

70227

# BRIEFING NOTE 1: COMMUNITY DEVELOPMENT IN THE LAO MINING SECTOR

## CONTENTS

Introduction.....	<del>12</del>
Community Development in the Mining Sector.....	<del>23</del>
Community Development Funds in Lao PDR.....	<del>89</del>
Defining CDF for Lao PDR.....	<del>104</del>
CDF in Lao PDR - Discussion Starters.....	<del>1920</del>
References.....	<del>2024</del>
Appendices.....	<del>2223</del>

## Introduction

The *National Socio-economic Plan 2011-2015* of the Lao People's Democratic Republic relies heavily on exploitation of the country's natural resource base. The mining sector is one of four priority sectors for investment and industrialization. In 2009-2010 mining was estimated to contribute 9.5% of total GDP in Lao PDR; 12% of total government revenues and account for significant foreign direct investment inflows and export earnings (MPI 2010; NERI ICMM 2011). If developed well, mining development may contribute significantly to national economic growth for many decades to come. However international experience demonstrates that growth from mining investment does not automatically translate to benefits being shared equitably or sustainably.

In recognition of this issue, the GOL is working to strengthen the regulatory and policy framework in the mining sector to ensure that benefit streams accruing from mine development are shared with the communities which are directly affected by the mine construction and operation. One such measure is the 2008 revised Minerals Law which introduces an obligation for mining businesses to contribute to community development funds (CDFs).

The purpose of this Briefing Note is to provide background information and analysis on the new legal requirement and relevant information and experience pertaining to community development funds in the mining sector internationally and in Lao PDR. This Briefing Note is intended to

inform discussion at the *Conference on Mining and Community Development in Lao PDR: Community Development Funds* to be held in Vientiane and Phu Kham, 19-23 September 2011.

The Briefing Note draws heavily on information from a number of existing World Bank publications including:

1. *Lao PDR Development Report - Natural Resource Management for Sustainable Development: Hydropower and Mining* and relevant background papers which examine themes of social impact mitigation and benefit sharing.
2. *Mining Foundations, Trusts and Funds – A Sourcebook* which reviews developing country experience of mining sector foundations, trusts and funds.
3. *Sharing Mining Benefits in Developing Countries: the experience with foundations, trusts and funds* – a publication from the World Bank Oil, Gas, and Mining Policy Division (SEGOM) that summarises developing country experiences.

The Briefing Note also draws on a number of interviews conducted with key government agencies including the Department of Mines (DOM), Ministry of Energy and Mines; Department of Environment Impact Assessment (DESIA), Ministry of Natural Resources and Environment; Department of International Cooperation (DOIC), Ministry of Planning and Investment; Department of External Finance, Ministry of Finance; Poverty Reduction Fund (PRF) as well as the two largest mining operators: Phu Bia Mining (PBM) and Lane Xang Minerals Limited (LXML).

The intended audience of this note is policy makers, members of the development community and representatives from the private sector (mining companies and consultants).

## Community Development in the Mining Sector<sup>1</sup>

### IMPACTS (RISKS) AND BENEFITS (OPPORTUNITIES)

The impacts from mining developments can be large both in a positive and negative sense. If mitigation measures are inadequate, the consequences to households, villages or larger communities can be severe. Similarly, potential benefits from mining operations can be transformational and key drivers for economic and social development if policies and support mechanisms are well thought through. Table 1 provides a summary of potential social impacts and benefits of mining projects.

Table 1 Summary of social impacts and benefits of mining projects

Affected Party	Potential Detrimental Impacts (Risks)	Potential Benefits (Opportunities)
Local Residents	<ul style="list-style-type: none"> <li>▪ Resettlement (and associated stress and psychological issues)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Direct employment - jobs / salaries and wages</li> <li>▪ Employment through contractors and spin-off</li> </ul>

<sup>1</sup> This section summaries information from: World Bank (2011) Lao PDR Development Report - Natural Resource Management for Sustainable Development: Hydropower and Mining - Background paper on social impact mitigation and benefit sharing.

Affected Party	Potential Detrimental Impacts (Risks)	Potential Benefits (Opportunities)
	<ul style="list-style-type: none"> <li>▪ Loss of land, assets, and livelihood</li> <li>▪ Loss and / or reduced quality of water resources, reduced fish supply</li> <li>▪ Loss of human capital (e.g., knowledge and skills not applicable to changed circumstances)</li> <li>▪ Health and nutrition impacts (e.g. introduction of disease and / or increased disease transmission (vector-borne, water-borne and sexually transmitted); food security; air quality</li> <li>▪ Community safety issues, nuisance noise; increase in anti-social behaviour (such as alcohol abuse, domestic violence, sexual abuse and use of sex workers)</li> <li>▪ Loss of sites of cultural heritage and archaeological significance</li> <li>▪ Conflict between local residents and migrant work population, change in traditional village dynamics, inequality in earning, competition/ conflict among the local people.</li> <li>▪ Loss of visual amenity</li> </ul>	<ul style="list-style-type: none"> <li>services – jobs / salaries and wages</li> <li>▪ Improved infrastructure – roads, communications, water supply, housing</li> <li>▪ Improved access to services – health, education, Government services</li> <li>▪ Training / experience opportunities</li> <li>▪ Business opportunities</li> <li>▪ Community development initiatives</li> </ul>
Government of Lao PDR	<ul style="list-style-type: none"> <li>▪ Potential for social conflict and security risks</li> <li>▪ Loss of economically beneficial alternatives (e.g. tourism or agriculture)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Income from taxes and royalties, export earnings, foreign exchange, profit share</li> <li>▪ Economic and social development through spin-offs from mining activities</li> <li>▪ Budget / expenditure savings due to investment in services and infrastructure provided by companies</li> <li>▪ Increased information base in mineral resources, geo-hazard, spatial data, environmental and social information</li> <li>▪ Training / experience opportunities</li> </ul>
Developer / Investor	<ul style="list-style-type: none"> <li>▪ Poor profit outcomes</li> <li>▪ Reputational issues</li> <li>▪ Non-constructive relationship with local residents</li> </ul>	<ul style="list-style-type: none"> <li>▪ Higher profit</li> <li>▪ Improved reputation</li> <li>▪ Constructive relationship with local residents</li> </ul>

Adapted from WB 2011; ESL and Carlbro-Grontmij 2009.

Recent experience show-cases the transformational potential which mining and petroleum development can have on individual countries such as Timor Leste, Ghana, Sierra Leone and Mongolia which are all experiencing double-digit growth rates on the basis of extractive industries. There is also growing international evidence that economies rich in mineral resources are outperforming other economies in terms of human development indicators.

Nonetheless, these benefits are not a product of chance, but a result of carefully devised policies and support initiatives. Moreover, impacts and benefits are often not distributed equitably and this complicates the management of social issues. Key complicating factors include:

**Proximity to the project:** Those closest to a project tend to experience the brunt of the negative impacts (noise, dust, limited access to resources and services, etc.), while rewards may not flow

to the local communities – although employment infrastructure and community investments and others are often directly benefitting the local communities.

**Equality within affected communities:** Some groups within communities will be better positioned to benefit from local development, because they have education or skills, stronger connections to local government, or for other reasons. Inversely, others tend to be particularly vulnerable to detrimental impacts (e.g., women, the elderly, poor households, ethnic minorities, or families with no labour).

**Impacts and benefits also are likely to be distributed unevenly over time:** Many of the most severe impacts – loss of land and livelihoods – typically occur years before construction is complete and operations begin to generate a flow of benefits. But the consequences of such detrimental impacts (unless effectively mitigated) can continue throughout the life of a project, or even beyond. In addition, local benefits that may accrue – employment or local purchasing – risk to be temporary during construction, or cease with closure of project operations, with developers no longer legally or financially responsible for any continuing negative impacts.

**Cumulative impacts:** Several natural resource development projects in the same geographical area can compound impacts on local villages, regions or catchments.

**Governance:** The way in which benefits and risks translate into impacts will also be determined by the institutions and systems governing access and use of natural resources and compensation for loss of access. Public Financial Management (PFM) systems may be inefficient in sharing benefits with the poor or with the local people; sometimes the windfalls can be misdirected due to poor governance.

## WHY COMMUNITY DEVELOPMENT?

Community development has emerged as a response to challenges identified above. Table 2 below lists the potential consequences of not addressing these challenges adequately and further identifies which groups are more likely to be affected. Over the past 20 years many developers and investors have realized that they would have to go a step further to minimize social impacts and the risk of the above consequences occurring.

Table 2 – Potential consequences of unmitigated social impacts.

Consequences	Affected Party		
	Local Population	National Government	Developer / Investor
Social instability, violence, security concerns	✓	✓	✓
Impoverishment (impede / reverse progress of development)	✓	✓	✓
Anti-social behaviour	✓		
Health risks (physical and mental)	✓		
Reputation risk		✓	✓
Reduce or lost investment		✓	✓
Stakeholder outcry / protest		✓	✓
Project delays		✓	✓
Difficulty securing permits for further operations		✓	✓

Government sanctions			✓
Law suits			✓

Adapted from WB 2011; ESL and Carlbro-Grontmij 2009.

