

CHAPTER 2

THE EXPLOITATION OF NATURAL RESOURCES AND CORPORATIONS

ABBREVIATIONS

AfDB	African Development Bank
CSR	Corporate Social Responsibility
EIB	European Investment Bank
EU	European Union
ILO	International Labour Organization
JV	Joint Venture
MNC	Multinational Corporation
MNE	Multinational Enterprise
NCP	National Contact Point
NNPC	Nigerian National Petroleum Corporation
OECD	Organisation for Economic Co-operation and Development
TNC	Transnational Corporation

VOCABULARY

African Development Bank (AfDB)

The African Development Bank (AfDB) is a regional multilateral development finance institution, established in 1964 and engaged in mobilising resources for the economic and social progress of its Regional Member Countries (RMCs). Its headquarters are in Abidjan (Côte d'Ivoire), but it has been operating from Tunis since 2003. It includes 53 African countries and 24 non-African countries. Similar to the World Bank, its mandate is "to combat poverty and improve the lives of the people on the African continent." According to the AfDB, its mission is to promote economic and social development through loans, equity investments and technical assistance. Many projects funded by the AfDB are co-financed with other major financial institutions such as the World Bank. Like the European Investment Bank and the World Bank (see below) the AfDB has often been criticised for the opacity of its decision-making process and for the dubious merit of some of the projects it has financed.

European Investment Bank (EIB)

The European Investment Bank (EIB) was created in 1958 as the house bank of the European Union. Its shareholders are the Member States of the European Union. In 2008 the EIB loaned about 6.1 billion Euro outside the EU which represents about 10% of its overall loans. For lending in the Africa Caribbean Pacific (ACP) region, the EIB's mandate falls under the Cotonou Agreement. The external lending objectives of the EIB are focused mainly on private sector support of EU presence. The EIB finances controversial projects in the infrastructure and mining sectors. In the period between 2000 and 2006, the EIB approved loans for up to 364 million Euro for investments in mining in ACP countries, but not a single project for education or for health was financed. In 2007 only an additional 300 million Euro in loans to the mining sector were authorized.

Joint Venture (JV)

A joint venture is a business agreement in which parties agree to develop, for a finite time, a new entity and new assets by contributing equity. They exercise control over the enterprise and consequently share revenues, expenses and assets.

A JV on a continuing basis is the normal business undertaking. It is similar to a business partnership with two differences: firstly, a partnership generally involves an ongoing, long-term business relationship, whereas an equity-based JV comprises a single business activity. Secondly, all the partners have to agree to dissolve a partnership whereas a finite time has to lapse before a JV comes to an end (except if it is closed by the courts due to a dispute).

The term JV refers to the purpose of the entity and not to a type of entity. Therefore, a joint venture may be a corporation, a limited liability enterprise, a partnership or other legal structure, depending on a number of considerations such as tax and tort liability. JVs may be formed both inside one's own country or between firms belonging to different countries, for example, a construction company wishing to undertake projects in a foreign country may form a JV with a local partner to gain local knowledge and bypass registration procedures. JVs are usually formed in order to combine strengths or to bypass legal restrictions within a country.

Multinational Corporation

A multinational corporation (MNC) or enterprise (MNE), sometimes also called a Transnational Corporation (TNC), is a corporation or an enterprise that manages production or delivers services in more than one country. It can also be referred to as an international corporation. The International Labour Organization (ILO) has defined an MNC as a corporation that has its management headquarters in one country, known as the home country, and operates in several other countries, known as host countries. Some examples of these companies are ExxonMobile, McDonald's, Shell. Multinational corporations can have a powerful influence in local economies, and even the world economy, and play an important role in international relations.

Natural Resources

Natural resources occur naturally within environments that exist relatively undisturbed by mankind, in a natural form. A natural resource is often characterized by amounts of biodiversity and geodiversity existing in various ecosystems. Natural resources are derived from the environment.

Considering their stage of development, natural resources may be referred to in the following ways:

- o **Potential Resources** are those that exist in a region and may be used in the future. For example, petroleum may exist in many parts of India that have sedimentary rocks but until the time it is actually drilled and put into use, it remains a potential resource.
- o **Actual Resources** are those that have been surveyed, their quantity and quality determined and are actually being used. The development of an actual resource, such as wood processing, depends upon the technology available and the cost involved.

- o **Reserve Resources** - The part of an actual resource which can be developed profitably in the future is called a reserve resource.
- o **Stock Resources** - Stock resources are those that have been surveyed but cannot be used by organisms due to lack of technology.

With respect to renewability, natural resources can be categorized as follows:

- o **Renewable resources** are ones that can be replenished or reproduced easily. Some of them, like sunlight, air, wind, etc., are continuously available and their quantity is not affected by human consumption. Many renewable resources can be depleted by human use, but may also be replenished, thus maintaining a flow. Some of these, like agricultural crops, take a short time for renewal; others, like water, take a comparatively longer time, while still others, like forests, take even longer.
- o **Non-renewable resources** are formed over very long geological periods. Minerals and fossil fuels are included in this category. Since their rate of formation is extremely slow, they cannot be replenished once they get depleted. Of these, the metallic minerals can be re-used by recycling them. By contrast, coal and petroleum cannot be recycled.

Organisation for Economic Co-operation and Development (OECD)

The Organisation for Economic Co-operation and Development (OECD) is an international economic organisation of 34 western countries founded in 1961 to stimulate economic progress and world trade. It defines itself as a forum of countries committed to the market economy, providing a platform to compare policy experiences, seeking answers to common problems, identifying good practices, and co-ordinating domestic and international policies of its members. The OECD has been criticised by several civil society groups and developing countries. The main criticism has been the narrowness of the OECD because of its limited membership to a select few rich nations.

Raw Materials

A raw material is the basic material from which a product is manufactured or made. The term is used to denote material that came from nature and is in an unprocessed or minimally processed state. Latex, iron ore, logs, and crude oil, would be examples.

Subsidiary

A subsidiary, in business matters, is an entity that is controlled by a separate higher entity. The controlled entity is called a company, corporation, or limited liability company and the controlling entity is called its parent company. Subsidiaries are a common feature of business life, and most businesses organize their operations in this way. The most common way by which control of a subsidiary is achieved, is through the ownership of shares in the subsidiary by the parent. These shares give the parent the necessary votes to determine the composition of the board of the subsidiary, and so exercise control. Subsidiaries are separate, distinct legal entities for the purposes of taxation and regulation. When transferring goods and services between the parent company and the subsidiary companies tend to juggle with the prices, exaggerating costs in order to have to pay less taxes.

World Bank

The World Bank is an international financial institution that provides loans to developing countries for capital programmes. The World Bank's official goal is the reduction of poverty. The World Bank partners with 47 countries in Sub-Saharan Africa and is involved in 506 projects in the region. The Bank's portfolio includes projects and programs in multiple sectors from trade and transport to energy, education, health care, water and sanitation. In the fiscal year 2010, the Bank committed \$11.5 billion to new project lending in Africa, and disbursed over \$1.1 billion in grants.





CHAPTER 2

THE EXPLOITATION OF NATURAL RESOURCES AND CORPORATIONS

1. INTRODUCTION THE EXPLOITATION OF NATURAL RESOURCES AND CORPORATIONS

The extraction of natural resources is often a very complex process during which damage can be done to local communities and the environment. The companies running a mine or an oilfield have a responsibility towards society at large to take the utmost care to limit the impact of their action on population and environment. The responsibility of companies towards society is called Corporate Social Responsibility.

The World Bank defines Corporate social responsibility (CSR) as “the commitment of businesses to contribute to sustainable economic development by working with employees, their families, the local community and society at large to improve their lives in ways that are good for business and for development.”¹⁷

In other words, companies adhere to law, ethical standards and international norms. Business embraces responsibility for the impact of their activities on the environment, consumers, employees, communities, stakeholders and all other members of the public sphere and does not only consider the economic benefits of its shareholders. Furthermore, business promotes the public interest by encouraging community growth and development, and voluntarily eliminating practices that harm the public sphere, regardless of legality. Essentially, CSR is the inclusion of public interest into corporate decision-making.

In an ideal world Multinational Corporations (MNCs) would adhere to CSR spontaneously. The reality is unfortunately different and MNCs generally do not consider anything but profit maximization unless forced to. One way of forcing MNCs to accept their social responsibility is through campaigns of NGOs and other civil society actors that expose their behaviour. This public ‘naming and shaming’ often leads companies to change their behaviour as they come to deem compliance with CSR less damaging in the long term than ongoing public criticism of their activities.

