

CAO CONCLUSION REPORT

*Chad/Chad-Cameroon Pipeline-03/Chad
January 2020*

Background to the Complaint

The Chad-Cameroon Petroleum Development and Pipeline Project was launched in October 2000 and consisted of the construction of a 1070 km pipeline to transport crude oil from three fields in southwestern Chad to a floating facility 11 km off the coast of Cameroon. The Tchad Oil Transportation Company (TOTCO), a special purpose company incorporated in Chad as a joint-venture between affiliates of ExxonMobil, PETRONAS, Chevron and the Government of Chad, owns and operates the Chadian portion of the pipeline.

In October 2011, Groupe de Recherches Alternatives et de Monitoring du Projet Pétrole Tchad-Cameroun (GRAMPTC), in collaboration with six other organizations, filed a complaint to the CAO on behalf of local farmers and other community members affected by oil development and production and the pipeline. The complainants highlighted a number of alleged environmental and social issues relating to poverty exacerbation, the reduction of arable land, loss of livelihood, land and water pollution, concerns around security, inadequate compensation and the lack of adequate monitoring and assessment mechanisms. The complainants are located on the Chadian side of the project and their concerns relate to the Chadian project sponsor, TOTCO.

CAO Action

Eligibility and Assessment

In January 2012, the CAO found the complaint eligible for further

assessment. During the CAO assessment, affected community representatives and Esso Exploration and Production Chad, Inc. (EEPCI), the operator of the production facilities, agreed to engage in a consensual dispute resolution process and ground rules governing the process were discussed and agreed. This is captured in CAO's Assessment Report (also available on CAO's website at www.cao-ombudsman.org).



Community members meet with CAO in southern Chad.

Preparing for dialogue

In May 2013, following its assessment, CAO initiated and completed a community awareness program to inform community members and local stakeholders about the agreement to seek negotiated solutions to the identified concerns.

The CAO mediation team has worked extensively with the parties and more particularly the affected community representatives to ensure they have the requisite capacity to participate in the mediation process. This has included the provision of comprehensive negotiation skills training. In addition, a group made up of moral observers was formed by agreement of the parties to observe and accompany the process. Consisting of senior clerics representing the main faiths of the region

and a senior Cantonal leader, this group provided a new form of community engagement and oversight.

In April 2013, the parties drew up an official categorized agenda of issues for negotiation and a tentative itinerary within which to complete the work. Five priority sectors were identified:

- Land use by EEPCI,
- Compensation,
- Access to jobs and in-migration of employment seekers,
- Environmental impact,
- Insufficient concrete signs of sustainable development

The parties agreed that they would not address concerns around security and resource management for development, resolution of which would have necessitated participation of the government, which was not realistic at the time.



NGO and EEPCI representatives accompany a complainant to the field in the context of one of the individual complaints.

The dialogue

Since July 2013, regular plenary sessions have been held to discuss the issues identified in the complaint. In plenary, the parties shared their knowledge and perspectives about the identified priority

sectors. With the CAO acting as facilitator, these meetings gave EEPCI an opportunity to provide details about how it operates and implements its commitments. The complainants had an opportunity to share the findings of their field-based studies and household surveys. Further, future working arrangements were discussed and agreed as follows.

Two sub-committees were created to examine the complaints and conduct in-depth field surveys: a socio-economic sub-committee focused on individual and collective complaints; and an environmental sub-committee focused on environmental issues. The sub-committees operated simultaneously throughout the process.

For more than two years, the socio-economic subcommittee examined all potentially outstanding individual and community compensation claims. Each individual compensation claim was examined, and determinations made regarding their merit. The types of individual claim assessed by the committee included concerns around trees cut by EEPCI, unpaid compensation for land, death of cows, damage caused by trucks, whereas community concerns related to situations where communities were disappointed with compensation projects which were different from their expressed preference during consultations.

