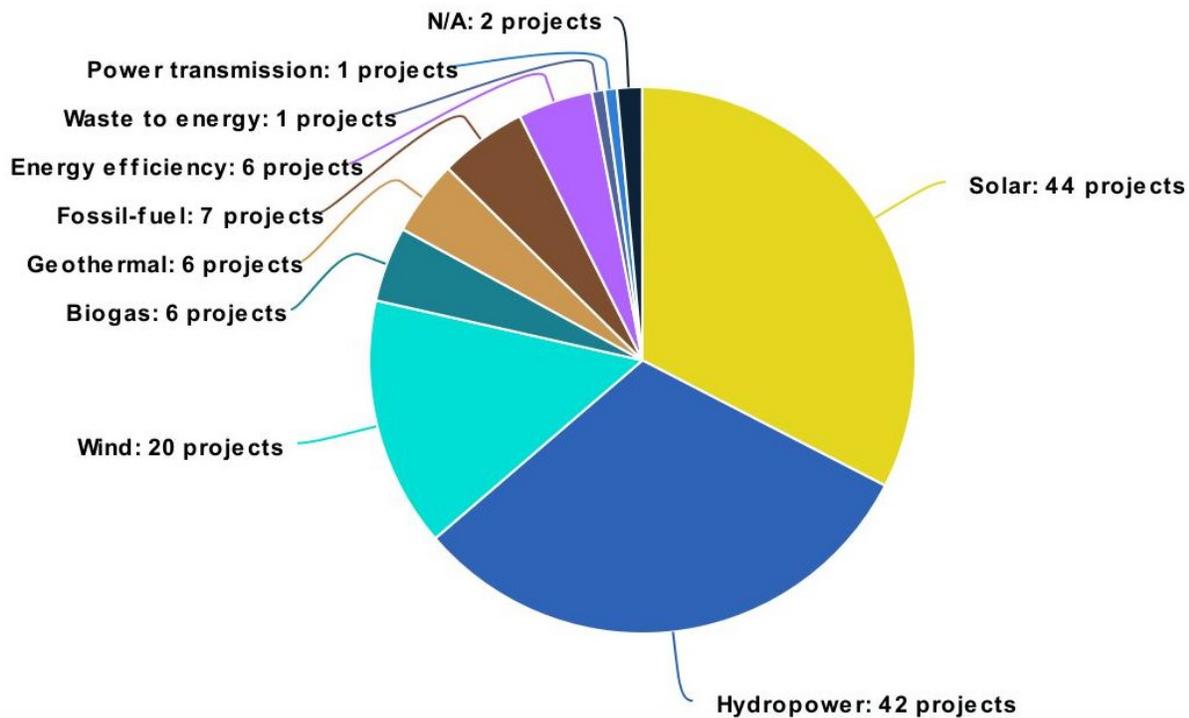
⁶³⁵ See UNFCCC, ‘Biennial Reports – Data Interface’, <https://www4.unfccc.int/sites/br-di/Pages/FinancialSupport.aspx?mode=2>.

4.2 BIO's portfolio in energy and climate-related investments

According to a snapshot of BIO's portfolio at the end of 2019, there were 135 registered projects in the field of energy, out of a total of 850, coming from direct or indirect investments.⁶³⁶ The lion share was of investments in solar energy (32.6%) and in small/medium-sized hydropower plants (31.1%), with the remaining portfolio consisting of biogas, geothermal, energy efficiency, waste to energy and power transmission projects. Importantly there are seven registered projects in fossil-fuel energy production, resulting in direct or indirect investments in five fossil fuel-based power stations.

As of June 2020, the overall outstanding of its finance towards energy investments amounted to €186.5 million, about 30.5% of the entire outstanding portfolio.⁶³⁷

Figure 4.1: Distribution of registered energy-related projects in BIO's portfolio (2019).



Source: BIO, on file with the authors.

BIO also has 13 historical investments in the gas & chemicals sector of which 9 are in the fossil-fuel supply chain, with a total outstanding of 8.6 million⁶³⁸ (.ca 1.4% of the BIO's whole outstand-

⁶³⁶ Based on a list of outstanding for investments provided by BIO to DGD. The number of projects includes all specific sub-investments made by equity or debt-based funds.

⁶³⁷ BIO, 'State of the Portfolio' (June 2020), on file with authors.

⁶³⁸ A direct investment in Indorama Eleme Fertilizer & Chemicals reported an outstanding of USD 8,270,331 in 2019, thus constituting the lion share of the outstanding for gas & chemicals projects.

ing in June 2020). There are also 2 projects in the field of sustainable forestry with an outstanding of about 0.8 million (see Box on agro-forestry in Section 3.3).

An important distinction in the portfolio is **between direct and indirect investments**. The latter are spread across 16 Private Equity Funds and a hybrid fund, the Interact Climate Change Facility. **Out of 135 energy infrastructure projects, only 19 are made of direct investments** in the form of loans: of these, **four consist of gas-fired or dual fuel (gas and diesel) power stations**.⁶³⁹ The remaining energy-related projects are all part of portfolio of Private Equity Funds, debt-based funds, and other vehicles, where BIO's level of control and monitoring is only indirect. Among the beneficiaries of these finance streams, **Berkeley Energy, a private fund incorporated in the Mauritius, has received directly or indirectly the biggest share of committed capital amounting to about €28 million**, distributed across three funds and a holding targeting three countries in Sub-Saharan Africa and six countries in Asia.

Table 4.1: List of private equity funds, debt-based funds and holdings dedicated to energy projects in BIO's portfolio. Source: BIO's website and BIO shared documentation. For a list of all projects see Table A3 in Annex 2.

Name	Commitment €	Year	Instrument	BIO's share
Africa Renewable Energy Fund	8,896,000	2014	Equity	4,89%
Berkeley Energy Wind Mauritius Ltd	4,000,000	2011	Equity-holding/Loan	Not available
Beyond The Grid Solar Fund	4,175,000	2017	Debt	Not available
Frontier Energy II	8,151,000	2018	Equity	34,14%
Interact Climate Change Facility	16,000,000	2011	Equity/Loan	Not available
Renewable Energy Asia Fund II	8,900,000	2016	Equity	4,92%
Renewable Energy Asia Fund Partnership	6,000,000	2009	Equity	6,95%
Off-Grid Solar and Financial Access Senior Debt Fund	4,385,750	2018	Debt	Not available
South Asia Clean Energy Fund	3,744,000	2010	Equity	5,86%
Total	64,251,750			

Source: Elaborated from data shared by BIO and from BIO's website, on file with authors.

Table 4.2: List of direct investments in energy infrastructure projects

Project name	Type	Kind	Region	Country	Activity	Outstanding €
Achwa hydropower plant	Loan	Code 8	Africa	Uganda	Hydropower	8,437,473
Amayo II	Loan	Code 8	LAC	Nicaragua	Wind farms	3,304,862
Azito	Loan	Code 8	Africa	Ivory Coast	Gas-fired power station	12,675,103

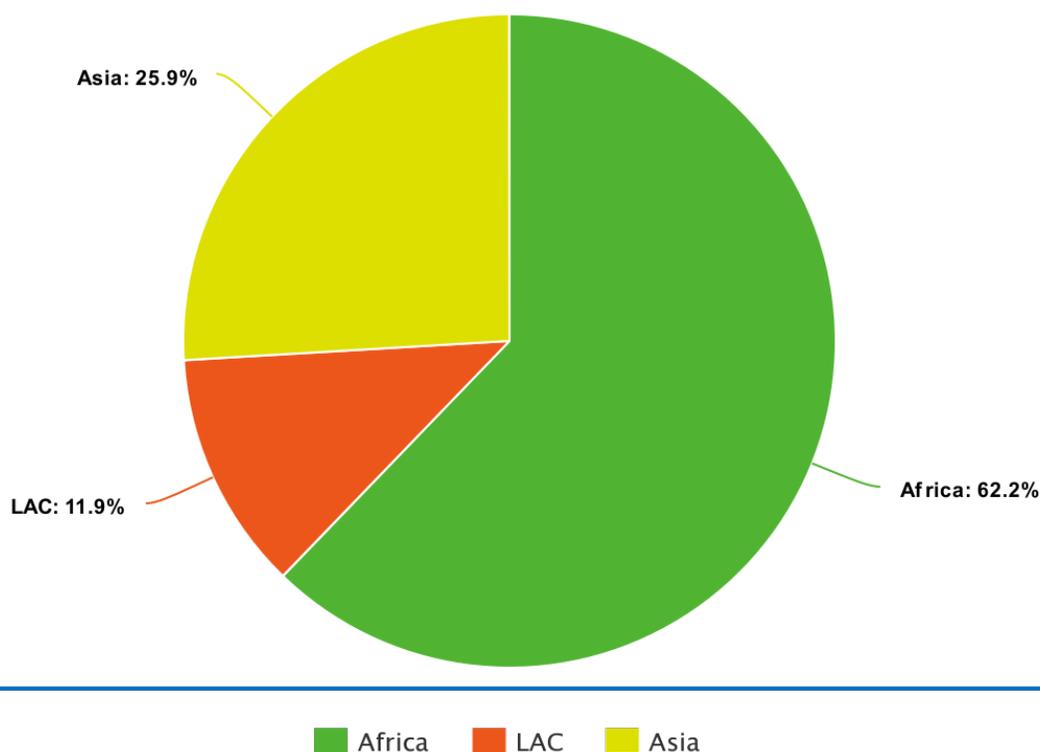
⁶³⁹ Two of these investments involve the Azito gas-fired power station. They are counted separately since they happened in different times and involve different development phases of the same plant.

Azito FOI	Loan	Code 8	Africa	Ivory Coast	Gas-fired power station	15,000,000 (committed)
Berkeley Wind Energy Mauritius (Mezzanine)	Loan	Code 8	Asia	India	Wind farm	1,802,829
Berkeley Wind Energy Mauritius (Panama Wind)	Equity	Code 8	Asia	India	Wind farm	3,000,000
Bósforo	Loan	Climate	LAC	El Salvador	Solar PV farm	12,798,782
Hidronormandia	Loan	Code 8	LAC	Ecuador	Hydropower	7,805,161
Hidrosierra S.A.	Loan	Climate	LAC	Ecuador	Hydropower	4,393,178
San Martin Hydro (IHC S.A.)	Loan	Code 8	LAC	Nicaragua	Hydropower	6,412,894
Kivuwatt	Loan	Code 8	Africa	Rwanda	Natural gas extraction and gas-fired power station	5,602,897
Montecristi Solar FV SAS	Loan	Code 8	LAC	Dominican Republic	Solar PV farm	12,031,105
Polaris Energy	Loan	Code 8	LAC	Nicaragua	Geothermal	4,615,366
Rajasthan Sun Technique Energy	Loan	Code 8	Asia	India	Solar energy farm	11,106,603
Mountain Tea Giciye Hydro Power	Loan	Code 8	Africa	Rwanda	Hydropower	248,330
Senergy 2	Loan	Code 8	Africa	Senegal	Solar PV farm	9,386,295
Solu Hydropower	Loan	Code 8	Asia	Nepal	Hydropower	14,340,877
Summit Meghnaghat Power Company	Loan	Code 8	Asia	Bangladesh	Dual fuel (diesel and gas) power station	7,741,493
Ten Merina Ndakhar	Loan	Code 8	Africa	Senegal	Solar PV farm	15,010,783
					Total	155,714,031

Source: Elaborated from data shared by BIO, on file with authors.

The regional distribution of energy projects shows a core concentration in Sub-Saharan Africa, in alignment with the priorities of Belgian development cooperation, followed by South-East Asia and India, with some presence in LAC and other countries.

Figure 4.2: Regional split of registered energy project in BIO's portfolio (2019). Source: BIO.



Source: Elaborated from data shared by BIO, on file with authors

Zooming into the split of projects (both direct and indirect) across countries, **BIO has energy investments across 41 states, with the top three being India (23 projects), Uganda (21 projects) and Kenya (20 projects).** For more details see the related Table in Annex 1. BIO has invested in eight out of the 14 partner countries to Enabel.⁶⁴⁰ Overall, there is a high variety of countries of intervention, as well as a concentration of projects in few target states as the table below reveals.

Table 4.3: Number of BIO's energy-related projects (direct and indirect) per country.⁶⁴¹

Country	No. of projects
India	23
Uganda	21
Kenya	20
Philippines	11
Ghana	6
Tanzania	6
Colombia	6
Madagascar	5
Côte d'Ivoire	5

Country	No. of projects
Mongolia	2
Pakistan	2
Angola	1
Cameroon	1
Ethiopia	1
Morocco	1
Mauritius	1
El Salvador	1
Jamaica	1

⁶⁴⁰ These are: Benin (1 project), DR Congo (2 projects), Morocco (1 project), Mozambique (1 project), Rwanda (5 projects), Senega (3 projects), Tanzania (6 projects), and Uganda (21 projects).

⁶⁴¹ The number also includes projects listed as 'Gas, Oil and Chemicals' in the fossil-fuel supply chain.

Rwanda	5
Indonesia	4
Senegal	3
Nigeria	3
Nicaragua	3
Zambia	3
Peru	3
Viet Nam	3
South Africa	2
Congo, DR	2
Mexico	2
Ecuador	2

Djibouti	1
Mozambique	1
Turkey	1
Honduras	1
Tunisia	1
Dominican Republic	1
Brazil	1
Thailand	1
Benin	1
China	1
Nepal	1
Bangladesh	1

Source: Elaborated from data shared by BIO, on file with authors.

From a climate finance perspective, this snapshot of BIO’s portfolio reveals that **its climate strategy has been so far almost entirely directed to financing medium-large scale renewable energy infrastructures or the expansion of existing plants.** Despite an effort in financing micro or off-grid renewable energy projects via two PEFs,⁶⁴² the core strategy has so far been of supporting mid- and in few instances large-sized energy infrastructures.⁶⁴³ There are various reasons for this low level of direct involvement in small- micro projects, among them interviews with BIO have revealed the disproportion between the low amount of capital that these projects require (‘small tickets’), against the high management costs needed to follow and manage the whole project cycle. Also for this reason, PEFs are perceived by BIO as a cost-efficient solution to distribute long-term capital across a wide spectrum of energy projects, including ‘small tickets’.

Box 4.2: Investing in SMEs delivering off-grid renewable energy solutions in Sub-Saharan Africa: hedging risks while missing opportunities of high development impact?

Generally, BIO staff comments on their reliance on PEFs and other vehicles concerns the ‘higher risks’ involved, and capacity issues associated in structuring direct financing to individual SMEs. BIO offered its view on its refusal to directly invest in a cutting-edge provider of smart-grid and renewable energy distribution solutions in rural Africa, stating that:

“ [the company] economic model seemed unsustainable. We decided that maybe the sector is not yet ready for direct investments. Which is why we ended up investing in PEFs. The performance there, unfortunately, has been mixed. One PEF is in trouble. There is a problem with scaling up, for instance. If you don’t do that correctly, it just does not work.” (BIO)

While BIO deemed it too risky to commit direct finance in this small start-up, a PEF supported by BIO, the Off-Grid Solar and Financial Access Senior Debt Fund, has itself directly invested in the

⁶⁴² Beyond the Grid Solar Fund and Off-Grid Solar and Financial Access Senior Debt Fund.

⁶⁴³ For instance, BIO is involved for instance in the development of the Achwa large-scale hydroelectric power stations complex in Uganda with an installed capacity of 82 MW and projected to expansion, as well as in the expansion of the gas-fired power station of Azito in Ivory Coast.



same company.⁶⁴⁴ While investing indirectly through PEFs in riskier projects might protect BIO from its perceived risks, at the same time this attitude can lead to missed opportunities of significant development impact in both climate mitigation and affordable access to energy, which could have accrued as a result of a direct form of investment.

4.3 No climate adaptation

Both the UNFCCC and the Paris Agreement require developed states to cover the full costs that developing and, in particular, least-developed states are and will be facing in adapting to the devastating effects of a warming climate. Importantly, the Paris Agreement requires developed countries to ‘strike a balance’ between support towards climate mitigation and adaptation.⁶⁴⁵ In parallel, BIO Law and a recent declaration of EDFI on climate change recognise the importance of aligning with the objectives of the Paris Agreement.

Despite the commitment to both adaptation and mitigation, entities involved in private adaptation finance generally perceive climate adaptation projects as too risky, or difficult to support and implement given specific context or capacity barriers in the recipient country’s private sector.⁶⁴⁶ However, the recent injection by the government of capital towards climate change projects should be an opportunity for BIO to re-direct its future activities into adaptation finance in the private sector, including by working in cooperation with Enabel.

Box 4.3: Beyond EDFI: cooperating with Enabel to access the Green Climate Fund’s private sector facility

BIO’s investments, strategy and policies related to climate change have been fundamentally developed with and influenced by other DFIs member of the EDFI group. EDFI has been a staunch promoter of capital mobilization for the private sector in the field of renewables and it is recently attempting to re-shape its climate mitigation strategy for emerging markets.⁶⁴⁷ With some delay compared to other institutional initiatives in international climate finance, **EDFI has also recently come with a succinct set of commitments recognising the possibility of private sector involvement in climate adaptation, nature-based solutions and issues of just transition.**⁶⁴⁸

These latest developments create fertile ground for BIO to explore the Green Climate Fund’s (GCF) private sector facility as an area of cooperation with Enabel. Because the GCF is an Inter-

⁶⁴⁴ <https://simafunds.com/fund-management/off-grid-solar-fund-i/>.

⁶⁴⁵ Art 8 of the Paris Agreement.

⁶⁴⁶ Valerio Micale et al, ‘Understanding and Increasing Finance for Climate Adaptation in Developing Countries’ (Climate Policy Initiative, December 2018), <https://climatepolicyinitiative.org/wp-content/uploads/2018/12/Finance-for-Climate-Adaptation-in-Developing-Countries-1.pdf>, 1-2.

⁶⁴⁷ Climate Finance Leadership Initiative, EDFI and Global Infrastructure Initiative, ‘Unlocking Private Climate Finance in Emerging Markets: Private Sector Considerations for Policymakers’ (April 2021), <https://www.edfi.eu/wp/wp-content/uploads/2021/04/CFLI-Private-Sector-Considerations-for-Policymakers-April-2021.pdf>. Note that there is no focus on low-income countries, especially in Africa.

⁶⁴⁸ EDFI, ‘EDFI Statement on Climate and Energy Finance’, undated, <https://www.edfi.eu/wp/wp-content/uploads/2020/11/1-EDFI-Statement-on-Climate-and-Energy-Finance-Final.pdf>.

national Accredited Entity to the Fund, BIO and Enabel could co-design climate projects aimed at private sector support in target countries and extend the level of capital committed with a share of support from the GCF. Enabel is also starting a new pipeline of projects to submit under the GCF: it has already one project in Rwanda close to submission, where it will act as an implementing entity as well as an energy project proposal in Mozambique, and a pipeline of further three projects.⁶⁴⁹

This increased engagement under the GCF umbrella could work as a means for BIO and Enabel to overcome together the limitations of high transaction costs for ‘small tickets’ projects and address the issues that arise from their tendency to focus on ‘low hanging fruits’, while at the same time de-risking and expanding the amount and reach of the capital invested in single or multiple target countries. BIO would also benefit from the know-how of the GCF and its community at the forefront of sustainable climate finance approaches. This is also a collaboration that could engage both BIO and Enabel in scaling up Belgian adaptation finance. The Productive Investment Initiative for Adaptation to Climate Change (CAMBio II) structure, implemented by the Central American Bank for Economic Integration, may serve as an example:⁶⁵⁰ It consists of a facility for loans, technical assistance and incentive schemes for ecosystem services to encourage MSMEs to invest in adaptation across several countries in Central America and the Caribbean. As the project document states, the level of ‘concessionality’ offered by the GCF is intended to be passed down to end beneficiaries of the loan.⁶⁵¹ It is also designed to consolidate agricultural production systems adapted to climate change.

Our assessment of BIO’s Investment Strategy in this area reveals a minimalist understanding of the adaptation activities it could sustain: the scarce words of the document reveal BIO’s take of adaptation finance as a ‘cost component’ that targeted private actors or sectors should incorporate in their own models and activities, including the assessment of climate risk.⁶⁵² Adaptation is, however, more than that, even in the context of private sector interventions. For instance, BIO could scale up its role in supporting local SMEs which provide adaptation services or products, or in promoting the increase of their demand, as other financial institutions are considering doing.⁶⁵³

Particularly in the context of target least-developed countries and rural communities, **BIO could play an additional and significant role in promoting the creation and distribution of adaptation goods and services in the context of circular economy models.**⁶⁵⁴ There are already projects in BIO’s portfolio, which could dialogue within this notion, such as energy efficiency projects. Shifting part of its strategic focus on the emerging plans towards circularity of economic models in least-developed countries could unlock support to initiatives for SMEs active in long-lasting design, maintenance, repair, reuse, remanufacturing, refurbishing and recycling.

⁶⁴⁹ Interview with Enabel officers, on file with the authors.

⁶⁵⁰ <https://www.greenclimate.fund/project/fp097>.

⁶⁵¹ GCF, ‘Funding Proposal: FP097: Productive Investment Initiative for Adaptation to Climate Change (CAMBio II)’ (28 November 2018), <https://www.greenclimate.fund/sites/default/files/document/funding-proposal-fp097-cabei-guatemala-el-salvador-honduras-nicaragua-costa-rica-panama-and.pdf>.

⁶⁵² Ibid.

⁶⁵³ Valerio Micale et al. (n 646), <https://climatepolicyinitiative.org/wp-content/uploads/2018/12/Finance-for-Climate-Adaptation-in-Developing-Countries-1.pdf>.

⁶⁵⁴ Haigh L et al., ‘The Circularity Gap Report -2021’, <https://www.circularity-gap.world/2021#downloads>.

Another area which BIO could explore is to invest in future financial vehicles and initiatives within the ‘Loss and Damage’ (L&D) framework of the Paris Agreement.⁶⁵⁵ L&D should not be considered as strictly climate finance, but as an additional form of financial transfer from developed countries aimed at redressing and support vulnerable communities that are already facing damage or are at high risks to suffer destructive climate impacts. What is more, it is disputed as to whether L&D will establish a form of liability on developed countries. In any case, the L&D programme under the UN has established a Fiji Clearing House for Risk Transfer, where there are emerging initiatives aimed at the risk-transfer and insurance to the most impacted countries and communities.⁶⁵⁶ In the words of the UNFCCC Secretariat, the Clearing House ‘catalyzes action and support by non-state actors, especially from the insurance industry, including the private sector, by directly connecting those seeking assistance with those providing solutions, and by enhancing knowledge and understanding on risk transfer solutions in the context of climate risk management.’⁶⁵⁷ While this is a potential avenue, it must be stressed that it is still unclear who is going to sustain the financial burden for such insurance schemes. Hence, the initiative should be avoided, if it ends up creating unfair financial burdens on vulnerable countries.

4.4 Still entangled in fossil-fuel energy production

In addition to the lack of projects in climate adaptation, another problematic outcome from BIO’s portfolio is its support to the fossil fuel supply chain. While this involvement can be regarded as a short-sided move in BIO’s past, it is concerning that three direct investments in fossil-fuel power stations have been approved in the aftermath of the 2009 COP15 in Copenhagen, when even the most conservative estimates started to give a clear message about the incompatibility of increased petrol supply chains with carbon mitigation pathways.⁶⁵⁸ What is more, in 2019 BIO has supported the expansion of a large-scale gas-fired power station in Abidjan (Azito).

Table 4.4: List of BIO’s direct and indirect investments in fossil-fuel power stations

	Commitment year	Country	Installed capacity	Structure/ Instrument	Commitment amount €
Azito Energie	2011	Ivory Coast	430MW	Direct / Debt	17,760,600.00
Azito Energie IV	2019	Ivory Coast	253MW	Direct / Debt	15,000,000.00

⁶⁵⁵ Art 8 Paris Agreement.

⁶⁵⁶ <https://unfccc.int/topics/adaptation-and-resilience/the-big-picture/introduction-to-loss-and-damage>.

⁶⁵⁷ Ibid. See also, <http://unfccc-clearinghouse.org/>.

⁶⁵⁸ International Energy Agency, ‘World Energy Outlook 2010’, 120.

Rabai Power Ltd.	2010	Kenya	90MW	Indirect / Debt	71,774 (outstanding as of 2019)
Kiwuatt Ltd.	2011	Rwanda	26MW	Direct / Debt	7,750,715.07
Summit Meghnaghat Power Company	2014	Bangladesh	335 MW	Direct / Debt	12,806,440
TICO	2010	Ghana	100MW ⁶⁵⁹	Indirect / Debt	703,919 (outstanding)

Source: BIO's website and data shared by BIO, 'Outstanding split for ODA 2019' on file with the authors.

In interviews, BIO staff defended these choices by positioning itself in the middle of a struggle between promoting affordable and reliable energy (their core SDG), and the structural barriers or even impossibility of developing clean energy alternatives in some contexts of least-developed countries. This is, however, a false dichotomy that originates from model-based assumptions that heavily overestimate the value of the assets invested against clean energy alternatives. **This conservative outlook leads financial actors like BIO to rest on a business-as-usual approach in assessing the evolution of a country's energy mix on existing plans that become quickly outdated as the climate crisis grows**, as well as on conservative estimates of technological advancement in renewables. Current trends are instead clearly pointing at the opposite direction, with *any form of fossil-fuel investment* likely to soon become a stranded asset,⁶⁶⁰ and with the fast advances in clean energy that are bringing down the costs of deployment.

For instance, even the conservative energy scenario depicted by the International Energy Agency recognises that "[...] no new natural gas fields are needed [...] beyond those already under development. Also not needed are many of the liquefied natural gas, liquefaction facilities currently under construction or at the planning stage."⁶⁶¹ Moreover, as a recent climate finance project financed by the GCF exemplifies, even the problem of energy baseload provision to the grid via renewables is something that can and should be overcome with concerted efforts of all actors, including the private sector, and not by continuing investing in fossil fuel.⁶⁶²

⁶⁵⁹ World Bank Group. 'Ghana: Takoradi 2 Power Plant' (May 2015), <https://library.pppknowledgelab.org/documents/3539/download>.

⁶⁶⁰ International Institute for Sustainable Development, Step of the Gas: International Public Finance, Natural and Clean Alternatives in the Global South (2021) <https://www.iisd.org/system/files/2021-06/natural-gas-finance-clean-alternatives-global-south.pdf>; see also 'Gas Is the New Coal With Risk of \$100 Billion in Stranded Assets' *Bloomberg.com* (17 April 2021), <https://www.bloomberg.com/news/articles/2021-04-17/gas-is-the-new-coal-with-risk-of-100-billion-in-stranded-assets>.

⁶⁶¹ International Energy Agency, 'Net-zero by 2050: A Roadmap for the Global Energy Sector' <https://iea.blob.core.windows.net/assets/4482cac7-edd6-4c03-b6a2-8e79792d16d9/NetZeroBy2050-ARoadmapfortheGlobalEnergySector.pdf>, 102.

⁶⁶² <https://www.greenclimate.fund/project/fp115>.

On this aspect, EDFI has recently pledged to limit ‘other fossil fuel financing (natural gas - ndr) to Paris-aligned projects until generally excluding them by 2030 at the latest’.⁶⁶³ For the reasons above, this is already an unambitious target against which BIO could instead adopt more proactive stance according to a progressive and resilient long-term vision of energy investments. In this sense, BIO has commented that:

“Generally, the official policy leaves room for this type of investment (natural gas - ndr). But there would have to be very, very, very good reasons to still do it (from a development and an environmental and social impact perspective). I think the default is that we would not do it anymore.” (CEO of BIO)

Although signalling a step forward, **BIO could make a public statement on refusing future investments in natural gas projects and setting up a sustainable exit strategy from its oil and gas investment that would ensure a just transition of the local workforce involved in it.** Fossil fuel investments could also be added to the Exclusion List. However, on May 2021 (right before the conclusion of this report), BIO granted a USD 3 M loan to XpressGas, a Ghana-based company that transports, markets, and distributes Liquefied Petroleum Gas (Box 4.4), thus concluding a new direct investment in the non-renewable area (although not directly on extraction).

Box 4.4 XpressGas in Ghana

On BIO’s website we read that “XpressGas or ‘XPG’ is a regulated LPG (Liquefied Petroleum Gas) Marketing Company that transports, markets and distributes LPG to:

- Refilling stations: This is bulk supplies in storage tanks (from 1 to 25 MT) and represents the historical activity of the company known as the B2B segment;
- Small businesses (such as bakeries, food vendors) and households in branded cylinders of 6 kg, 15 kg and 50 kg, provided either directly at their doorsteps or very close by at one of XPG’s vendor shop in sparsely populated areas. This is known as the B2C segment.

XpressGas Limited is the fastest-growing and one of the largest LPG companies in Ghana. The company currently has 31,000 branded LPG cylinders under management and 27 LPG bulk road and delivery vehicles and it operates a network of 60 LPG refilling stations and vendors across Ghana. The main focus of the business is on the peri-urban and rural areas of the country.

Over 75% of Ghana’s household population still relies on charcoal and kerosene as their primary sources for cooking fuel. With 94% of customers first-time LPG users, XpressGas has a direct positive impact on the air quality of its clients, reducing CO₂ emissions, averting deforestation and reducing black carbon emissions, with considerable environmental and health benefits. The company’s ambitions are fully aligned with Ghana’s government’s stated target to increase the usage of LPG as cooking fuel by 50% in 2030 and to raise awareness on environmental, health and safety matters.”⁶⁶⁴

⁶⁶³ EDFI, ‘Statement on Climate and Energy Finance’ (2020), <https://www.edfi.eu/wp/wp-content/uploads/2020/11/1.-EDFI-Statement-on-Climate-and-Energy-Finance-Final.pdf>

⁶⁶⁴ BIO, ‘Xpress Gas Limited’, <https://www.bio-invest.be/en/investments/xpress-gas-limited>.

4.5 Development impact and climate mitigation assessment

According to the Management Contract, BIO must make ‘development impact’ by way of additional finance that would not exist in business-as-usual contexts. Most of its interventions must also provide capital return and interest. In the context of increasing availability of ‘green finance’, this is a rather narrow space for action that has led to a situation where it has become more and more difficult to source and invest in viable renewable energy projects in target countries.

BIO staff described to us a sophisticated system of metrics to estimate and measure the impact of investments within a coherent vision towards selected SDG goals. In this context, it cannot be doubted that ES officers strive to include local impact and local issues in project design, particularly in the case of direct investments.

Box 4.5: Local community benefits from solar PV plant projects

There are valuable cases where BIO has demonstrated effort and sensitiveness towards issues related to the implementation of renewable energy projects. The project Senergie II in Senegal gave priority to women employment for the maintenance of the facility, included the installation of solar street lighting in the nearby village of Bokhol, and 2% of the revenues from the sale of CDM carbon offsets is given to the local community.⁶⁶⁵ The Montecristi projects includes a collaboration with botanists to protect local rare species.⁶⁶⁶

However, **BIO’s assessment of the carbon mitigation impact of the energy project is not sufficiently transparent.** This is also because most of its energy projects are eventually designed by PEFs and other entities managing debt-based funds. We did not have access to any sample of internal documentation related to carbon mitigation estimates, measuring, reporting and verification (MRV) of avoided GHGs emissions for renewable energy projects or direct GHGs emissions from fossil-fuel power stations.

However, BIO relies on the following standards and processes to assess the carbon mitigation of each project: an early estimate done by BIO officers via the ‘Carbon Footprint Tool’ developed by AFD,⁶⁶⁷ reliance on information and findings from EIAs and ESIA’s related to the project, and MRV due diligence on the field, when existent, from partners. BIO does not directly engage with or commission consultants for GHGs MRV due diligence, which is a practice that contributes to the opacity of GHGs emission reduction claims for each project. While there are inherent difficulties in determining the carbon mitigation potential of a project and its verification, BIO’s practice seems to base climate impact claims on the Carbon Footprint Tool, or on sources that come from other entities, such as ESIA’s, which are either extremely difficult to source for many projects or kept confidential.

⁶⁶⁵ <https://www.greenwishgroup.com/portfolio/senergie-2-solar-pv-farm/>.

⁶⁶⁶ <https://www.kfw.de/stories/environment/nature-conservation/biodiversity-montecristi/>.

⁶⁶⁷ AFD, ‘The AFD Carbon Footprint Tool for projects – User’s guide and methodology’ (2011) <https://www.afd.fr/en/ressources/afd-carbon-footprint-tool-projects-users-guide-and-methodology>.

The recent BIO's Transparency & Disclosure Policy is a welcome development on this matter in that it promises that "[...] Carbon footprint data are now basically limited to BIO's own carbon footprint. These will be systematically broadened by the Development and Sustainability Department to also include carbon data on clients, fund investees, infrastructure projects, etc."⁶⁶⁸ In addition, it would be desirable to publish the methodology, tools and processes used to assess GHGs emissions, as well as avoided GHGs emissions from investments.

4.7 Case studies on energy investments

This final sub-section offers an analysis of two case studies concerning respectively a direct investment in a gas-fired power station in Ivory Coast and the indirect support via the African Renewable Energy Fund (AREF), a PEF, to an Italian company developing small/medium size hydropower stations in Madagascar. The two case studies have been selected based on the type and structure of investment with the aim of shedding some light on specific issues that can emerge from BIO's way of assessing, monitoring, and engaging in its energy infrastructure projects. There are some limitations to be noted: first, the case studies cannot offer a comprehensive take on BIO's activities on energy investments, but rather a more detailed insight into BIO's operations and its effects. Second, the case studies are based on a desktop research of publicly available documents, interviews with BIO officers and, in the case of AREF, also an interview with a representative of an NGO active on the matter. The qualitative analysis would have benefited from a field visit, which could not be possible due to the COVID-19 pandemic.

a. Investing in a gas-fired power plant for electricity exports: the Azito IV project in Abidjan

Since 2010, BIO has been supporting the expansion of a gas-fired power station in the village of Azito, in the urban area of Abidjan, Ivory Coast. In 2019 BIO has committed €15 million via a direct loan to an expansion project of the plant which will bring its output capacity from the existing 460 MW to 710 MW. BIO's loan is part of a string of capital injection from other DFIs, including the IFC, Bioparco and FMO, for a total mobilization of €256 million.⁶⁶⁹

During interviews, BIO stated that the expansion of the Azito's power plant with another combined-cycle turbine is to replace the output from older and more polluting heavy-fuel oil plants. However, our analysis of relevant documentation leads **another rationale for this plant: the one of scaling up the role of Ivory Coast as a hub of electricity exports**. Already in 2017, the country was exporting 1,200 gigawatt (GW) to nearby countries and with the setting up of new transmission lines in 2020 it has been aiming to higher its export levels by 500 MW.⁶⁷⁰ Azito IV is, there-

⁶⁶⁸ BIO, 'Transparency and Disclosure Policy' (May 2021) https://www.bio-invest.be/files/BIO-invest/About-BIO/Governance/20210525_BIO-Disclosure-Policy_Approved.pdf, footnote 3.

⁶⁶⁹ BIO, 'Electricity Expansion Begins at Azito Power Station <<https://www.bio-invest.be/en/news/electricity-expansion-begins-at-azito-power-station>>.

⁶⁷⁰ World Bank/IDA, Project Appraisal, Report No: 126751-CI p.10 <http://documents1.worldbank.org/curated/en/779551530502255566/pdf/CIENERGIES-Guarantee-PAD-P164145-AFRDE-comments-June-7-final-1-06122018.pdf>.

fore, part of a broader national strategy of energy exports in various Western African countries. Moreover, it is also a project that comes with ‘significant’ climate change impacts according to an ESIA commissioned for the project, including those related with the expansion of the transmission line for thousands of kilometres.⁶⁷¹

According to BIO and the other funding institutions, one of the reasons behind the early phases of Azito power plant was the reliance on ‘indigenous natural gas’ coming from reservoirs under the country’s jurisdiction. However, Azito IV is instead projected to require the use of imported natural gas and a new project to build a facility for imported liquified gas is under preparation.⁶⁷²

BIO’s backing of Azito IV shows either a limitedness in project appraisal, or an informed choice towards a project which not only relies on fossil fuels and significantly contributes to raise GHGs emissions, but also disregards clean energy alternatives in Ivory Coast and neighbouring countries.⁶⁷³ For instance, the IFC has later participated in two public/private partnership that together will produce 60MW of solar energy in Ivory Coast.⁶⁷⁴

There are also issues on the local impacts from the plant’s expansion, which will be built adjacent to the current facility on a stretch of land facing a heavily polluted lagune. The neighbouring villages of Azito and Yopougou have not only seen the steady reduction of fisheries through the years,⁶⁷⁵ but some villagers have also entered into a longstanding dispute for land compensation from involuntary resettlement of the previous phases of the project, which seems to still not be settled.⁶⁷⁶ Because of the dire ecological status of the lagune, the ESIA for the Azito IV phase regards the site as insignificant in terms of biodiversity services, thus setting an extremely low benchmark for assessing the increased impact to local fishery from the new project. Thus, the project in its design shows **no interest in ecosystem restoration** for the benefit of local villagers and livelihoods. Furthermore, the company Azito Energy seems to have little regard of the conditions of the neighbouring villages, since there are settlements under the high-tension lines nearby the power station,⁶⁷⁷ in an area where there will possibly be increasing NO₂ emissions levels from the project.⁶⁷⁸

b. BIO’s involvement in the surge of hydropower private sector development in Madagascar

“We are going to look at the climate policy of each country: the current one, but also the future one. We are going to look at the energetic ‘mix’ of the country. Also, all the characteristics of the country. Do they have enough space for solar? Do they have high radia-

⁶⁷¹ ERM, ‘Environmental and Social Impact Assessment for the Azito IV expansion project’ (2018) p.196.

⁶⁷² World Bank/IDA (n 670), 16.

⁶⁷³ The ESIA for the project only assessed other alternatives of natural gas power generation, without considering other sites or renewable energy sources. See ERM, (n 626), Annex C, 275.

⁶⁷⁴ <https://www.worldbank.org/en/news/feature/2020/07/23/the-secret-to-cote-divoires-electric-success>

⁶⁷⁵ Nils Martenet, *Documentaire ‘La Lagune’* (2020) <https://www.youtube.com/watch?v=bdMouNNDqDY&t=420s>.

⁶⁷⁶ IFC, <https://disclosures.ifc.org/project-detail/ESRS/39270/fcs-re-azito-4>.

⁶⁷⁷ ‘Côte d’Ivoire: Sous Les «hautes Tensions de La Mort» , à Yopougou-Azito Des Vies Dans l’insouciance - KOACI’ https://www.koaci.com/article/2020/05/26/cote-divoire/societe/cote-divoire-sous-les-hautes-tensions-de-la-mort-a-yopougou-azito-des-vies-dans-linsouciance_141732.html.

⁶⁷⁸ When the turbine will operate in the first year in open cycle, NO₂ max-hour emissions are projected as ‘moderate’ and ten times higher than the baseline. See ERM, 176.

tion? Do they have hydro potential? Wind potential? These are all the things that we look at. On a financial point of view, the projects we finance, we want for them to be relevant to the country. Financially, that's the best way to protect your investment.” (BIO officer)

These words give an understanding of BIO's view on its screening approach to potential energy investments. However, the following case study shows how BIO has failed to evaluate the broader context of opportunities and challenges for infrastructures that should be 'relevant for the country'.