In addition to these business imperatives, there is also evidence in the changing approaches and policies of many of the world's biggest mining companies to suggest that the implementation of corporate social responsibility (CSR) policies makes good business sense. In 2007, Goldman Sachs released a report which stated that companies with a strong emphasis on sustainability outperformed the market – often by a large margin (Stengel, 2009). A PricewaterhouseCoopers study confirmed findings of the Goldman Sachs report stating that companies that report sustainability data tend to get better returns on their assets (Stengel, 2009). BHP Billiton, on its website, presents both the “business case” (company value) and “beyond the business case” (societal value) gained through enhanced sustainability performance as core to value creation. Several companies operating in Lao PDR, such as Phu Bia Mining and Lane Xang Minerals Limited espouse similar CSR policies and approaches on their websites and in their annual reporting. At the heart of this CSR approach is a company's commitment to building and maintaining its social license – the idea that the company, through a considered socially responsible approach, can build trust amongst all its stakeholders, allowing it to maximize the business value of the operation. The key to maintaining social license is in project implementation where the company must continue to respond to changing stakeholder expectations as a result of rapidly changing local socio-economic conditions including increased and sometimes unequal distribution of wealth (Jones et al 2005).

## COMMUNITY DEVELOPMENT - BENEFIT SHARING APPROACHES

**Benefit sharing has emerged as a complementary approach to traditional social mitigation measures. It is the commitment to sharing returns (monetary or non-monetary benefits) with affected communities and host nations.** The stated purpose of benefit sharing is to ensure that financial profits are equitably shared among all project participants – from developers through to local residents. As the benefits and negative impacts are distributed non-uniformly among the population, benefit sharing mechanisms can be put in place to correct for the potentially arising inequalities with respect to losses and benefits from natural resource exploitation.

Principles for social mitigation and benefit sharing are grounded in the concept of **sustainable development** – meeting the needs of the present without compromising the ability of future generations to meet their own needs<sup>2</sup> The basic principles of benefit sharing include:

- Participatory planning, gaining public acceptance and community participation;
- Recognising the importance of providing opportunities to improve livelihoods and living standards;
- Recognizing affected people as beneficiaries of the project;
- Equitable revenue sharing;

<sup>2</sup> United Nations General Assembly (1987)

- Environmental protection and development; and
- Sustainable community development<sup>3</sup>

Common forms of benefit sharing approaches include:

**Revenue Sharing** - Revenue from the project is channeled back to local governments and communities, including for poverty reduction programs funded from such revenues.

**Community Development Funds (CDF)** - Funds are set aside by the company for investment into sustainable development in the affected communities. The basic idea behind CDFs is to provide support to economic development of local communities to ensure long term livelihoods beyond the closure of the mine. Funds can be a set amount or formulated as a percentage of revenues. In addition to direct funding benefits, community members often participate (to varying degrees) in determining how funds will be spent.

**Preferential Rates, Services and Access** - Affected communities can be offered preferential rates, services or access to mitigate social impacts and share project benefits. Examples include allowing residents lower rates to use services offered by the project (training, medical services, communication networks) and providing affected communities with preferential access to common resources.

**Employment and Provision of Ancillary Services** - Projects often offer preferential employment to residents of affected villages. Project-related employment results in cash income and skills development for local residents. Ancillary services are services provided to a project that are not directly related to the primary business of the project. These services could include transportation and provision of goods (consumables or construction materials), security services, waste collection and disposal, or construction. To enhance the spread of local benefits, project managers can engage local service providers and procure goods from local suppliers.

**Entitlement for enhancing natural resources** – Projects (Proponents and Governments) give exclusive rights (and support) to affected communities to manage and utilize natural resources in the project / concession area (e.g. forest, water, biodiversity) for enhancing livelihoods.

An illustrative list of benefit-sharing mechanisms is provided in Table 3 below. The table also provides the likely beneficiary, the duration of the project benefit derived from each mechanism and the potential issues associated with each mechanism.

Table 3 Summary of benefit sharing approaches

Mechanism	Beneficiary	Duration of Benefit	Potential Issues
Royalties	<ul style="list-style-type: none"> <li>▪ Government Authorities</li> <li>▪ Affected communities (Level dependent on</li> </ul>	<ul style="list-style-type: none"> <li>▪ During operation of a project</li> <li>▪ Potential for long-term if invested</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lack of a distribution system within Government resulting in inequitable distribution of funds</li> <li>▪ Lack of transparent system in Government</li> </ul>

<sup>3</sup> Common themes on compensation and benefit sharing from World Bank Extractive Industries Review; Industry codes (MCA); Country specific work.

Mechanism	Beneficiary	Duration of Benefit	Potential Issues
	internal distribution)		<ul style="list-style-type: none"> <li>▪ Inappropriate use / mismanagement of funds</li> </ul>
<b>Equity</b>	<ul style="list-style-type: none"> <li>▪ Government Authorities</li> <li>▪ Affected Communities</li> <li>▪ Developer / Investor</li> </ul>	<ul style="list-style-type: none"> <li>▪ When dividends are paid</li> <li>▪ Potential for long-term if properly invested</li> </ul>	<ul style="list-style-type: none"> <li>▪ No income when project not profitable</li> <li>▪ No dividends if profits are retained in the company for reinvestment or reallocation of funds</li> <li>▪ May require significant investment by the community</li> <li>▪ Mismanagement of funds</li> </ul>
<b>Community Development Funds</b>	<ul style="list-style-type: none"> <li>▪ Affected communities</li> <li>▪ Government Authorities</li> <li>▪ Beneficiary organisations</li> </ul>	<ul style="list-style-type: none"> <li>▪ During project (or sometimes once the project becomes profitable)</li> <li>▪ Potential for long-term if properly invested</li> <li>▪ Beyond the life of the operation if a trust is established</li> </ul>	<ul style="list-style-type: none"> <li>▪ Investment in short-term, unsustainable activities</li> <li>▪ Investment in construction of infrastructure with no funds put aside for future maintenance</li> <li>▪ Inequitable distribution of funds within the community / communities affected</li> <li>▪ Failure to invest or put aside a percentage for future (e.g. future generation trusts)</li> <li>▪ Mismanagement of funds</li> </ul>
<b>Preferential rates / fees / access</b>	<ul style="list-style-type: none"> <li>▪ Affected communities</li> </ul>	<ul style="list-style-type: none"> <li>▪ During project operation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Infrastructure may not exist to support service</li> <li>▪ Affected communities may not want service</li> <li>▪ May have problems at the end of project when preferred rates cease</li> </ul>
<b>Employment and provision of ancillary services</b>	<ul style="list-style-type: none"> <li>▪ Individual employees</li> <li>▪ Contracted businesses</li> <li>▪ Employees of contracted businesses</li> </ul>	<ul style="list-style-type: none"> <li>▪ During construction and operation of a project</li> <li>▪ Beyond the life of the operation if new economic activities are developed</li> </ul>	<ul style="list-style-type: none"> <li>▪ Short-term peak during construction</li> <li>▪ Benefits may not be equitably shared (e.g. young men are most likely benefit; mature families may also benefit as they may have multiple people eligible for employment; already well-off who have the ability to start businesses to support project activities)</li> <li>▪ Issues with working conditions and employee health and safety</li> <li>▪ Labour shortages may be created in other areas (e.g. agriculture)</li> <li>▪ Project may have trouble finding suitably educated / capable local resident to fill positions</li> <li>▪ Income may escape local population in case of in-migration of workers</li> </ul>
<b>Entitlement for enhancing natural resources</b>	<ul style="list-style-type: none"> <li>▪ Affected communities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Long-term</li> </ul>	<ul style="list-style-type: none"> <li>▪ Difficult to entitle natural resources</li> <li>▪ Entitlement must capture the livelihoods of those who use natural resources</li> <li>▪ May not be sufficient natural resources remaining to enhance</li> </ul>

Adapted from: Dominic Egre et al, (2007) and CSR and Synergy Global (2009), cited WB (2011b)

## Community Development Funds in Lao PDR

Lao PDR has experienced some success in devising and implementing many of the above benefit-sharing mechanisms including preferential access to resources; preferential employment and ancillary services; and community development funds.

Present experiences and future directions for community development funds in Lao PDR are explored in detail in the remainder of this Briefing Note.

### COMMUNITY DEVELOPMENT FUNDS AND THE REVISED MINERALS LAW

The revised *Minerals Law 2008* introduces an obligation for business conducting mining exploration (Article 63;5); mining operators (Article 65); and mining businesses related to special categories of minerals (artisanal; small scale; extraction of industrial minerals and stone) (Article 67;6) to contribute to a number of funds including environmental protection fund, community development fund, human resource development fund, sustainable development fund and project management fund.

The intentions behind the newly introduced obligations are to promote sustainable development in the mining sector including: a) consistency with the National Socio-economic Plan 2011 - 2015 and Plan for the Development of the Mining Industry 2006; b) a balance between mining and socio-economic development activities as well as natural resource conservation and environmental protection; and c) to remedy any negative impacts that occur during mining operation and after mine closure and provide community development investments, depending on the scale of the operation (Boungnaphalom 2010).

The detailed requirements of these funds in terms of programmatic approach, financial contributions, governance structure, community participation and representation are not made explicit in the law, and to date, various practices exist across current mine operations in Lao PDR. According to the Department of Mines the contributions to community development funds are being interpreted based on current experiences of large and small mining operators.

