

# EITI AND MINING GOVERNANCE IN CAMEROON: BETWEEN RHETORIC AND REALITY



**Sub national payments and transfers from quarry exploitation in the locality of Figuil.**

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# AUTHORS



**Michel BISSOU**

Extractive Industries program manager Réseau de Lutte contre la Faim (RELUFA)



**Jaff BAMENJO**

Coordinator, Réseau de Lutte contre la Faim (RELUFA)



**Apollin KOAGNE**

Consultant Réseau de Lutte contre la Faim (RELUFA)

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## PREFACE

The Extractive Industries Transparency Initiative (EITI) standard among other things prescribes reporting of sub national revenue transfers and social expenditures of extractive companies in conciliation reports. This study is based on the findings of research conducted by RELUFA on sub national revenue transfers and social expenditures in Cameroon.

The exploitation of some natural resources in Cameroon, notably the forest and solid minerals, entitles councils and local communities where the resources are exploited to royalties. Paradoxically, unlike the forest and minerals sector, there are no royalty allocations to councils and local communities hosting oil projects. But despite the legal provision for mineral royalties, the effectiveness of sub national mining royalty transfers to councils and local communities is still shrouded with many inconsistencies. Consequently, since 2011 RELUFA has been interested in exploring the issue of sub national revenue payments and transfers to councils and local communities in Cameroon.

This study explores the effectiveness of sub national revenue payments and transfers and the social expenditures of companies in the locality of Figuil in the Mayo Louti division of the northern region of Cameroon. Figuil is host to two companies involved in the production of cement and marble. The choice of Figuil was justified as it is the best known town in Cameroon where industrial extraction has been on-going for more than 50 years. Under such circumstances, there is widespread expectation of the social and economic development of Figuil. But the reality is far from it.

In 2011, RELUFA conducted a study whose results were presented in a report titled: Sub National Natural Resource Revenue Management in Cameroon: Forest and Mining Royalties in Yokadouma, East Cameroon. This study drew experience from the forest royalty management and concluded the framework for sub national mining royalty management should be clarified so that the expectations of the local communities for development can be addressed. We can argue that this study contributed to changing public perceptions about the issue of mining royalties. CELPRO, a local civil society organization in Figuil wrote to the minister of finance in 2012 to request clarification on royalties for the council and local communities in Figuil. This made sub national mining royalty payments and transfers a topical issue.

Now that Cameroon has acquired an EITI “compliance country” status at the time a new EITI standard has been approved, RELUFA has opted to deepen the discussion on sub national revenue payments and transfers and social payments by extractive companies in Cameroon. The aim of this study is to highlight the importance of effective sub national revenue transfers and monitoring of social expenditures of extractive companies. The study explores how sub national transfers and social expenditures can be effectively integrated in the EITI process so

that mining can effectively contribute to local social and economic development.

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Finally, the input of Samuel Nguiffo of the Centre for Environment and Development on the stakes and challenges of transparency in the forest sector was very important.

We hope that this study will mobilize the Cameroon EITI committee and spur all stakeholders to contribute to the optimal implementation of the EITI in Cameroon.

**Jaff Napoleon Bamenjo**

Coordinator RELUFA

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## EXECUTIVE SUMMARY

Cameroon is rich in natural resources, the exploitation of which has an impact on the national economy. According to International Financial Institutions (World Bank, IMF) and the Natural Resource Governance Institute (NRGI), Cameroon is an oil dependent country since 25% of state revenues come from oil. The industrial exploitation of solid minerals is regarded seriously by the government as it searches for new resources to support development.

Under current circumstances, industrial operations like those in Figuil in the Mayo Louti division of the north region of Cameroon are of particular interest. Effective industrial extraction operations in Cameroon are the ROCAGLIA and CIMENCAM marble and limestone projects started respectively in 1943 and 1960. The C& K diamond mining project in Mobilong is a recent operation and is still very uncertain in producing to its full potential. This makes Figuil the only locality best suited for an assessment of the contribution of industrial mining or quarry operations to local development in Cameroon.

According to the Cameroon mining law, riparian communities impacted by extractive projects are entitled to compensation. It is in this framework that sub national payments/transfers and social expenditures are executed. These payments can be regarded as a direct form of compensation for local communities and are inscribed in the mining sector legislation.

Monitoring social expenditures and sub national transfers by enterprises requires their effective payments on the one hand and on the other hand the existence of an appropriate legislative, institutional and operational framework.

The 2013 EITI standard through Requirement 4 (4.1.e, 4.2.d and 4.2.e) requires transparency on social expenditures and sub national transfers by EITI implementing countries such as Cameroon.

The objective of this study is to demonstrate importance of the effectiveness of sub-national transfers as well as the social expenditures of extractive companies as the EITI Committee seeks to maintain Cameroon as an EITI compliant country.

This study clearly show that:

- i. In the absence of disclosure of contracts signed between the companies and the state, it is difficult to effectively monitor the social payments or expenditures by companies;
- ii. The legal, institutional and operational arrangements are inadequate and inappropriate for monitoring sub national transfers to the local councils and local communities;

- iii. The non-disclosure of contractual provisions coupled with the absence of participation of councils and local communities in the whole process of (definition, implementation, monitoring and evaluation) are operational barriers to monitor obligatory social expenditures and sub national transfers;
- iv. Social expenditures are commonly interpreted as voluntary by companies and there is basically no close monitoring and supervision by public authorities;
- v. Although social expenditures, sub national payments and transfers may not be considered significant by the EITI committee due to the high materiality threshold, these are important revenue streams for local communities and the councils;
- vi. The financial importance of the Annual Forest royalties and the transparency gap in their management by councils and local communities concerned makes it important to include the forestry sector in the EITI conciliation.

Given the context of the ongoing reforms of the mining legislation and in order to remain a compliant country in the EITI process, Cameroon must engage in meaningful reforms to meet the new EITI standard. The study recommends:

### **To the government,**

- i. Harmonize ministerial actions on definition, implementation and monitoring of social expenditures of companies;
- ii. Make decentralization a central tool for managing and monitoring of mineral resources revenues;
- iii. Develop and implement an operational framework that establishes the effectiveness of the transfer to councils and local communities of their share of the mining royalty;
- iv. Frame and adopt an EITI law in Cameroon;
- v. Strengthen the capacity of regional public, private and local entities on the EITI standard;
- vi. Go beyond the EITI and ensure better governance of natural resources and effective transfer of the benefits that are destined for local councils and local communities affected by mining projects.

### **To the EITI Committee,**

- vii. Define materiality thresholds by categories of resources so as to be sufficiently inclusive;
- viii. Set up local EITI committees in various regions for effective and inclusive implementation of the EITI;
- ix. Redefine the composition of the EITI committee at National and Local levels;

### **To the companies,**

- x. Fully comply with environmental and social assessment principles;
- xi. Negotiate and enter into agreements with councils and local communities and sign Community Development Agreements;
- xii. Collaborate more with local communities and decentralized structures;

### **To Civil Society Organizations and traditional authorities,**

- xiii. Build capacity on the EITI standard, the institutional and legislative framework of mining, oil and gas, forestry and transportation by pipeline;
- xiv. Strengthen capacity to monitor social payments and sub national transfers;
- xv. Support and collaborate with local organizations and traditional authorities

### **To local elected officials (mayors and parliamentarians)**

- xvi. Monitor environmental and socio- economic impacts of extractive projects in their locality;
- xvii. Support the institution, negotiation and signing of community development agreements between communities and companies and their supervision by the State

The study does not cover the entire extractive industry value chain but is limited to social payments and sub national transfers, which were recently introduced in the EITI standard. Given that no report on these issues has been produced in Cameroon so far, especially since the adoption of the New EITI Standard, evaluating the national legal/ institutional framework and the operational capacity is very important. This can contribute to ensuring the effective implementation of the new EITI standard with focus on social expenditures and sub national transfers. It is clear that some of the issues raised in this study may be addressed soon given the mining sector legislation reform that is ongoing. But far from devaluing the work, such reforms will instead complement the work. In all,

the non disclosure of contractual terms signed between the state and the companies is an obstacle in the monitoring of obligatory social expenditures of the companies.

# Chapter I

## General Introduction

### 1. Background and purpose of the study

Cameroon is a country rich in extractive resources, given the potential revealed by exploratory research in just over 40% of the territory, and also considering the contribution of oil to government revenues.<sup>1</sup> The abundance of extractive resources and the particularly business friendly legal framework is attracting many investors to Cameroon. Such a business friendly legal framework could be explained by the desire of the government to make mining the engine for economic growth, as it aspires to become an emerging country by 2035. The exploitation of mineral resources appears to be the government's main hope for economic development and the attainment of emerging country status as defined in the Growth and Employment Strategy Paper for the period 2010 - 2020 (GESP 2010-2020).

According to the 2011 EITI conciliation report for Cameroon published in 2013, a total of 5 mining industrial permits have been awarded to 4 companies and 176 exploration licenses issued to 71 companies, while 51 quarry licenses have been accorded to 38 companies. Newly granted mining permits are added to existing permits that were granted long before the current legal framework and the new political-economic strategy. The earlier permits were granted specifically to ROCAGLIA in 1946 and CIMENCAM in 1960 for the exploitation of marble and limestone in Figuil.

Although CIMENCAM, a subsidiary of the French group, Lafarge is a limestone processing company for the production of cement, we consider it valid for this study because it is considered and participates in revenue declaration in the Cameroon EITI as a mining company. This is also the case with ROCAGLIA, involved in marble production.

The mining sector in Cameroon is governed by:

- Decree No. 2014/2349 / PM of August 1, 2014 to amend and supplement certain provi-

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<sup>1</sup> *Petroleum contributes more than 25% to the national budget*

sions of Decree No. 2014/1882 / PM of 04 July 2014 amending certain provisions of Decree No. 2002/648 / PM of March 26 2002 laying down detailed rules for the application of law No. 001 of 16 April 2001 as amended and supplemented by n02010 / 011 law of 29 July 2010 on the Mining code.

- Decree No. 2014/1882 / PM of 4 July 2014 to amend certain provisions of Decree No. 2002/648 / PM of 26 March 2002 laying down detailed rules for the application of Law No. 001 of 16 April 2001 on code mining.
- Law No. 2010/011 of 29 July 2010 amending and supplementing certain provisions of Law No. 001 of 16 April 2001 on code mining
- Decree No. 2002/848 / PM of 26 March 2002 laying down detailed rules for the application of Law No. 001 of 16 April 2001 on mining code
- Law No. 001-2001 of 16 April 2001 establishing the Mining Code

Although the implementation of the Growth and Employment Strategy Paper (GESP) has the potential to be a source of hope for economic and social development and a diversified and competitive economy, we can question the social impact of the process. In the GESP Cameroon affirms its commitment to reduce poverty by 1/10. Meaning one in ten Cameroonians will be out of poverty in 2035. The reduction in monetary poverty needs to be accompanied by a very large generalization of access to health services, education, training and basic infrastructure such as water, roads and electricity. In its quest for development, Cameroon should have surpassed the stage of upper middle-income country, which requires a remarkable growth rate over a long period. It is imperative to focus on the immediate strengths such as crafts, Small and Medium Enterprises, agriculture, and mining while ensuring an equitable distribution of income. In this laudable perspective, the contribution of natural resources to the well-being of people can be a challenge.

The creation of an attractive legal framework does not necessarily translate into more fiscal returns for the state from the exploitation of natural resources. The companies benefit from numerous tax exonerations, with no provision for compensation or other equitable accompanying measures for local councils and local communities who nevertheless suffer lasting geographical and socio-economic destruction. Besides this, the poor implementation of the existing fiscal provisions is a handicap.

Even though Article 89 of the Mining Code provides for compensation to affected local councils and communities through the Ad Valorem tax and / or extraction tax, this compensation has never really been operational. Article 137 (2) of Decree No. 2014/1882 / PM of 04 July 2014 amending certain provisions of Decree No. 2002/648 / PM of March 26 2002 on the implementation of the mining code provides that: 'the share of local communities and the council are paid into the account of the municipal treasurer of the council with territorial jurisdiction. Previously, Article 137 (2) of the decree of Application of 2002 provided that 'The modalities for the transfer and use of the share of local communities and councils will

be defined by a joint ministerial order of the Minister of Mines and Minister of Economy and Finance. But this decree has never been framed.

The absence of the joint ministerial order between the Ministries of Finance and Mines prevented local communities and councils affected by mining to benefit from revenue generated by mining or extraction activities as prescribed by the law. This is particularly the case of the Figuil council and the local communities affected by the CIMENCAM and ROCAGLIA projects.

## 2. Problem Identified

Besides their economic impacts, extractive projects have strong social, health, infrastructural and environmental impacts on the communities where they are executed. Unfortunately, a framework for social expenditures by companies and sub national revenue transfers in Cameroon has never been properly regulated. Ignorance of the mandatory social obligations of the companies due to secrecy in contracts does not encourage their effective monitoring in the field. The law provides for community participation and consultation prior to the projects. Including the local communities and their effective participation could improve the relations between the company and communities in a win-win partnership.

Transparency, participation and accountability is the main thrust of the Extractive Industries Transparency Initiative (EITI) and therefore can be a tool in promoting good governance within the context of the new EITI standard. Effective management of social expenditures and sub national transfers can contribute to local development in areas affected by extractive projects.