2. THE EXPLOITATION OF NATURAL RESOURCES

2.1 *The Tendencies at International Level*

At international level the competition for natural resources is becoming fiercer as many natural resources are scarce and new emerging economies have started competing for them. The EU and its member states are increasingly worried about securing access to raw materials for European companies. The rise of China, India and Brazil, set the alarm bells off. Therefore the Commission launched its *Raw Materials Initiative*. The main focus of the Initiative is to secure European access to raw materials in third countries.

As the EU has to rely on the import of several critical raw materials from third countries the Commission is especially interested in securing the supply and removing obstacles to it. In particular the Commission wants to improve the EU's security of supply through bilateral and multilateral trade agreements. In the case of Africa, this happens in the context of the Economic Partnership Agreement (EPA) negotiations¹⁸. EPAs foresee the removal of export tariffs and of quantitative restrictions on exports, de facto preventing African governments from putting limits and restrictions on the amount of raw materials exported from their countries to Europe.

If the Commission gets its way EPAs will also contain a chapter on investments which would remove restrictions on European companies that want to open subsidiaries in Africa to exploit raw materials. To make sure that the raw materials keep flowing the Commission intends to liaise with the European Investment Bank (EIB) and other European development financing institutions to “...facilitate the raw materials supply.”

The Commission touts mining as an opportunity for African development ignoring that over the last decades mining in Africa has mostly been a source of conflict and environmental destruction. In his speech in front of the EU-ACP Joint Parliamentary Assembly

¹⁷ <http://www.ifc.org/ifcext/economics.nsf/content/csr-intropage>

¹⁸ For more on EPAs please refer to the *Trade* section of the manual.



in Kinshasa even the European Commissioner for Trade Karel de Gucht recognised that “extractive industries have seldom been a good basis on which to pursue industrial development. Often, they have even stoked up what economists call the resource curse” and “all too often, developing economies’ reliance on raw materials has proved to be a stumbling block for their development.”

2.2 The Impact of the Exploitation of Natural Resources on Africa

The exploitation of natural resources is one of the areas - but unfortunately not the only one - in which Multinational Corporations (MNCs) have displayed a particularly careless attitude towards the impact of their actions on people in Africa. The desire to control economically profitable natural resources has been the reason behind several conflicts in Africa and especially in Congo DRC. MNCs often did not care that their money was ending up in the pockets of armed groups, so fostering and prolonging conflicts. For example investigations found that the UK-registered company Afrimex, which trades minerals from Congo-DRC through two companies registered in DRC, did nothing to prevent its affiliates from paying rebel groups in DRC during the war, thus contributing to the conflict and benefiting at the same time from the criminal activities of its affiliates¹⁹. Another British company, Amalgamated Metals Corporation, was found to have a subsidiary which was buying minerals from suppliers whose middle men had been trading with armed groups in South Kivu.²⁰

Nuclear energy requires fuel that is acquired through the destructive and deadly activity of uranium mining. Uranium mining can have catastrophic effects on nearby communities and the environment for thousands of years to come. There are few places where these harmful effects are felt more markedly than Niger. The uranium mines in Niger are mainly operated by the French state-owned company Areva which, in its own words ranks first in the global nuclear power industry. Areva imports half of its uranium from Niger. France has been exploiting uranium mines in Niger for the last 40 years and is the main foreign investor in the country. Millions of light bulbs in France are lit by uranium from Niger while the local population has no access to electricity. In April 2010 Greenpeace released a report²¹ denouncing Areva for contaminating the environment around the mining sites at Arlit and Akokan about 850 kilometers northwest of the country’s capital Niamey. Both towns were originally created by Areva to house its workers.

The contamination affects some 80,000 people. The radioactivity measured in Akokan was 500 times higher than the normal. Radioactive waste had also been used for the construction of the streets. Pieces of radioactive scrap metal are sold on the local market in Arlit, with radiation doses rate reaching up to 50 times more than the normal background levels. Locals use these materials to build their homes. In Arlit, Greenpeace measured a concentration of uranium in drinking water; this was up to four times above the limit recommended by the World Health Organisation. Overall in over 40 years of operation, a total of 270 billion litres of water have been used, contaminating the water and draining the aquifer.

Oil companies unfortunately show a similarly careless attitude. A study conducted by Friends of the Earth Netherlands in 2008²² concludes that when operating in the Niger Delta Shell does not employ internationally recognized standards to prevent and control pipeline oil spills.

Most of the 27 million people living in the Niger Delta depend on the water, fish and agricultural products of the Delta for their livelihood. According to available statistics, in the last 30 years more than 400,000 tons of oil have spilled into the creeks and soils of southern Nigeria. Some 70 per cent of the oil has not been recovered. Oil spills significantly affect the health and food security of rural people living near oil facilities. In the period 1997 - 2006, according to its own annual reports, Shell Nigeria experienced about 250 oil spills each year. Others (Friends of the Earth Netherlands 2008) fear that Shell is significantly underreporting the spills. Many of the spills are caused by aging infrastructure and human error on the part of the oil companies. Shell does not invest enough money to meet international standards and to replace its aging infrastructure in Nigeria despite having made \$18.6 billion profits in 2010.

Oil production started in the Doba basin in Chad in 2003. The Chad-Cameroon Oil Pipeline Project was launched with the support of the World Bank. The ESSO consortium exploiting the oil is made of ExxonMobil (40%), Petronas (35%) and ChevronTexaco (25%). The World Bank promised that the development of Chadian oil would lead to poverty alleviation and wanted to make it a model project in the extractive industry sector. In spite of this intention, revenues from oil exploitation were poorly governed and only insufficiently invested in development sectors, such as health and education. Chad—before and after the implementation

¹⁹ UK company Afrimex broke international guidelines by sourcing minerals from a Congolese war zone, says British government. www.globalwitness.org

²⁰ http://www.globalwitness.org/media_library_detail.php/797/en/updated_reponse_to_amc

²¹ Greenpeace, 2010, *Left in the Dust. AREVA's radioactive legacy in the desert towns of Niger.*

²² Steiner, R., 2008 *Double standards?: International Best Practice Standards to Prevent and Control Pipeline Oil Spills, Compared with Shell Practices.*



of the Chad-Cameroon Oil Pipeline project—has been a poor, undemocratic and conflict-ridden country. Almost ten years after the official opening of the valve of the Doba crude oil, poverty continues to be rampant. The people living in the oil producing region in southern Chad bear the brunt of the negative impacts of the oil activities. Their land is being taken by the consortium, infrastructures are being built for the oil development, but rarely for the population. They are having to endure worsened living conditions - dust, health risks, etc. - and poorly implemented compensation measures.

Oil companies also continue to practise gas flaring. Gas flaring is a practice that oil companies use when oil deposits are mixed with gas and it is judged more profitable simply to burn off the associated gas rather than to capture it for utilisation or re-injection. The practice is highly controversial due to its detrimental impact on the environment and its emission of high levels of greenhouse gases. In the West, 99 % of the gas is either used or re-injected into the ground, but in Nigeria for instance more than half of the gas is flared. In Nigeria almost all gas flaring is carried out by local subsidiaries of five MNCs operating in joint ventures with the Nigerian National Petroleum Corporation (NNPC). Of the five TNCs, Shell again plays the greatest role. Its subsidiary Shell Nigeria operates in a joint venture which accounts for about 40% of Nigerian oil production. The others are Eni, Total, Exxon and Chevron.

Gas flaring causes harm to the health, environment and livelihoods of communities living near to the flaring sites. Flares contain a cocktail of substances such as benzene and dioxin which contribute to acid rain. Local people exposed to flaring suffer from respiratory problems and an increased likelihood of cancer. In Nigeria's Bayelsa state alone flaring is suspected to cause around 50 premature deaths, 5,000 child respiratory illnesses and 120,000 asthma attacks a year.²³ Moreover it has a detrimental effect on agricultural production and contributes to climate change. According to the World Bank, gas flaring in Nigeria emitted more greenhouse gases than all other sources of Sub-Saharan Africa combined. Only in Russia is more gas flared than in Nigeria. Shell claims not to have enough financial resources to install the gas gathering equipment, which would make the flaring unnecessary, Shell currently flares gas at around 1,000 sites in Nigeria.

