



UNDERSTANDING LAND INVESTMENT DEALS IN AFRICA

NILE TRADING AND DEVELOPMENT, INC. IN SOUTH SUDAN

LAND DEAL BRIEF | JUNE 2011

Overview

The largest land deal in South Sudan to date was negotiated between a Dallas, Texas-based firm, Nile Trading and Development Inc. (NTD) and Mukaya Payam Cooperative in March 2008.¹ The 49-year land lease of 600,000 hectares (with a possibility of 400,000 additional hectares) for 75,000 Sudanese Pounds (equivalent to approximately USD 25,000),² allows NTD full rights to exploit all natural resources in the leased land. These include:

- Right to develop, produce and exploit timber/forestry resources on the leased land, including, without limitation, the harvesting of current tree growth, the planting and harvesting of hardwood trees, and the development of wood-based industries;
- Right to trade and profit from any resulting carbon credits from timber on the leased land;
- Right to engage in agricultural activities, including the cultivation of biofuel crops (jatropha plant and palm oil trees);
- Right to explore, develop, mine, produce and/or exploit petroleum, natural gas, and other hydrocarbon resources for both local and export markets, as well as other minerals, and may also engage in power generation activities on the leased land;
- Right to sublease any portion or all of the leased land or to sublicense any right to undertake activities on the leased land to third parties.³

In addition, the Cooperative agrees to not oppose the undertaking of any such activities by NTD on the leased land and to cooperate with the company in any efforts to obtain more concessions from the government of South Sudan.⁴

Involvement of Multiple Firms, Individuals and a Texas Connection

While the lease is signed between NTD and Mukaya Payam Cooperative, several Texas-based interests are associated with this deal.

For instance, NTD is an affiliate of Kinyeti Development, LLC, an Austin, Texas-based “global business development partnership and holding company with decades of experience in international business, finance, and diplomacy.”⁵ Kinyeti’s managing director, Howard Eugene Douglas, was the United States Ambassador at Large and Coordinator for Refugee Affairs (1981-1985) during the Administration of President Ronald Reagan. Christopher Weikert Douglas, who in 2008 worked at the United States Consulate in Dusseldorf, Germany, serves as Secretary of the company. The two are also directors of the Texas incorporated company, Orbis Associates LLC, and the Singapore registered firm, Orbis Orient Ltd.

They also own a share in the equity of Kinyeti Forestis, in partnership with another Texan, James R. Franklin.⁶ This team is linked to the American Exotic Timber Group, another company based in Texas, working precious wood, such as teak and rosewood in South Sudan.

Co-founder of Kinyeti Development, Leonard Henry Thatcher, a UK-national who worked for many years as an investment banker and securities broker associated with the London Stock Exchange, played a major role in facilitating the deal. According to the Kinyeti website: “Mr. Thatcher was principally responsible for negotiating the major land lease contract in Southern Sudan that forms the basis of several Kinyeti projects, conducted in conjunction with its strategic partner, Nile Trading & Development, Inc.”⁷ Leonard Thatcher is the signatory on the NTD lease, listed as the “Chairman of the Board” of Nile Trading and Development.

Development Plans Extensive, but not yet Operational

The lease allows for NTD to engage in virtually any economic activity and explicitly states, “The Cooperative acknowledges and agrees that the Company may undertake any other activity permitted by the laws of Southern Sudan on the Leased Land.” However, NTD’s exact development plans and timeline remain uncertain.⁸



A May 2008 letter from NTD president David Neimann to General Wani Konga, the governor of the Central Equatoria State, seems to suggest that development plans are focused on the agrofuel sector but are without limitation of expansion into other sectors:

Pursuant to the Lease, the Cooperative leased to the Company 600,000 hectares (with the possibility of additional hectareage in the future) in order to (A) develop, produce and exploit timber/forestry resources on the leased land, including, without limitation, the harvesting of current tree growth, the planting and harvesting of megafolia-paulownia, palm oil trees and other hardwood trees and the development of wood-based industries; and (B) engage in agricultural activities, including, without limitation, the cultivation of palm oil trees and biodiesel plants such as jatropha. We also intend to trade any carbon credits that result from the timber on the leased land and our activities on the leased land – so that we may reinvest a significant portion of the resulting profits in the Cooperative, Central Equatoria State and elsewhere in Southern Sudan and thereby help enhance the quality of life of its people.⁹

Indeed, Mr. Neimann entered into a “contractual alliance” with Tony Paris of Paris Broadcasting Cable 7 (PBC7)¹⁰ in June 2008 for algal agrofuel production in South Sudan.¹¹ Additionally, the Kinyeti Development and American Exotic Timber Group project to harvest precious woods in South Sudan has been underway since late 2009, and this wood is for sale on various internet sites.¹²

QUESTIONABLE PUBLIC DISCLOSURE

The most mysterious element to the NTD land deal is the identity of the “lessor,” the Mukaya Payam Cooperative. The lease is signed by a Mukaya Paramount Chief on behalf of the Cooperative, and witnessed by two others – a judge and lawyer.¹³ According to Sudan’s Agency for Independent Media (AIM),¹⁴ the Mukaya Payam Cooperative is a “fictitious cooperative” comprised of “a group of influential natives from Mukaya Payam and the neighboring payams (districts)...The influential natives leased out the land behind the backs of the entire community...”¹⁵ The AIM report alleges that “the

communities are largely ignorant of this cooperative and do not even understand it. In reality, the cooperative does not exist on the ground.”¹⁶ The report continues,

“Individuals behind the Cooperative have sought to divide the community in sections. Some communities are in favor of the lease, while others are opposed to it. What is common among all of them, however, is that they are not all well informed about the advantages and disadvantages of the deal.”¹⁷

The process for land rents distribution among communities is also uncertain. The lease explicitly states that “any profits generated by NTD in respect of [sic] the leased land shall initially, and through 2012, be divided 60 percent to ‘the Company’ and 40 percent to Mukaya Payam Cooperative, ‘the Cooperative’... with increasingly equitable distributions until 2033 when the profits generated by the Company shall be distributed 50 percent to the Company and 50 percent to the Cooperative.”¹⁸ The lease agreement was only signed by a Paramount Chief at the payam level, without the involvement of leaders from any of the other four payams in the county. Thus, how or whether the Cooperative will distribute the rents among the payams and community members is unknown.