## 3. New EITI Standard, Framework for the Study

Launched in 2002, the Extractive Industry Transparency Initiative (EITI) is anchored in:

- (i) Transparency of payments and revenues generated by the extractive industries,
- (ii) Making the information public
- (iii) Promoting the proper use of this wealth

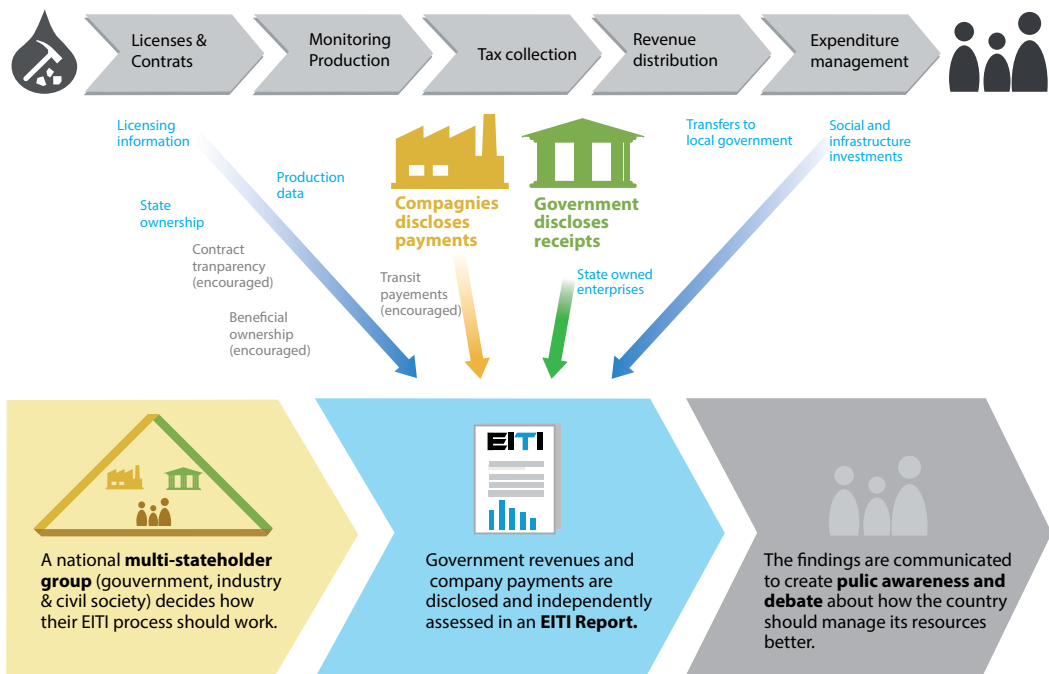
The EITI was born out of a general observation shared by all: many countries rich in natural resources, minerals, oil, and gas have not experienced economic development commensurate with the value of the natural resources they are exploiting and revenues generated. The declaration by the companies and government of the revenues, compiled in a conciliation report, is meant to prevent corruption and the misuse of funds, when they are properly scruti-

nized. If this wealth is properly accounted for, it could be the engine of economic growth and contribute to sustainable development and poverty reduction in the countries concerned.

Cameroon joined the EITI in 2005 but became an EITI compliant country on 17 October 2013. In order to remain EITI compliant, Cameroon must regularly publish EITI reports in conformity with the requirements. In May 2013, the EITI Board adopted a new EITI standard in order to move from a process that only encourages publishing company payments and government receipts from the extractive industries, to a process that encourages improved governance of the extractive industry sector. This new standard involves monitoring the entire extractive industry value chain from exploitation to distribution of revenues generated. The new standard accords special attention to the end of the value chain: value which covers the management of expenditures generated from the exploitation of extractive resources.

Previous EITI conciliation reports only provided information on revenue generated from the extractive industry, with no emphasis on how the revenue is spent. An assessment of the impact of the exploitation of resources on improving the living conditions of the population could not be possible. With the 2013 standard, the benefits of the mining projects to local communities can be established if social expenditures and sub national transfers are effectively monitored.

## EITI Standard



Source : EITI Standard, 22 May 2013

Requirement 4 of the new EITI standard provides for “the production of comprehensive



EITI Reports that include full government disclosure of extractive industry revenues and disclosure of all material payments to government by oil, gas and mining companies.”

Revenues and payments in question here include tax revenues at both the national and sub national levels. True to its objective of protecting the interests of local communities, RELUFA’s interest in this study is on sub-national transfers and social expenditures by the companies.

## 4. Aim of the study and expected results

This study is aimed at contributing to the improvement in the governance of extractive resources at the local level in Cameroon using the principles and requirements of the new EITI standard.

The main objective of the study is to demonstrate the urgency of improving the effectiveness of sub national transfers and the importance of monitoring social expenditures in Cameroon.

Specifically, the study seeks to:

- i. Contribute to the effectiveness and monitoring of sub national payments and transfers in Cameroon;
- ii. Assess the feasibility of the implementation of the new EITI standard using sub national payments and transfers and social expenditures in conciliation reports;
- iii. Add value to the EITI in Cameroon making it a tool for development at both the local and national levels;
- iv. Go beyond the EITI to ensure the good governance of natural resources in general.

This study is part of a larger project being conducted by RELUFA on “Advocacy for the effectiveness of sub national payments and transfers and monitoring social payments in Cameroon” with the following expected results:

- That local communities affected by mining projects in Cameroon also be involved in the EITI process;
- Contribution to the improvement of the legal framework on sub national transfers and social payments by companies in Cameroon;
- Facilitation of the collaboration between local and national stakeholders in monitoring sub national revenues in Cameroon;
- Strengthen the capacity of local civil society organizations and communities to analyze EITI reports.



Training of CELPRO Members in Figuil on analysing EITI reports (Picture Thorsten Nilges)

## 5. Methodology

The following methodology was adopted for the realization of this report:

- A literature review on the legislative framework for sub national payments and transfers with the goal of understanding legislative and regulatory requirements and identifying gaps, inconsistencies or contradictions.
- A literature review exploring ROCAGLIA and CIMENCAM projects. Essential documents obtained were the Environmental Audit Reports of the companies and the Environmental and Social Management Plan on the construction of the Petcoke Plant project component of CIMENCAM in Figuil.
- Interviews with stakeholders at the central level in Yaounde (ministries, Technical Secretariat of EITI Committee, civil society, mining companies)
- Interviews with various technical decentralized structures in Garoua, Guider and Figuil
- A field visit to Figuil and interviews with ROCAGLIA and representatives of CELPRO in Figuil and local communities;
- A comparative approach has also helped to identify the good practices in other sub-Saharan African countries in order to find possible solutions to the problem identified.

It is important to note that in the absence of a conciliation report based on the new EITI standard, our analysis was based on evaluating the legal, institutional and operational basis of the implementation of the new EITI standard. The analysis is done with the objectives of 1) proposing mechanisms for the effective implementation of the EITI adapted to the actual context and 2) indicating to the decision makers the urgency for effective sub national transfers of local mining royalties. Monitoring sub-national transfers and social expenditures is therefore the basis for the analysis.

## 6. Purpose of the study

Sub national revenue transfer is just one of the main benefit streams or compensations for councils and local communities affected by mining projects in Cameroon. The oil and gas sector does not provide for royalty payment to councils and local communities where such projects are executed in Cameroon. The forest and mining sectors are the only sectors that provide for a share of royalties for councils and the local communities where exploitation is conducted. The study addresses the broader issue of monitoring local benefits from mining and uses the new EITI standard as a basis for the analysis. The study thus goes beyond mining in Figuil to examine local benefits from the forest and how they can be monitored. It addresses

- The importance of royalties for councils and local communities affected by extractive projects,
- The urgency of the effectiveness of sub national transfers for councils and local communities affected by mining projects and industrial quarry projects,
- Monitoring of sub national payments and transfers by the EITI and social expenditures by companies.

In doing so, the findings and recommendations of the study may have meaning not only on the analysis of the impact of the EITI on mining governance, but on natural resources in Cameroon in general. The results of the study are intended to be additional advocacy tools for effective implementation of the EITI standard in Cameroon

So far, no report has been produced in Cameroon since the adoption of the New EITI Standard. This study is intended to evaluate the national legal, institutional and operational framework in Cameroon so as to ensure the effective implementation of the new EITI standard as far as sub national transfers and social payments are concerned. Because of the mining reform underway in Cameroon, it is clear that the process is very dynamic and some recommendations in the study could be addressed. But far from devaluing the work, it would demonstrate its usefulness in the current context where governance in the mining sector has many challenges requiring that existing gaps to be filled. Non disclosure of contractual

terms of agreements signed between the government and the companies is an obstacle in the analysis of social expenditures because it is difficult to know which social expenditures are mandatory and which are voluntary.

# Chapter II

## BACKGROUND TO THE STUDY

Of the three industrial mining projects in Cameroon, the CIMENCAM and ROCAGLIA projects in Figuil already has a track record due to their longevity. The C & K diamond mining project in Mobilong obtained the exploitation permit only in 2010 and is currently shrouded with secrecy and uncertainty about the possibility of effective industrial diamond exploitation. Thus the exploitations in Figuil are old enough to enable an evaluation of their impacts on the environment and the development of local communities. For some time now, there has been a reawakening of interest in the local communities and local civil society organization of Figuil to claim the effective application of the law to pay royalties and compensation from quarry exploitation to the local communities. Monitoring the effectiveness of sub national transfers and social expenditures by mining companies in Cameroon makes Figuil an ideal location for the case study.

### Figuil, richly poor?



Sign post indicating the Figuil Council (By JaffBamenjo)



Figuil town host to CIMENCAM and ROCAGLIA factories (By Jaff BAMENJO)

Created by Decree No. 82-455 of 20 September 1982 establishing councils and amended by Decree 82/557 of 5 November 1982, the town of Figuil is located in the Mayo Louti division of the North Region of Cameroon. The name Figuil is derived from the first inhabitant of the area called FIGUIRMA. Figuil is located 32 km from Guider which is the divisional headquarters of the Mayo Louti division and is the terminal of the northern part of national road N ° 1 which connects the North and the Far North Regions of Cameroon. Figuil is made up of (04) cantons (Bidzar and Indjode, Lam, Biou, Figuil) comprising of fifteen (15) Participatory Planning Units (PPU). The population of Figuil is estimated at 700.000 with women representing 53% of the entire population and a young population with an average age of 35<sup>2</sup>

The situation in the town of Figuil and the establishment of new communities has been influenced by two extraction companies -ROCAGLIA and CIMENCAM. Many migrants from neighboring countries, notably Chad and Nigeria, live in the town. These people settled in search of fertile land for farming and also fishing. Figuil is made up of diverse ethnicities such as notably: Guidars, Bororo, Mambayes, Moundang Sara Toupouri, Guiziga, Massa, Mousgoum, Mada and Zoulgo. Far from being an impediment, the multiplicity of ethnic groups has not particularly posed a problem despite the fact Figuil is the crossroads where

<sup>2</sup> *Plan de Développement Communal de Figuil, 2009*

different cultures coexist.

The agricultural sector is the first response to the vital needs of the locals, but due to unpredictable agricultural seasons and low support of farmers by the government, the population is poor and has no stable and sure income source. Animal husbandry is practiced as a secondary activity and a principal source of income. Animals are raised in response to the demand in the local market. Due to the tensions between the farmers and the herders over access to land, there is a decreasing supply of animals from the region in the national market.

**Box 01 : Agricultural calendar in Figuil**

- April to July : preparation of the soil
- May to June to July - : planting of the crops
- May September : application of fertilizer
- September: harvesting of groundnuts and sorghum ;
- October : harvesting of maize, cotton and onions;
- November: harvesting of rice
- December : harvesting of yams
- January : harvesting of yams and cotton

Source : Plan de Développement Communal de Figuil 2009-2014,

The main sources of energy are wood, water, dung, kerosene, coal and electricity, which are not available in the entire council area but only in the centre of Figuil. The rate of literacy in the northern region is respectively 27.21% and 54.53% for women and men according to a UNESCO report on education for all published in 2000. The town has two technical schools (Government Technical High Schools Bidzar and Figuil), three general education schools of which two are functional and thirty-eight primary schools and one private school, divided as follows:

Table 1: Distribution of schools in Figuil

	Government Primary School	Private Primary School	Adult School
Complete cycle	30	01	00
Incomplete cycle	04	01	02

Source: Figuil Municipal Development Plan 2009-2014, P. 25

In the health domain, Figuil had eleven health facilities in 2007. These include six integrated health centers, district hospitals, two Catholic health centers and two health posts but with no pharmacy in the area. The hospital in Figuil had about four doctors and twelve nurses. All communities in Figuil recognize that HIV / AIDS is spreading rapidly, especially among women and girls. Their low educational levels partially account for this. The Figuil Council experiences difficulties with access to drinking water. The nature of its climate with 5 months of rain per year, the scarcity of drinking water sources and poor maintenance of existing ones indicates the difficulty of access to water for the population.

Despite the fact that National Road No. 1 cuts across the city of Figuil, access to various villages is a critical problem due to the poor road conditions, and this poses real concerns. The isolated nature of the area makes it difficult or impossible for local residents to transfer their produce to market.

The area is richly blessed with quarry resources including an estimated 600,000 tons of limestone reserves and just over 2.5 million tons of marble found only for the Bidzar deposit. These resources are mainly exploited by CIMENCAM and ROCAGLIA.

