

REUTA



MA ADE



PUBLIC VERSION OF THE COMPLAINT FILED WITH THE COMPLIANCE ADVISOR/OMBUDSMAN (CAO)

The complaint relates to the Chad-Cameroon oil and pipeline project, approved in June 2000 by the World Bank's Board of Administration. The International Finance Corporation (IFC) contributed to the funding of this project.

This complaint is being filed on behalf of scores of farmers and communities on the Cameroon side of the Chad-Cameroon oil pipeline route who wished to remain anonymous.

All the complainants were adversely affected in a variety of ways by the project, either during construction or operation. To date, adequate compensation has not been provided for these adverse effects.

The effects outlined below are merely illustrative of the problems encountered by these communities, and the complaint can in no way be considered limited to these problems.

Description of Some of the Problems Encountered by Communities Living Close to the Project

1. The Spread of HIV/AIDS After the Laying of the Pipeline

In virtually all the regions along the Chad-Cameroon pipeline route, numerous cases of HIV/AIDS have been recorded. The awareness-building campaigns organized by COTCO and the Cameroonian Government from time to time have proven both belated and inadequate. In a town situated along the pipeline route for example, women were living in the workers' camp quarters, a situation that pointed to lax preventive measures. A similar situation existed with several young girls in villages located in the immediate vicinity of the pipeline project. This negligence has led to a rise in prostitution in these regions. A young woman who once worked as a waitress in a bar in the workers' camp in a community close to the pipeline considers herself a victim of the ineffective awareness-building campaign – she contracted HIV while living at the company's base. Today, like many others plagued by disease, she is finding it very difficult to live with her new serological status. Although the medication is provided by the Ministry of Health, the recommended diet is too expensive for her, given that she has her two children to care for. HIV seroprevalence has risen sharply in virtually all the villages in the pipeline area, a situation that serves as proof of the inadequacy of the preventive measures adopted in these villages.

2. Defective Equipment Provided as In-kind Compensation

Persons eligible for compensation were able to opt for in-kind compensation. However, in many instances, the work performed and quality of the equipment delivered to communities and individuals were substandard, with equipment either working poorly or not at all. This is the case, for example, with water supply points in cases where villages requested wells or improved water points. Problems emerged very quickly with the water points constructed by the company's subcontractors, forcing the communities to obtain water from sources of dubious quality. In a village to the south of the pipeline, residents are forced to travel several kilometers to find a water point because of the poor quality of the water obtained from the well built by the company. Village residents have appealed to the company for assistance on a number of occasions, to no avail.

In other cases, the equipment delivered was overpriced, thus making it impossible for beneficiaries to use the equipment to which they were entitled under the terms of their compensation. This was especially true of the mills supplied to a number of villages along the pipeline route.

3. The Situation Faced by Fishermen

The residents of Kribi, an area where the oil pipeline meets the sea, are largely fishermen. Since the start of pipeline construction, their livelihoods have been impacted in a number of ways.

First, the reef that was home to the main fishing area of a coastal community a few kilometers from Kribi has been destroyed. The environmental impact study did not point to this construction as the likely cause of the destruction of this reef. Consequently, no provisions were made in the environmental management plan to mitigate this damage. Also, destruction/preservation of this reef was not covered in the analysis of alternatives, a key step in the environmental impact study.

It was only after more than four years following the destruction of the reef that COTCO decided to install an artificial reef in the zone. Unfortunately, the fish have not returned. The closest fishing zone is now located more than 10 kilometers from the coast, a situation that forces fishermen to use motorboats. This new situation has left the fishermen unable to compete with their neighbors, who have stuck to their traditional fishing methods using paddle canoes. The destruction of the reef has therefore had a disastrous impact on the local economy.

In addition, two oil pipeline accidents have occurred since the start of operations – one in 2007 and the other in April 2010. Despite promises to implement the oil spill emergency plan before the first barrel of oil was produced, it was not until November 2010 that the relevant document was signed by the President of the Republic. These oil spills have impeded fishing activities, inasmuch as the State issued a circular banning all fishing activity in the region during cleanup operations, with no provisions being made for compensation to residents for economic damages suffered.