3. ACTION ON NATURAL RESOURCES

3.1 Opportunities for Action on Natural Resources

Large-scale development projects take many years to plan and start up, and then may impact on the community for many years or even generations. Each different phase of the project poses different challenges for the local community but at the same time the various phases also represent an opportunity to express the community's wishes. While the project developer should make sure that the community is informed regularly about the project's progress, community representatives also need to monitor the project's development.

Different phases of a project:

1) Project Conception:

Identification of project opportunities.
Permit obtained from local or national government.
Exploration for oil/minerals; surveys for dams, etc.

2) Feasibility Studies & Project Planning:

Developers plan the project.
Environmental and Social Impact Assessment Studies are carried out.

3) Construction:

Developers begin construction of facility.
This could include land purchase, clearing lands, resettlement of communities.

²³ Stockman, L., Rowell, A., and Kretzmann, S., 2009, *Shell's Big Dirty Secret*.



4) Operations:

Transition from construction to information.
Operations management system begins.

5) Downsizing, Divestment, Decommissioning:

Project comes to an end.
Project developers begin to phase out or close down the facility.

It is important to discuss the proposed project in detail within the local community. The whole community should be well informed about the proposed project. Tools such as maps, brochures, posters and videos can be used to inform all community members. This will help ensure everybody understands the project's potential benefits and drawbacks. The community should decide what is important. Then the community representatives can negotiate with the project developers if that is what the community decides should be the next step.

As a large-scale project affects everyone differently, it is very important to take into account the views of all community members, including women and young people, and to involve them in the decision-making processes. Often there are several communities affected by one project. It is helpful to find out if other communities are affected by the same project. They may be able to work together to negotiate with the project developers or government.

3.2. AEFJN and Natural Resources

AEFJN firmly believes that the exploitation of natural resources in Africa should be carried out to the benefit of the local population in Africa. The exploitation of these natural resources has, therefore, to take place with the consent of the local population. In the same way, the revenue generated by the exploitation has to be used to the benefit of the local population. Also the exploitation should not bring destruction to the environment the local population lives in. As these conditions are unfortunately often not met, AEFJN calls for legally binding Corporate Social Responsibility norms. These norms would allow for companies to be held accountable for the damage they do to the local people and the environment. The current legal framework underpinning company structure separates legal persons and thus limits liability of the parent company for the actions of the subsidiaries. This unfortunately shields MNCs from liability. As prosecution in local courts is often difficult if not impossible, AEFJN calls for the parent companies to be held accountable in European courts for the action of their subsidiaries or joint ventures in Africa.

AEFJN

- o Supports local communities in their struggle to defend their rights against MNCs and relays their voices and their concerns back to Europe.
- o Lobbies the different institutions of the European Union on Corporate Social Responsibility and the exploitation of natural resources.
- o Is in regular contact with officials of the European Commission and participates regularly in events and public consultations organised by the Commission.
- o Is frequently in touch with members of the European Parliament and proposes amendments to reports of the European Parliament.
- o Lobbies the EU Member States through its national Antennae.



4. TOOLS FOR ACTION ON NATURAL RESOURCES

A general introduction on how to carry out action following the various steps of the Pastoral Circle can be found in the first part of this manual. In this section you will find ideas and tools for action specifically on the exploitation of natural resources.

4.1 *Knowing the Situation*

4.1.1 *Finding out who is Developing the Planned Project*

As a first step you need to know who is planning the project that may affect the local community.

The project planners and developers may include:

- o The national government.
- o A private company (such as a mining or construction company).
- o A local authority (such as an Environmental Protection Agency or Department of Environment and/or Natural Resources.
- o A bank or international financial institution (such as the World Bank, the European Investment Bank or the African Development Bank). Many large projects benefit from financial support from international financial institutions.

Sometimes it may be difficult to find information about the project developers. Large projects often involve a mix of private and government interests. Foreign companies often operate in joint ventures (see vocabulary) with local companies.

Find out if there is an organisation that helps to manage the land or natural resource in all neighbouring countries. For example, there might be a river governance organisation that works in each country that a river flows through. If there is, check whether your government is part of the organisation. If you are concerned about a dam project you may be able to find out more about the project with their help.

4.1.2 *Request Information on the Project*

It is important to know how the proposed project will impact on the community. Only then can you make an informed decision on changes you would like in the project design and prior conditions you need met before you agree to the project. It is important for the community to become fully informed about the project, its potential impacts and what the project developer will do to prevent or reduce them. Requesting copies of environmental and social impact assessments in the local language is very important to ensure all members of the community are kept in the picture.

One way of getting this information is to ask the project developer questions. This information can be recorded and taken back to the local community to discuss it. Questions can also be directly put to the relevant government department. This could include the Department of Environment, Mining, Forests and Agriculture or Treasury. This will vary from county to country. Unfortunately neither the project developer nor the government is necessarily willing to share this information with the local community.

The local community may be affected even if the project is not in the immediate area. For example, water pollution due to a development may spread and affect a community living outside the direct area of the project or a dam might block migrating fish which will impact on your food source and livelihood.

The non-exhaustive list of questions in the box below is meant to help you understand what information to look for to have a clear picture of what is going on.



Questions to which find an answer:

- o What is the project? What will it do?
- o How big is the project? When will it be built? How long will it operate?
- o Who are the project developers (for example private company, government)?
- o What is the history or past performance of the company? Do they have a good or bad reputation?
- o Who owns the company? Where are the parent company headquarters? Who are its partners?
- o Who is providing the investment loans (for example commercial bank, World Bank, investment fund)?
- o What is each project developer's main business?
- o What is the nationality of the project developers?
- o What will be built for the project (for example roads, dams, large electricity poles)?
- o Who will be involved in the project, in addition to the company or Government (for example suppliers, contractors)?
- o What support is the Government providing (for example no or reduced taxes for the project developers, reduced charges for land access and use)?
- o What is the opinion of the local governing bodies regarding the project? What land will be affected?
- o Are there any maps showing affected lands? Will any effects on land and other resources be permanent?
- o Will the project developer conduct human rights, environmental, gender and social impact assessments?
- o What are the potential risks of the project (for example pollution or entry into a sacred area)?
- o Are there any independent reports detailing these risks and are they available for the community?
- o What benefits will there be for local communities? Will the benefits be permanent or temporary?
- o What will the company contribute to the community (for example schools, roads, hospitals and other social development programs)?
- o Will the project contribute to securing community land holdings? If the project developers take away our land will we be compensated including by offering us new land? What opportunities will the community have to provide input into project design? How will this be managed?
- o How can communities participate in the environmental and social impact assessment process?
- o Who has conducted the environmental and social impact assessments and will they be translated into local languages?
- o Who has the company consulted with? Does the company think they have community consent?
- o What process will be followed if there is any change to the project design?
- o Will the company negotiate with communities at each stage of the project?
- o How will the project developer respond to community concerns?
- o Is the project developer prepared to disclose all profits and payments connected with the project?
- o Where will the profits from the project go?

4.2 The Christian Reflection on African Natural Resources

In his postsynodal apostolic exhortation *Africae Munus* Pope Benedict XVI points clearly to the problems arising from the exploitation of African natural resources by multinationals and exhorts the Church to action. He writes (n. 79) "God has given Africa important natural resources. Given the chronic poverty of its people, who suffer the effects of exploitation and embezzlement of funds both locally and abroad, the opulence of certain groups shocks the human conscience. Organized for the creation of wealth in their homelands, and not infrequently with the complicity of those in power in Africa, these groups too often ensure their own prosperity at the expense of the well-being of the local population. Acting in concert with all other components of civil society, the Church must speak out against the unjust order that prevents the peoples of Africa from consolidating their economies and from developing according to their cultural characteristics. Some business men and women, governments and financial groups are involved in programmes of exploitation which pollute the environment and cause unprecedented desertification."

4.3 Considerations before Planning an Action on Natural Resources

When you speak to a company or an institution developing a project bear in mind that talking with the developers does not mean agreeing to the project. It simply means claiming the right to obtain information about the project. The project developers should consult with the community in the early stages of project planning and before each new stage of the project.

If resettlement of the community is likely, the terms and conditions must be negotiated with the community before a final decision is made.



The construction of large-scale development projects usually brings major financial benefits to the investors. Unfortunately, local communities are not always given the opportunity to share in the financial or other benefits. Putting in place “benefit sharing” mechanisms can ensure project-affected communities receive benefits from the project.

