



Following the money

An advocate's guide to securing accountability in agricultural investments

Emma Blackmore, Natalie Bugalski and David Pred



First published by the International Institute for Environment and Development (UK) and Inclusive Development International (US) in 2015.

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ISBN: 978-1-78431-228-2

IIED code: 12583IIED

For copies of this publication, please contact IIED:
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A catalogue record for this book is available from the British Library.

Citation: Blackmore E., Bugalski N., Pred D. (2015). *Following the money: an advocate's guide to securing accountability in agricultural investments*. IIED/IDI, London/Asheville

Design by Judith Fisher: www.regent-typesetting.co.uk

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Following the money

An advocate's guide to securing accountability in agricultural investments

This guide is for advocates working to support communities whose land rights, lives and livelihoods are affected by agricultural investments. It provides guidance on how to *follow the money* to identify and leverage pressure points along agricultural investment chains to defend land and natural resource rights. It explains how to collect evidence and conduct a variety of advocacy strategies to hold responsible actors accountable. It is informed by experiences and lessons learned from activists and practitioners throughout the world. It draws on real life examples of investment projects that have affected local communities and the different strategies used to challenge or change those investment.

About the authors

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Acknowledgments

This guide was prepared for 'Legal Tools for Citizen Empowerment', an IIED-led collaborative initiative to strengthen local rights and voices in natural resource investments in low and middle-income countries (www.iied.org/legal-tools). It was funded by UK aid from the UK government, though the views expressed do not necessarily represent those of the UK government.

The authors wish to thank Philippine Sutz, Emily Polack and Lorenzo Cotula (IIED) for their valuable contributions and coordination of the drafting process.

Our special thanks also go to Mark Grimsditch, Holly Jonas, Kristin Genovese, Komala Ramachandra, Kendall Evans and Keren Adams for reviewing and providing detailed written comments on draft sections of the Guide.

IDI and IIED finally wish to thank the following organisations and individuals that participated in our 'Following the Money in Southeast Asia' workshop in Phnom Penh on 25–27 February 2015 and provided feedback on a draft of this Guide: Thoun Ratha (Equitable Cambodia), Sok Lida (Equitable Cambodia), Pen Kimsong (Equitable Cambodia), Eang Vuthy (Equitable Cambodia), Keo Vavin (Southeast Asia Development Program), Nun Sokunthea (Southeast Asia Development Program), Leang Rattanaktevy (Southeast Asia Development Program), Chan Penhleak (Open Development Cambodia), Pick Ratana (Open Development Cambodia), Samin Ngach (Cambodian Indigenous Youth Association), Il Oeur (Analysing Development Issues in Cambodia), Yunwen Bai (Greenovation Hub), Sengdeuane Inthilad (Samdhana-Laos), Than Zin (DDA), Wai Wai Lwin (Badei Dha Moe), Saw Lay, Sor Rattanamanee (Community Resources Centre), Mongkon Duangkhieu (Alternative Agriculture Network), Tran Tri Hoa (CIRUM/LandNet), Pham Van Dung (SPERI), Muhammed Isa (Gemawan), Wenhong Xie (EarthRights International), Holly Jonas, Komala Ramachandra (Accountability Counsel), Keren Adams (Leigh Day), Florian Reingold (Heinrich Boell Foundation) and Dustin Roasa.



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Introduction

What is this Guide about?

Large-scale agricultural investments – in plantations, processing plants or contract farming schemes, for example – have increased in recent years, particularly in developing countries. Investment in the agriculture sector can bring much needed support for rural development, but communities have also witnessed significant negative impacts. Some of the most serious involve local landholders being displaced from their lands and losing access to natural resources critical for their livelihoods and wellbeing. Instead of contributing to rural development, ill-conceived investments can undermine people's rights to food, to water or to decent work.

Improving accountability is essential in ensuring that investment processes respond to local needs and aspirations and respect human rights. Yet many deals struck between companies and governments to establish agricultural ventures are not fully transparent, making it difficult for the public and local communities to scrutinise projects before they materialise on the ground. Despite international human rights law and best practice requiring full transparency, public participation, and free prior and informed consent of local communities, civil society participation is often missing and once negative impacts have occurred citizens may struggle to have their voices heard or hold the company or the government to account. Weak governance is often accompanied by limited accountability to citizens.

Yet, despite these challenges, many citizens have been able to hold companies and governments to account. For this to happen, local communities and the organisations that support them have to get organised, get informed and be strategic.

Supporting affected communities to get organised so that they can collectively challenge or influence the project is essential to any successful advocacy. Success can take a long time – sometimes involving years of struggle – so ensuring strong community solidarity is key. Communities should be aware of their rights and what laws, regulations and policies are in place to protect them. An organised and informed community can then begin to devise a sophisticated advocacy strategy to achieve their goals.

Usually the first step is to take complaints directly to local authorities, national authorities or the business operating on the ground. But when these approaches have limited success, communities and their supporters should not give up. There are other strategies that can be tried which reach beyond the borders of the project and the country where it is located.

Behind most large-scale agricultural projects is a web of global actors that make the project possible. These actors include banks and companies that are funding the project and the companies that are buying the produce being grown or processed by it. All of these actors are necessary to the project's success, and all are aiming to earn a profit from it in one way or another. They all have a relationship with the business operating on the ground and have the ability to influence it. All of these actors have some responsibility to ensure that the project does not harm communities.

Knowing who is financing the project, who is buying the produce and who else is making the project possible and profitable – in other words, 'following the money' – opens up a range of opportunities for improved accountability. We call the web of actors involved in a project an 'investment chain'. Within this chain there are 'pressure points'. If affected communities can identify the strongest pressure points and take actions directed at effectively influencing key actors in the investment chain, they are more likely to achieve their goals.

Understanding investment chains and pressure points, and effectively making use of them, can prove difficult. This Guide provides information, practical tips and exercises on how to map an investment chain behind a project, identify the strongest pressure points along the chain and then devise effective advocacy strategies that leverage those points. It explains what you need to know, the challenges you may face and the strengths and weaknesses of a range of advocacy options. Examples are provided from cases around the world where communities have tried to 'follow the money' and have used a number of strategies to hold investors and governments to account.

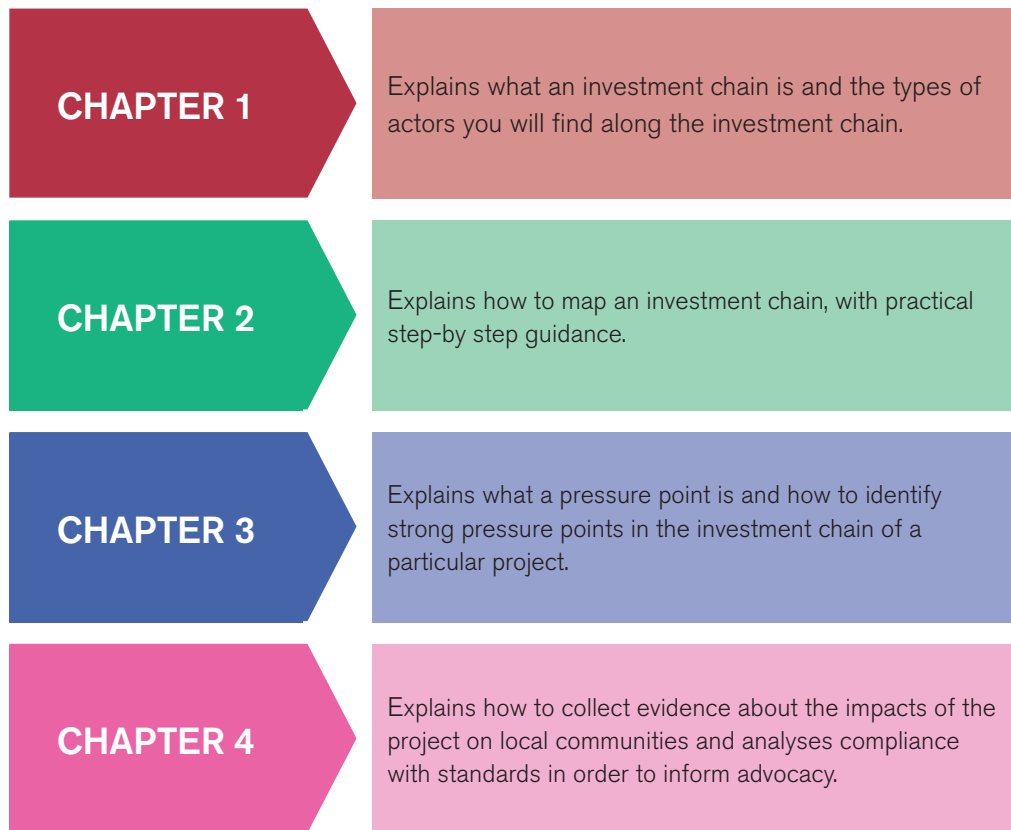


Important point

Before you begin doing any research or developing an advocacy strategy, make sure that the impacted communities are well informed and driving the process. You should always secure the informed consent of communities before taking any actions on their behalf.

The Guide is structured as follows:

Part I – Doing the research



Part II – Developing and executing an advocacy strategy





Part I

Doing the research



1 What is an ‘investment chain’?

Behind every agricultural investment project, such as a plantation, a processing plant or a contract farming scheme, there are a variety of actors that make the project possible. This chapter explains key terms and describes the different actors and relationships that make up an ‘investment chain’.

1.1 Who are the key actors that make an investment project possible?

The most visible actor in an investment chain is the **business managing the agricultural project**. This is the actor that is responsible for day-to-day operations of the project, which may include one or several components such as a plantation, a contract farming scheme, a mill or a refinery. The business interacts with governments, for example, to secure business licences and land leases. It also interacts with local communities. The business will have a physical presence, usually an office, in the country where the project takes place. The business can take different legal shapes or forms but will usually be a **company** (see Box 1).

Besides the business that manages the project, other actors that make the project possible usually include:

- **Parent companies** who own the **business** that manages the project;
- **Investors/shareholders** who invest money in a company in return for shares;
- **Lenders** who make loans to a project or a company;
- **Governments** who offer land to the business managing the project and allow a company to be registered and operate in their country or region;
- **Brokers** who play a role in helping to secure business deals and communicating between or supporting different actors involved;
- **Contractors** who carry out certain jobs on the ground on behalf of the project; and
- **Buyers** who buy the produce grown or processed by the project.

Each of these actors is explained in more detail below:

Parent company

Parent companies are usually firms that have control over one or more smaller businesses. The business managing the project on the ground will usually either be a **subsidiary** of the parent company or a **local branch** of the parent company.

- If the business is a **subsidiary**, it is legally a separate company, but the parent company holds more shares in it than anyone else or may even be the only shareholder. This means that the parent company has the power to control how the business is managed. Parent companies may be heavily involved in management of a subsidiary, or it may leave the management to the subsidiary company itself.
- If the business is a **local branch** of the parent company, this usually means that it is the same legal entity as the parent and, therefore, controlled completely by the parent company.

Parent companies may be based in the same country as its subsidiary or in a different country. By being based in a different country, it may also be able to take advantage of lower tax rates.

Box 1: What is a 'company'?

A **company** is formed by an individual or group of individuals to conduct business or other activities. Once a company is officially registered, it becomes its own separate 'legal entity'. This means that the company itself, rather than the individuals that form it, is legally responsible for these activities.

A company has **shareholders** who hold 'shares' in the company, meaning that they partly own it. Shareholders invest in a company when they buy shares, and expect to make money on their investment as the company earns profit.

Both the individuals that form the company and the company's shareholders are protected from being held personally responsible for the activities and debts of the company. This is called '**limited liability**'. Once a company is formed, money can be borrowed and contracts signed in the name of the company, rather than the individuals who established, own or manage it.

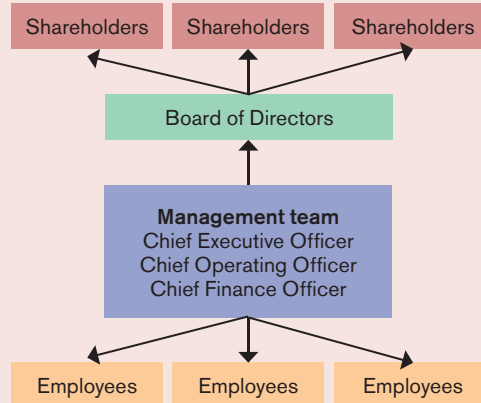
A company may take different forms, including a 'sole ownership' (often called a sole proprietorship), a 'private company' or a 'public company':

- A **sole ownership** is a single person who owns the company and operates a business under the name of the company.
- A **private company** has a small number of shareholders and sells shares privately, and not to the general public.
- A **public company** usually has a large number of shareholders, and their **shares** are bought and sold on one or more public exchanges, such as stock exchanges in London, New York, Hong Kong, India, Tokyo and Shanghai. **Public stock exchanges** allow shares to be bought by anyone, including the general public or another company, who then own part of the company.

Most companies have the same basic structure. They have shareholders, directors, a management team to run the company, which usually includes a Chief Executive Officer, a Chief Operating Officer and a Chief Financial Officer, and employees. The management team reports to a company board of directors.

Directors are usually appointed to the board by a company's shareholders. The role of a board of directors is to help direct the company's management. The directors have a duty to act in the interests of the company and for the benefit of the company's shareholders.

Figure 1: A typical basic company structure



Parent companies may sometimes be '**holding companies**'. These companies do not produce any goods or services themselves, but exist only to control (through ownership of shares) another company. The holding company is not **liable** (legally or financially responsible) for debts of the companies it owns. For example, if one of the companies it owns goes **bankrupt** (meaning it does not have enough money or property to pay back what it owes to others), the holding company is not liable for the debt.

Investors/shareholders

Investors put money into a company by buying shares, usually with an expectation that they will make money on their investment either in the short or long term. Investors own a part of the company, which is also referred to as **equity**. They may invest directly in the business managing the project or indirectly, by buying shares in the parent company. If a company is financially successful, investors make money by selling their shares for a value greater than the amount they originally paid for the shares. Shareholders also receive some of the company profits, called '**dividends**'.

Some investors are more interested in short-term financial gains and are willing to invest in riskier projects that may not be sustainable in the long term, for example, because of potential negative social, environmental and human rights impacts. Other types of investors may consider the long-term sustainability of the project, and will invest in less risky projects that will generate financial gains over the long term. Although these investors are usually most concerned with financial risk, they often recognise that when social, environmental and human rights risks are not addressed they can create financial risks. For example, communities may protest against an agriculture project or even sue the company in court if they unjustly lose their land. These actions may delay or prevent the project's development – leading to higher operational costs and lower profits.

Lenders

Lenders make money available to a business with an expectation that the money will be repaid. On top of the repayment of the amount of money loaned, the lender will usually add **interest** (a percentage of the amount borrowed) and fees. Loans are also referred to as '**debt financing**'.

Investors and lenders can take different forms – they might be wealthy individuals, funds that invest a group of people's money for them, or they might be companies themselves. Large investors and lenders usually include **commercial banks, investment banks and investment funds** (such as **pension funds, hedge funds and mutual funds**), **insurance firms** and **private equity firms**. Each of these is explained in Box 2.

Box 2: Types of investors and lenders

- **Commercial banks** provide financial services, including loans, to the general public and to companies under certain conditions, including the payment of interest and fees.
- **Investment banks** connect companies or individuals looking to invest their money with companies that are seeking investors. Investment banks then facilitate and manage the investment.
- **Multilateral Development Banks (MDBs)**, sometimes referred to as **International Financial Institutions (IFIs)** are owned by governments. The World Bank Group, including the International Finance Corporation (IFC), which invests in the private sector, is an MDB. The Asian Development Bank (ADB), the Africa Development Bank (AfDB), the Inter-American Development Bank (IDB) are regional MDBs. MDBs offer loans to developing country governments or private companies for projects in developing countries. Unlike private investors, the mission of these MDBs is to reduce poverty and they are meant to make investing and lending decisions on the basis of their development and poverty alleviation impacts.
- **Investment funds** are pools of money from individuals, companies and governments that are invested on their behalf by a fund manager. The fund manager decides which companies or projects to invest the pool of money in. **Pension funds, mutual funds** and **hedge funds** are all types of investment funds and are described below:
 - **Hedge funds:** Most hedge funds are open to a limited number of individuals who can contribute large sums of money. These funds are usually more willing to take risks than other funds, in order to achieve high returns. Hedge funds usually aim to make high returns rapidly. Hedge funds are generally less regulated than other types of funds and disclose less information about their activities.
 - **Mutual funds:** Mutual funds are typically more accessible than hedge funds by being open to investors who have smaller amounts of money to invest. A mutual fund usually has a set of investment objectives, which guides its investment decisions.
 - **Pension funds:** Pension funds collect a pool of money from workers, usually from their salary. The fund invests the pooled money on the workers' behalf. The investment plus any earnings are then paid to the workers once they retire, so they continue to have some income once they have stopped working. As millions of individual workers contribute their money to pension funds, these funds are very important in financial markets. Pension funds must pay out funds to the workers when they retire, so they are generally more heavily regulated by governments than other funds and are likely to make less risky investments.
- **Insurance firms** can also be investors and lenders. When people or companies buy insurance, the firm agrees to pay them the value of the thing which has been insured if that thing is lost, or damaged. This can include property or a person's health or even their life. Insurance firms invest the money received when people buy insurance. In most countries, insurance firms are heavily regulated by government and are restricted in the type of investments they can make. Because of this regulation, an insurance firm will generally invest in less risky projects and companies.
- **Private equity funds** invest directly into private companies or buy all the shares of public companies, usually those struggling financially, which results in these companies becoming private (the shares are no longer sold on public stock exchanges). The money in private equity firms comes from a variety of sources: pension funds, insurance companies and banks, for example. Generally private equity firms commit large sums of money to their investments for longer periods of time. This is to allow for the necessary changes to be made to the company they have invested in to make it profitable.