4. Toxic Waste Management

In a village located to the north of the oil pipeline route, alongside a pumping station, the company established a dump in which large amounts of waste was buried (in particular, scrap metal and discarded iron). Asbestos, a particularly toxic substance, taken from a marine terminal, was also buried there. A report by a local journalist brought this matter to the attention of the communities, local authorities, and NGOs involved with monitoring the impact of the oil project.

The transport and handling of the asbestos took place in violation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel, March 22, 1989) and of the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (Bamako, January 30, 1991). While it must be acknowledged that the company appears not to have voluntarily and knowingly transported this waste, handling of the latter in Cameroon took place in violation of the two aforementioned conventions and of Cameroonian law. Article 1 of Cameroonian Law No. 89-28 of December 29, 1989 prohibits “the introduction, production, storage, holding, transport, transit, and discharge on to national territory of toxic and/or dangerous waste in any form.”

5. Work-Related Accidents

A technician living in a village to the south of the oil pipeline route was employed by the company as a plumber during the construction phase. He sustained an eye injury in a work-related accident that necessitated his evacuation to Edea, the town closest to the work site. As a result of this accident, he had to have surgery, use antiseptic eye drops, wear glasses, and undergo regular medical checks. Of all the expenses incurred, the company paid only for his surgery. He therefore had to cover all the other costs. Furthermore, the patient’s vision has deteriorated considerably since the accident, which has impaired his ability to work and carry out his other activities (farming and driving). After a complaint was filed by the Cameroonian NGOs, the company contacted the patient in early 2011 and agreed to pay the other medical costs, including his travel expenses and the cost of his eyeglasses. Since that time, he has not heard anything further from the company. It is important to note that the victim is also seeking compensation for damages and for the delay by the company in making the payment. There are many other cases of accident victims who have been left to their own devices, with no resources to take care of themselves.

The Indigenous People

The southern part of the Chad-Cameroon pipeline between Lolodorf and Kribi crosses roughly 100 kilometers of land used by the indigenous Bagyéli communities. An Indigenous People’s Plan (IPP) was drawn up and incorporated into the company’s environmental management plan for the oil pipeline project. This plan, funded by the company’s 30-year endowment fund, is managed by the Foundation for the Environment and Development in Cameroon (FEDEC), which was assigned responsibility for implementing the IPP, along with two environmental compensation projects (the Mbam Djerem National Park in the north and the Campo Ma’an National Park in south Bipindi). The laying of the oil pipeline in Bipindi led to the displacement of the Bagyéli living in this area as well as those living in the area designated as a national park, and thus to the loss of their user rights in areas where they had some agricultural land or forest resources essential for their subsistence.

The compensation offered by FEDEC to the Bagyéli affected by the project entailed assistance in the following areas: agriculture (the provision of agricultural material and seeds), education (the provision of school supplies to Bagyéli students, and health (assistance with health care and health services). It should be noted that the choice of services offered by FEDEC to the Bagyéli was made without any meaningful participation by this community in the design, planning, and implementation of activities by the Foundation. Consequently, the services offered to them by FEDEC failed to take into account their cultural specificities and did not meet their priority needs. Moreover, it was noted that over the years, the quality of the services was poor and deadlines were not met by FEDEC (irregular and ill-timed delivery of seeds and other agricultural inputs and school assistance). FEDEC’s budget relative to the services expected was low. In fewer than ten years after the launch of the project, FEDEC is facing the prospect of bankruptcy, although the consortium had made a commitment to ensure implementation of the plan over a 30-year period.

