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LandCam
Securing land rights in Cameroon

# MEDIA BRIEFING NOTE

## *Local Communities Face Challenges in Drafting and Implementing Companies' Community Development Agreements*

To produce the goods and services required by society and to make profits, companies, especially those engaged in the exploitation of natural resources such as land, forests, mines, and hydrocarbons, are often less concerned about the well-being of the communities situated around their area of activity. Indeed, some stakeholders think that improving the living conditions of communities is not the responsibility of companies, which, with increasing clout, strive to avoid all kinds of obstacles. However, the activities of these operators have a significant impact on the living environment of neighbouring communities. In an attempt to offset the negative effects of these projects and to achieve "benefit sharing", and thus peaceful cohabitation between the companies and the communities, it is necessary for private sector actors to invest in local socio-economic development. Yet, when companies reach agreements with communities, the companies do not always respect them. The best way to make these agreements binding, while ensuring that the company is accountable to the communities, is to document them in what is known as "Community Development Agreements". However, communities face many challenges associated with the drafting and implementation of these Community Development Agreements. These challenges include participating in the drafting process, accessing the document, and monitoring its implementation.

# 01 BACKGROUND ON THE COMMUNITY DEVELOPMENT AGREEMENTS

A Community Development Agreement[1], a mandatory or binding document, is a set of commitments made between a company holding natural resource exploitation rights, and the local communities affected by a project, for the implementation of community development projects. It defines the socio-economic needs of the local populations that the project must address. The Community Development Agreement is one of the mechanisms that permits local communities to receive a financial or non-financial compensation for the exploitation of natural resources. This document aims to organise the effective implementation of the commitments made by a company for the provision of basic socio-economic infrastructures, jobs and services for the communities, the maintenance of the main roads in the village, etc. The Community Development Agreement, which is binding once signed and until completion of the project, therefore aims to improve the living conditions of the local populations affected by the activity.

The Community Development Agreement should be drafted before or during the implementation of a project. If the concession-holder is already in the operational phase, it should proceed, as soon as possible, with the drafting of the Community Development Agreement, which should be an inclusive and participatory process within the community, ensuring that its members are aware of the stakes and provisions.

The drafting of the Community Development Agreement begins with the mapping of the geographical area to be covered by the exploitation permit and the communities involved. This is usually performed by the traditional authority and representatives of the company and of the local communities affected by the project. The identification of the priority needs of the communities by themselves, with the assistance of an external and independent consultant such as a Civil Society Organisation (CSO), follows. These needs are subsequently conveyed to the company.

At this stage, vetting the communities' needs is crucial. This is done via popular meetings organised, for example, by a Local Development Committee (LDC), in all communities within the geographical area defined by the Environmental and Social Impact Assessment (ESIA) of the project. At the end of each meeting, the minutes of the proceedings are signed by those present. The negotiation dates for the draft Community Development Agreement are set by the authorities representing the population as a whole and the company. Proper negotiation involves discussions for adopting the needs of the communities that are to be included in the Community Development Agreement, the financing of which is provided by the company. These discussions are held between the company and community representatives, and assisted by CSOs or external technical experts. When the representatives of the company, the communities and the local administrative authority come to a compromise, they sign the Minutes in the presence of the State/Administrative representatives.

After its adoption, the implementation of the specifications must be monitored by an institution such as a Local Development Committee. The latter, comprising for example the mayor of the area concerned, the company's representative, and the appointed representatives of the local communities, controls and ensures the follow-up and evaluation of the implementation of the socio-economic facilities set out in the agreed schedule. Such monitoring makes it possible to ascertain, after an on-site survey and consultation with the local communities concerned, whether

1 For all details concerning the Community Development Agreement, see Comptoir Juridique Junior (CJJ) and ClientEarth, Guide de négociation du cahier des charges particulier – République du Congo, 1st edition - March 2021, 59p; AFREWATCH, Guide d'élaboration du Cahier des Charges dans le secteur minier en RDC, October 2020, p. 33.

or not the company has completed each planned project. For effective monitoring, it is essential to broadly disseminate the contents of the Community Development Agreement to the communities concerned, as its contents must be known throughout the community in order to preclude the risks of non-compliance. This also helps to remind everyone of the commitments made by the company for the community with specific deadlines. To keep communities aware, regular information meetings can be useful for this purpose. When the commitments set out in the Community Development Agreement are not respected, the community should inform the company and the administration as soon as possible and remind the company to fulfil them.

In the course of its operation, the company may fail to comply with the Community Development Agreement. It is also possible that the parties do not agree on how to interpret the contract, thus resulting in conflict. In this case, the first option is for both parties to seek an amicable settlement, either between the company and the community or before the administration. Here, the company may use its existing conflict resolution mechanism and the communities may receive advisory support from an NGO/CSO. If the conciliation fails, the conflict may be referred to a Court of Law.