UNCERTAIN FUTURE

It is not known when the matter will be resolved. A baseline report on land deals in South Sudan, published by the Norwegian People’s Aid (NPA) in March 2011, found that nine percent of the country has been sought or acquired by private interests. The report suggests that the government consider a temporary ban on large-scale land acquisition projects until institutions are better established. In response to the report, Robert Ladu Loki, head of the South Sudan Land Commission, said the investors’ contracts will be investigated.¹⁹

Regardless of the kind of development that occurs, there is no doubt that the effects on local communities will be considerable, and that US investors are intimately involved. As the NPA report points out, NTD’s lease of an area three times the size of Lainya County (whose population is 89,315) suggests that speculation is involved; and even if the company were to invest in a manner that does not require resettlement of local communities, such extensive development would still significantly affect patterns of land access and use for tens, or even hundreds of thousands of people.²⁰

ENDNOTES

- 1 Mukaya Payam, located in Lainya County, in the Central Equatoria State (CES) of South Sudan, is 63 miles from Juba and 37 miles to Yei River County.
- 2 Lease Agreement. Red: MPI/DLAc&PP/CES/38.A. Directorate of Lands Administration and Physical Planning, Ministry of Physical Infrastructure, Central Equatoria State, The Government of Southern Sudan. 9, March 9 2008.
- 3 Lease Agreement, The Government of Southern Sudan, 9 March 2008.
- 4 Lease Agreement, The Government of Southern Sudan, 9 March 2008.
- 5 Kinyeti Development website, "About Kinyeti," http://kinyeti.com/index.php?option=com_content&view=article&id=61&Itemid=79 (accessed 25 April 2011).
- 6 *The Indian Ocean Newsletter*, "Texans eyeing Central Equatoria," No. 1306. Africa Intelligence, 2 April 2011.
- 7 Kinyeti Development website, "About Management," http://kinyeti.com/index.php?option=com_content&view=article&id=65&Itemid=87, (accessed 25 April 2011).
- 8 David Deng, "The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan," *Norwegian People's Aid*, March 2011, p 46.
- 9 Communication from David P. Neimann, President, Nile Trading & Development to Major General Clement Wani Kongo, Governor, Central Equatoria State, 2 May 2008.
- 10 Paris Broadcasting Cable 7 is a broadcasting studio based in Pine Bluff, Arkansas, and was founded by CEO/Executive Producer Tony Paris, a native of Dallas, Texas. Paris is also co-owner of Paris Hairston and Associates, also based in Pine Bluff, AK, a company engaged in algal oil research and production.
- 11 *Paris Broadcasting Cable 7*, "Algae Project," 15 June 2008, http://www.pbc7.com/algae_project (accessed 25 April 2011).
- 12 See "African Log Timber available from S. Sudan," <http://www.globalwood.org/trade/godetail.asp?id=69647> (accessed 3 May 2011). The posting states, "We are focused on providing our customers in United States, China, Mid Eastern Region and around the world the best timber available from Northeastern African Tropic Jungle. The area is rich in old-growth timber that never been commercially harvested.... Whether you are looking for high quality deciduous trees or tropical hardwood timber, in semi-processed or finished form, we are your first choice to access the best that the Africa can offer. Email us for more details." Also see their listing for selling African teak from Sudan on http://www.alibaba.com/product/us107980388-107535976-101460078/Larger_Quantities_African_Teak_Log.html (accessed 3 May 2011). The individuals involved in the above, James R. Franklin and Ms. Nellie Franklin are also listed as contacts for the Balkan Timber Group, see: http://www.bizearch.com/company/Balkan_Timber_Group_D_O_O_116196.htm (accessed 3 May 2011).
- 13 One of the witnesses is Lawrence Korbandy, SPLM's legal expert and Chairperson of Southern Sudan Human Rights Commission.
- 14 Agency for Independent Media (AIM) is a media and human rights networking agency operating in South Sudan. AIM's mandate is anchored on the importance of professional facilitation of information gathering and dissemination within and outside South Sudan.
- 15 James Okanya Lomerry, and Lonya Bany Banak, "Southern Sudan Land Grabs: A Case on Mukaya Payam Land Issue," unpublished work for *Agency for Independent Media*, commissioned by Oxfam International, Juba: October 2010.
- 16 *Ibid.* p 24.
- 17 *Ibid.* p 27.
- 18 Lease Agreement, The Government of Southern Sudan, 9 March 2008.
- 19 *Sudan Catholic Radio Network*, "Land Commission to Investigate Reported Foreign Deals," 28 March 2011, http://sudancatholicradio.net/index.php?option=com_content&view=article&id=3575:land-commission-to-investigate-reported-foreign-deals&catid=2:south-sudan&Itemid=84 (accessed 25 April 2011).
- 20 David Deng, "The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan," *Norwegian People's Aid*, March 2011, p 46.