The Management Contract identifies sustainability as one of the key values which should inform BIO's activities towards investment that benefit local stakeholders and deliver positive impacts, even after the end of BIO's involvement in them.⁶⁷⁹ It is perhaps in this light that BIO officers have referred to their equity-based financial model as 'patient capital' made to support their clients for the long-term. Yet, **when such capital is channelled through indirect finance structures like PEFs, the risk is of a filtered and partial understanding by BIO of the potential role and consequences of its contributions.** The filtering can happen due to the reliance of BIO on information provided by the PEF and lack of sufficient direct engagement with the local realities of their investments, which inevitably can also lead to a partiality of information shared.

The case of an equity investment in the African Renewable Energy Fund (AREF) is testament to the difficulty that BIO's management faces in assessing long-term and wider concerns linked to its investments. AREF is a €200 million PEF, spearheaded by the African Development Bank and participated by public and private actors, including several DFIs. It is managed by a private company incorporated in the Mauritius (Berkeley Energy Africa Ltd.) which is tasked to invest in renewable energy projects across Sub-Saharan Africa.⁶⁸⁰ In AREF's portfolio there are currently three hydropower projects, plus one in the pipeline, in Madagascar. Existing and future projects have been developed and managed by Tozzi Green SpA, an Italian company which has already benefited from another loan by BIO for the JTF agricultural project (see chapter 3 above and Annex I). In 2019, AREF entered into a partnership agreement with a 35% interest in the companies of Tozzi Green that own the existing plants, as well as one under construction for a total capacity of 45.4 MW.⁶⁸¹

With an equity stake of less than 5% in the fund (almost € 9 million), BIO had only a minor influence in shaping Berkeley Energy's strategy to enter the field of hydropower development in Madagascar. Despite the regular meetings and exchanges with the fund's management, the development impact assessment and ES frameworks, it appears that BIO has not considered how AREF's projects in Madagascar might perform in the broader context of the Malagasy energy transition to renewables.

There are, in fact, several factors which should have brought BIO to consider more carefully the risks and impacts of its investment. On the surface, its finance is part of a broader trend of considerable public-private capital injections to develop the country's hydropower potential, with the government having paved the way with a national energy policy geared towards the genera-

⁶⁷⁹ Art 4 Management Contract.

⁶⁸⁰ <https://www.berkeley-energy.com/energy-funds/>.

⁶⁸¹ Tozzi Green, <https://www.tozzigreen.com/contrib/uploads/press-release-TozziGreen-Results-2019-v7-en.pdf>.

tion of 75% of energy from hydropower by 2030.⁶⁸² Given the uneven spread across this vast island, and the fact that only 4% of the rural population has access to the national energy grids,⁶⁸³ with the latter covering primarily Antananarivo and nearby provinces, the country's strategy envisions an expansion of renewable energy mix to 85% by 2030,⁶⁸⁴ including the development of small/micro hydropower plants, which should have only negligible negative impacts on local livelihoods and ecosystems. However, the emerging picture shows a more complex reality, with Tozzi Green being a key player of a more ambitious plans for business expansion in the hydropower sector.

In 2019, villagers in the area of Farihitsara protested against the plans by Tozzi Green to build a new 40m dam.⁶⁸⁵ Interestingly, the dam would regulate water flow to provide a more stable input for an existing – and underperforming – small hydropower station in Sahanivotry, built in 2008 and still managed by Tozzi Green. Although the status of the project is supposedly on hold, the dam is projected to require the resettlement of thousands of people and the flooding of about 1.000 hectares of land, to provide only modest amount of energy output (18MW) into the national grid.⁶⁸⁶ A concerning aspect of the affair has also been the lack of transparency by Tozzi Green with the affected population regarding the initial phases of this project.⁶⁸⁷

At the same time, with the support of AREF Tozzi Green has almost finalized the construction of a 28MW (medium/large) hydropower plant near the village of Mahitsy (Farahantsana), with an estimated average output of 136,000 MWh/yr that will feed the capital's grid. The financial model of this power plant relies on the release and sale of carbon offsets from the Clean Development Mechanism, a carbon offset scheme under the Kyoto Protocol which rewards projects that avoid GHGs emissions in developing countries. The CDM has been fiercely criticised for having rewarded projects which could not be deemed additional, meaning that the emission reductions would have happened without the support of the CDM.⁶⁸⁸

Despite having been registered under the CDM in April 2020, the approved document shows a rather weak claim of additionality for the Farahantsana project: rather than including in the calculation of the baseline emission scenario the cumulative impact of other hydropower stations planned to be operational in the same crediting period within the project boundary,⁶⁸⁹ the

⁶⁸² Ministère de l'Énergie et des Hydrocarbures, 'Lettre de Politique de l'Énergie de Madagascar 2015-2030', <http://www.ore.mg/Publication/Rapports/LettreDePolitique.pdf>, 10.

⁶⁸³ African Development Fund, Energy Sector Reform Support Programme (November 2016), https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Madagascar_%E2%80%93Energy_Sector_Reform_Support_Programme_PARSE_.pdf, para 2.4.4.

⁶⁸⁴ Ministère de l'Énergie et des Hydrocarbures (n 637), 10.

⁶⁸⁵ 'In Madagascar, Villagers Oppose Plans for a Dam That Would Inundate Their Land' (*Mongabay Environmental News*, 18 July 2019) <<https://news.mongabay.com/2019/07/in-madagascar-villagers-oppose-plans-for-a-dam-that-would-inundate-their-land/>>.

⁶⁸⁶ Ibid.

⁶⁸⁷ Malina, 'Ankaterena-Sahanivotry Hydropower Dam : An Obscure and Uncertain Project Involving the Rajaonarimampianina Regime' (*Malina*) <<https://www.malina.mg/en/article/ankaterena-sahanivotry-hydropower-dam---an-obscure-and-uncertain-project-involving-the-rajaonarimampianina-regime>> .

⁶⁸⁸ Larry Lohmann, 'Regulation as Corruption in the Carbon Offset Markets' in Steffen Böhm and Siddhartha Dabhi (eds), *Upsetting the Offset: The Political Economy of Carbon Markets* (MayFlyBooks 2009).

⁶⁸⁹ There are at least other eight hydropower plants in construction or under development that will become operational within the CDM crediting period of the Farahantsana power station: see https://www.afdb.org/sites/default/files/documents/environmental-and-social-assessments/madagascar_-_pritem_1_esia-esmp_summary.pdf, 30-31.

project proposal relies on a set of assumptions that inflate the overall estimate of baseline emissions, because they exclude the contribution that these planned hydropower stations will have in avoiding future GHGs emissions.⁶⁹⁰ In other words, **the financial support that Tozzi Green might in future receive from the sale of CDM offset credits is based on a contestable claim that the project will avoid a determined amount of GHGs emissions.** When confronted, a BIO official was not aware of this aspect of the project, although he/she defended CDM methodologies, as public and science-based. There was also acknowledgment that these calculations are based on models and therefore these are estimates, which may not be fully reflecting the reality.

If these are issues connected to the single projects, there is a more troubling aspect of BIO's involvement on hydropower development in Madagascar: **the unsustainable financial burdens that private sector investments are posing on Jiro sy rano Malagasy (Jirama)**, the state-owned electricity utility which entered into power purchase agreements with Tozzi Green for the electricity coming from its hydropower plants. In 2019, Jirama was already estimated to be in over €400 million of arrears in payments.⁶⁹¹ The World Bank intervened in the same year with a \$100 million grant to restructure Jirama's business model,⁶⁹² and other \$150 million to further develop energy access.⁶⁹³ With the impact of COVID-19 in the country, the financial situation of Jirama seems to have further deteriorated while 85% of the population still does not have access to electricity.⁶⁹⁴ In 2019 Tozzi Green also claimed to have €22 million of arrears with Jirama.⁶⁹⁵

There are obvious challenges in achieving wide energy access, fair tariff levels and clean energy. However, this sketch of the financial complex built to sustain Madagascar's energy ambitions reveals how **BIO is indirectly involved in perpetuating an unsustainable model based on private sector interventions partly subsidised by other DFIs.**

While financial intermediaries like AREF benefit from the profits of creating and running hydropower plants, the critical financial situation led other DFIs to shift away from Jirama and redesigning their energy programmes in Madagascar.⁶⁹⁶ It is in this context that **BIO should be concerned about Tozzi Green's plans to develop a large-scale dam for a 40MW hydropower project in Tsinjoarivo.**⁶⁹⁷ This is because of the local impacts and, especially, the precarious financial context in which the Italian company aims to expand its activities by selling energy to an already critically indebted public utility.

⁶⁹⁰ UNFCCC Secretariat, Farahantsana hydropower plant, CDM Project design document form, <https://cdm.unfccc.int/UserManagement/FileStorage/OE1Y3IDL9OAPNGUTRB5WSK6VQCJXMH>, 14-15.

⁶⁹¹ 'Energie à Madagascar: la Jirama, une «bombe à retardement» selon une étude' (RFI, 25 September 2019) <https://www.rfi.fr/fr/afrique/20190925-madagascar-eau-electricite-audit-compagnie-nationale-jirama-finance>.

⁶⁹² <https://projects.worldbank.org/en/projects-operations/project-detail/P166752?lang=en>

⁶⁹³ <https://projects.worldbank.org/en/projects-operations/project-detail/P163870?lang=en>

⁶⁹⁴ Eric Ranjalahy, 'Selon la banque mondiale - La Jirama accuse une perte d'un milliard de dollars' (L'Express de Madagascar, 3 March 2021) <<https://lexpress.mg/03/03/2021/selon-la-banque-mondiale-la-jirama-accuse-une-perte-dun-milliard-de-dollars/>> .

⁶⁹⁵ 'In Madagascar, Villagers Oppose Plans for a Dam That Would Inundate Their Land' (n 76).

⁶⁹⁶ Tim Cholibois, 'Electrifying the "Eighth Continent": Exploring the Role of Climate Finance and Its Impact on Energy Justice and Equality in Madagascar's Planned Energy Transition' (2020) 161 Climatic Change 345, p.358.

⁶⁹⁷ 'Tozzi Green s'offre de bonnes perspectives de croissance' (Ecoaustral) <<http://ecoaustral.com/tozzi-green-soffre-de-bonnes-perspectives-de-croissance>> .

Box 4.5: Access to affordable energy and the private sector

“The states should check the conditions to which people have access to energy and the price they need to pay and then it's up to the commercial sector, to see whether under those conditions they can function. But I think if you start doing things like I've seen done in the past, where the private partner produces energy, IFC subsidizes the rate to which they pay it and they sell it to the state - it's not sustainable. You can maybe do that over a start-up period. Over a transition.” BIO

This critical statement of BIO's management encapsulates the trend emerging in the development of hydropower energy in Madagascar, with the crisis of Jirama working as an example of the unsustainable level of financial exposure of the public sector to prices of private sector's energy production.

The dynamics from these types of financial exposure are also linked to the need of ensuring that any project of renewable energy infrastructure the people's need to access energy services at an affordable tariff. The latter is not only an SDG goal but also an emerging derived human right,⁶⁹⁸ which implies that BIO should not just assess increased level of access to electricity from its projects as a form of development impact, but also increase its due diligence to ensure that the same projects will deliver affordable and renewable energy for the long-term (see Section 2.4.b on the applicable human rights framework to BIO).

There are, of course, many variables that affect price formation for electricity delivered to the end user. However, the profit-seeking attitude of the private sector in such 'start-up' or 'transition periods' in poor countries can be considered as a risk factor to the setting of unsustainable costs or energy. As infrastructural projects, like those supported by the profit-seeking AREF, are designed to sell electricity directly to the national utility, it can be the case that the price agreed in the Power Purchase Agreement is inflated to include a higher level of return on investment, than would have otherwise occurred with a direct subsidisation, ownership, and operation by the public entity of the infrastructure. When these contractual dynamics become systemic across energy infrastructures, it will likely also affect the sustainability of end-user energy tariffs.

While there are numerous solutions in terms of financial and proprietary structures for energy projects, which could both strike a better balance between private sector development and affordable energy prices, the prevailing model of public/private investment structures can eventually contribute to unsustainable tariffs. A sign of that happening is the current struggle between the World Bank and the Malagasy government on the application of an increased energy tariff, required according to an agreement between the government and the World Bank.⁶⁹⁹

A way out from this 'transition period' and collection of costly deals between public utilities and private sector producers is the renegotiation of contracts. Although Jirama has already started this process,⁷⁰⁰ this approach does not guarantee reliability and sustainability in the long-term.

Another issue related to private sector development of renewable energy infrastructures in least-developed countries are the extra-costs associated to the possible absence of integrated

⁶⁹⁸ Lars Löfquist, 'Is There a Universal Human Right to Electricity?' (2020) 24 *The International Journal of Human Rights* 711.

⁶⁹⁹ 'Tarifs de la Jirama: bras de fer entre l'Etat et la Banque mondiale? | NewsMada' (18 February 2021) <<https://www.newsmada.com/2021/02/18/tarifs-de-la-jirama-bras-de-fer-entre-letat-et-la-banque-mondiale/>>.

⁷⁰⁰ "Despite Its Resilience, Madagascar Is in a Difficult Situation", Says Marc Gérard of the IMF' (*The Africa Report.com*, 19 February 2021) <https://www.theafricareport.com/67077/despite-its-resilience-madagascar-is-in-a-difficult-situation-says-marc-gerard-of-the-imf/>.

grid development. For instance, BIO is directly and indirectly (via AREF) involved in the development of a large-scale hydropower complex in Uganda (Achwa1 and 2). The second station has been commissioned in October 2019 without the development of a power evacuation line. This has led the Ugandan public utility to pay about €1.5 million to the producer for energy that could not be transmitted and therefore consumed.⁷⁰¹ We could not access BIO's specific documentation on the project, but it seems that the lack of implementation of a necessary infrastructure to link the power station to the grid could be part at least of the risk and mitigation features of the project. Thus, as a mitigation measure for the lack of construction of the power evacuation line, BIO could have proposed a tariff discount, or a delay or even a suspension in charging the tariff to the public utility.

More generally, however, BIO should recognise the need to shift away from supporting energy transition models that despite appearing financially attractive, also might pose considerable negative repercussions for the long-term. **One of these is the risk of leading to the privatisation of the energy distribution sector on the excuse that the public sector is unable and incapable to sustainably manage it.**

Reflections and recommendations on Energy and Climate Finance

BIO is at a crossroads in re-shaping itself as a 'fit-for-purpose' vehicle to channel climate-related finance for development. While through the last ten years it has successfully consolidated its focus on renewable energy infrastructures, our analysis of its portfolio, strategic policies, and role within the Belgian framework of climate finance reveal the following **challenges and tensions**:

- 1- BIO is risk averse when using its 'Code 8' capital for clean energy projects. This has led to a series of energy investments where finance ended up supporting 'low hanging fruits' (eg. Azito IV, African Renewable Energy Fund or Renewable Energy Asia Fund II) rather than contexts with emerging SMEs holding a high impact potential, such as off-grid solar energy solutions.
- 2- BIO's additionality in financing renewable energy infrastructure is diminishing, given the increased amount of concessional capital available under the 'Paris Agreement' wave of new and additional climate finance. This brings the challenge for BIO of re-envisioning the type and size of energy projects to support in the future and shift to sectors and areas where markets are yet to emerge, such as off-grid clean energy services and infrastructures or SMEs' active in adaptation products and services in the context of circular economy models.

⁷⁰¹ 'Taxpayers Lose Shs104.4b to UETCL's Non-Evacuated Power', *Daily Monitor* (11 January 2021) <<https://www.monitor.co.ug/uganda/business/technology/taxpayers-lose-shs104-4b-to-uetcl-s-non-evacuated-power--3253858>>.

- 3- BIO struggles to develop a coherent and cutting-edge strategy of climate adaptation finance. This is due to its business model which makes it difficult to identify viable adaptation projects with sufficient financial return, but also to its minimalist understanding of adaptation finance for the private sector.
- 4- The reliance on indirect finance, especially via PEFs has made BIO lose sight of the strategic and long-term rationale of its investments (eg. AREF's portfolio in Madagascar). The same also applies to direct investments in fossil fuel, including gas-fired power stations projects (Azito IV and Kiuwatt), because of BIO's overly optimistic outlook on natural gas as a viable transitional energy source under a Paris-aligned strategy.
- 5- Despite offering a detailed understanding of direct impact and risks of energy investments, BIO's development impact indicators and E&S policy and process are not geared to offer sufficient strategic understanding of the broader context and general impact of BIO's interventions. The challenge of broader strategies requires an approach that goes beyond indicators and structured categories of assessment.
- 6- The lack of a consolidated GHGs MRV due diligence process and BIO's financing structures make it difficult to estimate BIO's actual contribution to climate mitigation. Also, the claims of GHGs emission reductions from individual projects in the website should be re-dimensioned to the level of BIO's actual financial contribution.
- 7- The case studies revealed that BIO struggled to achieve a meaningful level of community engagement both in direct and indirect streams of finance. Although it is difficult to pinpoint the precise reasons for this, the over-reliance on E&S reports from PEFs in the case of indirect investments or on the ESIA's of partner DFIs in direct ones might be a contributing factor.
- 8- The recent efforts from BIO in commissioning a climate-risk assessment of its portfolio and in estimating the climate-impact of its investments points at the right direction. However, for what we have received and gathered from its officers, BIO still lacks a policy and a structured process of GHGs MRV within its E&S framework. From the interviews, it seems that climate due diligence is often delegated to external consultants, but, in any case, the information provided to the public via the website is unclear about BIO's actual contribution to climate mitigation.
- 9- BIO's climate-related finance has so far primarily concretised through its involvement in EDFI and joint investing with its members. Yet, EDFI is yet to adopt an ambitious and detailed set of policies and tools on climate change and climate finance. Also, its continuing reliance on natural gas as a transitional source for energy production is concerning. Enabel's track-record and expertise in climate finance, as well as its linkages with the GCF and its institutional landscape, open the possibilities for more impactful climate finance activities.

In response, we propose the following four trajectories as recommendations that aim towards a vision of BIO as a national development bank that will stand at the forefront of innovative climate action by and for SMEs, in line with an ambitious path of decarbonisation and climate resilience of societies, as well as of their economies and ecosystems.

1. BIO should commit not to finance either directly and indirectly what is increasingly revealing to be outside plausible climate resilient pathways of decarbonization and adaptation. This includes project types that generally involve long-term risks (hence difficult to assess) over ecosystems. It should also build up an exit strategy for the existing investments in the fossil-fuel value chain, with the aim of avoiding financial risk and ensuring the just transition of workers reliant on those projects. Therefore, BIO should pledge not to finance:
 - 1.1. Any project in the fossil-fuel value chain, including all fossil-fuel based power stations;
 - 1.2. Medium or large hydropower power stations and related dams (>25MW of installed capacity);
 - 1.3. Agro-forestry projects based on mono-cultures or that are not designed on a detailed ecosystem conservation and restoration approach; and
 - 1.4. Any investments reliant on the generation of carbon offsets like the CDM, if such investment involve a large-scale project (eg. hydropower or waste / livestock manure management).

2. BIO should explore the following means for mobilizing and channelling finance towards higher financial risk / higher impact projects, to overcome its lack of additionality in renewable energy infrastructures and project an image of a cutting-edge and dynamic climate development bank:
 - 2.1. Generally, given the positive outcomes of some of its existing investments, it should further explore and source projects for solar PV farms (eg. Ten Merina) and geothermal (eg. Polaris Energy Nicaragua), but also engage directly in off-grid solar energy production and distribution in rural areas in need across Sub-Saharan countries. BIO could achieve this by relying on its 'Code 5' capital and capital earmarked for climate;
 - 2.2. BIO should cooperate with Enabel to generate synergies and catalyse additional finance for cutting-edge climate mitigation and adaptation projects that benefit SMEs in least-developed target countries. In this sense, BIO and Enabel could explore the possibility of designing and submitting projects for the GCF's private sector facility. More simply, BIO could tap into and engage with Enabel's work in designing new projects under the GCF and explore avenues for its involvement;
 - 2.3. BIO might benefit from exploring finance options for activities in the context of recent circular economy assessment and strategies that certain least-developed countries are considering through the help of UNDP. These could be targeted both for mitigation and adaptation programmes geared to create private sector involvement in 'circular products or services'. BIO could also explore developments under the Loss & Damage framework of the Paris Agreement and assess whether it could play a role in supporting risk insurance facilities for climate-related disasters and onset events, although such intervention should not be claimed to be a form of climate finance, but a means to redress historical inaction on climate change.

3. BIO should scale-up its capacity in identifying and assessing the indirect impacts of its energy investments. It could do so by:

- 3.1. expanding its development impact indicators and E&S assessment to human rights due diligence; means to assess active, free, and meaningful participation in development and the negative financial feedbacks that its indirect investments might have on the financial situation of national public utilities and on communities in terms of sustainable energy tariff levels in line with affordable access to energy.
 - 3.2. Another means to achieve this could be to re-structure the composition and formal or informal process of its Board, so to give increased capacity and attention to strategic qualitative aspects of each investment which can hardly be captured by quantitative models and estimates.
4. BIO's internal strategy and policies should be further streamlined and re-structured in a way that will reflect the centrality of climate change in its future agenda. This might involve amendments in the Management Contract that would set more specific boundaries and goals of climate finance, also in line with the suggestions above. It would also require re-envisioning the relationships of the SDG goals in its Theory of Change, to give a more central role to SDG13 on Climate Action.

5.

BIO's Accountability

Introduction

This section aims to understand the extent to which BIO can be held to account by its shareholders, development partners and its end beneficiaries, with a particular focus on BIO's accountability for its development impact and especially for its E&S commitments. Accountability here is understood broadly, as having both ex-post and forward-looking dimensions (i.e., holding BIO to account for the past decisions, and the ability to influence its decisions in the future). In terms of scope, this chapter covers:

- (i) the relevant provisions on management, cooperation, and oversight in BIO law and Management Contract;
- (ii) the internal monitoring and evaluation procedures at BIO;
- (iii) the mechanisms and remedies available to BIO and its end beneficiaries to hold BIO's clients to account for their environmental and social (E&S) commitments, and
- (iv) BIO's internal policies, in particular the Operating Rules of the Grievance Mechanism and the Transparency and Disclosure Policy.

During our study, we discussed the functioning of this accountability framework with BIO staff, management, the Board members, and with BIO's stakeholders, including staff from the DGD, the Cabinet of the Minister of Development Cooperation, Enabel, Belgian civil society and local NGOs who operate in areas and geographies that overlap with BIO's investments. As a result, we have gathered diverse perspectives that relate to how BIO's accountability framework operates in practice and to what extent various actors have the capacity to shape BIO's decision-making and to hold it to account.

Overall, we found that BIO is autonomous in its decision-making, and that BIO's Board operates not only as a decision-making body that sets internal policies and holds BIO's management to account, but also as a primary mechanism for the Belgian government to oversee BIO's operations. As such, BIO's Board is paramount in ensuring BIO's accountability, yet as a body internal to the organisation, this organ does not provide sufficient opportunities for other stakeholders to give input on BIO's activities and policymaking. In practice, this means that BIO is not only autonomous but also a relatively insular institution within the landscape of Belgian Development Cooperation, and that its core interlocutors and partners are mostly not based in Belgium nor in the countries of intervention, but at the level of other European DFIs. It is commendable that BIO's Grievance Mechanism created a channel of communication between BIO and the people affected by BIO's operations. However, an improved independence and visibility of this mechanism could expand its role in holding BIO to account.

5.1. Who is BIO accountable to?

As a national development institution that disburses ODA in the Global South, it is our opinion that BIO should be accountable to various stakeholders. As a public entity under Belgian law and funded from official development assistance, BIO is accountable to the Belgian public and to the end beneficiaries of Belgian Development Cooperation (i.e. the people to whose sustainable development BIO's investments should contribute). As a limited liability company, it is predominantly accountable to its shareholder, i.e. the Belgian state, which is represented by the Minister of Development Cooperation. Internally, BIO's management is accountable to the Board of Directors.

While these different relations of accountability are related, they do not overlap entirely, nor do they exhaust one another. For instance, the accountability of BIO's management to the Board and the accountability of BIO to the state as a shareholder overlap, but they vary in scope. While BIO's Board oversees the functioning of the institution and adopts internal policies to structure its work, the accountability of BIO to the state is broader, and it also concerns the extent to which BIO's business model and policies fulfil the aims of Belgian Development Cooperation, among other things. Similarly, BIO's accountability towards the state is not the same as BIO's public accountability. While BIO's corporate accountability to its shareholder has an element of public oversight, BIO's public accountability is broader, and rests on the public interest to ensure that BIO effectively contributes to Belgium's commitments towards Sustainable Development Goals, climate action and human rights, and that the ODA is used appropriately.

This first sub-section focuses on BIO's accountability to the Belgian government, both within the Board, and in the context of a wider policy coherence of Belgian Development Cooperation. The following two sub-sections deal with the issue of transparency and accessibility that underpins many of the challenges related to BIO's public accountability, and at BIO's accountability to the people affected by its operations. BIO's accountability to its clients, although central to BIO's vision of its own mandate, is not explicitly addressed in this chapter because for most part it is governed by contracts which are confidential and to which we had no access in conducting this study.

a. Accountability to the shareholder

Channels of accountability

By design, BIO is an autonomous institution. The principle of autonomy is recognised in the Management contract, and its application in practice has been confirmed to us in the interviews with BIO (“In practice, in our day-to-day operations, the shareholder respects autonomy. There’s full operational autonomy”).⁷⁰²

BIO has only one shareholder, the Belgian state, which “is represented by the Minister competent for Development Cooperation.”⁷⁰³ According to BIO law and the Management contract, the main mechanisms through which the shareholder can hold BIO to account are:

- A membership of the Director General of the DGD⁷⁰⁴ in BIO’s Board, including all its Committees (without a voting right),⁷⁰⁵
- A supervisory function, performed by two Commissioners of the two responsible ministers appointed by the government to the Board (one by the Minister for Development Cooperation and one by the Minister for Budget),⁷⁰⁶ who can also impose a veto on BIO’s proposed decisions (see box 5.1).⁷⁰⁷
- An annual report submitted by BIO to the DGD⁷⁰⁸ and the Minister for Development Cooperation,⁷⁰⁹
- A participation in the consultations on BIO’s development indicators, and an oversight of how BIO’s progress under these indicators advances Belgium’s contribution to the Agenda 2030,⁷¹⁰
- A participation in the annual evaluation of a sample of BIO’s investments,⁷¹¹
- A multiannual budget submitted to the Minister by BIO each year, the capital structure of which must be validated by the minister (“subject to parliamentary approval and the Government’s budgetary decisions”),⁷¹²
- An exchange of information concerning BIO’s activities (which is “subject to the confidentiality of the certain data of a commercial nature”),⁷¹³

⁷⁰² Interview with BIO (Governance and Accountability).

⁷⁰³ “The Belgian state undertakes to respect BIO’s management autonomy and not to interfere in the management of the company, which is the responsibility of the Board of Directors”; BIO law, Art.29 SMC.

⁷⁰⁴ Directorate General for Development Cooperation and Humanitarian Aid of the Federal Public Service for Foreign Affairs, Foreign Trade and Development Cooperation.

⁷⁰⁵ Art 2 (9) BIO law.

⁷⁰⁶ Art 5 (2) BIO law. More specifically, “The two government commissioners are entitled to: (1) take note of all resolutions taken by the General Meeting, the Board of Directors, the committees established by the Board of Directors and the body responsible for day-to-day management; (2) make the requisite audits; (3) to be furnished with all useful information for the audits referred to under (2). *If they deem useful*, they attend meetings of the General Meeting, the Board of Directors, and the body responsible for day-to-day management. They attend with an advisory vote. [...] Every government commissioner can inspect on-site at all times, the accounts, correspondence, reports and all documents and writings of BIO” (emphasis added).

⁷⁰⁷ BIO Law 5 § 3.

⁷⁰⁸ Arts 60-61 Management Contract.

⁷⁰⁹ Art 7 BIO law; Art 62 Management Contract.

⁷¹⁰ Art 31 (1) (2) Management Contract.

⁷¹¹ Art 32 Management Contract.

⁷¹² Art 58 Management Contract.

⁷¹³ Art 51 Management Contract.

- Finally, the Management Contract between BIO and the Belgian state is negotiated and signed every five years.⁷¹⁴

On top of the above, the Federal government also appoints BIO's Board of Directors, by Royal Decree "after deliberation by the Council of Ministers."⁷¹⁵

Of these accountability measures, many are aimed at fostering the exchange of information and accountability in a narrow sense, meaning, the ability to check whether BIO had achieved its intended objectives (as for instance is the function of an annual report to the Ministry). However, several measures from those listed above have a more powerful function: they provide an opportunity for the sole shareholder to directly influence BIO's activities and decision-making.

Government's ability to control BIO's operations

The renegotiation of the annual contract that takes place every five years⁷¹⁶ is arguably the most powerful measure available to the Belgian Federal Government to control BIO's approach to development. The content of the Management Contract is extensive and detailed enough to enable the government to revisit the 'ground rules' of BIO's operations, and to exercise a significant level of control over BIO's business model.⁷¹⁷ However, the contract is renegotiated every five years, which allows BIO a period of discretion before the next renegotiation. Also, since the management contract was added to BIO's governance framework only in 2014 (see Chapter 1, section 1.2), it is difficult to comment whether the government would use the renegotiation process to revise BIO's business model, beyond affirming BIO's current approach. Thus far, there were changes between the 2014 and 2019 Management contracts, but for most part, the same (or similar) template was used, and the key changes introduced pertained to specific operational and policy modalities (for instance, the criteria for BIO's financial additionality, see Box 1.1).⁷¹⁸

Although changes to the Management Contracts can also occur along their life, in practice **the main channel for the shareholder to follow and influence BIO's day-to-day operations is through the participation of the government's commissioners and the DGD representative in the Board.** In particular, a veto right that can be used by the two government commissioners enables certain checks and balances within the Board, whereby the government can annul any decision by BIO, if it considers that that decision might be against the law or contrary to public interest (Box 5.1).

⁷¹⁴ BIO law, Art.4bis-sexies.

⁷¹⁵ Art 2bis (4) BIO law.

⁷¹⁶ BIO law, Art.4quinquies.

⁷¹⁷ BIO law, Art.4bis.

⁷¹⁸ See Chapter 1 s 1.2.

Box 5.1 Government's veto right in the Board

According to BIO law, the two government commissioners can “with the minister that appointed him/her, file a suspensive appeal for any decision that s/he considers contrary to laws, decrees, the articles of association, management contract, business plan, or the public interest.”⁷¹⁹ The appeal can be filed during the seven days from the date of the decision,⁷²⁰ following which the responsible Minister can annul the suspended decision during 14 calendar days – thus resulting in an effective veto right for the government to quash BIO's decisions.

In response to a question about how this process works in practice, BIO said that **at the moment veto right provides a constructive tool for deliberation and exchange with the government:**

“Eight or nine years ago, it [veto right] was used quite regularly, three or four times a year. What has improved now is that the board sometimes asks the commissioners ‘how do you see it from a political perspective?’. If the commissioners indicate areas that are critical, the Board will try to have a dialogue. It still happens once or twice a year that the board, even though it knows that the commissioners may veto, will still go ahead. Just to have a discussion.

A good example is a project that we had a few years ago, concerning a big scale egg production in Niger. In the country in which there is no bigger-scale egg production. There are either no eggs, or they are imported from Nigeria or Benin (uncooled – which is a huge health issue). The idea was to set up a bigger egg production in the factory. The standard proposed by the sponsors was the 2012 EU standards, that had been improved since. The Board discussed whether or not to oblige the client to apply the higher (new) standards. The board decided that the 2012 standards was sufficient. The commissioner vetoed. We had a good discussion as a result: ‘to what extent can you copy paste EU standards in a developing country’. A compromise was found: 2/3 of the production with 2012 standards. 1/3 according to the new standards. We decided to make it into a pilot project for egg production in Western Africa, attached a seminar to it, and additional support from our technical assistance subsidies. We've evolved from ‘veto is bad and we need to avoid it’ into a situation where ‘veto is useful, and good for conversation’.”⁷²¹

During the interviews we were also told that, although the two government's commissioners attend the meetings of the Board regularly, their involvement in decision-making is limited. **“If there are interventions, it is generally in those instances that concern media reputation and political reputation”**⁷²² – which is also the area where most vetoes had been expressed in the past. This claim about reputational damage being a trigger for government intervention has also been confirmed by some of the most recent Parliamentary interventions of the Minister of Development Cooperation and during our interview with her Cabinet. We were also told by a member of the Board that since the role of the two commissioners had been expanded in the latest Management Contract and in parallel amendments to BIO law,⁷²³ a political agreement sometimes has to be reached with the commissioners informally, before the BIO Board can make a decision on a certain issue⁷²⁴.

⁷¹⁹ Art 5 (3) BIO law.

⁷²⁰ From the moment a commissioner becomes aware of a decision (ibid.).

⁷²¹ Interview with BIO.

⁷²² Interview with BIO (governance and accountability).

⁷²³ E.g. by introducing a possibility of suspending decisions on the grounds of ‘public interest’.

⁷²⁴ Interview with a BIO Board member.

At least partially because of these formal powers of oversight, but also in addition to the above, there seems to be an informal dialogue taking place between BIO and the Ministry outside the formal space of the Board, mainly concerning certain aspects of BIO's operations, and in particular in relation to the more contentious investments (for instance, in the case of Feronia (PHC)).

The composition of the Board

Although the Board is appointed by the federal government, it does not represent the government. Members of the government (at national, regional, or local level) cannot be members of the BIO Board. Members of the European Parliament or Commission are likewise excluded.⁷²⁵ According to BIO law, the Board of Directors should be “composed of members from (i) federal government institutions, (ii) the business world, (iii) the academic environment and (iv) civil society organisations, institutional and governmental actors and international organisations.”⁷²⁶ The Chairmen and the Vice Chairmen of the Board also have to be of the opposite sex, and represent the two main linguistic groups in Belgium (French and Flemish). Moreover, according to several stakeholders that we interviewed, “[a]s for all the Boards of federal public entities, you’d have a division which should represent members from all political parties, so for each party a certain number of seats.”⁷²⁷ Therefore, the composition of the Board, has some elements of representation attached to it; mostly reflecting different sectors within Belgian society, also different political streams within it. Therefore, while there is no political agenda that the Board pursues as a collective, each individual member is likely to have different sensibilities and affiliations with different political interest groups.

Recently, there has been a **change in the BIO law aimed at appointing the members based on their skills and prior experience**. Since 2018, the twelve Board members should have “a useful and demonstrable expertise” collectively among them in “international development and development cooperation, international investments, financial analysis, and business management.”⁷²⁸ This is combined with several areas of “additional expertise” each of which should be held by at least one member of the Board (audit and organisation management; personnel and personnel evaluation; and “in the field of investments”).⁷²⁹

It is notable that among these areas of expertise, business management, investment, and financial analysis feature most prominently. This is understandable, given that BIO Board must evaluate investment decisions that contain complex financial information – and which was highlighted by several Board members as being a shortcoming in the current expertise of the Board.⁷³⁰ However, such emphasis in the amended BIO law also reinforces the impression that BIO might be a development institution dominated by people who are specialised in business and finance rather than in development and sustainability. For BIO's Board to be able to counter such impression

⁷²⁵ Art 2 (8) BIO law, Art. 2bis s.8.

⁷²⁶ Ibid.

⁷²⁷ Interviews with Board members and the Cabinet.

⁷²⁸ Art 2bis (2) BIO law.

⁷²⁹ Ibid.

⁷³⁰ At the moment the Board has hired an expert to assess the financial decision-making, to provide a ‘counterweight’ for the financial decisions of BIO's management. Interviews with the Board Member and BIO.

and to scrutinise the E&S issues effectively, a diversity of backgrounds and knowledge currently present in the Board should be preserved, and ideally extended further.⁷³¹

Three observations and subsequent recommendations can be made about the composition of BIO's Board and its role in holding BIO's management to account:

Moving to a more structured dialogue with the stakeholders. Members of the Board generally act in their individual capacity and without a mandate.⁷³² This has repercussion on the weight of the arguments. To quote one of the members of the Board, “[t]his makes you weak as an individual member of the Board, since you represent yourself.”⁷³³ In this regard, there is an opportunity to create a more explicit framework of exchange of information and dialogue between the Board, and the sectors and institutions where the Board members hold their professional roles (government institutions, civil society, businesses). For instance, these Board members could collect input on BIO's policies that are being deliberated by the Board, where such policies would benefit from further input. Concerns about confidentiality of information would have to be addressed to make this possible, and this could be done based on the initiative of the Board members rather than in a mandatory manner. However, **a more structured approach to social dialogue and stakeholder engagement at the level of the Board would enable BIO to take full advantage of a diversity of professional backgrounds of BIO's Board members, and would simultaneously enhance BIO's public accountability.**

Expanding a pool of knowledge and experience in the Board through advisory function. It is widely recognised that background and personal diversity is beneficial in any Board of Directors for ensuring a more effective corporate decision-making.⁷³⁴ Even more than in private companies, this diversity would be essential in the case of BIO's Board, where different dimensions of sustainability and related policy and legal frameworks span across a variety of issue areas and sectors. Generally, from the interviews, we learned that BIO's Board has made positive progress towards diversity, in terms of its members coming from a wider variety of backgrounds and approaches to development issues.

There are, however, further opportunities for improvement in this area. The types of competence and knowledge that are not mentioned in the BIO law and that are essential in BIO's operations involve human rights, climate action, and biodiversity, among other things. BIO's board is also currently completely 'Belgium-focused', with no explicit participation or involvement of people from the Global South. BIO's Board could therefore be made more diverse **by hiring external experts in certain areas, and/or by creating open and permanent task forces, which would act in an advisory capacity to the Board on the**

⁷³¹ See Chapter 2 s.2.2 (Final Approval) on the central role of the Board in approving and scrutinising BIO's investments.

⁷³² With a notable exception of the Director General of the DGD, who is a member of the Board, but has no voting right.

⁷³³ Interview with a Board member. Minutes not yet been confirmed.

⁷³⁴ E.g., 'The EU corporate governance framework. Green Paper' (European Commission, 2011-04-05), available <https://op.europa.eu/en/publication-detail/-/publication/3eed7997-d40b-4984-8080-31d7c4e91fb2/language-en>

topics that are most challenging in BIO's portfolio (e.g. on agriculture and climate finance).⁷³⁵

Overseeing state responsibility for BIO's operations. It is notable that currently neither the Management Contract nor BIO law assign the duty of ensuring that BIO's activities are in line with international and domestic law and other regulatory frameworks that Belgium and BIO has committed to. There is a possibility for the government commissioners to suspend BIO's decisions (veto right) if "s/he considers [them] to be contrary to laws."⁷³⁶ However, this does not create a responsibility of an oversight, but rather a prerogative to raise concerns *if* specific issues arise. The omission of an oversight of compliance with international law is particularly important, because **although BIO is largely autonomous, it can trigger Belgium's state responsibility for internationally wrongful acts.**⁷³⁷ In BIO's case, the issue is more than theoretical, since BIO operates in the territories of other states, and since a wrongful act under international law can be committed through financial assistance that enable a wrongful act.⁷³⁸ To ensure the ability to oversee BIO's decision-making ex-ante and on a rolling basis, this function could be assigned either to the Board collectively, or explicitly to one of its ex officio participants appointed by the government.