## 02 CHALLENGES RELATED TO THE COMMUNITY DEVELOPMENT AGREEMENTS

These challenges are encountered at two levels, namely during the drafting and implementation stages. During the drafting process, the first challenge is the approach. Indeed, a Community Development Agreement is designed in two different ways. To begin with, the investor can directly negotiate with the local communities and later submit the project to the government as having received social acceptability. Through this approach, the company can establish a social environment and avoid problems with the community. However, it worth mentioning that this is a sham negotiation because by the time the company meets the population, it already has a draft of the Community Development Agreement. Consequently, the communities can neither have an influence on the content, nor follow up on the latter, which is subsequently presented by the company as a joint effort with the community, whereas it in no way reflects the community's aspirations, given that it was not drafted on a participatory basis. In its contents, the Community Development Agreement includes elements such as the type of project concerned, the social achievements planned at local level and other donations such as edible goods. However, relevant community information, such as the size of the area, the villages affected, and the duration of the project, may not be included in this document. As a second step, the investor may decide to initiate project negotiations at the central state level. In this case, subsequent discussions with the community are a mere formality. Moreover, the slightest challenge from the community may lead to moral and physical violence and muzzling, including imprisonment[2].

During meetings between the investor and the men, women and young people, the communities' participation is undermined by factors such as a lack of awareness of their rights and the imbalance of power between the stakeholders. The lack of the community's representatives' legitimacy in the discussions does not always enable effective and efficient participation of the community, as they do not always represent the people who are truly affected by the project. The low level of community participation is also due to the legal framework, which does not protect the community. Indeed, in

2 NGUIFFO (S.), Inégalités Foncières - Stratégies pour garantir un meilleur respect de l'environnement et des droits de l'homme par les investisseurs et entreprises, 2021, Footnote 34, p.21; SZOKE-BURKE (S.), NGUIFFO (S.) et TCHOUKEP (S.), Transparence des investissements fonciers: étude de cas du Cameroun, March 2021, p.12.

the agricultural and land sector, for example, Decree No. 76-166 of 27 April 1976, which lays down the terms and conditions for the management of the national domain, stipulates, in Article 7 (2), that a Community Development Agreement document must state the rights and obligations of the concession holder and the State. It is thus evident that the community is in no way concerned by this administration-investor negotiation.

Another problem with community participation is the choice of community representatives to take part in discussions. Indeed, the participation of communities can be undermined by conflicts of interest and cases of collusion between community representatives and the company. In such cases, those who are truly affected by the project are ultimately left out of the negotiations. This usually happens when the traditional authority, who is often the gateway to a village, starts acting in the interest of the investor. The traditional authority will then choose, on the basis of their interests and affinities, the persons who can participate in the negotiations with the investor, although they have nothing to lose in the project to be implemented in the village.

In its implementation, the Community Development Agreement also faces several obstacles. In fact, there are no monitoring organs for its implementation. And even if there were, they can be overruled by the investor, who can sub-contract work to them or to some of their members.

The availability and accessibility of the Community Development Agreement remains a challenge at local level, and this is a major obstacle to the transparency and effective monitoring of the project. However, it should also be noted that when it is available, the communities are not always informed about the process to obtain it. Their poor organisation is another obstacle that prevents them from accessing the Community Development Agreement. There are also cases where the community can make a request to the company, but the latter fails to respond favourably. For this reason, support from CSOs/NGOs may be of great help.

As noted above, communities are not always aware of the clauses of the Community Development Agreement. This may also be due to the lack of interest and knowledge on their part, as well as the unavailability and inaccessibility of the Community Development Agreement, the clauses of which are not always respected by the companies. This occurs because social projects are expensive. To coerce the company to do so, pressure from the market, corporate investors or NGOs/CSOs are sometimes needed.

## 03 SUGGESTED TOPICS FOR REPORTS

- Involvement of communities neighbouring agro-industries and companies exploiting other natural resources in the drafting of the Community Development Agreement;
- Community access to the Community Development Agreement and monitoring of its implementation; and
- Actions initiated by the communities in the event of non-compliance with the contract terms of the Community Development Agreement by the company.

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# About the project

**LandCam: Securing land and resource rights and improving governance in Cameroon**

The LandCam project aims to develop innovative approaches to facilitate inclusive dialogue at the national level, based on lessons learned from past experiences, to improve land governance.
LandCam promotes learning, throughout the ongoing reform of Cameroon's land legislation and will contribute to building the capacity of actors at the local, regional and national levels. LandCam works with key stakeholders across Cameroon to improve customary and formal rights to land and natural resources by piloting innovations in land governance at the local level and contributing to sustainable policy reforms. New spaces will be created for more informed, effective and inclusive dialogue and analysis, with the participation of stakeholders. LandCam monitors changes on the ground, monitor legal reforms and share lessons learned nationally and internationally.

## Who are we?

IIED, CED and RELUFA are the organisations implementing the LandCam project, working closely with a wide range of partners in Cameroon and internationally.

### Institut International pour l'Environnement et le Développement (IIED)

IIED promotes sustainable development by linking local priorities to global challenges. IIED supports some of the world's most vulnerable populations to make their voices heard in decision-making.

### Centre pour l'Environnement et le Développement (CED)

CED is an independent organisation working to promote environmental justice and protect the rights, interests, culture and aspirations of local and indigenous communities in Central Africa. As an active member of several networks, the CED has succeeded over the years to mobilise allies to influence positively legal frameworks, monitor natural resource exploitation activities, sustainably build the capacities of dozens of local communities, and produce important scientific and advocacy documentation.

### Réseau de Lutte contre la Faim (RELUFA)

RELUFA (Network for the Fight Against Hunger) is a platform of civil society and grassroots community actors created in 2001, which aims to address systemic problems that lead to poverty, hunger and social, economic and environmental injustices in Cameroon. The RELUFA's work is based on three programs: Equity in Extractive Industries; Land and Resource Justice; and Food and Commercial Justice.

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