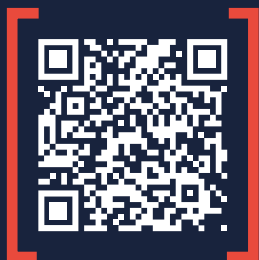


# Community development agreements

*This note provides guidance on negotiating, designing, and implementing community development agreements between investors and local communities.*

Some investors, in particular those that operate in remote rural areas, have made significant contributions to local development through social development programs. Their effectiveness and the manner in which they are implemented depend on the context and the capacity of the investor. The most successful programs include local communities in making decisions about scope, require investors to make binding commitments, and support rather than supplant governmental responsibilities.



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## RESPONSIBLE AGRICULTURAL INVESTMENT (RAI)

# KNOWLEDGE INTO ACTION NOTES

The UNCTAD–World Bank *Knowledge Into Action Note Series* is a compendium of practical, thematic guidance documents for use by governments, investors, and other stakeholders in the implementation of responsible agricultural investment principles. Background and a complete list of notes are in *Note 1: Introduction*.



## WHAT RESEARCH AND EXPERIENCE TELL US

Community development agreements (CDAs) are arrangements to ensure that communities share in the value added created by local large-scale investments. In many countries a legal framework governs extractive industries, such as mining and forestry, and imposes requirements for investors to enter CDAs with affected communities. Few countries have similar legal requirements for large-scale agricultural investments. The UNCTAD–World Bank research, as well as an emerging body of knowledge on what constitutes good practice, underscores the value of agriculture-specific guidance on the design and implementation of CDAs.

**Positive perceptions, various methods.** CDAs were generally appreciated by the communities they were intended to benefit in cases where they had been concluded by investors and communities. Successful programs tend to strengthen the social license for the investor to operate. There was, however, significant divergence in the manner and effectiveness in which such programs were implemented. Important defining characteristics were the extent to which the scheme or program represented a formal commitment, and the degree to which it was negotiated and agreed with the communities that it was designed to benefit. At one end of the spectrum, there were explicit, written, co-signed agreements between local communities and the investor, negotiated through a process of consultation on local visions and needs for development. At the other end, investors provided assistance to communities on a discretionary basis when a request arose, with no formal agreement or commitment by the investor.

**Managing expectations.** The main challenges in addressing the social and development needs of communities is that the expectations of communities are often greater than the ability of the investor to fund programs. Moreover, community expectations tend to be unspoken at the outset of a project and fluid over time. Often communities expect

investors to understand and have the capacity to address all community needs. Investors usually can commit to provide a fixed level of support at the outset but find it difficult to respond to changed needs, especially if they create an additional financial burden that has not been included in the budget. Communities often misconstrue the resulting rejection of additional requests for assistance or non-responsiveness to the unspoken expectations as a lack of concern by the investor. Preventing such situations requires an approach that demonstrates commitment by the investor and includes communities in decision making. Such an approach enables communities to express needs and to appreciate the limits of support, thereby facilitating consultation on choices of programs to adopt, given available resources.

**Consultation and collaboration.** The most successful programs responded directly to local needs as ascertained through consultation; were fully funded and not dependent on the project-based profitability of the investor; and were carried out in collaboration with nongovernmental or other organizations (such as community development committees and worker unions) that were able to connect with local needs. The least successful programs, conversely, were designed without input from the beneficiaries, or had unclear or unfulfilled commitments, or had to be curtailed when the investor ran into financial difficulties.

## Box 1. Examples of community development agreements identified in the fieldwork

**Revenue-sharing arrangements.** In one case, the investor used a financially inclusive business model in which project revenues were explicitly shared with the community. The investor put 2.5 percent of monthly revenues into a community trust, which the community could spend on development projects at its own discretion. Although this is in principle a good system of forging partnership between investors and communities, this scheme faced practical difficulties. First, revenues received were not in line with the financial plan shared with community leaders. The lower than “promised” payments made by the investor to the community created suspicion by the community as to where the money was being channeled. This concern was compounded by the absence of a clear mechanism to address grievances. Second, the community entity to which the funds were paid was not communicating effectively with community members. Community members were therefore unaware of the benefits they were receiving from the investor.

**Independent charity organizations.** An investor operating in an area with a high prevalence of prostitution and HIV set up a charity focused on support of HIV-positive individuals, as well as orphans and single-headed households who had lost income providers due to the disease. This was done in partnership with the workers' union and two local nongovernmental organizations (NGOs). It provides financial, medical, and material assistance and organizes HIV/AIDS education workshops. In another case the investor established an independent development trust, with trustees appointed by the investor and the community. As a registered nonprofit organization, it is able to pursue other development grants in support of a range of programs. Each campaign is developed with wide consultation and the community is well informed of its work and impact prior to and during implementation.