Overall, BIO's accountability to the state as its sole shareholder is exercised through multiple channels, and it gives a Minister for Development Cooperation a relatively high degree of control over BIO's operations. **Nonetheless, in practice the shareholder tends to exercise its supervisory powers with restraint, and to allow BIO a lot of leeway to structure its operations and its approach to development.** This, however, also means that in practice BIO is somewhat removed from the remainder of the landscape of Belgian Development Cooperation.

b. BIO as part of the Belgian Development Cooperation

According to Articles 8 and 13 of the Law of Belgian Development Cooperation, there is a legal obligation on all actors of Belgian Development Cooperation (BDC), to coordinate their activities, to seek synergies among them, and to ensure their policy coherence.⁷³⁹ In the Management Contract there is also an obligation on BIO to align its strategy and priorities with the general framework of Belgian Development Cooperation⁷⁴⁰ and to "identify opportunities for interventions that are complementary to Enabel's activities."⁷⁴¹

⁷³⁵ As we recommend in Chapter 3.

⁷³⁶ Art 5 (3) BIO law. The commissioner appointed by the Minister for Development Cooperation "also ensures the embedding of development cooperation as one of the instruments of Belgian foreign policy, as well as the coherence of Belgium's foreign operations" and "that all investment decisions are in accordance with the criteria set out by the OECD DAC".

⁷³⁷ See Draft Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), Art 5.

⁷³⁸ Art 16 ARSIWA. There has been instances where corporate entities have been accused of being complicit in supporting crimes against local populations (see, for instance, a complaint to the IFC CAO on Anvil Mining in Congo, available here http://www.cao-ombudsman.org/cases/case_detail.aspx?id=94), in which case the investors might also become jointly responsible for company's behaviour in such circumstances.

⁷³⁹ Art 8 and Art 13 The Law of Belgian Development Cooperation (BDC law).

⁷⁴⁰ Art 47 §1 Management Contract.

⁷⁴¹ Ibid. Art48 (2).

However, from our discussions with BIO and various other actors of the BDC, it is evident that **BIO is currently an outlier of the Belgian Development Cooperation**. Although some dialogue between relevant institutions and BIO is taking place,⁷⁴² concrete partnerships in specific projects and countries are rare, and BIO is perceived – by at least some of the stakeholders that we interviewed – as unwilling and/or unable to cooperate. Here are some of the reasons for this operational divergence that were mentioned during the interviews:

- A requirement for BIO to generate financial returns on its interventions, which creates different operational incentives and different measures of success than in case of other actors of the BDC;
- Different methods of intervention that target different beneficiaries;
- Different sets of institutional values;
- BIO's financial situation which depends less on the annual budget and spending decisions by the government. Therefore, BIO is perceived as a 'richer' institution that 'does not need others' (at the level of BDC) to achieve its corporate objectives.
- BIO has other partners and interlocutors for its operations, mostly at the level of other European DFIs. Up to a point, that level of cooperation might constrain the extent to which BIO can or wishes to tailor its business model to the needs and approaches of the BDC.
- Finally, there are discrepancies in geographical constraints:
 - While BIO can work in 52 countries that are identified by its Board of Directors,⁷⁴³ the operations of other actors of the Belgian Development Cooperation are tied more closely to the 18 partner countries that are "deliberated in the Council of Ministers."⁷⁴⁴ In other words, BIO (through its Board) can decide where it will operate, meanwhile the geographical focus of other actors of the BDC is more patently directed by the government, and in that sense are more restricted too.
 - While a large part of BIO's investments is in lower- and middle-income countries, other actors of the BDC work almost exclusively in the LDCs.⁷⁴⁵ This means that BIO can choose not to work in a given LDC if or when it perceives a country or its context to be risky for its investments. In practice, this might mean that there is no clear *need* for BIO to cooperate with other actors in the LDCs (including those of the BDC), because it can move its operations from one country to another, rather than navigating the challenges to its operations at the country level.

It is beyond the scope of this study to verify whether these reasons for operational divergence constitute actual barriers for inter-institutional synergies and cooperation. It is, however, the

⁷⁴² From our interviews with civil society organisations, it seems that BIO's engagement with the non-governmental development cooperation (BDC law, Chapter 6) is either very limited or does currently does not take place. However, we did not test this initial observation through a more systematic engagement with a wider group of actors involved in this type of cooperation, and in our study focused mostly on an inter-agency exchange (notably, Enabel and parts of the DGD) and relevant exchange and cooperation.

⁷⁴³ Art 15 Management Contract.

⁷⁴⁴ Art 16 BDC law. It is notable that the activities of the BDC can also take place in countries other than the 18 priority countries, and there are some government subsidies available for work in these non-priority countries; however, these subsidies are more limited, which means that a country being on a priority list (or not) impacts more on the other actors of BDC than BIO.

⁷⁴⁵ Currently, the 18 priority countries of the BDC are LDCs with the exception of Palestine.

case that the *perception* of these differences being in place could be sufficient to have a chilling effect on the opportunities for cooperation and exchange. That is why it is important to address these divergencies at a policy level, to an extent that it is possible to do so.

Below, we underline some of the opportunities for BIO to foster better convergence and thus accountability under the BDC framework. However, since inter-institutional cooperation always requires more than one party, some of these opportunities do not depend solely on BIO, but also on other actors, as well as the Minister for Development Cooperation.

- (i) **Recognising room for complementarity.** Although there is a large demand for finance provided by BIO, and although BIO has a competitive project pipeline, the fact that it often operates in isolation from the rest of the BDC generates certain operational challenges that should be recognised to identify concrete areas of complementarity within the rest of the BDC. For BIO, which works in a wide range of countries and sectors, one such area concerns knowing the local context of its operations.⁷⁴⁶ For instance, it was argued earlier in this study that BIO might struggle to reach those entrepreneurs and enterprises that need financial assistance the most and that can have the most development impact.⁷⁴⁷ In this regard, BIO's access to promising investees could be increased by building on Enabel's operations in the LDCs. Through its work on supporting the public sector, Enabel is also exposed to private sector operations that pertain to the policy sectors in which its interventions are taking place. Thus, Enabel might be well placed to help BIO to identify potential investees, which are strategically important in the country of intervention and have a level of maturity needed for BIO's investments, but which might not otherwise consider applying for funding from a DFI.

- (ii) **Joint mobilisation or resources and co-funding.** BIO staff mentioned to us on several occasions that they are exploring a possibility of applying for EU or other external funds to de-risk some of BIO's investments, with a view of creating more opportunities for high risk investments with high development impact. However, BIO appears to be facing challenges to spend funds that it already manages,⁷⁴⁸ and since BIO's administrative expenses are capped at 1.2% of its portfolio, it is difficult for BIO staff to implement these plans in practice. It is also not possible for BIO to mix its 'Code 8' and 'Code 5' funds in the same investment, due to the current EU rules of accounting.⁷⁴⁹ Cooperation with other actors of the BDC would enable BIO to take more advantage of these external funding opportunities. For instance, Enabel or non-governmental actors of development cooperation, could apply for the funds from the EU, in which BIO could be included as a co-founder for certain aspects of the project.⁷⁵⁰ The core part of such collaboration could, for example, support a creation of a public facility, whereby

⁷⁴⁶ This has been discussed in more detail in section 2.

⁷⁴⁷ Ibid.

⁷⁴⁸ Interview with the Board member.

⁷⁴⁹ See Chapter 1 for more details on the difference between different sources of finance at BIO.

⁷⁵⁰ See also the recommendation in Chapter 4 on possibility to apply for climate finance from the Green Climate Fund.

some services or infrastructure could be provided by the private sector – which would be made possible through BIO’s co-funding and know-how. This would at least partially address an issue of BIO being unable to ‘mix’ different types of funds in a single investment, since in such instance a part of the project that uses different kind of funding would be executed by another Belgian development actor.

- (iii) **A better geographic and thematic alignment.** While BIO *can* invest in more countries than the partner countries of the Belgian Development Cooperation,⁷⁵¹ it can also (and arguably should) choose to align its development approach and focus with the rest of the BDC (both geographically and thematically). This is not to say that BIO should *only* work in the 18 countries of the BDC (since to an extent, a greater geographical and thematic diversity is necessary to diversify the risk of BIO’s portfolio), but that a better policy alignment is possible. In practice, this would mean that BIO should prioritise investing in the countries of the BDC, even if those investments require more work in terms of improving the quality of the applications and helping the prospective clients to mature their business strategies. It would also entail using more of the subsidies available to BIO (particularly for training purposes and feasibility studies) to nourish the pipeline of viable investments in those countries. Also, it would mean to actively ‘scan’ the BDC strategic sectors there with a help of the BDC partners in each country, with a view of identifying and supporting the most promising entrepreneurs.
- (iv) **More emphasis on the ‘territorial’ markets and planning.** Closely linked to the above, one key difference between BIO and the rest of the BDC, is that even though BIO is a relatively small DFI, it can be characterised as a *global*, rather than a *territorial* actor. This is because, for instance, BIO’s Investment Strategy and its activities are planned based on the sectors, types of investments, and regions of the world. BIO’s indirect investments too, often span across multiple countries and sectors. Moreover, BIO does not base its development indicators territorially, but rather on the development goals achieved through its operations at a global level. This is not to say that countries or their needs do not feature in BIO’s planning at all, but that BIO’s planning and interventions are mostly informed by the analysis that it does as a financial actor, which includes the analysis of the markets, global value and supply chains, supply and demand of a given product or service in a given country, and related business risks. BIO’s interventions do not explicitly aim to implement specific national or local development agendas.

This planning and analytical framework differ from that of other actors of the BDC, which tend to work on the basis of planning at the national level, and which can be limited to concrete territories or organisations that work in strategic sectors of their interventions. To facilitate a better exchange with other actors of the BDC, BIO could

⁷⁵¹ Art 16 BDC law.

refocus from a global-financial approach to a more local-territorial (national and/or sub-national) approach to planning and measuring success. **In practice, this would mean BIO participating in the Common Strategic Frameworks (CSFs),⁷⁵² changing the focus of BIO's Investment Strategy from institutional to more territorially oriented aims, and tailoring BIO's development indicators to reflect territorial needs and goals, rather than a more general development impact anticipated by BIO at a global level.**

All these steps would not only enhance the opportunities for BIO to cooperate with other actors of the BDC but would also enable BIO to take a more holistic and targeted approach to poverty alleviation. It would also enhance BIO's public accountability, which will be discussed next.

5.2. BIO's public accountability and transparency

a. BIO's public accountability

This study is based on a premise that since BIO's operations are governed by Belgian public law and are enabled by Official Development Assistance (ODA), they are subject to public interest. And public interest would require that BIO's vision and approach to sustainable development are open to public debate, which in turn requires access to information about BIO's procedures, decisions, and impacts.

BIO too, is aware of a need to be accountable to the public. However, it's interpretation of what 'public accountability' means in practice is relatively narrow. More precisely, it appears that for BIO, public engagement can and should be realised mostly through institutional channels. In response to a question about its accountability, BIO said:

"We consider the Belgian citizens, the Belgian taxpayers, to be our main stakeholders. They are represented by the Parliament, by the Minister, by the Board of BIO. In the end, we're working with taxpayers' money. We're working in the general interest as defined by the Belgian state. This is where our main accountability lies. In practice, we're legally accountable to our shareholder."

The statement above reveals that BIO believes that the accountability towards "Belgian taxpayers" should be mediated through ministerial and/or parliamentary oversight. In our opinion, this statement raises some concerns. Firstly, these institutional channels, while potentially robust on some level, are limited in terms of the ability of government officials to know what is happening 'on the ground', i.e. where BIO's operations are taking place. Relying on more diverse, public channels of oversight can therefore enable BIO, but also its shareholder and the Parliament, to get a better sense of BIO's operational context and development impacts, thus creating a more effective system of feedback and oversight. Secondly, we consider that diversity of opinion and a

⁷⁵² Art 2 (6) (5) BDC law.

variety of feedback create positive incentives for institutions to develop in a long run, and ultimately, to be better at discharging their mandate.

Civil society organisations tend to represent various groups of public interest. A fair number of NGOs also tend to have the organisational capacity, the thematic networks, the geographical reach, and the expert knowledge, required to provide input on BIO's operations. In that sense, NGOs are well placed to provide feedback and criticism for BIO – which can be seen as creating a challenging environment for BIO to operate in, but which should be seen as an expression of public interest in what BIO does, and an opportunity for BIO to learn and to improve its operations.

BIO informed us that there are certain instances in which it consults with NGOs.⁷⁵³ For instance, in 2017 it invited a couple of NGOs to participate in an internal task force on agriculture and to submit their input on BIO's strategy in this area.⁷⁵⁴ It also consulted with some Belgian NGOs on how BIO could better implement the decent work agenda⁷⁵⁵ and co-organised workshops on topics such as the offshore financial centres.⁷⁵⁶ BIO also told us that:

*"[w]e also reach out on specific projects to NGOs. In the case of Feronia, we invited NGOs to discuss specific aspects of the project. Or they ask us to position ourselves on the specific case. We have meetings with them."*⁷⁵⁷

We recognise all these instances of engagement with NGOs as a positive example of BIO's public accountability and exchange. However, from the interviews with the stakeholders we find that **the participation of civil society in BIO's operations remains an exception rather than a rule.** In addition, in the case of the 2017 Agri-Task Force we were told that NGOs felt that the space had already been framed around one specific vision and the diversity of the group was no more than a token. Moreover, most NGOs working in the areas related to international development do not feel they know enough about BIO's operational framework to engage with it constructively and in a meaningful manner.⁷⁵⁸ Confidentiality of BIO's operations remains a key issue in this regard, which is why the discussion about access to information and transparency is paramount in ensuring BIO's public accountability.

It is also important to recognise that the lack of *ex ante* engagement of NGOs means that **at the moment NGOs usually tend to initiate the processes of accountability retroactively.** In practice, this usually means that NGOs are alerted by their local partners and/or international networks about an investment that causes negative consequences; following which the NGOs would contact BIO and/or, depending on the response that they get, signal any on-going issues to the me-

⁷⁵³ Source: interviews with BIO (several).

⁷⁵⁴ Interview with BIO (Governance and Accountability): "There was an internal task force that received around 30 inputs, mainly from Belgian society (also few from the outside), to review and strengthen our agricultural investment strategy." Our interview with a participant of this task force revealed some challenges with this particular consultation process, including its outcome. For more details, see Chapter 3 section 3.

⁷⁵⁵ E.g. BIO Investment Strategy 2019-2023, p.2; also SDG 5 (one of the strategic SDGs chosen by BIO).

⁷⁵⁶ Interview with BIO (Governance and Accountability).

⁷⁵⁷ Ibid.

⁷⁵⁸ Interview with the NGOs.

dia; this, in turn would attract attention of BIO's shareholder and the Parliament, and would ultimately cause BIO to reflect on its policies and development impact.⁷⁵⁹

This focus on managing 'reputational damage' of BIO, and a corresponding feedback mechanism, is at the centre of BIO's current accountability framework. In some sense, NGOs already play a significant role in it. However, this reactive feedback loop is arguably not the most productive way of structuring dialogue between BIO and the NGOs. There are opportunities for both NGOs and BIO to better benefit from identifying the points of mutual interest. As discussed in the earlier parts of this study, BIO should create more systematic and ex ante opportunities for NGOs to provide feedback and make input on BIO's policy framework, and on the E&S elements of specific investments. This would enable BIO to learn from NGOs' knowledge and experience, without necessarily experiencing the reputational damages that might otherwise be attached to the NGO involvement with its investments. More engagement with NGOs would also create opportunities for BIO to reach some of the communities that might have been left out from the due diligence and/or the ES impact assessment and consultation processes.⁷⁶⁰

This potential for convergence and dialogue going forward is a central consideration in the subsequent discussion about BIO's Transparency and Disclosure policy, which BIO has released at the end of our study, in May 2021.

b. A wind of change? BIO's Transparency and Disclosure Policy 2021

In this study, we repeatedly highlighted transparency as a key issue in BIO's operations. When we started this research in late 2020, and before BIO agreed to engage and to share its internal documents with us, we were concerned about the extent to which BIO's operations were opaque, even in comparison to the rest of the DFI sector. However, the fact that BIO did commit to take part in this study, and that in May 2021 BIO's Board adopted a Transparency and Disclosure Policy, are positive indications of BIO's changing attitude in this area. In this section we discuss what have been the promising changes introduced by this new policy by BIO, and what continue to be the issues that should be addressed in the future.

Generally, BIO's Transparency and Disclosure Policy (T&D Policy)⁷⁶¹ clarifies the expectations about what information BIO intends to make public and what it intends to keep restricted and/or confidential. On the one hand, this policy is a promising development, since it enables a discussion about the types of information that should be made public, and the criteria and processes for such disclosure.⁷⁶² The policy also contains a lot of detail, which brings clarity on how BIO intends to treat different types of information. On the other hand, it was also adopted without consultation or input from the public or CSOs. We also have concerns about the approach taken by this policy and its structure. These are outlined next, followed by an overview of the most significant changes that were introduced by the Policy.

⁷⁵⁹ The most recent and probably most prominent example is BIO's involvement in Feronia (PHC), discussed in the final subsection of this chapter (5.3).

⁷⁶⁰ Ibid.

⁷⁶¹ Available at: https://www.bio-invest.be/files/BIO-invest/About-BIO/Governance/20210525_BIO-Disclosure-Policy-Approved.pdf

⁷⁶² The discussion in this section should be read in the light of the access to information rights under the Belgian administrative law, discussed in Chapter 2.

Issues with the general approach of the Policy

As a matter of principle, BIO's T&D Policy contains contradictions about BIO's default position towards access to information. Generally, the **T&D Policy is "guided by the principles of openness and transparency**, such that any information concerning BIO is publicly accessible, or available upon request, unless the information is deemed restricted or confidential."⁷⁶³

However, of the three categories of information that BIO introduces in this policy (public, internal and confidential) **internal or confidential appear to be the default**, with 'public' being the type of information that BIO designates as such deliberately. More specifically, there is a catch-all provision that 'internal' information will be "all other internal policies, operating procedures, templates or working tools not falling under the 'publicly disclosed' section."⁷⁶⁴ Similarly, **confidential information is determined broadly**, as "information that is not known to the general public, that is potentially sensitive and that is labelled as such, or that should, given the nature of information, reasonably be considered as such."⁷⁶⁵ The list of information that is considered confidential is also non-exhaustive, and includes "other kinds of information, which because of their content or circumstances of their creation or communication, must be deemed confidential."⁷⁶⁶ These provisions together suggest that **the onus of proving that information should be released and/or made public, rests with the person interested in gaining access to information** – unless that specific type of information is already marked as 'public' by BIO in the Policy.⁷⁶⁷ This is a nuanced issue, but potentially a significant one. The new T&D Policy effectively formalises the current approach by BIO, of **withholding information unless BIO decides to release it**.

Another issue with the Policy, closely related to the above, is that **in many instances the information held by BIO does not have to be released in full, and that the terms that determine what must be publicly released (or not) are often vague**. The definition of a confidential information mentioned earlier is a good example of such a vague term, and it is potentially central to the functioning of the policy.⁷⁶⁸ Other vague terms that are significant in the Policy are:

- "[a] high-level *summary* of the E&S due diligence,"⁷⁶⁹
- "[t]he *key areas* of E&S improvements agreed with the client,"⁷⁷⁰
- "a *description* of the BIO's tools for investing,"⁷⁷¹
- "[a] *summary* of the KYC Policy,"⁷⁷² and
- a requirement that "for debt investments made by investment companies and funds, only *aggregated data* on geographies and sectors will be disclosed annually."⁷⁷³

⁷⁶³ BIO Transparency and Disclosure Policy, section 2 (Limitations).

⁷⁶⁴ Ibid. s.3.2.

⁷⁶⁵ Ibid. s.3.3.

⁷⁶⁶ Ibid.

⁷⁶⁷ In a benchmarking study, the Office of the United Nations High Commissioner for Human Rights (OHCHR) recommends that "existing exemptions from **disclosure** for business related information be replaced by **targeted exemptions** justified on a case-by-case basis by reference to compelling evidence of potential harm to a legitimate, recognised interest"; see OHCHR, "Benchmarking Study of Development Finance Institutions' Safeguards and Due Diligence Frameworks against the UN Guiding Principles on Business and Human Rights" (draft) (20 September 2019), <https://www.ohchr.org/EN/Issues/Development/Pages/DFI.aspx>

⁷⁶⁸ Transparency and Disclosure Policy section 3.3.

⁷⁶⁹ Ibid. s.5.1

⁷⁷⁰ Ibid.

⁷⁷¹ Ibid. s.3.1

⁷⁷² Ibid.

These terms leave a lot of discretion for BIO about what information can be released and to what extent, which comes with a risk of BIO withholding the more challenging aspects of its investments from the public oversight.

One way in which the concerns about vagueness and ‘burden of proof’ could be addressed is by introducing a clear and accessible procedure for requesting access to information held by BIO. While “[t]he Manager External Affairs is responsible for maintaining this Policy in close cooperation with Executive Management,”⁷⁷⁴ the policy does not currently specify how an access to information request could be made to BIO, or how any decisions in this regard could be appealed, if access is denied.⁷⁷⁵ The grounds for sharing information, or for refusing to do so, would also help to clarify when confidential information might have to be released into the public domain (for instance, for the purposes of protecting public interest). However, such grounds are currently not listed nor contemplated in the Policy, which, if done explicitly, could potentially open more space for a dialogue between BIO and its stakeholders in identifying the points of tension and disagreement, but also potential solutions. Overall, the T&D Policy captures BIO’s current approach to confidentiality, but it leaves little room for a dialogue about when this approach could be challenged for legitimate reasons, and how.⁷⁷⁶

We therefore recommend that BIO should amend its approach towards transparency and disclosure, by explicitly recognising that a need for maintaining confidentiality of information may co-exist with a need to ensure access to information for public interest, particularly in E&S impacts.

Changes to BIO’s current disclosure practice

Beyond these general issues, the T&D Policy takes some promising steps towards releasing information (thus extending the pool of information currently made available by BIO to the public), but also formalizes some important omissions in BIO’s current practice and approach to disclosure. The table below underlines some types of information that will either be made available, and/or will continue to remain unavailable (Table 5.1). The table is not meant to provide a definitive list of changes introduced by BIO’s T&D Policy, but rather to underscore what happens to the types of information that might be particularly important from the perspective of public interest, particularly in E&S impacts.

⁷⁷³ Ibid. s.4.2.

⁷⁷⁴ Ibid. s. 1.

⁷⁷⁵ This would be on top of the general access to information rights under the Belgian administrative law. See Chapter 2 for further details.

⁷⁷⁶ Similar findings about disclosure policies of other DFIs were made by the Office of the UN; OHCHR “Benchmarking Study” (n 179).

Table 5.1. Types of information that will be made public OR will continue being restricted since the adoption of BIO's Transparency & Disclosure Policy

Information that will be newly released that was not previously publicly available

- *Ex ante development assessment tool* – the main tool for BIO to identify the potential development impacts of its investments, including key indicators. It was not publicly accessible before the T&D Policy. Currently this tool also contains two other elements (monitoring and evaluation, and reporting – in addition to ‘ex ante’ assessment), which will not be made public according to this disclosure policy.
- *A description of the BIO tools for investing in different types of investments* (infrastructure, financial institutions, investment companies and funds, enterprises, Business Development and Support Fund (subsidiaries), the SDG Frontier Fund) – currently BIO provides very limited public information about the core parameters of how it assesses its investments. By implementing this change, BIO will provide a summary of its approach in each sector, although it will not release the full extent of its assessment tools.
- *External (annual) evaluations* – each year BIO conducts an in-depth evaluation of a chosen sample of BIO's portfolio, in consultation with DGD.⁷⁷⁷ At the moment BIO only publishes executive summaries of these external evaluations. These summaries usually contain generic feedback, findings, and recommendations, but not the full details of external assessment. **Releasing a full content of annual evaluations would be a step in the right direction, as it could enable a public discussion about the findings of these evaluations, including the opportunity for external observers to learn in more detail about BIO's interventions.**
- For investments in PEFs, BIO now commits to *publish all equity investments made by funds (including official name, short description & beneficiary countries of the investment), regardless of whether they are still in the portfolio of a given PEF* – at the moment BIO publishes information about portfolio companies of some PEFs, but not all; and not necessarily in a consistent manner. **This change could provide more clarity on the scope and type of BIO's indirect investments through PEFs, which is commendable.**
- *“An E&S description” of each investment in BIO's portfolio*, which includes “(a) IFC Performance Standards triggered by that investment, (b) a high-level summary of the E&S due diligence, (c) the key areas of E&S improvement agreed with the client and BIO's ambitions for the project; (d) the project's E&S risk category”. – this is probably the most significant addition to the scope of E&S information currently released by BIO. **This is the first time that BIO could create a depository of information about the risk profile of its investments, including the key commitments of its investees in E&S.** However, the terms used to determine the content of this “E&S description” are vague and there are issues with this approach of publishing a summary rather than E&S information in full; however, by and large, the move towards more transparency of E&S information is a welcome development.
- Finally, BIO intends to adopt and publicly release several *new policies* (Tax Policy, Whistle Blower Policy, Code of Conduct, A Summary of the KYC Policy), and a new *Annual Development & Sustainability Report* “with special attention to actual impact effects and the KPIs to measure them”.

⁷⁷⁷ Art 32 Management Contract.

While the list of information that BIO continues to withhold is long and non-exhaustive, we highlight here the core items that are significant from the perspective of public accountability, and particularly to ensure accountability towards people affected by BIO's interventions:

- **Contracts with clients and associated Environmental and Social Action Plans (ESAPs) (confidential)** – as discussed in Chapter 2, this is the key part of E&S Standards that BIO uses to structure its investments, which specifies concrete commitments by BIO's clients to the local communities and other people affected by BIO's investments. In its T&D Policy, BIO replaces the need to release the full contractual arrangement with a client and client's commitments to E&S with a more general (and inevitably vaguer) "E&S description" (see above). BIO also "will ask its higher E&S risk investees to publish a summary of their E&S Action Plan (ESAP) on their website, if they have such, as well as their progress against it. **It is a responsibility of the client to publish this document**". The issue here is that the E&S commitments, as well as the main findings of the due diligence process, remain confidential, unless decided otherwise by the client. **The 'E&S description' is insufficient in the context of high-risk investments with greater potential for harm, since these investments arguably create a higher threshold of transparency on BIO to release the relevant information, with sufficient level of detail, also in a timely manner.**
- **"Aggregated yearly information on the Grievance Mechanism as published in the Annual Report"** – currently BIO provides limited information on the activities of its Grievance Mechanism, and nothing on the cases that were submitted to it. The requirement of transparency concerning Grievance Mechanism in BIO's T&D Policy mostly mirrors the current requirement in the Operating Rules of the Grievance Mechanism,⁷⁷⁸ and does not cover the findings of the Mechanism, nor management responses to the complaints or findings. According to BIO, the focus on the aggregated nature of reporting is meant to protect the identity, or the very existence, of certain complainants.⁷⁷⁹ Nonetheless, **as a minimum, BIO should release the information about which investments were subject to grievances, on what grounds, and what were the findings and remedies.** This is in line with the practice of other independent accountability mechanisms in the DFI sector.
- **Investment Process Manual (internal)**⁷⁸⁰ – sets out the investment selection procedures and the core steps that should be undertaken by BIO for an investment to be approved. This manual also sets out the core criteria for categorising the risks of BIO's investments. Having this document publicly available, including its updated versions, would be essential for the external observers to understand the process of decision-making within BIO, including who in the institution is making relevant decisions at any given time. As discussed in Chapter 2, BIO considers investment selection procedure to be 'internal', and thus of no relevance to the public. We contest this claim and argue that selection procedure has direct external relevance (in particular for the people affected by BIO's investments, and those who represent them), and should therefore be made public.
- **An annual report to the DGD, including the E&S impacts linked to BIO's activity (confidential)** – currently BIO publishes an Annual Report aimed at the public, which provides a general overview of BIO's portfolio and its achievements. BIO also submits a different, more detailed, and potentially more critical report, to the DGD and the Ministry of Development Cooperation, outlining what

⁷⁷⁸ BIO Grievance Mechanism – Operating Principles, p. 2 (Transparency) ("BIO's annual report shall systematically include a paragraph on BIO's Grievance Mechanism, detailing the number of complaints received and their outcome, with proper respect of confidentiality and privacy, in particular about the complainants' identity").

⁷⁷⁹ Interview with BIO (Governance and Accountability).

⁷⁸⁰ We have no confirmation from BIO on this point, but we assume that this is the revised BIO E&S Investment Manual.

progress it made towards achieving its annual and long-term objectives. A discussion about E&S impacts is part of that report.⁷⁸¹ While we recognise that the full annual report to the DGD might contain some sensitive information that cannot be made public, the current content and format of BIO's Annual report could however be made more detailed, standardised across the years, and more focused on a critical reflection of BIO's development and E&S impacts. This would arguably create space for a more constructive dialogue with BIO's stakeholders and would reduce public suspicion about BIO's operations. While some of these functions of providing more detailed and structured information on E&S issues to the public might be achieved through BIO's new 'Development and Sustainability Report'⁷⁸²(see above), given its indeterminate nature, there is a risk that such report would predominantly be used as a marketing tool for BIO, rather than serving as a basis for a genuine public discussion about BIO's role and its successes and challenges.

Another significant change to the current disclosure practice by BIO is that the Transparency & Disclosure Policy introduces a **timeline** of when BIO is meant to update its portfolio information online,⁷⁸³ and also how long portfolio information should remain on BIO's website after BIO has exited the company/fund.⁷⁸⁴ In some respects, this is an important development that recognises that a timely release of information might be crucial, particularly from the perspective of people who may be affected by a given investment. A timely publication of BIO's investments could give them and the NGOs the opportunity to question a specific investment before its physical footprint materialises and has impacts on people's livelihoods.

However, hereby also lies another key issue with an approach taken by BIO's Transparency & Disclosure Policy: **the T&D Policy continues to treat due diligence process as internal, thus withholding all information about investment selection process**, and/or BIO's intentions concerning specific investments. Therefore, a discussion that would ensue from a public release of information about a specific investment could only take place *after* the contract with a client has been signed and all the relevant decisions had been taken. To be more precise, according to the Policy "[n]ew investment projects are added to the online portfolio by the Communications team within twenty working days of the first notification of contract signature [...], or, at the latest, twenty working days after the date of first disbursement".

Given that, as noted earlier, a release of information is often time-sensitive, and that it might be, for instance, used by the civil society organisations internationally to issue an early warning on planned investments to the (potentially) affected communities,⁷⁸⁵ **this timeline is arguably not short enough, and starts too late in the investment selection process.** It would not give enough notice for the CSOs and potentially affected communities to react to the information, or to raise grievances at the early enough stages of the investment. It would also be important to have a debate about the extent to which BIO's *intention* to invest in a given country, sector or territory, could and should be made public in order to be able to alert local stakeholders about these developments, and to ensure that their voices are heard in the deliberations over the investment,

⁷⁸¹ Based on the analysis of BIO's four annual reports submitted to the Ministry since 2015, T&D Policy appears to introduce this as an additional requirement of reporting to the Ministry and the DGD (T&D Policy, s.5.2).

⁷⁸² S 3.1 and S 5.1 Transparency & Disclosure Policy.

⁷⁸³ S 4.2 BIO Transparency and Disclosure Policy.

⁷⁸⁴ Ibid.

⁷⁸⁵ See, for instance, the Early Warning System by a coalition of various CSOs <https://ews.rightsindevelopment.org/>

Before the contract is signed and BIO has created a binding legal relationship with that entity without the input of communities and NGOs as stakeholders.

Finally, in the T&D Policy BIO chooses to keep an information on its investments for three years after BIO's involvement in an investment had ended. While it is understandable that BIO would not want to hold investment-related information indefinitely, three years is too short, relative to a duration of BIO's investments, which can last up to 20 years. Also, both positive impacts and grievances from an investment could only become apparent years after an investment had ended. **Removing BIO's specific investments from an online public record after three years would make it difficult to trace BIO's development impact over longer periods of time**, and would also potentially prevent any independent research into BIO's operations from a long-term perspective. Generally, if BIO prefers to have a website that reflects the ongoing structure of its portfolio, then it should create a readily accessible online archive of all its investments, where it would store all the relevant information that could be retrieved by external observers if and when necessary for a longer period than three years.

Overall, transparency remains a crux issue in ensuring BIO's public accountability, and the Transparency & Disclosure Policy introduced in 2021 is a first step by BIO towards a more principled approach to disclosure, and therefore towards more public accountability. However, behind the vague terms adopted by the T&D Policy (such as "summary", "aggregate data", "sensitive information", "a description", among others), there are unresolved tensions between transparency and the right to access information on the one hand, and the protection of personal data and commercially sensitive information on the other.

According to the OHCHR, this dilemma should be resolved by DFIs in a proactive way that guarantees very limited exceptions to the right to access information. In its 2019 benchmark study of DFIs safeguards and due diligence framework, the OHCHR stated that:

"The right of access to information is recognised in global and regional human rights instruments, Principle 10 environmental rights to information, SDG 16, target 10, many constitutional provisions, and global initiatives such as the Open Government Partnership. The fact that access to information is recognised as a human right under international, regional and (increasingly) domestic law is of critical importance in framing the balance between commercial interests and the rights of communities potentially affected by DFI-supported projects. These broad exemptions for business information also run counter to current trends requiring or at least encouraging companies to put more information into the public domain, particularly in relation to environmental, social and governance (ESG) issues, in response to demands from regulators, investors and other stakeholders. DFIs should leverage innovations in data collection, management, and presentation to provide better and more meaningful access to information. While recognising that there are legitimate needs to safeguard truly confidential business information, the presumption should be in favour of proactive disclosure, with any exemptions defined narrowly and justified

on a case-by-case basis by reference to foreseeable harm to a legitimate, recognised interest.”⁷⁸⁶

A promising way forward would be for BIO to engage with these tensions openly, by developing its policy dialogue with BIO’s stakeholders, and with Policy’s potential end beneficiaries.

5.3. Accountability for the E&S impacts

This section focuses on BIO’s accountability to the people affected by its investments, which include individuals or local communities (potentially) affected by the business opportunities created through BIO’s funding, with a notable exception of BIO’s clients.⁷⁸⁷ The effects that are created by investments can be direct (e.g., a person can no longer access a plot of land because of an expansion of a business activity) or indirect (e.g. a community will become more dependent on a company for a maintenance of roads through which they can access their lands). Effects from an investment can also be either positive (e.g. employment, improved access to services, or the realization of CSR projects), or negative (e.g., an increased pressure on water resources in the area, the intensification of gender discrimination or an increase in food insecurity). In an ideal scenario, all these impacts on a wider community (including workers) should be addressed through the ex-ante E&S commitments of each investment. The emphasis in this section is therefore on the extent to which BIO can ensure the implementation of the E&S commitments of its investees during the investment, and to what extent interested parties (NGOs, communities, etc.) can rely on BIO to hold its investees to account for their E&S non-compliance.

Generally, during the lifetime of an investment BIO oversees the E&S impacts of its clients remotely, with monitoring, evaluation, and subsequent pressure to comply determined on a case-by-case basis, depending on how risky the project is, and on how problematic it becomes. Therefore, the first part of this section discusses these processes on monitoring and evaluation, highlighting some of the gaps of accountability that we observed with our limited access to data about how these processes operate in practice. This part also includes a discussion on Feronia (PHC), which is probably the most contested investment in BIO’s current portfolio, and whose unfolding enables us to highlight some of the blind spots in BIO’s perception to E&S accountability. Secondly, the discussion considers BIO’s Grievance Mechanism and the possibilities it creates for ensuring better implementation of E&S commitments, but also to how it could be improved and better embedded into BIO’s operations.

a. Monitoring E&S compliance

Before unpacking BIO’s approach to E&S oversight, it should be highlighted that a general distinction exists between a *compliance with E&S commitments* (that are agreed in advance between a company and an investor), and an *implementation of good E&S practices*, which is done by a company as a matter of principle and/or as part of its corporate strategy. The latter is a broader term and covers such principled commitments such as for example doing no harm to the natural envi-

⁷⁸⁶ OHCHR (n 179).

⁷⁸⁷ But which also covers the people who work for the client.

ronment, paying a fair living wage to all employees, or sharing profits with a wider community. As we discussed earlier,⁷⁸⁸ BIO translates its E&S analysis into concrete E&S commitments contained in the environmental and social plans (ESAPs) that are concluded with its clients.

As we discuss below, **BIO mostly tries to ensure the E&S compliance of its clients, rather than holding clients to account for the implementation of the best E&S practices in a broader sense.** This distinction is essential to understand the inherent limits of BIO's ability to hold its clients to account, especially when something goes wrong. After the first draft of this study was shared with BIO, we have received a correction from BIO that it also incorporates elements of overseeing implementation of best E&S practices in its E&S monitoring process⁷⁸⁹.

Monitoring

As a general rule, BIO monitors E&S compliance of its clients based on their self-reporting, combined with some ad hoc site visits by BIO. These visits are decided on a case-by-case basis, and they would depend on the risk category of the project, the reported level of compliance with E&S commitments, and the potential for reputational damage that might be caused by a project. There are various sources that BIO relies on, to determine whether a site visit is necessary or not (Box 5.2).

Box 5.2 Sources from which BIO ascertains the need for an ad-hoc site visit (monitoring stage)⁷⁹⁰

- Annual monitoring report and ESAP status update - produced by a client;
- Serious incidents reports and reporting on changes - produced by a client;
- Independent consultant monitoring reports - produced by external experts;
- Any other information received from the investee company - produced by a client;
- Publicly available information (e.g. media or NGO coverage) or significant changes to the environmental, social or political context affecting the E&S risks - if becomes available from external sources.

As can be seen from the box above, unless BIO explicitly commissions an evaluation by an external consultant (which is currently required only for high-risk (A) direct investments) and recom-

⁷⁸⁸ Chapter 2, s 2.4. (Community engagement).

⁷⁸⁹ According to BIO, "[t]his is not as clear a distinction as the authors seem to believe. BIO's contracts refer to E&S requirements which are defined as follows: national law, ILO conventions, IFC Performance standards, General and sector specific IFC EHS guidelines, and ESAP (that covers the non-compliance elements identified during due diligence). Please also note that the IFC EHS Guidelines are defined as follows on its website: "The EHS Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP)". In this sense, the "E&S commitments" as the authors call them also cover elements of good industry practice to which BIO refers both during its due diligence and during monitoring. In some cases, BIO also requires certification against certain external standards such as UTZ, Fairtrade, FSC, etc." (Email communication. BIO's comments on the first draft of this study). Nonetheless, this correction by BIO does not discard the main claim that this distinction seems to demonstrate, notably that there are certain (contractual) limits to what BIO can demand from their clients in terms of E&S performance and its baselines. While the client can be compelled, through reference to international legal sources and through financial incentives, to aspire to achieve best international standards, there would be a point beyond which BIO's input on E&S governance becomes advisory rather than mandatory for its clients.

⁷⁹⁰ Source: BIO E&S Investment Manual, p. 24 (Comments on who produces the source added).

mended for medium-high risk (B+)),⁷⁹¹ BIO's choice of monitoring intensity depends on either self-reporting by the client, or on client's reputation in the media and/or NGOs coverage.

It is notable that the E&S commitments of BIO's indirect investments through PEFs are monitored based on the reporting by a fund manager, and to an extent, by BIO's participation in fund's advisory committee and E&S committee.⁷⁹² This means that to know the E&S impacts of its indirect investments, BIO mostly relies on the information provided by the fund manager. Investments in financial institutions are even less likely to attract monitoring measures beyond self-reporting, given that for instance, micro-finance institutions by default are given a 'C' (low risk) category,⁷⁹³ which warrants a 'reduced monitoring' regime, provided that no additional conditions that would increase their risk category are present.⁷⁹⁴ Since we do not have the data on the risk profile of BIO's portfolio, nor the record of how specific categories are rated in terms of risk on average, we could not ascertain the intensity with which BIO monitors its indirect investments. Nonetheless, from our conversations with BIO it seems that a significant percentage of BIO's reporting (a majority of indirect investments) rely on the data provided to BIO by its financial intermediaries.