Governments

Countries where the investment takes place are known as the **'host country'**. Host country governments play a central role in determining:

- whether an investment should take place,
- what the conditions of any investment should be,
- how a business should be legally registered,
- what taxes a business should pay, and
- if the government owns or manages the land, what the terms of a land lease or sale should be.

Host country governments negotiate specific deals and investments as well as establishing the legal framework that governs the project activities.

These roles may be carried out by national, regional or local level governments, depending on the governance structure of the country. There may also be different **ministries** and **agencies** involved – for example Ministries of Agriculture, Investment Promotion Agencies, Ministries of Planning, and Ministries of the Environment or Environmental Protection Agencies. A Ministry of Environment or Environmental Protection Agency, for example, is usually responsible for ensuring compliance with environmental legislation, for overseeing environmental impact assessments and monitoring the ongoing environmental impacts of a project. A Ministry of Commerce helps to facilitate trade and investment in a country, and may be responsible for approving the registration of new businesses. The names of various ministries and their specific roles in investments varies from country to country. The degree of integration and coordination between different levels of government and various ministries will also vary greatly.

The business itself, its parent company, investors, lenders and buyers may be based in a different country to the host country. Governments of these **'home countries'** – where the investor, lender or buyer is located – can also play a significant role in regulating companies and holding them accountable.

Brokers

In some cases, an individual may be involved in making an investment project possible. For example, he or she might facilitate communications between the business managing the project and the governments or local communities. They might facilitate the investment by liaising with different government ministries to obtain land leases or relevant business licences and permits.

Contractors

In agribusiness projects, many important activities are carried out by contractors rather than the business itself. Contractors might carry out assessment studies; clear land and plant crops; construct buildings or facilities; provide seedlings, farm input or technical assistance.

Buyers

These are the companies that buy products from the business. They might be:

- a **trading company**, which buys and sells large amounts of the product, called a **commodity**, in global markets;
- a **processor** or **manufacturer**, which buys the raw product to include as a component or ingredient in another product; or
- a **retailer**, which sells the product to the end user or consumer.

These buyers may be a local, foreign or multinational company, and can be large or small. A number of buyers might buy products from the business or there may just be one buyer. A government can also be a buyer. Buyers may be very close or very distant, geographically, from the project. For example, a mill – which processes the palm oil, sugar or other crop – is likely to be physically close to the plantation, while a retailer, which is selling the end product to consumers, might be anywhere in the world.

The general public – people like you and I – are likely to be the ultimate buyers and consumers of finished products. For example, we might buy a bar of soap from a market or store that contains palm oil or a chocolate bar that contains sugar.

1.2. What is an investment chain?

An **investment chain** is the connection of all of the actors involved in any one investment project. The chain may include any of the types of actors described above. All the actors in the chain make the project possible.

Money flows in both directions along the investment chain. It can be useful to think of the investment chain as a stream whose flow changes direction (see figure 2 on pages 14/15). We can think of investors and lenders as being '**upstream**'. Money flows from these actors to the parent company and then to the business managing the investment project, which is in the middle of the stream (and investment chain). The buyers of the product and its end users or consumers are '**downstream**'. They pay for the product, and by doing so provide money that flows back up the stream to the business, and from there to its parent company, and then on to upstream investors, who now earn financial gains from their investment.



Figure 2: Stream diagram



Figure 3, below, shows some of the actors that might exist in an investment chain.

At the heart of the chain – referred to as the **midstream** part of the chain – is the business that manages the project. This part of the chain is usually physically visible and is where the companies and communities interact and where decisions about land use and access are made by the government, business and in some cases, local communities. When agreements can't be reached, or local communities are not involved in decision-making, it is also the place where conflict over land and resources may arise. Contractors are also found at this part of the investment chain. They are paid by the business managing the project to carry out services or provide inputs for their operations.

At the **upstream** end of the chain are parent companies, and then further upstream are investors and lenders.

At the **downstream** end of the chain are buyers, such as retailers, manufacturers or commodity traders, who purchase the products that are grown or processed by the project. Further downstream are every day consumers of the products that contain ingredients produced by the project.

Figure 3: Example of an investment chain showing the upstream, midstream and downstream actors and the relationships between all the different actors

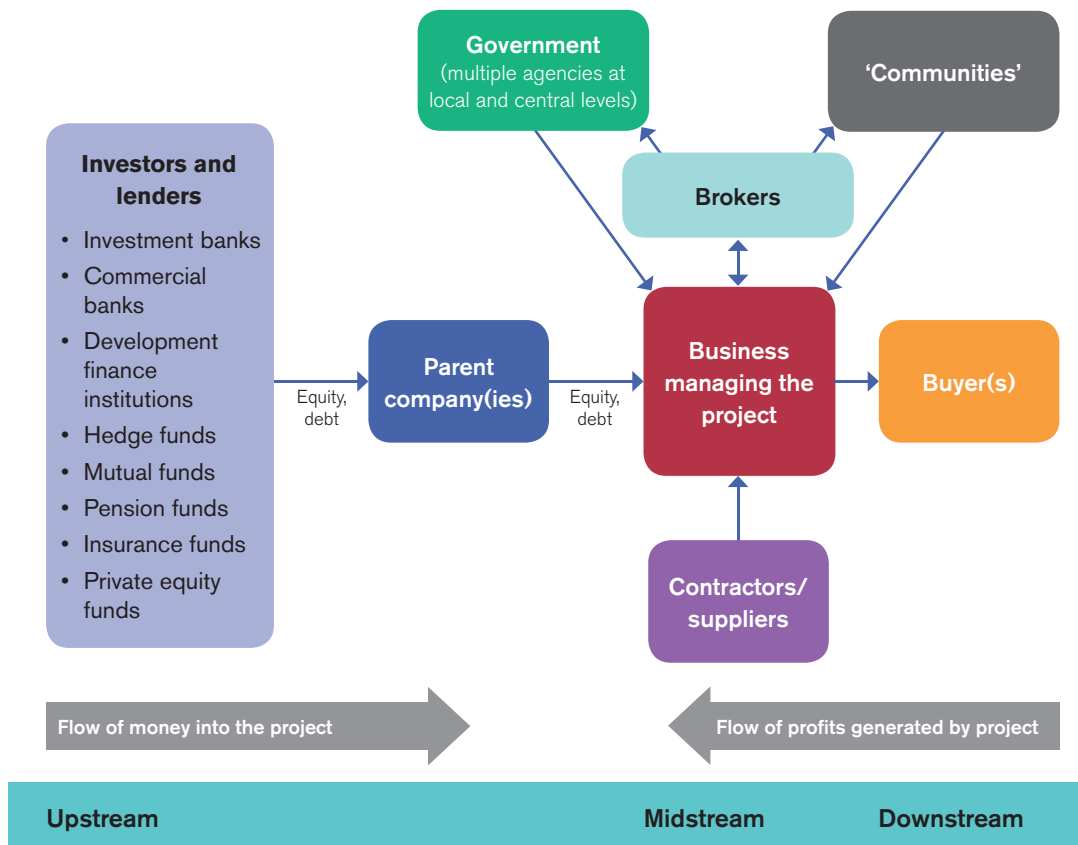
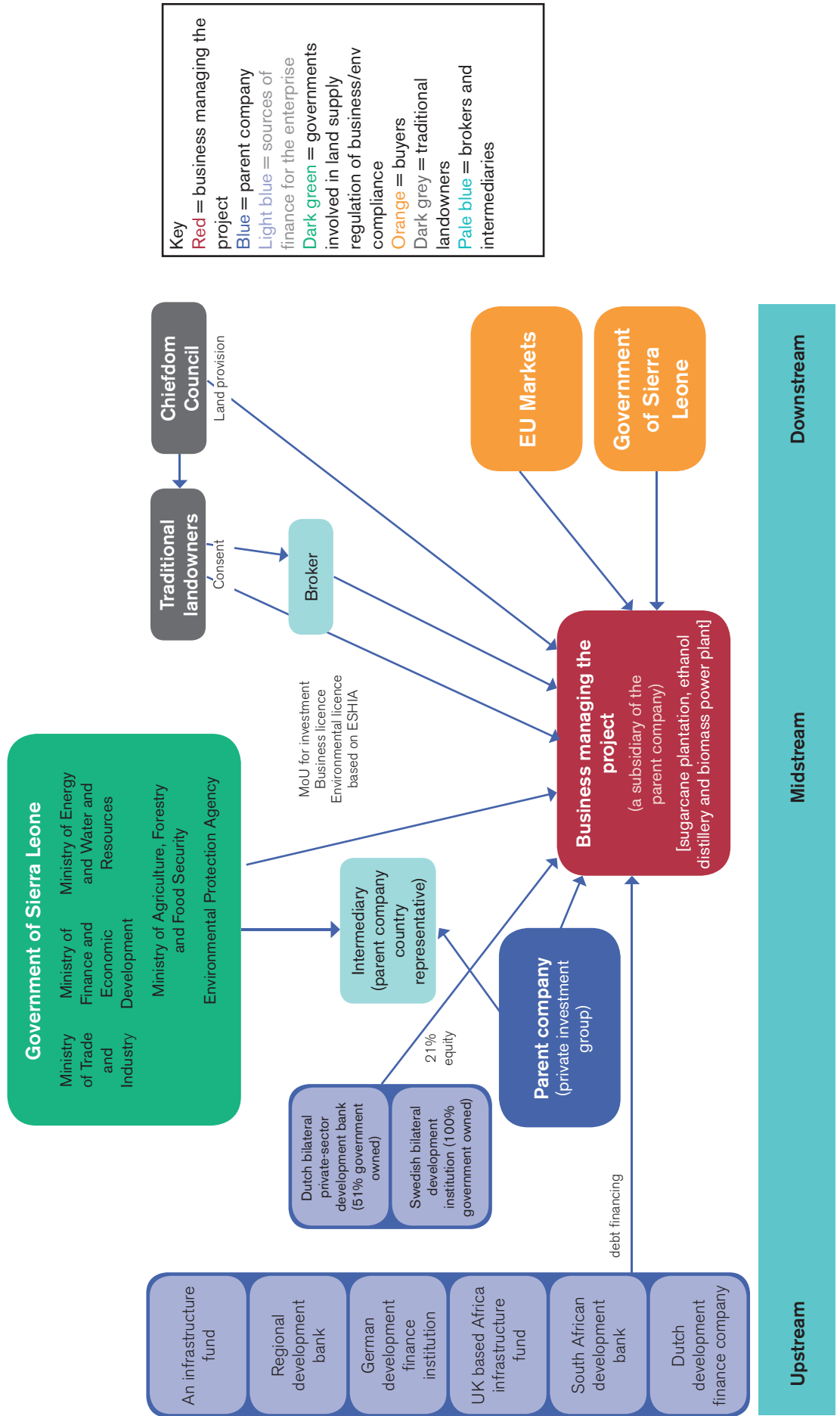


Figure 4 gives a real-life example of an investment chain for a project in Sierra Leone – a sugarcane plantation, ethanol distillery and biomass power plant producing ethanol and electricity. Ethanol is primarily for export to the European market. Electricity will be fed into the national grid.¹

1 Cotula and Blackmore, 2014. See: <http://pubs.iied.org/pdfs/12574IIED.pdf>

Figure 4: An investment chain for a sugarcane investment project in Sierra Leone, West Africa



1.3 Relationships in an investment chain

Relationships between actors in an investment chain are important to understand because it can help you to identify which actors can have the greatest influence over the business managing the project.

At each 'point' in the investment chain negotiations take place and decisions are made between actors. For example, when an equity fund decides to invest in a parent company – a negotiation takes place – sometimes publicly, but often behind closed doors – and a relationship is established between the two actors within the chain. In these negotiations, the investor might decide how much to invest, and whether to attach any conditions to that investment.

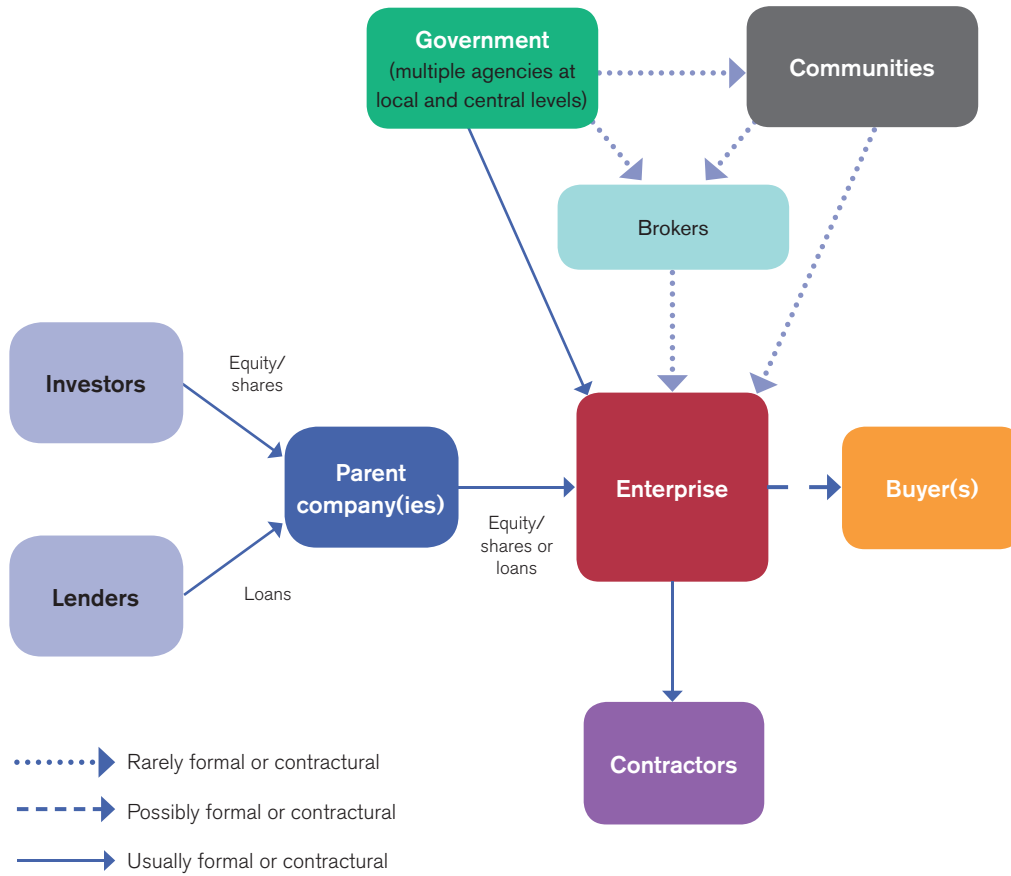
External factors will also shape these relationships and the decisions made by each actor in an investment chain. For example, a country's laws and policies will affect how much tax the business has to pay, which will affect its profit, and therefore influence an investor's decision about how much to invest and for how long.

At the upstream end of the chain, the relationships between investors, lenders and parent companies or the business are usually formally agreed and then set out in contracts. These contracts are usually not made publicly available. This is justified for reasons of 'commercial confidentiality' – to safeguard sensitive information of companies that their competitors might use for their own advantage. The relationships established between the business and governments at the midstream part of the chain, such as tax incentives and the terms of land leases or ownership, are also typically formalised through written contracts. Agreements around land use with local communities may be either formal or informal. If communities don't have formal ownership or use rights, they may be ignored altogether in agreements, a common cause of land conflict. At the downstream end, the nature of the relationship between the business and buyers varies depending on the product being sold, the size of the transaction (e.g. how much produce the buyer is buying), the size of the buyer and the business, and a number of market forces that exist both nationally and internationally.