**Contributing to an existing health program.** An investor supported the USAID Malaria Control Program by distributing mosquito nets to workers. As a result of people learning how to take preventive measures, the incidence of malaria has decreased. The unintended consequences of support programs also need to be considered. In cases reported elsewhere, mosquito nets provided by investors were used for fishing in local rivers, resulting in the decimation of fish reserves.

Source: UNCTAD-World Bank Survey of Responsible Agricultural Investment Database.

**Direct project oversight by the investor.** In situations where the capacity of the community leadership is constrained or very weak, investors might choose to establish direct project management oversight programs, especially in cases where the project is specified in the land lease agreement. One investor agreed on a fixed annual payment to the community-appointed decision-making body, which was responsible for deciding on the project, collecting community contributions, managing the procurement of materials, and overseeing implementation. This proved unsuccessful as the procurement processes resulted in overpayment for materials and poorly constructed infrastructure. The arrangement was then changed so that the investor took responsibility for procurement and delivery logistics and project management of construction, leaving the community body to decide only on the type of project.

**Coordination with government programs.** In some cases, investors and governments cooperated to leverage each other's initiatives for an enhanced impact. Where possible, such cooperation is recommended—provided that there is a mechanism to ensure that local interests are taken into account. In one case in Ethiopia, the CDA was negotiated between the investor and the national government but was not attuned to local needs. Consequently when it was implemented local communities did not perceive much benefit from the money spent.

**Increasing formalization of agreements.** Responsible investors are shifting from viewing community development as ancillary to the business to viewing it as a practice of genuine “shared value.” Contractually agreed CDAs are becoming increasingly important tools for building trust, enhancing community relations, and reducing tensions while contributing to socioeconomic development. The provision of community development programs is shifting from ad hoc support to formal agreements with clear objectives, targets, funding, and commitment mechanisms. Usually they are arranged at the government level when land leases are negotiated or at a meeting with community leaders. Often, however, such meetings are documented in minutes, but no formal agreement is drafted and signed by the government, investor, and community.

**Research and consultation prior to agreement.** The most successful programs were those in which (a) the investor had researched the community and had identified the community governance structure, the tenure systems and how to deal with their dynamics, and the mandated representatives of the community; and (b) the local community had been widely consulted, to have a say both on the choice of project and on how funds were to be spent (boxes 2 and 3). A pre-negotiation memorandum of understanding, to be signed by the parties, should be considered. It would outline the negotiation framework and the funding available for each stage of negotiation. In parallel to the negotiation phase, capacity building would help establish a level playing field. Research and consultation for the CDA should include disclosure of all material information related to the investment. It should also ensure that communities' capacity to engage is built or strengthened. In consultations both women and men should be represented and there should be broad representation from all segments of the community, including young people.

## Box 2. A six-step guide to achieving CDAs

1. *Stakeholder and community mapping:* Identify the community. Plan on how to engage. Conduct a sensitization workshop on the process.
2. *Community capacity and organization:* Conduct training on model agreement. Establish a community development committee. Apply free, prior, and informed principles.
3. *Community preparation of the agreement:* Prioritize demands by stakeholder. Develop a resettlement action plan. Decide on benefit flow.
4. *Construction and negotiation of CDA:* Access technical and legal community assistance. Ensure CDA pays attention to women and youth.
5. *Implementation of CDA:* The CDA should include a clear work plan, indicators, activities, and timeline. Ensure transparency in managing resources. Establish a grievance procedure.
6. *Review CDA:* Review periodically. Independent facilitation should be sought for the review process.

Source: Oxfam IBIS 2016.

**Infrastructure development coordinated with the government.** The development of health and education infrastructure, in particular, should be coordinated with the government so that facilities can be staffed, which is usually a function of the state.

**Ongoing communication.** As with the community engagement strategy in general (see *Note 15: Community engagement strategies*), the consultation process does not stop once the agreement is signed. There should be an ongoing dialogue on the implementation of the CDA, with discussion of how it is working and whether modifications need to be made.

**Grievance mechanisms.** Grievance redress mechanisms that are established (see *Note 19: Grievance redress mechanisms*) should allow for communities to raise issues with the implementation of the CDA.

**Periodic reporting.** Reporting on the progress of the implementation of the CDA is an important means of ensuring accountability. This includes reporting back to communities on project results and seeking feedback on implementation.

**Manage expectations and fulfill commitments.** Consultation, communication, grievance procedures, and reporting (that is, disclosure of information) provide the critical means to manage expectations and ensure that commitments are upheld. Failure to keep commitments and misunderstandings about the nature of support to be provided can be detrimental to community-investor relations.

**Partnership with government, NGOs, or other social organizations.** Successful programs tend to enlist the support of government, NGOs, or other social organizations such as workers' unions that are attuned to local needs and can facilitate interaction between investors and intended beneficiaries.