#### LARGE MINING OPERATORS

For large mining operators, CDF requirements are included in the articles of the Minerals Exploration and Production Agreement. According to DOM, key aspects commonly include:

- Fund contribution based on area of concession and size of project.
- Establishment of CDF committee, usually including provincial, district and village representation.
- Community participation in planning and implementation.
- Committee and company input and oversight of planning, approval, implementation and M&E process.
- Funds usually administered by the company and allocated based on agreed annual plan.



While the structure and requirements of CDFs are currently developed on an ad hoc basis, CDFs at the Sepon and Phu Kham Gold-Copper Operation are being used by the Government as ‘best practice’ models. These two examples offer two different approaches.

The Sepon Development Trust Fund (SDTF) is administered by the SDTF committee which is co-chaired by the company and government and comprising of village, district and provincial official representatives. This committee makes decisions about investments and monitors implementation. All payments are co-signed by the District Chief and the General Manager of Operations, LXML. The development of five year plans is led by the District. These plans are agreed and implemented on an annual basis in accordance with district development needs. The focus and use of these funds has evolved over the 10 years of mine operation. The SDTF has evolved into a broader Community Development instrument, used by the district government to implement district level socio-economic development priorities. To ensure that specific impacts of the project and development needs of the affected villages are met, the company also administers a Social Mitigation Budget and Community Development Budget. A Village Development Committee structure has been established to guide the planning and implementation of community investments.

The PBM Community Development Fund is administered by the company. A management committee comprised of government representatives oversees and guides activities, in coordination with the company. To encourage community participation, a Village Development Committee (VDC) has been set up comprising members of the two villages nearest the mine (PanAust 2007). In March 2011 the Company and Vientiane Province signed an MOU to clarify governance arrangements and ensure they aligned to Government of Lao regulations and Company policies and practices. Key aspects of the MOU concern: a) priority for funds to be used in directly impacted villages but with scope for provincial wide use; b) clear structure and oversight role of the government’s provincial management committee; and c) roles and responsibilities of the company and government for implementation, monitoring and reporting.

---

## EXPLORATION AND SMALL OPERATORS

Exploration companies and smaller mining operators are required to contribute funds directly to a ‘pooled’ CDF, administered and controlled by the relevant provincial government(s). No clear example of a pooled CDF could be sourced during the preparation of this briefing note. According to the DOM, the amount of funding is negotiated with the company based on the size of their operations, but there is no common standard. Funds are typically provided directly to Provincial Department of Energy and Mines, who then work with the Governor’s office and Provincial Department of Planning and Investment to plan and implement development activities - usually closely aligned to the provinces’ 5 year development plan. The geographic scope and type of investments can vary widely. While DOM monitors the contributions that companies make to provincial governments the monitoring of investments is unclear – it is most likely included in the general government monitoring of provincial / district development plan implementation.

## Defining CDF for Lao PDR

The DOM has expressed a strong interest in further work to explore the most suitable and successful community development fund models for large and small mining operators in Lao PDR. Understanding the conditions for success requires an understanding of the diversity of models used and which would be most appropriate for the Lao context.

In the first instance, developing a community development fund (CDF) requires that a number of basic contextual questions be addressed (Wall and Pelon 2011). Specifically:

- **Why** is the community development fund being established?
- **Who** does it seek to benefit?
- **What** does it aim to achieve?

While government policy or regulation may provide broad direction for these questions, the mission, vision and objectives of a CDF should be based on a strong understanding of particular stakeholders' needs, owner priorities, and gaps in existing development activities (Wall and Pelon 2011).

Six key dimensions of community development funds (Wall and Pelon 2011) considered in this section include:

- **The programmatic approach of the entity:** Does the entity generate grants, or does it operate field programs?
- **Financing structure:** How is the entity financed? Annual operating budgets present options for investment and scale of activities that differ from those of endowed funds.
- **Geographic focus:** Where does the entity operate? Mining funds may target specific communities within the mine's area of influence, or they may operate across a broader, regional area.
- **Governance:** How involved are communities/beneficiaries in the governance structure of the entity? How much influence does the company and the government exert over the establishment of the fund and the activities being implemented?
- **Programming and timing:** What types of investments should be made and when?
- **Monitoring and evaluation:** How are outcomes monitored in the context of sustainable development?

**There is no one size fits all solution. Many companies adopt 'hybrid' approaches to suit the country and local context in which individual mining project is operating (IFC 2010).**

### PROGRAMMATIC APPROACH

There are a number of delivery approaches to implementing and administering community investment programs and funds (Table 4). Across these models, there are two main programming options: a) out-sourced and b) operational or implementation approaches.

Table 4 Common Operational Models

Model	Description
In-house implementation	An internal department or unit is created to work directly with communities to design, implement and evaluate projects.
Company Foundation	An independent foundation is established as a separate legal entity
Third-party Implementation	A third party, such as a local or international NGO is engaged to work with local communities to design and implement projects. Alternatively, a company supports an existing initiative being implemented by others.
Multi-stakeholder partnership	A company joins or establishes a collaborative network, or partnership. Partnerships are generally voluntary and imply cooperation to shares risks, responsibilities, and resources to achieve common goals.
Hybrid	A company utilises a combination of two or more implementation models

Source: adapted from IFC 2010

**Out-sourcing approach:** Implementation is out-sourced. Funds are provided in the form of grants to support existing development organizations and initiatives. This approach requires a relatively smaller human resource commitment from the company; and encourages community ownership and capacity building. However the company has less contact with local communities and less control to ensure adequate implementation and the correct beneficiaries are being reached. Reputational benefit for the company may also not be fully realized. In response, companies may choose to increase their level of involvement in the grant making process; pair financial and technical assistance; and develop robust M&E systems.

**Implementation approaches:** In-house company teams use funds to undertake community development projects directly. This hands-on approach requires significant human resources and a high degree of direct interaction with local communities. It promotes understanding between communities and company, allows companies to direct investments to priority people and has clearer opportunities for the company to build its reputation and social license to operate. However this approach has higher over-head costs, runs the risk of replicating existing development (Government and NGO) initiatives and has a greater risk of dependency. These disadvantages can be overcome by establishing governance structures or participatory models that include other development partners; aligning investments to broader local development objectives; and putting a focus on capacity building, seed funding and successful ‘spin-off’ programs .

Box 1 provides two of examples of outsourcing and operational approaches being implemented internationally. The Asociación Los Andes de Cajamarca (ALAC) established by the Minera Yanacocha mining company in Peru offers a good example of an out-sourcing approach complemented by the company’s community development program. The Palabora Foundation, established by the Palabora Mining Company in South Africa offers a good example of an operational approach, that has evolved over time to include a high degree of stakeholder involvement, ownership and community participation.

**Box 1: Varying operational models: the example of ALAC, Peru and Palabora Foundation, South Africa**

**Asociación los Andes de Cajamarca (ALAC in Peru)** is a corporate organisation founded by the Peruvian mining firm Minera Yanacocha. Launched in 2004, ALAC was developed as part of Minera Yanacocha's social responsibility program, with the aim of increasing corporate social investment in the Cajamarca region. ALAC was originally intended to be a community foundation. However, stakeholder opposition shortly before ALAC was launched saw its operational model change to a corporate foundation. ALAC is seen as providing a complementary and broader, regional role to Yanacocha's Community Relations & Social Development department, which sits separately from ALAC and has a project focus on communities closest to the mines. Through an out-sourcing (grant making) approach, ALAC supports projects that have proven to be successful elsewhere and are replicable in Peru; and original projects proposed by civil society, businesses, regional government and/or development organisations. The former are financed directly by ALAC and its partners, while the latter are co-funded by ALAC and the executing agencies. Under the direct funding approach, alternate financing is actively sought as part of the project review process. Under the co-funding arrangements, ALAC will provide no more than 50% of the financing. Co-funders include financiers that have close associations with Yanacocha as well as competitor mining companies also operating in the region. The association between ALAC and other mining companies has been cultivated through support from the Peruvian organization, Grupo Norte, which works with regional governments to allocate tax money generated by mining for community infrastructure. ALAC maintains a cap on administration costs, with no more than 15% of budget expenditure allocated to administration.

**Palabora Foundation, South Africa** was established in 1986 as an operational trust, effectively serving as the mine operations' own NGO. Since its establishment, the role of the Foundation has changed considerably. This change has been in response to the changing needs of the surrounding communities, the political context of South Africa and varying profitability of the mine. The Foundation directly manages and implements programs in partnership with government and other stakeholders, including local business operators. Projects are chosen in consultation with the community, via steering committees. The Foundation presents projects for consideration to community forums that include representation from each of the five tribal authorities. The community can also bring project ideas to the forums. Projects endorsed at the forums are taken to the local municipal government to determine their 'fit' within the integrated development plan for the municipality (Wall and Pelon 2011). Given the operational nature of the Foundation, it has a large staff complement of 100 staff, of which approximately half are part time. The Palabora Foundation closely monitors administration costs, with no more than 20% of budget expenditure allocated to administration.