Where contracts and formal agreements do exist, they are sometimes made publicly available – but this varies from place to place and project to project. Laws and policies in both host countries (where the investment is taking place), and home countries (where the investor or parent company is based), can play an important role in determining what information is made publicly available. For example, the home country may require that all land leases or investment contracts are made available through a public registry. When legal agreements are publicly available, they provide a very important source of information about the relationship between actors on the investment chain.

The diagram below shows the typical relationships that exist in an investment chain.

Figure 5: Typical relationships in an investment chain – formal and informal



Important point

Why map an investment chain?

The actors, relationships and decisions that exist in an investment chain determine the nature of the agriculture project, including its negative and positive impacts on local communities, national economies and the environment. By mapping an investment chain, you can better understand who the actors are, and the relationships, movement of money and other types of influence between them.

Actors in one segment of the chain can have influence over actors located in other segments of the investment chain, because of different levels of power. For example, a large investor in a parent company can have a lot of influence over the business managing the project. A major buyer can also influence the business and how it runs the project. For example, if a buyer hears about human rights abuses at the plantation of their supplier, they may threaten to stop buying the product from the business managing the project unless the problem is solved. This is why understanding an 'investment chain' can ultimately help to identify how we might be able to influence a business and its behaviours. This information can be used to design advocacy strategies that influence the social, environmental and human rights impacts of a project.



Useful resources

- Cotula and Blackmore, 2014. Understanding agricultural investment chains: Lessons to improve governance. See: <http://pubs.iied.org/pdfs/12574IIED.pdf>
- Investopedia, for definitions and more information on the types of actors you might find in your investment chain: www.investopedia.com/
- For an IIED video that brings all of this to life see: www.youtube.com/watch?v=FK15DHzfDmc



2 Getting started: mapping your investment chain

This chapter explains how to map an investment chain. It will give you tools and methods for identifying and recording the different actors along the chain and important information about each one.

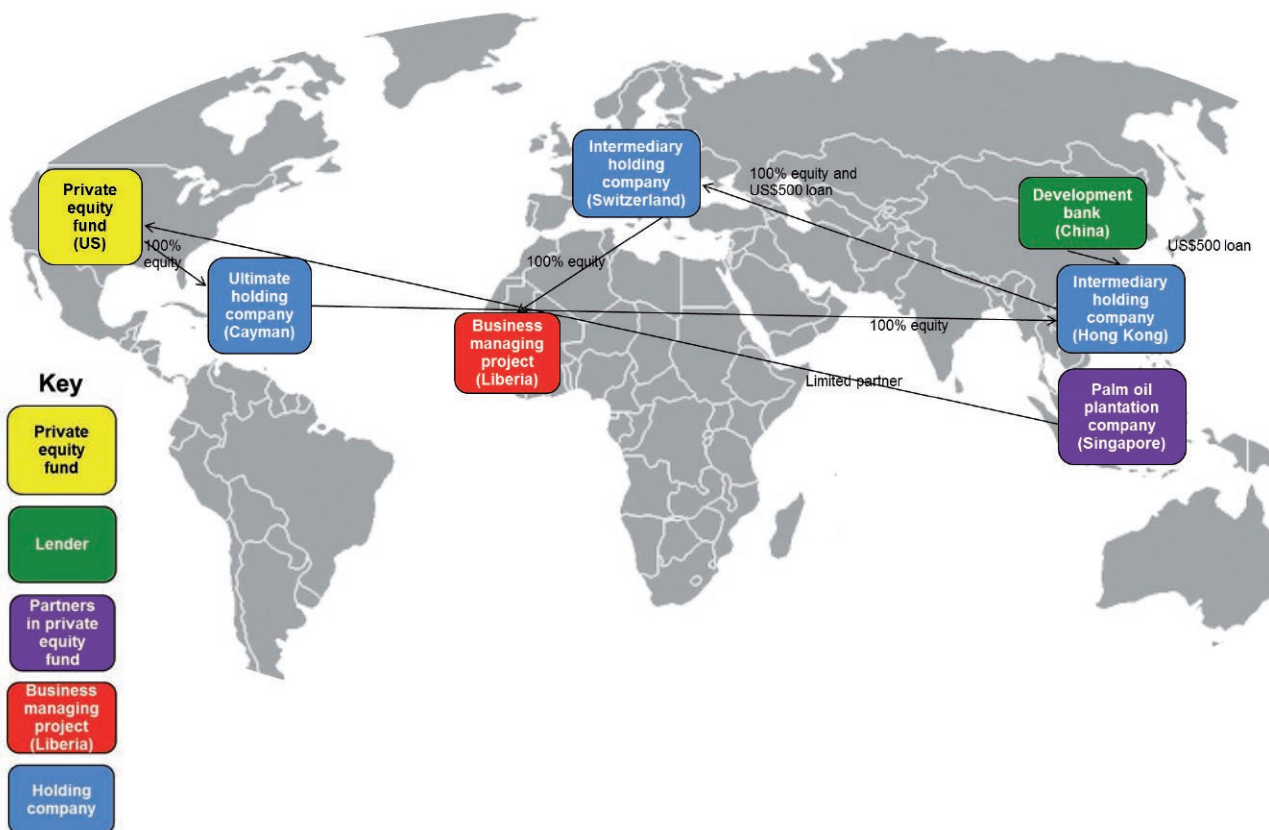
2.1 Things to remember and challenges you may face in researching your chain

Mapping an investment chain will be more or less complicated depending on a number of factors. For example, some investment chains are 'long', while others are 'short' – investment chains vary in length depending on the numbers of actors involved in the flow of money.

Geography is important in shaping how complex the chain is: key actors in investment chains can be spread across different countries and continents. This means that they are subject to different laws, policies and regulations that apply in their home countries as well as in the host countries in which they operate. The legal, social and political situation in the different countries involved can both limit and increase the advocacy opportunities to influence the project, as will be discussed later in the Guide. It is therefore important to note which countries the actors are based in and which other countries are relevant to their operations. For example, they may have a visible **retail brand** in another country – a distinctive name, logo and colours that consumers recognise – or they may be listed on public stock exchanges in several countries – companies are often listed on more than one stock exchange.

Figure 6 is a real-life example of an investment project that has a very wide geographical spread.

Figure 6: An agricultural investment project in Liberia with an international investment chain²



² Cotula and Blackmore, 2014. See: <http://pubs.iied.org/pdfs/12574IIED.pdf>

There might be a lack of information. It may be difficult to trace all the actors and relationships in an investment chain, particularly those far upstream or downstream, because there is often a lack of publicly available information. Even after conducting your research, you may have major missing pieces of information. Don't be disheartened! Be persistent in your research and develop the best possible advocacy strategy with the information you have. Over time new important pieces of information often come to light and your advocacy strategy can evolve as you discover more about the investment chain.

Your research techniques might feel a bit 'messy'. Because information can be hard to find, you can't always be systematic about doing the research. After researching upstream actors for a while you may not have found much, so move on to the downstream part of the investment chain to see if you can identify buyers. You may find helpful information that you can use when you come back to the 'upstream' research. Keep an up-to-date list of all sources of information as these might be useful later.

Investment chains change over time. Investment chains are dynamic and actors may change over time – for example, an investor may decide to **divest** (sell its shares) or a subcontractor may stop providing services to the business. The business may also seek new investors or new major buyers of its product. Relevant external factors may also change – for example, laws and policies in home or host countries, or even their governments, may change, which can open or close advocacy opportunities. Since advocacy campaigns can take years, you should look out for major changes in the investment chain because these changes may affect your strategy. Keep note of the publication date of sources you are using – and where you have multiple sources for similar facts make sure you use the ones that are most recent.

Some actors in an investment chain have a lot of power and influence. Some upstream and downstream actors have a lot of influence over the business managing project. For example, one investor might own the vast majority or even all of the shares of the parent company, which in turn wholly owns the business managing the project. Or there might be only one buyer that buys all of the produce from the project. These players are usually able to exert significant influence because their choices, to continue to invest or to buy the product, have big financial implications for the business. Look out for this type of information while conducting your research because it is very important for assessing 'pressure points' in the chain and developing your advocacy strategy (discussed later in the Guide).

Important point



Each investment chain is unique. Investment chains can be spread over a number of different countries or continents – for example, a project in Africa can have investors in Asia and buyers in Europe. One company can also be 'spread' over different countries – a large buyer of an agricultural product, for example, may have its headquarters in Europe, a visible retail brand in the United States and Asia, and be listed on public stock exchanges in New York, London and Hong Kong.

2.2 Let's get started! Mapping the investment chain

Reminder

An **investment chain** is the connection of actors and relationships that are involved in any one investment project. The different actors make an investment project possible.

The heart of the chain – referred to as the **midstream** part of the chain – is where the investment project physically exists. At the **upstream** end are parent companies, investors and lenders. At the **downstream** end are buyers who purchase products produced by the business.

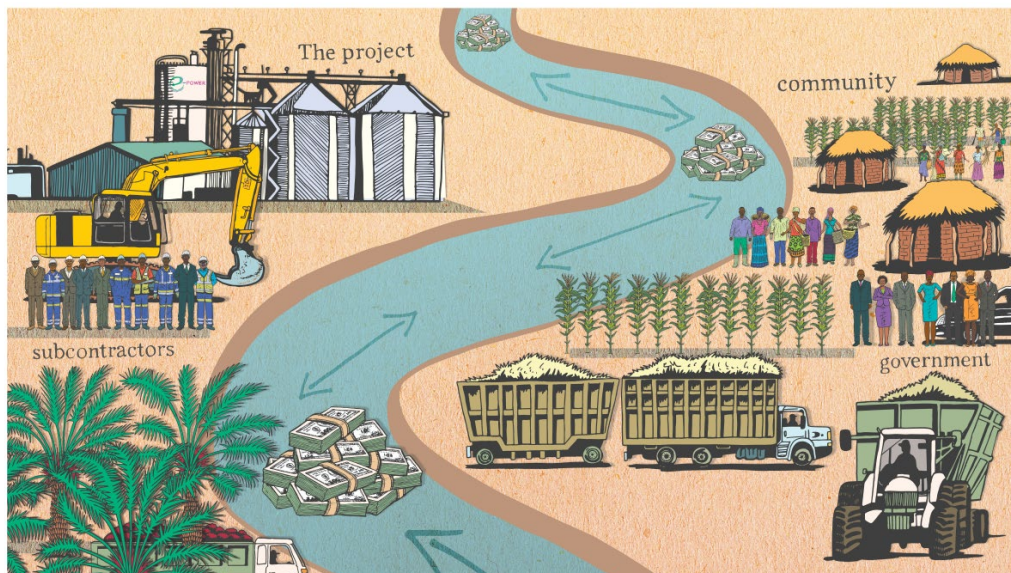
Mapping an investment chain involves finding out and recording who the actors are and what relationships they have to other actors in the chain.



Start midstream:

The midstream part of the investment chain is where you find the business carrying out activities on the ground, where the relationships between the business and communities take place (good and bad) and where the government and business interact. This is a good place to start because it's the most visible part of the investment chain.

Figure 7: Midstream



You should try to map:

- 1) The **business** that manages the project, as well as the names of the CEO and any other **important individuals** (for example the Chief Financial Operator (CFO) or Chief Operating Officer (COO) and information about the business).
- 2) The relevant **government** agencies and ministries in the host country.
- 3) Any **brokers** who have played a role in facilitating the deal, for example by liaising between government and the company or the community and the company.
- 4) Any **contractors** providing services or inputs that allow the project to operate. They might be physically present at the project site.

You are likely to already have some knowledge that you can use here. For example, you may know the name of the business operating on the ground. You should start by recording all the information that you already know about the project, such as the name of the company, the type of crops being cultivated, and the type, size and location of the plantations. If the project has already commenced, community members may know this sort of information from interactions with company workers or local government officials. There may also be signs posted around the project site that provide some of this information and even an office address.

You might know or be able to find out from colleagues which government ministries or departments would need to be involved in approving particular aspects of the project. For example, the Ministry of Environment might need to approve an environmental impact assessment and the Ministry of Agriculture may need to approve the lease over the land and the type of crops that can be grown there such as rubber, sugar or oil palm.

Local communities may have had interactions with brokers. For example, a local person may have brought company staff to look at the site, or someone may have come to speak with the communities to try to get their support for the project. The community may have seen companies or individuals carrying out particular services or delivering inputs for the project – these could be contractors.

ACTION

Using the table in WORKSHEET 1 (page 36) start documenting what you already know or can easily find out about the midstream part of your investment chain. Once the table is filled in you will be able to use the information to start creating your investment chain map. The diagram in WORKSHEET 2 (page 39) can be used as a template for your map.

Once you've filled in what you already know or can find out easily by asking other people, there may still be gaps in the midstream part of the chain. You will need to start researching using the sources outlined below (these sources can be helpful for mapping other parts of the investment chain too).

- A general Internet search (such as www.google.com) can often bring up useful sources to fill in the gaps in your investment chain map. You may also want to use a search engine from your own country if there is a local language option and if you are more familiar using that service. It can be useful to search both in your local language and in English. Use the information you have already recorded to start searching. You can start with a very broad search and then begin to narrow it down as you search for specific actors or as you find more information. For a broad search you might want to simply enter a few keywords associated with the project. For example, the name of the business, the country or place where the investment is taking place, and the product being produced (e.g. *Green-Agro Plantation Limited Cambodia rubber*). You may find media reports, company announcements, non-government organisation (NGO) reports and other sources of information online. It's worth reading carefully through all of these and recording any information that may help as you map the investment chain.

Tip



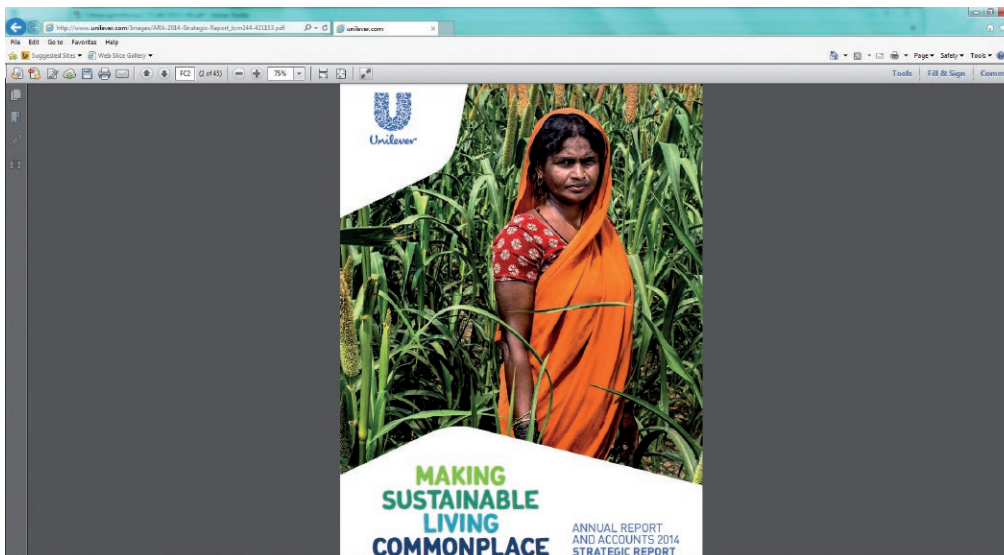
When you use the business name to search, remember to use all the possible spelling variations and acronyms used for the business name. For example, when we searched for the Vietnamese company called *Hoang Anh Gia Lai*, we also tried using the acronym *HAGL*.

- **The business may have its own website**, which may mention key individuals, such as the CEO, and information about its projects. For example, in the case of a company producing oil palm in Liberia, the company has published key facts and figures about the project on its website as well as a link to its concession agreement. <http://goldenveroleumliberia.com/index.php/frequentlyaskedquestions/concession-agreement>. The website may also contain information about environmental, social and

The screenshot shows the website for Golden Veroleum Liberia (GVL). At the top left is the GVL logo. To the right is a search bar. Below the logo is a navigation menu with links for HOME, ABOUT GVL, FAQ, GVL UPDATES, CAREERS, MEDIA, and DOCUMENTS. The main heading is 'Concession Agreement', dated 22 September 2014. The text under this heading includes sections for 'What are the basic details of your concession agreement?', 'Do you expect to renegotiate the terms of the concession agreement?', and 'When was your concession agreement signed?'. At the bottom, there is an 'Additional Info' section with a link to 'GVL Concession Agreement (Download)'. The footer contains social media icons for YouTube, LinkedIn, Facebook, and Twitter, along with the copyright notice 'Copyright © 2014 Golden Veroleum Liberia'.

human rights policies, which will be very useful for advocacy. Sometimes there will even be maps and photographs of the area that can help you to identify exactly where a project will be developed.