6. The Problem with Sub-Contractors and Unpaid Compensation

In February 2001, a subcontracting enterprise of the company, SOGEA/SATOM JV, signed two Memoranda of Understanding (MOU 04SA-020 BP and 04SA-021 BP) with community living close to the oil pipeline, represented by its Chief. The two memoranda pertained to the rental of land over a three-month period to extract laterite. One month later, in March 2001, a SOGEA/SATOM team led by Roger Konrath completed the damage assessment/baseline surveys for extractive projects. The value of all the agricultural products destroyed by Project No. 04SA-020 BP stood at CFAF 8,619,505 and the total value of all the crops destroyed under Project No. 04SA-021 BP stood at CFAF 6,824,670, using the parameters established by the World Bank and the Government of Cameroon. SOGEA/SATOM provided the community with compensation in the form of a credit note [*note d'avoir*] for the laterite projects on May 12, 2001. The credit note stated: "The amount of compensation payable by SOGEA/SATOM JV is determined to be CFAF 100,000 in the Memoranda of Understanding [*protocoles d'accord des emprunts*] 04SA-020/021 BP, based on the choice made by the Community Representative"

Once again, the rules governing the Chad-Cameroon pipeline and both MOUs call on SOGEA/SATOM to pay the full value of crops destroyed, which is over CFAF 15 million. SOGEA/SATOM has paid only in-kind contributions of CFAF 200,000. The company has repeatedly refused to pay this compensation, arguing that the SOGEA/SATOM subcontractor is responsible rather than the contractor. In any event, the complainants referred the matter to the consortium, which was also informed of this matter in the context of the umbrella grouping of the company, the Government of Cameroon, and the NGOs. To date, none of these problems has been resolved.

The Issue of Royalties for the Passage of Oil through the Cameroon Pipeline

The contract concluded between Cameroon and the consortium provides for royalties based on a fixed amount per barrel. Cameroon has been particularly disadvantaged by this method of calculation, inasmuch as it not profiting from oil price increases since the initial years of production. The parties to the complaint hold the view that the determination of royalties based on a fixed amount per barrel rather than a percentage of the price per barrel marks a departure from the customary practice in the oil business. The method of calculation currently set forth in the contract deprives the Cameroonian State of resources that could have been used to meet the development expectations of the communities and individuals adversely affected by the project. In view of the fact that the mid-point of the project has not been reached, the complainants hold the view that the current clauses related to the method of calculation of royalties should be replaced with a method based on a percentage of the price of a barrel of oil. This method of calculation would apply to all oil transported through the pipeline, including oil from oilfields that have not yet been developed.

Outcome Expected by the Complainants

The complaints are hopeful that their complaint will lead to two simultaneous processes: the first involving the Ombudsman, and the second, a Compliance Audit.

Compliance Audit

In the interest of efficiency, and taking into account the illustrative nature of the cases outlined in this complaint, the complainants would like to be involved in drafting the terms of reference of the Compliance Audit. These terms of reference should facilitate clarification of:

- The actual status of the 6,000 cases to which the NGOs have not had access, despite the fact that since 2005, they have worked with the consortium and the Government of Cameroon in the

context of efforts to assist with the resolution of pending compensation cases.

- The reasons for the lack of access by the communities to a mechanism for managing complaints or to local courts.
- The renegotiation of the contract between COTCO and the Republic of Cameroon aimed at a more equitable arrangement to share revenue derived from the project, in particular the reassessment of royalties.

Ombudsman

It must be borne in mind from the outset that the complainant NGOs have, since 2005, been engaged in tripartite dialogue with the consortium and the Government, with no resolution being reached with respect to the pending compensation cases identified. We have objected to the refusal of the company to provide proof of payments it claims to have made to the victims and to our inability to gain access to the database.

Furthermore, the NGOs and the company have taken divergent positions on numerous cases documented by the NGOs, thus making it essential for a third party to help facilitate dialogue. Although the NGOs involved in the proceedings related to this complaint met with IFC officials during the Spring Meetings and visits to Yaoundé, the disputes remain unresolved.

For this reason, we are proposing that all cases in dispute be reviewed at proceedings attended by civil society representatives, the CAO, representatives of the Cameroonian Government, and the company, so that binding decisions may be made with respect to all the parties.

We would like to note that a number of the cases of unpaid compensation date back to 2000 and 2001 and that the signatory NGOs to this complaint have been engaged in discussions related to the cases with the company and the Cameroonian Government since 2005, which have produced few results.

For this reason, we are requesting that the Compliance Audit and Ombudsman's investigation take place as soon as possible and that the duration of each of these processes not exceed six months so that the rights of the victims, both communities and individuals, can be reinstated.