*For further information, see Annex for full case studies*

For both out-sourcing and implementation approaches, **stakeholder partnerships** with government agencies, NGOs, communities and other companies operating in the area are important. They have the potential to address broader issues that influence local conditions; bring complementary skills and resources; and expand scope of successful programs. There are a number of opportunities for furthering these sorts of multi-stakeholder partnerships in Lao PDR. At the national level in Lao PDR the Government and Donor 'roundtable process', INGO network, Lao Chamber of Commerce and Lao Business Forum all offer potential opportunities / models. At the district and provincial level, where similar coordination is often less structured, development processes, including 5 year and annual planning and implementation may provide an opportunity for such multi-stakeholder platforms to be established.

## FINANCING STRUCTURE AND FUND CONTRIBUTION

### FINANCING STRUCTURE

The financing structure of a community development fund has important implications for sustainability and the ability to commit to longer-term projects that span a number of years. The main approaches to structuring the financing include: endowed funds; annual budget allocations, or a combination of both (Wall and Pelon 2011).

Under **endowed funds**, administrative budgets are often sourced from the interest on the endowed investment, while additional periodic or annual contributions are made from a mining operator (and/or other parties) to support development projects (WB 2010). By the time annual

company contributions cease, the endowment fund is ideally of a sufficient size to support both administrative and project budgets, for an extended period post-mine closure. Given their long-term nature, an endowment should be set up as early as possible to have maximum benefit.

Financing foundations through an **annual budget** cycle allocation allows funding to be scaled and modified in accordance with external factors, such as price fluctuation in commodity prices or political changes that alter the budgetary allocations of local and provincial governments. It can also be used as a basis for effective monitoring and evaluation programs as the success of investments is typically reviewed prior to committing the next year's budget. However annual budgeting may limit longer term outcomes and the sustainability of outcomes. To overcome these issues a proportion of the annual budget can be retained as a 'reserve fund' for multi-year projects and sustainability can be addressed through a focus on capacity building; aligning projects with government and NGO development initiatives and obtaining additional financing from external sources.

---

## FUND CONTRIBUTION

Community development funds can draw finances from a variety of sources, including companies, government, community and other stakeholders (e.g. donors). The most common source of financing is from the mining companies themselves. This can be done as a percentage of revenue / production; percentage of before or after tax profit; percentage of capital or operating expenditure; or through negotiations with stakeholders.

### Mining Companies

Generally speaking, companies prefer contributions to be calculated on a profit basis, allowing them to fund their mining operation expenses (including community mitigation budgets) before committing to other financial obligations. 'Before-tax' arrangements allow companies to deduct CDF contributions as an expense, effectively sharing the funding contribution between company and government. However, with contributions tied to profits, governments and communities often prefer other models - or a combination with profit based models. With revenue models, financing is assured but can vary considerably due to changes in commodity prices. Expenditure models provide certainty but may disadvantage the company in the event of significant cost overruns. Negotiations, conducted annually create uncertainty and are susceptible to the changing power and influence of either company or government. Negotiations done once, at commencement of the project are often based on initial investment and expected production and can create tension if operations prove to be highly successful and contributions are perceived low.

Box 2 highlights some examples of different approaches to calculating company contributions.

#### Box 2: Different approaches to calculating company contributions

**Freeport Partnership Fund for Community Development (LPMK), Indonesia** | The Fund receives 1% of mine revenues. (Wall and Pelon 2011). 10% of all future receipts are earmarked to be invested in a long-term fund.

**Ahafo Community Foundation, Ghana** | The Foundation is funded through a combination of 1% net operational profit (before tax) from Ahafo South mine plus US\$1 per ounce of gold from Ahafo.

**Palabora Foundation, South Africa** | In 1986 provided a ‘launching’ grant and a commitment of an annual donation of 3% net profits. After 15 years of significant investment the commitment was amended whereby interest earned on the Foundation’s investment fund (now known as the Endowment Fund) covers operating expenses for the Foundation.

**Phu Bia Mining, Laos** | A fixed annual community development fund contribution has been agreed has been agreed through negotiations between the company and government.

*sources and further information: Wall and Pelon 2011, WB 2010*

## Other contributions

Sourcing additional contributions from other stakeholders can assist with ensuring the sustainability of community development initiatives.

- **Community contributions:** Financial contributions are often limited. In-kind contributions in the form of materials and labour are more common and are often a good way of ensuring community ownership.
- **Government contributions:** If revenue mechanisms are effective, government, from national to local level can ‘draw upon’ payments made by the mining sector as part of either a) payments for concessions, licenses or land access; or b) government accessed royalties, taxes or fees.
- **Donors, NGOs and other companies** can collaborate and donate to the same fund.

Community and government contributions are dependent on capacity and willingness to contribute. Additional contributions from other stakeholders, including beneficiaries are largely influenced by the programmatic approach and governance arrangements of the community development fund (e.g. if the Fund is controlled by the company others are less likely to invest). The ALAC example provided above (see Box 1) demonstrates how a fund can be designed to source co-financing.

## GEOGRAPHICAL REACH

One of the key considerations in determining the geographic focus of a community development fund is ascertaining who should benefit from the Fund. This will depend on a range of factors, including local political and socio-economic context as well as the rationale behind why the particular Fund was established.

The World Bank (2010) defines a number of geographic focuses for community development funds.

**Area of Influence** is the area defined as being influenced by a specific mining operation. This area is normally identified during a project’s social and environmental impact assessment and categorized by people directly and indirectly impacted by the mining operation (see Box 3).

### Box 3: Defining geographical reach and prioritization at PBM’s CDF in Lao PDR

The scope and priorities of PBM’s community development fund in Lao PDR is outlined in the company’s MOU with the Vientiane Provincial Government (2011) and includes:

**Priority 1** – The areas immediately next to PBM’s operations where there is direct impact. *For example Ban Nam Gnone and Ban Nam Mo.*

**Priority 2** – Areas close to PBM’s operations which are indirectly impacted by the activities of the company. *For example – villages along concentrate and supply haulage routes*

**Priority 3** – Other areas within the affected Province which are development priorities of that Province and the Government of Lao PDR.

Source: PBM & Vientiane Provincial Government 2011

**Special Focus Groups** refers to groups that have been identified as needing or being entitled to special assistance. In some scenarios, a fund is established to benefit a subset of the mine’s impacted population or to benefit a specific group who may not otherwise have received benefits from the project (WB 2010). Ensuring due consideration of ethnic minorities is an important consideration in the Lao PDR context. Specific consideration needs to be given to customary land and resource use in situations where formal title may be unclear or where claims are unresolved.

#### Box 4: Special Focus Groups: Benefit-Sharing Funds between Indigenous People and Mining Companies in Australia

**Australia** | The Indigenous Land Use Agreement (ILUA) and Argyle Management Plan Agreement (AMPA) are collectively considered some of the most comprehensive agreements negotiated between a resource company and traditional owners in Australia (Wall and Pelon 2010). The Rio Tinto owned Argyle Diamond Mine is located in the East Kimberley region of Western Australia and occupies the traditional country of a number of indigenous groups. An ILUA is a voluntary agreement between a native title group and others about the use and management of land and waters. The format of the ILUA is intended to facilitate flexible and pragmatic agreements to suit particular circumstances. The Argyle ILUA was agreed following three years of extensive negotiation.

Under the ILUA, the Gelganyem and Kilkayi Trusts were established. The Gelganyem Trust comprises 11 trustees, nine representing the seven traditional owner estate groups that are party to the ILUA and two independent trustees. The Gelganyem Trust administers the Sustainability Fund, the Law and Culture Fund, the Education and Training Fund, and the Miriuwung and Gija Partnership Fund. The Sustainability Fund provides future generations of Miriuwung and Gija people with a significant capital base including money for future generations. Projects generated under the Gelganyem Trust include an indigenous business development facility, scholarships funds, renal healthcare, and holiday programs for youth at risk. The Trust is funded through royalty payments and has used these payments to leverage funding from the federal and state governments and private funding partners.

The Kilkayi Trust has only two trustees and has been established to administer payments from Argyle to individual families party to the ILUA.

**Sources and further information:** Wall and Pelon 2011, ICMM 2010, Newmont 2010, [www.dia.wa.gov.au](http://www.dia.wa.gov.au)

**Regional** refers to funds that have a broader focus, beyond the area of influence of the mining operation. These can be set up by governments, as a means of better coordinating social and environmental issues and distributing over and above royalty payments. In Peru, the national government has played a key role in expanding the impacts of funds to a regional level, through the Aporte Voluntario scheme (see Annex 1). Regional funds can also be set up by both government and companies to invest in broader socio-economic goals and address potential inequity issues resulting from narrowly focused CDF arrangements. In Lao PDR, the Sepon Development Trust Fund supports district wide development. The PBM CDF while focusing on directly impacted communities it also provides for investments to be made at a Provincial level.

## GOVERNANCE

### PARTICIPATION OF COMMUNITIES

Depending on context, community and stakeholder participation can be achieved through a number of ways – from formal governance structures through to involvement in the project

identification process. ‘Bottom up’ approaches to participation can help to embed a fund within a community, through a shared sense of ownership (WB 2010). However highly participative models can also bring substantial time constraints that can potentially delay activities and outcomes. Determining the level of involvement of the communities and beneficiaries in the governance structure of a Community Development Fund is an important consideration and there is no ‘one size fits all’ approach.

1. Multi-stakeholder governance structures can have multiple benefits for companies – these include an open engagement with stakeholders (see Boxes 5 and 6) and the potential for leveraging additional resources in the community through other donors (see Box 1 above).