Where necessary, with CAO acting as facilitator, members of the joint subcommittee visited, repeatedly in some cases, sites where complaints were made to ascertain their exact locations and the associated facts. The sub-committee members then examined and discussed the collected data, examined EEPCI's databases and archives and drew consensual decisions on each case.

As such, decisions and recommendations about most individual compensation claims that were addressed using this survey-based approach in the field were mutually agreed by the members of the sub-committee.

The sub-committee in charge of community complaints was able to establish a shared diagnosis of community requests related to infrastructure or development, based on information about EEPCI's initial consultation process and about activities implemented to date.

The sub-committee in charge of environment jointly recruited experts to examine opposing expert reports on a variety of environmental issues raised in the complaint. In one specific case, a specialist was hired by a joint sub-committee made up of both parties to carry out technical studies and offer an opinion on the best way to address issues raised in the complaint.

Agreement

In late 2016, after having reviewed in detail all aspects of the complaint, the parties agreed on a series of measures. On 16 January 2017 the final Accord was signed in Ndjamena.

Through the Accord, the parties agreed to implement all aspects of the Accord and to do so through a newly established Consultative Forum for future collaboration.



16 January 2017: Representatives of the parties sign agreement in Ndjamena.

The Consultative Forum will not only focus on the implementation of the content of the Accord, but it will also become the vehicle for future collaboration between EEPCI and the NGOs mandated by communities in Chad's oil producing region.

At the community level, EEPCI agreed to:

- rehabilitate a number of dirt roads identified by the parties;
- potentially support the four Cantons of the oil field development area in implementing their respective existing local development plans, including on how it can support health and education facilities;
- provide technical assistance for the maintenance of agricultural equipment.

On environmental questions, EEPCI agreed to a number of activities including:

- providing compensation to farmers with plots in close proximity of some facilities
- undertaking a hydrological study of the Nya River bridge to determine the best option for communities;
- to remove, where appropriate, nozzles and other materials left behind during operations as notified by riverside communities;
- compensate those families identified during the process as having been affected by erosion due to run off from EEPCI facilities
- provide the results of water studies to partner NGOs
- rehabilitate all wells in the four OFDA Cantons.

The NGOs agree that the implementation of this agreement addresses the concerns that were being discussed through the dialogue process.

To help explain the agreement to the population in the four cantons, open meetings were convened at which the parties' representatives presented the outcomes and answered questions.

As dialogue and resolution of concerns relating to security and resource management for development would have necessitated participation of the government, which was not realistic at the time, these two

issues were not addressed through the CAO convened dispute resolution process.



17 January 2017: One of the moral leaders addresses community meeting at which the agreement is read aloud and explained.

Nevertheless, with regards to security, the complainants reported a marked improvement in the situation. Where in the past state security forces were very present, restricting people's ability to move around the area freely, security forces have pulled back, due in large measure to a decrease in theft, and people are enjoying more freedom. The complainants credited the dialogue process with having contributed to this positive outcome.

A period of implementation

After the Accord was signed, CAO stayed engaged to monitor implementation of the Accord, offering support for implementation challenges.

The majority of agreement items have been implemented fully, including compensation for farm plots, technical assistance to improve agriculture, providing schools with tables, benches, blackboards, books, etc. and compensation for damage due to water runoff. The removal of materials left behind during operations, and sharing of water study results are ongoing. Road rehabilitation is

ongoing; each year a different section is being tackled. Items related to continued cooperation, such as support for development plans in the four Cantons, are ongoing. Finally, a study of the Nya River bridge is still being planned, but both sides have focused on other priority areas of cooperation for now, which may not have been included in the original Accord.

At a meeting in November 2018 to mark the conclusion of the dialogue process, the parties expressed their satisfaction that the improvement in their relationship, and their ability to communicate and work together frankly and directly, had continued after the signing of the Accord. They report meeting regularly now, and jointly addressing issues of concern as they arise.

