MINING COMMUNITIES
&
COMMUNITY DEVELOPMENT AGREEMENTS
- SOME PERSPECTIVES

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By
Benjamin Aryee (Chief Executive Officer)
& Charles Afeku (Senior Legal Officer)
Ghana Minerals Commission
OUTLINE

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  – Impact of Mining on Host Communities
  – A balancing Act

• THE CDA OPTION

• THE ISG POSITION

• THE WORLD BANK PROPOSITION

• STAKEHOLDER ROLES IN CDAs

• SOME PRACTICAL ISSUES CONCERNING CDAs

• ADDRESSING THE CHALLENGES IN NEGOTIATION & IMPLEMENTATION

• CASE STUDY – THE GHANA SITUATION

• CONCLUDING REMARKS
## 1. SOME PRELIMINARY MATTERS:

(a) Impact of Mining on Host Communities

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<tr>
<th>POTENTIAL POSITIVES</th>
<th>POTENTIAL NEGATIVES</th>
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<tr>
<td>• Employment (Usually unskilled)</td>
<td>• High cost of living</td>
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<td>• Improvement of economic livelihoods</td>
<td>• Environmental impacts</td>
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<td>• Development of social infrastructure</td>
<td>• Disruption of livelihoods</td>
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<td>• Opening up of mainly rural areas</td>
<td>• In-migration</td>
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<td>• Transfer of technology &amp; skills</td>
<td>• Rise in crime &amp; other social vices</td>
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<td>• Health impacts (e.g. HIV &amp; Aids)</td>
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<td>• Human rights impacts</td>
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1. SOME PRELIMINARY MATTERS:

(b) A Balancing Act (i)

- Beyond mandatory requirements -
- Corporate Social Responsibility (CSR) Initiatives (especially voluntary)
  - Concerns & Challenges
    - Ad-hoc and philanthropic
    - Non-binding and unregulated
    - Responsiveness to community needs
    - Community expectations
    - Tax treatment
    - Motive
    - Post closure sustainability

- To legislate CSR or not?
1. SOME PRELIMINARY MATTERS:
   (b) A Balancing Act (ii)

- **Social Licence**
  - Co-operation of host communities is necessary for business

- **International Standards**
  - IFC’s Sustainability Framework & Equator Principles, ICMM’s Sustainable Development Framework, OECD’s Guidelines for Multinational Enterprises; WBG and ICMM’s Community Development Toolkit, the UN’s Principles for Responsible Investment, etc

- **What is the most effective way to obtain and retain the Social Licence?**
  - Informal, ad-hoc, negotiated or legislated?
  - CDAs?
2. THE CDA OPTION

- **Features:**
  - Formal
  - Strategic
  - Collaborative
  - Enforceable
  - Provides for better management of expectations
  - Subject to regulation and monitoring
  - Subject to periodic review
  - Modalities for community’s input
3. THE ISG POSITION

• “It is no longer possible and feasible for mining companies to treat the contributions to social issues in mining communities and relations with them as peripheral to their core businesses”

• “CSR initiatives should not be considered as a substitute for government responsibility towards its citizens in terms of providing basic infrastructure and other public goods”

• “CSR initiatives should complement government efforts through local government institutions and local authorities”

• “The [CSR] framework should also allow for review of obligations and the incorporation of emerging challenges”

• “[Consultation] with respect to incorporating community issues should be at the center of CSR initiatives”
4. THE WORLD BANK PROPOSITION (i)

- CSR is the investor’s commitment 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.

- The WB’s draft model CDA Regulations
  - Usable by governments as a development strategy to better define the relationships and obligations between mining companies and impacted communities.
  - Usable as legislation or can be modified for use as guidelines.
4. THE WORLD BANK PROPOSITION (ii)

• Characteristics of model CDA Regulations/Guidelines:
  – Independently negotiated between mining rights holder and communities
  – Objective criteria for determining a qualifying community
  – Minister or other responsible government authority approves CDA
  – Central government is not a party to the CDA
  – Local authorities may be parties to the CDA
  – Reporting requirements imposed on mining rights holder
  – Reports are public information
  – CDA projects must feed into government’s local and regional development plans
  – CDA projects must achieve SD - have long term benefits, recognize and incorporate traditional knowledge, etc.
4. THE WORLD BANK PROPOSITION (iii)

- **General Obligation of mining rights holder (CDA or not):**
  - The holder of a mining right shall assist in the development of communities affected by its operations to promote sustainable development, enhance the general welfare and the quality of life of the community inhabitants, and shall recognize and respect the rights, customs, traditions and religion of local communities.

- **CDAs offer a formal yet flexible framework, with provisions like:**
  - Management of CDA by designated persons, board, committee, foundation, trust, forum, body or other named entity.
  - Representation of interest groups, how elected, and decision making process.
  - The Development Program – sustainable objectives, milestones, budget, how it complements government projects, how transferred, etc.
4. THE WORLD BANK PROPOSITION (iv)

• Some required provisions of CDAs:
  – Mining right holder’s roles—(e.g. financial contributions, technical assistance and consultation)
  – Affected community’s roles
  – Local government roles
  – Duration of agreement, when & how reviewed
  – Indicators for measuring progress
  – Disbursement mechanisms
  – Dispute resolution & Grievance mechanisms
  – Notices, language and reporting requirements, etc
4. THE WORLD BANK PROPOSITION (v)

• Financing:
  – Minimum expenditure requirements of mining rights holder

• Enforceability:
  – Sanctions applicable for breach of financing (e.g. suspension of mineral right or fines)