2. Governing bodies that are comprised of representation from the mining operators alone can be simpler to govern and can be beneficial in circumstances where there is a lack of local capacity. By its nature, the ‘owner’ governance approach affords little room for stakeholder input into governance and is less likely to support the long term sustainability of a foundation beyond mine closure.

#### Box 5: Participation - Sepon Development Trust Fund and Community Development Program

**MMG Sepon** | The Sepon Development Trust Fund is governed by a committee consisting of company staff, district officials and village heads, who represent the interests of affected villagers. The Social Sustainability Department which manages the company’s internal community development budget goes a step further with a participatory planning process through a Village Development Funds Program designed and implemented by each village in accordance with agreed development needs, and funded by the company.

*For further information, see Annex for full case studies*

#### Box 6: Participation - The Lao Poverty Reduction Fund

**Community Driven Development Approach** | The PRF has been designed around seven key principles which provide the basis for project implementation and supervision. These are: (1) The project design, rules and regulations should be simple. (2) The project can provide funding for a wide range of village infrastructure and training (e.g. roads, bridges, culverts, schools, clinics, wells, irrigation and drainage systems). Larger infrastructure and district level infrastructure are not allowed. (3) The project is based on a principle of broad-based participation, and the decision-making process must include the entire community. (4) Villagers must be willing to contribute to subprojects to show their support and ownership of the activity. The local contributions can be in cash, in kind, and/or in labor, and should be equal to approximately ten percent of the total cost of the subproject. (5) Transparency and local accountability are essential. (6) The aim of the PRF is to provide a mechanism for financing locally determined and community-managed development interventions in all poor areas: interventions that are wise investments. (7) For each planned and implemented activity, in all processes and all procedures, preference will be given to the poorest people in the community.

*For further information, see Annex for full case studies*

---

## INFLUENCE AND PARTICIPATION OF MINING COMPANY AND GOVERNMENT

The level of involvement and influence that mining companies and government have in the day-to-day operations and direction of community development funds can vary significantly and often depend on the following factors:

**Governance** - In simple terms, the extent of company and government influence on the governance of a fund is indicated by its membership on the fund’s board of directors or trustees. Increased stakeholder representation (e.g. community or NGOs) can further moderate company and/or government influence.



**Linkages to Local and regional development plans** - Governments can exert influence over programming decisions by requiring that the development activities of CDFs be integrated with local or regional development plans.

**Financial Administration** - The body that manages and controls CDF finances has increased influence over how those finances are spent.

**Project generation** - Projects can be generated internally, externally, or by a combined approach, regardless of whether a fund adopts an out-sourcing or operational approach. Community participation in the identification and development of projects can moderate company and/or government influence and improve the beneficiary ownership of the outcomes of the project. Beneficiaries can also participate in the evaluation and review process for proposed projects.

**Monitoring and Evaluation** - Community participation in monitoring and evaluation programs is becoming standard operating practice and can help ensure community perceptions are being addressed effectively, in line with company or government requirements.

**Transparency** - There is an increasing trend towards community development projects being evaluated through the review of public reports by interested stakeholders. This increases accountability and moderates company and/or government influence.

**Legal definition** - Governments control the legal structure of how community development funds are established.

## PROGRAMMING FOCUS AND TIMING

The focus of CDF programming is dependent on beneficiaries' needs, owner priorities, and gaps in existing development programs - over the life of the mining operation. The most common investments are made in education and vocational training; health; local economic and business development; basic infrastructure; employment and income generation; environment; and capacity building of local authorities and community based organizations (WB 2010).

Experience shows (WB 2010) that investments tend to focus initially on local infrastructure (transportation, health, education), health and education programs moving to capacity building, vocational training and small enterprise development as the CDF matures.

The majority of community development funds are established once the mine commences operations. This is primarily aligned to the commencement of mine revenues. However there is an increasing trend for CDFs to be established earlier (WB 2010). This has evolved from traditional philanthropic contributions. Drivers behind this trend include company acknowledgement of the importance of attaining a social license to operate as earlier as possible, government expectation, and in the case of Lao PDR, legal requirements, that community development agreements be signed as part of the exploration and production contracts. Relevant includes the Prospectors and Developers Association of Canada's *"e3 Plus – A Framework for Responsible Exploration"* and ICMM's Community Development Initiative.

In addition to early establishment of CDF's, early closure planning is important to ensure that CDF investments are sustainable in the long term. There is often a lack of awareness about the finality of mining operations, particularly in countries with limited large-scale mining experience (see Box 7).

#### Box 7: Closure Planning at Sepon Gold and Copper Mine, Lao PDR

Closure planning was addressed in the Sepon Mine's Environment and Social Impact Assessment in 2001. In 2009 MMG commenced a process of revising the Mine Closure Plan. The company first worked with the GOL to develop a Mine Closure Vision Statement. The company felt that the draft statement, which included proposals for the construction of a mining museum, mining university and tourist centre, failed to adequately address the intricacies and challenges of successful closure planning. The company has since worked with Government partners to form a Mine Closure Working Committee; complete a gap analysis of the operations using the International Council on Mining and Metal's Planning for Integrated Mine Closure: Toolkit; and conduct a number of capacity building activities on the issue of mine closure.

Source: Field Notes ESL 2009

## INDICATORS, MONITORING AND EVALUATION

Monitoring and evaluation methods are key to identifying the progress towards overall development outcomes. For communities, the M&E process is an important opportunity to engage and provide feedback. It also assists in building capacity about community development. This allows companies / government to understand impact of investments and the overall mine project; changing needs of the beneficiaries; and informs necessary modifications to program design implementation.

M& E tools commonly used include regular program reporting, internal tracking of key performance indicators, a third party review process or where possible, community feedback mechanisms. A common tool in Lao PDR is the regular household survey process which is usually conducted every 2 years.

Leading operations develop indicators and targets to measure progress of social impact of the mining operation and its community development initiatives. Effective performance measurement requires appropriate units for measuring change; to distinguish between inputs, outputs and outcomes indicators; to measure effectiveness and efficiency; and to assess both qualitative and quantitative dimensions of change (ESMMP, WB, ICMM 2006).

- **Input indicators:** measure community development investments made such as money or time and processes conducted such as meetings held, studies conducted.
- **Output indicators:** Measure the direct results of community development initiatives such as numbers of people trained; number of children completing school; number of households.
- **Outcomes indicators:** measure longer term changes that are the desired return on investment of the CDF. These are aligned to the principles of sustainable development and project goals to restore and improve quality of life, health and well-being).

#### Box 8: Approaches to impact measurement

**Asociación los Andes de Cajamarca (ALAC in Peru)** has developed a set of 15 common indicators to monitor and evaluate the development impacts and relevance of its projects. Impact indicators include the number of direct jobs created, the number of new production activities, the number of people who have improved their technical capabilities for production and sales and values of family assets (WB 2010). Feedback is periodically provided to implementing partners, so necessary changes can be made to project design and implementation.

**The Anum Lio Foundation (Indonesia)** was established to manage social programs which have continued beyond mine closure. The Foundation has employed a set of community indicators, which were measured in baseline and end-line surveys and could be used by community and government to continue to monitor impact after completion of closure programs.

**Fondo Minero Antamina (Peru)** undertakes evaluation by focus area. Each designated focus area has impact goals, which projects are monitored against. Impacts goals are designed using a log framework model, with common project indicators including income generation, job creation, new sales and number of microfinance loans repaid.

*sources and further information: Wall and Pelon 2011, World Bank 2010*

## CDF in Lao PDR - Discussion Starters

International experience demonstrates that CDFs are playing an increasingly important role in sharing the benefits of mining activities. A clear take home message from the examples presented above is that there is no ‘one size fits all’ solution. In practice, CDFs commonly use a mixture of approaches and implementation methods to suit the type of project and the socio-economic context in which they are located. Quite often these approaches change over time, to respond to changing social challenges in communities and increasing expectations of stakeholders.

Accordingly, while it remains difficult to compare the success of different CDFs, a common thread is evident as a core condition for success: adaptation to the local context. Meeting this condition requires not only that the complexity of the CDF model be relative to the level of local capacity available, but that the CDFs vision, stakeholders and projects be clearly identified. Integrating CDFs into existing local and regional development plans is also fundamental.

The *Conference on Mining and Community Development in Lao PDR: Community Development Funds* provides a forum to commence dialogue and sharing of experiences on CDF in Lao PDR. To facilitate meaningful comparisons, the six dimensions outlined in this Briefing Note provide a basis for evaluation and discussion:

- **The programmatic approach of the entity:** Does the entity generate grants, or does it operate field programs?
- **Financing structure:** How is the entity financed? Annual operating budgets present options for investment and scale of activities that differ from those of endowed funds.
- **Geographic focus:** Where does the entity operate? Mining funds may target specific communities within the mine’s area of influence, or they may operate across a broader, regional area.
- **Governance:** How involved are communities/beneficiaries in the governance structure of the entity? How much influence does the company and the government exert over the establishment of the fund and the activities being implemented?
- **Programming and timing:** What types of investments should be made and when?
- **Monitoring and evaluation:** How are outcomes monitored in the context of sustainable development?