Lessons and Reflections

CAO engaged with the parties in October and November 2018 to reflect on the process and its outcomes.

On the whole, both complainants and company staff expressed satisfaction with the process.

A transformed relationship: Both parties noted that the mediation had resulted in the establishment of a frank and constructive relationship. Now, new concerns can be addressed with a focus on finding solutions rather than pointing fingers or being defensive.

"Today, if there's an issue, we can call, and people at the company will help address the issue or find the responsible person to address the issue."

Complainant representative

"Today, the collaboration is very frank. If you arrive at this level, it's ideal" EEPCI representative



Company and community representatives reflect on their experience with the CAO dispute resolution process, November 2018

A new approach to working with communities: The complainants argued that by following the new collaborative approach via the Consultative Forum - established as a result of the mediation process - the company had effectively strengthened their engagement structures.

Since the signing of the Accord, EEPCI has worked with local civil society actors to assist EEPCI in taking into account the communities' interests when planning and implementing local development projects, leading to better outcomes.

“The process helped us understand when there’s conflict, sitting together and understanding each other is preferable to the prior dynamic of mutual accusations. Discussing amongst friends enabled us to agree even difficult issues”.
EEPCI representative

The company noted that it is committed to continuing the use of this approach, which is now considered best practice and shared with other corporate affiliates who seek to learn from TOTCO’s example in Chad.

Improvements in the security situation: While not treated as part of the mediation process, the parties noted a marked improvement in the security situation. This was related to a reduction in theft from the company and a relaxation of governmental security checks, both of which are viewed by the parties as an indirect by-product of the mediation process. This relaxation of government controls enables the local

population to move around the area more freely.

There were also challenges:

Timing and delays: The process suffered from a number of delays related to issues of mistrust and a lack of advancement while at several points, national security concerns prevented the CAO team from traveling to Chad. However, neither party lost faith in the mediation during the periods of incremental progress.



Complainant representatives at a meeting with CAO, November 2018

Capacity differentials: On several occasions, the complainants sought to access expertise to help bolster their case. The CAO worked to support both parties throughout the process. The complainants were accompanied in dialogue meetings by subject matter experts, while CAO introduced the complainants to an international foundation that finances capacity-building for parties in conflict. Unfortunately, the complainants and the foundation were unable to reach agreement regarding how that support could be rendered.

Implementation and ongoing financing of NGO activities: The NGOs pointed out that participation in the Consultative Forum has practical cost implications which are not covered by the process. In turn, the company outlined its policy not to finance NGO’s out of concern that this will open the NGO up to accusations of losing their independence. However, effectively doing the work of the Consultative Forum, including consultation

among the local population, has operational costs which are not currently covered.

“The NGO’s will is there to support the process and the platform, but the means are lacking. This is frustrating.”

EEPCI representative

Next Steps:

Issues that were not part of the dialogue process, specifically concerns around security and resource management, will be transferred to CAO compliance for appraisal of IFC’s performance.

CAO reflections

From CAO’s perspective, **working with capacity differentials** is a common challenge in mediation between companies and impacted local communities. CAO’s interventions to address capacity differentials take different forms, ranging from spending time with the parties separately to help them think through their options and strategies, to more formalized workshops or training in dispute resolution process and skills. While both sides in this dialogue were skilled and had their own strengths, it is undeniable that the company had financial means and access to expertise that was unmatched by the complainants.

The political and **governance context in Chad** meant it was not feasible to involve the government in the process. In turn this meant it was not possible to address issues related to security or the management of resources flowing into the country.

Where agreements involve structures for **ongoing cooperation** between the parties, their relationship will often continue to evolve, and stay dynamic. This also means that as needs and priorities change, and based on available resources, the parties may find new joint priorities, rather than first working down the agreement items as a “to do list”. In this case, the water study that was agreed in the Accord remains a commitment of the parties, who chose to tackle other projects first. CAO embraces the parties’ agency to focus their attention on their most pressing issues first.