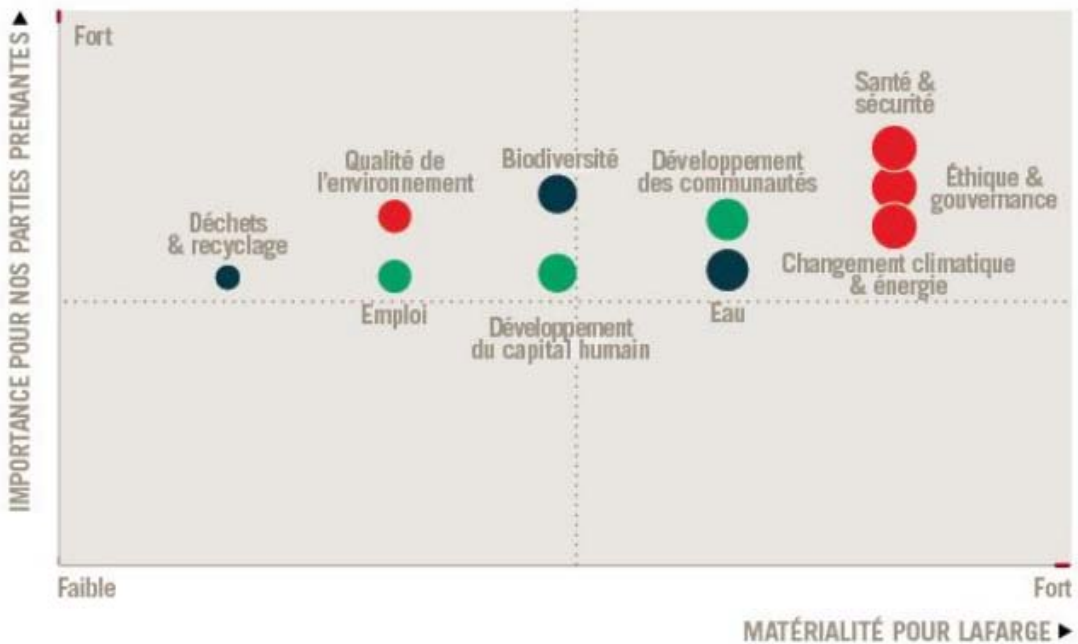
### **a. CIMENCAM and ROCAGLIA: On the land of limestone and marble**

CIMENCAM, the local subsidiary of the French group LAFARGE, has been operating in Cameroon since 1960. The Lafarge group is represented in 62 other countries in the world and has its headquarters in Paris, France. It has 23 plants and 149 sites in Africa and the rest of the world as of December 31, 2013. In Cameroon, its headquarters is in the city of Douala.

As part of its sustainable development policy, Lafarge Group signed the UN Global Compact and established a Materiality Matrix, which highlights the Group's priorities on its Corporate Social Responsibility (CSR) on management issues related to the nature of their activities. The graph below provides an idea of the general orientation of the Lafarge Group's sustainable development policy.



Diagram n ° 01: Materiality Matrix of Lafarge Group



Source: Website of LAFARGE Group (<http://www.lafarge.fr/05072014-Lafarge-Materiality-Matrix-fr.pdf?xtmc=matrice&xtcr=1>)

## Human Rights

Businesses should:

- Principle 1: Support and respect the protection of internationally proclaimed human rights;
- Principle 2: Make sure that they are not complacent in human rights abuses.

## Labor Standards

Businesses should uphold:

- Principle 3: the freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4: the elimination of all forms of forced and compulsory labor;
- Principle 5: the effective abolition of child labor;
- Principle 6: the elimination of discrimination in employment and occupation.

## Environment

Businesses should:

- Principle 7: support a precautionary approach to environmental challenges;
- Principle 8: undertake initiatives to promote environmental responsibility;
- Principle 9: encourage the development and diffusion of environmentally friendly technologies.

## Anti-Corruption

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

In Cameroon, CIMENCAM has four cement production sites: Figuil, Bonabéri, Nomayos and Mombo. The most renowned of all the projects is the Figuil project. CIMENCAM also extracts other resources like sand from nearby river beds, commonly called 'Mayo'.<sup>3</sup>

**Table 2: CIMENCAM Production of 2009-2011**

Extracted Minerals	Unit of measurement	Total reported in 2009	Total reported in 2010	Total reported in 2011
Pozzolan	ton	379 369	401 252	424 202
Limestone	ton	186 178	189 748	182 926
Sand	ton	11 404	11 334	13 223
Clay	ton	9 091	9 966	7 126

**Source:** Cameroon EITI Consolidated Reports data for 2009, 2010 and 2011.

This data shows that the production of pozzolan and sand is increasing while limestone is relatively constant, around 185 000 tons / year. Given the growing demand for cement, CIMENCAM intends to expand its extraction sites around Figuil to other nearby localities, notably Biou South and Bidzar as follows:

<sup>3</sup> Mayo is the local name for river beds which dries up during the dry season and refills during the rainy season

- Just over 50ha for a limestone quarry in Figuil valid till 2029
- 202Ha69a94Ca for a limestone quarry in Biou South
- 606Ha07a80Ca for a limestone quarry in Bidzar

Figuil is a major source for cement production in Cameroon and it is marketed mainly in other parts of the country and in neighboring countries like Chad. Despite the production of cement in Figuil, it is paradoxical that cement is more expensive there than other major towns in the north of Cameroon, making it inaccessible to the majority of the local population. A bag of cement in Figuil costs between 6500 and 8000 FCFA, while in the neighboring town of Garoua, cement costs between 4500 and 5000Fcf.

The activities of CIMENCAM have visible social and environmental impacts within Figuil. The dust clouds emerging from the CIMENCAM factory are the cause of olfactory and visual disturbances upon arrival in Figuil. Furthermore, the future expansion of CIMENCAM extraction sites in Figuil will inevitably cause a reduction in land available to communities for their various activities.



CIMENCAM Plant in the heart Figuil (photo by Jaff BAMENJO)

The Lafarge Group has an increasing business profit rate for operations in the Middle East and Africa that stood at 7% between the first quarter of 2013 (evaluated at 838 million Euros) and the first quarter of 2014 (evaluated at 893 million Euros). The Lafarge Group thus is in fairly good financial health. Having operated for more than 50 years in Cameroon and particularly in Figuil, CIMENCAM is still far from complying with the slogan of the Lafarge Group which is “Building Better Cities”.

The other extraction enterprise operating in Figuil is CHAUX ROCA commonly called ROCAGLIA. It was created in 1946 by Pierre ROCAGLIA. At the time of its creation, Rocaglia’s main activity was the production of hydrated lime. Today, under the leadership of Pierre Rocaglia’s son, CHAUX ROCA produces crushed limestone, slaked lime, marble tiles and granite gravel. Crushed limestone or calcium carbonate, marble tiles and slaked lime are obtained from marble, whereas gravel is obtained from the granite.

The ROCAGLIA quarry site is located in the village of Biou while its factory is located at the Centre of Figuil town, between the CIMENCAM production plant and the Figuil district hospital. ROCAGLIA has plans to extend its exploitation sites, and their exploitation areas have been indicated as follows:

- 21 Ha 82a 22Ca of marble quarry Bidzar, license for the period 2005 to 2030;
- 12 Ha 03a 40Ca of marble quarry North Biou, license for the period 2005-2030

The cumulative demand for extension of the two companies represents about 0.7% of the total area of the Figuil council, which is estimated at about 1250 km<sup>2</sup>. Planned extensions of sites for raw material exploitation by these companies will reduce arable land available to the local communities for farming.

In order to power its factory, the ROCAGLIA Company uses tree trunks of baobab, acacia, fig etc. which are harvested from the surrounding areas. This is a major source of deforestation in an area which is already considered an ecologically fragile zone, due to the encroachment of the desert. However, to replace the trees, ROCAGLIA donates plants to the community members so they can replant. Some schools have received trees to replant, which is paradoxically regarded by the company as a gift. The danger with this approach is that there is no effective monitoring of replanting efforts.



CHAUX ROCA factory in Figuil (by Jaff BAMENJO)

The use of fire wood in the factory of ROCAGLIA to make its marble is a concern. In this modern era, other methods of production should be utilized because the random cutting of trees for use in the production factory poses a threat to the people of Figuil and their natural environment. Trees have great ecological and socio cultural value, including their use as source of household firewood.

# Chapter III

## LEGAL AND INSTITUTIONAL FRAMEWORK

Good governance of natural resources requires transparency as well as the participation of the citizens in making decisions on issues that affect them. The EITI standard adopted in May 2013 addresses these concerns because it now covers the entire extractive industry value chain. Through the standard, it is possible to evaluate the contribution of the exploitation of extractive resources to the development of councils and local communities. This is possible through the monitoring of sub national payments and transfers by the central government to councils and communities as well as the monitoring of social expenditures of companies. This chapter examines the existing regulatory and institutional framework in Cameroon. The ultimate goal is to establish whether it is relevant to the current context within which the new EITI standard should be applied.

### Section I: Inappropriate normative approach

Sub national revenue transfers and social expenditures of companies in Cameroon are based on a dual legal and contractual framework that justifies their mandatory nature. In addition to these mandatory requirements, the voluntary undertakings of companies are designated either as Corporate Social Responsibility policy of the company or non-obligatory investments made by the company.

#### A. New requirements of the EITI standard: Need for re-adaptation

The move to oversee the entire extractive industry value chain is fairly recent (May 2013) and monitoring sub national payments and transfers and the social expenditures of companies is a step to ensure availability of revenue for local development. Cameroon became an EITI compliant country in 2013 and is yet to produce an EITI conciliation report based on the new standard. The quality of information on sub national transfers and social expenditures of companies is still

to be determined in the forthcoming Cameroon EITI conciliation reports. It is therefore urgent to adapt to the new dispensation with consideration of the social expenditures of companies and effective sub national transfers.

For a very long time, the mining sector did not attract enough attention from the government, whose focus was on oil resources. But the mining sector has become the focus of the government development objective for the past decade. During the third five-year development plan (1971 - 1976) the question of mineral resources was reintroduced into the government's priorities for industrial and economic development. Priority was then for Cameroon to devote 25.1% of total investments directly to productive industry, energy and mining (Touna Mama, 2008).

Unlike some African countries such as the Republic of South Africa, Mali and Ghana, which have a long experience in mining, Cameroon is still developing a policy and an operating strategy for its mining sector. The EITI, especially the new standard, is therefore a tool to promote transparency and help mining to contribute to social and economic development

## **a. Social Expenditure**

Social expenditures or social payments are corporate contributions to local or regional government entities, local communities, NGOs, etc. Such expenditures can contribute to local development and can be considered an additional benefit from the exploitation of extractive resources, even though the taxes paid to the various government structures at the central, regional and local levels constitute the bulk of payments.

### **Requirement 4.1.e.iii of the 2013 EITI Standard**

Where the multi-stakeholder group agrees that discretionary social expenditures and transfers are material, the multi-stakeholder group is encouraged to develop a reporting process with a view to achieving transparency commensurate with the disclosure of other payments and revenue streams to government entities. Where reconciliation of key transactions is not possible, e.g. where company payments are in-kind or to a non-governmental third party, the multi-stakeholder group may wish to agree an approach for voluntary unilateral company and/or government

Social expenditures or social investment are made for the benefit of the population. But generally the beneficiaries of these projects are neither consulted nor involved in the decision on social activities of the companies. ROCAGLIA and CIMENCAM operating in Figuil put emphasis on social infrastructure such as health, educational infrastructure,

water, etc. which are very visible and a source for propaganda once realized. Though important for the advancement of the welfare of the population, these are not necessarily the only choices the population may have. Nothing justifies the restrictive design of social expenditure to be limited mostly to projects in education or health domains.

## **b. Sub national transfers: An uncompleted framework**

In Cameroon, sub national transfers are provided for in the mining code and modalities for the transfer are previewed in the decree of implementation of the mining code. The source of sub national mining royalty in Cameroon is the ad valorem tax and tax on extraction from quarry mines. Pursuant to Article 89 of the Cameroon Mining Code, municipal councils and communities affected by mining projects have a right to compensation paid out of the ad valorem tax or tax on extraction of quarry mines. In accordance with Article 137 (1) of Decree No. 2002/848 / PM of 26 March 2002 laying down detailed rules for the application of Law No. 001 of 16 April 2001 on the Mining Code, 25% of the ad valorem tax or tax on extraction is allocated to local councils and local communities where the mining project is located.

The distribution is done as follows:

- 10% for the benefit of local communities;
- 15% in favor of the local council

The Mining Code in Article 89 (2) makes reference to a statutory instrument to lay down modalities for payment to communities and councils of their share of the mining royalty while the implementation decree in Article 137 (2) provides for a joint decree from the minister of mines and that of finance to clarify mechanisms for payment and use of the royalties. However, it is regrettable that for more than 11 years, the joint ministerial order was never signed. Consequently, the framework for effective transfer of the share of royalties allocated to councils and local communities affected by mining remained opaque and incomplete.

However, in July 2014, a prime ministerial decree No. 2014/1882 / PM of 4 July 2014 amended certain provisions of Decree No. 2002/648 / PM of 26 March 2002. Following this decree, Article 137 (2) which hitherto provided for a joint ministerial order to clarify modalities for the transfer and use of mining royalties was modified, completely dropping the requirement for a joint ministerial order to regulate mining royalty transfer and use. According to the amendment, the share of ad valorem or extraction tax destined for councils and local communities will be henceforth transferred to the account of the municipal treasurer according to the new provision.