## References

1. Dominic Egge et al (2007), Compendium on Relevant Practices – 2nd Stage: Revised Final Report Benefit Sharing Issue, United Nations Environment Programme Dams and Development Project, February 10, 2007.
2. Bounghaphalom, E. (2010), Mineral Development in Lao PDR; Presentation to the International Conference on Mining ‘ Stating a Claim for Cambodia’, May 26-27 2010, Phnom Phenh.
3. CSRSM and Synergy Global (2009). Good Practice Guide: Indigenous Peoples and Mining. ICMM, July 2009.
4. Earth Systems Lao (2009), Field Notes to inform preparation of the Lao PDR Development Report 2010 – Background Paper on Social Impact Mitigation from Hydropower and Mining in Lao PDR, unpublished.
5. ESMAP, World Bank and ICMM (2006), Community Development Toolkit, London.
6. ICMM (2010) Good Practice Guide - Indigenous Peoples and Mining, ICMM, London.
7. IFC (2010), Investing in People: Sustaining Communities Through Improved Business Practice: A community Development Resource Guide for Companies, see [www.ifc.org](http://www.ifc.org)
8. Jones. M., Albert. P., Wilkes. M., David. L., Aneka. Saman. and Navaolath, C. (2005)., Community Development and the Sepon Project., sourced: [www.minerals.org.au](http://www.minerals.org.au)
9. MEM, NERI ICMM (2011), Utilising mining and mineral resources to foster the sustainable development of Lao PDR, sourced: [www.icmm.com](http://www.icmm.com)
10. Ministry of Planning and Investment (2010), Socio-economic Development Plan 2011 – 2015 (abridged version), Vientiane Capital, October 2010, sourced [www.undplao.org](http://www.undplao.org)
11. PanAust Ltd (2008), Sustainability Report 2007, sourced: <http://www.panaust.com.au>
12. Prospectors and Developers Association of Canada’s (2011), *e3 Plus – A Framework for Responsible Exploration*, sourced [www.pdac.ca/e3plus](http://www.pdac.ca/e3plus)
13. Phu Bia Mining and Vientiane Provincial Government (2011), Memorandum of Understanding on the Phu Bia Mining Ltd Community Development Fund, PBM company document.
14. Stengel, R. (2009), For Consumers, the Responsibility Revolution, Time Magazine, September 10, 2009.
15. United Nations General Assembly (1987) Report of the World Commission on Environment and Development: Our Common Future. Transmitted to the General Assembly as an Annex to document A/42/427 - Development and International Co-operation: Environment. Available at <http://www.un-documents.net>
16. Wall and Pelon (2011), Sharing Mining Benefits in Developing Countries: the experience with foundations, trusts and funds – a publication from the World Bank Oil, Gas, and Mining Policy Division (SEGOM) that summarises developing country experiences, sourced [www.worldbank.org](http://www.worldbank.org)
17. World Bank (2006), Sector Plan for the Sustainable Development of the Mining Sector in Lao PDR, [www.worldbank.org](http://www.worldbank.org)
18. World Bank (2010), Mining Foundations, Trusts and Funds – A Sourcebook which reviews developing country experience of mining sector foundations, trusts and funds, sourced [www.worldbank.org](http://www.worldbank.org)
19. World Bank (2011a) Lao PDR Development Report - Natural Resource Management for Sustainable Development: Hydropower and Mining sourced [www.worldbank.org](http://www.worldbank.org)

20. World Bank (2011b), Background Paper: Social Mitigation from Hydropower and Mining in Lao PDR: Examining Potential for Benefit-sharing approaches, an input for the Lao PDR Development Report - Natural Resource Management for Sustainable Development, sourced [www.worldbank.org](http://www.worldbank.org)
21. BHP (2009), company website - [www.bhp.com](http://www.bhp.com), accessed December 2009
22. Newmont (2010) Newmont website, accessed November 22, 2010, [www.beyondthemine.com](http://www.beyondthemine.com)
23. Department of Indigenous Affairs (2011), What is an Indigenous Land Use Agreement?, see: [www.dia.wa.gov.au](http://www.dia.wa.gov.au)

## Appendices

COMPARATIVE TABLE - DEVELOPMENT FUND APPROACHES

Foundation, Trust or Fund	Programmatic Approach	Financing structure	Geographic Focus	Community Participation in Governance	Influence of Mining Company	Influence of Government
Asociación Los Andes de Cajamarca (ALAC),	Out-sourcing (grants) (complimented by company CD program)	Partly annual budget and partly endowed; has been successful in securing diversified income sources	Target communities across 12 districts	Strong, through board representation and voting rights	Marginal; ALAC sits independent of companies' Community & Social Development department	Moderate: Peruvian government's 'voluntary contribution' means that ALAC's role will evolve with company's approach to community investment
Palabora Foundation	Operational	Small and decreasing annual budget allocation - largely endowed	Mine area of influence	Moderate; steering committees and some board representation	High: Foundation is owned by mining company and serves as sustainable development arm of company.	Minimal-Moderate: Mining Charter revisions have informed evolution of community development focus.
Phu Bia Mining, Phu Kham CDF	Operational	Annual budget	Directly affected villages prioritised	Bottom-up process with village committees	High: CDF process implemented by company. Funds controlled by company.	Moderate: Coordinates with company and provides final sign-off for CDF plan.
LXML, MMG, Sepon Trust Fund	Out-sourcing (grants) (complimented by company CD program)	Annual budget	District-wide with emphasis on affected villages	Village Chief members of Trust Fund Committee	Moderate: Co-chairs Trust Fund Committee dominated by government. Controls finances.	High: Co-chairs Trust Fund dominated by government. Controls district planning process. Implements / oversees investments.
Government of Lao PDR, Poverty Reduction Fund	Operational	Co-financed by Government and Donor community (World Bank).	Koumbans (development group) in poorest districts	Bottom-up process with Koumban and village committees.	n/a	n/a

Source: adapted from IFC 2010

## INTERNATIONAL EXPERIENCES

**Asociación Los Andes de Cajamarca (ALAC), Peru**

Asociación los Andes de Cajamarca (ALAC) is a corporate organisation founded by the Peruvian mining firm Minera Yanacocha. The mine was built in 1993 by Newmont Mining Company, in partnership with Peruvian mining firm Compañía de Minas Buenaventura, and the support of the International Finance Corporation. Minera Yanacocha is South America's largest gold producer. Located in Cajamarca region, Minera Yanacocha is approximately 35km from the city of Cajamarca where ALAC is based. Over 70% of the Cajamarca live in rural areas, making it the most rural region of Peru. Outside of the mining activities associated with Minera Yanacocha, dairy cattle and subsistence agriculture are the major economic activities of the region.

**Legal context** | Under Peruvian law, 50% of income taxes and taxes paid by mining companies to the national government are redirected back to regional (25%) and municipal (75%) governments. Under a scheme known as the 'voluntary contribution' (Aportovoluntario) companies are also required to commit between 1-3.75% of gross profits to independent social investments, managed within an independent entity for a five year period. Contributions commenced in 2007.

**Out-sourcing (grant making) approach** | ALAC was established in 2004, following a two-year stakeholder consultation process. ALAC's formation came at a time of considerable discontent between the company and Cajamarca community members. Yanacocha had a mercury spill in 2000 and there were strong community protests over the subsequent issuing of an exploration permit for a locally significant mountain area. Within this frame, ALAC was developed as part of Minera Yanacocha's social responsibility program, with the aim of increase corporate social investment in the Cajamarca region (World Bank 2010). ALAC is seen as providing a complementary and broader role to Yanacocha's Community Relations & Social Development department, which sits separately from ALAC and has a project focus on communities closest to the mines. As a result, ALAC has been afforded 'breathing space' to develop its approach in a slower more consultative manner across Cajamarca's 12 districts. The primary objectives of ALAC are to enhance the capacities of local businesses; to increase human capital through education; and to build social capital through institutional strengthening (Whellams 2007). Through a grant making approach, ALAC's efforts have thus far been largely focused on the first objective.

**Governance structure** | The governance structure for ALAC provides for a high level of community participation. While Yanacocha currently retains the decision making power on the Board of Directors (by 4 votes compared to 3), it is anticipated that this power will transition as ALAC prepares for an independent future after mine closure (World Bank 2010).

**Financing and Sustainability** | One of the distinguishing features of ALAC as a mining foundation has been its ability to successfully diversify its income sources. The Asociación has developed a set of comprehensive indicators to monitor and evaluate the development impacts of its projects. Impact indicators include the number of direct jobs created, the number of new production activities and sales and values of family assets (World Bank 2010). Feedback is periodically provided to implementing partners, to allow any necessary adjustments to project

### Asociación Los Andes de Cajamarca (ALAC), Peru

design and implementation. ALAC also closely monitor their administration costs, with no more than 15% of budget expenditure allocated to administration – this close monitoring is considered a likely factor in the Foundation’s ability to secure co-funding from a range of sources (World Bank 2010).

ALAC allocated funds to two general types of local development projects. Specifically, projects that have proven to be successful elsewhere and are replicable in Peru; and original projects proposed by civil society, businesses, regional government and/or development organisations (Whellams 2007). The former are financed directly by ALAC and its partners, while the latter are co-funded by ALAC and the executing agencies. Under the direct funding approach, alternate financing is actively sought as part of the project review process. Under the co-funding arrangements, ALAC will provide no more than 50% of the financing. Co-funders include financiers that have close associations with Yanacocha as well as competitor mining companies also operating in the Cajamarca region. The association between ALAC and other mining companies has been cultivated through support from the Peruvian organization, Grupo Norte, which works with regional governments to allocate tax money generated by mining for community infrastructure.