- **LinkedIn** (www.linkedin.com) can be a useful source of information regarding individuals connected to a project, such as a CEO. Some companies also have LinkedIn profiles. It may give you an idea of that person's involvement with other controversial projects or companies. **Facebook** (www.facebook.com) may also be useful.
- The business' **annual report**, often available on its website (or by searching online for the name of the business + **annual report**), is a very important source of information, including the business' activities, key individuals, including the board of directors and management, its operational structure, financial status and shareholders. Most large, public companies have to produce and publish annual reports. Try to find the most recent annual report available. Note that sometimes only the parent company will produce and publish an annual report. See for example a download of Unilever's annual report, which was found by googling Unilever annual report.



- **Contracts** between the parent company or the enterprise and the host government are sometimes made publicly available, for example, by governments involved in the deal. These can be excellent sources of information for identifying other actors. It might, for example, list the different government agencies or ministries involved in a project. These contracts may be available on the **websites of the relevant government department**. Typing the government department, ministry name or investor name into Google or another search engine should bring up the website. You can then use the search function on these websites to search for a contract. Try searching with different keywords, for example, the name of the business, the product or crop, the region of the country, or if you know it, the parent company. **NGOs** are sometimes able to access contracts and make them available online, as has been done with a number of leases for agribusiness projects in Africa and Southeast Asia: http://farmlandgrab.org/home/post_special?filter=contracts. Launching in 2015, **OpenLandContracts.org** will be the first searchable online database of publicly available contracts for large land, agriculture, and forestry projects – available for download or viewing online. In addition, OpenLandContracts.org will provide tools for understanding and comparing contracts: www.OpenLandContracts.org.

Important point



Remember to keep a detailed list of all sources – for example, by listing them in your table (Worksheet 1) using footnotes or in an Excel spreadsheet with a link to the source, date accessed, author and date.

You may want to return to these sources in later stages of mapping or identifying pressure points, or for verifying facts later on.

If you find a useful document online make sure that you save it. Sometimes web pages can be taken down or changed. If you find a useful page or article, for example, a news story about the project, you should save that page. The way in which it is saved depends on which browser you are using. For Mozilla see here for more information: <https://support.mozilla.org/en-US/kb/how-save-web-page?redirectlocale=en-US&redirectslug=Saving+a+web+page> For other webpages see the instructions here: www.cnet.com/uk/how-to/five-ways-to-save-a-web-page/ (under *the content capture approach*).

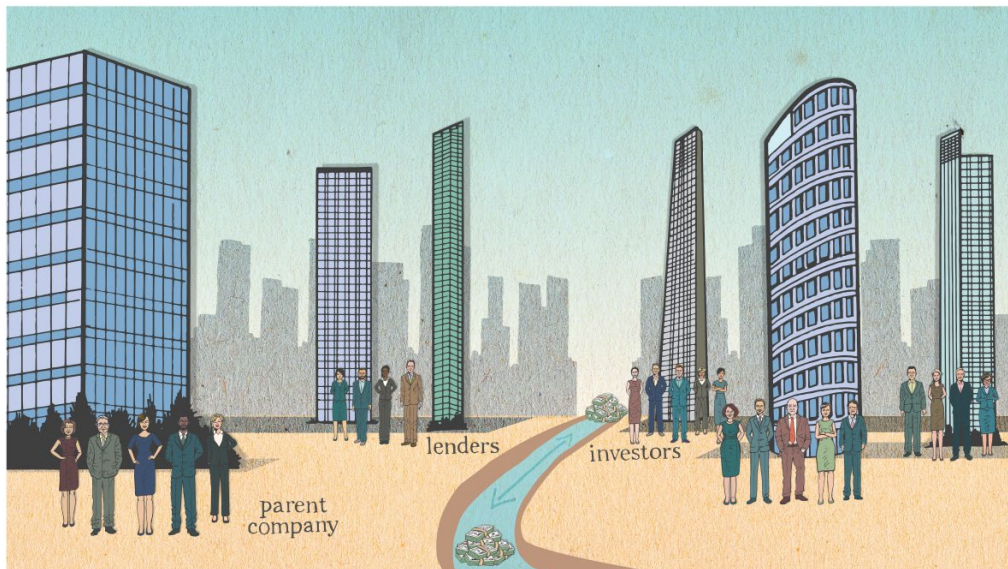
Make sure the date, source and title of the document is recorded. This way it will be easier to find information later if you need to.

- **NGOs or Civil Society Organisations (CSOs)** may have written specific articles or profiles about projects or businesses – especially those that have had negative impacts on communities and/or the environment. A number of open data initiatives are also compiling information related to investment and development. For example, see Open Development Cambodia: www.opendevdevelopmentcambodia.net/company-profiles/economic-land-concessions/. Open Development Mekong is a newer database that extends to companies and concessions in the wider region: www.opendevdevelopmentmekong.net/. If you know the name of NGOs or CSOs that have investigated the business that you are researching and may have helpful information, it is worth contacting them directly. Speaking to these organisations by phone or by email might reveal additional information or contracts that you can then follow up on. Try searching the **Business and Human Rights Resource Centre** database of companies to find out if the business has been involved in other problematic projects: <http://business-humanrights.org/en/find-companies>.
- **OpenCorporates** is another possible source of information for companies in your investment chain. It is the largest publicly accessible database of companies in the world. Though it varies from company to company, it generally gives information on the company directors, on the types of industry it operates in, any previous company names and the registered company address and jurisdiction. Some company profiles may even list the company accounts: <https://opencorporates.com>.
- The **Land Matrix** is another online database which you can search for information on particular land deals around the world. You can search by the country or region where the project is taking place, the investor, crop type and sector: www.landmatrix.org/en/get-the-detail/by-target-country/.
- It is also worth exploring relevant **government department websites** for information on land concessions. You could also try to make an appointment to meet someone at the government department to ask for information.

Moving upstream:

The upstream part of the investment chain is where the finance comes from to make the investment project possible. Each investment chain will vary widely in terms of the complexity of its upstream end. There may be just a few actors that invest large amounts or many smaller investors and some may extend far upstream. The amount of publicly available data on these actors will also vary, and generally there will be less publicly available information on private lenders such as commercial banks that have loaned money to the business managing the project.

Figure 8: Upstream

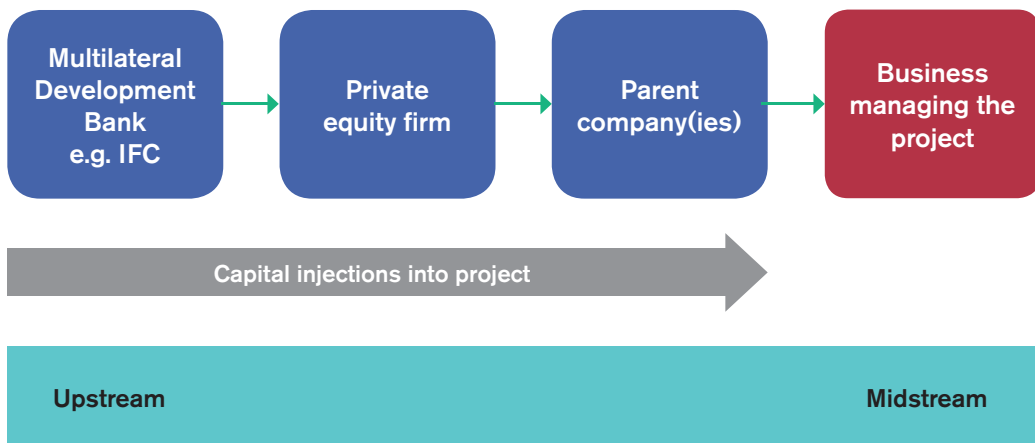


Here you should try to map:

- a) The **parent company** – if there is one – and the name of the CEO, or any other **important individuals** involved in the management of the parent company;
- b) **Investors** with shares/equity in the parent company, or directly in the business managing the project – including their name and what type of investor they are (see Chapter 1 for examples), as well as the names of any key individuals working there. Try to also find out **how much money was invested** and the **date of the investment**, as it will help you understand their scope for influence (as discussed later);
- c) **Lenders** that are either lending directly to the business managing the project or via the parent company – including their name and what type of lender they are (see Chapter 1 for examples), as well as the names of any key individuals working there. Try to also find out **how much money was loaned** and **the date of the loan**.

- d) **Indirect investors** (i.e. moving further upstream in your chain). For example, a multilateral development bank, such as the IFC, may have invested in a private equity fund that in turn invests in the parent company of the business managing the project. The IFC, in this scenario, is an indirect investor in the business, and the private equity fund is a **financial intermediary** between the IFC and the parent company and business managing the project. Although these actors are indirect investors, they can be very important for advocacy (discussed further in Chapter 3).

Figure 9: Example of the upstream part of an investment chain with indirect investors



ACTION

Start researching the actors in the upstream end of the investment chain using the sources outlined below. Use the table in WORKSHEET 1 to document what you find. Once the table is filled in you will be able to use the information to add to the investment chain map you've already started (WORKSHEET 2).

Sources:

- If the **business managing the project has a website**, it may name its parent company and its investors, including in media announcements. Look through the most recent available **annual report** to find names of shareholders and other information about investors. Sometimes, only the parent company will have a website and annual report. Look carefully through all your previous sources of information for a name of a company that could be the parent company. For example, you may be able to find the name of the parent company on investment contracts.
- Use **Internet search engines**, such as Google, to see what articles or information exist to identify the parent company, investors or lenders. Keywords like 'investments', 'investors', 'money', 'finance', 'shares', 'shareholders' or 'equity' can be used as search terms alongside the name of the business, parent company and other relevant project keywords.
- Once you find the names of particular actors involved as investors or lenders, you can search the internet to see if these **companies have their own websites** – it is very likely that many of the bigger investors or lenders will. These websites, including **annual reports** found on these websites, may provide information on the names of key individuals and other important information. They may also mention other actors that have invested in these upstream actors, so that you can map even further up the investment chain.
- **Bloomberg Businessweek** has a lot of information on public and private companies and their shareholders: <http://investing.businessweek.com/research/common/symbollookup/symbollookup.asp>. It's worth searching under both public and private categories if you are not sure which one your company of interest is. In the case of a bioenergy project in Sierra Leone, for example, it is possible to access key information about the company via Bloomberg Businessweek: <http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapid=83973424>
- Once again, **OpenCorporates**, might be a useful source of information for companies in upstream part of your investment chain (<https://opencorporates.com>).
- Bodies that regulate publicly listed companies and financial markets might also be a source of information about parent companies. Once you know which stock exchanges the company, parent company or investors are listed on, try to find out the relevant regulatory body and whether it provides a publicly available database. For example, in the United States, the Securities and Exchange Commission (SEC) has a database of companies – both those that are registered in the US and overseas: www.sec.gov/search/search.htm. When a company lists on a stock exchange the company gets a unique code. If you can find this code (for example, through searches for the company name on Internet search engines, such as Google) you can search that code on Google and on the stock exchange website and it may turn up important documents.
- **Banktrack** is an NGO that keeps a public database on banks involved in 'dodgy deals' (www.banktrack.org). Once you have found the name of one investor or lender, you can search this database to try to find more information about them and other problematic projects they are involved in. The Business and Human Rights Resource Centre, mentioned above, may also have helpful information.

Important point



It is worth checking to see if a Multilateral Development Bank, like the World Bank Group's International Finance Corporation or the relevant regional development bank, is a direct or indirect investor or lender, because if so, it opens up an important source of information and advocacy opportunities (discussed later). You can visit the MDBs' websites and search for information using the project, business or parent company name. You can also search by country and sector, e.g. agriculture.

Don't forget!

It's important to remember that MDBs might not invest directly in the business managing the project or parent company – they may invest in a private equity or investment fund, or even another bank, which in turn invests in a parent company or the business itself. This means it is further upstream in the investment chain, but still presents a key advocacy opportunity.

- The **International Finance Corporation**, the private sector lending arm of the World Bank Group, discloses some information about all of its investment projects. It has an online database of all of its projects at [http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/\\$\\$Search?openform](http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/$$Search?openform). As well as providing a list of recent projects, you can search for specific projects using the information you already have (sector, country, region, etc. – see screen shot). You can also submit specific requests for information, though you will need to provide some basic information about yourself so that the IFC can contact you.

Tip

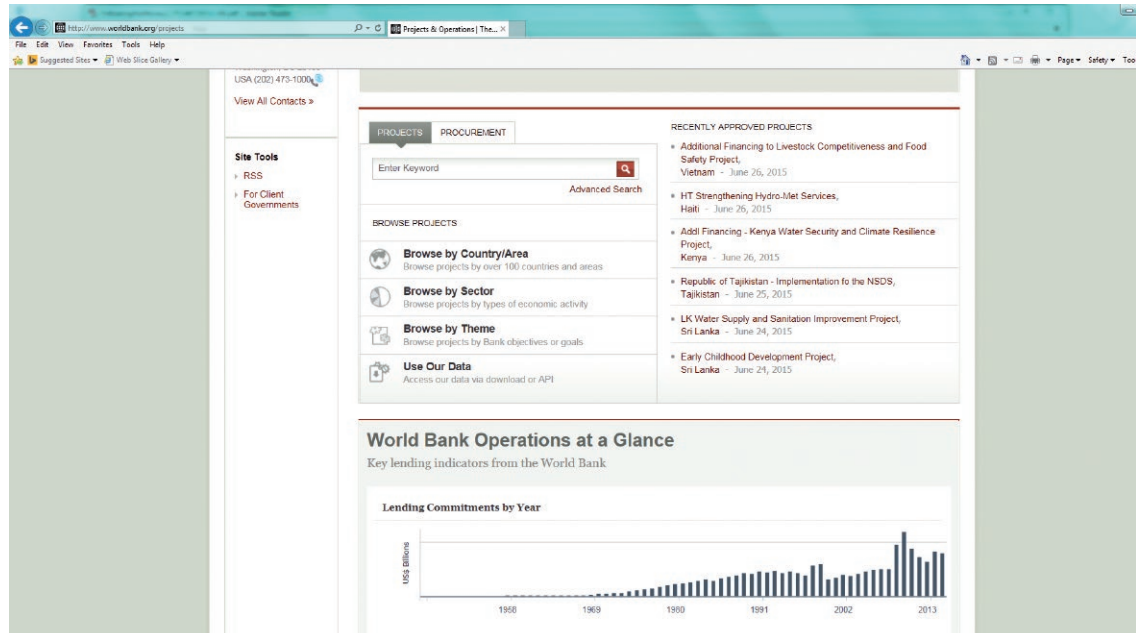


In addition to searching for the business and parent company on the IFC and other MDBs' databases, it's also worth searching for the names of investors that you have already found. If the MDB has invested in the investors or lenders, this is an important pressure point that can be used in your advocacy (explained further later in the Guide).

- The **World Bank**³ typically provides loans to governments, mainly for public sector projects and policy reform, but can also provide funding to the private sector, including through public–private partnerships. The World Bank's database of projects and loans can be found here: www.worldbank.org/projects – see screen shot below. You can search for projects, countries, regions and sectors. It is worth looking through the list of country projects (in

3 In addition to the IFC, the World Bank Group has two other lending arms called the International Development Association (IDA) and the International Bank for Reconstruction and Development (IBRD). These two arms are generally referred to simply as 'The World Bank'.

the country where the investment project is taking place) to see if there are any World Bank-financed projects which may have a connection to the investment project, either by directly providing finance or through a project that may be facilitating agricultural investment projects (e.g. look for an agricultural sector reform project).



- It's also worth checking whether the relevant regional development bank is a direct or indirect lender or investor to the business managing the project or its parent company, and whether it's financing a government-run project that may have a connection to the investment project, such as an agricultural sector project (see section 7.2).
- The **Asian Development Bank (ADB)** provides financing to the public and private sector in Asia. The ADB's database of its projects (by country and sector) can be found here: www.adb.org/projects
- The **African Development Bank (AfDB) Group** provides financing to the public and private sector in Africa. AfDB's search function can be found here: www.afdb.org/en/projects-and-operations/project-portfolio/
- The **Inter-American Development Bank (IDB)** provides financing to the public and private sector in Latin America and the Caribbean. IDB's database of projects can be found here: www.iadb.org/en/projects/overview,1229.html
- The **European Investment Bank's** provides financing to the public and private sector. A database of projects can be found here: www.eib.org/projects/pipeline/index.htm
- The **European Bank for Reconstruction and Development** provides financing to the private sector. A database of projects can be found here: www.ebrd.com/work-with-us/project-finance/project-summary-documents.html

Moving downstream:

The downstream part of the investment chain is where buyers can be found. Buyers purchase the outputs from the project, in small or large amounts. A buyer that purchases a large amount of the product will be more important for advocacy. There may be one or several buyers. Some may be multinational companies, others may be small, national companies. Governments can also be buyers.