Despite the efforts made in modifying the law, there are still unanswered questions since



there is no clarity on how the share allocated to local communities will be handled once the transfer of the revenues has been made to the account of the municipal treasurer. In view of the foregoing, the lack of an operational regulatory framework raises difficulties of effectively monitoring sub national transfers and use in Cameroon. It is imperative to harmonize the approach and modalities for payment and management of sub national revenue transfers in Cameroon.

## **B. Incomplete legal framework**

The existing legal framework for extractive industries activities in Cameroon has two main problems: it is not entirely adapted to all the requirements of the new EITI standard and it is equally weak on clarity of the contractual obligations of companies.

### **1. Inadequate Framework on infrastructure and social expenditures**

Mining companies can contribute to central, regional or local governments, local communities, NGOs, and other organizations in the areas where they are operating. Pursuant to requirement 4.1.e of the EITI standard, the EITI committee is encouraged to establish a process to identify and declare such social expenditures. But the difficulty with monitoring social expenditures in Cameroon is the confidentiality of contracts that the government signs with extractive companies, a situation that does not help in understanding all the social payments that are required of companies. To effectively monitor social expenditures by companies, there is a need to distinguish between mandatory social expenditures inscribed in the law or voluntary realizations by the companies.

Under current circumstances where the expectations of local councils and communities impacted by mining projects are high, it is imperative to have the details of social expenditures as specified in contracts, or even the annexes of the contracts such as Environmental Assessment and other relevant documents signed between companies and the state.

Unfortunately, many contracts in Cameroon remain confidential. This is the case with the ROAGLIA and CIMENCAM projects and the state of Cameroon - the contracts are not accessible. This situation undoubtedly creates a challenge to the production of EITI conciliation reports that effectively take into account social expenditures of companies as required by the new EITI standard.

CIMENCAM, in addition to its Figuil site, has other sites in Bonabéri in Douala and in Mombo in the Mungo division of the Littoral region. According to information contained in the Cameroon EITI conciliation reports from 2009, 2010 and 2011, CIMENCAM social expenditure figures concern only Mombo. It is therefore not possible to know the social expenditures of the company in Figuil. CIMENCAM refused our request to receive our research teams in

their Figuil office to address the issue of social expenditures and sub national revenue payments. This attitude clearly demonstrates that some companies desire to remain opaque in the conduct of their operations.

**Table 4:** overview of social expenditures by cimencam from 2009 to 2011

	2009	2010	2011	Total
Voluntary Social Payments( FCFA)	33 718 317	35 663 233	34 622 756	104 004 306
Obligatory Social Payments( FCFA)	0	0	0	0

Source: Data from ITIE Cameroon Reports from 2009, 2010 and 2011

Although it is true that the two companies operating in Figuil contribute to some infrastructural development in the area, it is difficult to establish whether the infrastructural development is contractual obligation or the voluntary free will donation of the enterprise. Clearly distinguishing between voluntary and obligatory social expenditures will make it possible to effectively monitor mandatory social expenditures



*Classrooms and an administrative block constructed and equipped by CIMEN-CAM Government Technical High School Bidzar (By Michel Bissou)*

Generally, social expenditures are portrayed as philanthropy by the companies. Local communities have the mistaken belief that all projects implemented by the companies are voluntary gifts. The rhetoric by companies does not always match the practice in the field where they operate. On the Lafarge Group website for instance, it is stated that the group participates in

the construction of low cost housing. CIMENCAM's contribution is limited to the sale of cement for housing projects as it does for any other customer and therefore such information on CIMENCAM providing social housing can be misleading if we consider the housing situation in the locality of Figuil. It is paradoxical that the description of a commercial transaction in this instance leaves the impression that the sale of cement is a social venture.

ROCAGLIA holds the same policy in relation to the social expenditures made in Figuil. But most of the realizations are ad hoc and not undertaken within a clearly defined framework. There is little implementation of the provisions of the Environmental and Social Management Plan (ESMP) or the Environmental and Social Action Plan (ESAP) by the enterprises. Consequently, contributions to social infrastructures prescribed in these environmental plans are considered voluntary actions by the company.

*The Guinean mining code amended in 2011 requires companies seeking an industrial or semi-industrial license to present in the constitutive documents, a community development plan annexed to the Convention on Local Development, which covers, among other things, aspects on training, medical, social, education, road infrastructure,, water supply, electricity. The signing of this Convention on Local Development intervenes upon obtaining the mining license (article 30). Also under Article 130 of the same text, «the holder of a mining title must contract a Local Development Agreement with the local community residing on or close to the mining title. (...)The purpose of the Local Development convention is to create the conditions for an effective and transparent management of the Local Development Contribution paid by the holder of mining title to build capacity of the local Community planning and implementation of community development program.*

## 2. Flexible provisions on social expenditures

The Cameroon 2009, 2010, 2011 EITI conciliation reports can be credited for introducing social payments by some companies like CIMENCAM. However, CIMENCAM unilaterally and voluntarily published them. Local communities consider social expenditures by either CIMENCAM or ROCAGLIA as voluntary, seemingly because they are portrayed as such by the companies.

From the 2008 Environmental Audit report of ROCAGLIA, the population of Figuil expressed the need to:

- Construct two classrooms at the College in Biou;
- Construct a health center in the Hindjeodé village;

- Construct water well and rehabilitate the road for the people of Guéréomé.

But the projects proposed to the community excluded all the expressed wishes and focused principally on reforestation projects in the municipality, reduction of dust and smoke, and improvement of the waste disposal system. Most of the social measures taken by the companies are intended towards their workers and not in response to the wishes and needs of the community. ROCAGLIA attempted to set up a nursery to facilitate reforestation but effectively, the idea was short lived and there is currently no functional nursery. The Figuil council is developing its own nursery to address the problem of deforestation in the region.



Figuil Council Nursery, (photo Thorsten Nilges)

For the companies, all social actions performed in Figuil including environmental safeguards are voluntary. The grievances of the people are little considered and they are not consulted prior to implementing the projects. As part of the implementation of the storage unit and petcoke grinding unit in Figuil, CIMENCAM developed an Environmental and Social Management Plan that only deals with environmental issues. Again, in the absence of knowledge on contractual clauses between CIMENCAM and the government of Cameroon, there is no information available about the extent of its mandatory social obligations.

### 3. Highly exempting local taxation

The promotion of development and improvement of the Human Development Index (HDI) in a country cannot be realized when all activity is concentrated at the central government level. Through the ongoing decentralization process, Cameroon seems to have understood the importance of the local level in any development strategy. A law on decentralization was adopted in July 22, 2004. In its Article 22, this framework law provides that “resources required by decentralized local collectivities for the exercise of the duties conferred to them shall be obtained through transfer of taxation, grants or both”

Rural councils like that of Figuil are very much dependent on transfers made from the central level. However, the lack of execution of sub national transfers from the extraction taxes of companies operating in Figuil deprives them of another important revenue stream. This situation persisted over the years because the joint ministerial order was never signed to clarify the modalities for the transfer of the share of mining royalties for the council and the local communities.

In subsequent Cameroon EITI conciliation reports, it will be imperative to publish figures on the sub national revenues for councils and local communities impacted by extractive projects. A civil society organization, Cellule de veille et de Protection des victimes des activités minières (CelPro - Figuil) addressed a correspondence to the Minister of Finance dated March 27, 2012. The purpose of this correspondence was to request clarity on the mining royalties for the council and local communities in Figuil impacted by the CIMENCAM and ROCAGLIA projects. (See the letter in Appendix 2). Even if companies have been actually paying their ad valorem tax and / or tax extraction, councils and local communities have not benefitted due to non systematic transfer. The question as to the traceability of the share of sub national mining royalties for councils and local communities in Figuil over the years remains unanswered. The new provision of Article 137 (2) Decree of July 04 which provides for the share of the mining royalties for the council and local communities to be transferred to the account of the municipal treasurer needs to be closely monitored by the local communities concerned.

### 4. Non disclosure of contracts

As highlighted earlier, the CIMENCAM and ROCAGLIA projects contracts remain secret and their terms are not known to the public. This makes it difficult to analyze the obligatory social expenditures of the company. Social actions by the company can probably help improve relations between the company and the local communities. But if the communities are fully informed of the contractual obligations of the company and the responsibility of the state, they may understand that all their social needs are not necessarily the responsibility of the company.

## 5. Little social and economic monitoring

The social and economic environment of a mining project is in constant mutation for all stakeholders involved i.e. companies, governments and affected communities. That is why it is important to monitor the contribution of the projects to local development. However, an analysis of the situation in Figuil shows that the companies are completely disconnected from the local realities. In 2008 the Figuil council created a Municipal Development Plan for the period 2009 to 2014 that places emphasis on the needs of the community. However, social expenditures of the companies do not always align with the municipal development plan. The effective realization of the municipal development plan by the end of 2014 is hampered by insufficient finances. Proper project planning, participation of local communities in choosing them and centralization of resources can help in achieving communal development goals (See Table of summary projects of the municipality of Figuil under its Municipal Development Plan for the period 2009-2014 in Annex 2).

## Section II: Inadequate institutional framework

The institutional framework comprises stakeholders involved in sub national transfers and social expenditures. The approach here includes both actors specifically identified in texts and those active in the field on issues related to sub national transfers and social expenditures. This institutional framework is marked by poor coordination of state actors and the marginalization of non-state actors.

### A. Poor coordination of state agencies

Law No. 2004/017 set the general rules on territorial decentralization in Cameroon. But besides decentralized services, the central services of the state represented in the region or divisions are also involved in sub national transfers and social expenditure process. Since the social actions of companies are mostly oriented towards the education and health domains, these administrative institutions are involved. However, the involvement of these administrations does not go beyond the provision of information or consultation, as the social expenditure is essentially the responsibility of the companies. In practice, the extraction taxes of CIMENCAM and ROCAGLIA are paid at the central level. But systematic transfer to decentralized authorities is not effective, as has already been explained. This is a violation of the law that provides for such payments and as a result, deprives local councils of important revenues that could help in local social and economic development.

The highly centralized decision-making process that does not consider the local communities is a setback. It is important that social projects of companies align with Council Development Plans. The establishment of formal partnerships between the municipal councils, local commu-

nities and the mineral exploitation companies is a prerequisite. This could be effective through the signing of Community Development Agreements (CDA). Constructive dialogue could be established between the company and the local communities and priority projects to be implemented could thus be decided by consensus. CDA can enable communities to support their most immediate needs and improve relations with the company. This approach is directly more beneficial to local communities affected by mining.

## **B. Necessity for participation**

Consideration of sub national payments and transfers by the new EITI standard automatically brings other actors into the EITI process. These actors are not only civil society organizations but also other local actors including governors, regional and divisional delegates, divisional and sub divisional officers and traditional authorities. Local elected officials like mayors and parliamentarians are also important stakeholders. In the Cameroon EITI committee, mayors and parliamentarians are represented but surprisingly considered as civil society even though they represent political parties.

The Figuil council area has hosted extraction projects for several decades and can be considered the council with the most experience in mining in Cameroon. Consequently, it will be necessary for representatives from Figuil to be involved in the EITI process in Cameroon. This will facilitate the contribution of communities affected by mining to discussions on revenue transparency. Regardless of the fact that currently a few locally elected officials from some regions of Cameroon are members of the EITI Committee; the current structure does not take into consideration those representatives from extraction zones. Hence there is need to clarify representation of different stakeholders in the Cameroon EITI committee.

# Chapter IV

## ELUSIVE OPERATIONAL FRAMEWORK

Cameroon obtained the EITI compliant country status in October 2013. The shift in the EITI standard requires a corresponding shift of the regulatory framework for Cameroon to effectively implement the EITI and continue to maintain compliance status. This may not be the case right now. Obviously, if the legal and institutional bases are not effective, the operational framework will likely have shortcomings.

### Section I: Unclear social expenditure framework

The new EITI standard in requirement (3.12 a) encourages the publication of contracts and requires that EITI conciliation reports present government policy on the disclosure of contracts and licenses fixing the conditions for exploration and exploitation of oil, gas or minerals. Requirement 3.12.b requires the inclusion of relevant legal provisions, the actual disclosure practices and planned or ongoing reforms.

As already sufficiently highlighted, the first major challenge in monitoring social expenditures in Cameroon is the confidentiality surrounding mining contracts. This lack of public information can lead to company social expenditures appearing as voluntary actions. Most often such actions are undertaken without proper consultation with the affected community and are at times irrelevant and do not suit the local context.

The confidential nature of contracts inhibits the effective monitoring of mandatory social expenditures. Companies are ready to provide information on their social expenditures and concrete projects in the field. Companies document their activities, but the communication of them primarily serves to improve their image with the general public. However, all social actions are presented as voluntary because legal and contractual obligations are not in the public domain. As noted already, social expenditures can be mandatory when prescribed by law or in the contract.



But, generally the contract is more relevant for assessing the voluntary or mandatory nature of the social actions of the companies.

ROCAGLIA and CIMENCAM projects started before the mining code of 2001 but the confidentiality surrounding their contracts makes it difficult to assess their rights and obligations. Consequently, the annexes to the contract like the Environmental Assessment and the Environmental Management Plan are secondary sources of their obligations and were the only accessible documents used extensively in this study.