**Key challenges** Moving forward, a key challenge for ALAC will be managing the success of its diversified funding approach. While expanding the source of financial support has been a significant achievement for the Foundation, reputational benefits for the company could potentially be diluted (World Bank 2010) or compromised by sourcing funds from other sources. The Peruvian government’s introduction of the Aporto contribution has also meant that ALAC’s role is constantly evolving, in step with Yanacocha’s approach to community relations and investment.

#### Sources and further information:

- Whellams, M. 2007, ‘The Role of CSR in Development: A Case Study Involving the Mining Industry in South America,’ Saint Mary’s University, Halifax, Nova Scotia [www.whellams.com/downloads/MWThesis.pdf](http://www.whellams.com/downloads/MWThesis.pdf)
- World Bank 2010, Mining Foundations, Trusts and Funds: A Sourcebook [www.siteresources.worldbank.org](http://www.siteresources.worldbank.org)
- MineraYanacocha [www.yanacocha.com.pe](http://www.yanacocha.com.pe)

### Palabora Foundation, South Africa

The Palabora Foundation was established in 1986 as a legally registered trust. The Palabora copper mine, smelter complex is located in Limpopo Province, in the north east of South Africa. Palabora Mining Company began operations in 1956 as an open cut mine and transitioned to underground mining in 2002. Mine closure is expected sometime after 2015. Since its establishment, the role of the Foundation has changed considerably. This change has been in response to changing needs of the surrounding communities, the political context of South Africa and varying profitability of the mine.

**Legal context** | Following the democratic changes of the 1990’s, the South African mining industry has undergone reform. Under the 2002 Minerals and Petroleum Resources Development Act (MPRDA), and the associated Broad-Based Socio-Economic Empowerment (BBSEE) Charter, the South African Government exerts significant influence over the content and shape of social investment programs within the mining industry (World Bank 2010). Under the BBSEE Charter, government and companies are required to undertake a number of activities under a series of broad topics, including:



## Palabora Foundation, South Africa

community and rural development, ownership and joint ventures, financing mechanisms and consultation. In accordance with the BBSEE charter, the community development focus of the Palabora Foundation has evolved from an infrastructure focus to a stronger focus on community empowerment and self reliance.

**Operational approach** | Palabora Foundation was established as an operational foundation, effectively serving as the mining company's own NGO. The Foundation's community development programmes are worked on in partnership with local communities within a 50 km radius of Palabora. The Foundation directly manages and implements programs in partnership with government and other stakeholders, including local business operators. Several projects are co-funded by local government. The Foundation has extended beyond its early focus on infrastructure projects to capacity development projects including skills development training, business development, community health and HIV/AIDS, tourism and small-scale community development. Projects are chosen in consultation with the community, via steering committees. The Foundation presents projects for consideration to community forums that include representation from each of the five tribal authorities. The community forums also bring project ideas to the forums. Projects endorsed at the forums are taken to the local municipal government for approval to determine their 'fit' within the integrated development plan for the municipality (Wall and Pelon 2011).

**Governance structure** | The Foundation is governed by a Board of Trustees and an Executive Committee. The Director of the Rio Tinto Palabora Mining Company is currently the chairperson of the Board of Trustees (World Bank 2010). Links between the Foundation and the mining company have varied over its 25 years of operation. While the Foundation at times operated largely independently of the Palabora Mining Company, recent years have seen the reemphasis of links between the two entities. Following the 2002 Mining Charter revisions, the Foundation has been seen as the vehicle to achieve and implement many of the commitments made under the companies Social and Labour Plan, Broad Based Black Economic Empowerment (BBBEE) and Black Economic Empowerment (BEE) procurement commitments (World Bank 2010).

**Financing and Sustainability** | Under its initial establishment, Palabora Mining Company provided a 'launching' commitment of an annual donation of 3% net profits. This commitment was amended in 2001, whereby interest on the Foundation's investment fund (now known as the Endowment Fund) covers operating expenses for the Foundation. The Foundation co-funds and partners with other groups across a number of projects, financing for the Foundation is solely from the interest of the Endowment Fund. Given the operational nature of the Foundation, it has a large staff complement of 100 staff, of which approximately half are part time. Similarly to the ALAC example, the Palabora Foundation closely monitors administration costs, with no more than 20% of budget expenditure allocated to administration. While there was no formal external evaluation of programs but the Foundation was progressing towards establishing a monitoring and evaluation unit (World Bank 2010).

**Key Challenges** | Over the 25 years of its operational life, the Palabora Foundation has undertaken almost all of the community development activities associated with the Rio Tinto Palabora Mining Company. An unintended effect has been a lack of ownership of the stakeholder engagement process and a lack of development of the mining company's community development skills (World Bank 2010). Recommendations from a Rio Tinto site management assessment undertaken in 2008 seek to address this challenge.

### Sources and further information:

- Palabora Foundation [www.palabora.com](http://www.palabora.com)
- Rio Tinto 2005, Sustainable Development Review – Palabora Foundation case study [www.riotinto.com/SustainableReview/CaseStudies/Community/stakeholder.aspx](http://www.riotinto.com/SustainableReview/CaseStudies/Community/stakeholder.aspx)
- Synergy Consulting 2007, Community Development Framework Study for the Mining Sector in Ghana [www.commdev.org/files/2273\\_file\\_CD\\_Framework\\_Study\\_Mining\\_Guinea\\_.pdf](http://www.commdev.org/files/2273_file_CD_Framework_Study_Mining_Guinea_.pdf)
- Wall, E. and Pelon, R. 2011, Sharing Mining Benefits – the experience with foundations, trusts and funds

## Palabora Foundation, South Africa

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTOGMC/0,,contentMDK:22950635~pagePK:210058~piPK:210062~0,00.html>

- World Bank 2010, Mining Foundations, Trusts and Funds: A Sourcebook [www.siteresources.worldbank.org](http://www.siteresources.worldbank.org)

## LOCAL EXPERIENCES

### LXML MMG, Sepon Gold and Copper Mine Community Development Fund

The Sepon mine is located in Vilabouly District, Savannakhet Province, Lao PDR. The mine has been producing gold and copper since 2003 and 2005 respectively. In 2001 the mine established the Sepon Development Trust Fund (SDTF).

**Programmatic approach** | The SDTF follows an operational approach whereby the government and company are responsible for the planning and implementation of investments.

**Governance structure** | The SDTF has a Board co-chaired by LXML's General Manager Operations and the Deputy Chief of the Vilabouly District and consists of 6 other members from the district government and two key affected ethnic groups in the area. The Board is responsible for unanimously approving each SDTF project and the chairs must each sign off on SDTF expenditures. The Board is supported by the SDTF committee which consists of representatives from the company (5), district government (5), village chiefs from the project affected villages (6) and a representative from the Savannakhet Provincial Planning Office. Advisors to the SDTF include the Director of Savannakhet Provincial Planning & Investment Department and Chief of Vilabouly District. Government Auditors include Savannakhet Province Auditing Officers.

The committee is responsible for preparing the SDTF five year plan and annual budget / workplans and overseeing and monitoring the implementation of SDTF activities. The board and committee are in turn supported by district and company officers. The focus and use of SDTF funds has evolved over the 10 years of mine operation.

**Geographical scope** | The SDTF has evolved into a broader Community Development instrument, used by the district government to implement district level socio-economic development priorities. To ensure that specific impacts of the project and development needs of the affected villages are met, the company also administers a Social Mitigation Budget and Local Business Development Budget. The company's CD program has recently launched a Village Development Funds Program designed and implemented in the 13 villages adjacent to the mine activities in accordance with agreed development needs, and funded by the company.

**Financing** | The SDTF is financed by a USD 500,000 annual contribution from the company.

**Key Challenges** | MMG LXML has undergone a significant rethink in the way it approaches community development and relations. The company has developed a new *Social Sustainability Strategy* to guide community relations and development activities and has strengthened the CR and CD divisions by employing people with more expertise in these areas. The new strategy is a response to growing complexities of the social environment including:

- The expanding mining operations - When the project commenced, only 6 villages (now consolidated into 5 villages) were located in the project footprint, referred to as the 'Sepon Project Development Area'

### LXML MMG, Sepon Gold and Copper Mine Community Development Fund

(SPDA) and a further 8 villages, including the district capital of Bounkham, were located in the Greater Project Development Area (GDPA). The expansion of the project will impact a total of 20 villages in the 'Sepon Expanded Development Area' (SEDA).

- Changes in socio-economic standards in project area – The baseline and subsequent household surveys conducted since 2001 have recorded steadily increasing levels of wealth in the project area. However as wealth grows, so too do wealth inequalities and there is a growing need to develop alternative and sustainable livelihood options, especially for those most impacted by the mine that cannot, due to their circumstances, benefit greatly from mine employment.
- Broadening district level approach to SDTF spending – Over the years the focus of the SDTF has evolved from a fund which was initially targeted on the 6 SPDA villages development needs to one which is now aligned to district socio-economic goals and implemented across a wider area. SDTF supported activities have also changed, originally focused on agriculture, education and health, SDTF funds are now also being allocated to transportation infrastructure, information and culture, and mass organisation support.