On the whole, it is evident that, with the exception of high-risk *direct* investments, BIO's current approach to monitoring and evaluation shows a significant degree of trust in the client.⁷⁹⁵

This is understandable to an extent, given that BIO needs to maintain good working relationships with its clients, and because any interventions or unnecessary visits might be perceived by companies as intrusive or as BIO exercising undue control. Nonetheless, this mostly subordinates accountability to external factors, since there needs to be an external trigger (for instance, an independent NGO report) for a non-high-risk investment to attract attention and for BIO to examine its E&S compliance in more detail. Put otherwise, **the obvious issue with this standard position of trusting the client is that something needs to go wrong with the investment for BIO to be able to justify a need to increase its E&S monitoring.**

When something happens and the 'trigger' is pulled, BIO⁷⁹⁶ can put projects on the 'Priority list' or 'Watchlist' (Box 5.3). Similarly, the situation might lead to BIO conducting a site visit to the project area and/or to where the company or a fund is based.

⁷⁹¹ E&S Investment Manual, p. 23; note that for medium-high risk investments, "monitoring and reporting or verification of the project company by independent consultant or DFI expert is *recommended*." (emphasis added). For PEFs, a requirement is to "assist with site visits upon request" (there is no mention of external evaluations).

According to BIO, "[i]n practice, for all its direct investments A and B+, BIO contractually requires that an annual independent E&S monitoring visit takes place for the first 1-3 years or until the satisfactory completion of ESAP." (Email communication. BIO's comments on the first draft of this study).

⁷⁹² Interview with BIO (PEFs).

⁷⁹³ E&S Investment Manual, p. 6-7.

⁷⁹⁴ *Ibid.* p. 25.

⁷⁹⁵ *Ibid.*

⁷⁹⁶ Monitoring intensity of a project can be classified into 'reduced, standard, moderate, or reinforced' (E&S Investment Manual, p. 25).

Box 5.3. What is BIO's E&S Watchlist?

According to BIO's E&S Investment Manual, projects that face "major E&S incompliances" are included in the so-called 'E&S Watchlist'. Investments in this list attract a "reinforced monitoring" by BIO.⁷⁹⁷ The project can be put on the E&S Watchlist because of several reasons, including:

- "Investments with significant E&S risks, repeated non-compliances and poor E&S capacity to cope with these risks; [...]"
- Major incidents (e.g. major spill, use of force, strike, court case, grievance) that may have an important material and or reputational risk;
- Major incompliance with Exclusion list;
- Investments that attracted negative CSO, public of media attention for perceived E&S risks that may affect BIO's own reputation; and/or events and/or activities".⁷⁹⁸

Every three months or on demand, BIO holds the E&S Watchlist meeting, "with an objective of defining adequate remediation measures". For most part, projects might remain on the list and then get removed, without any formal follow-up required.⁷⁹⁹

In an interview with BIO, we raised a possibility of making the E&S Watchlist public, to create more possibilities for civil society in identifying the investments that should go on the watchlist. Here, in line with BIO's general approach to monitoring, the problem of maintaining a high degree of trust with the client was raised as an obstacle to such level of publicity:

"the problem with making this public is always to what extent do you still have leverage to intervene in a way that the company is comfortable with and is willing to act on the things that may be criticized. As soon as it's in the media, or any NGO would signal something, normally our media watch system would pick it up. It will be sent to the people that are tending to the project, and then they would see did we know about this or not, is it serious, what we can do about it..."

In principle, a company being on the E&S Watchlist does not have to generate additional issues of trust with a client, provided that there are transparent criteria that would put the project on the list, and if investments are removed from that list once criteria is no longer fulfilled. Generally, it is our opinion that NGOs and other external observers could have a meaningful role in adding investments to the E&S Watchlist, updating it, and providing input on the most appropriate compliance measures, without attracting the negative media attention that is currently required to trigger the "reinforced monitoring" by BIO.

Measures to promote E&S compliance

Depending on the outcomes of self-reporting and BIO's monitoring, if there are reasons for concern that E&S commitments will not be met in a timely manner, BIO can adopt additional measures to facilitate E&S compliance and support by its clients.

These measures consist of:⁸⁰⁰

⁷⁹⁷ The projects on the 'Priority list' attract "moderate monitoring".

⁷⁹⁸ E&S Investment Manual, p. 25.

⁷⁹⁹ Interview with BIO.

- Soft means (e.g. technical advice, renegotiation of contract);
- Incentives (e.g., technical assistance, additional financial support);
- Leverages (e.g. non-disbursement of tranches of a loan, if contractually such disbursement is attached to achieving certain E&S conditions). In the instances of serious E&S non-compliance, this last option might mean BIO exiting the investment (in the words of an interviewee: “the ‘atomic bomb’ option”).⁸⁰¹

In practice, when E&S commitments are not implemented by client as initially planned, BIO tends to adhere to its standard position of trusting the client. It therefore favours the so-called ‘soft means’ to induce compliance, and it might also provide that client with additional financial support, with a hope that it would increase client’s capacity to implement its E&S commitments.

As with the question of monitoring intensity, this approach anticipates that the client *can* change its approach and that it would be willing to do so. However, this ‘soft’ approach leaves the question of accountability to the people affected by BIO’s investments in the hands of the investees – even when those investees had proven that they are unable or unwilling to follow up on their E&S commitments. **A more active involvement of final beneficiaries of E&S commitments at this stage could better ensure an on-going monitoring and evaluation at the local level.**⁸⁰²

If positive incentives or ‘soft approach’ appear to be insufficient to ensure E&S compliance, BIO might consider using ‘leverages’ to bring the client to respects its E&S commitments. At this point, BIO’s contractual ‘leverage’ is most substantial in two types of instances:

- in case of loans, where some disbursement is yet to be made and where that disbursement has been contractually tied to certain E&S conditions, BIO can decide not to disburse, or
- in case of infrastructure projects, where BIO can sign off on a completion of a project, and where such final approval by BIO and other investors would be necessary for the project to become operational and to be able to generate income, BIO can decide not to sign off the project.⁸⁰³

In case of equity and indirect investments, apart from the possibility of influencing investee’s decisions through the Board and by exercising its advisory function (if BIO has a seat on an advisory committee and/or can vote in a Board),⁸⁰⁴ the range of contractual mechanisms available to BIO is highly limited. While BIO can decide to leave a company or a fund by selling its shares, this in itself will not ensure the compliance of that company or fund with its E&S commitments. Moreover, BIO would still have a task to ensure that it ‘exits responsibly’, i.e., that it sells its shares in a company or a fund to a buyer that takes E&S commitments seriously and that would

⁸⁰⁰ E&S Investment Manual, p. 27.

⁸⁰¹ According to an interviewee from BIO, “The ‘atomic bomb’ option (i.e. enforcing repayment) needs to be used very seldomly as it put the company into jeopardy (which involves job loses, etc).” Interview with BIO (food and agriculture).

⁸⁰² This measure would only be possible in the circumstances community’s or workers’ safety is not at risk, and where the representatives of a community are willing to engage in a monitoring exercise.

⁸⁰³ Interview with BIO (climate finance and energy).

⁸⁰⁴ Interview with BIO (PEFs).

act towards a company in good faith.⁸⁰⁵ However, the challenges of responsible exit are highlighted in a box 5.4 below, which discusses BIO's exit strategy from Feronia (PHC).

Box 5.4. When things go wrong: challenges of ensuring E&S commitments in Feronia (PHC)

Feronia (PHC) is arguably the most contested investment in BIO's current portfolio, and the issues with BIO's reasoning of investing in Feronia had been discussed earlier in this study.⁸⁰⁶ From a perspective of E&S compliance, Feronia shows the limits of the leverage that BIO has vis-à-vis the performances of its clients, especially when the socio-environmental concerns refer to a core element of the project such as the right to access the land and the tenure system. Secondly, it raises questions on the consequences that the exit from the investment can have on the E&S commitments. Thirdly, it poses problems with regards to the tension between maintaining an investment viable (including by providing further funds) even when there are significant tensions on the ground. Fourthly, it provides a case study to highlight the limited leverage of individual development banks (especially the non-leading ones) when the loan is provided as part of a syndicated loan with other DFIs.⁸⁰⁷ Finally, it reveals that the NGOs playing a monitoring and watchdog role may not be enough in the absence of adequate political and legal processes that can be triggered and that bind BIO and the Government.

Feronia shows that the issues of E&S non-compliance might begin from the early stages of investment cycle if a project is promoted in the context of contended land titles and concessions that date back the colonial time. Leaving aside the fact that a formal approach to land titles should have been complemented with a better and more solid understanding of the legal reality on the ground and of the legal history of the region, Feronia is also an example of an ESAP agreement between BIO and the client that was not precise and ambitious enough. The initial ESAP from 2016 (on which BIO presumably based its investment in 2015, and the summary of which is available on Feronia's website)⁸⁰⁸ is vague in terms of intended E&S outcomes and would have made it difficult for local communities and workers to hold Feronia to account for its E&S non-compliance.

That is because the 2016 ESAP summary contains many procedural commitments by the company (to adopts management systems, to make plans and to do assessments), without however including concrete promises on social investment, or strategies of how a company would mitigate the negative environmental effects, such as contamination of water source for the communities.⁸⁰⁹ The 2016 ESAP summary also contains no concrete timeline or specific locations in the 107 000 ha area of plantation area, where community development projects would take place, which again, makes it difficult, if not impossible, for communities to hold company to account for its E&S commitments towards them.

⁸⁰⁵ Interview with BIO (development impact).

⁸⁰⁶ Chapter 3, Box 3.8; also Chapter 2.d.

⁸⁰⁷ In 2015, BIO took part in a syndicated loan facility with DEG and FMO. CDC has also invested in Feronia as an equity investor; and other DFIs are involved through an indirect investment in private equity funds (EAIF and AAF).

⁸⁰⁸ Available here: <https://www.feronia.com/uploads/2018-02-08/summaryesapforwebsite3februaryv527108.pdf>; 2018 update on progress available here: <https://www.feronia.com/sustainability-policies/view/summary-environmental-and-social-action-plan>

⁸⁰⁹ See Human Rights Watch (HRW), 'A DIRTY INVESTMENT. European Development Banks' Link to Abuses in the Democratic Republic of Congo's Palm Oil Industry' (HRW 2019) 33-35, available: https://www.hrw.org/sites/default/files/report_pdf/drc1119_web_0.pdf.

Given these flaws, it is not surprising that concerns were raised by local community representatives about the extent to which DFI investments in Feronia resulted in positive outcomes ‘on the ground’, along with the fact that it was reproducing land conflicts that had been going on since 1911.⁸¹⁰ While BIO justifies its involvement in Feronia based on the fact that it was not a greenfield investment and that it therefore required a different kind of due diligence and decision-making than would be required in case of greenfield investments, it is clear that revamping PHC through financing by the DFIs (including BIO) reinforced company’s corporate power vis-à-vis local communities and consolidate a land structure that had been imposed over the region at the time of Leopold II’s private ownership over Congo. In particular, the lack of consideration for the customary land rights and the fact that the three main concessions obtained by Feronia PHC had been fragmented in multiple smaller deeds and extended led to a complaint to the Independent Complaints Mechanism (ICM) of DEG and FMO, two of the partners in BIO’s syndicated loan to Feronia,⁸¹¹ submitted by the nine local communities affected by Feronia’s operations.

In 2021, Feronia underwent restructuring, and the majority of the shares were bought by Straight KKM 2 Ltd,⁸¹² a Mauritius-based private equity fund that according to a recent NGO report has no prior experience of managing palm oil or other large-scale agricultural holdings.⁸¹³ The DFIs participated in the restructuring and approved it. One of the requirements was for the new majority shareholder to adopt a new ESAP. Currently, an ESAP summary is available online: as such, the extract of the longer document cannot be used by communities to hold a company and investors to account.⁸¹⁴

On the basis of what is available online, the ESAP is better in terms of how it spells out E&S commitments towards local communities and its workers. The commitments are somewhat more concrete and cover a wider range of social and environmental issues, including a need for community development.⁸¹⁵ There are also some timelines included, making it easier for a community to know what they can expect to be achieved and when. However, the issue remains that these new E&S commitments are not specific enough, they do not require a re-assessment of the land titles, and they are for most part not tied to specific locations in a vast plantation area. Moreover,

⁸¹⁰ For a comprehensive overview of related concerns and grievances, see “Development Finance as Agro-Colonialism: European Development Bank funding of Feronia-PHC oil palm plantations in the Democratic Republic of Congo” (January 2021), available: <https://urgewald.org/sites/default/files/media-files/Bericht-DevelopmentFinance-AgroColonialism.pdf>.

⁸¹¹ At the time of submitting the complaint, BIO’s Grievance Mechanism was either in very early stages, or not yet created. According to some representatives of NGOs, BIO’s Grievance Mechanism also is not independent enough to address grievances of this extent and significance.

⁸¹² ICM Interim Report, ‘DEG Complaint 18-002 PHC (former Feronia) PHC (19 March 2021), s.3.2, available: <https://www.deginvest.de/DEG-Documents-in-English/About-us/Responsibility/Interim-Report-2021.pdf>.

⁸¹³ There is little public information available on the structure and history of KKM; information used here is from the CSO report “Development Finance as Agro-Colonialism: European Development Bank funding of Feronia-PHC oil palm plantations in the Democratic Republic of Congo” (January 2021). BIO’s assessment of the new ownership is considerably more positive than that portrayed by the NGO report. According to BIO’s website, “The restructuring sees Feronia KNM, a Belgian company which is majority owned by food and agriculture focused US investment fund KN Agri LLC, inject USD 15 million of fresh capital into the business, of which USD 5 million has already been disbursed. KN Agri brings together a group of African investment professionals with deep roots in their communities who are deeply passionate about further unlocking the potential of PHC.” See <https://www.bio-invest.be/en/news/a-statement-on-the-completion-of-the-restructuring-of-feronia-phc>.

⁸¹⁴ Plantations et Huileries du Congo (PHC) Environmental and Social Action Plan (ESAP) Summary – January 2021, available: <https://phc-drc.com/wp-content/uploads/2021/02/phc-esap-summary-january2021.pdf>.

⁸¹⁵ The 2021 ESAP summary explicitly includes new categories on community engagement and development, housing, (expanded from before) health and safety and medical monitoring and security, water quality, forest conservation. Thematically, there is a significant shift from a previous ESAP (2016) that was structured alongside more general and procedural categories such as E&S capacity of staff and the company, policy and legal compliance, surveys and assessments, E&S management systems, infrastructure improvements, monitoring review and oversight, and corporate governance and business integrity.

the monitoring and implementation of the new ESAP, same as the ESAP from 2016, is in the hands of the company's ESG committee, "with the company's main Board receiving regular updates on the implementation process."⁸¹⁶ No external oversight body or function was created, even in light of the challenges of overseeing E&S, exhibited in the earlier ESAP. According to BIO, this external independent oversight is to a large extent guaranteed by lenders⁸¹⁷. However, most importantly, the rest of the ESAP 2021 commitments are meant to be 'ongoing' and/or fulfilled after 2022, which is when BIO is planning to exit this investment and would therefore no longer be monitoring the E&S compliance of the PHC.

In terms of BIO's exit strategy, a case of Feronia reveals how difficult it might be for BIO to 'exit responsibly', when a company is non-compliant with its E&S objectives, is struggling financially and/or is facing insolvency and a change of corporate ownership. As part of this restructuring process, a new ESAP had been agreed in January 2021, and confirmed by all the investors.⁸¹⁸ The restructuring involved BIO writing off 50% of its debt to Feronia, in exchange for a company implementing the new ESAP.⁸¹⁹

This situation raises important questions about BIO's exits from unsustainable investments, but also about BIO's business model more generally. Firstly, does BIO indeed have sufficient, or indeed any, E&S leverage in situations of financial distress, given the need to maintain the investment alive, and given that only one commercial investor was interested and willing to acquire the ownership of a company and to inject additional capital into it?⁸²⁰ Or did in fact the sole investor have more leverage, and the DFIs had to agree to the conditions that this investor was willing to accept, in order to assume the liabilities of Feronia? Secondly, what happens to BIO's accountability towards local communities for a project funded 6 years ago once BIO exits in 2022 (and potentially all other DFIs) and once the management of a financially unviable plantation *and* the implementation of E&S commitments is solely in the hands of a commercial investor, which has no development mandate that would compel it to preserve jobs, living wages, and ensure the benefits to a wider community? Moreover, although BIO does not consider itself as part of the mediation process triggered by the local communities, is the exit also meaning less pressure on the investor to act in good faith and listen to the grievances coming from the people who have been affected?

The reason why this situation raises questions about the business model of BIO is because as an alternative, CSOs and RIAO-RDC, a network of people who submitted complaint to the ICM, had asked why the insolvency of Feronia was not used by the DFIs as an opportunity to hand more control over the plantation area to the local communities?⁸²¹ Why an alternative of creating

⁸¹⁶ PHC ESAP Summary – January 2021. There is currently insufficient information on the corporate structure of PHC, since its take over by the KKM, to ascertain what is the exact structure of the PHC's ESG committee that is overseeing the implementation of this new ESAP.

⁸¹⁷ In practice, "lenders' External E&S advisor performs annual site visits to verify progress of the ESAP; also lenders' E&S Officers are observers on the ESG committee; the lenders will ultimately need to verify and confirm the completion of all ESAP items" (Email communication. BIO comments on the first draft of this study).

⁸¹⁸ BIO official response: <https://www.bio-invest.be/en/news/a-statement-on-the-completion-of-the-restructuring-of-feronia-phc>; also see FMO's and CDC's take on restructuring: <https://www.fmo.nl/dfi-investing-feronia>; <https://www.cdcgroup.com/en/news-insight/news/a-statement-on-the-completion-of-the-restructuring-of-feronia/>.

⁸¹⁹ BIO's statement on the completion of restructuring of Feronia (Ibid.)

⁸²⁰ ICM Interim Report, 'DEG Complaint 18-002 PHC (former Feronia) PHC (19 March 2021).

⁸²¹ "Development Finance as Agro-Colonialism: European Development Bank funding of Feronia-PHC oil palm plantations in the Democratic Republic of Congo" (January 2021).

workers' cooperatives instead of a single large-scale corporation was not considered? Why the land dispute, which is subject to a mediation concerning other DFIs (and to which BIO is currently not a party), was not addressed in the process, including a full restitution of previously expropriated lands that are currently under the concession?⁸²² Indeed, it seems plausible to claim that Feronia's restructuring provided an unprecedented opportunity for the DFIs to revise an initially unsustainable investment, and to align it better with the SDGs and the 2030 Agenda. However, the decision was taken to disengage from a controversial investment without assuming the responsibility of having triggered it, thus distancing itself from a large-scale intervention that continues to fuel conflict over land, that perpetuates a dependence of local people on the company as a single largest employer, and that simultaneously threatens food security of the local communities.⁸²³ This choice of addressing financial difficulties of Feronia in a 'business as usual' manner also has direct implications on BIO's ability to ensure E&S compliance. That is because, rather than relying on the local actors to determine the E&S trajectory of the plantation area and its implementation, BIO once again relies on a good will and business reputation of an international investor, which has no direct interest in developing the plantation area or ensuring that local communities living in it have access to sustainable livelihoods.

Business reputation as a deterrent against E&S non-compliance

While the leverage of BIO to promote compliance of its clients appears to be limited, particularly in case of equity investments, this is not necessarily perceived as an issue by BIO. That is because in practice, **the main mechanism that is meant to ensure compliance with E&S commitments, is a need for a client to maintain its good business reputation.**⁸²⁴

According to BIO, this is a key assurance of E&S compliance in case of PEFs:

"[f]und managers also have their own long-term strategy. If a fund is successful, then [there might be] a follow up fund. So they have a reputation to maintain and news travels fast. And a fund manager does not want to get a bad press"⁸²⁵.

Similar reasoning also appears to be central in BIO's approach to monitoring, where reputational damage is a key consideration that BIO is meant to take into account. The idea here is that a good business reputation is important for the company/fund, because it can create trust in financial markets and attract investors, whereas bad reputation can create damage (financial, and/or among company's suppliers or contractors) that might hinder business development and might take many years to repair.

This emphasis on reputational damage as a driver of business behaviour is understood, but acceptable only to a certain extent. As a matter of fact, there are several issues with using business reputation as a way of ensuring accountability towards people affected by BIO's investments:

Firstly, although many companies care about business reputation, not all of them do. This might be a particularly important issue in cases of companies and funds that are

⁸²² Ibid.

⁸²³ Ibid.

⁸²⁴ Interview with BIO (PEFs).

⁸²⁵ Ibid.

struggling financially, and that no longer care so much about making a positive impression on investors, but rather about survival and ways of avoiding bankruptcy.

Secondly, **accountability based on reputational damage is risky for the companies and affected people alike.** That is because if people adversely affected by business operations feel that their only way to resolve grievances against the company or its investors is through denouncing company's reputation, then this can create a vicious circle, whereby a reputational damage to the company affects its operations, which in turn can further negatively affect the people that suffered grievances in the first place. It can become a loss-loss situation for communities and the company.

Thirdly, a focus on reputational damage creates a situation whereby **people who manage to build strong alliances with international NGOs can attract more attention to their grievances.** At the same time, the vulnerable people who do not have such networks might experience the negative effects as acutely, but do not have the same opportunities for holding companies and investors such as BIO to account.

Finally, in case of indirect investments, the challenges of invoking reputational damage as a mechanism of accountability are potentially the most extensive. As discussed earlier, maintaining good business reputation is seen as a key mechanism of ensuring E&S compliance by PEFs and their portfolio companies. At the same time, by default, BIO does not require external monitoring and evaluation of its indirect investments. The problem is that without a systemic external monitoring of indirect investments, the issues with E&S compliance might never come to light, since there are no incentives for the fund to make the E&S non-compliance of its portfolio companies public. Moreover, **often people affected by indirect investments and local civil society organisations do not know that a fund in which BIO has equity has invested in a particular company that affects their livelihoods.** That is because portfolio companies do not necessarily disclose their investors in their internal documents or on their websites (provided that they have a website), and PEFs do not always list all their investors, including BIO, on their websites either. Portfolio information on BIO's website too, is available in three European languages (English, French, and Dutch), but not in the local languages of its investments. It would require a lot of knowledge and international support for local communities to 'connect the dots' between BIO, the fund, the portfolio company, and the specific E&S impacts that they experience as a result of an investment. In such circumstances, the chances of E&S issues being identified and brought to public attention in Belgium appear to be particularly low.

Accountability gap in monitoring E&S compliance

Bringing these observations together, they expose an underlying issue with BIO's system of monitoring and ensuring E&S compliance: it is not reliable enough from a perspective of the people affected by BIO's interventions.

More specifically, if the following three conditions are present in BIO's investment simultaneously:

- a local community or a group of workers in a company does not have links with international NGOs and/or cannot attract media attention to their grievances,
- a client does not report its failure to implement its E&S obligations to BIO, and
- BIO does not commission a study by an external consultant to assess company's compliance,

then there is a high likelihood that the E&S non-compliance and the resulting grievances created by that particular investment would remain undetected. While the system of monitoring is not meant to be oppressive on clients and requiring checks for each investment multiple times, this appears to leave too big of a gap of accountability. That is because for this system to work well, BIO's clients must always be reporting their E&S commitments fairly and openly, BIO must always be assigning the category of risk to its investments correctly, and local communities or workers must be willing to be vocal about the grievances that they experience, and to challenge companies through international media or with the help of NGOs.

Finally, there is a more general issue about access to information, which, as argued earlier, is essential in cases where people affected by investments had not been included in the relevant consultations, or have not been given sufficient information during stakeholder engagement process. In such instances, affected communities might be able to raise grievances with BIO's Grievance Mechanism or client's grievance mechanisms, if there is one available. However, for that to be possible, information on what E&S measures are planned and what has been done (or not) must be available, also in the local language, on the websites of BIO, the fund, and the company – which is currently not always the case.⁸²⁶

Recommendations on monitoring E&S compliance

Going forward, BIO's current approach to monitoring E&S compliance of its clients should be improved considerably:

- A risk category of investment is a central factor in determining a level of external oversight of BIO's investments. **Risk category should therefore be made public as early as possible in the screening process.** In particular, the planned investments in high and medium-high risk categories (A and B+) should be announced on BIO's website as early as possible, and no later than when BIO decides to proceed to a due diligence stage of its investment selection process, to enable NGOs to monitor those projects and to reach out to affected communities.
- BIO's Grievance Mechanism could play a bigger role in facilitating dialogue between people who are the intended beneficiaries of the E&S commitments, and the client. **BIO should actively promote its Grievance Mechanism among the people potentially affected by its investments, particularly in cases of high or medium-high risk planned investments.** This should include PEFs and their 'high risk' investments. This task would be more

⁸²⁶ See section on public accountability and transparency for more detailed discussion on this.

likely to be effective if BIO started overseeing its clients' stakeholder engagement processes systematically, thus systematically engaging with local communities.⁸²⁷

- The challenge of monitoring E&S compliance of equity investments cannot be underestimated, especially given that investments in financial institutions and PEFs are less likely to be ranked as 'high risk'.⁸²⁸As a first step of addressing this challenge, **BIO should introduce a requirement to routinely monitor E&S compliance of a *randomly chosen* sample of PEF portfolio companies by an independent consultant.**
- **Finally, BIO should rely less on risk categorisation to determine whether a review of E&S compliance is necessary by an external consultant.** If BIO cannot ensure that *all* its investments are at some point monitored externally for their level of E&S compliance, then it should introduce a contractual clause that investments *might* be monitored based on a random selection of investments. This would counter the standard position that something needs to go wrong for BIO to check E&S compliance. A random E&S monitoring that does not rely on self-reporting, nor is triggered by reputational damage, would also provide a more accurate representation of E&S compliance across an entire BIO's portfolio, without focusing solely on the high-risk investments.

b. BIO's Grievance Mechanism

BIO's Grievance Mechanism (GM) is a relatively recent addition to BIO's governance structure.⁸²⁹ Since independent accountability mechanisms (IAMs) had become commonplace among other European DFIs, BIO followed the example of its peers and created a "citizen-driven accountability mechanism that responds to grievances and demands for redress by people affected or potentially affected by projects financed by BIO."⁸³⁰ According to BIO,

*"[the grievance mechanism] was considered [among DFI peers] as the best practice to monitor the E&S risk. We considered of course that our client had a duty to have a grievance mechanism when there's a higher E&S risk, but we realised that we had a duty to install a 'second level' of mechanism, for when client is not responsive, or its grievance mechanism is not working."*⁸³¹

Based on the documents that were shared with us by BIO and the interviews, we could ascertain that **to date, the GM had received four complaints**, one of which concerned a planned indirect investment, and lead to an actual change in the E&S commitments of the fund for its portfolio companies, two of which were indicated in the information that we received from BIO (Table 5.2).

⁸²⁷ See Chapter 2, section 2.4, for the recommendations on BIO's approach to community engagement.

⁸²⁸ Medium-high risk as a category does not apply to PEFs or financial institutions.

⁸²⁹ Based on the information on BIO's website and on the Operating Rules of the Grievance Mechanisms (GM), we could not ascertain when exactly the mechanism was created. During our meeting with BIO where we discussed the functioning of the mechanism, we were told about a complaint that was submitted in 2019, which suggests that the mechanism was created no later than in 2019.

⁸³⁰ S O BIO's Grievance Mechanism – Operating Rules (GM Operating Rules).

⁸³¹ Interview with BIO (Accountability and Governance).

Table 5.2 Complaints received by BIO's Grievance Mechanism. Source: BIO

Ref.	Receipt date	Client concerned	Prospect concerned	Subject of grievance	Eligible	Status
2018/01	24/05/2018	N/A	FRAGIF TRADING Sarl	Out of scope	No	Closed
2018/02	18/06/2018	Parquet Cam	N/A	Governance/Integrity	Yes	Closed
2018/03	06/08/2018	N/A	Green agro business	Out of scope	No	Closed
2019/01	12/08/2019	SAGF II LP	N/A	Social	Yes	Closed

Overall, given that this mechanism aims to foster a better link and more communication with people affected by BIO's operations, its adoption is a positive development. With a few exceptions discussed below, the operating rules of the GM are accessible and provide a good level of detail that enable potential applicants to understand how their complaint would be addressed.⁸³² The mechanism also reflects a number of traits typical of the relatively open IAMs, with its grounds for complaints and admissibility criteria being sufficiently open to a wide variety of issues and people potentially affected by BIO's operations, and thus not too limiting on excluding the potential pool of complainants.⁸³³ Potential ways of addressing grievances include dispute resolution and identification of (non)compliance by BIO with its proper policies and E&S commitments.

As it currently stands, the Grievance Mechanism is valid within its own policy parameters, but there is room for improvement, particularly in the areas of its operational structure, and its visibility.

Operational structure

BIO told us that prior to creating this GM, it conducted research about the IAMs of other EDFIs, and that based on that analysis, they saw a need to make a choice between:

- a mechanism that is external to an institution and potentially more rigorous, but slower and possibly not so efficient;
- and a mechanism that is internal to the organisation, but potentially faster and more efficient.⁸³⁴

The GM resembles more closely the second model identified by BIO, since it is meant to be fast and adaptable, with its investigations conducted by a specifically designated person within BIO (Internal Auditor), who has a good knowledge of internal procedures, a full access to information

⁸³² Ibid. GM Operating Rules are available here: <https://www.bio-invest.be/en/grievance-mechanism>

⁸³³ Ibid S 4 Under the admissibility criteria, there is a possibility for the "local representative acting on behalf of affected people" to submit a complaint; also "in exceptional cases" a complaint can be submitted by a non-local representative.

⁸³⁴ Interview with BIO (Governance and Accountability).

held by BIO, and who is generally able to react to complaints both with speed and in a targeted manner. The independence in this model of IAM is understood as an “**independence from the management structures**,”⁸³⁵ which in practice means that Internal Auditor reports directly to BIO’s Audit Committee and Board of Directors, and not to the CEO or other members of Executive Committee.

From our engagement with NGOs and other potential users of this mechanisms, also based on our previous research on IAMs, we would like to highlight three issues that result from this type of organisational structure applied to BIO’s operations.

- i. **Insufficient independence from an external point of view.** BIO’s understanding of independence of its Grievance Mechanism is understandable from an internal perspective: since Internal Auditor is not responsible directly to the executive management of the institution, it is claimed that it should be able to maintain a certain level of autonomy from the rest of its operations. However, the issue with this interpretation of independence as internal ‘separation of powers’⁸³⁶ is that it does not take into account community’s concerns about potential biases of such mechanism, especially in difficult cases with a long history of grievances resulting from colonial relations, as for instance in case of Feronia. **Trust is not only something that BIO has to build with its clients, but also with communities who (might) suffer grievance from its investments.** From that perspective, the fact that a person who would investigate a complaint works side by side with the decision-makers who authorised the investment in the first place, who is paid by the institution, and is fully ‘attuned’ with its operational logic, is not necessarily a cause for celebration, but for concern, because it might lead to a biased resolution of a grievance. It has been confirmed to us by the NGOs⁸³⁷ that BIO’s Grievance Mechanism is perceived as lacking in independence, thus unable to ensure a sufficiently neutral approach to the grievances submitted. While it is not possible to verify this claim about the extent of Internal Auditor’s actual independence, it is nonetheless BIO’s role to counter such impression, in order not to deter the pool of potential applicants from taking advantage of this mechanism.

There are various ways how independence could be asserted and extended further: for instance, by creating an opportunity for the complainant to ask for an investigation by an independent expert rather than by an internal auditor (while avoiding the issue of ‘friendly experts’);⁸³⁸ or by approving a separate budget for GM’s complaints procedures and related reimbursements.⁸³⁹

⁸³⁵ GM Operating Rules s. 2. (‘Independence’).

⁸³⁶ Here it is possible to make a parallel with the discussion in s.1 (in this chapter), about BIO’s accountability to the shareholder, whereby the Board is seen as the main locus of BIO’s accountability.

⁸³⁷ Interview with NGOs.

⁸³⁸ Discussed in Chapter 2 s.2.2.(c) on due diligence.

⁸³⁹ In cases where communities need to claim for the costs of their participation in relevant meetings; the issue of reimbursement of costs for communities had been a prominent issue in Feronia (PHC); see for instance “Development Finance as Agro-Colonialism: European Development Bank funding of Feronia-PHC oil palm plantations in the Democratic Republic of Congo”

- ii. **Complaints about E&S non-compliance are difficult to make in practice.** Generally, in the practice of IAMs, investigation of *compliance* (in this case, of BIO with its proper policies) is the more stringent and the ‘harder’ one of the two functions of a grievance mechanism,⁸⁴⁰ because it might identify a systemic issue in the functioning of an institution from which a grievance had resulted, and the potential problems about how the lending institution conducts its E&S oversight. The difficulty to identify non-compliance is thus closely related to the previous discussion about BIO perceiving its investment selection process as internal, hence not publishing its E&S Manual, nor compelling its clients to publish their ESAPs. **If BIO does not make its decision-making process public, periodically revealing the stage that any given investment is at, then in practice it is very difficult, if not impossible, for anyone to complain that BIO is not complying with its policies, or that it is not conducting the oversight that it is supposed to conduct.** To an extent, it would be possible for the complaining person to rely on the IFC PS directly, since they are sufficiently detailed and not as vague as BIO’s E&S policy; however, as discussed in detail in Chapter 2, the exact scope of BIO’s oversight of the IFC PS remains vague, particularly in the most sensitive area of community engagement, and especially in case of indirect investments.

It is possible that the new Transparency and Disclosure requirement to introduce an “E&S description” for each investment by BIO⁸⁴¹ will make the compliance-based complaints more likely; however, it seems to us that until BIO starts treating its decision-making processes and E&S standards as externally relevant documents, compliance-focused complaints remain a possibility in theory, but would be very unlikely to be raised in practice. This, in turn, reduces BIO’s opportunities to learn as an institution (from the grievances submitted) about how to improve its processes of decision-making and oversight and how to improve its accountability.

It should also be noted that the Operating Rules of BIO Grievance Mechanism are not clear about the possibility of BIO paying compensation to those who experienced harm from BIO’s non-compliance (provided that BIO accepted their grievance claim as valid). According to the GM Operating Rules, *“Findings of non-compliance lead to a responsibility on the part of the management of BIO to take responsive actions to restore compliance and provide redress for harm that may have occurred. Actions may notably include strengthened supervision and monitoring, changes in project implementation and measures to avoid or mitigate adverse impacts.”*⁸⁴² This is an ambiguous provision that should be clarified by BIO, so that people raising grievances could know if their effort of submitting grievance and proving non-compliance would ultimately be compensated. If no

(January 2021), available <https://urgewald.org/sites/default/files/media-files/Bericht-DevelopmentFinance-AgroColonialism.pdf>.

⁸⁴⁰ Dispute resolution being the second function. In other mechanisms it is also known as a problem solving function.

⁸⁴¹ S 5.1 Transparency & Disclosure Policy.

⁸⁴² GM Operating Rules p. 5 (Compliance review).

separate budget for grievance-related compensations exists, it should be earmarked by BIO for that purpose.

- iii. **Publicity of grievances can be means of protection and foster a wider accountability.** The four complaints that BIO's GM had received thus far are not disclosed on BIO's website. From public information, it would be impossible to know if the mechanism has been ever triggered, what investments/projects these complaints were concerned with and what is the reasoning that led to the outcome (which rules were applied, what was the weight of the ESAP, etc.). Moreover, the new Transparency Policy only require that the 'aggregated yearly information' on the work of GM is included in BIO's annual report.⁸⁴³ Although we received some further information than what is available online, no document was disclosed with regards to the process that led to the closure of the four cases, nor the determination of two cases as out of scope.

According to BIO, one of the reasons why the complaints submitted to GM are not made public, is to ensure the safety of complainants, to avoid accidentally publishing information that would reveal their identity. While this reasoning might be valid in some cases and for some affected people, it is not always helpful in holding BIO's clients to account. Firstly, that is because **publicity of a complaint can shed light on malpractices of the client, which in turn can provide protection to those who complain about such practices.** It is common for communities to rely on public attention created from submitting a grievance to an institution, to put pressure on the company to change its practices, and to ensure their personal safety in the process. Secondly, and closely linked to the above, **making grievances and related complaints public might help other people in the similar situation or with similar grievances to come forward,** and to either join the on-going investigation, or to ask for a new process to be started for their issues to be resolved. In other words, the publicity of complaints can widen the scope of accountability by the client and can mobilise the support from the people who might otherwise not be involved. This, in turn, fosters the accountability towards people (potentially) affected by investments.

In light of these reasons for enhanced publicity around GM's complaints, a plausible explanation about why BIO is not publicising the information on these grievances may be to protect its clients from the negative press and potential reputational damage. This, again, concerns the issue highlighted earlier on, notably that trust has to be built with communities and not only the client; and also that grievances do not have to be something that damages reputation, but can show a willingness by the company and by BIO to remedy E&S non-compliance, thus creating a virtuous cycle of cooperation and exchange.

⁸⁴³ S 31 Ibid. BIO's Annual Report 2018 gives the following information on the complaints submitted to Grievance Mechanism: "During the year, 2018 three grievances were submitted through the Mechanism. Two of them were found ineligible because it concerned financing requests. The remaining one concerned a former African SME investment." (2018 Annual Report, p.48). There is no information on the complaints submitted to Grievance Mechanism in the 2019 Annual Report.

Visibility of BIO's Grievance Mechanism and its role in BIO's operations

At the time of writing, the Grievance Mechanism has not received a complaint since January 2019. This shows that the mechanism is currently not utilised. There are two ways in which this lack of complaints can be explained: the people who might benefit from this mechanisms might be unaware of its existence ; or BIO's E&S process is stringent and efficient enough, so that BIO's investments do not cause grievances. While it is not possible to draw conclusions either way given the lack of data and empirical evidence, BIO agreed in an interview that accountability mechanism could and should be made more visible to its end beneficiaries.⁸⁴⁴

However, for BIO, the visibility objective also presents a dilemma:

"Are people aware of it when we are involved in projects? I think there's a lot to improve there. But there's a balance between the effort, money and the added value."⁸⁴⁵

"We really have to find the right balance between accessibility and the added value. What added value do we bring, and the level of effort that we put? This grievance mechanism is complementary to other mechanisms, e.g. complementary the judiciary, and to the landscape of other grievance mechanisms."⁸⁴⁶

We consider that a choice between "effort, money and added value" is not necessarily a dilemma, but something that could be addressed by better embedding the Grievance Mechanism in BIO's operations. That way, increasing the visibility of Grievance Mechanism would not be something that requires a separate effort, but rather becomes a routine task that is part of BIO's investment cycle.⁸⁴⁷ This, in turn, would require less effort and money than might be necessary if the Grievance Mechanism was promoted independently and from a separate budget.

Some of the potential proposals in this regard have already been highlighted in the previous sections. The following is a list of suggestions on how to improve operational link between Grievance Mechanism, and the rest of BIO's procedures:

- More explicit insertion of the GM into the **E&S Investment Manual**⁸⁴⁸ could be made, assigning concrete responsibilities to the investment officers, ESOs and other staff at BIO, about who and at what point in the investment cycle should spread the information about the GM to potentially affected communities;
- Sharing information about the GM with local communities affected by investments on **the E&S Watchlist**;

⁸⁴⁴ Interview with BIO (Governance and Accountability).

⁸⁴⁵ Ibid.

⁸⁴⁶ Ibid.