In the case of the CIMENCAM project, the documents to which we had access do not cover all the components of such a development project with several stages such as: raw material extraction, milling, treatment, cement production, packaging, storage and transportation. Each stage of the exploitation of the raw material and production of cement has social and environmental effects at the local level. But the only available documents at the regional delegation of Environment for the North relate to the construction of the crushing plant and storage of pet-coke. This alone does not provide all the information on the social obligations of the company. However, the contract remains the principal document through which details of the social obligations of the company can be obtained. Neither the local communities, NGOs nor the council in Figuil have access to the contracts of the companies operating there. Transparency in the extractive industry requires the disclosure of contracts or at least clauses which are not necessarily commercial or technological secrets. With the EITI new standard, there is necessity for openness with respect to disclosure of contract information in Cameroon.

For the ROCAGLIA project, the main document used in our analysis is the Environmental Audit Report of 2008 and many internal documents and photos on the social projects it has executed in Figuil. The Environmental Management Plan for the project is a valid document to assess the social obligations of a company. Unfortunately, getting these documents proved to be a difficult task. Just like CIMENCAM, the ROCAGLIA contract is not publicly available, making it difficult to properly assess compliance to mandatory social obligations.

## Inefficient social expenditures

The weak social expenditures of companies are a logical consequence of the insufficient amounts allocated for such activities. Since vital contractual information is not known, companies present all their social actions as voluntary or charity and local communities have no basis to hold them accountable. That is the case with a well that was constructed in a locality in Figuil that provides water only during the rainy season, when the water table is already high.



Borehole built by CIMENCAM near Bidzar (photo Norbert BOUBA)

This demonstrates the fact that social expenditures by companies sometimes do not conform to local realities or solve the real problem of the beneficiary when the local population is not involved in the choice and execution of the project. ROCAGLIA and CIMENCAM do give some support in the domain of education but while laudable, the efficiency and effectiveness of some interventions are questionable. For example, the decision by CIMENCAM to build a classroom in the Government Technical High School Bidzar was good; however, the infrastructure needs of the primary school in Bidzar are deplorable. Such instances raise questions about the rationale for choices made by the company in their social expenditures and whether they respond to the local needs. We thus arrive at the paradoxical situation where classrooms are constructed where the need is less pressing, when the budget could have been even more useful and efficient for classrooms in the local primary school.



Public School at Ouro Boubi and a classroom in 2013 (By Michel BISSOU)

ROCAGLIA also decided to raise the salary of a teacher and award prizes to the best students, which is a form of encouragement to the teacher and the students. This is laudable and can motivate both teachers and students for increased output.

The municipal development plan on education elaborated by the Figuil council lacks funding for its proper implementation. Certainly, it is not for companies to replace the state and assume its responsibilities but in order to contribute to local development, it is imperative that all social expenditures are done within a defined framework with the participation of the local communities. Although the social payments may not be significant, it remains important in contributing to improve the conditions of the affected communities.

## **Section II: Sub national payments and transfers: between social significance and weak base**

The EITI Committee defines a reference amount of the financial flows considered significant for conciliation during the process of elaborating the EITI conciliation report. This reference amount or materiality threshold has an impact on the efforts by civil society to monitor sub national payments and transfers. Based on the materiality threshold sub national revenues may or may not be considered for conciliation although it is an important revenue stream for the local council or local communities.

### **A. A materiality threshold not adapted to the local context**

The EITI Committee establishes a materiality threshold before engaging the EITI conciliation process which is aimed at comparing the data on revenues declared by government and payments declared by companies. This is captured in Requirement 4.1.a of the 2013 EITI standard which states: 'In advance of the reporting process, the multi-stakeholder group is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds.'

However, the materiality threshold, which is the reference point for receipts and payments to be considered in the EITI conciliation report, does not permit all necessary payments made by the companies to be reconciled. Amounts higher than the materiality threshold are considered while those lower than the materiality threshold are not but can be subject to voluntary disclosure. ROCAGLIA for example, unilaterally declared the following: 158,754 CFA in 2009, 21,762,901 CFA in 2010 and 2,779,208 CFA in 2011 under ad valorem tax. The table below indicates the materiality thresholds in Cameroon for 2009, 2010 and 2011

**Table 6:** Materiality thresholds for 2009, 2010 and 2011 in Cameroon

	2009	2010	2011
Total Revenue from Extractive Industry (in FCFA)	579 737 289 041	554 907 785 772	677 932 431 194
Rate	0.01%	0.01%	0.01%
Materiality threshold ( FCFA)	50 million	50 million	55 million

Source: Cameroon EITI reports in 2009, 2010 and 2011

From the high materiality threshold established by the EITI committee, sub national payments or transfers to the Figuil council and local communities may fall below the materiality threshold and therefore not be reconciled during the elaboration of EITI conciliation reports. Equally, social expenditures might be not be significant and therefore not subject to mandatory conciliation. But despite the fact that sub national revenues and social expenditure by companies might not be significant for conciliation, they remain very important for local councils in their quest for local social development. It would be interesting to reconsider the materiality threshold and make sure all the revenue streams are captured, so that transparency at the local level should also be integrated in the EITI process. This could require the basis for establishing the materiality threshold and establishing it by sector could be envisaged.

According to the EITI conciliation report for 2011, solid minerals generated 62,475,830 CFA francs in ad valorem tax. That is a cumulative figures which although higher than the 55 million materiality threshold for 2011, could not be reconciled because the various income sources were below this materiality threshold. Equally, social expenditures fall below the materiality threshold. A redefinition of the materiality threshold or the definition of a materiality threshold by sector is important. It is necessary to have a materiality threshold that allows the maximum reconciliation of extractive revenues.

## **B. Impact of social expenditures and sub national transfers on the local economy**

Social expenditures or payments and sub national transfers are important for local communities and have some significant impact at the local level to improve the standard of living of the population. The issue here is that of transparency and monitoring of both social expenditures and sub national transfers at the local level.

At the local level, beyond the effectiveness of these social expenditures and payments the problem remains of their local monitoring as outlined above. Specifically with regard to the monitoring of social expenditure as well as sub national payments and transfers, a mechanism that could allow monitoring at the local level is important. A good mechanism is one which guarantees the participation of companies, councils, communities and the government in a platform to exchange ideas. Social expenditures require community participation by both local communities and local elected representatives. With the 2013 EITI standard, a possibility exists now to ensure greater transparency and accountability at the local level.

## C. Mining royalties in Figuil

EITI conciliation report remains the only valid document where information on sub national revenue payments and transfers can be obtained. Successive EITI conciliation reports, notably from 2009, 2010 and 2011, presented figures of the ad valorem/extraction tax paid by CIMENCAM and ROCAGLIA. From these figures, the share of revenues for the council and local communities in Figuil can be calculated. The table below presents the expected share of sub national royalties for the council and local communities in Figuil

**Table 8:** Expected distribution of mining royalties to the Figuil council and local communities from ROCAGLIA and CIMENCAM royalty payments

Year	Company	Ad Valorem Tax / Tax at extraction	25% of ad valorem taxes / tax at extraction	15% to the Figuil council	10% to local communities
2009	ROCAGLIA	0	0	0	0
	CIMENCAM	85.930.656	21.482.664	12.889.598,4	859.3065,6
2010	ROCAGLIA	0	0	0	0
	CIMENCAM	90.290.689	22.572.672,25	13.543.603,35	9.029.068,9
2011	ROCAGLIA	2.779.208	694.802	416.881,2	277.920,8
	CIMENCAM	100.337.829	250.84457,25	15.050.674,35	10.033.782,9
TOTAL		279 338 382	69.834.595,5	41.900.757,3	27.933.838,2

Source: Data from Cameroon EITI Reports 2009, 2010 and 2011

From the above table the Figuil council was expected to receive 41,900 757.3 FCAF between 2009 and 2011, while the local communities were expected to receive 27,933 838.2 FCAF as their share of the extraction paid by the two extraction companies operating in Figuil. But it cannot be ascertained that these amounts reached the local councils or the local communities.

Following the CelPro correspondence to the Ministers for Finance, Minister of Mines and the Minister of Environment on the 13<sup>th</sup> of March 2012 raising the issue of non transfer of royalties, no response from the competent authorities was received. 41, 900, 757,3 FCFA expected as sub national revenue transfers represents 51,09 % of the Figuil council budget for the financing of different projects. Budgetary provisions for the Women Promotion Centre, Creation of community forests, and improvement of the lake to facilitate counter season crop production and drinking water for cows was budgeted at 20.000.000, 15.000.000 and 5.000.000 FCFA respectively. Sub national transfers alone, if effectively transferred, could have financed all three of those projects.

## Section III: Obstacles in the monitoring of sub national payments and transfers

While many actors wish to be integrated in the monitoring of social expenditures and sub national payments and transfers, there is some serious lack of coordination.

### A. Gap between Practice and Administrative Organization

Municipal councils have the mission to promote economic, social, health, educational, cultural and sports development within their collectivities and therefore require the necessary resources to achieve these objectives. Rendering effective sub national revenue transfer and reframing the social expenditure framework of companies could add some impetus and provide additional resources for councils concerned. The information gap between services of ministries located in the various regions and divisions and the central level services does not help matters. A contract signed with the companies is the preserve of the central authorities. It is paradoxical that lower levels of the same administration do not have access to the same information existing at the central level, in order to use and check the activities of companies. The consequence of this approach is the inconsistencies witnessed in the field in supervising the activities of the companies. The idea of a Committee or a platform for actors and stakeholders at the local level to monitor sub national payments, transfers and social expenditures of companies could be a move in the right direction.

## B. Absence of Traditional Authorities in the process

As auxiliaries of the administration and custodians of culture, traditional leaders can play an important role in the EITI process. They understand the socio-cultural contradictions of a particular anthropological community and act as administrative reference points in a village or a group of villages. But their role is not put at the forefront in the management of mineral resources, the monitoring of sub national payments and transfers, or decisions on social expenditures of the companies.

In Figuil, communities are organized in Lamibes, each headed by a Lamido who is both the traditional chief and religious leader. In Figuil, the Lamido of Biou where the ROCAGLIA quarry is located could represent an important voice. The EITI is still not well known by local communities as a tool to hold companies accountable. The Cameroon Coalition of Publish What You Pay and the Union of Cameroon Journalists (UJC) conducted a study entitled «Knowledge, perceptions and expectations of communities affected by extractive projects on the EITI» conducted in late 2012 conclude that less than 9% of the populations are aware of the EITI. Involvement of traditional authorities and local communities can boost the EITI process at the local level.

## C. Insignificant participation of local organizations

The Cameroon Coalition of Publish What You Pay (CCPWYP) is one of the major civil society movements monitoring the Extractive Industry Transparency Initiative. Currently, the CCPWYP is in the process of extending its membership to also include local organizations like Development without Borders in Ngaoundere, CelPro-Figuil, and CEFAID-Yokadouma. The involvement of local actors where the extractive projects are executed is a desire by PWYP Cameroon to bridge the gap and engage the real local actors so as to have legitimacy in their campaign. This is the logic that should be reflected in the composition of the EITI committee -to involve local organizations who are currently not involved in monitoring the implementation of EITI in Cameroon. CelPro- Figuil is very active in campaigning for the rights of local communities affected by exploitations but is out of the EITI process. The admission of CelPro-Figuil in 2014 as member of the Cameroon coalition of PWYP will reify their voice in better protecting the rights of the local population affected by ROCAGLIA and CIMENCAM projects.

# Chapter V

## COMPLYING WITH THE NEW EITI STANDARD: USEFUL REFORMS

Beyond maintaining its status as a compliant country, Cameroon needs to ensure better governance of its extractive resources. This requires amelioration of its legal, institutional and operational frameworks to enable the local communities to effectively receive sub national mining royalties.

### Section I: Need for a coherent legal and institutional framework

This is probably the most urgent action for the effective application of the new EITI standard. For this purpose several areas need to be considered.

#### A. A clear legal framework

The inclusion of social expenditures and sub national payments and transfers in the EITI conciliation makes it important for the legal framework to reflect this reality. Although the EITI standard establishes requirements for transparency, going beyond these minimum requirements and making the EITI a tool for extractive governance should be the goal. The Cameroon EITI committee therefore needs to push for the necessary reforms to ensure the incorporation of the requirements of the EITI standard in the national legal framework; this will facilitate effective implementation. If the legal framework related to the effectiveness of the royalties is unclear, it will be difficult for the EITI committee to include these in the conciliation report in order to ensure they are provided for in the national law and effectively paid by the companies. The mining code is currently under revision and governance and transparency issues need to be integrated.

Given that the 2012 and 2013 conciliation reports have not yet been published, a clear and



complete legal framework will standardize the process of reconciling the various transfers. EITI conciliation reports can be more effective if there is clarity on obligatory and voluntary social expenditures of the companies. Following the 2013 EITI standard social expenditures and payments are not effectively regulated.

## **B. Inter-institutional problems**

The issue of sub national payments and transfers and social expenditures do not concern only extractive companies, councils and local communities. Various administrations at the central and local levels are also important actors. This includes Finance, Territorial administration, social security, education, health, etc. They need to be involved in the definition, implementation and monitoring of social expenditures. Although companies cannot replace the state in its role of providing social amenities for its citizens, the contribution of social expenditures, whether voluntary or obligatory, is important. The efficient participation of all actors in the conception and implementation of related projects is important so that local communities can see effective benefits.