**Implications of commitments for marginalized groups, especially women, youth, and indigenous groups.** Marginalized groups should be included in the consultation process to ensure that their needs are heard. Specific programs to empower such groups and improve their status should be considered.

**CDA referenced in the overall investment contract.** The contract should contain a provision for the investor to enter into a CDA with the local community. Such a provision can define the process and parameters for the agreement, such as who should be included and consulted, what should be included, how decisions should be made, how much money will be put aside,

## Box 3. CDA content template elements

- Scope, mandate, and vision
- Description of parties to the agreement, including representatives of qualified communities, with clearly defined roles and responsibilities
- Grievance feedback mechanism
- CDA clauses:
  - Strategic aims, scope, and parameters of community investment activities
  - Fund management
  - Management or governance body for investment activities and overall CDA process, including structure and terms of reference
  - Local content (procurement and/or employment)
- Regular review, evaluation, and capacity development
- Signed by all parties

Source: Irwin 2015.

appropriate grievance mechanisms, and a requirement for annual reports on the implementation of the agreement. (For further information on contents and form of investment contracts, see *Note 8: Investment contracts*.)

**Signed CDA with strong, accountable governance mechanisms.** The CDA should be a separate contractual document annexed to the overall investment contract. It should include a detailed list of commitments, including activities, quantifiable indicators, time periods for completion, and a budget. Templates for CDAs can be used as a reference and as a useful training and capacity-building tool for community education on the process and desired outcome. Effective ongoing functioning of the CDA requires well-set-out governance arrangements, including financial controls, reporting, and monitoring.

**Inclusion in the overall financial plan.** The CDA needs to be funded in a stable manner and not tied to short-term profit fluctuations of the investment.

**Revenue-sharing arrangements.** Investors could enter into revenue-sharing arrangements based on a certain percentage of the monthly revenue. These schemes can be beneficial because they provide a continuous revenue stream across generations and genuine investor-community partnership, which encourages communities to take an interest in the success of the operation. Such schemes have served to forge genuine partnerships in which local communities jealously guard the investor's operation and take a strong interest in ensuring its success.

**Creation of a not-for-profit foundation or trust.** A foundation or trust can be a useful vehicle to leverage external funding for developing social infrastructure, so that the full burden does not fall on the investor.

## ✓ ELEMENTS OF GOOD PRACTICE FOR GOVERNMENTS

**Retaining primary responsibility for delivery of social services.** Governments have the primary responsibility in infrastructure and social services provision. Yet countries alone may not have the resources—or capabilities—to fulfill all the social and infrastructure service needs of rural communities. The combined efforts of governments and the private sector presents a possible solution, but it is important that government does not outsource its responsibilities to investors, especially given the risk of investor failure.

**Integrating CDAs into the investment contract.** By integrating enforceable CDAs into the overall investment contract, governments can help ensure that investors deliver on community development commitments. The contract can define the parameters for a separate agreement between the investor and the community that is annexed to the contract. Failure to subsequently set up a community agreement and comply with the terms should then amount to a material breach of the investment contract.

**Consider local needs.** In the negotiation of CDAs, governments should ensure attentiveness to local communities' needs through consultations and engagement. Governments should recognize that investors are used to operating within the parameters of agreements, whereas communities generally may be unaccustomed to this form of functioning, especially in the early days of an investment. The process therefore needs to allow for amendment to agreements and the establishment of an institutional environment that can create the necessary environment of flexibility and responsiveness to changing needs, including through the establishment of appropriate grievance mechanisms (see *Note 19: Grievance redress mechanisms*).

### REFERENCES AND RESOURCES

This Note is complementary to the literature and guidance documents to which many organizations have contributed, a selection of which is provided below. Further resources are provided in *Note 2: Additional resources*.

COLUMBIA CENTRE ON SUSTAINABLE INVESTMENT (updated December 2017). [Directory of Community Guidelines on Agreements Relating to Agriculture or Forestry Investments](#).

IRWIN, E. (2015). [Introduction to Community Development Agreements](#). (accessed December 10, 2017).

LOUIT, J., J. MANDELBAUM & S. SZOKE-BURKE. (2016). [Emerging Practices in Community Development Agreements](#). (Columbia University: New York).

OTTO, J. (2010). [Community Development Agreement: Model Regulations & Example Guidelines](#). (World Bank Group: Washington).

SUSTAINABLE DEVELOPMENT INSTITUTE & NAMATI. (2013). [Community Guide: Getting a Fair Deal from Companies and Investors](#). (Namati: Monrovia).

*Country example:*

KUSCHMINDER, J., N. DEEN & M. BLOMQUIST. (2016). [6 Major Steps to Reach a Community Development Agreement in Sierra Leone](#). *Workshop, Bo, Sierra Leone, 24-26 May*. (Oxfam IBIS: Sierra Leone).



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