⁸⁴⁷ Given the limited access to information, we could not check to what extent this 'inclusion' of Grievance Mechanism in other parts of BIO's operations is already taking place, hence the following recommendations are based on the documents that BIO made available to us.

⁸⁴⁸ The GM is currently mentioned in BIO's E&S Policy, but not in the procedural and operational framework set out in the E&S Manual.

- Sharing information about the GM with local communities in high-risk and medium-high-risk projects, during the **process of community engagement, and during external monitoring**;
- Including in the **contracts with BIO's clients** a requirement for the clients to publish on their website the fact that BIO is their investor, and share with anyone involved in the major incident of its operations (a worker, or a third party) the details of BIO's Grievance Mechanism.
- **BIO's Transparency & Disclosure Policy, if revised and expanded** in the future, could create a clear rule that people (potentially) affected by an investment should get access to information about certain aspects of BIO's due diligence, and to a full ESAP of that investment, if available.
- BIO should consider the possibility of **earmarking some 'technical assistance funds to support communities in the process of grievance**. If technical assistance is a way in which BIO contributes to the improvement of the quality and performance of investees, e.g. by transferring know-how and skills, there is no doubt that a transparent, well-participated, and properly organised grievance process can lead to improving both the practices of the investees and of BIO.

Altogether, these measures would create a more systematic link between BIO's current approach to investment selection, community engagement, and its Grievance Mechanism. It would ensure that the mechanism has a meaningful and on-going role to play in BIO's institutional learning.

Grievance in the context of investment's syndicates

The final key issue in the operation of the Grievance Mechanism concerns its relationship with IAMs of other DFIs. More specifically, it is the question about the extent to which BIO's mechanism should and could be better coordinated, or work in tandem, with IAMs of other institutions, when a grievance concerns syndicated loans, or other types of investment by multiple DFIs. As noted multiple times in this study, BIO constantly co-invests with its EDFI partners, which makes it particularly important to take this issue seriously, and to address it at a policy level.

In the context of grievances by communities involving multiple funders, BIO and its GM could play a role in finding the possibilities for harmonization of grievance procedures among the DFIs (which was mentioned to us in an interview with BIO).⁸⁴⁹ However, more importantly, GM could play a facilitating role in recognising the extensive financial resources and effort that might be required from a community or an individual, in order to submit its complaints to multiple DFIs, and then undertake multiple grievance processes in parallel. **Here, efforts could be made to create more favourable conditions for communities to take advantage of expert advice about how to best deal with their grievances in such multi-investor setting.** An independent expert from a pre-existing roster of experts could represent communities in such instances, without creating an expectation on the community members to spend their personal resources and time

⁸⁴⁹ Interview with BIO (Governance and Accountability).

to engage in negotiations with range of the DFIs about the potential non-compliance of their clients with their E&S commitments.

Recommendations

Going forward with its Grievance Mechanism, BIO should:

- Enhance independence of its GM, by adding a possibility for the grievances to be appraised or investigated by external independent expert, upon a request by the complainant.
- Create a public registry for all complaints received by the Grievance Mechanism, identifying the investments to which complaints were addressed and on what topics, also what were the main findings of the investigation and what was the follow-up process, if any. A decision could be taken to exclude a complaint from the registry if a complaining person asks for it to protect their personal identity and safety.
- Provide more information on the internal decision-making processes by BIO, to facilitate the accessibility of grievance processes more generally, and an exercise of compliance function in particular.
- Take the issue of budgeting for community participation and representation in the process of dispute resolution and/or compliance review seriously, and show support for such participation and representation where it creates costs for people affected by BIO's operations, especially in case of complex investments involving multiple DFIs.
- As suggested in earlier chapters,⁸⁵⁰ increase systematic community engagement by BIO, and also the role of the communities in the oversight of E&S compliance by clients. This would simultaneously expand a pool of relevant local actors who know about BIO's Grievance Mechanism, and who might trust it enough to lodge their grievances with it.

Reflections and recommendations on BIO's accountability

The focus of this Chapter has been on the multiple forms of BIO's accountability and their mechanisms. It sought to ascertain who, and to what extent, can hold BIO to account for its development impact and the E&S commitments, and who, beyond BIO's management, is able to influence and shape institution's decisions. Generally, we find a wide range of accountability channels that exist between BIO and the government, in its capacity as a shareholder of the institution. We also note the elements of BIO's public accountability vis-à-vis the Belgian State and Belgian citizens. However, public accountability channels are limited and managed by BIO in a way that is arguably too restrictive in terms of attracting external feedback and input on BIO's operations. Most of the restrictions, although not all, stem from BIO's overarching concern with sensitivity and confidentiality of information, which seems to trump most other public interests and concerns related to its operations. Finally, we find the most significant gaps in BIO's accountability

⁸⁵⁰ Chapter 2 section 2.4. (Community engagement).

towards people affected by its operations, in terms of BIO's ability to monitor and ensure compliance with E&S commitments of its clients.

The **overall findings of the chapter** are outlined below, followed by the core recommendations that were identified to address some notable shortcomings.

- **A diverse Board is essential for ensuring BIO's operational accountability and a good quality of decisions.** In terms of a relationship between BIO's management and the Board, the current relationship with the Board, and the existing checks and balances (e.g. veto right) seem helpful and conducive to producing valuable discussions within the Board. However, there is room for improvement, since the Board currently only benefits from external expertise in the areas of financial analysis, but not in the other strategic fields that are essential to BIO's development mandate.
- **BIO is distant from the rest of the Belgian Development Cooperation, partly due to the issues of perception, but also potentially for policy reasons.** Concerning BIO's accountability as an implementing entity of the BDC policy and as a manager of the ODA funds, the main challenge to accountability is BIO's insular nature in the broader landscape of the BDC. BIO's core interlocutors appear to be based at the level of European DFIs, whereas in Belgium, BIO's distinct focus on 'private sector development', narrowly understood, threatens the coherence of the BDC, and prevents further synergies within it.
- **Post-investment relationship with NGOs is antagonistic 'by design' and could be more constructive.** NGOs as representatives of various public interests in Belgium have a role in BIO's operations, which is to trigger the mechanisms of BIO's public accountability and generate visibility over its operations and outcomes. This means that in practice NGOs raise public interest concerns in relation to specific investments *that had already taken place*, which BIO often perceives as potentially causing reputational damage for the institution, and which in turn attracts a response from BIO's shareholder and the Board. While the NGOs should continue exercising their role as 'watchdogs' of the institution, there are also potentially more productive ways for exchange and cooperation in the areas of mutual interest (e.g. ensuring the more sustainable investments by BIO and a better E&S compliance).
- **Transparency remains a bottleneck for all forms of accountability and cooperation outside the DFI sector.** BIO's Transparency & Disclosure Policy is a welcome first step towards addressing an overarching issue of secrecy and confidentiality that clouds BIO's operations, and which prevents synergies and exchange at all levels (with other actors of the BDC, with CSOs, and with other actors in the countries of intervention). The lack of transparency also prevents many opportunities of public oversight. The Transparency & Disclosure policy, while clarifying the types of information that are meant to be public, at the same time formalises BIO's current approach to withhold information, unless BIO decides to make it public. In the new policy there are no clear grounds for BIO to withhold or

release information, nor a procedure specific to BIO, about who can decide on the need to release information, for instance, on the basis of significant public interest concerns.

- **People affected by BIO's operations remain on the sidelines of BIO's approach to E&S compliance.** BIO's accountability for the E&S commitments, particularly to the people who are meant to be the end beneficiaries of these commitments, is highly limited, and requires urgent attention and a change of approach. The key challenge for BIO is to reduce its heavy reliance on the self-reporting by clients; to rethink the current approach in its policy framework that monitoring should be 'reinforced' only in case of high-risk (mostly direct) investments, or that it gets triggered when things go wrong; and to create an expectation by its clients that external monitoring and site visits are part of routine operations by BIO, rather than an anomaly that suggests that BIO had lost trust in their operations. Currently, insufficient emphasis is also placed by BIO on creating a trust relationship with the local communities that experience direct or indirect impacts of its investments, thus ensuring that they feel safe and welcome to share their grievances with BIO's Grievance Mechanism.

On the basis of these reflections and the analysis produced in this chapter, here are some **key recommendations on BIO's accountability**, which build on the more specific and concrete recommendations outlined in the chapter. Going forward to improve its accountability, BIO should:

1. **Diversify sources of inputs to the Board's discussions, to ensure a diversity of expertise, approaches, and perspectives.** As well as maintaining and expanding the current diversity within the Board, this should entail creating an advisory function to the Board (with permanent task forces of stakeholders included in the Board's decision making in this way), and ensuring a more structured dialogue between the Board members, and the organisations in which they hold their professional roles.
2. **Ensure that a designated body within BIO oversees a compliance of BIO's operations with Belgium's international obligations.** This might include an oversight in a narrow sense, i.e. ensuring that BIO does not attract responsibility for BIO for internationally wrongful acts, and/or in a broader sense, which would be about ensuring that BIO's operations contribute to the implementation of Belgium's international commitments (e.g. the Paris Agreement, human rights treaties, etc.). This function could be assigned to the Board as a whole, or a specific task force or a committee within the Board.
3. **Align BIO's planning framework, as well as geographical and thematic focus, with the rest of the BDC.** As well as BIO having a more active role in the deliberation and implementation of the CSFs, BIO should adjust its emphasis to more territorially oriented goals and programmes, and reach out explicitly to the key private actors in the strategic sectors of the BDC. Analytical focus should also shift accordingly, from the focus on market, supply and demand analysis to the analysis of how a given investment would contribute (or

not) to the national, regional, or local development plans and objectives. Primary focus should be placed on creating development impact in the LDCs that are also partner countries of the BDC.

4. **Actively seek for opportunities for a more structured and strategic collaboration with other development actors in Belgium, and in the countries of intervention.** For instance, BIO should seek for co-funding or joint implementation opportunities with Enabel or other actors of the BDC, and include NGOs, both in Belgium but also at the local level, in the processes of decision-making and oversight of specific investments. It should also consult with the end-users and core stakeholders in deliberating or updating its key policies.
5. **Enter into a dialogue about a disclosure of information held by BIO.** Reliance on blank non-disclosure principles that positions a majority information managed by BIO as ‘internal’ or ‘confidential’ by default is not conducive to a constructive process of public accountability. The overall approach should be that of disclosure rather than withholding information, and should only be based on clear and specific exceptions identified in the policy. Grounds and criteria for withholding information should be introduced, and a process for requesting information should be put in place, to facilitate discussion and dialogue on this topic.
6. **Ensure systematic and routine external monitoring and evaluation of E&S compliance of all investments.** Since it might be not possible to continuously monitor every investment in all risk categories, it should be possible to introduce a model of monitoring and evaluation based on random selection, whereby all clients might be assessed routinely at any given time. This is particularly relevant in the context of indirect investments, and the portfolio companies of BIO’s PEFs. While this process is already taking place to some extent through a yearly evaluation of a selected sample of BIO’s investments,⁸⁵¹ this would be a different approach because it would require for BIO to monitor a random sample of investments (rather than the one chosen by BIO deliberately, in response to a specific theme); monitoring should be done of a larger number of investments (e.g. a chosen percentage of a portfolio); and it should be done based on the E&S commitments of that particular investment, rather than based on a more general assessment framework.⁸⁵² It would also be essential for these routine assessments to incorporate the input from the end beneficiaries and people affected by the investments. These evaluations should be published online, as part of the BIO’s portfolio information (if not in full, then at least parts that do not contain confidential information).
7. **Avoid relying on the reputation as a deterrent of E&S non-compliance, especially for indirect investments.** Instead, create opportunities for local communities and other actors

⁸⁵¹ Currently the yearly evaluations had mostly been assessed against the DAC OECD criteria, and also the extent to which it contributes to BIO’s additionality. Yearly evaluations are available here: <https://www.bio-invest.be/en/external-evaluation>.

⁸⁵² Ibid.

to have a bigger role in the monitoring and evaluation of investments and relevant E&S commitments. To that end, embed the Grievance Mechanism more explicitly in various stages of an investment cycle, to increase its visibility to affected people, and to create more opportunities for institutional learning from the grievances. Unless objected by the complainant, publish complaints submitted to the Grievance Mechanism, and the results of the grievance processes. Ask all BIO's investees to publish information about BIO's role as an investor, including, where major incidents occur, providing the workers or other people affected by the operations of that investment, with details of BIO's Grievance Mechanism.

- 8. Enhance the independence of a Grievance Mechanism and its efficiency.** This is particularly relevant at the investigation stage, and if and when a complaint proceeds to a dispute resolution and/or compliance stage. Independence could be enhanced by introducing an option of external expert reviewing a claim, if a complaining person prefers for an impartial observer to address help address their grievances, and by ensuring that a Grievance Mechanism manages an independent budget that does not rely on the management on BIO. BIO should also ensure that people who might be interested in submitting a claim have access to as much as possible information online, which should include information about BIO's decision-making process, along with funds and technical support.

RECOMMENDATIONS

This section offers an overview of the recommendations included in the study, mainly for practical purposes. The preceding chapters offer the necessary background.

Overall Recommendations

1.1. BIO's approach to the concept of sustainable development should be made more holistic by:

- Committing to avoid social and environmental harms in projects that are selected because they create jobs and economic growth;
- Setting more ambitious targets concerning access to basic services, and expanding the content of inclusiveness-related objectives;
- Ensuring increased positive impacts on natural environment; calculating and reporting in a forthright manner on negative impacts in its development assessment process.
- Taking into account the root causes of core development challenges that BIO aims to address, including the causes of inequality and economic dependence.
- Revising the objectives of the development assessment framework, to prioritize the protection of human dignity above other considerations and to strengthen the integration of human rights.

At the level of BIO law and/or the Management Contract, we recommend that BIO:

1.2 Reduce the minimum ticket size of Code 8 investments, and to increase the proportion of Code 5 investments in the overall portfolio.

1.3 Revise the financial return targets for Code 8 investments: rather than relying on the benchmarking with other DFIs or other financial variables, it would be most beneficial to identify the minimum possible level, necessary for these financial flows to be considered 'investments' rather than subsidies or liabilities.

1.4 Expand the potential ways of using subsidies provided to BIO, in particular for the purposes of supporting new and promising enterprises that apply for investment from BIO, and to create the possibility of supporting grievances by local communities.

1.5 Revisit the 1.2% cap on the management costs of BIO, provided that the average size of investment is reduced significantly, and if the overall ambition on the E&S issues and oversight is increased at the policy level and in practice.

1.6 Introduce a commitment to respect and fulfil human rights, and to apply the human rights based approach to development. Similarly, introduce a requirement for an alignment of BIO's policies and investments with the **Paris Agreement**, and other international environmental agreements.

1.7 Remove the objective of 'financial inclusion' from the Management Contract and replace it with more targeted and concrete development objectives concerning the role of financial sector. **Introduce a cap** on the size of a portfolio that can be invested in a financial sector and in the 'generalist' PEFs.

1.8 Introduce a requirement to prioritize 'home grown' MSMEs in the countries of intervention, and not multinational corporations (MNCs) or their subsidiaries.

On BIO as a Development Actor (Chapter 2)

2.1 BIO should be more ambitious in its aims to protect natural environment, equality, social cohesion, and respect for basic human rights. To achieve this, BIO should reflect on its in-house expertise in the areas beyond finance and economics, revise its parameters of assessing development impact, and adopt a more ambitious and better targeted E&S policy.

2.2. In BIO's annual report the percentage of its funding that is committed to different categories of developing countries, with a particular emphasis on how much it invests in the LDCs, and in which sectors, should be made available.

2.3. BIO is advised to stick to reporting the distribution of its investments *per thematic sector*, as merging sectoral contributions into general categories such as 'financial institutions' or 'funds' does not provide a sufficiently clear data to understand the thematic coverage of BIO's operations.

2.4. BIO should critically review the extent to which its investment in a financial sector is a 'marriage of convenience' between a good financial return, low risk, and the high demand originating from competent applicants; and whether such investments have sufficiently high development relevance, particularly when they are made outside of BIO's primary sectors of intervention.

2.5 BIO should enhance transparency about its investments through PEFs and use its financial leverage on the PEFs to increase the level of information about the companies in which Belgian public funds are invested.

2.6. BIO should focus its investments through PEFs on the specialised, thematic funds that are based in the target countries.

2.7. BIO should reconsider how it might enhance its approach to micro enterprises and small entrepreneurs, for instance, by rethinking their access to and the ability to take advantage of BIO's pool of subsidies.

2.8. BIO's financial and other support to multinational corporations should be scaled down and avoided where possible.

2.9. A greater part of subsidies managed by BIO could be used at the early stages of investment selection process, to nourish the pipeline of viable projects from applicants who do not have the initial know-how required to submit a strong investment proposal.

2.10. There is room for a more active role by BIO in generating and attracting more impactful projects that have a high development relevance, and that also enable access to funds to those who are most in need for assistance. Beyond organising training courses for entrepreneurs and representatives of enterprises – where BIO's recently created local offices could play a key role – cooperation with Enabel should be extended.

2.11. Standards such as UNDRIP, UNDROP and VGGT should be treated as benchmarks of best practice, and should have a more prominent, guiding role in structuring BIO's approach to the E&S issues, and to sustainable development more generally. In addition, BIO should adopt more of the self-standing E&S standards that are specifically tailored to BIO's institutional capacity, and that go beyond the IFC PS.

2.12 BIO will need to go beyond adapting a new EDFI Guidance Note on human rights in order to achieve the human rights based approach to development. It would need to revise its E&S assessment framework, and ensure the implementation of the MEET principles. This would require strengthening its staff capacity in this area. At a more foundational level, BIO's development assessment would need to undergo a major shift from economic performance to rights.

2.13 BIO could improve its initial assessment and on-going evaluation of investments in funds and financial institutions by reaching out more proactively to final beneficiaries, and by cross-checking the E&S reporting through communication with randomly chosen portfolio companies.

2.14 The core parameters of the Contextual Risk Assessment Tool should be made public. CSO's should be granted the possibility to input data on a given sector/local area. Further avenues to provide external feedback on the information collected through this tool, and its interpretation in relation to a given project should be opened.

2.15 The model of due diligence currently employed by BIO should be adjusted to the new realities of limited international travel, whereby external experts would hold more responsibility and more prominent role in assessing investments, including possibly some role in liaising with BIO's prospective clients.

2.16 BIO could consider significantly reducing the number of intervention countries which would allow establishing a liaison office in each of them. Alternatively, an in-between solution (between 'internal' assessment by staff members and a purely external assessment), would be to create a roster of experts to conduct the E&S due diligence for BIO, which would strengthen the affiliation between BIO and 'its' experts, and which in a long run might foster expert independence, capacity building, a higher degree of responsibility, and firmer research ethics.

2.17 The BIO Board should more rigorously and systematically scrutinize the non-financial aspects of the sustainability of BIO's investments.

2.18 The BIO Board should include individuals and/or representatives of organisations from the Global South, at least in an expert capacity.

2.19 A more direct channel of communication between BIO and Belgian civil society organisations working in the areas of poverty reduction, human rights, and sustainable development should be created.

2.20 BIO's approach to community engagement should be improved by:

- Adopting an explicit commitment to community benefits and engagement at a policy level;
- Overseeing community engagement by the client;
- Making public community engagement oversight procedures including to local communities;
- Periodically assessing a random sample of community engagement processes by portfolio companies of chosen PEFs;
- Ensuring a level of *direct* oversight of community engagement processes in CFV contexts, and by adjusting BIO policies to accurately reflect the issues of community safety in such situations.
- Promoting more CSR initiatives in its portfolio.
- Ensuring a more targeted and receptive community engagement during due diligence. It should be up to the communities and other local stakeholders, rather than BIO, to decide whether a certain E&S issue can indeed be treated as an E&S opportunity, or whether it is a harm that should be avoided.

On Investing in Agri-Food Chains (Chapter 3)

In light of the central role that agricultural development plays in the Ministry's vision of Belgian ODA, and given the composition of BIO's agri-food portfolio, its vision of the sector and the

broader commitment towards human rights, the Sustainable Development Goals and climate change adaptation and mitigation, we have formulated three sets of recommendations. The first set concerns the overall approach to food systems and the way in which they are presented, assessed, invested in, and transformed. The second deals with investments in large-scale agribusiness (agri-industry and plantations). The final set refers to the role that BIO shall or may have vis-à-vis small-scale farmers.

As to BIO's overall approach to food systems in light of its national and international obligations, BIO should:

- 3.1 Align its investments in agri-food sector with Belgium's commitment to dedicate at least 15% of Official Development Aid every year to the agricultural sector;
- 3.2 Adopt a systemic definition of 'agribusiness' investment to be applied to all BIO's investments (direct and indirect) that concern the food system (from farm to fork);
- 3.3 Integrate BIO's current workforce with experts who have a food system background and a strong understanding of the link between food systems, human rights and climate change
- 3.4 Adopt a clear commitment to protecting, respecting, and fulfilling the right to food and a comprehensive definition of food and nutrition security that must be upheld by all BIO's investments
- 3.5 Review all existing investments through the lenses of the right to food and food and nutrition security parameters and exit from investments that do not have a positive impact on both.
- 3.6 Establish a permanent, diverse and transparent Agri-Food Task-Force to provide guidelines, comments and a space of open participation on such a crucial area for Belgian Development Cooperation;
- 3.7 Add GMOs and New Genomic Techniques (NGTs) to the exclusion list;
- 3.8 Align food and agricultural investments to Belgian climate and biodiversity commitments, in particular with a strong focus on funding agroecology and territorial food chains;
- 3.9 Define and implement a human rights and climate-based investment strategy on the fish and livestock sector;
- 3.10 Elaborate a HR-based approach to digitalization of agriculture that is informed by the principle of 'leave no one behind'.

As to investments in large-scale agri-business, BIO should:

- 3.11 Add large-scale agri-industry and plantations to the exclusion list.

At any time when BIO is nevertheless considering such an investment BIO should:

3.12 Organise an effective and transparent procedure to guarantee the expression of the people's right to self-determination and development;

3.13 Implement the highest standards in terms of free, active and meaningful participation (and, when applicable, Free, Prior and Informed Consent) of the local populations; to realise an ex-ante human rights and gender impact assessment;

3.14 Make sure that the support to de-carbonization, agroecological practices and biodiversity regeneration are priorities for future agricultural investments;

3.15 Guarantee that food and agricultural investments are defined, understood and financed in the context of the complex food, land, water, agricultural and energy nexus;

3.16 Meaningfully involve local communities and Belgian civil society in the ex-ante definition of the project partnership and the ESAP and subordinating investments to the active, free and meaningful participation of affected individuals and communities;

3.17 Introduce the contractual obligation for its client that living wages and living income are guaranteed across the whole chain;

3.18 Exclude from funding companies that have been previously responsible for proved violations of land and human rights in light of the risk of replication of past patterns and the reputational risk of being associated with an investor who has been already criticized internationally.

For all investments in large-scale agri-industry that have already been realised, and if any future investment of this kind is approved in the future, BIO should:

3.19 Actively and meaningfully be part of the relationships between the company and the communities and open that space to Belgian civil society actors as human rights and environmental watchdogs;

3.20 Guarantee full transparency at least when it comes to human rights, environmental and gender issue, and guarantee access to all the relevant ESAP information in its possession by any interested third party;

3.21 Commit to a continuous and meaningful direct interaction with the local communities not mediated by clients;

3.22 Conduct regular ex-post human rights and gender impact assessments of large-scale agri-food investments, based on a combination of qualitative and quantitative data and make the results public;

3.23 Amend the transparency policy and publish the annual assessment of the clients' performance vis-à-vis the contractual E&S conditionalities and;

3.24 Request that all land transactions, contracts and arrangements with local communities are realised in respect of the international human rights standards, communicated to

the local communities, published on the website of the company and published on the BIO website.

As for investments involving small-scale farmers

To systemically engage with the Sustainable Development Goals and achieve the interconnected objectives set out by the Belgian Development Cooperation framework, BIO shall be at the forefront of investing in agroecological, short and territorial food chains that provide the economic development of smallholders, the consolidation of local markets and increase the environmental sustainability of food. However, BIO does not directly invest in any agroecological project and its investments in Private Equity Funds to reach smallholders seem to have a limited role in supporting the establishment of local markets. The move away from export-led farming and monoculture would not be a denial of market and private initiative, but the choice of different markers and of territorially embedded ways of enhancing people's livelihoods. As to BIO's role with regard to investing in small-scale farmers, BIO should:

3.25 Commit to the adoption of a broader consideration of the multiple risks (financial, crop, resilience, loss of autonomy, etc.) that smallholders would face when entering into monocultural, export-led, debt-supported schemes promoted by their clients;

3.26 Avoid contract farming and outgrowers schemes or, at least, embed them in a new strategy for investments that has human rights, climate change, and food and nutrition security at the centre;

3.27 Introduce a mandatory ex-ante and ex-post impact assessment of the implications that the shift to monoculture, cash crops and distant markets have on local food and nutrition security and the right to food;

3.28 Adopt a living income and living wage policy and require that their clients apply it all across their chains;

3.29 Complement the quantitative approach to women empowerment with a qualitative approach to gender that goes beyond income generation and takes into consideration the way in which investments address the systemic causes of women's marginalization (such as access to land and the 'monopoly' of reproductive labour) or intensify them;

3.30 Make sure that investments reach beyond the low-hanging fruits and that the socio-economic potential of agriculture and food chains is exploited.

On Energy Investments and Climate Finance (Chapter 4)

In response to the reflections and tensions we identified in relation to BIO's climate-related portfolio and BIO's role in channelling international climate finance, we propose the following four trajectories as recommendations.

4.1 BIO should commit to not finance either directly and indirectly what is increasingly revealing to be outside plausible climate resilient pathways of decarbonization and adaptation. This includes project types that generally involve long-term risks (hence difficult to assess) over ecosystems. It should also build up an exit strategy for the existing investments in the fossil-fuel value chain, with the aim of avoiding financial risk and ensuring the just transition of workers reliant on those projects. Therefore, BIO should pledge not to finance:

- Any project in the fossil-fuel value chain, including all fossil-fuel based power stations;
- Medium or large hydropower power stations and related dams (>25MW of cumulative installed capacity);
- Agro-forestry projects based on mono-cultures or that are not designed on a detailed ecosystem conservation and restoration approach; and
- Any investments reliant on the generation of carbon offsets like the CDM, if such investment involve a large-scale project (eg. hydropower or waste / livestock manure management).

4.2. BIO should explore the following means for mobilizing and channelling finance towards higher financial risk / higher impact projects, to overcome its lack of additionality in renewable energy infrastructures and project an image of a cutting-edge and dynamic climate development bank:

- Generally, given the positive outcomes of some of its existing investments, it should further explore and source projects for solar PV farms (eg Ten Merina) and geothermal (eg Polaris Energy Nicaragua), but also engage directly in off-grid solar energy production and distribution in rural areas in need across Sub-Saharan countries. BIO could achieve this by relying on its 'Code 5' capital and capital earmarked for climate;
- BIO should cooperate with Enabel to generate synergies and catalyse additional finance for cutting-edge climate mitigation and adaptation projects that benefit SMEs in least-developed target countries. In this sense, BIO and Enabel could explore the possibility of designing and submitting projects for the GCF's private sector facility. More simply, BIO could tap into and engage with Enabel's work in designing new projects under the GCF and explore avenues for its involvement;
- BIO might benefit from exploring finance options for activities in the context of recent circular economy assessment and strategies that certain least-developed countries are considering through the help of UNDP. These could be targeted both for mitigation and adaptation programmes geared to create private sector involvement in 'circular products or services'. BIO could also explore developments under the Loss & Damage framework of the Paris Agreement and assess whether it could play a role in supporting risk insurance facilities for climate-related disasters and onset events, although such intervention should not be claimed to be a form of climate finance, but a means to redress historical inaction on climate change.

4.3. BIO should scale-up its capacity in identifying and assessing the indirect impacts of its energy investments. It could do so by:

- expanding its development impact indicators and E&S assessment to human rights due diligence; means to assess active, free, and meaningful participation in development and the negative financial feedbacks that its indirect investments might have on the financial situation of national public utilities and on communities in terms of sustainable energy tariff levels in line with affordable access to energy.
- Another means to achieve this could be to re-structure the composition of formal or informal process of its Board. The aim should be to give increased capacity and attention to strategic qualitative aspects of each investment, which can hardly be captured by quantitative models and estimates.

4.4. BIO's internal strategy and policies should be further streamlined and re-structured in a way that will reflect the centrality of climate change in its future agenda. This might involve a change in the Management Contract that would set more specific boundaries and goals of climate finance, also in line with the suggestions above. It would also require re-envisioning the relationships of the SDG goals in its Theory of Change, to give a more central role to SDG13 on Climate Action.

On BIO's Accountability (Chapter5)

On BIO's Board, access to information, and public accountability:

5.1. BIO should create a more explicit framework of exchange of information and dialogue between the Board, and the sectors and institutions where the Board members hold their professional roles (government institutions, civil society, businesses).

5.2. BIO's Board should be made more diverse by hiring external experts in certain areas, and/or by creating open and permanent task forces, which would act in an advisory capacity to the Board on the topics that are most challenging in BIO's portfolio (e.g. on agriculture and climate finance)

5.3. BIO and its shareholder should ensure that a designated body within BIO oversees compliance of BIO's operations with Belgium's international obligations. This function could be assigned to the Board as a whole, or a specific task force or a committee within the Board.

5.4. NGOs and BIO should identify the points of mutual interest. BIO should create more systematic and ex ante opportunities for NGOs to provide inputs on BIO's policy framework, and on the E&S elements of specific investments. A timely publication of information about new BIO's investments could give NGOs the opportunity to question a specific investment before its physical footprint materialises and has impacts on people's livelihoods.

5.5. BIO should engage in a public debate about the extent to which BIO's intention to invest in a given country, sector or territory, could and should be made public in order to be able to alert local stakeholders about these developments.

5.6. The content and format of BIO's Annual report should be more detailed, standardised across the years, and more focused on a critical reflection of BIO's development and E&S impacts.

5.7. Since a need for confidentiality of information co-exist with a need to ensure access to information for public interest (particularly in E&S impacts), this dilemma should be resolved by BIO in a proactive way that guarantees very limited exceptions to the right to access information.

5.8. Grounds and criteria for withholding information managed by BIO should be introduced, and a process for requesting information should be put in place, to facilitate discussion and dialogue on the topic of transparency.

5.9. Investment selection procedure has direct relevance for the people affected by BIO's investments, and should therefore be made public. More information on BIO's internal decision-making processes should be provided to facilitate the accessibility of grievance processes, particularly the compliance function of the Grievance Mechanism.

5.10. BIO should release the information about which investments were subject to grievances, on what grounds, and what were the findings and remedies.

5.11. BIO should either publish its past investments online indefinitely or create a readily accessible permanent online archive of all its investments, where it would store all the relevant information that could be retrieved by external observers if and when necessary.

On alignment with the rest of the BDC:

5.12. Primary focus of BIO should be on creating development impact in the LDCs that are also partner countries of the BDC. BIO should prioritise investing in the countries of the BDC, even if those investments require more work in terms of improving the quality of the applications and helping the prospective clients to mature their business strategies. It should also use more of the subsidies available to BIO to nourish the pipeline of viable investments in those countries.

5.13. BIO should adjust its emphasis to more territorially oriented goals and programmes. Analytical focus of BIO should also shift from the market and supply and demand analysis to the analysis of how a given investment would contribute (or not) to the national, regional, or local development plans and objectives.

5.14. BIO's access to promising investees could be increased by building on Enabel's operations in the LDCs. BIO should also actively 'scan' the BDC strategic sectors there with a help of the BDC partners in each country, with a view of identifying and supporting the most promising entrepreneurs.

5.15. BIO could cooperate with other actors of the BDC in applying for external funding opportunities. This would at least partially address an issue of BIO being unable to ‘mix’ different types of funds in a single investment.

On the accountability to local communities and workers, for the E&S impacts of investments

5.16. A risk category of a planned investment should be made public as early as possible in the screening process. In particular, the planned investments in high and medium-high risk categories (A and B+) should be announced on BIO’s website as early as possible, and no later than when BIO decides to proceed to a due diligence stage of its investment selection process, to enable NGOs to monitor those projects and to reach out to affected communities.

5.17. Information on what E&S measures are planned for a given investment and what has been done (or not) must be available, on the websites of BIO, the fund, and the company, including in the local language. This includes disclosing full Environmental and Social Plans (ESAPs) of investments.

5.18. BIO should rely less on risk categorisation to determine whether a review of E&S compliance is necessary by an external consultant. It should introduce a clause in its contracts with clients that investments *might* be monitored based on a random selection of investments.

5.19. BIO should introduce a requirement to routinely monitor E&S compliance of a randomly chosen sample of PEF portfolio companies by an independent consultant.

5.20. A more active involvement of final beneficiaries of E&S commitments during the monitoring stage could ensure an on-going monitoring and evaluation at the local level.

5.21. NGOs and other external observers could be given a role in adding investments to the E&S Watchlist, updating it, and providing input on the most appropriate compliance measures.

5.22. BIO should actively promote its Grievance Mechanism among the people potentially affected by its investments, particularly in cases of high or medium-high risk planned investments. This should include PEFs and their ‘high risk’ investments.

5.23. BIO should enhance independence of its Grievance Mechanism, by adding a possibility for the grievances to be appraised or investigated by an external independent expert, upon a request by the complainant.

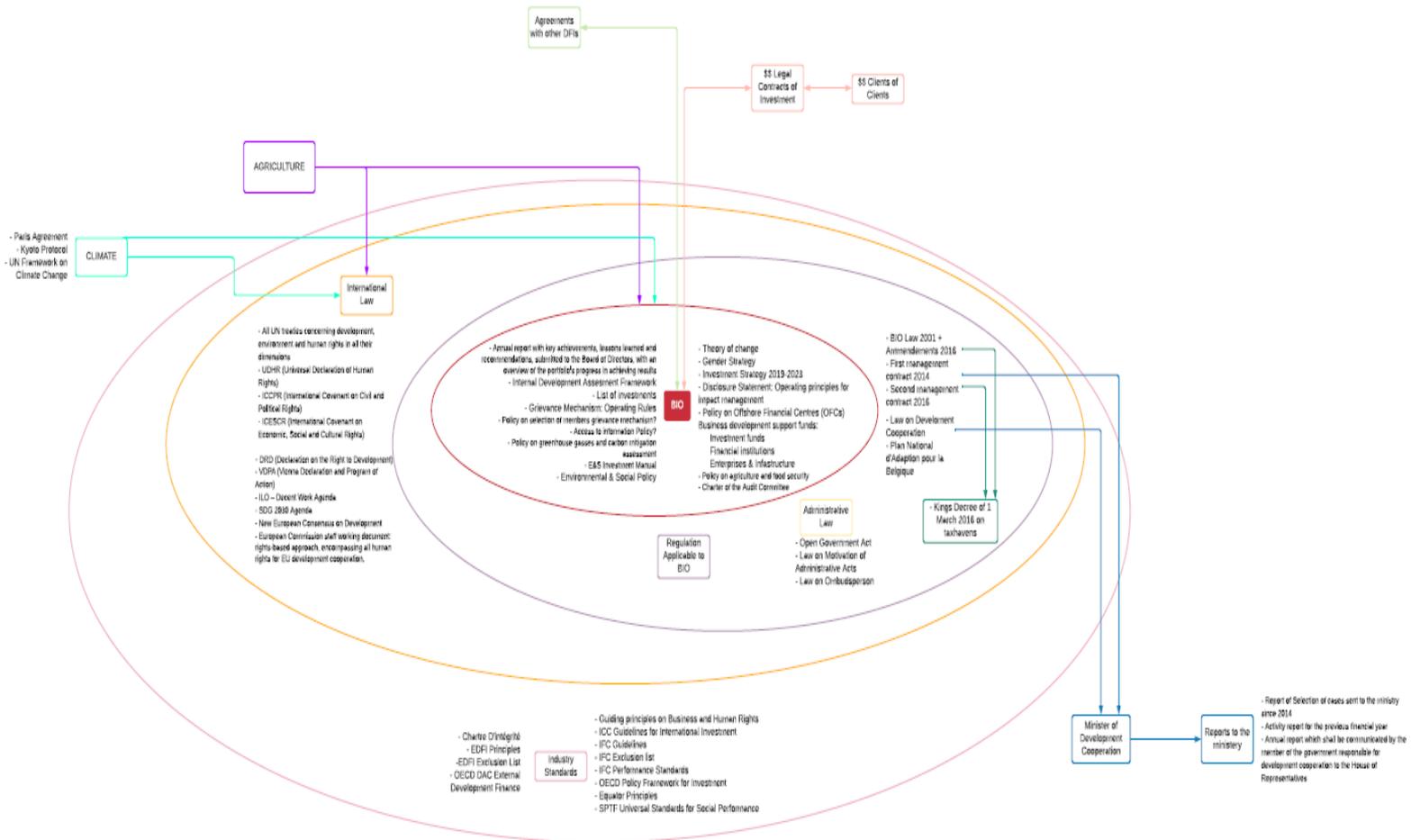
5.24. A public registry for all complaints received by the Grievance Mechanism should be created, identifying the investments to which complaints were addressed and on what topics, also what were the main findings of the investigation and what was the follow-up process, if any. A decision could be taken to exclude a complaint from the registry if a complaining person asks for it, to protect their personal identity and safety.

5.25. Community participation and representation in the process dispute resolution and/or compliance review process should have an earmarked budget, which could be used to support such

community engagement, where it creates costs for people affected by BIO's operations; especially in case of complex investments involving multiple DFIs.