Some examples of benefits that could be negotiated for the community include:

- o More quality jobs for community members.
- o Skills training and job placement programs.
- o New schools and health clinics.
- o Special access and use rights to natural resources in the project areas for project-affected communities.
- o Agreement with the project developers to leave some land untouched - for example, areas of cultural value.
- o Sharing of revenues from the project (e.g. community projects like schools, hospitals, etc).

If construction has already started on a project without community involvement or consent, the developer needs to be told that they are not following acceptable practice. The community can still have its say. They may still be able to stop construction, insist that the project developer only proceed if your community grants its consent, negotiate benefits for the community or change the way that the project operates.

4.4 Seek independent advice

Negotiating with project developers can be difficult. Project developers often try to avoid involving communities. The issues involved are complex. Get independent legal and technical advice to understand the effects of the proposed project. For example, the company informs that they will be using mercury. If you have never heard of mercury or do not know much about it, you can ask for advice from a scientific expert.

Understanding project contracts, government approvals and legal documents is very complex. It is advisable to ask for assistance from an NGO or someone else with relevant expertise to help you if you do not understand the contracts and other documents. If the community decides to say ‘ye’ to a project, it should make sure that the agreement made with the project developers is recorded in writing and signed by both sides. This agreement should be legally binding, therefore seek independent legal advice. Do not just simply believe what the developers or their lawyers tell you; have your own experts checking the facts. It is important for the community to keep track of whether the company/government is meeting its commitments. One way to do this is to negotiate specific outcomes or conditions of the project. These should be written down as well and timelines agreed to.



ANNEXE 1 - COMPLAINTS MECHANISMS AT INTERNATIONAL FINANCIAL INSTITUTIONS

For many years, international financial institutions did not consider human rights norms as part of their work. It is only recently that they have started to take human rights standards into account. Yet, none of the financial institutions has adopted a comprehensive human rights policy with adequate standards of implementation.

Most multilateral development banks have adopted social and environmental policies, which usually do not use human rights language. The different policies and standards applied by these institutions remain uneven, vague and widely criticised. Nevertheless, human rights concerns can now be raised before different complaints mechanisms that banks have put in place to assess whether a project is compliant with the institution's policies. These mechanisms often entail on-site visits by inspectors and generate reports that include recommendations for corrective action plans.

Although most of these mechanisms remain criticised for various reasons (lack of staff with required expertise, length of processes, lack of enforcement of recommendations), they can be used by civil society as powerful lobbying tools. The review, by these mechanisms, of a project supported by a financial institution may lead to adjustments in the project for the benefit of communities or to better compensation packages from the corporations. However, these mechanisms do not directly provide reparation to victims and cannot replace an adequate remedy for victims of human rights violations.

The list of the projects financially-supported by these institutions is normally made public on their respective websites. The boxes in each section show clearly who can lodge a complaint, as the criteria vary from organisation to organisation.

The World Bank

The World Bank Inspection Panel, created in 1993, is composed of three members who are appointed by the board for a non-renewable period of five years. The members are supposed to be selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and independence from the bank's management and their exposure to developmental issues and living conditions in developing countries.

The World Bank Inspection Panel was created to address the concerns of people affected by the projects supported by the WB and to ensure that the WB adheres to its operational policies and procedures during the design, preparation and implementation phases of the various projects. The Panel does not prescribe remedies.

The Panel has only rarely been asked to consider claims that have been framed explicitly in human rights terms. Nevertheless, in its consideration of claims that directly or indirectly raise human rights concerns, it has identified four circumstances in which Bank policies and procedures may require the Bank to take human rights issues into account:

- o The Bank must ensure that its projects do not contravene the borrower's international human rights commitments.
- o The Bank must determine whether human rights issues may impede compliance with Bank Policies as part of its project due-diligence.
- o The Bank must interpret the requirements of the Indigenous Peoples policy in accordance with the policy's human rights objective.
- o The Bank must consider human rights protections enshrined in national constitutions or other sources of domestic law.

When claimants seek to raise human rights issues, they should be careful to show how alleged violations of their human rights were caused by the Bank's failure to adhere to its own policies.

The WB has about 50 operational policies, including the following:

- o *Environmental assessment*: this policy evaluates the potential environmental risks and impacts of a project and examines alternatives as well as ways of improving the project selection, sitting, planning, design, and implementation. It also includes the process of mitigation and management of adverse environmental impacts throughout the project's implementation.
- o *Gender development*: this policy covers the gender dimensions of development within and across sectors in the countries in which the WB has an active assistance program. Here, the borrower's record with respect to gender and minority rights should be assessed.



- o *Indigenous peoples*: this covers special considerations with regards to land and natural resources, commercial development of natural and cultural resources, as well as the physical relocation of indigenous peoples. The policy includes a process of free, prior, and informed consultation with the affected indigenous peoples' communities at each stage of the project and the preparation of an 'Indigenous Peoples' Plan' or 'Indigenous Peoples' Planning Framework.' This policy requires the borrower to undertake a social assessment to evaluate the project's potential positive and adverse effects on indigenous peoples, and to examine project alternatives where adverse effects may be significant.
- o *Involuntary resettlement*: this policy covers direct economic and social impacts that result from the Bank-assisted investment projects in order to avoid involuntary resettlements whenever it is possible. The policy provides for a resettlement plan or resettlement policy framework that includes information, consultation and compensation. This policy requires that particular attention be paid to the needs of vulnerable groups among those displaced, including women and ethnic minorities. Complaints can therefore address situations where free, prior and informed consultation has not been conducted prior to resettlement, or when information, consultation or compensation has been insufficient.

Who can File a Complaint?

Individuals cannot file complaints; rather, a complainant must be a 'community of persons'. However, as few as two people with common interests or concerns can qualify. An affected party can file a complaint. Alternatively, the following entities may file a complaint on behalf of the affected party:

- Another person who represents the complainant.
- A local NGO (non-governmental organisation).
- A foreign NGO, but only in exceptional circumstances where the complainant is unable to find local representation.

The Inspection Panel has to keep the names of the complainants anonymous and confidential if they so wish.

Under What Conditions?

- o The complainant must live in the territory of the borrowing state and in the area affected by the project.
- o An affected party must believe that:
 - o they are suffering or may suffer harm from a WB-funded project.
 - o the WB may have violated its operational policies or procedures with respect to the design, appraisal, and/or implementation of the project.
 - o the violation is causing the harm.
- o The complaint must be submitted before the project's funding is closed and before 95 percent of the funding has been disbursed. A complaint may be submitted before the WB has approved financing for the project or program.

Before speaking to the Inspection Panel, the complainant needs to raise his/ her concerns with WB staff in his/her local area;

- o If Management fails to demonstrate that it is taking adequate steps to follow policies and procedures, the complainant may submit a request for inspection to the Inspection Panel directly;
- o The complaint can be submitted in any language. For working purposes, the Panel will translate the request into English.
- o The request must be in writing with original signatures. Any other document, such as correspondence and attachments to the request, may be sent electronically.

Content of the complaint must include:

- o Name of the complainants or representative(s).
- o Name of the area the complainants live in.
- o Name and/or brief description of the project or program.
- o Location/country of the project or program.
- o Description of the damage or harm the complainants are suffering or likely to suffer from the project or program.
- o List (if known) of the WB's operational policies believed not to be observed.
- o Explanation of how the complaint was made and its process.



The request must be sent to:

Executive Secretary, the Inspection Panel
1818 H Street, NW, Washington, DC 20433, USA
Fax No. 202-522-0916;
or: c/o the appropriate World Bank Country Office

World Bank Inspection Panel
www.worldbank.org/inspectionpanel

Process and Outcome

- o When the Panel receives a request, it is registered and sent to the World Bank's management which has 21 days to respond. If the case is ineligible, there is no further action.
- o The Panel decides whether to recommend an investigation to the World Bank's Board, and the Board decides whether to approve the Panel's recommendation.
- o If the Board approves an investigation, the Panel reviews relevant documents, interviews WB staff, and normally visits the project site to meet with the requesters.
- o An investigation may take a few months or more in complex cases.
- o The Panel sends a written report of its findings to the Board.
- o Within six weeks, the WB management must respond and indicate how it plans to address the Panel's findings, usually in the form of an action plan.
- o The Board makes a decision on the project based on the Panel's report and management's recommendations. These decisions are then made public and can be found on the Bank's website.