## **C. Increased attention to Environmental and Social Assessment**

Social expenditures are prescribed for in legal or contractual documents, but environmental and social assessments, including the environmental and social management plans of the project, are equally important sources of company social obligations. The Cameroon Prime Minister on February 14, 2013 signed the decree establishing modalities for conducting Environmental and Social Impact Assessment (ESIA) and also laying down the procedures for carrying out the Environmental and Social Audit (ESA) of projects. Under sections 3 (1) and 3 (2) of the text on ESIA, an ESIA can be summarized or detailed and applies to the entire project. However, in case of segmented construction or expansion of a project, each phase is subject to an ESIA and the implementation of a project cannot start before the approval of the ESIA. Current extensions or new components of the CIMENCAM and ROCAGLIA project must align with the 2013 regulations on ESIA. The approval of an ESIA report is conditioned by the participation of the affected communities. It is only after this consultation that a decision can be made. All stakeholders need to agree and define the social expenditures associated with the project.

## **D. Participation in local development as a contractual obligation for companies**

It is clear from the numerous problems already identified and highlighted that the contribution of extractive projects to community development in Cameroon is still minimal. The situation in

the oil sector is even critical because sub national oil royalties are not included in the legislation. The justification is that current oil exploitation projects are offshore and only minimally affect the local communities. In the mining sector, however, despite the existence of mining royalties in the legislation ROCAGLIA and CIMENCAM projects have not contributed to local development in Fiquil. However, the companies do carry out some social expenditures and pay taxes at the central level. The absence of an organized framework hinders effective channeling of the expected benefits of exploitations to the council and local communities. It is important that extractive companies establish Development Partnership Agreements with local communities. The partnership or Community Development Agreements between companies and local communities can contribute to local development if effectively implemented. Under the present context of the revision of the mining legislation in Cameroon, there is need to make community development agreements between companies and local communities an obligation.

### **Box 5: Model Mining Development Agreement project (MMDA) 1.0 (2011)**

MMDA 1.0 (2005), the following elements should feature in a standard agreement :

#### **i. Appendix B**

- Objectives of contracts to support local development,
- committee for Local development,
- foundation for Community development,
- assume the obligations of previous owners ,

#### **ii. Appendix C**

- Plan for the development of local business

*MMDA :Model Mining Development Agreement Project*

Following the model of mining development agreement, a mining agreement must contain objectives of contracts to support local development, committee for local development, the foundation of community development, assume the obligation of previous owners, and plan for the development local business... As part of the mining reform underway in Cameroon, it is important that the future mining Code states the necessity for these documents to be included in appendices of contracts/agreements. It is also important to highlight provisions relating to Local Content, social expenditures of the companies. Community Development Agreements (CDA)

also need to be framed and should operate within an organized framework. In some countries CDA are subject to legal provisions and in others they are within the scope of Corporate Social Responsibility.

**Box 6: Provisions relating to community development agreement in the Nigerian Mining Code 2007**

**Article 116 of the Nigerian Mining Code**

(1) Subject to this section, the holder of a mining concession, small mine or quarry shall, prior to any development activities in the concession area, conclude with the host community where operations are performed an agreement called Communal Development Agreement or any other agreement for the transfer of social and economic benefits to the community.

(2) The Community Development Agreement shall contain binding clauses on the social and economic contributions the project will bring for the sustainability of the community,

(3) The Community Development Agreement must meet all or some of the following issues related to the needs of the host community:

(a) scholarship, learning, technical training and employment opportunities for indigenous communities;

(b) the financial forms or other forms of contributory support for infrastructure development and maintenance such as education, health and other community services, roads, water and electricity;

(c) the creation of development and support for small and medium enterprises;

(d) agricultural products, marketing; and

(e) methods and procedures for environmental management and local governance and socio-economic

(4) in the case of failure between the host community and the tenant, after several attempts to conclude the Community Development Agreement when the title holder is ready to begin development work in the area of the lease, the matter shall be referred to the Minister for resolution.

(5) The Community Development Agreement must be reviewed every five years and until a review by the parties, be binding on the parties.

The urgent question for the mining sector should be how to balance the need to attract investors and make the necessary contribution to local development. This requires the legislative and regulatory framework for industrial mining and quarry operations to be accompanied by Community Development Agreements in the award of operating licenses for mineral operations.

## **Section II: The challenges of validation: The cost of remaining compliant**

Many challenges need to be addressed by Cameroon for better governance in the extractive sector and maintaining compliant country status. Successful maintenance of compliant country status is dependent upon meeting all the EITI requirements. Civil society organizations and local communities are struggling to understand the EITI process and may not see its importance in their daily lives if it remains an elitist process. The legitimacy of the process is anchored in participation of the local communities, who are the supposed beneficiaries of transparency in the Cameroon extractive sector.

Since social expenditures have not been a subject of conciliation, another challenge is accountability in social expenditures because they represent an important factor in the local development. A minimal materiality threshold that takes into consideration the present context will enable social expenditures to be captured. A materiality threshold for the entire extractive sector, as was the case with previous Cameroon EITI conciliation reports, has limitations because it leaves out important revenue flows. Not all regions in Cameroon are affected by industrial mining and with the exception of local taxes; the majority of the extractive taxes are paid at the central level and then transferred to the local level. This makes it irrelevant to determine a materiality threshold for locality or region. For this reason, calculating the materiality threshold by sector (hydrocarbons, petroleum products transportation, and mines) may be recommended for effective EITI reporting that captures maximum revenue flows in Cameroon. This entails a materiality threshold for hydrocarbon, hydrocarbon transportation, and the mining sector. Due to the multiplicity of mineral resources, it is less cumbersome to determine materiality thresholds by sector. The extractive sector approach to determine a materiality threshold would better represent the different significant financial flows in the Cameroonian mining sector.

## **Section III: Local EITI Committees: Sustaining sub national governance in the extractive sector**

Effective monitoring of sub national payments and transfers can be done in the project area.

It is thus important to include sub-national entities in the implementation of the EITI. The participation of sub national entities entails all local stakeholders both public and non government entities. This opens the possibility for local EITI Committees in Cameroon.

## A. Basis for the establishment of local committees

In accordance with Article 3 of Decree No. 2005/2176/ PM of 16 June 2005 on the creation, organization and functioning of the Monitoring Committee of the implementation of the EITI principles in Cameroon, the EITI committee is composed as follows:

Organization of the EITI	Actors at national level	Actors at sub national level
President of the committee	Minister of Finances	Regional delegate for the Ministry of Finances
	Minister in charge of mines or his representative	Regional delegate in charge of mines or his representative
	Minister in charge of industries or his representative	Regional delegate in charge of industries or his representative
	Minister in charge of justice or his representative	Regional delegate for justice or his representative
Representatives of the public and Para public sector	A (1) representative of the presidency of the republic	The governor of the region or his representative
	A (1) representative of the prime ministers Services	Services of territorial administration (governor or his representative)
	General manager of the National Hydrocarbons Corporation	
	President of the Anti corruption Observatory	
Representatives of the private sector	General Manager of TOTAL Cameroun or his representative	The choice of companies at the local level will depend on the zone of operation Example : CIMENCAM et ROCA-GLIA in the north etc
	General manager of PECTEN Cameroun or his representative	
	General manager of PERENCO Cameroun or his representative	
	General manager of GEOVIC Cameroun or his representative	
	President of the chamber of commerce, industry and mines	
	President of inter patronal association in Cameroon	

Representatives of civil society	Two (2) members of parliament one from the majority and one from the opposition	
	President of Cameroon section of Transparency International	
	Three (3) representatives of non- governmental organizations	
	Three (3) representatives of decentralized collectivities	Mayors or their representatives in councils where projects are located
	The president of the Cameroon union of Journalists	A member of the union of journalists at the local level

In the spirit of the above decree, members of parliament are considered as «civil society» although they are drawn from the majority and the opposition party. It could be confusing to consider parliamentarians and or local council authorities as part of civil society since civil society are primarily NGOs and popular movements to defend and protect the interests of local communities. Several categories of actors could be part of civil society: Community groups, non-governmental organizations (NGOs), trade unions, indigenous organizations, charities, faith-based organizations, professional associations and private foundations. Following the spirit of the new EITI standard, parliamentarians and local councilors are not part of civil society. The decree unfortunately does not give special consideration to representatives of local communities affected by mining. Since the new EITI standard provides for sub national payments and transfers and social expenditures whose direct beneficiaries are the local communities, it would be useful to involve the local level representatives in the monitoring and control of the implementation of the standard.

## B. Extending to the forest sector and gas sectors

Apart from the CIMENCAM, and ROCAGLIA projects, most of the mining projects in Cameroon are still in the nascent stage. C& K Mining Inc. project is experiencing difficulties while the (GEOVIC) project is shrouded with secrecy despite the issuing of the exploitation permit in 2000. CamIron and Cameroon Alumina Limited have not effectively taken off. Important gas projects are also already under exploitation notably the Ndogpassi gas project by rodeo in Douala and the Kribi gas fired power plant. It is normal that gas to automatically consider all gas companies in the EITI process in Cameroon. Liberia is an EITI compliant country like Cameroon and is equally rich in forest. But unlike Cameroon, it has included the forest sector in its EITI conciliation. Liberia has approximately 800.000 hectares of forest while Cameroon has about 22 million hectares with 17 million hectares being exploited. In 2011, Liberia included the forest sector in its EITI conciliation report.

**Table n° 6:** total payments and gap by sector in Liberia

	Companies	Government	Difference
	USD	USD	USD
Agriculture	18 330 49,66	18 281 719,70	48 779,96
Forest	5 408 592,18	5 616 076,23	-207 484,05
Mine	43 798 764,75	44 223 697,12	-424 932,36
oil	49 911 073,86	49 681 073,86	230 000
Total	117 448 93,45	117 802 566,90	-353 636,45
Sawyers and small miners			632 541,35
Difference			278 904,90

Source : EITI 2011 report for Liberia

The forestry sector with revenues estimated at nearly 25 billion CFA francs was the least contributor of revenues from the exploitation of natural resources in Liberia in 2011; however, the Multiparty Group in Liberia included the forest sector in the EITI Report. For the same period in Cameroon, estimates show that 87 forest councils generated 2,676,428,262 CFA for the local councils and 1,254,401,478 CFA for local communities as forest royalties. This alone represents nearly 121 times the cumulative sum of ad valorem and extraction tax generated in 2011 by the mining industry as declared in the Cameroon EITI conciliation report for 2011.

**Table 7:** Comparative analysis of the contribution of forest and mining royalties for 2009 for Cameroon in CFA

Year		Sub national royalty (Council and communities)	Share to local council	Share of the local communities
2009	Forest sector (	2 940 757 048	2 385 836 335	554 920 713
	Industrial mining sector	21 482 664	12 889 598,4	8 593 065,6
	Ratio (Forest/mines)	136,8897753	185,0978022	64,57773498
2011	Forest sector	3 930 829 740	2 676 428 262	1 254 401 478
	Industrial mining sector	25779259,25	15467555,55	10311703,7
	Ratio (Forest/Mines)	152,4803216	173,0349863	121,6483245

Source : 2009 EITI Report and Annual Forest Royalty data from the Independent Observatory

In 2011 the local council in Yokadouma alone received 379,267,012 CFA and local communities received 157,996,099 CFA francs as annual forest royalties. From 2000 to 2009, Yokadouma

received 8,535,522,362FCFA in annual forest 7 billion FCFA and 1.5 billion FCFA for the local council and the local communities respectively. However, the level of social and economic development in the Yokadouma council does not reflect all these revenue flows. Transparency and accountability remains a major issue in the management of revenue even at the sub national level.



Baka indigenous children near Yokadouma Cameroon (PhotoMichelBISSOU)

## 1. EITI: Observer or solution to transparency deficit in Cameroon's forestry sector?

According to information obtained from the Ministry of Forestry and Wildlife (MINFOF), revenues from annual forest royalties in Cameroon for 2014 are estimated at CFA 20 billion. For 2013, revenues generated from the forest sector were 14 billion CFA, so 2014 brought an increase of nearly 6 billion. This estimate from annual forest royalties alone illustrates the financial importance of the forest to local council and communities which are respectively entitled to 20% and 10% of annual forest in accordance with the joint order No.0520/MINATD/MINFI/MINFOF of 3 June 2010 laying down the procedures for the management of revenues from the exploitation of forest and wildlife resources for local councils and riparian communities.



**Table 8:** Statistical contribution of mining and oil transport from 2009 to 2011

	2009	2010	2011	Total	Simple average
Oil transport sector	14 417 447 876	17 827 860 200	16 084 592 735	48 329 900 811	16 109 966 937
Mining sector	9 559 135 796	11 114 274 049	948 051 578	21 621 461 423	7 207 153 808
Total	23 976 583 672	28 942 134 249	17 032 644 313	69 951 362 234	23 317 120 745

Source : Cameroon EITI conciliation reports 2009, 2010 et 2011

From the above table, it is clear that the 2014 forecast for the annual forest is only 3 billion short from the combined mining and oil transport sector revenues generated by Cameroon in 2009. The significance of this revenue stream for the national economy and its potential to contribute revenue for local development makes it important for Cameroon to include the forest sector within the EITI just like in Liberia. This is even more urgent since corruption in the use of annual forest royalties has become evident, with some mayors sent to jail as a result<sup>4</sup>. Facts such as the diversion of 63,729,107,367 CFA forest royalties by the mayors of 118 forest communities between 2000 and 2011 alone testify to the urgency to make transparency in the forest sector an obligation. These revenues, if properly managed by the local authorities, can contribute to local social and economic development. Hence, the EITI is an additional tool for transparency in the forest as well as the mining sector for local and national development. This can facilitate access to local basic services such as water, electricity, health, roads, etc.