ANNEX 1

BIO's legal and regulatory framework



ANNEX 2

Table A2.1: BIO's outstanding investment in Private and Debt Fund – Agri-Food Investments

Fund	Investee	Investment	Country	Sector	Outstanding Commitment Euro
Africa Sustainable Forestry Fund II	Mphome	Equity	South Africa	Timber	730.573
	Vuka Timbers	Equity	South Africa	Timber	133.956
African Rivers Fund	Qualicoff	Equity	Uganda	Agroindustry	463.280
Africinvest	NCA	Equity	Algeria	Fruit beverage	174.741
	Reef Hout	Equity	Cameroon	Timber	55.367
AgRIF	Green Forest	Loan	Bolivia	Microfinance	15.208
	Coagricsal	Equity	Honduras	Microfinance (coffee)	63.462
	Cocoasource	Equity	Ivory Coast	Microfinance (cocoa)	62.462
Agri-Vie Fund II	Capital Fisheries Limited	Equity	Zambia	Transportation	364.747
	FSDCo IC equity	Equity	Tanzania	Agroindustry	117.814
	Jumbo Brands	Equity	South Africa	Fast moving consumer goods	142.527
	Marginpar Group	Equity	Kenya	Cut flower production	488.501
	PPHL	Equity	Tanzania	Packaging	100.573
	TerraSan	Equity	South Africa	Aquaculture	774.705
Cambodia Laos Myanmar Development Fund II	BAFCO Invest AB (Burapha)	Equity	Laos	Forestry & Environmental Services	466.856
	Khmer Dairy Holdings Pte	Equity	Cambodia	Milk	280.114

Catalyst I	Yes Brands Foods and Beverages	Equity	Ethiopia	Mineral water	629.475
Catalyst Fund II	Britania Foods Limited	Equity	Kenya	Fast moving consumer goods	1.104.869
Coreco Central American Fund I	Directores Estrategicos (Save-A-Lot)	Equity	Guatemala	Food retailer	607.954
	Roland	Equity	Guatemala	Cashew nut	217.186
	Tegu	Equity	Honduras	Wooden toys	694.506
EcoEnterprises Partner	FLP Global (Loan) IC	Equity	Colombia	Fruits	350.943
	Omega Azul IC	Equity	Mexico	Aquaculture	210.566
Ethos Mezzanine Partners 3	Chibuku	Equity	Malawi	Fast moving consumer goods	424.944
European Financing Partners IV	ETG	Loan	Mauritius	Agroindustry	48.088
	Indorama Eleme Fertilizer	Loan	Nigeria	Petrochemical & Gas	452.579
Fair Trade Access Fund	19 investments	Equity	LATAM + Africa	Agribusiness	3.000.000
Grofin Africa East Fund	Join Hands Enterprise	Equity	Rwanda	Agroindustry	660
	Joruth Enterprise Ltd	Equity	Kenya	Food retailer	2.067
I&P Afrique Entrepreneurs II	Afribon	Equity	Mauritius	Agroindustry	129.547
	Soafiary	Equity	Madagascar	Fast Moving Consumers Good	N/A
Maghreb Private Equity Fund III	AJP (Valencia)	Equity	Morocco	Beverages	265.976
Maghreb PEF IV	Land d'Or	Equity	Tunisia	Fast moving consumer goods	999.320
Omnivore Partners India Fund II	Banger Tech Private Limited (Doodhwala)	Equity	India	Milk	292.465
	Coastal Aquaculture Research Institute Private Limited	Equity	India	Agroindustry	65.803
	Green AgRevolution Private Limited ("DeHaat")	Equity	India	Agroindustry	130.592
	Intello Labs Pvt Ltd	Equity	India	Agroindustry	81.498
	Krishnacharya Technology (Bijak)	Equity	India	Agroindustry	37.600
	Tartansense Aerial Sense Tech Private Limited	Equity	India	Agroindustry	34.513
	Wolkus Technology Solutions Private Limited	Equity	India	Agroindustry	55.486

Phatisa	Rolfes Group (2021)	N/A	South Africa	Ag. Chemicals	N/A
	FES (2021)	N/A	Malawi/Zambia	Ag. solutions	N/A
Tide Africa	Twiga Foods (Debt) IC	Loan	Kenya	N/A	52.978
	Twiga Foods (Equity) IC	Equity	Kenya	N/A	531.129
VenturEast Proactive Fund	Goli VadaPav	Equity	India	Food Retailer	231.981
Zokales Fund II	Ahadukes Food Products S.C.	Equity	Africa	Fast Moving consumers Goods	536.448
TOTAL					15.498.137

Source: BIO, 2019, elaborated from data provided by DGD

Table A.3: BIO's outstanding investment in Private and Debt Funds – Energy and climate

Fund	Investee	Investment	Country	Sector	Outstanding € (2019)
Africa Renewable Energy Fund	Achwa 1	Equity	Uganda	Hydropower	1,386,596
	Achwa 2	Equity	Uganda	Hydropower	1,566,279
	Achwa 3,4,5	Equity	Uganda	Hydropower	10,227
	Angola	Equity	Angola	Hydropower	18,138
	APSD	Equity	Ghana	Biogas	457,493
	Azimuth	Equity	Ghana	Solar	206,793
	BE Ghana	Equity	Ghana	Biogas	4,783
	BE Uganda	Equity	Uganda	Hydropower	10,802
	Bugoye Hydro Limited	Equity	Uganda	Hydropower	602,461
	Cameroon Hydro	Equity	Cameroon	Hydropower	254,630
	Corbetti Geothermal	Equity	Ethiopia	Geothermal	723,963
	Kigati	Equity	Uganda	Hydropower	1,674,508
	Mahitsy	Equity	Madagascar	Hydropower	1,090,572
	Makambako	Equity	Tanzania	Wind	9,418
	Maroantsetra	Equity	Madagascar	Hydropower	28,461
	NEK Konikablo	Equity	Ghana	Wind	23,548

	Sahanivotry	Equity	Mada-gascar	Hydropower	627,887
AfricInvest Fund II	Broron Oil & Gas	Equity	Nigeria	Offshore services (Petrol & Gas)	136,574
Argan Infrastructure Fund	Acwa Power Khalladi	Equity	Morocco	Wind	1,883,000
Beyond The Grid Solar Fund (BTGSF)	Astonfield Solesa		Kenya	Solar	274,429
	D.Light	Debt	Mauri-tius	Solar	584,157
	M-KOPA	Debt	Kenya	Solar	519,442
	Off Grid Electric	Debt	Côte d'Ivoire	Solar	207,913
	Off Grid Electric 2018	Debt	Tanzania	Solar	311,869
	PEG Africa	Debt	Ghana	Solar	304,086
	SolarKiosk	Debt	Kenya	Solar	241,283
	SolarNow	Debt	Tanzania	Solar	56,957
	SolarNow SAFI I	Debt	Uganda	Solar	119,639
	SolarNow SAFI II	Debt	Uganda	Solar	213,641
	SolarNow SAFI III	Debt	Uganda	Solar	106,820
	Sunergise	Debt	Pacific	Solar	245,346
EcoEnterprises Partners III, LP	Sistema Biobolsa (Debt) IC	Equity	Mexico	Biogas	38,994
	Sistema Biobolsa (Equity) IC	Equity	Mexico	Biogas	77,987
European Financing Partners (EFP)	CEC	Debt	Zambia	Power transmission	0
European Financing Partners II (EFP) FOI	Olkaria	Loan	Kenya	Geothermal	0

	Rabai Power Ltd.	Loan	Kenya	Thermal power plant	71,774
	Jamaica Public Services (JPS)	Loan	Jamaica	Power transmission	55,942
Frontier Energy II	Bukwo HPP Ltd	Equity	Uganda	Hydropower	141
	BVC Geothermal Ltd.	Equity	Kenya	Geothermal	123,424
	Chania Green Generation Ltd.	Equity	Rwanda	Wind	362,881
	DC Frontier Energy Ltd.	Equity	Rwanda	Hydropower	86,460
	Djibouti Solar Park 1 Ltd	Equity	Djibouti	Solar	26,482
	Eldosol Energy Ltd.	Equity	Kenya	Solar	652,735
	Elemental Energy Ltd.	Equity	Uganda	Hydropower	32,991
	Esikipeto Power Generation Ltd.	Equity	Kenya	Wind	57,486
	Eventure Africa S.A. (Portugal)	Equity	Mozambique	Wind	9,385
	Frontier Energy Hydropower Ltd.	Equity	Zambia	Hydropower	12,375
	Greenewus Energy Africa Ltd	Equity	Uganda	Hydropower	449,998
	Kiwira Energy Limited	Equity	Tanzania	Hydropower	4,457
	Momba Hydropower Limited	Equity	Tanzania	Hydropower	12,686
	Mukoki HPP Ltd.	Equity	Uganda	Hydropower	3,285
	Ndugutu Hydro Power Company Uganda Ltd	Equity	Uganda	Hydropower	179,459
	Nithi Hydro Power Ltd.	Equity	Kenya	Hydropower	54,652
	Olsuswa Energy Ltd.	Equity	Kenya	Geothermal	40,741
	Radiant Energy Ltd.	Equity	Kenya	Solar	886,708

	Range Wind Park Limited	Equity	Kenya	Wind	25,364
	Rukarara VI HPP Ltd.	Equity	Rwanda	Hydropower	15,123
	Rwenzori Hydro (PVT) Ltd	Equity	Uganda	Hydropower	506,625
	Wind for Prosperity Kenya Ltd.	Equity	Kenya	Wind	12,531
	Ziba Ltd.	Equity	Uganda	Hydropower	76,035
I&P Afrique Entrepreneurs II	Rensource	Equity	Nigeria	Hydrocarbon products distribution	177,252
Interact Climate Change Facility	Azito	Debt	Côte d'Ivoire	Thermal power plant	581,700
	Eolos I	Debt	Turkey	Wind	408,918
	Mongolia wind	Debt	Mongolia	Wind	825,643
	Reliance power I	Debt	India	Solar	1,105,278
	TICO	Debt	Ghana	Thermal power plant	703,919
	VESA	Debt	Honduras	Wind	725,775
Latam Growth Fund Ltd.	Hidroelectrica (equity)	Equity	Peru	Hydropower	0
	Hidroelectrica (loan)	Loan	Peru	Hydropower	0
Maghreb Private Equity Fund II	Saigon Gas	Equity	Vietnam	LPG distribution	0
MSEF II	MGM Alumbrados Publicos Colombia SAS	Equity	Colombia	Solar	1,049,829
	MGM Energia Eficiente Brasil	Equity	Brazil	Solar	197,110
	MGM Energy Efficiency Colombia SAS	Equity	Colombia	Solar	1,444,054
Renewable Energy Asia Fund II	India C&I Solar Portfolio	Equity	India	Solar	698,256
	Isabela Power Corporation 1 (IPC 1)	Equity	Philippines	Hydropower	936,516

	Isabela Power Corporation 2 (IPC 2)	Equity	Philippines	Hydropower	102,715
	Lombok Solar	Equity	Indonesia	Solar	250,571
	Markham Hydros - Kiangan	Equity	Philippines	Hydropower	781,599
	Mirkala Solar	Equity	India	Solar	609,140
	Philippines Hybrid Energy System Inc. (PHESI)	Equity	Philippines	Wind	2,029,393
	Philippines Hybrid Energy System Inc. 2 (PHESI 2)	Equity	Philippines	Wind	90,267
	Quantum Solar	Equity	Indonesia	Solar	1,014,397
	Selo Kencana Energi (SKE)	Equity	Indonesia	Solar	626,510
	Tasma Bioenergy	Equity	Indonesia	Biogas	265,531
	Thai C&I	Equity	Thailand	Solar	689,711
Renewable Energy Asia Fund Partnership	Alps Hydro Power Private Ltd (Jhala Koti)	Equity	India	Hydropower	168,356
	Isabela Power Corporation	Equity	Philippines	Hydropower	251,267
	Kharnal Hydro Electric Project Private Limited	Equity	India	Hydropower	138,659
	Lake Mainit Hydro Generation	Equity	Philippines	Hydropower	492,410
	Montalban Methane Power Corp.	Equity	Philippines	Waste to energy	657,817
	Panama Wind (Project Mirkala / Panama 2)	Equity	India	Wind	1,221,830
	Panama Wind (Project Satara / Panama 1)	Equity	India	Wind	2,088,802
	Philippines Hybrid Energy System Inc. (PHESI)	Equity	Philippines	Wind	1,113,132

	Puting Lupa Geothermal	Equity	Philippines	Geothermal	28,179
Off-Grid Solar and Financial Access Senior Debt Fund (SIMA)	Aress	Loan	Benin	Solar	27,141
	Azuri	Loan	Kenya	Solar	203,560
	BBOXX Kenya	Loan	Kenya	Solar	203,560
	Biolite	Loan	N/A	Solar	203,560
	D.Light Design Inc	Loan	Kenya	Solar	644,606
	Eco Energy	Loan	Pakistan	Solar	30,998
	Greenlight Planet Inc	Loan	India	Solar	644,606
	M Kopa	Loan	Kenya	Solar	339,266
	Mobisol	Loan	Tanzania	Solar	293,404
	OPES Solutions	Loan	China	Solar	101,780
	Solargen	Loan	Kenya	Solar	40,714
	SolarNow Uganda	Loan	Uganda	Solar	275,824
	Supamoto	Loan	Zambia	Solar	33,248
South Asia Clean Energy Fund (SACEF)	Concord Enviro Systems Private Limited	Equity	India	Energy efficiency	1,022,878
	EC Global Limited / IEX	Equity	India	Energy efficiency	0
	KALKI Communication Technologies Limited	Equity	India	Energy efficiency	128,180
	ReNew Power Ventures Private Limited	Equity	India	Energy efficiency	1,305,776
	Rishabh Instruments Private Limited	Equity	India	Energy efficiency	516,338

	Shakti Pumps Limited	Equity	India	Energy efficiency	320,949
TransAndean Early Stage Equity Fund	Hidroelectrica (SAC)	Equity	Peru	Hydropower	0
	Petroworks (equity)	Equity	Colombia	Drilling services (oil industry)	0
	Petroworks (loan)	Loan	Colombia	Drilling services (oil industry)	0
VenturEast Proactive Fund	Bharat Light and Power	Equity	India	Wind	291,009
				Total outstanding €	45,880,369

Source: BIO (2019) elaborated from data provided by DGD

Note: the list includes all energy-related investments, including those in the fossil fuel value chain. The funds listed might have other projects related to areas of BIO intervention other than energy. Few corrections as to the type of project investment have been made as a result of a desktop research on each investment voice.

ANNEX 3

Example 1) Babban Gona Franchise Scheme – 1.8m, code 8 (2019)

Babban Gona, is an agricultural franchise model launched in 2012 by Masha Kola, a Nigerian with an Master's Degree in Business Administration from Harvard and a Master's in Mechanical Engineering from the Massachusetts Institute of Technology Degree.⁸⁵³ Masha Kola was Managing Director and CEO of a major subsidiary in the Notore Group, one of Nigeria's leading agricultural conglomerates, where he raised US\$24 Million to develop an integrated agricultural trading, production and processing business.⁸⁵⁴

Babban Gona supports small-scale farmers to create a network of grassroots-level farmer cooperatives to help them create larger economies of scale. The company brings them together in a great farm and provides them with loans and other forms of material support to transform small-holders into profitable and productive entrepreneurs. This franchisee scheme is based on kin and on a psychometric test that has been developed by Babban Gona, which is used to predict “which individuals will be great leaders and offers them the possibility of joining the business as franchisees.”

Babban Gona's relies on a franchisee structure to expand the network, a structure that forms some features remind that of pyramidal sales and that would need some further investigation in terms of procedures, lock-ins and conditionalities. BIO website dedicates a focus story to the founder of the company, who mentions that: “we focused on how to optimise our acquisition process with an easy-to-use application. Basically, someone can be sitting next to somebody at a wedding, tell them about Babban Gona, and take them through the psychometric testing process. Applicants can even use facial recognition to register before their loan is dispersed.”⁸⁵⁵

Babban Gona supports the transition from smallholder to enterprise by offering: a) “commercial guidance so that farmers start thinking of their farms as businesses. Then, there's education on farming techniques. Thirdly, we provide credit designed to optimise the yields. It includes labour-

⁸⁵³ Babban Gona, Agri-Franchising Model: Scaling Up Challenges, available at: <https://www.icmrindia.org/casestudies/catalogue/Leadership%20and%20Entrepreneurship/Babban%20Gonas-Excerpts.htm> [last accessed 24 April 2021].

⁸⁵⁴ <https://babbangona.com/team/kola-masha/>.

⁸⁵⁵ BIO, Fixing the Value Chain, 08 November 2019, available at: <https://www.bio-invest.be/en/our-impact/impact-stories/fixing-the-value-chain> [last accessed 24 April 2021].

saving products and requires very limited collateral. The package begins with a farm analysis, where we map their fields and do a soil health assessment, so we know what nutrients it needs. Afterwards, we offer these nutrients for sale, as well as the highest quality seeds. After these initial services, every two to four weeks we will visit to offer advice and guidance, all the way to harvest, at which point we will literally provide empty bags, as well as the needle and the thread to sew them up. Finally, we offer marketing services, starting with a network of transportation contractors akin to Uber. They move the produce from the fields to one of our fifty collection centres. There we weigh and grade the product, issue a receipt against the value of the product, and then offer the farmers a loan against the value. In this way, they have cash in their pocket for pressing needs like school fees. As their agent, we then sell their produce over the next nine months. We are able to deliver the profits every quarter as a dividend payment.”

The use of the franchise model raises, the double role of farmers as both producers and agents of the scheme, and the request for collaterals (although limited) raise concerns in terms of financial risks and dependence on the scheme. In addition, the pivotal role of AGRA (see box xyz below), a company that has been recently accused of being the ‘puppet of corporate actors’ suggests that the agricultural practices and long-term socio-environmental sustainability of the project shall be assessed with care and shall have been assessed at the time of the loan.

Finally, Babban Gona is supported by His Highness Muhammad Sanusi II, the Sarkin (Emir) Kano, Nestle, IITA, DfID, USAID, GIZ, AGRA, BMGF, Skoll, Kiva, FMCB, Mulago, GIF and the Rockefeller Foundation. Given the success of the project, the wide support, and the easy access to private and public funding, the additionality of the 2019 loan provided by BIO appears unclear.

Example 2) Fair Trade Access Fund – 3m Euro, code 5 (2019) and 300k technical assistance grant (2019)

The Fair Trade Access Fund (FAF) is an open-ended fund created by Incofin Investment Management (Incofin IM) in 2012 in partnership with Fair Trade International, the Grameen Foundation and Incofin CVSO. Incofin IM itself is a spin-off of Incofin CVSO, an investment cooperative registered in Belgium and open to retailer investors, and was created in 2007. Incofin IM is active in two sectors: Financial inclusion (which microfinance and other financial services created to unbanked people) and Sustainable agriculture in emerging and developing countries.⁸⁵⁶ The short reflections below are based on documents available online and on one interview with Incofin IM staff members. The FAF was also discussed in the agri-food thematic interview with BIO.

When Incofin IM launched the FAF, they were particularly interested in people operating in rural areas and in rural development, but they were not doing direct exposure in agriculture. Rather, they were “relying on MFIs and leasing companies that were providing financial services in these areas, with the ambition of investing in agriculture through financial intermediaries.”⁸⁵⁷ As from 2021, Incofin IM has thus been able to serve directly small scale Producers Organizations and agri-food aggregators without passing through financial intermediaries. Coop and private companies sourcing from smallholder farmers receive the FAF funding instead.

⁸⁵⁶ Incofin IM response to first draft of the report. September 2, 2021.

⁸⁵⁷ Interview with Incofin staff related to FAF.

In 2012 two NGOs, Fairtrade International (which holds equity and acts as certifying entity) and the Grameen Foundation, approached Incofin to establish a partnership and create a fund that could directly lend to POs and agri-food aggregators. Fair Trade Access Fund S.A., SICAV-SIF was thus created and incorporated in Luxembourg.⁸⁵⁸ Incofin IM is the fund advisor, which means that it is Incofin IM who structured the fund, fund-raised, structured the operation, manages the portfolio and reports to the investors. The first investors were Incofin CVSO, FT and Grameen Foundation. KfW and FMO joined at a later stage and, according to Incofin IM, put a significant amount of equity in the fund. The mandate and the objective of the fund is to support 'sustainable agriculture and value chains producers' by providing them with loans and technical assistance (grants) that contribute to their participation in high-end international value chains (100% are sustainably certified, 95% of which Fairtrade certified).

The fund is currently investing both in Latin American and Sub-Saharan countries. It started in LATAM because, according to a survey conducted by Fair Trade International within its certified members globally, demand for funding was higher in LATAM and the sector of certified food chains more articulated. Since then, it has expanded to Sub-Saharan Africa and in 2020 it was operating in consolidating international value chains for 14 crops originating in 20 countries (8 in Sub Saharan Africa and 12 in LATAM).⁸⁵⁹ In 2019 the portfolio expanded by 12% to \$56,390,000 reaching an estimated 330,446 smallholder farmers in Africa and Latin America, an increase of over 31% compared to the end of 2018.⁸⁶⁰

FAF does not work directly with individual farmers, but lends money to Producers Organisations, SMEs and Microfinancing Institutions. In 2019, FAF had 58 clients, which on average receive \$1,1m: agro-focused MFIs represents about 20% (they are mainly small-producers organisations that have established their own credit and saving cooperative to finance their members), whereas POs and SMEs represent 40% each.⁸⁶¹ According to Incofin IM, although some of these organisations did not have problem accessing local funds, they "were relying on local funding that required 100% of collateral, that was hard to obtain and thus didn't allow them to grow."⁸⁶² In 2019, FAF had reached 330,446 farmers and collectors, 30% more than 2018, 77,304 of which were Fairtrade Certified farmers and collectors.

The goal of FAF is to "contribute to the development of a fair and sustainable agriculture sector and to address the financial needs of smallholder farmers by providing better access to financing (especially long-term capital) and to sustainable markets, both locally and abroad."⁸⁶³ This is done mainly by providing various instruments, including trade finance loans, working capital loans and long term loans.⁸⁶⁴ Trade finance is the provision of funds that are guaranteed by spe-

⁸⁵⁸ See here: <https://opencorporates.com/companies/lu/B171540>.

⁸⁵⁹ Interview with Incofin staff related to FAF.

⁸⁶⁰ Incofin IM, Fair Trade Access Fund, 2019 Annual Report.

⁸⁶¹ Incofin IM, Fair Trade Access Fund, 2019 Annual Report.

⁸⁶² Interview with Incofin staff related to FAF.

⁸⁶³ Incofin IM response to the first draft of the report.

⁸⁶⁴ In their response to the report, Incofin IM mentioned 'local markets'. However, during our interview the focus was exclusively on international trade of certified/sustainable products. The issue of local markets and food security was raised and the interviewees mentioned that this was the object of a different fund. As known, local markets for certified products are extremely scarce in the Global South: if Incofin IM was involved in the creation of local markets, thus regionalizing transformation and reducing dependence on export, it would be interesting to receive more details and give it more visibility in the public documents.

cific transactions and by a tripartite agreement between FAF, the producers organisation and the importer of the commodity (e.g. an international commodity trader, such as Oxfam Belgium, etc.). That is, FAF provides resources there were the POs and the SMEs have already concluded a contract with an international buyer, anticipating the payment and then keeping a percentage of the payment that the trader is making. This means that, from a purely 'legal' point of view, FAF does not ask for collateral, because the disbursement is guaranteed by the international sale of the commodity. "When the transaction is concluded, the importer pays FAF, which takes out their interest and capital, and then transfer the rest of the money to the clients. For trade-finance transactions, money has to be linked to a crop and an international transaction."⁸⁶⁵ Sixty-percent of funds disbursed by FAF are trade finance. 29% is long-term investments, i.e. financing that is not linked to a specific transaction and is mainly aimed at supporting infrastructural work like financing a plant. In this case, FAF would "ask the plant to be a collateral."⁸⁶⁶

In 60% of the cases, therefore, FAF's financial risk is absorbed by the existence of a transaction and the disbursement would only happen if the clients (POs or SMEs) are integrated in the global food market. According to us, this raises three issues:

- *A) Dependency on international commodity chains?* a) a significant incentive towards export-led farming that may have an impact on biodiversity, food resilience and the dependency vis-à-vis the international market for the cash crop and the international price (even if there's the Fairtrade premium). The Covid-19 lockdowns have proved that local food markets, local production and biodiverse forms of production represent strong allies for farmers' food security and the livelihoods of their families and communities, to the point that also Fairtrade international has been questioning the export-led model and promoting diversification and that FAF provided 200,000 euro in grants to local food security and sustainability initiatives.⁸⁶⁷ Given that 60% of FAF disbursement are conditioned to the export of certified products, we raised the issue of whether this may have negative repercussions in terms of changes in the local food dynamics and, to a certain extent, expose farmers to food insecurity in the moment when they cannot sell their products on the international markets and they have used their land for the production of cash crop rather than food crops. We discussed this with Incofin IM, which appears to be aware of this tension. However: "The mandate and the story of the fund is not to address food security. We cannot do more than 10% [of investments in diversification and local food production]. Because the mandate and the objective of the fund was to support 'sustainable agriculture and value chains producers', we cannot do more of local production."⁸⁶⁸ This tension between linking to global value chains and local socio-environmental resilience shall be further addressed by BIO in light of the commitment by Belgian development and cooperation to food and nutrition security, human rights, and the Sustainable Development Goals.

In addition, given that a significant part of FAF business model is 'trade finance' it is assumed that it is linked with international trade.

⁸⁶⁵ Interview with Incofin staff related to FAF.

⁸⁶⁶ Ibid.

⁸⁶⁷ <https://incofinfaf.com/971-2/>.

⁸⁶⁸ Interview with Incofin IM staff related to FAF.

- *B) Reaching only to the low-hanging fruits:* the second consideration regarding the impact capacity of FAF's mission (working with certified actors who participate in the global market for high-end food products) concerns the fund capacity to reach smallholders who are most in need of financial support vis-à-vis the low hanging fruits. There are two levels of consideration: in which countries is FAF operating and who can 'ride the wave' of certification and global food chains. For what concerns the first point, FAF follows a common practice in the financial world to "exclude countries where [they] would not recuperate [their] money. As fund managers [they] have to take into account our investors and the impact of our investments. [They] have to select the countries that we work with to make sure that [they] recuperate [their] money. Today, for example, Venezuela is not eligible."⁸⁶⁹ They are worried that they "may disburse and never see the money back."⁸⁷⁰ At the moment of writing, FAF is funding organisations in four countries that are among the fourteen partner countries of DGD (Burkina Faso, Tanzania, DRC and Uganda).⁸⁷¹ For Incofin IM "Not investing in countries where "transfer risk" is too high is common practice in the investors world. FAF makes investments and not donations thus we need to ensure that investments are not subject to Transfer risks. Countries such as Venezuela are typically ranked as "high" transfer risk and thus do not provide comfort for funds such as FAF to invest in."⁸⁷²

Although we recognize that FAF is adopting a common practice in the financial world, we still interrogate whether there is a space for development finance and the promotion of private sector in high transfer risk countries, or development finance is inherently going to flow into less 'risky' destinations, thus reproducing the financial gap and the financing problems of countries that struggle the most with investments. If the latter is the answer, we thus re-instate the importance of strengthening the development mandate over the financial considerations: the fact that accessible and low-interest financial flows is staying away from certain countries should be, in our opinion, the reason why development finance should go there.

For what concerns the uneven impact of development projects based on certifications, it is not a new issue in food and development studies. For example, it was central to a review of the Sustainable Trade Initiative IDH realised in 2014 by the Policy and Operations Evaluation department (IOB) of the Dutch Ministry of Foreign Affairs. In their document, entitled *Riding the wave of sustainable commodity sourcing – Review of the Sustainable Trade Initiative IDH 2008-2013*, the IOB assessed the impact of a public-private program, the

⁸⁶⁹ Interview with Incofin IM staff related to FAF.

⁸⁷⁰ Ibid.

⁸⁷¹ The partner countries are: Benin - Burkina Faso - Burundi - DR Congo - Guinea - Mali - Morocco - Mozambique - Niger - Palestinian Territory - Rwanda - Senegal - Tanzania - Uganda. Although Incofin IM claimed that the majority of the countries in which FAF is invested are listed by DGD, there is a difference between partner countries and listed countries. BIO and FAF confirmed that, despite Senegal being indicated in the 2020 FAF report, FAF still does not invest in Senegal. BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO's Response, 30 August 2021.

⁸⁷² Incofin IM, response to the first draft of the report, 03 September 2021.

IDH, aimed at linking smallholders to global food chains through certification, technical assistance and the provision of funding. Not dissimilarly from the FAF, the IDH goal:

“was to improve the economic, social and environmental sustainability of production systems in developing countries, focussing on internationally traded commodities like cotton, coffee, tea, cocoa, timber and fish. IDH would work in particular with committed private sector companies in the value chain of these products, ranging from Adidas and Mars to Unilever and Zeeman. Public-private coalitions were to develop sector improvement plans built around voluntary sector-wide sustainability standards such as UTZ Certified and Better Cotton. IDH aimed for a transformation to sustainable commodity markets by bringing public funding and private financial commitments together in large-scale projects for improving production methods and boosting certification of primary producers.”⁸⁷³

One of the final considerations of the report was that:

“Certification schemes tend to start with ‘low-hanging fruit’. The supply of sustainable products is concentrated in regions with more developed production capacity: within developing countries, sustainable production is concentrated in Latin America. [...] Some observers point therefore to the danger that certification leads to the exclusion of the most vulnerable farmers from the market, while others show that new production arrangements such as out-grower schemes can include also smallholder producers in certified supply chains.”⁸⁷⁴

This point has been raised during the interview with Incofin staff related to FAF because of the data provided in the 2019 report, where it is indicated that the median size of a farm part of an organisation that receives financial support from FAF is 3 hectares. 83% of farmers have less than 5ha, 15% have between 6 and 9 hectares, 2% has 10 to 20 hectares and only 1% has more than 20ha.⁸⁷⁵ FAF has a mandate to finance farms that are – on average – under 5ha and they are thus in compliance with it.⁸⁷⁶ The size of 5ha has been identified as a standard definition of small-holder in collaboration with Fairtrade International, but then has to be concretely embedded in the context of the crop and the country and adapted.

Reaching smallholders is the purpose of the FAF. Therefore, what is considered a small-size farm has been a central topic of debate during our interactions with Incofin IM. For them, “there is an endless debate around the topic,” as demonstrated by the different def-

⁸⁷³ IOB, , *Riding the wave of sustainable commodity sourcing – Review of the Sustainable Trade Initiative IDH 2008-2013*, Dutch Minister of Foreign Affairs.

⁸⁷⁴ Ibid, making reference to WUR / IOB, *Chains for Change (C4C). Voluntary partnerships, state responses and value chain dynamics: which way forward to increase sustainability and poverty reduction?*, 2014, The Hague.

⁸⁷⁵ FAF 2019 report.

⁸⁷⁶ Interview with Incofin IM on FAF.

initions discussed by the FAO in a 2017 paper. For the FAO, “In the policy debate, the notion of “small farms” goes hand in hand with the idea of disadvantage, risk of poverty, lack of opportunities, and need of support. Hence an ideal definition should be consistent with the concepts of absolute poverty and severe food insecurity, which are at the basis of the SDGs policy agenda.”⁸⁷⁷ There is no doubt that the definition of smallholder is not univocal and we recognize that FAF specifically targets Producers Organizations and SMEs that are linked with non-large scale food agri-food producers. Whatever is our definition, the reality on the ground recently mapped by the International Land Coalition (ILC) cannot be dismissed. According to the ILC, today there are approximately 608 million farms in the world: however, while the largest 1% of farms operate more than 70% of the world’s farmland and are integrated into the corporate food system, while **over 80% are smallholdings of less than two hectares that are generally excluded from global food chains.**⁸⁷⁸

Not only the largest majority of the farms in the world is not integrated in global value chains, but certification schemes and international trade tend to favour small-scale farmers who are not the most marginalized nor the most food insecure. Within the broad category of ‘smallholders’ which farmers receive ODAs and to participate in which value chain has economic, social and political consequences. The larger is the ‘small’ scale, the more we can distance our attention from the most marginalized and most deprived farmers. The more the focus is on international trade, the more likely it is that low-hanging fruits (i.e. not the most food insecure, most vulnerable and most in need of support) are targeted. A combination of quantitative and qualitative assessments should thus be required, with a clear reflection on the fact that the smallest farmers may not be the one receiving ODAs through FAF investments. At the same time, BIO and the Belgian government should promote a critical reflection on certifications as a strategy to not leave anyone behind. Here below, we discuss some key points.

Quantitative and qualitative considerations should thus be kept together. This is highlighted by a 2013 work by the High Level panel of Experts on Food Security and Nutrition, which decided not to adopt a merely quantitative definition and concluded that a smallholder is: “..an agricultural holding run by a family using mostly (or only) their own labour and deriving from that work a large but variable share of its income, in kind or in cash. The family relies on its agricultural activities for at least part of the food consumed – be it through self-provision, non-monetary exchanges or market exchanges. The family members also engage in activities other than farming, locally or through migration. The holding relies on family labour with limited reliance on temporary hired labour, but may be engaged in labour exchanges within the neighbourhood or a wider kinship framework.”⁸⁷⁹

⁸⁷⁷ FAO, Defining Small Scale Food Producers to Monitor Target 2.3 of the 2030 Agenda for Sustainable Development, FAO: Rome, 2017, available from <http://www.fao.org/3/i6858e/i6858e.pdf> [last accessed 28 September 2021].

⁸⁷⁸ International Land Coalition, Uneven Ground, ILC, 2020, available from: <https://www.landcoalition.org/en/uneven-ground/executive-summary/> [last accessed 28 September 2021].

⁸⁷⁹ CFS HLPE, Investing in smallholder agriculture for food security. A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, 2013, Rome.

However, quantification of the notion of smallholders has been happening for several years. In 2003, the World Bank Rural Development Strategy defined as smallholdings are those farms “with a low asset base and operating in less than 2 hectares of cropland.”⁸⁸⁰ In 2015 and 2017 the FAO tried to identify a quantitative approach that could be used to assess the progress towards SDG 2.3. In these two studies, the size of 2ha is utilized to define small-holder farmers. In 2015, the FAO stated that:

“Smallholder families live in farms which in many countries are significantly smaller than 2 hectares. In Asia, farms are very small. The average size of a smallholder farm in Bangladesh and Viet Nam is 0.24 and 0.32 hectares respectively. In Africa, smallholder farms can be relatively larger, but only marginally. Kenyan smallholders farm 0.47 hectares and in Ethiopia the average small farm size is 0.9 hectares. In Latin American countries, smallholder farms often tend to be over 2 hectares, as in Nicaragua where the average small farm size is 5 hectares. But this is not always the case. In the Plurinational State of Bolivia, small farmers cultivate on average, 0.89 hectares.”⁸⁸¹

In a 2017 revision of different definitions, the FAO found out that out of 71 countries that had a definition of smallholder farming, 22 identified this notion with a 2ha size (17 of which in Africa and Asia). 9 adopted the smaller limit of 1ha, 13 used 5ha, 7 used 10 ha and 12 adopted a reference that was above 10 ha.

Table 1: Numbers of definitions of smallholders from national statistical authorities using the land size criterion (Source: Grain, 2014).

	Number of countries for which the official definition was available	Number of countries using the land size criterion	Number of countries using the 1 ha threshold	Number of countries using the 2 ha threshold	Number of countries using the 5 ha threshold	Number of countries using the 10 ha threshold	Number of countries using thresholds greater than 10	Number of countries using different thresholds
Africa	31	22	3	8	5	5	0	1
Asia and the Pacific	30	23	5	9	3	0	1	5
Latin America and the Caribbean	19	18	1	3	3	1	9	1
North America	2	1	0	0	0	0	1	0
Europe	40	7	0	2	2	1	1	1
Tot	122	71	9	22	13	7	12	8

Going beyond country definitions and looking at available literature, the FAO concluded that: “About 70% of the literature reviewed define smallholders in terms of the physical size of the farm, primarily in terms of hectares of operated land or number of tropical livestock units. An upper limit of 2 hectares is typically identified on the land area or number of livestock operated or owned by individual farmers and their families. As summarized by

⁸⁸⁰ World Bank, Reaching the rural poor: A renewed Strategy for Rural Development, 2003, Washington, DC.

⁸⁸¹ George Rapsomanikis, The economic lives of smallholder farmers. An analysis based on household data from nine countries, Rome: FAO, 2015.

Thapa “small farms... have been defined in a variety of ways. The most common measure is farm size: many sources define small farms as those with less than 2 hectares of cropland.” Although not the only one, 2 hectares of cropland is the most commonly adopted definition.⁸⁸²

Incofin IM stressed that their definition of 5ha average size of the farm in the PO is a benchmark that was chosen under the advice of Fairtrade International. They also cross checked with the SPP (an international network of small producers organizations), whose definition is even larger than 5ha. We recognize the effort made by the FAF and the fact that their aim is that of reaching out to small-scale farmers and that they do. However, the question still arises whether or not they are reaching out to the smallest and those that most need ODA and public financial support. Similarly to the exclusion of ‘high risk’ countries discussed above, the high threshold of 5ha (which is also higher for some crops), may translate into channelling funds to the low hanging fruits (within a context of smallholder farmers who struggle for livelihood, of course).

The complexity of identifying a universal quantitative definition for smallholders has led to the development of qualitative assessments and analysis that also consider the distributive implications of the food chains that are financed. The 2017 FAO document, for example, reminds us that “Despite its many pros, the land-based criterion is not exempt from limitations. In particular, it has been argued, that similar land size can correspond to highly heterogeneous economic and social conditions, so that the amount of land in itself cannot fully characterize a smallholder.”⁸⁸³ We thus consider it essential to assess not only the financial impact that FAF investments have on the members of the POs, but to investigate the distribution of these funds within the areas where they are disbursed and who are the farmers that can benefit from these ODAs. This is not only a matter of size of the plot, but also of the crop that is produced and the costs of certification. Certifying not only means paying for the label, but also adopting social and environmental practices that are required by the standard setter (mostly an organization in the North, like Fairtrade International). These costs of certification and participation represent a significant obstacle for the most marginalized and insecure farmers.

In the case of the IDH programme launched by the Dutch Minister of Foreign Affairs, the cost of certification and of maintaining the certification had been paid with grants for the first years of the project. Despite that, the IOB report noticed that farmers were immediately struggling when the cost had been shifted to them and in some cases had abandoned the certification scheme. In the case of the FAF, credit is provided for a financial return and the grants only represent a fraction of the overall portfolio. This may have significant repercussions on who can participate and benefit from the investments.

⁸⁸² FAO, Defining Small Scale Food Producers to Monitor Target 2.3 of the 2030 Agenda for Sustainable Development, FAO: Rome, 2017, available from <http://www.fao.org/3/i6858e/i6858e.pdf> [last accessed 28 September 2021].

⁸⁸³ FAO, Defining Small Scale Food Producers to Monitor Target 2.3 of the 2030 Agenda for Sustainable Development, FAO: Rome, 2017, available from <http://www.fao.org/3/i6858e/i6858e.pdf> [last accessed 28 September 2021].

Due to the cost of participating in global value chains, achieving the required standards, and remaining part of a certification scheme, the IOB report concluded that export-led farming of certified products like the one that is financed by the FAF tends to favor those who have network, capacities and access to the global market. This is why FAF works with producers organisations that can reach out to thousands of different farmers, including the very small ones. However, FAF also stated that their investments are based on an attentive analysis of the business capacity, their organisation and the cash flow, therefore requiring a certain level of governance and structure. The relevance of the financial mandate risks to intensify a process of 'selection of the fittest' within the broad category of smallholders, a process that is already inherent to the Fairtrade certification and that is recognised by Fairtrade International itself. In according to which "With its focus on crops for export, Fairtrade does not encompass the full range of agricultural production, and cannot realistically target farmers who are not producing export crops or who cannot enter producer organisations for other reasons. Fairtrade certification can make a positive contribution to the viability of small-scale export agriculture, but it does not provide all the solutions needed to support small-scale farmers or workers producing other types of crops or in other types of structural arrangements."⁸⁸⁴

The tension between financial risk and benefit of the investment is thus tangible and it is thus our opinion that BIO shall gather data to have a clearer picture of the situation and to make sure that the farmers who are supported are also the most vulnerable and food insecure farmers or low hanging fruits. Incofin IM claims that they are small-holders and vulnerable and that it is "not fair to say that they are less deserving or that they are not among the most vulnerable."⁸⁸⁵ We have no definitive answer because of the impossibility of conducting fieldwork and given that we had no access to qualitative and quantitative data providing a picture of the living conditions of the PO's members and their relative status vis-à-vis the rest of the farmers in the regions where FAF is active. What the business model supported by FAF suggests is that the farmers who are supported are who produce cash crops, are capable of obtaining and maintaining a certification and who subsistence farming into an export-led business, therefore fitting into the vision of economic development and global value chains-led entrepreneurship. However, the specificity of Code 5 money, i.e. high-risk capital invested by BIO and the expectation for a low return (in a context where financial considerations still have to be assessed), suggests that BIO could walk the extra mile to make sure that the development of the private sector (i.e. co-operatives) is combined with interventions in context of high financial risk (for example, the countries where FAF does not invest), in favour of the most financially needy (for example the farmers who have not enough land to convert to cash crop), and support the establishment of more resilient territorial food system where livelihood and food security

⁸⁸⁴ Fairtrade International, *The Impact of Fairtrade: A Review of Research Evidence 2009 -2015*, Fairtrade International: Bonn, 2015, available at: https://files.fairtrade.net/publications/2017_ODI_FairtradeImpact_ManagementResponse.pdf [last accessed 28 September 2021].