Figure 10: Downstream



Here you should try to map the major buyers, which may include:

- Trading companies**, which buy and sell large amounts of the product, called a commodity, in global markets;
- Processors or manufacturers**, which buy the product to include as a component or ingredient in another product;
- Retailers**, which sells the product to the end user or consumer.

ACTION

Start researching the actors in the downstream part of the investment chain using the sources below. Using the table in WORKSHEET 1 start documenting what you find out. Once the table is filled in you will be able to use the information to complete the first version of investment chain map (WORKSHEET 2).

Sources

Tip



The major buyers (that purchase a large amount of the product) and big companies with visible well-known brands are the most important buyers for advocacy purposes, so it makes sense to focus on identifying them. Governments that buy the product may also be important for advocacy.

- It may be worth asking a business representative who is physically present at the plantation if they know who will buy the product. If there are only one or two major buyers, it's possible that this person may know who they are and be willing to tell you.
- The **business or parent company's website** may mention major buyers of its product, especially in media announcements.
- Try a general **Internet search** using keywords such as the business or parent company name, the crop type (e.g. 'rubber', 'sugar', 'palm oil'), and words like 'sell', 'buy', 'supplier', and 'purchase'. You may find a reference to a deal or potential deal between the business/parent company and a major buyer.
- Another way to try to find major buyers is to search for the biggest global companies that buy the particular product being produced by the business. For example, you might search for 'sugar cane' or 'natural rubber' and add search terms, such as 'global buyer', 'trading companies' or 'processor'. You can also try searches like 'top 10 sugar companies'. You can then search the websites and annual reports of some of the biggest companies to see if they list their suppliers. You could also search the Internet using the name of each of the biggest companies in the industry and the name of the business or parent company to see if you get any results.
- If you are able to identify a major trader or processor that buys the raw product from the project, have a look at the company's website to try to find information on who their customers are (who they sell to). This will tell you who the potential retailers and end consumers of the product are. The actors, who are further downstream in your investment chain, might offer additional options for your advocacy strategy (as discussed later).
- Once again, **OpenCorporates**, might be a useful source of information for companies in the downstream part of your investment chain (<https://opencorporates.com>).

Useful resources:

- Training on using Google Search: www.grovo.com/social-media/introduction-to-google-search.
- A beginners' guide to online research: <http://netforbeginners.about.com/od/navigatingthenet/tp/How-to-Properly-Research-Online.htm>
- Google search tips, by Google: www.google.com/insidesearch/tipstricks/all.html
- Understanding how Google Search works: www.youtube.com/watch?v=BNHR6IQJGZs

WORKSHEET 1: Research table to collect information for mapping

Instructions: fill in as much relevant information as you can.

Business managing the project & basic project facts	<p>Project or business name:</p> <p>Country of registration:</p> <p>Names of key individuals (eg. CEO, COO, CFO, directors):</p> <p>Project activities (crop, type of agriculture model (eg. plantation, contract farming, etc.), processing (eg. mill, refinery, etc.):</p> <p>Scale of activity (land area, US\$):</p> <p>Location of activity (country, regions, nearest town or villages):</p> <p>Timeline of events (e.g. date of signing agreements for use/leasing of land/date operations began on the ground, etc.):</p> <p>Other information:</p>
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Parent company	<p>Parent company name:</p> <p>Relationship to business managing the project (<i>ie. subsidiary or branch</i>):</p> <p>Country of registration:</p> <p>Names of key individuals:</p> <p>Other information (<i>e.g. business activities</i>):</p> <p>Size of the company (<i>revenue, number of employees, number of countries it operates in</i>):</p>
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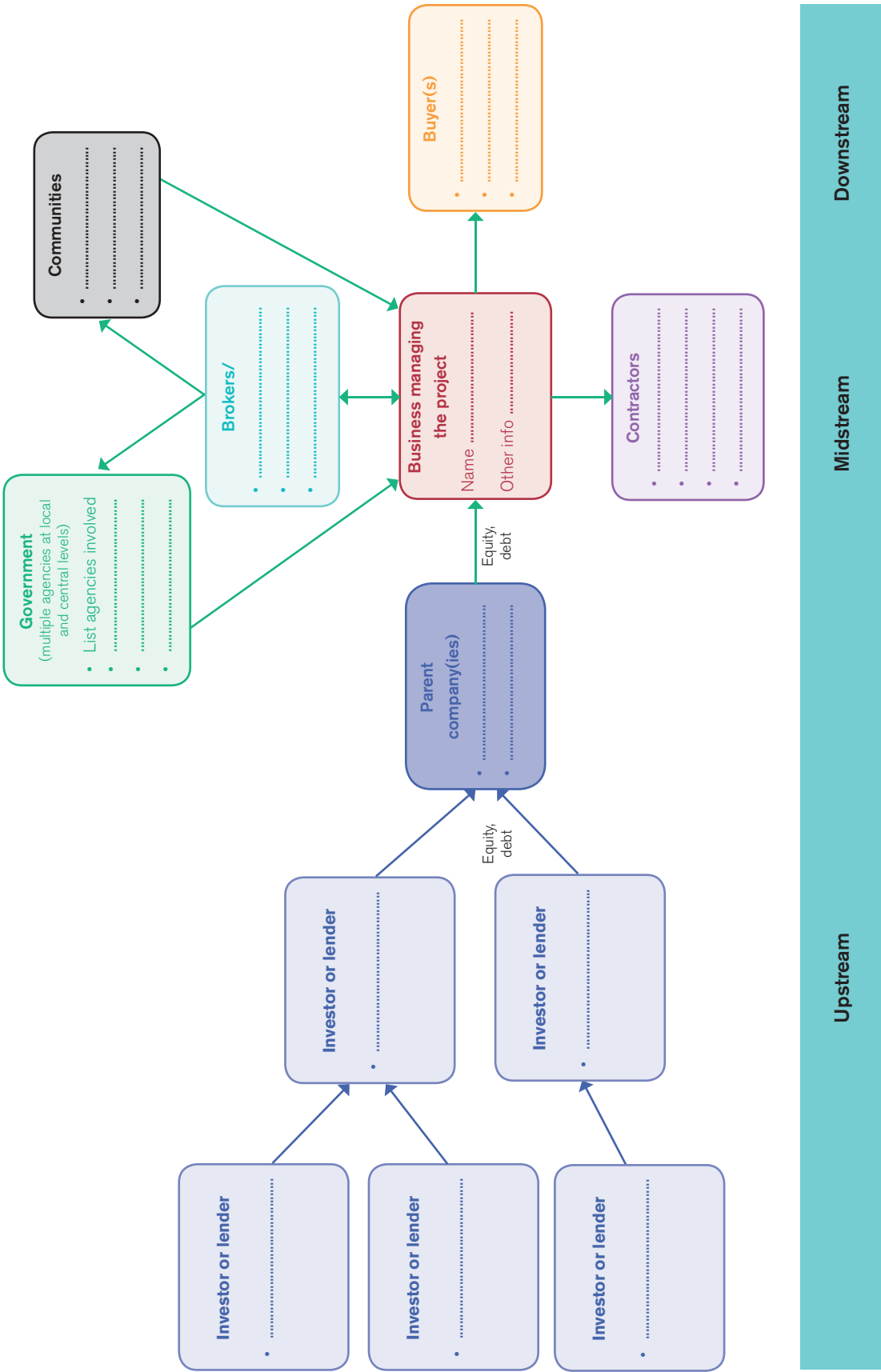
Government actors & brokers	<p>Name of government involved (<i>national, local, etc.</i>):</p> <p>List names of ministries/departments/agencies involved and their role (<i>e.g. granting investment or business licences, approving environmental and social impact assessments, signing land leases, monitoring compliance with regulations</i>):</p> <p>Name of any individuals/brokers involved in liaising between government and project and their role:</p>
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Contractors, suppliers & service providers	<p>For each: name and what type of service they provide. Also note names of key individuals (<i>eg. CEO, COO, CFO, directors</i>):</p>
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Investors & lenders	<i>For each: name, type (eg. bank, MDB, pension fund, private equity fund), country of registration, amount and date of investment or loan; direct or indirect investor; key individuals (eg. name/CEO), and size (revenue, no. of employees, countries of operation):</i>
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Buyers	<i>For each: name, type (eg. retailers, processes, manufacturers, trading companies), country of registration, amount and date of purchase, key individuals (eg. name/CEO), size (revenue, no. of employees, countries of operation):</i>
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WORKSHEET 2: Investment chain template



THE WORLD BANK GROUP

3 Identifying pressure points

In this chapter you will learn what a 'pressure point' is and how to assess the strength of different pressure points by investigating the specific actors and relationships in the investment chain and the external factors that affect them. Finding pressure points can help you target your advocacy to most effectively influence the behaviour of different actors, and ultimately the project on the ground. This increases the chances of achieving your advocacy goals, such as protecting land rights, avoiding negative environmental impacts or seeking remedies for violations and harms that have already occurred.

3.1. What is a pressure point?

When a community is harmed by a project and is seeking redress or wants the design of a project to benefit them, it is necessary to influence the behaviour of the business managing the project. But if the business itself does not respond positively to advocacy, you can try to influence other actors along the investment chain, which in turn can use their leverage to change the behaviour of the business managing the project. In order to assess how to do this most effectively, you need to identify the strongest pressure points along the investment chain.

Once you have a basic map of the investment chain – even if there are still gaps – you can start identifying pressure points along the chain and consider how strong each one might be. This will inform your advocacy strategy, discussed later in the Guide.

A 'strong' pressure point is an actor along the investment chain that:


- (i) Is **responsive to advocacy**, for example, because it is bound by relevant laws and policies or because it is vulnerable to reputational damage; and
- (ii) Has the **ability to influence** how the business is managing the project on the ground, for example, because it is a major investor or lender, a powerful government agency, or a major buyer of the product being produced by the project.

This chapter looks at how to identify pressure points and assess their strength. Strong pressure points provide greater potential for influencing the project design or operations, or remedying harms already suffered. The rest of the Guide will explain how to use the pressure points to develop and implement an effective advocacy strategy.

3.2. Analysing pressure points

All the information you've gathered so far and recorded in Worksheets 1 and 2 will help you to understand what kinds of actors are in your investment chain. Using this information and digging further, you can now identify pressure points and assess their strength. This information will help you decide what advocacy strategies will be most efficient and effective, taking into account your time, resources and capacities. Many of the sources you identified to fill out Worksheets 1 and 2 will also be useful to understand the strength of the pressure points. Otherwise, use the same research techniques and sources outlined in Chapter 2 to do further digging. For example, company websites and annual reports will usually list the CEO of a company, its country of registration, its revenue and even its shareholders. Information on government agencies is usually best found online through Internet searches and the agencies' own websites.

Important point



Pressure points are the actors and relationships in an investment chain that can be targeted in advocacy to influence the design, outcomes and impacts of a project, or to obtain remedies for harms. A strong pressure point is responsive to advocacy and has the ability to influence the business managing the project and what's happening on the ground.

ACTION

Below are key questions you need to answer to identify and understand the strength of pressure points in the investment chain. Answering these questions will help you assess each actor's likely responsiveness to advocacy and their ability to influence the business managing the project. You can summarise your answers to these questions using the table in WORKSHEET 3 (page 57).

3.2.1. Pressure point questions for all actors along the investment chain

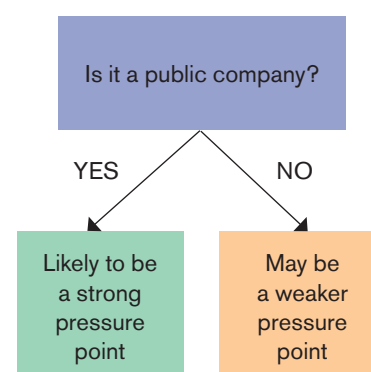
1. If it is a company, is it a publicly listed company or a private company?

Whether a company is public or private can affect the amount of information a company must disclose, the number of shareholders it is likely to have, and whether information on shareholders is made public. This affects the incentives and decisions made by the company – and therefore the strategies that might be used to influence them.

The difference between public and private companies, and how much information they publish, depends on the country or region where the company is registered. For example, in the European Union, private companies have to publish their financial statements. And in Common Law jurisdictions⁴ private companies generally have to make some basic information public. But in general, private companies tend to have fewer or less demanding disclosure and reporting requirements than publicly listed companies.

If a company is public it is more likely to be sensitive to issues that might damage its reputation. A bad reputation can have a direct impact on the financial returns of a company. If a company attracts negative attention, some shareholders may decide to sell their shares to avoid future financial losses, which can cause the value of shares to fall – meaning the company loses value. This might make it harder or more expensive for the company to borrow money in the future.

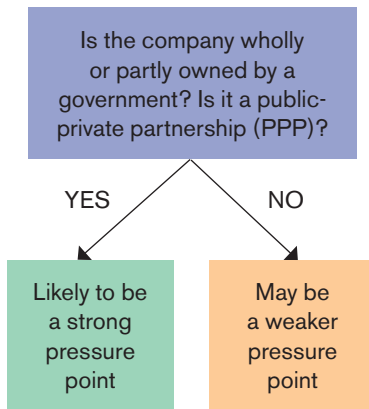
For these reasons, a public company is likely to be a stronger pressure point than a private company. You can usually find out whether a company is public or private on the company's own website: check the 'about us' pages or annual report if there is one. If the company has 'PLC' at the end of its name then it is a publicly limited company (i.e. it is public). If it ends in 'LLC' (in the United States) it is a limited liability company, which means it is a private company. Often the company's website will say if the company is listed on a stock exchange. If the company is listed, it is a public company.



⁴ See here for a list of common law countries: http://en.wikipedia.org/wiki/List_of_national_legal_systems#Common_Law. Note: each country has its own rules so it's worth investigating each country on a case-by-case basis.

2. Is the company state-owned i.e. owned by government or a part of a public-private partnership (PPP)?

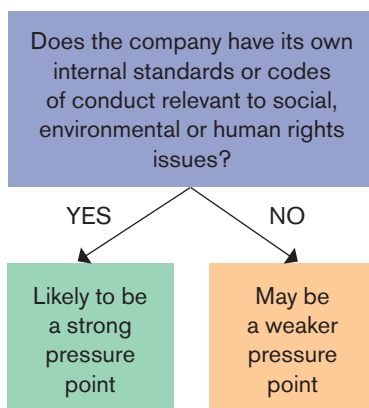
Companies can be part or majority owned by governments – either host governments or foreign governments that are investing or buying overseas. If the company is state-owned, the government is using public funds for these investments or purchases and it



may therefore be more sensitive to public scrutiny, especially if the government is democratically elected. Civil society has an important role to play in holding governments, as well as public-private partnerships (investment partnerships between government and a private company), to account for adherence to relevant national and international laws and for their investment choices. This includes bringing harmful investments to the attention of parliaments, local media and citizens. Although this is not the case in every country, this may make state-owned companies and PPPs a relatively strong pressure point.

3. Does the company have its own internal standards, policies or codes of conducts? Does it have a formal complaints process?

Companies may have their own internal policies, codes of conducts or standards on, for example, the environment, forests, land rights or human rights that they publicly commit to respecting and implementing. These can be used to hold companies to account. Companies that make public commitments to standards and policies face losing credibility and damaging their reputation if these policies are not respected in practice. Some companies have a formal grievance mechanism or complaints process that you can use if you believe the company has failed to respect its own policies, standards or code of conduct.

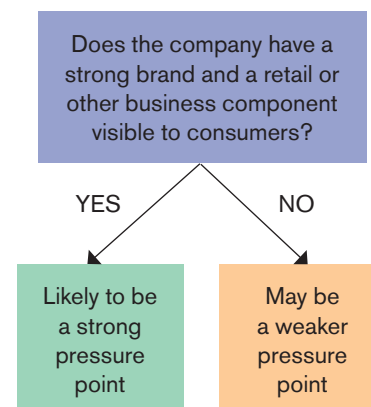


The best source of information on the internal policies, standards and codes of conduct of a company is usually the companies' own website, since they commonly advertise these to the public. Look for webpages such as 'Corporate Social Responsibility', 'Sustainable Development', 'Our Policies', 'Our Commitments' or 'About Us'. The company's annual report may also mention its environmental, social and human rights policies and commitments. Search the website for a form or contact information to submit a complaint, which would indicate that the company has a process in place to deal with complaints.

4. Does the company have a strong brand and retail or other business component visible to consumers? If so, where and for what type of product or service?

Companies that have a strong brand or business component visible to consumers are more likely to be sensitive to reputational risks and any negative publicity, because consumers may decide to stop buying their products or services. It may also be harder for companies to attract investors or lenders or to implement projects in the future.