Mang Village, close to C&K diamond mine in Mobilong (photo Michel BISSOU)

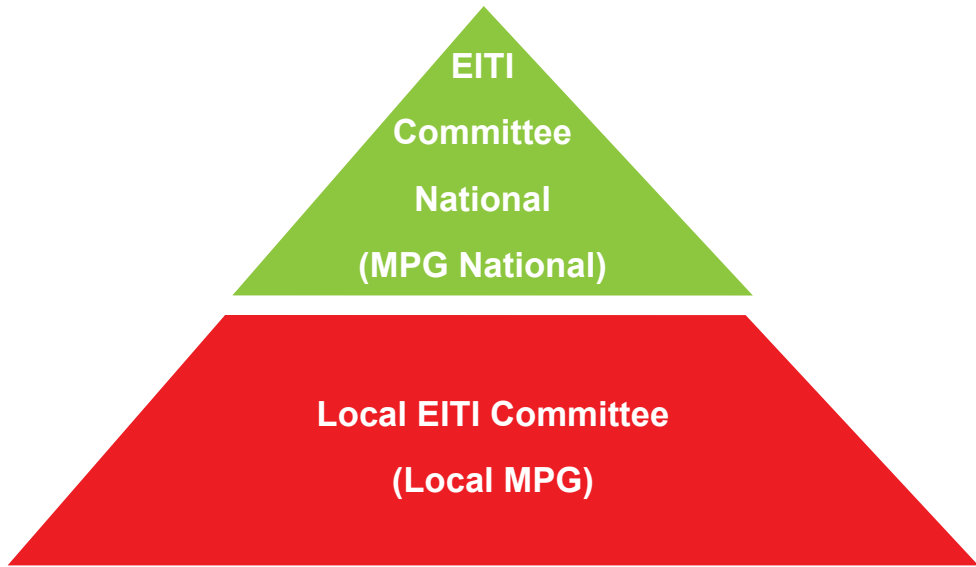
<sup>4</sup> The mayor of the Yokadouma council is serving a prison term for embezzling annual forest royalties

## 2. Include the reconciliation of mining and annual forest royalties

The Cameroon EITI committee needs to establish a materiality threshold that integrates mining royalties and annual forest royalties. This is conditioned by the addition of the forestry sector within the EITI. Calculating the materiality threshold by resource, as discussed, is one of the most suitable methods. By applying the method used in calculating the materiality threshold 2009 to 2010 to the various resources, we can reach a representative figure that captures the reality of the contribution of forest and extractive resources in Cameroon. 0.01% as the coefficient of proportionality of the key sectors chosen can be used and then different materiality thresholds established.

## 3 Decentralization of the EITI: setting up local EITI committees

The effective and efficient performance of the EITI committee requires the extension of the EITI to local communities where extractive projects are implemented. Local EITI committees will be important in engaging local stakeholders so that they can be involved in effectively monitoring sub national payments and transfers. As demonstrated earlier, it is possible to set up local EITI committees and include all relevant local stakeholders. Once established, the EITI local committees will be decentralized bodies of the EITI committee at the national level, but with more focus on local realities where extractive projects are located. Public and private entities as well as local elected officials and local civil society organizations and traditional authorities can constitute members of the local committee. Only companies with operations within the locality can participate.



**Companies**



**Public and Parapublic entities  
(Deconcentrated services)**



**Parliamentarians and elected local officials Locaux (mayors and councillors)**



**local CSO (extractive and forest sectors)**



**Traditional authorities**

Diagram No. 02: Example of modeling of local EITI committees in Cameroon

## Section IV: Review of the regulatory and institutional framework of the EITI in Cameroon

For the effective functioning of the EITI, the decree of 2005 on the organization and functioning of the EITI committee in Cameroon needs to be revised to conform to the new context. The composition of the multi party group needs to be reorganized and above all establish an EITI law to ensure mandatory respect of the legal framework for transparency in the extractive sector in Cameroon.

### A. The urgent review of the organization and functioning of the EITI Committee Cameroon

It is important to review the composition of the multi party group in Cameroon so that local stakeholders are taken on board and the Local EITI Committees implemented. This presupposes the reconstitution of membership in the Cameroon EITI committee. The objective is to involve all key actors in the chain of exploitation of extractive resources in Cameroon, especially those impacted by extractive projects. It is imperative to set up local EITI committees as a mechanism that can facilitate better monitoring of sub national payments and transfers as well as the social expenditures of the companies.

In July 2013 during the conference of governors in Yaounde, they were trained on the EITI as a transparency mechanism by the president of the Cameroon EITI committee, the Cameroon minister of finance. That alone cannot make the EITI widely recognized and understood, especially in areas with extractive projects, but this served as a foundation which needs to be consolidated and sustained so as to have an impact at the local level.

Local EITI committees need to be constituted and submitted to the same expectations at the local level as the central multi party group, although the issue of funding could arise. The development of local committees forms part of the engagement of the government to implement the EITI effectively. A senior official responsible for directing the implementation of the EITI at the regional level may be designated to pilot the process. Regional public entities will be required to work with civil society, companies, local elected representatives as well as traditional authorities based in areas impacted by the extractive projects. Together, they must set up a local multi-stakeholder group to monitor the implementation of the EITI at the local level. The local multi-stakeholder group will be required to have a work plan which emanates from the national

committee. This work plan should be consistent with the National Committee

The overall objective of setting up local EITI committee is to enhance dialogue between companies, public authorities and local communities so that extractive projects and associated revenues generated at the local level are monitored.

## **B. The EITI law: Remedy to legal shortcomings of extractive governance**

The main challenges of transparency in the extractive industries is to ensure better governance of natural resources and allow local communities to enjoy the benefits of the exploitation of natural resources from their territories. The EITI is the main platform for exchange by different actors on extractive revenues. Given the experience of the implementation of EITI in Cameroon, one can note the absence of a law on the EITI that will make it mandatory for companies to disclose their revenue payments to the government without the need for a government agent to solicit disclosure of revenue payment on an ad hoc basis. If this is not a requirement, companies become reticent to disclose information on a timely basis for expedient conciliation. It is therefore necessary to establish a framework for access to information, particularly through the EITI law that would facilitate the collection of data on financial flows in the extractive sector, rendering it obligatory. The overall objective is making good governance in the extractive sector in Cameroon a reality and promoting social and economic development.

# Chapter VI

## CONCLUSION AND RECOMMENDATIONS

### CONCLUSION

The Cameroonian legal framework currently in force has not totally sorted out the lack of clarity in the payment and transfer of sub national mining royalties to local councils and local communities. This is a challenge to the proper monitoring of sub national transfers in line with the requirements of the new EITI standards on sub national revenue payments and transfers. The situation of social expenditures by companies also cannot be properly monitored due to the fact that information on obligatory social payments is hardly available and all company expenditures are treated as voluntary. The effective participation of all stakeholders in the monitoring of sub national revenue payments and transfers and the social expenditures of companies is imperative. These shortcomings pose a major challenge to the implementation of EITI in Cameroon at a time when the new EITI standard is exigent on many aspects of the extractive industries value chain. Local civil society organizations and traditional authorities have a role to play in monitoring social expenditures but also sub national revenue transfers.

Within the framework of the ongoing decentralization in Cameroon, local councils need to be key players in the implementation of the EITI in the context of the 2013 standard. The 2009, 2010 and 2011 EITI conciliation reports for Cameroon revealed some figures of the social expenditures of some companies. However, confidentiality or the secrecy surrounding the engagements signed between the companies and the state makes it difficult to know the obligatory social expenditures of the companies in order to effectively monitor them. CIMENCAM and ROCAGLIA projects in Figuil in the Mayo Louti division of the north region of Cameroon are cases in point.

The flaws and inconsistencies in the legal framework surrounding social expenditures and sub national transfers to local councils and local communities inevitably affect the operational framework. This cycle must be broken for an effective implementation of the EITI, especially with the new standard approved in 2013. Contract confidentiality, cumbersome procedures and high materiality thresholds for EITI conciliation may not allow effective con-

sideration of social spending and sub national transfers. The materiality threshold as defined by the EITI committee may not allow covering extensive revenue streams, notably on social expenditures of companies and sub national revenue payments and transfers. However, these payments and transfers are important in contributing to local social and economic development. That is why a new approach to determining the materiality threshold needs to be considered. Establishing the materiality threshold by resource can be the way forward.

In general, the relevant legal framework for sub national payments and transfers seems incomplete even with the recent reforms specifying that all sub national transfers for council and local communities will go to the council coffers. No clarification is given on modalities to convey the share destined for local communities to the population.

While the mining framework is being reformed, legal documents like the Environmental and Social Impact Assessment and Environmental Management Plans are possible sources for both voluntary and mandatory social expenditures by companies. However, it is important to institute Local Development Agreements between the companies and the local communities where they operate so that social expenditures and other local contributions for community development can be executed within a framework that can be monitored. Such a framework is needed in Figuil, which has not properly benefitted from extractive projects in the area.

Given the huge resources generated by the forest sector in Cameroon, notably annual forest royalties, the inclusion of the forest sector in the EITI process is an important step in promoting transparency in the use of the resources generated so that it can contribute to local development. Local EITI committees will be necessary to assure the inclusion of all stakeholders and ensure better monitoring of social expenditures, sub national payments and transfers. All these should be facilitated by an EITI law which should be a remedy for the legal challenges of extractive governance in Cameroon.

## RECOMMENDATIONS

From the above analysis based on the situation of social payments and sub national revenue transfers in the locality of Figuil, the following recommendations can be made:

### A. To the Public Authorities

- i. Align the approach of all ministries on the definition, implementation and monitoring of social expenditures: The most common areas for social expenditures are education, health, water, energy and sports facilities etc. According to the administrative organization of Cameroon, each sector is under a different ministry. The Ministry for Social Affairs appears absent in most of the considerations of social expenditures;

- ii. Integrate decentralized structures in the management and monitoring of extractive projects resources: Sub national payments and transfers and social expenditures are important resources for local councils and local communities in Cameroon. Their management and monitoring should be the role of council authorities.
- iii. Develop and implement an operational framework that establishes the effectiveness of the transfer to councils and riparian communities of their share of the mining royalties. The Prime Minister's Decree of June 4, 2014 cancels the former provision which made the signing of the joint order MINFI/MINMIDT a condition to lay down modalities for the transfer and use of the share of local councils and local communities. However, there is an urgent need to differentiate between the share of local communities and that of the local councils because the current decree only says both shares for local communities and the local council will be sent to the account of the municipal treasurer.
- iv. Define and adopt an EITI law: EITI remains an instrument for governance of the extractive sector. The new standard has the advantage of requiring and /or encouraging transparency on the entire extractive industries value chain. The development and adoption of EITI law would facilitate access to information for the conciliator and enhance the entire EITI process.
- v. Strengthen the capacity of local entities on the EITI and EITI standard: the implementation of the EITI at the sub national level, specifically, will require more capacity building for local actors on the principles and requirements of EITI;
- vi. Go beyond the EITI by ensuring better governance of natural resources and ensure benefits for local councils and local communities.

## **B. For the Cameroon EITI Committee**

- vii. Define a materiality threshold by resource: For the mining sector, oil and oil transportation and the forest. The forest sector contributes significantly to the national economy and its inclusion can have an added value for both the local economy and the local forest governance;
- viii. Establish local EITI committees: in the context of decentralization, the requirements of monitoring sub national payments and transfers and involving local actors is an opportunity for the Cameroon EITI Committee to enhance proximity to the local beneficiaries of the exploitation of natural resources;
- ix. Redefine the composition of the National EITI Multiparty Group: MPs and other local elected officials (mayors and councilors) are not part of civil society. Community representatives should be included.



## C. For companies

- x. Comply with environmental and social assessment: The legislation relating to Environmental and Social Audit, Social and Environmental Impact Assessment, including the Framework Law on the Environment and the sectoral laws (mining code and its implementing regulations)
- xi. Negotiate and sign Community Development Agreements (CDA) with the local communities where they are implementing their projects. This has the potential to improve relations with the communities.
- xii. Collaborate more with local councils and local communities. It is important to reduce the information gap between companies and local communities.

## D. For civil society organizations and traditional authorities

- xiii. Build their capacity on the EITI standard, the institutional and legislative framework in respect of mining, oil and gas, forestry and transportation by pipeline:
- xiv. Strengthen capacity to monitor sub national payments and transfers: The EITI standard is primarily a monitoring tool. Knowledge of the legal and institutional framework is a prerequisite for all players.
- xv. Support local civil society and traditional authorities: It is important that national civil society organizations like the Cameroon Coalition of Publish What You Pay accompany and support local organizations with limited capacity.

