

BRIEF

GOOD PRACTICE NOTE ON COMMUNITY DEVELOPMENT AGREEMENTS

2011

EI Source Book Brief – ‘Good Practice Notes on Community Development Agreements’

1. Policy Problem/Statement of the Issue

There is a growing expectation that extractive industries will contribute positively to the long-term development of the communities and regions in which they operate. Formal, negotiated agreements between impacted communities and developers – often referred to as Community Development Agreements (CDAs) – have been proposed as one means of progressing this objective. Potential benefits of these agreements include: increased community support for and more realistic expectations of projects, greater certainty for all parties and promotion of a sense of shared responsibility. However, whether these benefits are realised in practice will depend on the context, the design of the CDA itself and, in particular, the way in which it is formed.

2. Critical ‘technical’ considerations

There are several prerequisites for a successful and effective CDA. Prior to negotiations, relevant parties must be identified and defined, including determining eligibility or qualification of communities. Depending on the local context, it may not be appropriate to include all stakeholder groups as parties to the agreement. Moreover, all parties must enter negotiations in ‘good faith’ with a mutual understanding of each other’s objectives and needs. A common commitment to making the agreement work is critical. Negotiations must be seen as equitable and fair by members of the communities and all other included parties. Inclusive engagement during the development and throughout the life of a CDA is important to ensure all voices, particularly vulnerable persons, are heard. The success of a CDA also relies heavily on all parties having the capacity to participate constructively in the agreement-making process and agreement implementation and delivery. Capacity gaps should be identified early with appropriate measures in place to address them.

3. Typical Sub-Optimal Practices

CDAs have not always produced the benefits they were designed to deliver. Noted barriers to success have included inadequate levels of commitment to stakeholder engagement and insufficient investment in the capacity of stakeholders to implement and uphold agreements. As companies continue to operate in areas of increasing remoteness, there is a need for improved understanding around the complexities of delivering development outcomes in indigenous, culturally diverse and geographically distant communities. A failure to engage communities can result in conflict and resistance from local stakeholders. This not only impedes good agreement-making but poses a challenge to sustainability of the industry in that region. While agreements can be structured with the genuine intention of delivering lasting benefits to local and regional stakeholders, it is important that developers invest in the capacity of local stakeholders and institutions to ensure that the relationship and governance processes behind agreements are also supported. Sub-optimal outcomes are likely to result where there is a lack of proper governance and insufficient local capacity and awareness, which prevents the long-term sustainability of community development.

4. Key Principles for Good Practice

This document defines key principles of good practice for structuring effective agreements in this area. Basic principles necessary for a successful CDA are that:

- the outcome is arrived at through fair and equitable negotiation and/or facilitation;
- communities, or community representatives, are engaged in these negotiations;
- the outcome is formalised in some kind of written document, which may sometimes, but not always, take a legal form;
- there is an intention to create mutual obligations between the parties, whether or not these are legally enforceable; and
- the agreement includes provisions that address broader development objectives, rather than just being focused narrowly on financial compensation.

5. Examples/"Nuggets" of Good Practice

These key principles of agreement-making were drawn from exemplar case studies of medium, large, and multi-national enterprises that demonstrate good and effective practice in countries such as Canada, Australia, Russia, Papua New Guinea, Peru, Dominican Republic, and Ghana. The examples used in this document are intended to reflect various development settings, taking into account different countries, companies and organizations. Additional guidance has been sourced from publications of several international organizations such as IFC, ICMM and Oxfam.

6. Conclusions/Guidance for Users of the Source Book

The objective of these Good Practice Notes is to provide guidance on the design and usage of CDAs, including the process, methodologies and important considerations for identifying parties to the agreement, assessing capacity and defining roles of stakeholders. Using practical examples of effective engagement and successful CDAs, the Good Practice Notes aims to inform industry practitioners, government representatives and policy makers on effective deliver of a community development mechanism.

7. Key References

The following key resources may be useful in informing basic principles to community engagement and agreement-making, many of which have been used in the Good Practice Notes.

Public Library of CDA materials - <http://www.sds.org/archives/cda-library/>

IFC Strategic Community Handbook -

http://www.ifc.org/ifcext/sustainability.nsf/Content/Publications_Handbook_CommunityInvestment

ICMM Good Practice Guide: Indigenous Peoples and Mining

<http://www.icmm.com/content/newsletter/200925/http://www.icmm.com/document/1221>