⁸⁸⁵ Incofin IM response to the first draft of our report.

are not dependent on the engines of international trade and the purchasing desires of traders and consumers living thousands of kilometres away.

- C) *Gender impact*: during the interview, Incofin IM mentioned that ‘gender impact’ has recently been added as the fifth dimension in the analysis in one of their other agri funds. When asked about what was missing before and what they wanted to map, we were told that FAF wants to “have a better understanding about women’s leadership and align with the 2x challenge.”⁸⁸⁶ This commitment to a better understanding of women’s role in the economic activities funded by the fund is in line with the commitment to gender that has also been embraced by BIO. However, this quantitative approach to women empowerment is only part of the story, and the gendered impact of global food chains must be assessed with a more systemic approach to gender and gender dynamics. This point was pivotal to the 2016-2020 Fairtrade International Gender Strategy, according to which:

“although tacitly the term ‘producers’ encompasses women as well as men, it is not always clear if or how Fairtrade considers gender when developing gender sensitive strategies, policies and operations. In fact, due to its focus on export or ‘cash’ crops, Fairtrade may even be unintentionally reinforcing existing gender inequalities in the agricultural sector.”⁸⁸⁷ In particular, “Production for Fairtrade markets and the requirements of Fairtrade certification may increase the workload of women, adding to their already high work burden.”⁸⁸⁸ For example, in banana smallholder organisations, restrictions on pesticide use can lead to an increased need for weeding. Arguably, this in turn has a disproportionate impact on women because of unrecognised unpaid care work responsibilities.⁸⁸⁹

Rather than an ex-post assessment of women’s employment and income, we believe that FAF and BIO’s approach to women into global value chains of certified food shall adopt the holistic approach suggested by the 2016-2020 Gender Strategy. Tools, such as *Implementing gender-aware ex ante evaluations to maximise the benefits of trade reforms for Women*, developed by UNCTAD, already exist to support governments to design gender-aware impact assessments and could be adopted in the specific case of FAF and other investments realised by BIO.⁸⁹⁰ Not only for women who are already involved in Fairtrade chains or will be involved in the future, but for all women who will be affected by the change in trade dynamics linked to the internationalization of the market.

⁸⁸⁶ Interview with Incofin IM on FAF.

⁸⁸⁷ Fairtrade International, *Fairtrade Gender Strategy 2016-2020*, Germany: Fairtrade International, 2016.

⁸⁸⁸ Smith, S. (2011). *Review of the Literature on Gender and Fairtrade* (internal). Fairtrade International, Fairtrade Foundation.

⁸⁸⁹ Fairtrade International, *supra* n 887.

⁸⁹⁰ United Nations Conference on Trade and Development (UNCTAD), *Implementing gender-aware ex ante evaluations to maximise the benefits of trade reforms for women*, Policy brief no. 51 (UNCTAD 2016) http://unctad.org/en/PublicationsLibrary/presspb2016d7_en.pdf

In addition to the three substantive issues raised so far, BIO's investment in the FAF also deserves two procedural considerations: one that regards the **assessment of its development impact** and the second one that has to do with **BIO's additionality**. We asked FAF about the way in which they assess the impact of their investments on the lives of the thousands of farmers that are supported by their investments (although indirectly). The material problem of realizing an assessment of actual living conditions of farmers was known and addressed critically. Rather than individual stories, the FAF has stories of collective economic growth and consolidation of the cash flow. Along with improvement in the governance practices and the use by their clients of part of the premium to provide collective services. For the FAF:

"It's hard for us to validate the individual income. Our client is the cooperative. The individual producer is one step further. We look at how they spend the premium at the level of PO but not at the level of individuals. We track our investees along time, and you can see how organisations are growing, how payments are growing. We also see that TA projects have a large impact that is measurable. We mainly look at the economic growth of our clients. A good story is the Brazil nuts. We started with organisations that were not certified. Thanks to our involvement, these entities became certified and much more conscious of sourcing. As a result, they dynamized the industry and allowed to increase revenue.

Some of our investees are, for example, a cooperative in Cote d'Ivoire that has 20,000 members [...]. What we look at is more at the cooperative level, how they generate premium and how they deploy it. We assume that the premium is well distributed. We cannot gather data at all levels [...]."⁸⁹¹

We recognise the significant cost of any qualitative and quantitative assessment given the large membership of organizations. At the same time, we recognize that POs themselves are not in the condition of receiving detailed information from any member and that this has implications on the picture that FAF has about the material impact of their investments. Furthermore, we are aware that FAF is a fund that has to generate revenues for their investors and that increasing costs of management/assessment may not be in line with the expectations of some of the funders.

However, we believe that the difference between a 'development' fund that receives ODAs and any other fund should also be visible only through the lower return rate, the sectors or the countries in which they invest. The uniqueness of 'funds' that receive ODAs and that have a development purpose should be that of making sure that such impact is delivered. Even if that costs money. It is a matter of taking development seriously and also transparency and accountability vis-à-vis taxpayers.

If the cost of assessing cannot be bear by the fund, it is important to stress that BIO has the possibility of providing technical assistance and that it can also collaborate with its clients and the rest of the Belgian development and cooperation to undertake qualitative and valuable studies on the actual impact that this investment has on the lives of farmers. They could also think about

⁸⁹¹ Interview with Incofin IM on FAF.

ways of integrating technology and reporting schemes so that individual households can communicate in real time the amount of money that they are receiving, the status of the harvest, the production levels, and other elements linked with livelihood and quality of life. This is because of the tension that often exists between obtaining better market conditions and improving one's livelihoods. As reported in the 2014 document by the IOB mentioned above, although "studies generally find that Fairtrade farmers receive higher prices, have greater access to credit, perceive their economic environment as being more stable, and are more likely to engage in environmentally friendly farming practices"⁸⁹² the effects on livelihoods remain, however, small. Most studies emphasize that Fairtrade producer families are still only surviving and covering basic needs, mostly because of the limits in the size of the plot, the cost of certification, the fact that not all certified products are sold as such, and the fact that the Fairtrade price is still far from a fair and living price that can guarantee a life in dignity.⁸⁹³

The actual welfare effect of Fairtrade standards on households and income is debated in the academic literature and is of interest to the whole Fair Trade Movement. Academic assessments are multi-discordant, with some studies concluding that the positive effects are restricted to certain categories of farmers, usually those with more assets or greater farming skills and other quantitative studies that found limited or no impact on incomes, due to issues such as limited Fairtrade sales, market prices exceeding Fairtrade Minimum Prices and high input costs. The welfare effects of Fairtrade have also been measured through alternative metrics to income and expenditure, such as food security or improved child education. In two cases, a positive impact of on education was seen, potentially as a result of higher incomes as well as Fairtrade Standards on child labour.

Along with welfare impact and gender impact, one particular area where this assessment should take place is that of working conditions of temporary/seasonal/family workers who are employed in different phases of the agricultural cycle. As recognised by Fairtrade International in 2017: "Fairtrade Standards have historically placed less emphasis on requirements for workers who are employed by smallholder members of certified small producer organisations, and research evidence suggests that workers on certified smallholder farms do not experience significant benefits as a result of certification."⁸⁹⁴ Because of the attention that the Belgian development framework pays on decent working conditions and the effectiveness of aid, and because BIO considers the FAF investment one of the most virtuous of its portfolio, we consider that FAF could become also a test case for a qualitative and qualitative assessment of the developmental impact on farmers' livelihoods and of the capacity of the smallest and most vulnerable farms to ripe benefits from Belgian ODAs. This assessment would be capable of identifying the strengths and weaknesses of a model based on the combination between public development funds, export-led agriculture, certification and trade-financing.

⁸⁹² Raluca Dragusanuet al., 'The Economics of Fair Trade' (2014) 28 (3) *Journal of Economic Perspectives* 217.

⁸⁹³ Valerie Nelson and Barry Pound, *The Last Ten Years: A Comprehensive Review of the Literature on the Impact of Fairtrade, Greenwich* (Natural Resources Institute, 2009).

⁸⁹⁴ Fairtrade International, *Response from the commissioning agency Fairtrade International to a review of research evidence for Fairtrade impacts, conducted by the Overseas Development Institute (ODI)*, Germany: Fairtrade International, 2017.

In terms of additionality, Incofin IM clearly indicated the importance of BIO as a provider of equity. This is justified with the fact that FAF is an open-ended fund, so it's a fund that is expected to grow over time to reach more small-holder funders, so any contribution is relevant to its expansion. Even if the contribution was only disbursed in 2019, 7 years after the fund started operating. However, there is something more about BIO's participation that was underlined by the FAF, that is the combination between high-risk and low-return money, the provision of a Technical Assistance Fund and the participation into the governance of the fund.

First of all, FAF noticed the importance of receiving code 5 equity money from BIO. BIO has utilized its code 5 money meant that it could purchase class A shares, that is shares that are locked-up in the fund for 7 years and are thus "assuming more risk while demonstrating to believe in the project."⁸⁹⁵ This is the case of other two DFIs, but not all DFIs invested in FAF, that have rather invested in a different tranche of equity that can be redeemed and have a shorter lock-up period. The decision of BIO was to invest in a class of shares that is aimed at more patient and impact capital. This is aligned with the purpose of achieving higher development impact also at the cost of higher risk and lower return. However, given the blended nature of the fund (with public investors taking higher level of risk compared to private capital), this also means that the choice of more risky investments vis-à-vis other public and private investors may constitute a way of using Belgian ODA to subsidize investors that opted for another category of share. This beyond the 'normal' subsidy that is already provided by the presence of public DFIs as investors, as already discussed in Box 2.3.

The second point raised by FAF was that BIO contributed with capital but "also with a donation for technical assistance for more or less 300k that helped to strengthen the organisations we work with. One of the main weaknesses of these organisations is corporate governance. BIO's TA grant is, among other things, helping us in a project that supports and strengthens corporate governance."⁸⁹⁶ Thirdly, FAF highlighted that BIO is also participating into the governance of the fund: "They have one person in the board that provides advice to the fund. From a corporate governance perspective, it's important. It's also important to mention that the BoD is chaired by an independent member and the other are representatives of the members. The person appointed by BIO is a professional that brings their expertise. It's non-tangible and non-measurable, but it is very important for the sustainability of these entities."⁸⁹⁷

Because of the open-ended nature of the fund, it cannot be said that the 3m Euro of equity inputted by BIO were additional in the sense of "Going where other investors don't."⁸⁹⁸ Despite that, even as a late comer BIO seems to have had an additional/unique role to play with regards to FAF's current success and expansion strategy. However, this appears clearly due to the choice of investing code 5 money and the disbursement of a TA grant (recently used to provide relief from the impact of covid-19). The use of code 5 in the agribusiness sector is an exception (in 2019 FAF was the only recipient of code 5 money in this sector), and technical assistance is provided in

⁸⁹⁵ Interview with Incofin IM on FAF.

⁸⁹⁶ Ibid.

⁸⁹⁷ Ibid.

⁸⁹⁸ BIO presentation, Investing for Development, *Brow Bag Lunch - ADE*, 20 June 2016.

the form of grants that do not lead to the remuneration that BIO is expecting when investing into a project. Even if BIO refers to FAF as one of the virtuous cases, the limits that currently exist with regards to disbursement of code 5 money and remuneration are such that it is thus unlikely that we will be witnessing a multiplication of similar investments by BIO or the scaling-up of the existing code 5 investments in agriculture in the short to medium term. Thus, the future of investments like FAF does not only depend on BIO adopting a more holistic attitude towards supporting certified long-distance food chains and implementing a qualitative and effective assessment of the development impact. Rather, it depends on BIO (and the Belgian Government) considering the role that code 5 money and grants must play in building a socially and environmentally sustainable food chain that not only benefits the low hanging fruits but also the workers and the most marginalized farmers.

Example 3) JTF Madagascar (€3,75m 2019)

JTF Madagascar is the latest investment of this kind realised by BIO, with a loan for Euro 3,750,000 agreed in 2019 and two small grants for technical assistance (Euro 17,463 and Euro 59,581) disbursed between 2019 and 2020. “JTF Madagascar SARL was established by the Italian renewable energy company Tozzi Green SpA in 2010 and is specialized in sustainable agriculture activities such as food crops and essential oils. Tozzi Green practices large-scale agriculture in Madagascar on an area of about 7,000 ha total, where it mainly cultivates corn and soybeans for the local market, in addition, geranium bourbon and other aromatic plants that are extracted for essential oil production for export.”⁸⁹⁹

According to BIO, the interest in the investment was triggered by the request of FinnFund, a “Finnish development financier and professional impact investor,” which had already started the process of due diligence and was looking for a “like-minded investor in order to diversify the risk – i.e. to split the EUR 7.5 million funding – and to share the load of the heavy due diligence process.”⁹⁰⁰ Originally conceived as twice its final size, the JTF investment was funded by BIO after one year of engagement with the investor and other stakeholders (public authorities, financial sector, civil society) and led to the elaboration of specific requests in terms of Environmental and Social standards, in particular with regards to the process of land lease and acquisition.

According to BIO, the project only concerns ‘non-productive land’ that had been abandoned or never used for farming and all the land shall be purchased or leased by Tozzi Green based on a ‘willing seller-willing buyer’ negotiation. With this investment, Bio’s desire to contribute to local production of maize in the context of a food insecure and food importing country, and generate employment in light of the social conditions of Madagascar. In the vision of BIO the JTF project will “impact the agricultural productivity in Madagascar, which is currently lacking significant modern agricultural technology. It will increase the domestic production of corn and soybeans used in local animal feed production, reducing imports and it will improve the sustainability of the extraction processes of the essential oils” and it will create “formal employment with hundreds of

⁸⁹⁹ See, JTF Madagascar financed by DFIs Finnfund & BIO <https://www.bio-invest.be/en/news/jtf-madagascar-financed-by-dfis-finnfund-bio>.

⁹⁰⁰ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO’s Response, 30 August 2021.

seasonal workers employed each year and sources of additional income (such as post-harvest collection and smallholder programs).”⁹⁰¹

Two are the goals to be achieved with this investment:

a) Private sector consolidation/innovation: with regards to this point, BIO concludes that the investment in the single large commercial corn, soya and geranium producer of the country, would ensure a transfer of know-how to Malagasy being part of its team of agronomists and that JTF increases the secured supply of basic food and animal feed crops that allows downstream industries to expand operations.

b) Food Security & Rural development: because JTF is a World Food Program supplier and provides corn to local poultry industry, BIO considers that the project would enable Madagascar to meet the growing demand for animal proteins in Madagascar. Secondly, JTF will contribute to the construction of a modern hospital with free medical examinations, a school, a college, sports field, and public buildings, all powered by solar PV.

As mentioned before, it was impossible for the research team to realise a visit to the field. At the same time, we cannot disclose confidential information concerning the conditions that BIO required JTF to fulfil in the area of S&E and land rights, and we did not have access to all documents produced. Our reflection is thus based on the existing Land Use Policy published by BIO in 2019, the E&S Policy of 2020 and the specific questions that we raised with BIO, the public information that we found online and one interview with a representative of a leading land rights NGOs in Madagascar. On the contrary, the whole ESAP is confidential and there is no access to the specific agreements that were concluded between BIO and JTF.

With regards to the 2019 Land Use Policy, it is worth noticing that both land acquisition and land leases are called ‘acquisitions’ in the policy, creating a certain level of uncertainty and confusion. JTF Land Use Policy states that it is committed to:

1. implement site-specific environmental and social assessment prior to any land acquisition
2. ensure an informed consultation and participation process takes place with rights holders and other interested neighbors
3. only enter into voluntary agreements with right holders for any land acquired
4. assess communities needs to ensure their sustainable access to farming and pasture land as well as other natural resources sustaining their livelihood
5. target acquiring land that is considered as non-arable pasture land by local communities thereby avoiding as far as practicable all cultivated land or lowlands and contributing to Madagascar agricultural output and food security

⁹⁰¹ BIO, JTF Madagascar financed by DFIs Finnfund & BIO, 22 October 2020 <https://www.bio-invest.be/en/news/jtf-madagascar-financed-by-dfis-finnfund-bio>.

6. establishing an accessible and meaningful grievance mechanism to allow early identification and resolution of impacts and risks from company activities
7. allow right holders and their relatives to collect and sell maize left on fields after JTF mechanical harvest
8. support the restoration of right holders' livelihoods in case, despite the above, company activities have adversely impacted right holders' livelihoods
9. start land cultivation only after obtaining all the required legal authorizations
10. act in such a way that company operations do not generate accidents or adversely impact the communities' health and safety
11. ensure that land acquisition and use is protecting and conserving biodiversity, maintaining ecosystem services and managing living natural resources in a sustainable manner
12. improve the fertility of the land under its responsibility, maintain land degradation neutrality and respect Madagascar's commitments in terms of related international conventions
13. identify sites of cultural values and avoid them to the extent possible or find acceptable solutions in consultations with local communities.

In addition, JTF also committed to undertake a socio-economic baseline study, to periodically monitor impacts and evolutions in local livelihoods and to promote the dissemination of its policy within the company and stakeholders 'to increase its contribution towards sustainable and inclusive agriculture'.

For what concerns the Environmental and Social Policy, it was released in September 2020, after BIO's grant. It contains the following 11 points:

1. Identify and continuously monitor the past, present and future impacts of all its activities on environment and society;
2. Respect human and workers' rights, including the promotion of gender equality, the abolition of all forms of child labour and the creation of a working environment that is respectful of workers' health, safety and hygiene;
3. Promote efficient and rational use of resources in all its operations, including soil fertility and water resources; and restore those resources where possible;
4. Minimize as much as possible the negative impacts of its operations by, among other things, preventing the spreading of hazardous products in the soil, air and water and fully assume its responsibility with regard to these impacts when they occur;
5. Adopt a sustainable waste management strategy by minimizing waste generation, recycling and reusing to the maximum extent possible;

6. Take into account the interests as well as the concerns of communities in decision-making processes;
7. Respect communities and their cultural heritages;
8. Participate in the economic and social development of its integration zone through sustainable projects and by prioritizing local people in the hiring process;
9. Safeguard biodiversity through the reasonable use of hazardous materials and chemicals, using phytosanitary products only when necessary and strictly follow the safety instructions for each product used;
10. Communicate its vision to its suppliers of goods and services, including contractors and subcontractors, and work with them to ensure that they comply with its environmental and social commitments;
11. Carry out an annual monitoring of its progress and environmental and social performance at the end of which its E&S policy and management system will be updated in accordance with changing conditions.

The commitments contained in the two policies are noteworthy. However, two years down the road no follow up document is available on JTF website nor on BIO's website. For an external observer (and the Belgian public) it is thus hard – if not impossible - to know what the current situation is and the extent to which JTF Green is complying with those requirements. Without the time and resources to conduct an adequate fieldwork and without access to all confidential documents, we cannot know the specific considerations that were made to finance JTF, what constraints were imposed by BIO and FinnFund, whether the ESAP represents an actual deterrent and if the commitments are respected. In addition, the way in which the commitments are drafted raises some concerns regarding the capacity of the policies to represent an effective instrument to guarantee that human rights (such as self-determination, development and the Free, Prior and Informed Consent of local communities).

First of all, the commitments are not aligned with the (low threshold of the) Principles for Responsible Investments in agriculture. In particular, Principle 1 requires the realization of investments that contribute “to food security and nutrition, particularly for the most vulnerable, at the household, local, national, regional, or global level, and to eradicating poverty through:

- i) Increasing sustainable production and productivity of safe, nutritious, diverse, and culturally acceptable food, and reducing food loss and waste;
- ii) Improving income and reducing poverty, including through participation in agriculture and food systems and/or through improving the ability to produce food for oneself and others;
- iii) Enhancing the fairness, transparency, efficiency, and functioning of markets, in particular taking into account the interests of smallholders, improving related infrastructure, and increasing the resilience of agriculture and food systems;

iv) Enhancing food utilization through access to clean water, sanitation, energy, technology, childcare, healthcare, and access to education, including on how to prepare, provide, and maintain safe and nutritious food.

The commitments contained in the two policies do not seem to counterbalance the implications of the capital intensive monocultural system of farming promoted by JTF, which increases production of maize for animal consumption and is not conceived around involvement of small-scale farmers or the establishment of a system that improves the ability to produce.

In addition, the land policy commitments and the overall support to large-scale farming appear mis-aligned with the **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security**, which are also mentioned by the Principles on Responsible Investments and have been endorsed by Belgium. For example, they do not identify any commitment to “take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not” as a starting point for any interaction/negotiation. In addition, there is no evidence that Belgium (via BIO) has fulfilled its commitment to “strive to make provisions for different parties to conduct prior independent assessments on the potential positive and negative impacts that those investments could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment. States should ensure that existing legitimate tenure rights and claims, including those of customary and informal tenure, are systematically and impartially identified, as well as the rights and livelihoods of other people also affected by the investment, such as small-scale producers. This process should be conducted through.”

Furthermore, the Policies:

- Reproduce the idea that non-arable pasture land is less valuable and relevant, dismissing the non-economic value of land and the role that this land has for herders and non-pastoralists;
- Are not fully transparent, as no follow-up document is available online;
- do not concern consent but consultation as a weaker and less human-rights compliant way of addressing development (especially in rural areas in the South);
- do not contain any temporal target or deadline;
- do not provide any real opportunity for local farmers to benefit from the project. Farmers are potentially exposed to extra demand for water and to the use of pesticides and hazardous chemicals, and the only thing that can benefit from is whatever is not harvested mechanically (assuming that the variety of maize that is planted is apt to human consumption);
- do not contain any specific indication on the grievance mechanism;
- accept the use of hazardous pesticides, the production of negative impacts on communities and the depletion of resources;
- overall, the large-scale monoculture nature of the project contradicts point 12.6 of the VGGT, i.e. “States should consider promoting a range of production and investment models that do not

result in the large-scale transfer of tenure rights to investors, and should encourage partnerships with local tenure right holders.”

Beyond the policies and their compatibility with the international commitments signed by the Belgian State, the combination of the information at our disposal indicates that there are several reasons why the investment in JTF Madagascar deserves attention from the actors of the Belgian cooperation and development sector, in particular in terms of impact, vision of the food system and of food security that it implements:

a) Funding large-scale monocultural agri-industry food investments: to our understanding, JTF is a typical large-scale investments in land realised by foreign investors in Sub-Saharan Africa. It involves the lease or purchase of a large tract of land (7000ha) and it is based on highly mechanized methods of monocrop production (two years maize, one year soybeans, 2 years maize, 1 year of cover crop) with limited labour involved (mainly in the geranium harvest).⁹⁰² Like many of these investments, JTF Madagascar is based on the idea that there is un-exploited land that was idle and abandoned and that was finally brought to productivity and utilized for its potential of revenues generations and establishment of value chains. This paradigm has been challenged for decades by agricultural and land scholars such as White, Hall and Alden-Wily, who have underlined how the idea of ‘abandonment’ or ‘voidness’ is typical of a Western and modernist approach to land as a factor of production that does not see as valuable land that is not farmed or not-arable, so that any other use (such as herding or cultural functions) is of secondary relevance if even considered.

The idea of empty land or less valuable land if it is not farmed is premised on a superficial reconstruction of the complex socio-cultural history of land and land rights in Sub Saharan Africa.⁹⁰³ Although it is true that commitment 13 of JTF’s Land Use Policy mentions the identification of sites of cultural value, it also accepts the possibility that they will be moved elsewhere. Similarly, commitment 5 makes a clear distinction between arable and non-arable land, as if the latter had less value. Equally, commitment 4 concerns the guarantee of the access to sustainable pasture land and other natural resources, without adequately defining what ‘sustainable access’ means. Finally, the fact that the commitments use the word ‘consultation’ rather than consent is a further element that should be support the call for a continuous, transparent and effective assessment of the past, present and future interactions between JTF and the local communities.

The main difference vis-à-vis the majority of the large-scale agricultural investments that have been realised after the 2008 food crisis is that JTF Madagascar and BIO claim that most of the land is used to produce maize and soya for the local market rather than for export.⁹⁰⁴ The productive capacity of highly mechanized agriculture and the combination between national use of the maize and the export of geranium oil (transformed on site) is what attracted BIO’s investment and convinced them to provide the loan. The choice to invest in a 7000ha agribusiness operations like JTF Madagascar aligns with the dualistic approach towards food and agriculture

⁹⁰²BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO’s Response, 30 August 2021.

⁹⁰³ Ben White et al., *The New Enclosures: Critical Perspectives on Corporate Land Deals* (Routledge, 2013).

⁹⁰⁴ Information from Madagascar suggest that geranium, which is cultivated for export, is occupying a significant part of the area.

that is discussed above: on the one hand, BIO supports large-scale mechanized farming with the justification of increased productivity and cheaper access to market, on the other hand it supports small-scale farming for high-end export.

It is noteworthy that local news have underlined the fact that the workers employed in the production of maize are mostly seasonal employees who come from another region (only 30% of the workers are from the Ihorombe region, according to the information we obtained from the ground).⁹⁰⁵ On the other hand, it is also important to mention that the production of Malagasy geranium – one of the most valued qualities of geranium in the market for essential oils - is not realized on large scale nor in a capital intensive way, but through a contract farming (outgrowing) scheme with 30 families of Malagasy farmers.⁹⁰⁶ Given its international market, geranium is already planted by small-scale farmers on around 3500ha all over Madagascar and is also usually at the centre of small-scale projects of local development linked with high end markets.⁹⁰⁷ No further information is available online with regards to the size of the plots, the remuneration of the farmers, the distribution of value across this ‘high end’ agricultural chain and the precautions that have been adopted with regards to availability and accessibility to food by the families that are involved in the outgrowing scheme.

Leaving aside the small project concerning the geranium bourbon, the interviews with BIO’s highlight that on JTF underlines that the investment was chosen for its contribution to corn production, the increase in mechanization and its link with the country’s food security. In the words of BIO: “in the case of maize in Madagascar, we believe a combination of small and large scale production is needed considering the magnitude of the deficit of local production.”⁹⁰⁸ Because food security needs a rapid solution, we were told, the ““The only way to reduce Madagascar’s dependency on imports is to combine the two approaches of increasing large-scale and small-scale farmers’ agricultural production. For the latter, ACEP Group, one of the largest micro-finance institutions in Madagascar, is part of the solution” (see box A.1).

Box A.1 - ACEP Madagascar

Since 2020, BIO, Investisseurs & Partenaires (through the I&P Afrique Entrepreneur 1 fund) and ACEP International (a private microfinance operator created by Nicolas Rofe and Thierry Perreau and present in Africa since 1989) have established the ACEP Group, a micro-finance institution that already manages a loan portfolio of €110 million across Burkina Faso, Madagascar, Niger, and Senegal and 140,000 recipients. Its balance sheet is €120 million with a growth of 19.2% between 2017 and 2019.⁹⁰⁹ The average loan disbursed by the ACEP Group is 2400 Euro and in the period 2017-2019 it has grown, on average, by 19,2%.

⁹⁰⁵ Tozzi Green, JTF Madagascar SARL, a subsidiary of Tozzi Green to be financed by DFI Finnfund and BIO: “Focus on sustainable agriculture”, 22 January 2020.

⁹⁰⁶ Id.

⁹⁰⁷ <https://www.coeurdeforet.com/post/projet-c%5%93ur-de-for%C3%AAt-madagascar-antsirabe>

⁹⁰⁸ 2nd thematic meeting with BIO.

⁹⁰⁹ Création d’ACEP Group par ACEP International, I&P et BIO, Journal de l’Economie, 27 February 2020, <https://journaldeleconomie.wordpress.com/2020/02/27/creation-dacep-group-par-acep-international-ip-et-bio/>.

Although BIO's website only reports a technical assistance subsidy of 67,512 Euro in favour of the ACEP Group,⁹¹⁰ the list of investments also indicates that there a 4,100,000 Euro loan was issued in favour of ACEP Madagascar, with the purpose of helping: i) the development of the product range (in particular mobile banking), (ii) provide support in operational and financial management (iii) optimization in resource mobilization. In the absence of public data, it is impossible to draw any conclusion on the way in which the support to ACEP Madagascar links with the Malagasy food system and farmers' food security. To our knowledge, however, no study has been conducted on whether or not ACEP Madagascar's small-scale debtors have been positively or negatively impacted by the consolidation of large-scale mechanized farming.

When we analyse JTF Madagascar from the perspective of its impact on the Malagasy food system and on Malagasy food security, we consider important to stress two things:

- a) that the choice to invest 3 million Euro into one player (JTF Madagascar) has an opportunity cost vis-à-vis all the other options that are not selected;
- b) that the selection of the project cannot be disconnected from the broader food system in which the investment is inserted.

We believe that public actors who invest in large-scale agricultural production must have clear in mind the long-term implication that the project may have not only on the people who are directly related with it, but also with the broader food system. Even if production is for the internal market. Coexistence between large-scale mechanized agriculture and small-scale farming shall not be dismissed with a generic statement that 'there is space for everyone' and that everyone will thrive, because this is not what the evolution of the global food system demonstrates.⁹¹¹ As a matter of facts, the two models may compete for the same resources (land, water, labour, soil, market) and the expansion of one may have significant repercussions on the survival of the other. Although the investment in JTF Madagascar happened along the investment in ACEP Madagascar, there is no datum and no evidence that the two were made in a coherent way aimed at favouring the coexistence between small-scale and large-scale farming in the area of the country, nor that the opportunity costs and long-term implications of supporting large-scale agribusiness have.

Olivier De Schutter had already indicated in 2014, when he published a set of reflection as a follow up to a meeting organised by BIO itself to receive inputs on its future agricultural investments. For De Schutter, then Special Rapporteur on the Right to Food: "The modernization of food supply chains, together with the implementation of agricultural policies focused more on the production of commodities than on food, have led to the marginalization of local food systems over recent years."⁹¹² De Schutter argues that this is a trend that should and "could be reversed, in order to provide small-scale food producers with greater opportunities to sell on the

⁹¹⁰ <https://www.bio-invest.be/en/investments/acep-group>.

⁹¹¹ Philip McMichael, 'The Land Grab and Corporate Food Regime Restructuring,' (2012) 39 (3-4) *Journal of Peasant Studies* 681, <https://doi.org/10.1080/03066150.2012.661369>.

⁹¹² P.16.

local markets which they can more easily supply without having to be dependent on large buyers.”⁹¹³

In the specific context of Madagascar, the choice to support highly-mechanized agriculture appears to clash with the DGD Strategic Note of 2011. At the same time, the 2020 considerations by Minister Kitir on the role of family farming in challenging food insecurity raise considerations regarding the compatibility of BIO’s current agri-food portfolio and the future strategy in agri-food investments. Will BIO continue investing in large-scale mechanized agriculture or will it align to the indications received by other parties of the Belgian development cooperation and by the Ministry? According to the Ministry of Agriculture of Madagascar, “Malagasy agriculture employs 80% of the active population and is an essential component of the Malagasy economy, contributing 30% to GDP (43% if agri-food is included).”⁹¹⁴ Small-scale farming is, therefore, the backbone of the economy. However, the average physical area of a farm in Madagascar is of around 0.8 hectares, meaning that more than 8500 farmers (and their families) could have been operating in the area that is now occupied by only one transnational enterprise.

We certainly recognise that BIO’s choice to invest in JTF Madagascar was also determined by contractual and structural limits (i.e. the size of the minimum ‘ticket’ for code 8 funds being 3m Euro, the need to remunerate the overall portfolio at an average rate of 5,5% year). However, the presence of different kinds of investments in BIO’s food and agriculture portfolio (as discussed in this report) reveals that there is the possibility for BIO to invest in other kinds of food production that are not large-scale, highly mechanized, employ little workers and are linked with export or industrial use of the food. The decision to invest 3 million Euro in JTF Madagascar comes thus with opportunity costs (what is not financed) and with the decision to prioritize mechanized agribusiness in that region over small-scale farming and agroecological practices, with all the consequences that this has both in terms of human rights, food security and environment.

To use, once more, the words of Olivier De Schutter: by presupposing that large-scale agri-industry investments “can be desirable under certain conditions, provided they are well managed, we underestimate the opportunity costs involved in giving away farmland that is considered ‘idle’ to promote a type of farming that will have much less powerful poverty-reducing impacts than if access to land and water were democratized for the local farming communities.”⁹¹⁵ To adapt the words that Canfield, Anderson and McMichael utilize to define the Food Systems Summit, JTF denotes a choice, i.e. BIO’s choice to “focus on those “levers of change” from which multinational corporations can profit, rather than the indigenous and agroecological food systems that have never contributed to today’s environmental problems and even help to restore degraded ecosystems.”⁹¹⁶ Large-scale monocultural projects run by global corporations like Tozzi Green are just one possibility, and they come at a socio-environmental cost. Including for food security.

⁹¹³ P.16.

⁹¹⁴ Malagasy data agriculture.

⁹¹⁵ Olivier De Schutter, 'How Not to Think of Land-Grabbing: Three Critiques of Large-Scale Investments in Farmland,'(2011) 38(2)*Journal of Peasant Studies*250, <https://doi.org/10.1080/03066150.2011.559008>.

⁹¹⁶ Matthew Canfield, Molly D. Anderson, and Philip McMichael, 'UN Food Systems Summit 2021: Dismantling Democracy and Resetting Corporate Control of Food Systems,' (2021) *Frontiers in Sustainable Food Systems* 5), <https://doi.org/10.3389/fsufs.2021.661552>.

b) Assessing the impact on existing food systems: it is our understanding that BIO conducted a long process of financial due diligence and environmental and social assessment of the project. This led, as mentioned already, to the compilation of an Environmental and Social Impact Plan that contain pre-disbursement and post-disbursement conditionalities (however, this is kept confidential and does not allow interested stakeholders to check the respect of those requirements). It is also our understanding that BIO thought about the role of the project in the wider Malagasy food system and that it decided to invest in JTF Madagascar “considering Madagascar’s significant dependency on maize import.”⁹¹⁷

Although we agree with the purpose of increasing the food autonomy of Madagascar by creating the conditions for more local production, it is important to reflect on the way in which the state of the art of the food system was assessed and the definition of food security that was adapted and utilized to justify the investment. BIO’s participation in JTF is to support large-scale production of cheap inputs for the livestock chain (chicken in particular) and – according to what we have been told by representative of local communities – a brewery. To our knowledge, the majority of the corn that is farmed by JTF is of a hybrid that differs from the quality that would normally be consumed by human beings. In the project description and in the interactions that we had with BIO; it was also mentioned that JTF is selling corn to the World Food Programme (WFP) as part of its contribution to local food security. However, BIO subsequently stated that the “WFP being one of [JTF’s] client was deemed positive but, considering the volatile nature of the demand from WFP, was not the basis of the investment thesis (nor the basis of the developmental impact case).”

Although investing in JTF may reduce the import of corn that is used in these two specific chains (chicken and alcohol), there are few considerations to be made:

- a) For few years at the beginning of this century, Madagascar was self-sufficient in terms of corn consumption. However, the production of corn by Malagasy farmers has been constantly declining since 2012 for reasons linked to pest, lack of resources, and poor logistic. Compared to the 448,000 tons of 2012, in 2020 they only produced 215,000 tons.⁹¹⁸
- b) According to USAID, in 2016/2017, Madagascar was importing 18,000 tons of corn per year, equal to 5% of that year’s total production. Given this datum, we do not consider that the price of corn on the market is defined by the price of import parity, as we were told by BIO.⁹¹⁹
- c) In 2019, Tozzi Green declared that it had reached a yield of over 20,000 tonnes per year over 6000ha of its Malagasy project.⁹²⁰ This represents around 10% of the annual consumption of Madagascar, and more than what Madagascar was importing in 2016/2017.

Assuming that the cost of importing is higher than the cost of JTF production, Tozzi Green’s investment in corn production can thus close to gap of import. Assuming, however, that both the

⁹¹⁷ 2nd thematic meeting.

⁹¹⁸ IndexMundi: <https://www.indexmundi.com/agriculture/?country=mg&commodity=corn&graph=production>.

⁹¹⁹ 2nd thematic meeting with BIO.

⁹²⁰ <https://www.tozzigreen.com/en/foire-internationale-de-lagriculture-2019-focus-sulleducazione-a-unagricoltura-sostenibile-e-inclusiva-nel-sud-del-madagascar-con-luscita-del-libro-per-bambini/>.

cost of production for JTF and the cost of import are lower than the cost of small-scale production, the impact of JTF may be that of replacing the 10% of the local market.

Thus, if we also consider that 80% of the population is dependent on agriculture, we can add that the Malagasy small-scale corn sector provided a relevant opportunity to strengthen existing production and help small-scale invert the ongoing trend, whereas the capital-intensive investment in JTF Madagascar not only generates little jobs, but may also represent a possible competitor for thousands of farmers who are locally producing corn. To what extent the 2019 investment in JTF Madagascar followed the Agri-Food Task Force's recommendation to "take the farmers' perspective during due diligence and implement a close qualitative monitoring"?

For sure, the investment in JTF Madagascar is creating the conditions for the consolidation of food chains (chicken farming and brewing). However, the fact of having only one large player at the origin of the chain selling to a limited number of players at the end of the chain risks to establish two very concentrated chains with few actors and a considerable amount of economic power. Therefore, by supporting the largest corn producer in the country without focusing on the structure of the downstream food chain, BIO may be favouring the consolidation of an oligopolistic food system that may have significant implications both for small-scale producers (who would be dealing with more a powerful competitor and few intermediaries/processors) and for consumers (who would have less large-scale players to buy from). Can an investment based on the participation in a specific food chain (chicken and eggs production) happen independently on the socio-economic impact of the downstream activities and an actual consideration of food security as accessibility and stability?

c) *Food security for whom?* A third point of consideration is the link between BIO's investment in JTF Madagascar and the commitment to food and nutrition security. For BIO, investing in corn for poultry production will help Madagascar meeting the growing demand for animal protein. In this sense, BIO makes three considerations:

- a. that food insecurity is best addressed by utilizing large tracts of land to produce feed rather than food;
- b. that JTF Madagascar is introducing in Madagascar sustainable farming practices;
- c. that the environmental and health concerns that have been raised by food experts and the European Commission and that underline the need to transition away from animals and towards a more plant-based diet do not apply in the context of Madagascar.

In addition, we were told by a representative of a regional Malagasy organisation that "there has been an instance where farmers had picked up the maize from Tozzi's fields that was left on the ground after the machines that collected the maize and planted it and then sold it at the market. The person who bought the maize was sued by Tozzi for buying the proceeds of a theft."⁹²¹ The protection of patented varieties and the enforcement of property rights would not be a novelty, but the denial of gleaning would clearly clash with JTF's commitment to provide local communities with "sources of additional income (such as post-harvest collection and smallholder pro-

⁹²¹ Email exchange with BIO.

grams),” and with the continuation of socially and environmentally sustainable practices that have been undertaken for centuries all over the world.

Given the lack of a clear pre-investment’s assessment of the long-term impact on farmers and people’s food security and given the lack of an ex-post assessment of the way in which JTF is changing the Malagasy food framework, it is hard for us to draw clear conclusions. However, it seems to us that Bio’s support to large-scale mechanized and monocultural agriculture that employs a very limited number of employees per hectare, and its decision to privilege the enlargement of livestock chains over the stability of direct human consumption, BIO seems to turn its back to the 2011 DGD recommendations about the role that small-scale farming, food autonomy and access to local food in the fight against hunger. For sure, cheaper corn and cheaper chicken (and, potentially, beer) could increase the availability of this specific food in Madagascar. However, we also know that chicken is generally more expensive than other forms of vegetable proteins. Whose food security is BIO referring to when considering this kind of investments?

d) Land rights and the socio-political context: a fourth point of interest has to do with the way in which BIO’s participation required the investee to adopt a clear policy concerning land rights and the interaction with the herders’ communities who would have been negatively impacted by the project. We know that specific requirements vis-à-vis land rights, and in particular the ‘willing seller – willing buyer’ principle were introduced in the Environmental and Social Action Plan that BIO and Tozzi Green concluded. However, this document is confidential and there is no possibility to assess the current situation and the extent to which JTF Green is complying with those requirements.