## E. For local elected representatives (mayors and parliamentarians)

- xvi. Ensure follow-up and monitoring of extractive projects in their locality especially sub national payments and transfer
- xvii. Encourage Community Development Agreements whose objective is local development. CDAs are instruments for maintaining social cohesion

## Glossary

**Local Content:** Refers to local goods and services procured locally by the project promoters, associates and partners. Also concerns community consultation, construction of social infrastructure, local employment, training and capacity building for local staff, sub contracting and local processing.

**Social expenditures:** In addition to the fees paid to various administrative agencies, central, regional or local governments, companies often make their contribution to local communities, NGOs, and other organizations in areas where they operate. These are referred to as “social expenditures”, “social payments” or “social investment.” See Section 4.1 (e) of the EITI standard, (Source: Guidance Note on social spending requirement 4.1.e).

**Significant flow:** A flow is said to be significant when the nominal value is above the materiality threshold established by the EITI Committee. Significant flows are subject to declaration by companies making the payments and public entities receiving the payments. Flows which are not significant can be subject to unilateral declaration.

**Multiparty group or EITI Committee:** Group composed of representatives of government, extractive companies, and civil society, charged with the implementation of the EITI process.

**EITI** (Extractive Industry Transparency Initiative): International Standard aimed at transparency in oil, gas and minerals sectors in different countries

**Sub national payment:** Payments made to lower levels of governments as taxes or compensation for the impacts of extractive projects. The multi-stakeholder group determines whether payments made by companies to sub-national entities are significant so as to incorporate and reconcile these payments in the EITI report. (Requirement 4.2.d of the 2013 EITI standard)

**Payment and/or compulsory transfer:** The mandatory nature of any payment or transfer is based on whether the legal and contractual framework provides for such payment.

**Payment and/or voluntary transfer:** The “voluntary” nature of any payment or transfer is solely dependent on the company.

**Sub-national transfers:** These are transfers from the central to the sub-national levels of the state as provided by the national constitution, statute, or other mechanism for revenue sharing.

**Social transfers:** Social transfers are payments at national level that are redistributed by any mechanism for municipalities and / or local communities. This is the case for example of a commune that benefits from a partnership deal a company reportedly signed with the relevant Ministry.

Requirement 4.1.e.iii encourages the multi-stakeholder group to develop a reporting process that can lead to achieving an equivalent level of transparency in the disclosure of other payments and revenue sources that benefit state entities.

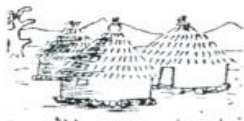
**Materiality threshold:** This is the amount that the Multiparty-stakeholder group defines prior to EITI conciliation reports which serves as a reference for declaration of significant payments.

## END NOTES

1. EITI - Guidance Note on social expenditures, Requirement 4.1(e), April 2014
2. Decree No.2014/2349/PM of August 1, 2014 to amend and supplement certain provisions of Decree No.2014/1882/PM of July 4, 2014, amending and supplementing certain provisions of Decree No.2002/648/PM on March 26 2002 laying down detailed rules for the application of law No.001 of 16 April 2001 as amended and supplemented by law No.2010/011 of 29 July 2010 on the Mining Code
3. Decree No.2014/1882/PM of 4 July 2014 amending certain provisions of Decree No.2002/648/ PM of 26 March 2002 laying down detailed rules for the application of Law No.001of 16 April 2001 on the mining code
4. Guidance Note 10: Requirement 4.2 (d) and (e), December 2013
5. Validation Report of the implementation of the EITI standard in Cameroon, August 2013, CAC 75
6. Cameroon conciliation report of financial flows and volumes for exploration and exploitation of hydrocarbons and solid mines for 2011,August 2013, MOORE STEPHENS
7. The EITI Standard, May 2013, International EITI Secretariat ([www.eiti.org/document/standard](http://www.eiti.org/document/standard))
8. Cameroon conciliation report of financial flows and volumes for exploration and exploitation of hydrocarbons and solid mines for 2010, March 2013, MOORE STEPHENS
9. Report of conciliation financial flows and volumes for exploration and exploitation of hydrocarbons and solid mines for 2009,March 2013, MOORE STEPHENS
10. Decree No.2013/0172 / PM of14 February 2013 laying down the procedures for carrying out the Environmental and Social Audit
11. Decree No.2013/0171 / PM of14 February 2013 laying down the procedures for carrying out Environmental and Social Impact Assessment
12. Model of Mining Development Agreement MMDA1.0 Convention, April 2011
13. EITI Rules, November 2011

14. Law No.2010/011 of 29 July 2010 to amend and supplement certain provisions of Law No.001 of 16 April 2001 Mining Code
15. Growth and Employment Strategy Paper ,framework of government policy for 2010-2020, August 2009
16. Municipal Development Plan of Figuil 2009-2014, 2008
17. Final Report of Environmental Audit of the company Pierre Rocaglia 2008
18. Decree No.2005/2176/ PM of 16 June 2005 establishing the organization and functioning of the Monitoring Committee of the implementation of the principles of the initiative of the Extractive Industries Transparency
19. Decree No.2002/648/ PM of 26 March 2002 laying down detailed rules for the application of Law No.001 of 16 April 2001 on the Mining Code
20. Law No.001 of 16 April 2001 Mining Code
21. Environmental and Social Management Plan for the proposed construction of a storage unit and grinding Petcoke by CIMENCAM in Figuil,
22. Websites :
  - <http://www.resourcegovernance.org/eitiguide/>, during the month of June 2014
  - <http://eiti.org/>, <http://eiti.org/fr>, from January to August 2014
  - <http://www.eiticameroun.org/>, from December 2013 to August 2014
  - <http://eiti.org/fr/republique-democratic-du-congo>, from June to July 2014
  - [eitiperu.minem.gob.pe](http://eitiperu.minem.gob.pe); from June to July 2014
  - [www.leiti.org.lr](http://www.leiti.org.lr), from June to July 2014
  - [www.itie-congo.org](http://www.itie-congo.org), from June to July 2014
  - <http://www.lafarge.fr/> from April to August 2014
  - <http://www.chaux-roca.com/>; from April to August 2014

## Appendix 1: Letter addressed to the Minister of Finance by CELPRO - Figuil



Pour une solidarité plus agissante

### Cellule de veille et de protection des victimes des activités minières de l'arrondissement de Figuil

BP 352 Garoua – République du Cameroun  
Tél : 0023795987448 ou 0023775434219 E-mail : sudeveloppement@yahoo.fr  
Autorisation N° 057/RDA/D21/BAPP

A Son Excellence Monsieur le Ministre des Finances  
République du Cameroun

#### Objet :

*Réclamations des revenus tirés des taxes*

Excellence Monsieur le Ministre,

Nous, membres de la *Cellule de veille et de protection des victimes des activités minières de l'arrondissement Figuil* venons auprès de votre très haute personnalité porter à votre connaissance nos desideratas et réclamations des quotes-parts des revenus tirés des taxes à l'extraction des produits des carrières de Biou et de Bidzar.

En effet, les firmes à vocation internationale, opérant dans la ville de Figuil, Cimencam et Rocaglia sont inscrits dans le chapitre des « grandes entreprises ». Le Département ministériel dont vous avez la charge, perçoit directement à travers vos guichets à Yaoundé les différentes taxes payées par ces grandes entreprises.

Nous avons constaté que les revenus provenant de l'exploitation des ressources forestières et fauniques destinés aux Communes et aux Communautés villageoises riveraines sont reversés régulièrement aux populations des régions du Sud et de l'Est. Par contre les quotes-parts des taxes à l'extraction des produits de carrière et ad valorem (alinéa 1 (a) du Décret n° 2002/846 PM du 26 mars 2002 fixant les modalités d'application de la loi n°001 du 16 avril 2001 portant code minier) n'ont jamais été reversées aux riverains des sites de Biou et Bidzar. Pourtant la Cimencam produit 160 000 tonnes de Ciment gris par an avec un chiffre d'affaires de 16 milliards de francs cfa à partir de la carrière de calcaire de Bidzar et Rocaglia produit 5 000 tonnes de marbre par an.

L'alinéa 1 de l'article 89 du Code minier camerounais dispose clairement que « *Les populations affectées par une exploitation minière ont droit à une compensation. Le montant de la compensation sera prélevé sur la taxe ad valorem et sur la taxe à l'extraction des produits des carrières* ». Pourtant, depuis 40 ans, les terres de nos ancêtres sont remuées, extraites, exploitées à des fins commerciales au mépris de toute protection de l'environnement, sans une compensation juste et équitable.

Excellence Monsieur le Ministre, nous attendons que nos droits fondamentaux cessent d'être foulés aux pieds et que les revenus tirés des taxes ad valorem, ainsi que les taxes à l'extraction des produits de carrière soient reversées aux victimes des activités minières de l'arrondissement de Figuil conformément aux dispositions prévues par les lois et règlements de la République du Cameroun.

Veillez agréer Excellence, Monsieur le Ministre, l'expression de notre haute considération.

Fait à Figuil, le 13 mars 2012

**Pour la Cellule de Veille**

(Ci-jointe la liste des signataires de la lettre)

#### Copies :

- Ministre des mines, de l'industrie et du développement technologique
- Ministre de l'environnement, de la protection de la nature et du développement durable



## Appendix 2: Summary table of project for Figuil for the period 2009-2014

N°	Project Title	Project Funding		Target groups and beneficiaries	Problem to solve	Specific Objectives	Expected results	Activities
		Contribution from council budget	Contribution from state budget					
01	Centre for the Promotion of Women	20 000 000 (10%)	180 000 000 (90%)	Women	Inequality between man and woman	-Fulfillment of women - Fight against poverty	Wellbeing of Women	- Awareness - Training - Education and teaching of women
02	Creation of community forests	15 000 000 (10%)	135 000 000 (90%)	Communities in the Figuil sub division	- Rainfall and climatic problems - Desertification	-Creation of community forests -Education and training	-existing Community Forests - Community outreach committee	- awareness on the encroaching desert, - Train the monitoring committee -Create a community forest -Replant trees
03	Youth training Center	30 000 000 (10%)	270 000 000 (90%)	Communities in Figuil sub division	Problems in the Figuil council	Reduction of unemployment and poverty	-Youth training - Creation of self-employment	- Educate - Train - Evaluate - Grant microloans -Monitoring the use of microcredit
04	Well in 15 Participatory planning units and boreholes rehabilitated	12 000 000 (10%)	108 000 000 (90%)	Selected Communities	Lack of access to clean water in villages	- Fight against water-borne diseases - Facilitate access to safe drinking water	-be healthy -Plenty of drinking water	- Raising awareness - Develop water sources - Creating new water points - Train management and monitoring committees
05	Development of Lakes for livestock drinking points and counter season crop	5 000 000 (10%)	45 000 000 (90%)	selected villages and Communities	- Insufficient water drinking point -Waterborne diseases	- Facilitate water point access -Educate and train	- Lakes for drinking water points fixed -Community educated and trained	-Fix the lakes in Kaptalam and Muzike - Train Management Committee -Raising awareness - Train Monitoring Committees

### Appendix 3 : List of persons contacted

N°	NAME	ORGANISATION	FUNCTION
01	OTTO Joseph Wilson	REGION DU NORD	Gouverneur
02	M. SIDDY	REGION DU NORD	Secrétaire Particulier du Gouverneur
03	Agnès Solange ONDIGUI	Comité ITIE Cameroun	Secrétaire Technique
04	Dr MVOGO Jean Kisito	MINMIDT / Direction des Mines	Directeur des Mines
05	M. ELONO Cyrille	MINMIDT	Point Focal ITIE du MINMIDT, Coordonnateur Adjoint du PSR-MEE
06	Dr. NYECK	MINMIDT / Sous-Direction des Activités Minières	Sous-Directeur des Activités Minières
07	MBARBE Paul	Délégation Régionale MINMIDT/Nord	Délégué Régional
08		Délégation Régionale MINFI/Nord	Contrôleur Régional
09	Antoine DAMOU LAMTOING	Délégation Régionale MINEPDED/Nord	Délégué Régional
10	MOUSSIMA Emmanuel	Direction Régionale du Trésor	Directeur Régional du Trésor, de la Coopération Financière et Monétaire
10	SALIHOU	Délégation Départementale MINFI / ML / Service des Impôts	Chef du Centre, Département des Impôts
11	NGOMBA LEBE NGOM Eugène	Délégation Départementale MINMIDT/ML	Délégué Départemental
12	MANA ZOUA	Délégation Départementale MINEPDED/ML	Délégué Départemental
13	HAMADOU FARA	Délégation Départementale MINAS / ML	Délégué Départemental
14	ABDOULAYE ALIM	Commune de Figuil	SG DE LA Commune
15	TOUMBA MBE	Commune de Figuil	Conseiller Municipal



16	DR. ATEUTCHA Pascal	Hôpital de District de Figuil	Directeur
17	M. Pierre ROCAGLIA	Etablissement Chaux ROCA	Directeur
18	M. Roger KOUOKAM	GEOVIC Cameroon	Manageur Santé, Sécurité Sociale et Environnement
19	Norbert Bouba	OSC (CelPro – Figuil)	Président
20	David BAYANG	Service National Justice et Paix	Assistant Coordinateur

**NB :** We were not received by authorities of CIMENCAM despite the fact that they acknowledge receipt of our request







**Network for the Fight against Hunger**

B.P 1003 Yaounde Cameroon

Etoa Meki

22 21 32 87

[info@relufa.org](mailto:info@relufa.org)

[www.relufa.org](http://www.relufa.org)