European Investment Bank

The European Investment Bank (EIB) has a complaint mechanism composed of the EIB Complaints Office and of the European Ombudsman. The former is an internal mechanism, independent from operational activities; the latter is an external and independent mechanism. In case of maladministration by the EIB Group, a complaint can be filed with the EIB complaints mechanism. If the complainant is unsatisfied, there is the possibility to lodge a complaint with the European Ombudsman against the EIB.

What are the issues that can be dealt with?

The EIB requires that all projects that it finances comply at least with:

- o Applicable national environmental law.
- o Applicable EU environmental law (EU EIA Directive, the Nature Conservation Directives, Sector-specific Directives, "Cross-cutting" Directives).
- o The principles and standards of relevant international environmental conventions incorporated into EU law.
- o *Environmental Standards* in the Rest of the World: For projects in all other regions of EIB activity, the Bank requires that all projects comply with national legislation, including international conventions ratified by the host country, as well as EU standards.
- o *Social standards*: The EIB restricts its financing to projects that respect human rights and comply with EIB social standards based on the principles of the Charter of the Fundamental Rights of the European Union and international good practices. "Promoters that seek EIB financing outside the EU are required to adopt the social standards regarding involuntary resettlement, Indigenous Peoples and other vulnerable groups, the core labour standards of the International Labour Organization (ILO) and occupational and community health and safety."
- o Cultural heritage reflects a broad concept of cultural heritage as an instrument for human development and inter-cultural dialogue and an element in the achievement of balanced spatial development. Thus the Bank shall not finance a project which threatens the integrity of sites that have a high level of protection for reasons of cultural heritage, including UNESCO World Heritage Sites.

In practice, the EIB delegates many responsibilities to the project developers. Overall, the principles and standards of the EIB remain largely criticised by NGOs for being nebulous and for not clearly stating what is required from the EIB to act in conformity with its standards and principles.



Who can file a complaint?

Any person or group, including civil society organisations, “that is or feels affected by alleged environmental, developmental or social impacts of the EIB Group’s activities” can file a complaint with the EIB complaints mechanism.

Under What Conditions?

- The EIB does not accept anonymous complaints, but it does treat all complaints confidentially unless that right has been expressly waived by the complainant.
- Any person may write in one of the official languages of the European Union and has the right to receive a reply in the same language.
- The complaint must concern any alleged maladministration of EIB Group in its action or omissions.
- The complaints must be lodged within one year after the respondent could be in a position to acknowledge the facts upon which the allegation is grounded.

How to File a Complaint ?

- o Content of the complaint must include:
 - Name, contact information and location of the complainant.
 - The subject of the complaint (e.g., access to information, environmental and/or social impacts of projects, procurement procedures, human resource issues, customer relations, or other issues).
 - A description of the circumstances of the complaint (all relevant documents should be provided).
 - A description of what the complainant expects to achieve with the complaint.

- o The complaint can be lodged via a written communication addressed to:

European Investment Bank
Secretary General
100, boulevard Konrad Adenauer
L-2950 Luxembourg
Tel: (+352) 43 79 1
Fax: (+352) 43 77 04

- o If you wish to send a complaint via email, you need to fill out the online form available on the EIB’s website. www.eib.org/infocentre/complaints-form.htm?lang=-en
- o The complaint can be also sent by fax or brought directly to the EIB Complaints Office, EIB local representation or any EIB staff.

Terms of Reference of the EIB Complaints Office

www.eib.org/attachments/strategies/complaints_office_tor_en.pdf

Process and outcome

In reviewing the admissibility of each complaint, the office verifies whether the EIB followed its policies and regulatory obligations, including those outlined in the Bank’s Environmental and Social Practices Handbook.

Duration of proceedings

The final reply must be sent to the complainant no later than 40 working days after the date of the acknowledgement (the deadline can be extended to an additional period of 100 working days in case of complex issues). In practice, it should be noted that, the EIB complaint office is severely understaffed.



Whether the complainant wishes to appeal the EIB Complaints conclusions or whether it is to follow up on implementation of EIB conclusions, he or she may address, in written form, a confirmatory complaint:

- o Within 15 working days from the receipt of the EIB's response.
- o Or within 6 months from the due date set for the implementation of the action, if the agreed corrective action is not implemented correctly or within the time delay.

The European Ombudsman

Who can file a complaint?

- o EU citizens or a person residing or having its registered office in an EU country.
- o It should be noted that non-EU nationals can also lodge complaints with the Ombudsman regarding maladministration of the EIB from outside the EU. The Ombudsman will deal with them at his/her discretion.

Under what conditions?

- o For concerns of maladministration on behalf of the EIB.
- o Must be lodged within two years of acknowledgement of the facts on which the complaint is based.
- o Cannot deal with matters that are being settled in court or have already been settled in court.
- o exhaustion of the EIB internal complaint mechanisms; and – the complaint should be written in one of the official EU languages.

How to file a complaint ?

- o Content of the complaint must include:
 - Name, contact information and location of the complainant.
 - Grounds of complaint.
 - A description of what the complainant expects to achieve with the complaint.
- o The complaint can be lodged *via*:

European Ombudsman
 1 Avenue du Président Robert Schuman
 B.P. 403
 FR- 67001 Strasbourg Cedex
 Tel. +33 (0)3 88 17 23 13
 Fax: +33 (0)3 88 17 90 62
 email: complaints@beig.org

- o a complaint form is available at the European Ombudsman's office at the following address:
www.ombudsman.europa.eu/atyourservice/complaintform/home.faces

Process and outcome

Although it is preferable to turn to the Ombudsman only if unsatisfied by the EIB complaint process, it is also possible to directly appeal to the Ombudsman if the complainant is not satisfied with the conclusions report of the EIB complaints office. The European Ombudsman will first look for mediation. If it fails, he/she will then make recommendations: for instance, the Ombudsman can request to take corrective action or formulate critical remarks relating to the maladministration of the EIB Group. The Ombudsman can further address a special report to the European Parliament, if the EIB Group does not concur with his remarks and recommendations.

Finally, if a complaint by a non-EU resident is rejected on the sole basis of the "non-EU" origin of the complainant, a complaint can be lodged with the Bank to the EIB's Inspectorate General under the Independent Recourse Mechanism (Inspector.General@eib.org). The reliability of this mechanism remains unclear.



African Development Bank (AfDB)

The Bank's policies address several topics: food production, poverty reduction, quality assurance and results, regional integration, and financial crisis. These policies apply to several sectors, and in particular:

- Involuntary resettlement policy: the objective of this policy is to ensure that people who are relocated receive a share in the benefits of the project. The policy contains requirements for resettlement plans.
- Environment and social standards, including impact assessment, management plan, audits and environmental review procedures for private sector operations.
- Poverty reduction: This policy focuses on national capacity building, promotion of the participatory approach and development of new forms of partnerships. It contains requirements for consultation processes.
- Gender: this policy looks at women's participation and focuses on education, poverty, health, agriculture and rural development, governance through a gender analysis.
- Integrated Water Resources Management: recognises the right to water and requires the AfDB to "promote integrated policies and options for water resources that support water supply and sanitation, biodiversity protection, conservation, and minimise involuntary resettlement."
- Other: agriculture, climate change and mitigation, economic and financial grievance, education, health, human and social development, information and communication technology, infrastructure, private sector development, transport, water supply and sanitation.

Who can file a complaint?

- Any group of two or more people in the country or countries where the Bank financed project is located who believe that as a result of the Bank Group's violation of its policies and/or procedures, their rights or interests have been, or are likely to be, adversely affected in a direct and material way.
- Organisations, associations, societies or other groupings of individuals adversely affected by a Bank Group financed project.
- A duly appointed local representative acting on explicit instructions as the agent of adversely affected people. Foreign representatives may act as agents in cases where no adequate or appropriate representation is available in the country or countries where the project is located.

Under what conditions?

The complaint must be submitted:

- In writing, dated and signed.
- In the language of the Bank (English or French).

How to file a complaint ?

– The content of the complaint must include:

- Explanation on how the Bank Group's policies, procedures, and/or contractual documents were seriously violated.
- Description on how the act or omission on the part of the Bank Group has led or may lead to a violation of the specific provision.
- Description on how the parties are, or are likely to be, materially and adversely affected by the Bank Group's act or omission.
- Description of the steps taken by the affected parties to resolve the violation with Bank Group staff, and explanation on how the Bank Group's response was inadequate.