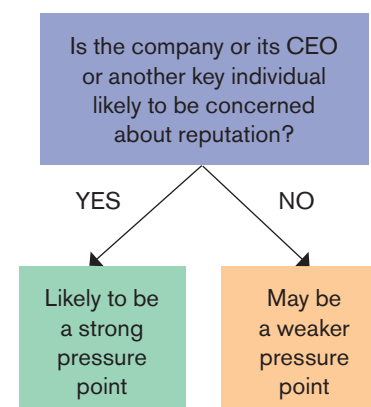
Even if you are not familiar with the company's brand because it is not well known in your country, it may be a strong brand in other countries. You may need to do web searches on the brand and ask CSOs in the country where the company is based. The company's own website may also have this information – for example, it might show the logos relevant to its brand or talk about the types of products and services it sells and to whom.



5. Is the company likely to be concerned about reputational risks because of its public image? Is the CEO or another key individual (e.g. CFO, COO, someone from the board of directors) personally concerned about reputation?

This question is related to questions 3 and 4 above. Some companies have invested significantly in building and maintaining a positive corporate image – for example, by adopting environmental and social policies and by advertising itself as having ethical and responsible business practices. Publicly listed companies that claim to be 'green' and ethical, may be included in the portfolios of ethical investment funds and any challenges to this claim may reduce financing options for the company.

A company's CEO may be personally concerned about reputation and about responsible business practices. CEOs are highly influential in dictating business strategy and practice. For example, some CEOs have made public statements that they are environmentalists or are committed to human rights. Some may even have donated large sums to social causes and told the media about it to strengthen their public image. Use Internet search engines, such as Google, to search for this sort of information in media reports. Where a company is concerned about corporate image and/or a CEO or other key individual is personally concerned about reputation it may offer a strong pressure point.



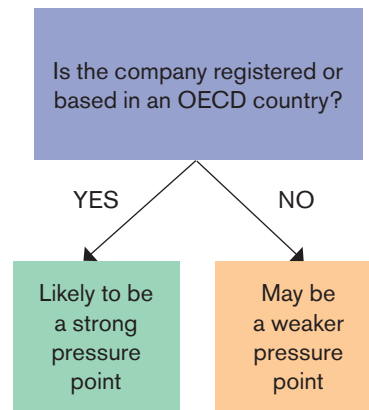
6. Is the company registered or based in an OECD country?

The Organisation for Economic Co-operation and Development (OECD) is an international economic organisation, made up of countries whose mission is to promote policies that will improve the economic and social wellbeing of people around the world. The OECD has created a number of standards and guidelines relating to investment and trade, including standards relating to corporate governance and environmental practices. An important one of these is the OECD Guidelines for Multinational Enterprises.

The OECD Guidelines for Multinational Enterprises are recommendations for responsible business conduct. The guidelines are not legally enforceable, but the governments listed below have agreed to encourage businesses based in their countries to observe these guidelines wherever they operate. The OECD Guidelines apply to all the entities within a business group (including a parent company and all of its subsidiaries or branches) that are registered or based in an OECD adhering country.⁵

The guidelines require that 'enterprises should: 1) contribute to economic, social and environmental progress with a view to achieving sustainable development; 2) respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.'⁶

Compliance with the OECD Guidelines is monitored by National Contact Points (NCPs) – agencies established by adhering governments to promote and implement the Guidelines. The NCPs can hear complaints from people who allege non-compliance with the guidelines (discussed further in Chapter 6). Though the NCPs are not always effective as a grievance mechanism, companies that are registered or based in OECD countries may be a stronger pressure point than those that are not.



Countries with a National Contact Point in place include:

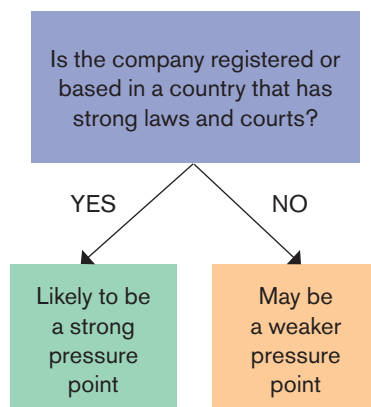
- Argentina
- Australia
- Austria
- Belgium
- Brazil
- Canada
- Chile
- Colombia
- Costa Rica
- Czech Republic
- Denmark
- Egypt
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Israel
- Italy
- Japan
- Korea
- Latvia
- Lithuania
- Luxembourg
- Mexico
- Morocco
- Netherlands
- New Zealand
- Norway
- Peru
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Switzerland
- Tunisia
- Turkey
- United Kingdom
- United States

⁵ A list of OECD adhering governments can be found here: www.oecd.org/corporate/mne/oecdguidelinesformultinationalenterpriseslinks.htm#Adheringgovernments. This list does not align with the list of countries with NCPs and despite attempts to contact the OECD, it remains unclear why this is the case.

⁶ www.oecd.org/investment/mne/1922428.pdf

7. Does the country where the company is registered and/or operating have strong laws and regulations and an effective court system?

Laws set out the rights and obligations of the different actors involved in an investment chain and they shape the rights and recourse mechanisms that affected people can use. This is the same for both host countries, where the investment project is located, and home countries, where the parent company, investors and buyers might be based. Some of the laws that might be relevant, among others, include company law, tax law, anti-corruption laws, investment law, freedom of information laws, environment laws, property and land laws, forestry laws and tort law.



Some countries have strong laws that regulate investments and protect people's rights and the environment. In some of these countries the laws are enforced and there are independent and effective court systems that people can access if their rights are violated. In other countries, what is written in the law and what happens in practice can be very different due to lack

of capacity within government to enforce laws, or lack of will to do so. The courts may not be accessible, independent or effective in upholding the law. The potential for pursuing legal action needs to be carefully considered in each situation (See Chapter 6 on using judicial mechanisms).

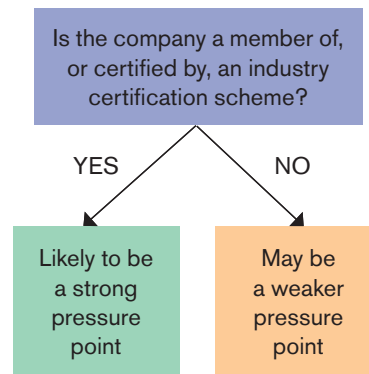
You may need the advice of lawyers based in each country to help you answer this question, but try to do a bit of research and answer as best you can for now. Organisations that may be able to offer free legal advice are listed in Chapter 6.

Reminder

Although a large geographical spread can make the investment chain more complex, it may offer more opportunities for influencing the actors because you may be able to use different laws and mechanisms, including the courts, in the various countries to apply pressure.

8. Is the company a member of, or certified by, an industry certification scheme?

Several certification schemes exist to offer a guarantee or an assurance to consumers that companies are investing or producing according to specific environmental, social or economic standards. Buyers might require that their suppliers implement particular standards or use particular guidelines, or investors and lenders might require that any projects they finance do implement certain standards. If a business receives certification it may be able to use a label or logo to advertise its compliance to buyers, consumers or investors.



Some of these schemes also have grievance mechanisms attached to them, which allow people to make complaints if they believe the standards have not been met. Chapter 6 explains the standards and how you can use these grievance mechanisms in your advocacy. For now, if you find an actor along the investment chain that is a member or is certified by one of these schemes, mark this as a potential pressure point. Each of the schemes below has an online database you can use to search for actors along your investment chain. Companies are also likely to advertise on their own website if it has certification from these schemes. When you are looking at a company website or one of their products, look out for certification logos such as those below:



- Is the business growing **sugar cane**? If so, then some of the midstream or downstream actors in your investment chain might be members of **Bonsucro**.
- Is the business cultivating **trees** (e.g. rubber)? If so, it might have or be in the process of obtaining the **Forest Stewardship Council (FSC)** certification.
- Is the business producing **oil palm**? If so, the **Roundtable on Sustainable Palm Oil (RSPO)** might be relevant.
- Is the business producing **biofuels, e.g. soybeans or sugarcane**? If so, then the **Roundtable on Sustainable Biomaterials (RSB)** might be relevant.

A brief overview of these standards is given in Box 3.

Box 3: Relevant certification schemes

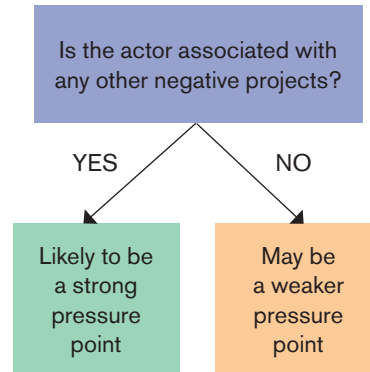
- **Bonsucro** is a multi-stakeholder organisation that requires member organisations to implement a set of objectives and principles. It also offers a certification scheme to businesses that meet a number of criteria regarding sugar production.
You can find out whether the actors on your investment chain are certified by Bonsucro by searching its database, available here: <http://bonsucro.com/site/certification-process/certified-members/>
You can find out if any of the companies that you have identified along the investment chain are members of Bonsucro here: <http://bonsucro.com/site/members/list-of-members/>
- The **FSC** has designed a number of principles and criteria for sustainable forestry. Businesses that manufacture, process or trade forest products can apply for certification if they meet the principles and criteria.
You can find out whether the agribusiness company affecting the community you are supporting has FSC certification through a database on FSC's website available here: <http://info.fsc.org/certificate.php#result>
- **RSPO** is a global, multi-stakeholder initiative on sustainable palm oil that has developed a standard, called the Principles and Criteria for Sustainable Palm Oil Production. These principles must be met for palm oil plantations and processors along the supply chain to receive RSPO certification.
You can find out whether the company is a member of RSPO by searching its database, available here: www.rspo.org/en/rspo_members
- The **RSB** certification scheme has a set of comprehensive sustainability criteria that allow eligible producers to show buyers and regulators that their products have been produced without harming the environment or violating human rights.⁷
You can find out whether the company is certified by RSB here: <http://rsb.org/certification/participating-operators/>

The actor is likely to be a stronger pressure point if it is a member of one of these initiatives, and if it is seeking or has achieved certification from one of these schemes.

⁷ Potts *et al.*, 2014. www.iisd.org/pdf/2014/ssi_2014.pdf

9. Is the actor associated with any other negative projects?

In terms of campaigns or applying pressure to actors in your investment chain – there may be strength in numbers. If a company is currently involved in other projects that are having negative impacts elsewhere, you may be able to identify other communities and supporters to team up with to apply pressure on the company. That may increase the strength of the pressure point. Media reports will be particularly helpful in identifying whether the actor in your chain has been associated with any other negative projects. A general Internet search may help you to find these media reports. Also, see the Banktrack and Business and Human Rights Resource Centre online databases described in Chapter 3.

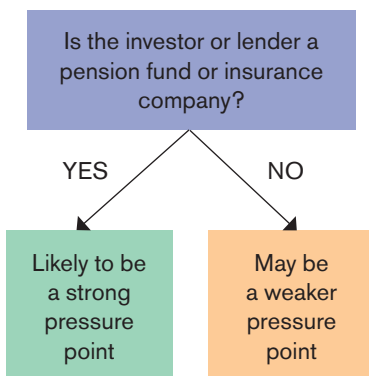


3.2.2. Additional pressure point questions for investors and lenders

1. Is the investor or lender a pension fund or insurance company?

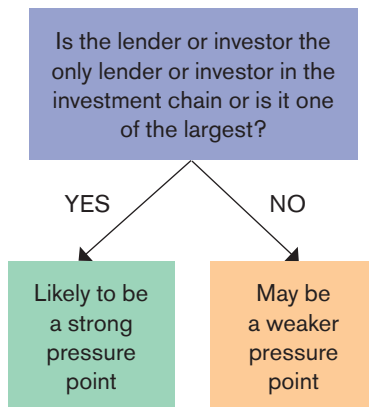
Some investors like pension funds and insurance companies are typically more strongly regulated by government. This may also mean that in general they are more responsive to environmental, social and governance considerations. They are also typically publicly listed and can therefore be sensitive to reputational risks. It is important to bear in mind that it is difficult to make generalisations about the behaviour of investors as their

investment objectives can vary widely. Try looking for information on the institutional investor's website or their annual report about their investment strategy and what kinds of factors they take into account when making investments.



2. How big is the loan or investment made by the lender or investor?

Where the loan or investment is large, the investor or lender will have more influence over the business. For example, there may only be one loan or investment being made in the business by a single actor. This actor will have significant influence over the business because it is dependent on the financial resources of that actor.

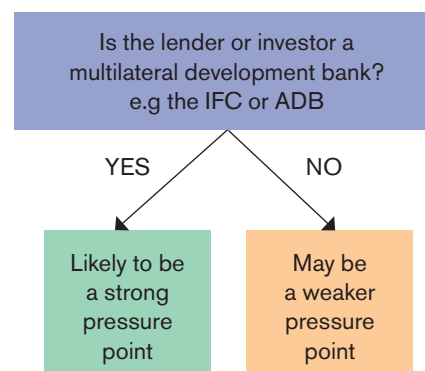


Using the same sources identified in Chapter 2 you may be able to find out the size of the loan(s) or investment(s) in the business or parent company. Where there are a number of lenders or investors in the investment chain, take a note of the different sizes of the loans and investments. This will allow you to rank the possible strength of the pressure point according to the potential leverage of the investor or lender. Remember that a parent company has significant leverage over a project because it owns all or the majority of the business and can therefore influence its management and operations.

3. Is the investor or lender a Multilateral Development Bank (MDB)?

MDBs often have institutional policies and standards to manage social and environmental risks. Examples include the International Finance Corporation (IFC)'s Performance Standards and the Asian Development Bank (ADB)'s Safeguard Policy Statement. Projects that receive financing from these institutions, either directly, or indirectly through a financial intermediary, must apply the relevant standards. These standards and safeguard policies are included in the legal agreement between the MDB and their clients and are therefore legally binding.

The presence of a MDB can offer a degree of financial and reputational security for the project, which can be important for relations with local governments and can be an important factor in attracting future investments or loans. For this reason, a business will typically be very keen to ensure the MDB involved in its project will not withdraw or cancel funding. This means a MDB can have a large amount of influence over the business even if it is not a major investor or lender.



Box 4: An overview of MDBs' policies and standards

The **IFC Performance Standards** contain several provisions that are relevant to human rights and sustainability outcomes. For example, Performance Standard No. 1 – among other things – requires IFC clients 'to identify and evaluate environmental and social risks and impacts of the project; to avoid, minimize, and, where residual impacts remain, compensate/offset for negative impacts to affected people and the environment.'⁸ Performance Standard No. 5 on Land Acquisition and Involuntary Resettlement calls for the avoidance and minimisation of physical and economic displacement. It also calls for the improvement or at least restoration of livelihoods and living standards of people who are displaced.⁹ Performance Standard No. 7 on Indigenous Peoples provides important protections, including the requirement to obtain the free prior and informed consent of indigenous peoples for impacts on their land and natural resources and relocation of communities.¹⁰

The IFC has an independent recourse mechanism – the Compliance Advisor Ombudsman (CAO) – which offers a way for stakeholders affected by projects to raise complaints. This makes the IFC's investment in a project, whether directly or indirectly, a relatively strong pressure point.

Regional development banks also have internal standards or policies to protect the environment and people that will be affected by the projects they fund. For example, the **Asian Development Bank (ADB)** has a **Safeguards Policy Statement**.¹¹ If these policies are not respected by borrowers, affected people can submit a complaint to the ADB's Accountability Mechanism. Once again, this makes an ADB investment a relatively strong pressure point.

The **African Development Bank (AfDB)** has an **Integrated Safeguards System**, which sets out the policies, standards and procedures the Bank's borrowers or clients should comply with to avoid and minimise social and environmental risks.¹² The Bank also has an Independent Review Mechanism (IRM) to which people affected by the actions of AfDB's borrowers or clients can submit a complaint.

The **Inter-American Development Bank (IDB)**, operating in Latin America and the Caribbean, has an **Environment and Safeguards Compliance Policy**.¹³ The IDB also has an Independent Consultation and Investigation Mechanism (ICIM) to address concerns raised by individuals or communities who may be adversely impacted by IDB-financed operations.

The **European Investment Bank (EIB)** – which lends to projects within the European Union to further the EU's policies – has a set of **Environmental and Social Principles and Standards**, to which all of the projects it finances must adhere.¹⁴ The EIB has a complaints mechanism called the Complaints Office, which is designed to facilitate and handle complaints by individuals, organisations or corporations adversely affected by EIB activities.

The **European Bank for Reconstruction and Development (EBRD)** has an **Environmental and Social Policy**, which needs to be applied to all of its projects.¹⁵ The EBRD has a Project Complaints Mechanism to assess and review complaints about Bank-financed projects from local individuals, organisations and local groups that perceive harm from an EBRD project.