#### Sources and further information:

- Earth Systems Lao and CarlbroGrontmij in association with the Centre for Social Responsibility in Mining, Queensland University (2009), Gender and Social Inclusion Strategy in Mine Operations: Task 1 - Desk Study of Employment, Livelihood and Service Impacts in Lao PDR & International Experience, unpublished, ESL 2009.
- Jones. M., Albert. P., Wilkes. M., David. L., Saman A., and Navaolath, C. (2005)., Community Development and the Sepon Project., sourced: [www.minerals.org.au/data/assets/pdf\\_file/0015/.../9A-1AlbertPeter.pdf](http://www.minerals.org.au/data/assets/pdf_file/0015/.../9A-1AlbertPeter.pdf), accessed December 2009.
- Oz Minerals (2009), Oz Minerals Sustainability Report 2008, sourced [www.ozminerals.com/.../OZSustainability\\_Report\\_2008-82c734c9-27bb-4fc5-b4cc-132f8cf2f8b8-0.pdf](http://www.ozminerals.com/.../OZSustainability_Report_2008-82c734c9-27bb-4fc5-b4cc-132f8cf2f8b8-0.pdf) accessed, December 2009
- Oxiana Limited (2006, 2007, 2008), Oxiana Sustainability Reports, sourced [www.ozminerals.com/Sustainability/Sustainability-reports.html](http://www.ozminerals.com/Sustainability/Sustainability-reports.html)

### Phu Bia Mining, Phu Kham Gold-Copper Operations Community Development Fund

Phu Bia Mining's Copper-Gold Operation and Gold Heap Leach Operation are located in Vientiane Province, Lao PDR. Gold production commenced in 2005 and the first copper-gold ore was mined and stockpiled in 2007, with production commencing in 2008. Phu Bia Mining's community development fund requirements are included in the companies mineral production and exploration agreement.

**Programmatic approach** | The PBM Community Development Fund follows an operational approach whereby the government and company are responsible for the planning and implementation of investments.

**Governance structure** | The PBM Community Development Fund is administered by the company. A management committee comprised of government representatives oversees and guides activities, in coordination with the company. To encourage community participation, a Village Development Committee (VDC) has been set up comprising members of the two villages nearest the mine (PanAust: 2007) .

## Phu Bia Mining, Phu Kham Gold-Copper Operations Community Development Fund

**Geographical scope** | The Community Development Fund prioritizes the two (2) villages in the direct vicinity of the mine site and villages along the transportation route. It also has scope for funding wider provincial development projects.

**Financing** | The Community Development Fund is financed by a USD 300,000 annual contribution from the company.

**Key Challenges** | During the initial years of CDF implementation a number of issues arose concerning government / company coordination and roles; scope of the use of CDF finances; and the relationship between bottom-up village development committee process and the broader socio-economic development planning of the district / province.

In March 2011 the Company and Vientiane Province signed an MOU to clarify governance arrangements and ensure the CDF was aligned to Government of Lao regulations and Company policies and practices. Key aspects of the MOU include:

1. Clear structure and roles for the Government's Provincial Management Committee and Secretariat. The Provincial Governor is President of the Committee, Director for Department of Planning and Investment the Chair and its membership is solely from departments of provincial and district government. A Committee secretariat, under the Department of Planning and Investment (DPI) has been established for direct coordination with Phu Bia Mining. In terms of roles the Provincial Government leads alignment between CDF and Provincial / District Planning; the company with District government support, oversees the village development planning process and finally the Vientiane Governor and PBM's General Manager are required to sign-off on annual CD plans.
2. Priority for funds to be used in directly impacted villages but with scope for provincial wide use;
3. Clear roles and responsibilities of the company and government for:
  - a. Implementation: PBM in close cooperation with DPI is responsible for implementation.
  - b. M&E: Dual DPI and PBM monitoring of CDF implementation. Coordination during this process.
  - c. Reporting: PBM reports to DPI. DPI reports to Province and District departments.

### Sources and further information:

- Company website: <http://www.panaust.com.au/>
- Phu Bia Mining (2011), Sustainability Report: Growth Through Partnerships
- Earth Systems Lao and CarlbroGrontmij in association with the Centre for Social Responsibility in Mining, Queensland University (2009), Gender and Social Inclusion Strategy in Mine Operations: Task 1 - Desk Study of Employment, Livelihood and Service Impacts in Lao PDR & International Experience, unpublished, ESL 2009.
- PBM and Vientiane Provincial Government (2011), Memorandum of Understanding on Community Development Funds.

## The Lao PDR Poverty Reduction Fund

The Poverty Reduction Fund (PRF) I and II is a community-driven poverty reduction program being implemented in Lao PDR. The PRF aims to (1) assist villagers in developing community infrastructure and gaining improved access to services; (2) build capacity and empower poor villages in poor districts to plan, manage and implement their own public investments in a decentralized and transparent manner; and (3) strengthen local institutions to support participatory decision-making and conflict resolution processes at the village, sub-district (or koumban), and district levels, involving a broad range of villagers, including women, the poor and ethnic minorities. The PRF is designed as a participatory program. It aims to deliver resources to poor villages efficiently and effectively. Villagers decide how resources are allocated, manage subproject funds and implement subprojects. The program provides extensive facilitation and training to ensure that poor villagers, particularly women and ethnic minorities, can participate in the decision-making process and benefit from the project.

**Community Driven Development Approach** | The PRF has been designed around seven key principles which provide the basis for project implementation and supervision. (1) The project design, rules and regulations should be simple. (2) The project can provide funding for a wide range of village infrastructure and training (such as roads, bridges, culverts, schools, clinics, wells, irrigation and drainage systems). Larger infrastructure and district level infrastructure is not allowed. (3) The project is based on a principle of broad-based participation, and the decision-making process must include the entire community. (4) Villagers must be willing to contribute to subprojects to show their support and ownership of the activity. The local contributions can be in cash, in kind, and/or in labor, and should be equal to approximately ten percent of the total cost of the subproject. (5) Transparency and local accountability are essential. (6) The aim of the PRF is to provide a mechanism for financing locally determined and community-managed development interventions in all poor areas: interventions that are wise investments. (7) For each planned and implemented activity, in all processes and all procedures, preference will be given to the poorest people in the community.

**Governance structure** | The principles and objectives of the PRF I depend upon and encourage a high degree of participation by the people themselves. All villages in target districts organized Village Needs Priority Assessment (VNPA) meetings to define their priorities and submit proposals with support from PRF facilitators. All proposals for funding had to include viable maintenance plans, divisions of responsibilities and financing for maintenance activities. This allowed sustainability of the subprojects well after the PRF contribution. Village needs were then discussed and prioritized at the koumban level with the six most important priorities being chosen. Finally, the PRF I evaluated the feasibility of each prioritized proposal and support was provided to villagers to prepare designs and budgets for a limited number of subprojects, and propose a method of procurement. Villages were responsible for project implementation, but PRF staff assisted them with periodic cross-village assessment visits, monitoring, and reporting.

**Financing and Sustainability** | The World Bank and the Swiss Agency for Development provided financing for the Poverty Reduction Fund I (2003-11) while the two agencies plus AusAID provide financing for the PRF II (2011-16). Under the PRF I the approach was that 75 percent of the total PRF budget would be used for subproject financing (via grants) and capacity building, with the remaining 25 percent being used to finance PRF management. Program cycling was disbursed in annual cycles, and each participating district was informed of their total

## The Lao PDR Poverty Reduction Fund

funding allocation to be used during that annual cycle. Under the PRF II, the koumban planning process will be undertaken on a three year rolling basis. Subprojects will be financed and implemented on an annual basis, with a commitment to four rounds of financing per target koumban. Each target koumban will receive a four-year budget allocation upfront to inform its planning and prioritization. An average annual budget allocation of US\$35,000 would be made to PRF II target koumbans, for a total average investment amount per koumban of US\$140,000 over four years.

**Key challenges** | Whether or not the participatory process has fully worked in the PRF I is not yet clear. According to a World Bank (2008) report, only 51 percent of the implemented subprojects as of 2008 in the PRF I had been identified as subprojects with the highest priority by the villages. Instead, 21 percent of subprojects were added during the koumban decision meeting. This may suggest that koumban committee members tended to consider the positive externalities of the projects and selected projects that could benefit more than one village. On the other hand, a high number of subprojects added at the koumban level may also suggest a degree of government intervention. Another challenge experienced by the PRF I was increasing understanding and support for a participatory decision-making process. Empowering villages, and building understanding at the government level of the importance of a participatory process, does not happen overnight. Information dissemination and awareness raising is an important ongoing process in the PRF that can help to build support and understanding for participatory decision-making.

### Sources and further information:

- The Lao Poverty Reduction Fund: [www.prflaos.org](http://www.prflaos.org)
- The Poverty Reduction Fund (2010). Manual of Operations.
- The World Bank (2008). Community Driven Approaches in Lao PDR Moving Beyond Service Delivery. Volume 2 (Main Report). Human Development Sector Unit, East Asia and Pacific Region.
- World Bank (2011). Project Appraisal Document The Poverty Reduction Fund II.