- The request must be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt to the CRMU or the Bank Group’s resident representative in the country where the project is located:

Compliance Review and Mediation Unit (CRMU)
 P.O. Box 323-1002
 10th Floor, EPI-C, African Development Bank Group
 Tunis-Belvedere, Tunisia
 Tel: +216 71 10 20 56, +216 71 10 29 56
 Fax: +216 71 10 37 27
 Email: crmuinfor@afdb.org

Process and Outcome

The process before the CRMU can be divided into two main procedures: mediation (problem-solving) or compliance review.

Common procedures for both mediation and compliance review:

- o Preliminary review by the Director CRMU upon receipt of a request to determine whether the request contains a bona fide allegation of harm from a Bank Group financed operation.
- o Within 14 days of receipt, the Director CRMU shall decide whether to:
 - Register the request.
 - Ask for additional information, in which case the decision period may be extended until the necessary information and documents have been filed, or - decide that the request is outside the mandate of IRM.
- o The request contains a *bona fide* allegation of harm arising from a Bank Group financed operation, the Director CRMU shall determine whether the request shall be registered for mediation exercise, or for further consideration for a compliance review. These two procedures are not exactly independent; it is possible that both be used for the same request.

Mediation procedure

The objective is to restore an effective dialogue between the requester and any interested persons, in order to resolve the issue, but not with the perspective of allocating blame to one party or the other. The exercise shall be a meeting or an exchange of views between the Bank’s management representatives, the requester, and other interested persons.

If the exercise is successful, the director shall prepare a report within 30 days after the conclusion of the exercise, which shall include the considered facts, the considerations on which the conclusions are based and any relevant comments from the interested persons. In case the exercise is unsuccessful, the director shall submit a report containing the reasons for the failure and make recommendations on steps to take to deal with the issue. The CRMU will monitor the implementation of the solution agreed upon.

Compliance review mechanism

A compliance review is the procedure used if there is prima facie evidence that the requesters are being harmed or are threatened of harm by a Bank-financed project and that the harm or threat was caused by the failure of the Bank’s staff and management to comply with the Bank’s policies and procedures. It can also take effect after the failure of a mediation process.

- o The director shall establish a report recommending a compliance review of the project issue. The recommendation shall include draft terms of reference and identify two experts from the roster (a body composed of 3 external experts, appointed by the Board for a five-year non-renewable term), who shall constitute, with the director, a panel to conduct the review. The panel conducts the review in the required time frame and may in particular solicit additional information from the interested parties or undertake on-site visits.
- o Within 30 days of the completion of the investigations, the panel shall submit to the President or the Board, a report present-



ing a summary of the facts. The summary has to contain the findings determining whether or not an action or failure to act has involved a violation of the Bank's policies. If violations are found then the report must also include suggestions on remedies and the steps to be taken to monitor their implementation.

- o The President or the Board decide to accept or reject the findings and the recommendations included in the report. If they are accepted, the changes shall be monitored by the person recommended in the report.



ANNEX 2 - OECD COMPLAINT MECHANISM

The Organisation for Economic Co-operation and Development's (OECD) does not finance projects. The OECD has however created guidelines for the behaviour of multinational corporations and has created its own complaint mechanism.

The "Guidelines for Multinational Enterprises" embody what OECD governments have agreed are the basic components of responsible corporate conduct. They cover a range of issues such as labour and human rights, bribery and corruption, environment and information disclosure. The latest version of the guidelines was released in June 2011²⁴.

In 2000, a new complaint procedure was agreed upon that allows non-governmental organisations (NGOs) to submit complaints concerning alleged breaches of the Guidelines to a government's National Contact Point (NCP)²⁵.

Before launching a complaint be aware that there is nothing that compels companies to engage in the NCP complaint procedure. Given the voluntary nature of the guidelines and the process it is difficult to say if a concrete complaint will generate any practical outcome and therefore before launching one a cost/benefit analysis considering the available resources has to be done. There is no point in engaging in such a process if it takes up too many resources which could be used more effectively elsewhere.

The NCP is a government office responsible for encouraging observance of the Guidelines in a national context and for ensuring that the Guidelines are well known and understood by the national business community and by other interested parties. The NCP gathers information on national experiences with the Guidelines, handles enquiries, discusses matters related to the Guidelines and assists in solving problems that may arise in this connection. When issues arise concerning implementation of the Guidelines in relation to specific instances of business conduct, the NCP is expected to help resolve them. The way the various NCPs handle these complaints vary widely.

A complaint becomes more complex if the government has contracted with the company to deliver services such as, for example, the management and operation of a prison or detention centre. NCPs may be reluctant to consider aspects of a complaint that it interprets as questioning government policy. Filing a complaint means accepting that you tell the NCP and company you are willing to engage in "conciliation or mediation, to assist in dealing with the issues." Therefore before contacting the NCP you have to be sure that you are willing to engage in such a process.

A complaint should be handled by the host country's NCP, if one exists. Otherwise, the complaint should be submitted to the NCP in the company's home country. As there are no NCPs in Sub-Saharan Africa, the complaints will have to be addressed to the NCP of the country where the company is headquartered.

The process after submitting a complaint foresees that if the NCP decides the issues merit further examination, it will seek to facilitate a resolution between the complainant and the company. When the process ends, the NCP should issue a public statement on the outcome unless there is a good reason for not doing so (which all parties understand). Should mediation fail, the Procedural Guidance states the NCP is required to reach a determination: "If the parties involved do not reach agreement on the issues raised, issue a statement, and make recommendations as appropriate, on the implementation of the Guidelines."

The Guidelines do not provide any instructions on how to write a complaint. However, NCPs will take into account the following aspects when a complaint is received:

- o The identity of the party concerned and its interest in the matter (the NCP will not determine the validity of an issue based solely on the identity of the party raising the complaint).
- o Whether the information provided supports the claim of a breach of the Guidelines.
- o The relevance of applicable law and procedures.

²⁴ The Guidelines can be found at http://www.oecd.org/document/28/0,3746,en_2649_34889_2397532_1_1_1_1,00.html

²⁵ For a full list of the OECD's national contact points see http://www.oecd.org/document/60/0,3746,en_2649_34889_1933116_1_1_1_1,00.html



- o How similar issues have been or are being treated in other domestic or international proceedings.
- o Whether the consideration of the issue would contribute to the purposes and effectiveness of the Guidelines.

When writing a complaint make sure to include the following aspects:

- o List the chapter(s) and paragraph(s) in the Guidelines the company is breaching.
- o Provide relevant background information about yourself and explain your interest in the case.
- o Provide relevant background information on the company's corporate structure and location.
- o Provide detailed information on the alleged breaches and developments to date: explain the details of the company's alleged violations (what, when, where, who is involved and/or affected).
- o Describe any previous contact with the company, other relevant actors and/or institutions.
- o Note if any information provided is confidential such as the names of individuals, sources of evidence or any documentation that cannot be shared with the company.
- o Also, look for additional instructions for submitting complaints to that particular NCP. The Australian NCP, for example, recommends complainants complete a form it has developed.

In practice NGOs have complaint in different occasions about the passivity of NCPs and their unwillingness to issue statements clearly addressing the problem and offering solutions. The Guidelines are voluntary for companies. There is nothing that compels companies to engage in the NCP complaint procedure. Although the process might not have any direct outcome, it might however be useful to publicly name and shame the misbehaving company and to alert the wider public opinion to a company's way of behaving. As mentioned before it is up to the local group assessing the costs and benefits of engaging in this process.

ANNEXE 3 - COMPANIES AND NGOS OPERATING IN AFRICA

ANGOLA

Companies:

ELECNOR S.A. (Spain)
ENDESA (Spain)
ENI (Italy)
IBERDRO LA. (Spain)
ISOLUX (Spain)
Panalpina World Transport (Switzerland)
Panoil International (Spain)
PESCANOVA (Spain)
Repsol (Spain)
Saipem (Italy)
Statoil (Norway)
TOTAL (France)

Organisations:

Southern Africa Resource Watch
Webpage: /www.sarwatch.org

BURKINA FASO

Companies:

Shell (Netherlands)
TOTAL (France)



BURUNDI

Regular News Updates at <http://www.ipisresearch.be/index.php>

CAMEROON

Companies

ALPI Spa (Italy).
 Bolloré (France).
 Dalhoff, Larsen and Horneman - DLH (Denmark).
 ENI (Italy).
 Koninklijke Houthandel G. Wijma & Zonen BV GWZ (Netherlands).
 Pasquet (France).
 Rougier SA (France).
 Siemens (Germany).
 Thanry Group (France).
 The Danzer Group (Germany).
 TOTAL (France).
 Vasto Legno (Italy).