8 IFC, 2012. www.ifc.org/wps/wcm/connect/115482804a0255db96bfbd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES

9 IFC, 2012. www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES

10 IFC, Performance Standard 7: Indigenous Peoples, www.ifc.org/wps/wcm/connect/1ee7038049a79139b845faa8c6a8312a/PS7_English_2012.pdf?MOD=AJPERES

11 www.adb.org/site/safeguards/policy-statement

12 www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB%E2%80%99S_Integrated_Safeguards_System_-_Policy_Statement_and_Operational_Safeguards.pdf

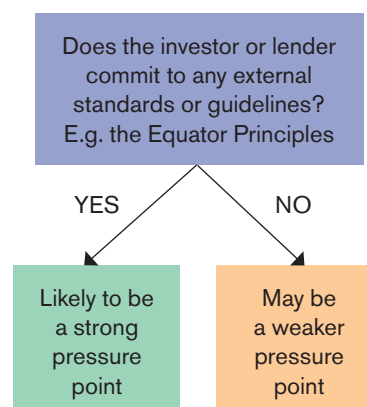
13 <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1481950>

14 www.eib.org/attachments/strategies/eib_statement_esps_en.pdf

15 www.ebrd.com/what-we-do/strategies-and-policies/approval-of-new-governance-policies.html

4. Does the investor or lender commit to any external standards or guidelines?

Investors and lenders such as commercial or investment banks and MDBs may have signed up to external standards or guidelines. For example, a number of commercial banks may have signed up to the **Equator Principles** or the **Principles for Responsible Investment (PRI)** (see Box 5 below). While the Equator Principles and the PRIs are not legally binding, they can be used in advocacy to challenge the credibility and reputation of the signatories. This may make these actors stronger pressure points.



Box 5: Some relevant standards or guidelines that investors and lenders may use

The Equator Principles are a voluntary framework developed by commercial lenders as a benchmark for their own internal social and environmental policies, procedures and standards. The Equator Principles apply to operations that meet specified criteria, including project-finance (usually infrastructure and 'industrial' projects, which could include agricultural projects) with total project costs of at least US\$10 million; and project-related corporate loans of at least US\$100 million or more. Many large banks, such as HSBC, Standard Chartered, Rabobank Group and China's Industrial Bank are signatories.

You can visit this link to see if an investor you are investigating has signed up to the Equator Principles: www.equator-principles.com/index.php/members-reporting

The Equator Principles call for social and environmental impact assessments, the application of social and environmental standards that are aligned with the IFC Performance Standards and culturally appropriate engagement with affected communities. Members commit to reporting annually on implementation of the Equator Principles, taking into account 'confidentiality considerations', meaning that there may be certain investment information they refuse to disclose.¹⁶ An Equator Principle Financial Institution (EPFI) may be 'de-listed' if it does not report.¹⁷

The Principles for Responsible Investment (PRIs) are a set of six principles, which signatories commit to abide by. Signatories include **asset owners** (such as *pension funds*), **asset or investment managers** (for example, *hedge funds*), and a range of **service providers**. The principles relate to financial investments made in a company. For example, the principles require that signatories incorporate environment and social governance (ESG) issues into investment analysis and decision-making, and into their ownership policies and practices. The principles also require recipients of investments from PRI signatories to disclose relevant information on ESG risk and promote the principles within the industry.

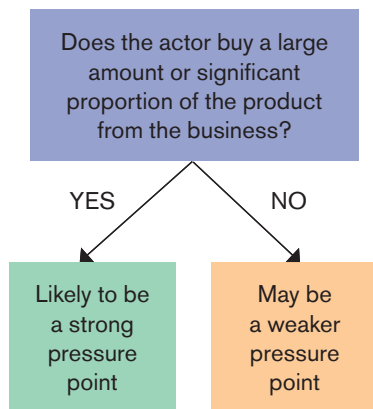
You can visit this link to see if an investor or lender you are investigating has signed up to the PRIs: www.unpri.org/signatories/signatories/

¹⁶ www.equator-principles.com/index.php/reporting-requirements

¹⁷ This section is drawn largely from Cotula and Blackmore, 2014. See: <http://pubs.iied.org/pdfs/12574IIED.pdf>

3.2.3. Additional pressure point questions for buyers

1. How much product does the actor buy from the supplier?



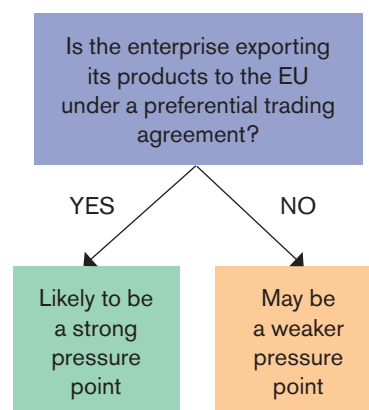
Where there is a sole buyer or a large dominant buyer, the relationship between buyer and business can be a strong pressure point since the buyer is likely to have high levels of influence over the business, which depends on the buyer for its profitability. If the buyer is sensitive to reputational risks, it may find that its reputation is compromised by sourcing products from a supplier that is accused of human rights abuses or negative social and environmental impacts and it may threaten to stop buying from the business if these abuses are not stopped and remedied.

2. Is the buyer based in the EU?

Global or regional trade agreements or arrangements are made between two or more countries that set the rules and incentives for trade between businesses in those countries. A trade agreement between a developed and developing country, for example, may allow a company to export its produce from a developing country to a developed country at lower tax rates. The aim of such schemes is to encourage production in developing countries to improve its economy. This might create new incentives for investors to set up or invest in operations, such as large-scale plantations, in a particular country. However, this may also mean the other government that formed the trade agreement (the government of the developed country or countries) has some responsibility for the social and environmental impacts of the increased investment that it incentivised.

The example of the European Union's 'Everything But Arms' (EBA) preferential trade scheme in Chapter 7 (Box 22) shows how a trade arrangement relevant to a particular country, product and investment can create a strong pressure point in an investment chain.

In addition to the European Union, a number of other countries have preferential trading schemes, which may offer effective pressure points. This includes the United States, Canada, Japan, Australia, New Zealand, Turkey, the Czech Republic, Hungary, and Switzerland. For more information see the handbooks released by UNCTAD on their website: <http://unctad.org/en/Pages/DITC/GSP/Generalized-System-of-Preferences.aspx>



Box 6: Are Chinese investors a strong pressure point?

Since the mid-2000s Chinese companies and financiers have become increasingly important in global investment and finance and are now investing across the world in a range of industries, including agriculture. In recent years a significant number of Chinese projects have attracted negative attention and Chinese companies are often criticised for failing to uphold high standards when operating overseas. However, in recent years various Chinese state institutions have issued statements calling on companies to implement appropriate standards when operating overseas, and several guidelines have been issued that apply specifically to overseas projects:

- The Ministry of Commerce and State Forestry Administration have issued the **Guide on Sustainable Overseas Silviculture** (2007) and **Guide on Sustainable Overseas Forest Management and Utilisation** (2009).¹⁸ These guidelines cover overseas forestry and plantations and include guidance for companies on issues including consultation and community development. These guidelines are currently being revised and improved, and there are also plans to develop specific rubber and palm oil guides.
- The China International Contractors Association has issued a **Guide on Social Responsibility for Chinese International Contractors** (2012), which provides guidance to contractors on various issues, including environmental protection and community issues.¹⁹
- China's Ministry of Commerce and Ministry of Environmental Protection jointly issued **Guidelines for Environmental Protection in Foreign Investment and Cooperation** (2013), which provide guidance to companies active overseas on ensuring that environmental and social impacts are adequately managed.²⁰

These guidelines can potentially be utilised in your advocacy with businesses and contractors, but none of them are binding and there are no grievance mechanisms through which affected people can file complaints. However, they specifically address areas of concern such as environmental impacts, public communication and labour rights. You can refer to these guidelines in communications with Chinese actors involved in the investment or in your public statements and call on these actors to uphold the guidelines.

Chinese financial institutions supporting overseas investments are subject to the **Green Credit Guidelines**, issued by the China Banking Regulatory Commission in 2012.

These guidelines cover issues including due diligence, compliance review of clients, and assessments of project performance. The guidelines also state that banking institutions should make sure that project implementers abide by applicable laws and regulations on environmental protection, land, health and safety of the country where the project is located, and make public commitments to align implementation with international practices. As is the case with the industry guidelines discussed above, there is no grievance mechanism or review process attached to these guidelines, but you may be able to refer to them in your advocacy and call on Chinese financiers to ensure their implementation in the project that you are looking at.²¹

18 www.forestry.gov.cn/portal/main/s/224/content-401396.html

19 www.chinacsproject.org/Events/Event_Show_EN.asp?ID=110

20 <http://english.mofcom.gov.cn/article/policyrelease/bbb/201303/20130300043226.shtml>

21 www.cbrc.gov.cn/EngdocView.do?docID=3CE646AB629B46B9B533B1D8D9FF8C4A

Finally, two of China's state-owned policy banks, **China Development Bank (CDB)** and **Export-Import Bank of China (Eximbank)**, are highly influential and provide a large amount of finance for overseas projects. These banks both have guidelines for overseas financing. The CDB has never publicly released its guidelines, but China Eximbank has. The **Guidelines for Environmental and Social Impact Assessments of the China Export and Import Bank's Loan Projects** are basic, but they include requirements that project implementers first conduct an environmental impact assessment, respect local people's rights to land and resources and properly handle resettlement issues. Once again, there is no grievance mechanism through which to raise complaints, but if you find out that China Eximbank is involved in a problematic project you can call on the Bank to ensure that its guidelines are followed.²²

At present it is still challenging to find pressure points when engaging Chinese companies and financiers; however, the guidelines mentioned here provide a potential tool for assessing the conduct of companies and banks and calling for improved conduct. Although Chinese companies are still not a very strong pressure point, this may change in the coming years as the guidelines and standards adopted by China continue to develop. By referring to and testing these guidelines, campaigners may be able to encourage their implementation and improvement.

Source: Mark Grimsditch, Inclusive Development International

Understanding the actors in your investment chain; their size and influence over other players in the chain; their country of origin and operation; and any laws, standards or guidelines they might be subject to, helps you to understand the potential use of pressure points within your chain. The information you have collected so far can be used to inform the design of the advocacy strategies you can use to hold different actors to account.

When you develop your advocacy strategy, keep in mind that key government agencies and brokers may be important, depending on their role in the investment project. The level of responsiveness of government agencies will vary from country to country, but the involvement of key government agencies will almost always be essential to achieving advocacy goals, such as returning land to affected communities with security of tenure (e.g. through individual or collective title or lease). Brokers may be 'professionals' – for example lawyers – who usually have to abide by a code of conduct in order to retain their licence and keep operating. Keep this in mind while you are noting key pressure points in your investment chain.

The next chapters of the Guide will explain how to build your advocacy strategies.

²² www.internationalrivers.org/resources/guidelines-for-environmental-and-social-impact-assessments-of-the-china-export-and-import

WORKSHEET 3: Analysing pressure points

Use the tables below to fill in the information you find about each actor in the midstream, downstream and upstream segments of the investment chain. Add more columns as needed for each actor. In the last row, rank the strength of the pressure point taking into consideration all of the information about the actor. You can use a ranking from 1 (for weak) to 5 (for strong). You can add information or change your rankings as you find out more about the actors.

MIDSTREAM ACTORS	Business managing the project (insert name):	Contractor (insert name):
1. Is the actor a publicly listed company or a private company? If listed on a stock exchange, which one?		
2. Is the company state-owned i.e. owned by government or a part of a public-private partnership?		
3. Does the company have its own internal standards, policies or codes of conduct? List any policies that apply. Does the company have a formal complaints process?		
4. Does the company have a strong brand and retail or other business component visible to consumers? If so, where and for what type of product or service?		
5. Is the company likely to be concerned about reputational risks because of its public image? Is there a CEO or another key individual personally concerned about reputation? If so, note the name/position.		
6. Which country is the company based in? Is it an OECD country?		
7. Does the country where the company is registered and/or operating have strong laws and regulations and an effective court system?		
8. Is the company a member of or certified by an industry certification scheme? If so, which certifying body?		
9. Is the actor associated with any other negative projects?		
How strong is this pressure point? (Rank 1–5)		

UPSTREAM ACTORS	Parent Company (insert name):	Investor or Lender (insert name):	Investor or Lender (insert name):	Investor or Lender (insert name):
<p>1. Is the actor a publicly listed company or a private company? If listed on a stock exchange, which one?</p>		<p>1. Is the actor a multilateral development bank (MDB)? If a MDB, go straight to question 6. If not a MDB, answer all questions below.</p>		
<p>2. Is the company state-owned i.e. owned by government or a part of a public-private partnership?</p>		<p>2. Is the investor a publicly listed company or a private company? If listed on a stock exchange, which one?</p>		
<p>3. Does the company have its own internal standards, policies or codes of conduct? List any policies that apply. Does the company have a formal complaints process?</p>		<p>3. Is the investor state-owned i.e. owned by government or a part of a public-private partnership?</p>		
<p>4. Does the company have a strong brand and retail or other business component visible to consumers? If so, where and for what type of product or service?</p>		<p>4. Is the investor a pension fund or insurance company?</p>		

UPSTREAM ACTORS	Parent Company (insert name):	Investor or Lender (insert name):	Investor or Lender (insert name):	Investor or Lender (insert name):
5. Is the company likely to be concerned about reputational risks because of its public image? Is there a CEO or another key individual personally concerned about reputation? If so, note the name/ position.		5. Is the investor likely to be concerned about reputational risks because of its public image? Is there a CEO, director or another key individual personally concerned about reputation? If so, note the name/ position.		
6. Which country is the company based in? Is it an OECD country?		6. Does the investor or lender have its own internal standards, policies or codes of conduct? List any that apply.		
7. Does the country where the company is registered and/ or operating have strong laws and regulations and an effective court system?		7. Does the actor have a grievance or complaint mechanism?		
8. Is the company a member of or certified by an industry certification scheme? If so, which certifying body?		8. Is the actor associated with any other negative projects?		

UPSTREAM ACTORS	Parent Company (insert name):	Investor or Lender (insert name):	Investor or Lender (insert name):
9. Is the actor associated with any other negative projects?		9. Is the actor a direct investor or lender to the business managing the project or to its parent company? Or is the actor an indirect financier through a financial intermediary?	
10. How big is the parent company's share in the business managing the project (e.g. the amount or the number or percentage of shares in the company)?		10. Does the investor or lender commit to any external standards or guidelines (e.g. EPs or PRIs)? If so, which ones?	
How strong is this pressure point? (Rank 1–5)		11. How big is the loan or investment in the business managing the project, the parent company, or the financial intermediary (e.g. the amount or the number or percentage of shares in the company)?	
		How strong is this pressure point? (Rank 1–5)	

DOWNSTREAM ACTORS	Buyer (insert name):	Buyer (insert name):	Buyer (insert name):
1. Is the buyer a company or a government? If government, which one? (go straight to question 12). If company, answer all questions below.			
2. Is the actor a publicly listed company or a private company? If listed on a stock exchange, which one?			
3. Is the company state-owned i.e. owned by government or a part of a public-private partnership?			
4. Does the company have its own internal standards, policies and codes of conduct? List any policies that apply.			
5. Does the company have a grievance or complaint mechanism?			
6. Is the company likely to be concerned about reputational risks because of its public image? Is there a CEO, or another key individual personally concerned about reputation? If so, note the name/ position.			
7. Does the company have a strong brand and retail or other business component visible to consumers? If so, where and for what type of product or service?			
8. Which country is the company based in? Is it an OECD country?			
9. Is the buyer based in the EU?			
10. Is the company a member of or certified by an industry certification scheme? If so, which certifying body?			
10. Does the country where the buyer is registered and/or operating have strong laws and regulations and an effective court system?			
12. How much product does it buy from the business managing the project or its parent company?			

DOWNSTREAM ACTORS	Buyer (insert name):	Buyer (insert name):	Buyer (insert name):
13. Is the buyer associated with any other negative projects?			
How strong is this pressure point? (Rank 1-5)			



4 Collecting evidence to inform your advocacy

In this section you will learn how to document local impacts and analyse whether the project has complied with certain standards – for example human rights standards, the environmental and social policies of Multilateral Development Banks (MDBs) or company or industry standards. You will also learn how to organise and present the information to use in evidence-based advocacy.

Recording and documenting the experience of the community you are supporting is crucial to successful advocacy. Collecting evidence and accurately reporting about the harms, or the anticipated harms, as well as the benefits and potential benefits of the project, and compliance with relevant standards, is important for several reasons:

- It helps ensure that the voices and experiences of the community are at the centre of the campaign.
- The process of explaining and discussing their experience can help the community become more organised and think through all of the impacts of the project – good and bad. This can help them clearly articulate the problems they face and the solutions they seek.
- It gives credibility to your advocacy and ensures that your claims are neither exaggerated nor understated.
- It strengthens your advocacy by showing precisely how laws, policies, standards or codes of conduct have been breached.
- It can form the basis of negotiations with responsible actors and an agreement for providing remedies and/or altering the project in a way that avoids harms and provides benefits to the community.