Land rights represent a point of tension all over the world, and at least one project financed by BIO has been strongly criticized for insisting on traditional and customary land that was not recognised. In the context of Madagascar, this seems to be even more the case given the overall suspicious with foreign investors in land after the 2008 revelation that the company Daewoo had signed an agreement with the government for millions of hectares of agricultural land. Moreover, Tozzi had already been on the radar of land rights organisations because of a large-scale jatropha project in Senegal, a controversial project that in 2009 Tozzi Green commented as follows:

“we are about to obtain a 50,000-hectare concession (under a 99-year lease contract) (...). We will be able to export our oil production; the government has only reserved the right to purchase part of our production at market prices. The government has also allowed us to import the materials and equipment needed for start-up duty-free.”⁹²²

In addition, since 2012 Malagasy civil society organisations and local communities had been pointing at the risks behind Tozzi Green’s Biomass Biofuel Ihorombe jatropha project and the company’s intentions to scale it up to 100,000ha by 2019.⁹²³ In this context, three considerations

⁹²² Biocombustibili: in Africa l’Italia punta sulla Jatropha”, Diplomazia Economica Italiana, 7 agosto 2009, http://www.notiziariofarnesina.ilsole24ore.com/archivio_newsletters/Newsletter_07082009.pdf.

⁹²³ Re: Common, Assalto alla terra. Appunti e riflessioni tra Italian e Madagascar, Roma: Re:Common, available here: <https://www.recommon.org/assalto-alla-terra/> [last accessed 25 September 2021].

arise, one linked to the specific context where the project was installed, one considering the 'willing seller – willing buyer' mechanism and one with the decision to invest in a global player that has already had been involved in significant clashes with local communities and civil society organisations in Sub Saharan Africa.

Research previously conducted on the ground by the Italian NGO Re Commons shows that the population of the Ihorombe region is composed mainly of the Bara ethnic group, which lives mainly from zebu breeding. Zebu need to roam and move frequently. One hundred zebu animals need at least ten hectares a day to graze, and they cannot return to the same land for at least ten days to allow the grass to regenerate. According to Re:Common, herders that they interviewed in the area where Tozzi Green had launched in the Ihorombe region own an average of two-hundred zebu.⁹²⁴ For BIO, on the contrary, their local due diligence "indicated that there are a few Bara families that possess a large amount of zebu, with a vast majority of Bara families owning no to a few zebu. Under a kind of feudal system they may be entitled to herd zebras of rich Bara families against minimal payment, with an obligation to repay any stolen zebu. This seems to happen often and results in poverty traps and informal bonded labour schemes."⁹²⁵

BIO did not provide further details on how the presence of zebras has been dealt with. Whether several families have numerous zebras or few families own large herds, the risks remains that the installation of large-scale agricultural operations, the temporary privatization of vast tracts of land may reduce the herd's mobility and the use of fertilizers/pesticides may have a negative impact on their economic wellbeing and reduce their financial autonomy rather than strengthening their right to development and empowering them. Already in 1999, Hussein, Sumberg and Seddon published an article on *Development Policy Review* highlighting the "*Increasing Violent Conflict between Herders and Farmers in Africa: Claims and Evidence*"⁹²⁶ the importance of implementing developing policies that consider the change in the use of natural resources (land and water) and the disappearance of traditional mechanisms governing resources' management and land conflict.

For what concerns the 'willing seller – willing buyer' interaction between JFT and local communities, we need to underline how this approach to land reform (or transfer of rights over the land) was originally implemented in the context of post-apartheid South Africa as a mechanism to redistribute land owned by the white elite. There, the project failed because of the insufficient incentive for the land owners to release valuable and good quality land. In the case of JTF, we believe that the adoption of a market-based approach to land transfer could lead to negative consequences already experienced in other contexts: enrichment of the local elites; prevalence of individual interests over communal ones; exclusion of women from the financial benefits obtained from the transaction; abandonment of the countryside and urbanization; end of local agricultural practices that provide some sort of food autonomy. In the absence of a valuable alternative (such as the possibility of being supported in their agricultural practices and in accessing the local market), individual and communities may accept an economic offer that has a

⁹²⁴ Ibid.

⁹²⁵ BIO, Study Commissioned by 11.11.11., CNCD-11.11.11., and La Coalition Contre la Faim: BIO's Response, 30 August 2021.

⁹²⁶ Karim Hussein, James Sumberg and David Seddon, *Increasing Violent Conflict Between Herders and Farmers in Africa: Claims and Evidence*, *Development Policy Review* Vol. 17 (1999), 397–418

positive impact on the short term, but may be irremediably affect their future and their right to development.

Thirdly, the choice of Tozzi Green as the recipient of Belgian ODA deserves a consideration. As mentioned before, the company had been at the centre of some highly controversial land deals both in Senegal and Madagascar, mainly driven by the jatropha rush and the desire to produce biofuel for export.⁹²⁷ We are aware that BIO was aware of the past allegations against Tozzi and put in place all its ex-ante due-diligence procedures. As they told us:

“When considering this project we knew it would take us (and the client) a huge amount of work (mainly from a E&S point of view considering the complexity of E&S items related to large scale agri project such as local communities’ relationship, land title, environmental impact, etc. This was particularly relevant considering historical controversies in Madagascar, including on JTF) (FYI: It took us almost one year to complete the transaction and proceed to the entire due diligence process). Therefore, before starting our fully-fledge standard due diligence (including on-site due diligence), we 1. checked JTF (and its shareholder) was committed to comply with high E&S standards . We’re not going to be able to cover that in 2 min. But there, before even doing business due diligence, we requested due diligence on environmental & local community 2. we hired a consultant with experience in Madagascar and specialised in local community thematic to look into the project and assess its E&S practices (considering historical allegation regarding Tozzi Green in Madagascar.”

It may certainly be that the current project has nothing to do with the 30 years lease that Tozzi Green signed in 2012 directly with the central government for 6,558 hectares of land in the rural communities of Satrokala and Andiolava and that costs the company 10 euros per hectare per year. It may also be the case that Tozzi Green may have learned from past mistakes, despite the news coming from civil society organisations in Madagascar that it is planning to expand its cultivated area and increasing local discontent. It may also be the case that food security in the area is increasing and that BIO is contributing to the livelihood of local communities who provide off-farms labour rather than representing a problem for smallholders and herders. However, the public does not know. And does not know what weight BIO gave to all these factors when the decision to finance JTF was undertaken.

In 2017, the Agri-Food Task Force invited BIO to consider agri-forestry investments on a case by case given their risk and multiple impacts at the local and international level: this has ex-ante and ex-post implications and applies to both agri-business and plantation investments. Before the approval, we believe that the multiple high risks of these investments require, among others, to organise an effective and transparent procedure to guarantee the expression of the people’s right to self-determination and development, to implement the highest standards in terms of Free, Prior and Informed Consent of the local populations, to realise an ex-ante human rights and gender impact assessment to hire food systems experts who can address the role of the project

⁹²⁷ Saturnino M. Borrás et al., 'The Politics of Biofuels, Land and Agrarian Change: Editors' Introduction,' (2010) 37(4) *Journal of Peasant Studies* 575, <https://doi.org/10.1080/03066150.2010.512448>.

in the local context and its impact on the right to food (and not just experts in other sectors), to involve local communities and Belgian civil society in the definition of the ESAP, and to give particular weight to the negative impact of previous projects realised by the same company, the risk of replication of past patterns, and the reputational risk of being associated with an investor who has been already criticized internationally.

Ex-post, the risky and conflictual nature of large-scale investments in land must be tackled by being actively involved in the relationships between the company and the communities and not only by delegating to the latter. As a matter of fact, BIO only has a bunch of these projects in its portfolio and if it decides to continue investing in them, it shall have a dedicated staff. Upholding human rights for the whole life of an investment in large-scale land investments means that BIO shall live up to the standards of full transparency and access to all the relevant ESAP information in its possession, commit to a continuous interaction with the local communities, conduct regular ex-post human rights and gender impact assessments, publish the company's performance vis-à-vis the contractual conditionalities and request that all land transactions, contracts and arrangements with local communities are realised in respect of the international human rights standards, communicated to the local communities, published on the website of the company and published on the BIO website.

It would be important for the public (including local and Belgian organisations) to have access to the detailed analysis of the tenure system in the area and to the agreements that JTF Madagascar has concluded with the owners of the land. Is the current project unfolding in the same area that was originally deemed for jatropha production? Is there the expectation of expanding the surface of production beyond the current 7000h? Have contracts being concluded with the local communities? If so, which kind of agreements and what has been the role of BIO in these interactions? Has the land been purchased or leased? Was there a request to undertake specific steps and consider specific circumstances when approaching communities and their customary land system? Have the positive and negative impacts of selling/leasing the land being considered? Is BIO providing any technical support to the 'willing seller - willing buyer' interactions? We are sure that most of this information is in BIO's possession and we believe that its disclosure is justified by the right to information and transparency and shall not be prevented by business considerations. The financial, legal, and reputational risk of these projects (both in terms of land and water rights, but also food security, gender, rural impoverishment, etc.) requires a change of gear at all levels of the project pipeline and to go beyond due diligence and reliance on the clients.

e) **Additionality:** the final point concerns the additionality of BIO's support to JTF Madagascar. International publications reveal that the company had already been operating in Madagascar since 2010, for at least nine years before BIO decided to open a line of credit in its favor.⁹²⁸ In addition, Tozzi Green is an international company operating in tens of countries and with a solid financial condition. If operations were already in place (so much that in 2019 Tozzi mentioned that they were already producing 20,000 tons of corn) and if Tozzi has access to financing, what is the additionality that BIO can provide? And is BIO's mission to intervene in this context?

⁹²⁸ Re: Common, Assalto alla terra. Appunti e riflessioni tra Italian e Madagascar, Roma: Re:Common, available here: <https://www.recommon.org/assalto-alla-terra/> [last accessed 25 September 2021].

Example 4) Rubaya-Nyabihu Tea Company (RNTC) (€4m, 2017)

The case of the Rubaya Tea Plantation is of interest not only because of the impact potential of the investment, but also because of the way in which the investment is constructed and presented, and because of the role that this company had in the process of privatization of public assets in post-genocide Rwanda (Box A.2). Rubaya-Nyabihu Tea Company (RNTC) is the subsidiary of a holding company, Rubaya Mountain Tea (RMT), that is involved in energy generation, tea business and concrete and bricks business. RMT Ltd is the leading private investor in Tea Estates, Tea blending and packaging in Rwanda. RMT owns majority shares in five Tea Factories including Nyabihu, Rubaya, Rutsiro, Kitabi and Gatara and has consistently invested in improving and expanding the tea plantations, revamping the tea factories, building the capacities of staff, and diversifying the markets of made teas. Notably, the combination between tea plantations owned by RMT Ltd and those that are owned by outgrowers at all the five tea estates currently totals 7,285 Ha.⁹²⁹

According to BIO's, the 4m euro loan issued in 2017 was specifically issued in favour of the subsidiary RNTC for its hydropower activity and the expansion of its tea business. RNTC planned to expand the size of its industrial tea plantation in Nyabihu by 300 ha and also to expand their outgrower scheme by 350 hectares (150 at Nyabihu and 200 hectares at Rubaya). According to BIO, by financing the expansion of tea production in the plantation and by contract farmers, BIO will directly contribute to an increase in taxes and Rwanda exports (given that 90% of the tea is exported), along with employment and food security for the outgrower farmers. Currently, RMT Industrial Block at Nyabihu sits on 1,454.9 hectare of land, of which 1,043.54 hectares are occupied by tea plantations and staff houses, and 368.43 hectares by fire wood forest.⁹³⁰

Nyabihu employs over 4,000 people including Managers, factory engineers and technicians, Agronomists, cleaners, and Pluckers, and increases the number of workers as the production and operations increase. The Outgrowers cooperative has a total 233 members.⁹³¹

Box A.2 - Financing the Privatization and internationalization of Public Land and Productive Assets of post-genocide Rwanda

According the history of RMT available online: "In August 2006, the Government of Rwanda under the privatization policy sold to Rwanda Mountain Tea controlling shares (90 %) of two tea estates of Nyabihu and Rubaya – both in the North Western region of Rwanda. The other 10% [was] owned by out-grower tea farmers. Again in 2009, still in the privatization process, Rwanda Mountain Tea acquired 60 % shares in Kitabi Tea Company (in the Southern region). Then in 2010, still in the privatization exercise, Rwanda Mountain Tea in a consortium with an Indian company – Jay Shree Tea & Industries Ltd - successfully bid for 60% shareholding in two companies of Gisakura Tea Company & Mata Tea Company in the South West of Rwanda. Rwanda Mountain Tea not only owns the referenced shares, but also has management contracts with

⁹²⁹ RMT Tea Factories, Website, available here: <http://rwandamountaintea.com/responsive/english/group-companies/?lang=en>.

⁹³⁰ We are not aware of any specific consideration about the compatibility between fire wood forests and BIO's climate policy and the climate commitment of Belgium and its development cooperation actors. For info, see here: <http://rwandamountaintea.com/responsive/english/group-companies/article/nyabihu-tea-factory?lang=en>.

⁹³¹ See <http://rwandamountaintea.com/responsive/english/group-companies/article/nyabihu-tea-factory?lang=en>.

Rubaya – Nyabihu Tea Company, the company under which Rubaya and Nyabihu tea estates operates; and Kitabi Tea Company, the producer of the Kitabi tea mark. The objective of the privatization process is to reinforce the tea sector by encouraging private investments that would bring in the needed expertise towards improving competitiveness of Rwanda teas in the global market. Rwanda Mountain Tea also has majority shares in a packaging plant – Rwanda Tea Packers – that sells packaged Rwanda teas mostly to local markets.”⁹³²

Because tea plantations “require 3-4 full-time-equivalent per hectare to maintain and pluck the green leaves,” the extra 300 hectares was aimed to create between 900 and 1200 new jobs. In addition, these tea plantations are in rural area which have low level of income (mainly based on subsistence farming) and high unemployment rate. “Job creation in these areas has a particularly strong spillover effect on local communities.”⁹³³ For what concerns, food food security & rural development, the choice of RNTC was justified by the recognition of green leaves as “a very attractive cash crop as production/harvest occurs throughout the year and, once planted, does not need significant efforts.’ Because “revenue/profits per hectares is higher than alternative food crops,” BIO’s support aims at facilitating the shift from food crops to cash crops and the integration of outgrowers into international value chains with the support of RNTC. The company “supports outgrowers by providing them with tea bushes from their nursery, payment facilities for fertilizers and technical assistance on how to manage plantations.”⁹³⁴

In this context, some considerations arise:

- The Government of Rwanda had “originally embarked on the tea factory privatization program in response to inefficiencies in government owned factories and to stimulate private investment and growth in the sector.”⁹³⁵ The intended beneficiaries of the program included farmers—who would achieve higher productivity, output and incomes—private sector investors, and ultimately, the GoR with its balance of payments targets. However, the plan and the central role that processing factories play in this sector seem to have **favoured the concentration of land ownership**. In 2020, there were 15 operational tea factories servicing a planted area of 15,383ha of which 75% is smallholder owned. Government policy has ensured that, in a majority of the factories, about 75% of the green leaf supply is from smallholder sources with average plot sizes of 0.36ha per farming household. RMT represents, therefore, one third of the tea factories and one of the few conglomerates that own large-size tea plantations. They can be considered as bottlenecks of the Rwandan tea sector. Investing in the expansion of their operations can certainly increase access to market to small-scale farmers but is unlikely to change the balance of power between the actors in this sector and contribute to the emancipation of small-scale farmers.

⁹³² See Rwandan Mountain Tea Ltd, available here: <https://rwandamountaintea.com/History.html>.

⁹³³ BIO, RNTC investment, available here: <https://www.bio-invest.be/en/investments/rubaya-nyabihu-tea-company-ltd>.

⁹³⁴ Ibid.

⁹³⁵ Essama-Nssah, B., K. Ezemenari and V. Korman. 2008. “Reading Tealeaves on the Potential Impact of the Privatization of Tea Estates in Rwanda.” Policy Research Working Paper No. 4556, the World Bank: Washington DC.

- Moreover, **price volatility** (tea is a cash crop) represents a risk that may lead farmers to being worse off financially than before. We are not aware of the contractual relationship with tea pickers and whether or not a minimum price is guaranteed (as in the case of Fairtrade certification). However, we have already discussed above that certification and minimum prices are not, per se, synonymous of decent living conditions. In the absence of a policy that guarantee that farm workers receive a living wage and that small-scale farmers receive a living income, it is important to obtain better information on the contractual relationship between RNTC, its plantation workers and its outgrower farmers. In addition, smallholder farmers either harvest their own leaves or employ pluckers paid at a daily rate for the task. Studies conducted on tea contract farming in other countries, like Vietnam, highlight that the positive impact of higher income are not equally distributed along the chain and that more must be done in order to strengthen the position of outgrower farmers and their position in the chain.⁹³⁶ In a recent document, DFIF suggests that the exposure of farmers to price volatility shall be balanced with the establishment of an accessible safety net programmes. Is this an option that was considered by RNTC?
- Just under half of the population in Rwanda live in extreme poverty. Poor diets and malnutrition are a concern, with 38% of children under five reported as being stunted. In addition, Rwanda is faced with the challenge of an increasing population, which in turn **impacts negatively on the per capita food production, availability, and consumption**. Combined with the limited income and the fact that it takes approximately five years from planting before a tea bush reaches its full commercial bearing (during this time substantial investments have to be made without seeing a commercial return) the choice to support the expansion of existing tea plantations and the integration of more farmers into this activity rather than working with local actors to establish markets and food chains for local consumption poses questions on the capacity of this project to positively contribute to the food and nutrition security of the Rwandan population. This risk is also recognised in a 2016 pre-project assessment study realised by DFID, according to which investing in tea production in Rwanda present a major negative risk for food and nutrition security “if land is used for tea instead of subsistence farming, and farmers do not use earnings to purchase nutritious food for themselves and their families.”⁹³⁷
- The same DFID document recognised that the **expansion of contract farming and the consolidation of existing plantations may have major negative impacts in terms of gender and loss of livelihood**. Because ‘gender’ and ‘women’ are not mentioned in BIO’s public document and because no access has been possible to an ex-post assessment of the investment, it is not possible to address these two crucial issues.

⁹³⁶ Le, T.L.O, The Contract Farming as a Determinant Promoting Tea Production and Marketing at Farm Household in Vietnam: a Case Study in Phu Tho Province, Dissertation originale présentée en vue de l’obtention du grade de docteur en sciences agronomiques et ingénierie biologique, Hanoi University.

⁹³⁷ DFID, Business Case, Summary Sheet, Sustainable Inclusive Livelihoods through Tea Production in Rwanda, DFID, 2016.

Example 5) The Société de Cultures Légumières (SCL) (€2,6m – 2016)

SCL is a company established in 2006 in the region of Saint Louis (North of Senegal) by a French international investor who had been spending twenty years working in the agri-food sector in Sub Saharan Africa. It started with 200,000 Euro of personal funds and a surface of 70ha of leased land to produce sweet corn. IN 2020 it operated on 1700/1800 ha of land, 1330 ha of which was cultivated. This is the area where Van Den Broeck et al. realised their surveys in 2007 and 2013 and that led to the papers that is often referred to by BIO to justify the investment in export-led agriculture.⁹³⁸ SCL is presented by BIO as an example of positive economic impact obtained through large-scale export-oriented agriculture, on the basis that a) Senegal is a food importer; b) Senegal is in need of hard currency that can be provided by export; c) The zone of Diama is an area with 'little development', unemployment and depopulation; d) SCL has provided CSR projects.⁹³⁹

- a) *Senegal as a food importer*: according to BIO: “Senegal is a net importer of vegetables, even for the ones that are largely cultivated in the country (such as rice and onions). One of the objectives of the government is to invert the balance of payments for vegetables during the Senegalese winter season (ie. from June to September), when agricultural production is lower, and hence to increase local production for the local market during this period. This is exactly what SCL does, as the company grows crops for the local market during the inter-campaign period, when the European markets are supplied by European farms.”⁹⁴⁰

However, from the interview with SCL and from an attentive reading of the two papers previously discussed, there are three points that arise that challenge the narrative of SCL as a significant contributor to reducing food import:

- a. According to SCL's account, the company never had the local market and local consumption as main targets. On the contrary, it was established to use the “available land, water, labour and proximity with the port of the Senegal River Delta” to satisfy the needs of European retailers and consumers. Local production is a bi-activity that is justified and limited by the will to annually regenerate the soil, so that not all the cultivated land is used for local production.
- b. SCL exports more than it remains in Senegal, both in terms of quantity and value. The value of the production that remains in Senegal is around 12/13% of the total value of production, a condition that is determined by the lower price of those products vis-à-vis those that are exported and the fact that the cultivated area dedicated to local consumption is lower than the one dedicated to export.
- c. SCL is looking forward to concluding an agreement with large-scale supermarkets retailers i to facilitate the distribution of its harvest through their logistical chains and favour urban consumption. Whereas this can have a positive impact on urban contexts, this may have negative implications in terms of availability of food in the areas that most suffer for food insecurity.

⁹³⁸ Van den Broeck “Moving Up or Moving Out? (n 454); Van den Broeck, “Global Value Chains, Large-Scale Farming, and Poverty” (n 453).

⁹³⁹ Société de Cultures Légumières S.A., BIO webpage, See here: <https://www.bio-invest.be/en/investments/soci%C3%A9t%C3%A9-de-cultures-l%C3%A9gumi%C3%A8res-s-a>.

⁹⁴⁰ Ibid.

- b) *SCL is providing hard currency*: SCL is framed by BIO in the context of a country, Senegal, that faces a massive hard currency outflow to buy goods. For BIO, because SCL sells 92% of its production to Europe, it creates a positive flow of hard currency into the country and creates a positive, albeit small, effect on the country's hard currency reserves. "If we take into account the purchases made abroad (mostly equipment and logistic costs), we reckoned that the equivalent of 60% of SCL's sales is hard currency revenue that stays in the country (paid either to suppliers, employees, State and local communities or banks)."⁹⁴¹

Although we appreciate that 60% of a business with a €26M annual turnover is a significant amount of resources, the actual impact of SCL in terms of hard currency depends on multiple factors (including whether the contract with the buyer is concluded in hard currency or local currency) and must be compared with the territorial economic impact of other forms of production (local, family based, etc. that tend to establish closed circuits and maintain almost the entirety of the value into the territory). Furthermore, this also means that 40% of the value that is produced with land, employment, water, and resources that are present in Senegal does not remain in Senegal. Seen from this perspective, the distribution of value mainly tell a different story than the one BIO is portraying.

- c) *SCL as provider of employment and development*: during our interviews with SCL, we heard that SCL employs **337 people permanently** and **6,000 seasonal workers** over the year (a number that has been growing significantly in the last years with the expansion of the operations, including because of the finances provided by BIO). According to a 2011 report by IPAR, 'high skills' workers are contracted from Europe or nearby countries, whereas the Senegalese are mainly employed as seasonal/daily workers.⁹⁴² These people live in the villages near SCL's four farms and SCL is one of the only "big" employers in an area where BIO defines that job opportunities are scarce (but we already discussed the economic and financial role of small-scale farming). BIO stresses in its communications that "wages are **above minimum wages**" and **women** represent more than **30% of the workforce**. We thus enquired with SCL about these two specific aspects in order to better understand the way in which SCL generates a positive return on households.

For what concerns wages, it was confirmed that workers receive minimum wages for the days that they work. However, we also heard that workers are hired with daily contracts and that there is no collective bargaining or collective representation of the workers. Each worker is individually hired on a day by day basis. Whether this may create some flexibility on the side of the worker (who may decide not to work on a specific day), we believe that there is space for significant improvement vis-à-vis- the precariousness of the contractual arrangement, the fragmentation of the workforce and the uneven distribution of bargaining power that these conditions determine.

In terms of employment of women, we received quantitative and qualitative information that would be worth further engagement to better assess the gendered impact of SCL's activities in the region. According to SCL: "71 out of the 337 permanent staff are women,

⁹⁴¹ Ibid.

⁹⁴² IPAR, Les acquisitions de terres à grande échelle au Sénégal. Description d'un nouveau phénomène. Rapport de recherche, Mai 2011, http://www.ipar.sn/IMG/pdf/Etude_ATGE_IPAR.pdf.

and 3493 out of the 6000 seasonal staff. We tend to employ women but not because we have a quota. Rather because agriculture is traditionally female and so we employ the people who traditionally deal with that. We don't look at women or men when we sign the contract. Within the framework there are female managers, etc., but we do not discriminate positively or negatively. Looking at the percentage of women is a European obsession, and it becomes very difficult to work if the European vision is implemented in a totally different context.”⁹⁴³

- d) *SCL actively supports CSR projects*: we read on BIO's website that SCL has contributed to the “renovation of 2 class rooms in Diama; building of new tracks that helped opening up access to the village of Ngorane and shortening the way to schools from the village of Démizine; SCL provides corn residues (i.e. corn canes, low calibre cobs and leaves that remain on the fields after the cobs are harvested) to cattle breeders to use as feed for livestock; Connecting villages to potable water,...”⁹⁴⁴ All these activities show that there is potential (and need) to use (part of) the value generated through business activities to support and finance the improvement of non-economic conditions.

In the absence of data, it is not possible to determine what percentage of the annual profit generated by SCL is used for CSR nor what is the relationship between the annual profit that BIO is making on its loans (interest payments) and the CSR projects funded by SCL. However, when CSR is used to justify the investment in a private enterprise, we believe that it is also important to present data that give a clear sense of the link between private profit and territorial redistribution through CSR. In a sense, they also show that private enterprises operate in spaces, like the provision of essential services and human rights like education and health, that were originally occupied by official development aid. In addition, as we discuss below, it seems that the CSR investments are part of the compensations that SCL is paying in exchange for accessing communal land.

Having briefly discussed the three main points that BIO publicly uses to justify its support to SCL, there are four further issues that we would like to address and that emerged from the analysis of the data, our literature review, and the interview that we realised: **a) financing large-scale and export-led projects; b) land tenure, communities, and plantations; c) E&S requirements and doing enterprise; d) financial additionality.**

a) **Financing large-scale and export-led projects**: as mentioned in the report and above, SCL is a company that is operating in the region of Saint Louis (North of Senegal), the same that Van den Broeck et al. conducted surveys in 2007 and 2013 to assess the income generation impact of large-scale export-oriented agricultural production vis-à-vis.⁹⁴⁵ In the report, we discuss the way in which BIO is selectively utilizing the two articles and dismissing one of the most important findings: that context matters and that small-scale farming has a central role in the consolidation of households' income. In the case of SCL, the focus on the 6000 seasonal (daily) employees and on the generation of hard currency may overlook the role opportunity cost of supporting this

⁹⁴³ Interview with SCL, translation by the authors.

⁹⁴⁴ Ibid.

⁹⁴⁵ Van den Broeck, “Global Value Chains, Large-Scale Farming, and Poverty” (n 493); Van den Broeck “Moving Up or Moving Out? (n 494).

kind of enterprise rather than other form of agri-food production (e.g. cooperatives). At the same time, the work of Van den Broeck et al. suggests that it would be worth it engaging with a qualitative assessment of food security and gender dynamics as produced by the expansion of SCL.⁹⁴⁶

In particular, we recognise that SCL was established with the main intention of producing for the European market and that counter-cyclical production is just a secondary activity. This may potentially lead to several (and in some cases contradictory) consequences: fertile land is mainly used not to feed the Senegalese people; at the same time, when the land is used to produce for the local markets, this may create a competition between smallholder farmers and large-scale producers in case the latter was to sell food on the local markets; thirdly, SCL communicated its intention to partner with a large-scale retailer multinational to increase accessibility of its counter-cyclical products to the market in Dakar. Although this may reduce the pressure on local producers and increase their access to local markets, this may also move away significant amounts of food from the availability of producers (including workers). As the texts by Van den Broeck et al. suggest, we thus believe it would be important to engage with SCL not only from the point of view of income and employment, but as part of a complex agri-food system that has implications that go beyond the use of land, natural resources, and labour.⁹⁴⁷ However, the off-farm effects (beyond employment) do not seem to be central to the ex-ante and ex-post assessment of the project.

b) Land tenure, communities, and large-scale farming: a second point of reflection is represented by the relationship between SCL and the Senegalese system of land tenure. Access and ownership of land by local communities often represent controversial topics when large-scale agricultural projects are undertaken. From the perspective of the investors, land title also represents an important collateral that investors want to use in order to reduce the cost of borrowing. These tensions and their solution unfold in the context of national legislations and, when development banks are involved, shall also be defined by the adoption of stringent international standards.

During our research we learned that in Senegal the land belongs to the national domain. This was also confirmed during the interview with SCL, according to which this situation causes the problem that they “cannot bring the land as a guarantee.”⁹⁴⁸ That explains why SCL has been very active in ongoing policy discussions around land reform. For SCL, the hope is that “it will soon be possible to formalise all land and acquire permanent titles” a condition that “will change the financial and agronomic landscape.”⁹⁴⁹ Formalization of land and acquisition of land by foreign investor are, as we know, source of significant tensions with local communities and can lead to concentration of land and transformations of the agronomic landscape that negatively impact local smallholders and their access to land. In case the tenure system was amended to authorize purchase of land, we believe that the future land acquisitions by SCL shall require specific attention from BIO and from the Environmental and Social Action Plan.

⁹⁴⁶ Van den Broeck, “Global Value Chains, Large-Scale Farming, and Poverty” (n 493); Van den Broeck “Moving Up or Moving Out?” (n 494).

⁹⁴⁷ Ibid. see supra chapter 3 for more detailed analysis of the articles.

⁹⁴⁸ Interview with SCL, translation by the authors.

⁹⁴⁹ Ibid.

When it comes to land, SCL has been supporting its expansion (from 70ha to 1700ha) through land allocation (*affectation*, in French) agreements that are signed with the rural councils and the local communities. In this, BIO's money has been essential: the €5m loan in 2016 was explicitly aimed at the "cultivation of a larger area." The process of *affectation* involves the disposition by local councils of communal land. Once the contract is signed, it creates an obligation on the lessor on the basis of which SCL is obliged to maintain the land productive.⁹⁵⁰ As we mentioned before, it seems that the CSR projects are a form of paying for accessing the land. As SCL told us "There are contracts with the town hall and benefits are given in exchange: schools, health centres, access to residual from harvest."⁹⁵¹

Land 'affected' cannot be sold nor the object of another lease. For rural councils, with the approval of the Sub-Prefect, there is the possibility of disallowing the land but only in certain cases that are provided for in the law, that is:

- at the request of the beneficiary;
- automatically if, one year after a formal notice has remained without effect, it is found that the lessee's land is poorly maintained at the if, one year after a formal notice has remained unanswered, it is found that the lessee's land is poorly maintained at the time of the usual seasonal work, or that there is insufficient development, or that there is repeated and serious non-compliance with the rules governing the use of the land;
- automatically, if the assignee ceases to farm personally or with the help of his family;
- a fourth case of 'disaffectation' is provided for when the interests of the Community require that land be given another purpose, in particular for the establishment of cattle tracks, the opening, straightening, alignment or widening of public roads or squares, or the construction of water points. In this case, the owner of the parcel shall receive another equivalent use as compensation.

When it comes to SCL approach to the 'affectation' and the link between the company, land and communities, two elements shall be highlighted: a) that **SCL reproduces the narrative of idle and unused land**. For SCL "land we use was never developed, never cultivated, but only used as grazing land. So, we have improved the agricultural condition and we continue to do so."⁹⁵² Secondly, SCL sees the affectation as a "permanent right of use if the land that continues to be cultivated," the Senegalese land system is thus providing several opportunities for Rural Councils to claim back the land and terminate the treaty.

However, there is another element that shall be underlined and that has been discussed by Senegalese and international researchers who have been looking at the way in which private companies access agricultural land in the Senegal valley. A 2017 paper by Patrick D'Aquino, Seydou Camara, and Sidy Mohamed Seck from CIRAD provides a clear picture about the problematic and

⁹⁵⁰ Chapter 5 of the Senegalese land Law: Le patrimoine de la communauté rurale : Gestion des terres des zones de terroir: "Le bénéficiaire d'une telle affectation doit être capable d'assurer la mise en valeur de la parcelle, soit personnellement, soit avec l'aide de sa famille. C'est un droit d'usage à titre personnel d'une durée indéterminée donnée'. Les terres affectées ne peuvent être ni vendues, ni louées."

⁹⁵¹ Interview with SCL, translation by the authors.

⁹⁵² Interview with SCL, translation by the authors.

strategic use of affectation by multinational corporations and the way in which this form of accessing land shall be under the spotlight of development banks (like BIO) and civil society organisations.⁹⁵³ Formalization of land is asked by communities to protect their land from investors, but at the same time becomes a boomerang that when Councils conclude 'affectation' agreements that privatize large-tracts of land. In all that, certain parts of the communities (in particular Peul herders) are excluded. In their paper, the researcher state that:

“In the Senegal Delta, for example, the project for the inclusive and sustainable development of agribusiness in Senegal provides for hydro-agricultural developments reserved for investors. Until this external threat, the populations had not felt the need to have the land they occupied allocated to them. In 2014, faced with this risk of land grabbing, they rushed to their local communities to obtain official documents, recognised by the project, and giving them the right to compensation. The paradox is then complete: the State, associated with this project, thus recognises the formalization of local land rights via an allocation procedure that it has put in place to erase these customary rights. This gradual and uncoordinated case-by-case recognition of land plots accentuates the risk of abuses, as it is not governed by any specific consultation and control procedure. For example, the pastoral populations in the hinterland do not participate in this race for "regularization" and their living and grazing areas are then considered as land reserves on which investors will try to settle within the framework of this project.”⁹⁵⁴

As we also discussed via mail with one of the authors of the paper, it seems the case that in the Senegal delta some international companies have been taking advantage of an instrument designed for local communities (affectation) and, by combining it with some illegal practices and corruption, they manage to establish large-scale enterprises that are detrimental to existing agronomic structures and to the lives of certain population. Because of the rapid expansion of SCL since BIO has been funding it and because of the centrality of guaranteeing people's rights to land and development, it would be useful to investigate the reality on the ground where SCL operates and whether or not the use of affectations and the contracts concluded between SCL and the local Councils have been the object of specific provisions in the Environmental and Social Action Plan.

c) E&S and doing enterprise: another point that clearly emerged from the conversation with SCL is the tension that may exist between the request for high social and environmental standards and the way in which enterprises operate in the Global South. The interaction with SCL also raised points concerning the future of development banks and the way in which more attention from civil society organisations (and from researchers like us) may have on the future of entrepreneurship in the South. After being set up with the support of a UK-based buyer, SCL entered in negotiations with another development bank. We report here the words of SCL:

“[the negotiation with the other bank] was dropped because there were too many demands and too many constraints. [they] had a due diligence and a social and envi-

⁹⁵³ Patrick D'Aquino et al., 'Formaliser ou sécuriser les droits locaux sur la terre ? Leçons de l'expérience dans la vallée du Sénégal'(2017) 199 *Études rurales* 129 <https://doi.org/10.4000/etudesrurales.11590>.

⁹⁵⁴ Ibid, translation by the author.

ronmental plan that was unrealistic. They had visited the company and asked a lot of questions based on their Western vision of how to do business. They asked questions about women's work, about the sustainability of our farming practices and questioned the quality of the project and my objectives. When they decided to go and talk to the Fulani herders to find out if the project was creating any problems in their practice, as they have miles of hectares to practice transhumance, I decided that this was too much. On the contrary, with BIO the relationship was much more fluid. BIO was much more pragmatic, understanding the importance of our project. The economic impact on the territory.

Because we are in Africa, there are a lot of clichés, we are under a lot of pressure, and we spend our time justifying ourselves against Western obsessions. The environment is not the priority here, work is the priority, and we give jobs to 6000 people. BIO understood this and supported us and has continued to support us over the years with several grants. Of course, we are audited, we have to send reports to BIO, we have a constant dialogue with BIO. But not in the very bureaucratic and heavy way that [the other bank] wanted to impose on us.

If the objective [of this interview] is for BIO to become like [the other bank], it will be a problem for entrepreneurship in Africa and it will go against the mission of a development bank. I feel that this discussion touches on several points that we always hear and I hope that the future of BIO will not be the same as [the other bank]. You can't do business in Africa without hearing from Africa and without hearing that the Western vision here doesn't work.

The issue of sustainability is another Western obsession. We send annual reports to BIO. We do a lot of exports so there is more control. We are controlled by our customer. They do a chemical residue analysis. We respect the global GAP. Everything is audited. All the agrochemicals that we use are on the list. Even for the local crop. A development bank must be reassured about the certifications we have."⁹⁵⁵

d) Financial additionality: a final point raised by the SCL investment is that of financial additionality. Since the inception, SCL was supported by a foreign investor, Barfoots, that had already agreed to buy the first maize crop and that later became a shareholder. However, despite the presence of a foreign investor and a guaranteed market, no local bank wanted to finance SCL. So, BIO intervened at around 2007, where it provided the first loan. Since then, BIO has provided other two lines of financing, one in 2013 and one in 2016. However, from the conversation with SCL it appears clear that after the first years of business, SCL had already had access to local banks and financing. When asked why they signed another loan in 2016 with BIO rather than with local banks, SCL stated that they could have access to locally provided credit, but BIO was offering better conditions.

So, in 2016 they received 5 million euros for the sweet potato production project, which was an idea that they had with Barfoots to open a new line of products in the UK. This is also evident

⁹⁵⁵ Interview with SCL.

from BIO's webpage, where we read that "the UK and European markets for sweet potato are still growing and Barfoots, SCL's main client and shareholder, wants to take advantage of this. The investment plan is spread over 5 campaigns. SCL plans to install new irrigation pivots, build a new sorting station and acquire the necessary farm equipment (trucks, tractors...) for the cultivation of a larger area."⁹⁵⁶

Not far after the beginning of this new activity there was a problem with the potatoes and that specific project stopped. The funds were thus used to expand the already existing production of sweet corn, green beans, and butternut. Even though the sweet potato did not work out, SCL "generated employment and increased its market."⁹⁵⁷ However, nothing is mentioned on BIO website or reported publicly, to the point that it seems that the purpose of income generation and expansion, and not the production of sweet potatoes, represented the goals to be achieved. And because the food produced is not aimed to the local market, probably it is the case.

Although BIO's funds are now used for an activity that is not the one originally planned, the question is a different one. From a food security and human rights perspective it is important to reflect on the use of Official Development Aid to finance (three times) a company that is owned by a foreign investor, that has a large trade company as a shareholder and that has easily access to local and international credit. Whether or not there is a significant development impact that goes beyond the 337 permanent employees and the 6000 daily workers, is this the kind of financial additionality that the Management Contract and the BIO law aspire to?

⁹⁵⁶ See <https://www.bio-invest.be/en/investments/soci%C3%A9t%C3%A9-de-cultures-l%C3%A9gumi%C3%A8res-s-a>.

⁹⁵⁷ Interview with SCL.