Organisations

CED - Centre pour l'Environnement et le Développement. www.cedcameroun.org

CAPE VERDE

Companies

Shell (Netherlands).

CHAD

Companies

Chevron (US).
 Esso [ExxonMobil] (US).
 Petronas (US).
 Tamoil (Libya).

Documents

Bonn International Centre for Conversion, 2010, *We were promised development and all we got is misery! The Influence of Petroleum on Conflict Dynamics in Chad.*

<http://www.bicc.de/index.php/publications/briefs/brief-41>

Group Chad, 2010, *The World Bank Group and the Chad-Cameroon Oil & Pipeline Project: The logic was sound, but reality interfered.*

http://www.erdoel-tschad.de/contao/tl_files/publikationen/IEG_eng_A4_LOW.pdf

Group Chad, 2011, *Living with oil Poverty, conflicts and corruption in Chad and Cameroon.*

http://www.erdoel-tschad.de/contao/tl_files/Themenheft_eng.pdf

CONGO - BRAZZAVILLE

Companies

ENI (Italy).
 Saipem (Italy).

Documents

Caritas, 2011 *Le pétrole ne coule pas pour les pauvres.*

<http://www.secours-catholique.org/nous-connaître/nos-publications/nos-documents/le-petrole-au-congo-pour-qui-coule-l-or-noir,6481.html>

Heinrich Boell Stiftung, 2010, *Energy Futures: Eni's Investment in Tar Sands and Palm Oil in the Congo Basin.* <http://www.boell.de/ecology/climate/climate-energy-7775.html>



CONGO - DRC

Companies

Areva (France).
AURANTIA (Spain).
Bolloré (France).
Dalhoff, Larsen and Horneman - DLH (Denmark).
Danzer (Germany).
ENI (Italy).
Gerhard Wonnemann GmbH (Germany).
Glencore (Switzerland).
Heinrich Feldmeyer GmbH & Co (Germany).
Rougier SA (France).
Siemens (Germany).
The Danzer Group (Germany).

Organisations

Southern Africa Resource Watch.
Webpage: /www.sarwatch.org

Regular News Updates

<http://www.ipisresearch.be/index.php>

Documents

Agir en Chrétiens Informés, 2009, *Exploitation minières au Katanga : un atout pour le développement ou une colonisation économique?*

Association Africaine de Défense des Droits de l'Homme, 2009, *D'une exploitation artisanale illicite à l'accord entre la RD Congo et le groupe nucléaire français AREVA.*

<http://www.aefjn.org/index.php/370/articles/rapport-aci-dune-exploitation-artisanale-illicite-a-laccord-entre-la-rd-congo-et-le-groupe-nucleaire-francais-areva.html>

<http://www.aefjn.org/index.php/370/articles/rapport-aci-sur-lexploitation-minieres-au-katanga.html>

Greenpeace, 2011, *Stolen future: Conflicts and logging in Congo's rainforests - the case of Danzer.*

<http://www.greenpeace.org/international/en/publications/Stolen-future-Conflicts-and-logging-in-Congos-rainforests---the-case-of-Danzer/>

Global Witness, 2009, *"Faced with a gun, what can you do?" War and the Militarisation of Mining in Eastern Congo.*

<http://www.globalwitness.org/library/global-witness-report-faced-gun-what-can-you-do>

IPIS, 2010, *The complexity of resource governance in a context of state fragility: An analysis of the mining sector in the Kivu hinterlands.*

<http://www.international-alert.org/resources/publications/complexity-resource-governance-context-state-fragility>

Pain pour le prochain 2011, *Contrats, Droit humains et fiscalité: Comment une entreprise dépouille un pays. Le cas de Glencore en RDC.*

http://www.congomines.org/wp-content/uploads/2011/09/Painpourleprochain_CommentEntrepriseDepouillePays-Glencore-en-RDC.pdf



ETHIOPIA

Companies

Salini Costruttori (Italy).
SERRA MACHINERY (Spain).

Documents

CEE Bankwatch, 2008 *THE GILGEL GIBE AFFAIR: An analysis of the Gilbel Gibe hydroelectric projects in Ethiopia*.
<http://www.stopgibe3.org/pdf/The%20Gilgel%20Gibe%20Affair.pdf>

GABON

Companies

Areva (France).
Basso Legnami Srl (Italy).
Bolloré (France).
Dalhoff, Larsen and Horneman - DLH (Denmark).
ENI (Italy).
Rougier SA (France).
Salini Costruttori (Italy).
Thanry Group (France).
TOTAL (France).

Documents

Brainforest, 2010, *Impacts de l'exploitation minière sur les populations locales et l'environnement*.
http://www.brain-forest.org/img/Impacts_exploitation_miniere_HautOgooue.pdf

GHANA

Companies

ENI (Italy).
Salini Costruttori (Italy).
Siemens (Germany).
Shell (Netherlands).

Documents

Oxfam America, 2009 *Ghana's big test: Oil's challenge to democratic development*.
<http://www.oxfamamerica.org/files/ghanas-big-test.pdf>

GUINEA

Companies

Salini Costruttori (Italy).
Shell (Netherlands).

IVORY COAST

Companies

ALPI Spa (Italy).
Bolloré (France).
Dalhoff, Larsen and Horneman - DLH (Denmark).
Électricité de France (France).
Shell (Netherlands).

Documents

Bonn International Centre for Conversion, 2010, *Natural Resources in Côte d'Ivoire: Fostering Crisis or Peace*.
<http://www.bicc.de/uploads/pdf/publications/briefs/brief40/brief40.pdf>



KENYA

Companies

John Swire & Sons (UK).
Repsol (Spain).
Shell (Netherlands).
Siemens (Germany).

LIBERIA

Companies

Bolloré (France)
Repsol (Spain)

MADAGASCAR

Companies

BG Group (UK).
Shell (Netherlands).
TOTAL (France).

MALAWI

Companies

British Petroleum - BP (UK).
Salini Costruttori (Italy).

Organisations

Southern Africa Resource Watch.
Webpage: /www.sarwatch.org

MALI

Companies

ENI (Italy).
Shell (Netherlands).

MAURITIUS

Companies

Shell (Netherlands).

MOZAMBIQUE

Companies

British Petroleum - BP (UK).
ENI (Italy).
ISOLUX (Spain).
Kenmare Resources PLC (Ireland).
Siemens (Germany).

Organisations

Southern Africa Resource Watch. Webpage: /www.sarwatch.org



NAMIBIA

Companies

British Petroleum - BP (UK).

Organisations

Southern Africa Resource Watch. Webpage: /www.sarwatch.org

NIGER

Companies

Areva (France).

Documents

Greenpeace, 2010, *Left in the Dust - Areva's uranium mining in Niger*. <http://www.greenpeace.org/international/en/news/Blogs/nuclear-reaction/left-in-the-dust-arevas-uranium-mining-in-nig/blog/11734/>

NIGERIA

Companies

BG Group (UK).

ENI (Italy).

Saipem (Italy).

Salini Costruttori (Italy).

Siemens (Germany).

Shell (Netherlands).

TOTAL (France).

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CHAPTER 3

TRADE

ABBREVIATIONS

ACP	Africa, Caribbean, Pacific
CEMAC	Communauté Economique et Monétaire de l'Afrique Centrale
DDA	Doha Development Agenda
EAC	East African Community
EBA	Everything But Arms
EC	European Commission
ECOWAS	Economic Community Of West African States
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
EU	European Union
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GSP	Generalised System of Preferences
IMF	International Monetary Fund
IP	Intellectual Property
IPR	Intellectual Property Rights
MFN	Most Favoured Nation
SADC	Southern African Development Community
SAP	Structural Adjustment Program
SPS	Sanitary and Phytosanitary Standards
TRIPS	Agreement on Trade Related Aspects of Intellectual Property Rights
WB	World Bank
WTO	World Trade Organisation



VOCABULARY

Bilateral Trade Agreement: These are made between two nations. They are relatively easy to negotiate and give those nations reciprocal favoured-trading status. In the absence of a successful multilateral trade agreement, a series of bilateral agreements usually takes its place.