• The following may also be considered:
  – Government roles, land access, employment quota, etc
5. STAKEHOLDER ROLES IN CDAS (i)

• The mining right holder:
  – Finance
  – Ensure effective consultative process
  – Providing technical assistance
  – Transparency in operations
  – Create level playing field

• The impacted communities:
  – Participate in the consultative process
  – Elect competent representatives
  – Clearly identify and articulate needs
  – Develop adequate capacity to negotiate
  – Provide land where necessary (i.e. Chiefs and landowners)
5. STAKEHOLDER ROLES IN CDAS (ii)

• Local government:
  – Facilitate CDA
  – Provide technical assistance (e.g. town planning)
  – Collaborate in determining projects
  – Support and co-ordinate projects

• Central government:
  – No active role
  – Facilitate CDA (Legislation, Guidelines, etc)
  – Provide requisite legal assistance (e.g. determination of boundaries, etc)
  – Enforce agreement to the maximum extent possible
  – May assist in dispute resolution

• NGOs:
  – Watchdog role
  – Monitor implementation
  – Facilitate dispute resolution
6. SOME PRACTICAL ISSUES CONCERNING CDAs

• ‘Negotiation skills deficit’ of affected communities
• Planning skills deficit of local government
• CDA Management potentially assumes government role as development agent
• Where legislated, requirements may be “cast in stone” and cannot be easily amended to take account of emerging concerns
• One size may not fit all – Even in the same country
• Managing expectations can be challenging
• When in the mineral licensing stage to negotiate CDAs
• Determining the extent of benefits to communities with varying degrees of impact
7. ADDRESSING THE CHALLENGES IN NEGOTIATION & IMPLEMENTATION

• Capacity building of local community to participate in negotiations (Company and Government roles)
  – Start early on before the mine starts production

• Involvement of local government in the entire process will facilitate implementation, provided:
  – Local government roles are clearly spelt out
  – Local government has adequate capacity

• Effective communication (appropriate language, regular interaction, monitoring feedback)

• Transparency is crucial to building trust and co-operation
8. CASE STUDY – THE GHANA SITUATION (i)

- No legislation on CSR yet
  - Mineral Development Fund Bill (MDF) provides for using a portion of Government’s mineral royalties to:
    - Redress the harmful effect of mining in affected communities
    - Promote local economic development projects
  - Mining Community Development Scheme (MCDS) to be established under the MDF will be supported with a portion of mineral royalties and contributions by mining companies
  - MCDS will be managed by Local Management Committees in each affected community who will determine appropriate projects subject to approval by MDF Board.
  - MCDS will comprise local government reps, mining company reps, and community reps.
8. CASE STUDY – THE GHANA SITUATION (ii)

• Various companies adopt different models of CSR:

• For example:
  – Ghana Manganese Company:
    • Meets with the communities at the beginning of each year to determine projects to support for the year
    • Spent a total of about $330,000 in 2010 (mainly in donations towards projects)
  – Gold Fields Ghana Limited:
    • Determines the projects to support and commits the necessary funds. One of its running projects is providing sponsorship for the national soccer team
    • Company contributes $1 for every ounce of gold produced & 1% of net profit
    • Spent a total of about $1.6m in 2010 (Mainly on infrastructure, community health and alternative livelihood)
8. CASE STUDY – THE GHANA SITUATION (iii)

• Newmont Ghana Gold Limited:
  – Negotiated CDA – Newmont-Ahafo Development Fund est. in 2008
  – Fund is managed by Board of Trustees comprising community reps, chiefs, local gov’t reps, company reps, interest groups reps, etc.
  – Company contributes $1 for every ounce of gold produced & 1% of net profit
  – As at Dec 2010, the fund accumulated $7.1m ($2m spent so far)
  – 10% of the Fund is kept as endowment fund (for future generations)
  – 37 projects completed so far including:
    • Education- school buildings, libraries, scholarships (1500 beneficiaries), etc
    • Health - Hospitals, etc.
    • Water & Sanitation - boreholes, public places of convenience, etc
    • Cultural Heritage & Sports – Chiefs palaces, sports equipment, etc
8. CASE STUDY – THE GHANA SITUATION (iv)

Some CSR Projects in pictures

- Scholarship beneficiaries
- Ghana national soccer team sponsored by Gold Fields Ghana
- AngloGold Ashanti malaria control program
- AngloGold Ashanti malaria control program
- AngloGold Ashanti malaria control program
- School Block (Constructed by NADeF)
- Water and Sanitation project
- Inauguration of Gold Fields Ghana Limited Physical Development Projects
• Newmont Ghana Gold Limited
  – Challenges include:
    • Uniqueness of the model which is essentially community-driven means that there is no precedent to follow.
    • Slow decision making and implementation process due to novelty and extensive consultation process
    • Lack of capacity of committees to determine and select SD projects. Ongoing capacity building means sluggish project implementation
    • Power play between traditional authorities and the Board of Trustees
    • Potential mistrust of board of trustees as some projects are not implemented (and minorities agitate)
9. CONCLUDING REMARKS

• Generally, host nation laws must recognize CSR

• Strict legislation may bring about rigidity and stifle implementation and desired results

• Developing nations may now be nurturing institutions to manage local level development – Establishment of CDAs must take cognizance of this

• CSR initiatives that enhance employment of locals and use of local content will foster SD

• Capacity building is key

• Evolving and appropriate technologies (e.g. the internet) can be used to enhance communication (to share experiences and to exchange best practices)
Taking account of these issues in modeling CDAs should enhance the capacity of stakeholders to ensure that mining contributes effectively to SD.
THANK YOU