Cotonou Agreement. The Cotonou Agreement is a treaty between the European Union (EU) and the African, Caribbean and Pacific Group of States (ACP countries). It was signed in June 2000 in Cotonou by 78 ACP countries and the Member States of the EU. Probably the most radical change introduced by the Cotonou Agreement concerns trade cooperation. Since the First Lomé Convention in 1975, the EU has granted non-reciprocal trade preferences to their ACP partners. Under the Cotonou Agreement, however, this system will be replaced by a new scheme the Economic Partnership Agreements (EPAs). These new arrangements provide for reciprocal trade agreements, meaning that not only does the EU provide duty-free access to its markets for ACP exports, but ACP countries do the same for exports from the EU.

Doha Development Agenda (DDA). The Doha Development Agenda (DDA) or Doha Development Round is the current trade-negotiation round of the World Trade Organization (WTO) which commenced in November 2001. Its objective is to lower trade barriers around the world, which will facilitate the increase in global trade. Since 2008, talks have stalled over major issues such as agriculture, industrial tariffs and non-tariff barriers, services and dispute resolution. The most significant differences are between developed nations led by the EU, the United States (USA) and Japan and the major developing countries led and represented mainly by Brazil, China, India, South Korea, and South Africa.

Economic Partnership Agreements (EPAs). They are trade agreements creating a free trade area between the European Union and the African, Caribbean and Pacific Group of States (ACP) countries. The EPAs' key feature is their reciprocity and their non-discriminatory nature. They involve the phased removal of all trade preferences which have been established between the EU and the ACP countries since 1975 as well as the progressive removal of trade barriers between the partners.

Everything But Arms (EBA). EBA is an initiative of the European Union under which all imports to the EU from the Least Developed Countries are duty free and quota free, with the exception of armaments. EBA came into force on 5 March 2001.

Free Trade Agreement. A treaty between two or more countries to establish a free trade area where commerce in goods and services can be conducted across their common borders, without tariffs or hindrances.

General Agreement on Trade in Services (GATS). The General Agreement on Trade in Services (GATS) is a treaty of the World Trade Organization (WTO) that came into force in January 1995. It was created to extend the multilateral trading system to the service sector, just as the General Agreement on Tariffs and Trade (GATT) did for trade in merchandise. All members of the WTO are signatories to the GATS. The basic WTO principle of most favoured nation (MFN) applies to GATS as well.

General Agreement on Tariffs and Trade (GATT). The General Agreement on Tariffs and Trade (GATT) is now part of the WTO. It is an agency for the promotion of free trade between signatory countries. Formed in 1947 in Geneva, GATT instituted a rule-based multilateral trading system for trade in goods through a series of negotiations (called 'rounds'). Its approach was based on two non-discriminatory principles, the (1) Most favoured nation and (2) Reciprocity.

Generalised System of Preferences (GSP). The Generalised System of Preferences (GSP) is a trade arrangement through which the EU provides developing countries and territories with preferential access to the EU market. This takes the form of reduced tariffs for their goods when entering the EU market. There is no expectation or requirement that this access be reciprocated. It has however to be noted that this represents an increase in tariffs for ACP countries which hitherto have benefited from duty-free access to the EU market. The current GSP will terminate at the end of 2013 which means that the new system will be put in place for January 2014. The GSP+ scheme foresees better terms of access to the EU market in exchange for the respect of core human and labour rights and environmental and good governance standards.

Goods. An inherently useful and relatively scarce tangible item (article, commodity, material, merchandise, supply, wares) produced from agricultural, construction, manufacturing, or mining activities.



Intellectual Property Rights (IPRs). Under intellectual property law, owners of Intellectual Property Rights are granted certain exclusive rights to a variety of intangible assets, such as discoveries and inventions, words, phrases, symbols and designs and also musical, literary, and artistic works. Common types of intellectual property may include copyrights, trademarks, patents, industrial design rights and trade secrets.

International Monetary Fund (IMF). The International Monetary Fund (IMF) is an international financial organization. The organisation's stated objectives are to promote international economic cooperation, international trade, employment, and exchange rate stability. The primary mission of the IMF is to provide financial assistance to countries that experience serious financial and economic difficulties using funds deposited with the IMF from its 187 member countries. Member states may request loans to help bridge gaps between what they earn and/or are able to borrow from other official lenders and the money they need to operate. In return, countries are usually required to launch **Structural Adjustment Programs (SAPs)**. SAPs generally entail free market policy and programs. These programs include internal changes (notably privatization and deregulation) as well as external ones, especially the reduction of trade barriers.

The IMF and SAPs have been the target of severe criticism. SAPs have been accused of leading to an increase in poverty in recipient countries.

SAPs' emphasis on maintaining a balanced budget necessitates austerity programs and the casualties are often social programs. The programs most often cut are education, public health and other miscellaneous social safety nets. Commonly, these are already underfunded and desperately need investment for improvement.

Education cuts mean universality is impaired and therefore long term economic growth suffers. Similarly, cuts to health programs have allowed diseases such as AIDS to devastate some areas' economies by destroying the workforce. Recent studies have shown strong connections between SAPs with Tuberculosis rates in developing nations.

The agricultural, anti-land-reform and food trade policies associated with SAPs have been pointed to as a major factor in the urbanization of the global South, the ballooning of megacities, worldwide migration towards the global North and the growth in urban poverty and slums.

Furthermore, developed countries have a dominant role in the IMF and power over less developed countries (LDCs) primarily because of their bias towards a capitalist world economy.

Most Favoured Nation (MFN). In international economic relations and international politics, most favoured nation (MFN) is a status or level of treatment accorded by one state to another in international trade. The term means the country which is the recipient of this treatment must, nominally, receive equal trade advantages as the 'most favoured nation' by the country granting such treatment (Trade advantages include low tariffs or high import quotas). In effect, a country that has been accorded MFN status may not be treated less advantageously than any other country with MFN status by the promising country. The members of the World Trade Organization (WTO) agree to accord MFN status to each other.

Multilateral Trade Agreement. Multilateral trade agreements are made simultaneously between several nations. For this reason, they are very complicated to negotiate, but are very powerful once all parties sign the agreement. The primary benefit of multilateral agreements is that all nations are treated equally, and so the playing field is levelled.

Sanitary and Phytosanitary Standards (SPS). Sanitary (relating to animals) and Phytosanitary (relating to plants) Standards (SPS) refer to the set of trade rules relating to health and food safety. The rules are measures to protect humans, animals and plants from diseases, pests or contaminants. Article 20 of the General Agreement on Tariffs and Trade (GATT) allows governments to apply these rules, provided that they do not discriminate or use this as disguised protectionism. In order to meet SPS, countries need adequate testing and verification facilities and laboratories. In most developing, and especially least developed, countries, such facilities are lacking or inadequate. Developed countries sometimes use SPS to block exports coming from LDCs while in some cases SPS require investments well beyond the means of LDCs.

Services. These are intangible products such as accounting, banking, cleaning, consultancy, education, insurance, expertise, medical treatment or transportation. No transfer of possession or ownership takes place when services are sold, and they (1) cannot be stored or transported; (2) are instantly perishable and (3) come into existence at the time they are bought and consumed.

Tariff. A tax imposed on imported goods and services. Tariffs are used to restrict trade as they make imported goods and services more expensive for consumers. They are one of several tools available to shape trade policy. Governments may impose tariffs to raise revenue or to protect domestic industries from foreign competition, since consumers will generally purchase cheaper foreign produced goods.



Trade. Trade is the transfer of ownership of goods and services from one person or entity to another. International trade is exchange of goods and services across international borders or territories.

Trade distortion. This is a policy that increases or decreases the amount of trade, .e.g. agricultural subsidies that encourage production in areas that would otherwise have competitive disadvantages.

TRIPS - the Agreement on Trade Related Aspects of Intellectual Property Rights: TRIPS is an international agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of intellectual property (IP) regulation as applied to nationals of other WTO members. Specifically, TRIPS contains requirements that nations must legislate on copyright rights, including the rights of performers, producers of sound recordings and broadcasting organizations; geographical indications, including appellations of origin; industrial designs; integrated circuit layout-designs; patents; monopolies for the developers of new plant varieties; trademarks; trade dress and undisclosed or confidential information. TRIPS also specifies enforcement procedures, remedies and dispute resolution procedures.

World Trade Organization (WTO). WTO was created to supervise and liberalize international trade. It officially commenced on January 1, 1995, replacing the General Agreement on Tariffs and Trade (GATT) which was set up in 1948. The organization deals with regulation of trade between participating countries; it provides a framework for negotiating and formalizing trade agreements, and a dispute resolution process aimed at ensuring participants adhere to WTO agreements.