4.1 Collecting information from local communities on impacts

This involves collecting primary information directly from affected communities and other sources about the effects of the project on people and the environment. This information is typically presented in reports that include a description of the project and the affected communities, the results of the research and an assessment of whether human rights, laws or other applicable standards have been respected or violated. Reports that find shortcomings or violations usually end with a set of recommendations for the actors responsible to provide redress for adverse impacts and/or to change the design of the project.

This chapter explains how to carry out your research. The next chapters provide advice for using the results as an evidence base for supporting community-led advocacy.

Let's get started!

Step 1: identify the main issues and impacts on the ground

To begin, conduct some preliminary scoping to identify the main impacts of the project. This initial scoping is necessary to design an appropriate assessment framework. This framework will help you design the data collection tools you will use when speaking to local communities and/or their representatives.

To start scoping out the issues, talk to a few people in the community about their experiences. Read media reports about the case. Try to find as much information as possible about the project, including, if available:

- The business model of the agriculture project (e.g. a large-scale plantation or contract farming/out-grower scheme).
- Maps of the project area that show the plantation (or planned plantation) location, boundaries and size. Does it overlap with land that is owned or used by local populations?
- The type of crops being cultivated and the effect these crops have on the soil, local water sources and the environment.
- Chemicals used or likely to be used on the plantation.

This type of information will help you start reflecting on the sort of issues that are likely to arise in the implementation of the project. It helps to think about **processes, gains, losses** and local **impacts**.

Processes include things like when and how affected people first found out about the project, whether they were consulted and able to participate in the design and other decision-making about the project.

Gains include things such as access to infrastructure, water or economic benefits (like new jobs).

Losses include things like the land and natural resources taken or blocked by the company, and houses, forests and crops destroyed.

Local impacts are the effects of the project on the people's lives, which might be linked to gains or losses, such as changes in:

- the amount and quality of food they eat or are able to store;
- livelihoods, income, savings and debt-levels;
- physical and mental health;
- personal safety and security;
- children's lifestyles including school attendance and play; and
- the ability to practice cultural or spiritual traditions.

Important point

Make sure the community is on board



When you speak with community representatives during the scoping process, use the opportunity to explain your intention to conduct a further research and what this will involve. Make sure the community wants your team to conduct this research and understands how the findings can be used to support their advocacy.

You should agree on a timetable for conducting interviews, including setting dates and selecting a time of the day that is convenient for them. It is also important to discuss any security measures that will be necessary for conducting the interviews. For example, if local authorities are likely to be hostile, you may decide to conduct the interviews in a private location or outside the community.

Local impacts can be both positive and negative; for example, the incomes of some households may have dropped because of land loss and the destruction of crops or natural resources that they depend upon, but they could be higher for other households because of new jobs created by the project.

It is also important to find out about attempts of the community to express their opposition or concerns about the project, and the responses they received, including any compensation. There may have been intimidation, threats, violence against, or arrests of, community members who expressed their opinions or tried to defend their land and resources. These should also be recorded.

It is also important to understand if there has been any support for the project and why. Communities may in fact be divided over an investment project – some may be against it, some may be for it, and others may not be opposed to the project but want to ensure that they benefit from it and are not harmed. Although the purpose of conducting this research is to support affected people in their advocacy (whether to stop the project, redesign it, or demand redress for harms suffered), it is important to have an idea of the different perspectives that may exist among those affected. This will help you anticipate how widely supported the community's advocacy campaign will be, as well as possible responses and defences put forward by actors along the investment chain.

At this stage you do not need detailed data about the impacts of the project, just a general idea of what the main issues and impacts are or are likely to be.

Step 2: develop an assessment framework

The next step is to develop an assessment framework to help you understand whether the project has complied with relevant standards. The framework will guide you in designing your questionnaires, structuring your report, and analysing whether the project has breached the commitments and obligations of actors along the investment chain.

Many organisations choose to conduct human rights impact assessments, because human rights standards are universal, bind governments and are also relevant to companies and financial institutions. Viewing the adverse impacts of projects as a violation of specific human rights can also be empowering for affected communities. Other frameworks used to analyse compliance include national laws, environmental and social policies of Multilateral Development Banks (MDBs) and company or industry standards and codes of conduct.

Tip



To develop an assessment framework, consider the main advocacy targets that you have identified in your investment chain analysis.

For example, if you have discovered that the IFC has financed the project, it will be helpful to use the IFC's Performance Standards as your framework. If a company that has a strong code of conduct or internal policies is upstream or downstream along the investment chain, it would make sense to use these policies in forming your framework. You may decide to use more than one set of standards that are applicable to your case. For example, you may have found links to the IFC, but also think that using human rights and national laws in your assessment will be effective in influencing advocacy targets including the company, investors and governments.

Once you have chosen the set of laws, policies or standards to use for your assessment, you can start to develop your assessment framework. **Identify the specific provisions or sections** that are most relevant to the main issues and impacts on the community that you found during your scoping:

- If you have decided to use **human rights** as your framework, select the human rights that correspond to the impacts. For example, the core human rights principles of participation and transparency,²³ and the rights to adequate housing,²⁴ food,²⁵ health²⁶ and security of person²⁷ may be most affected. If children have experienced particular impacts as a result of the project, rights enshrined in the Convention of the Rights of Child will be relevant. If the affected community is indigenous, the right to

23 See the Rio Declaration on Environment and Development, Principle 10.

24 See the International Covenant on Economic, Social and Cultural Rights (ICESCR), article 11(1) and Committee on Economic, Social and Cultural Rights (CESCR) General Comments No. 4 and 7.

25 See ICESCR, article 11 and CESCR General Comment No. 12.

26 See ICESCR, article 12 and CESCR General Comment 14.

27 See the International Covenant on Civil and Political Rights (ICCPR), article 9.

self-determination²⁸ and other rights recognised in the United Nations Declaration of Indigenous Peoples will be relevant, including the right to give or withhold free prior and informed consent to projects affecting the community's land and resources.²⁹

- If you have decided to use **national laws**, find the provisions that are most relevant, such as laws that govern property rights, expropriation and eviction and that regulate activities that effect the environment.
- If you are using the **IFC Performance Standards (PS)** or the **Equator Principles**, several may be relevant, including PS no. 3 on Resource Efficiency and Pollution Prevention,³⁰ PS no. 4 on Community Health, Safety and Security,³¹ PS no. 5 on Land Acquisition and Involuntary Resettlement,³² PS no. 6 on Sustainable Management of Natural Resources,³³ and PS no. 7 on Indigenous Peoples. These can be found here: www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES
- If a **Chinese company or bank** is involved you may want to base your assessment on the relevant guidelines described in Box 6, in Chapter 3, such as the **Guidelines for Environmental Protection in Foreign Investment and Cooperation**, which are relevant to companies investing overseas,³⁴ or the **Green Credit Guidelines**, which apply to Chinese financial institutions investing in or lending to projects in other countries.³⁵

Tip



List the issues and impacts that you identified during the initial scoping, and underneath each list the relevant provisions from the set of international and national laws, policies and standards that you've chosen to use. This is your assessment framework. It will guide you when you develop your questionnaires, organise your data and structure your report.

You will need to describe your assessment framework in the report, including an explanation of why you used the particular framework, who is bound by or has responsibilities under the framework, and the particular human rights, laws and standards that are relevant to the case.

28 See ICESCR and ICCPR, article 1.

29 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), article 18, 19 and 32.

30 For example, paragraph 9 containing standards on water consumption and paragraphs 14–17 on pesticide use.

31 For example, paragraph 8 containing standards on ecosystems, such as land use changes, loss of natural buffer areas such as wetlands and forests, and impacts on freshwater; and paragraph 12–14 on the use of security personnel to guard property such as plantations.

32 This PS may be applicable where there has been expropriation of property, evictions and restrictions on land use and access to natural resources.

33 This PS will often be applicable when forests and other habitats are converted into plantation. Paragraph 30 contains standards for supply chain actors.

34 <http://english.mofcom.gov.cn/article/policyrelease/bbb/201303/20130300043226.shtml>

35 www.cbrc.gov.cn/EngdocView.do?docID=3CE646AB629B46B9B533B1D8D9FF8C4A

Box 7: Case study

Human rights impact assessment of rubber plantations in Ratanakiri, Cambodia: building the assessment framework

NGOs working to support more than 15 villages in Cambodia's Ratanakiri province to defend their land rights, decided to conduct a human rights impact assessment of three large-scale rubber plantations that had encroached on their land and productive resources. The plantations were all owned by a Vietnamese company operating through various subsidiaries. **Screening of the main issues** showed that there were major problems with the process, such as a lack of information and meaningful consultation. It also showed that there were significant losses of land, forest and water resources. The main impacts appeared to be on the communities' food consumption, income and livelihoods, as well as their cultural traditions and spiritual practices. Many of the affected communities were indigenous peoples, with a customary form of land tenure and food and livelihood systems that were being obstructed by the project.

The **main actors** responsible for the project and its impacts were the Cambodian government, the company and investors in the company. The company and some of its investors had committed to a set of standards that required compliance with national laws. The NGOs therefore decided to use both human rights and Cambodian law as the assessment framework.

- Because many of the affected communities were indigenous, **the right of self-determination** was assessed. This right is recognised in the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and includes the right of indigenous peoples to give or withhold their **free, prior and informed consent** for any project affecting their lands, territories or resources. Information about the consultation processes and losses of lands, territories and natural resources were collected and analysed with reference to this right as well as Cambodian Land Law provisions that recognise and protect indigenous land rights.
- Information about impacts on food systems and consumption, and impacts on incomes and other aspects of livelihoods were collected and analysed with reference to the human **right to an adequate standard of living**, including the **right to food** recognised in the ICESCR.
- Information about impacts on traditions and spiritual practices due to the loss of sacred sites was collected and analysed with reference to the **right to practice cultural and spiritual traditions** recognised in the ICCPR and UNDRIP. These impacts were also assessed against Cambodia's Land and Forestry Laws, which provide protection for indigenous communities' customs and traditions.
- Information about the attempts of affected communities to complain and the responses they received, including inadequate compensation as well as threats and intimidation, were collected and analysed with reference to the **right to an effective remedy** recognised in the ICCPR, UNDRIP and the UN Guiding Principles on Business and Human Rights.
- The particular impacts on **women's rights** were assessed in relation to each of the issues and impacts above.

Source: *Human Rights Impact Assessment: Hoang Anh Gia Lai's Economic Land Concessions in Ratanakiri, Cambodia*, Chapter 2: Assessment Framework. For another example, see the assessment framework used in *Bittersweet Harvest*. This human rights impact assessment of sugarcane plantations on local communities used the UN Guiding Principles on Development-based Evictions and Displacement as the assessment framework. (Both available at www.inclusivedevelopment.net/resources/publications/)

36 ICCPR, article 2(3).

37 UNDRIP, article 28.

38 UN Guiding Principles on Business and Human Rights (2011), Part III.

Step 3: develop a research methodology and questionnaires

Important point



Consider your team's capacity to collate the data

when you select and design your research tools. For example, is there someone on your team experienced in using computer software to organise and analyse large amounts of **quantitative (measurable) data** – for example Excel? If so, you may decide to collect measurable information about impacts experienced by a significant proportion of households; for example, the size of land lost to the company and the amount of income lost per household. If your team does not have this capacity, you may decide to only collect **qualitative (descriptive) information**, and to keep your sample size (the number of people you interview) relatively small. For example, you may decide to ask key persons and a small sample of households that have experienced serious impacts to describe the effects on their livelihoods and food consumption. The most interesting reports contain a combination of quantitative and qualitative information.

Although you are collecting evidence to support community-led advocacy, it is important to be as unbiased as possible when conducting research. You will need to explain your methodology in your report in order to demonstrate that the results are credible; otherwise your advocacy targets may try to dismiss your findings as being biased. It is therefore important to carefully design your methods to ensure that the data and information that you collect is accurate and objective.

There is a range of tools that you can use to gather information about the impacts of the project. It is best to use a combination of tools to ensure your data is comprehensive, accurate and reflects the experiences of all groups within the community. However, remember that if you use several tools, if your questionnaires are long, and if you interview a lot of people, you will end up with a large amount of information that you will need to organise and analyse.

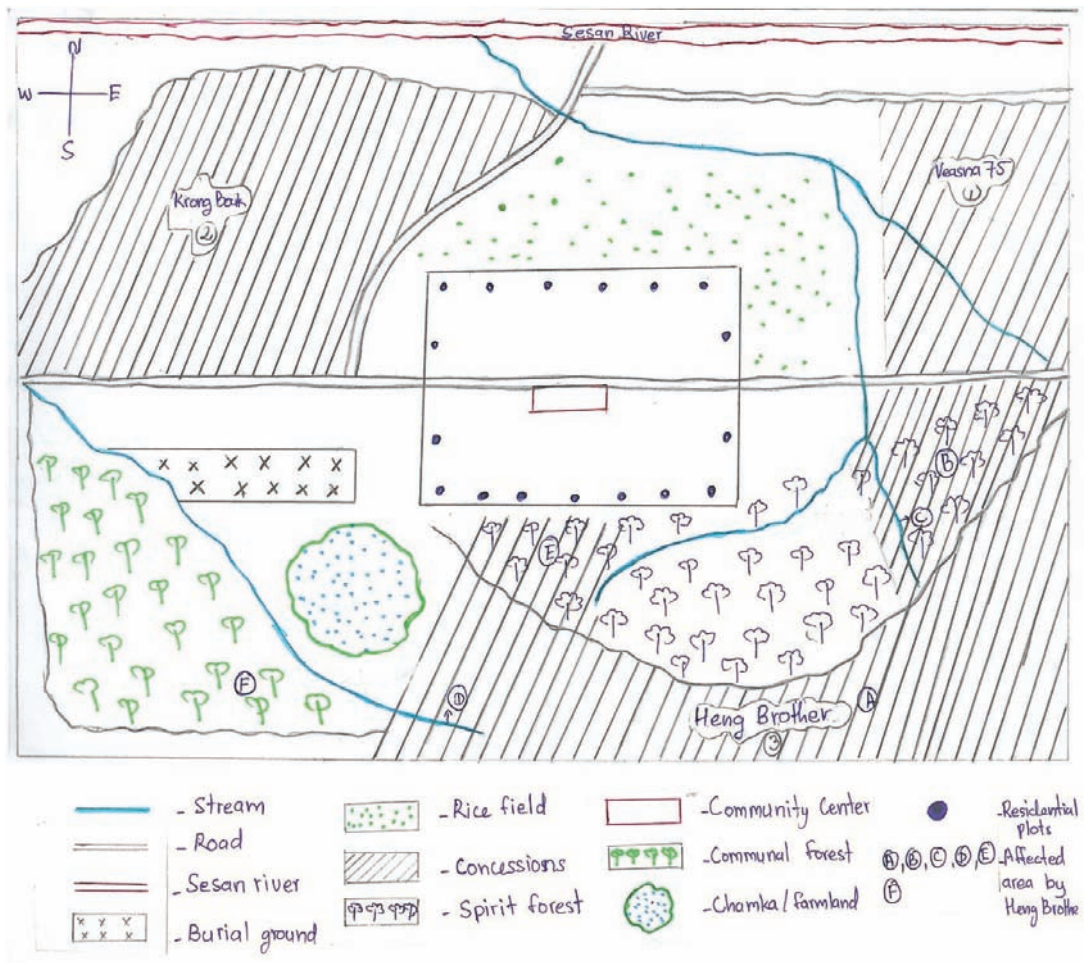
Where your research has been limited in some way e.g. due to limits in resources (financial, human), time, or an unwillingness of some community members or representatives to participate due to fears of reprisals, you need to state this clearly in your report. This helps to build credibility by being open and honest about the possible limitations of your research and prevents any potential opposition from discrediting your results for these reasons.

Data collection tools

Some of the main types of data collection tools you could use include: **participatory mapping, key informant interviews, household or individual surveys** and **focus group discussions**.

- **Participatory community mapping** can be a helpful exercise and you may wish to do this first, before conducting interviews. Key informants and others with knowledge about the village should be invited to participate. Ask participants to draw the main parts of the village, including its boundaries and main landmarks, on a flipchart. Ask them to draw different types of land uses on the appropriate parts of the map. Next, ask them to mark the boundaries of the plantation or company's concession area to show where this overlaps with the village or community resources. This visual process can help both the research team and community members to understand the geography of the project and how it is affecting their village. (Figure 11 below shows an example of participatory mapping).

Figure 11: An example of a community map



- **Key informant interviews** are used to gather information about the community and impacts of the project on the community. Interviews might be carried out with village elders, community leaders or organisers, local NGO staff working with the community or even local government officials. These interviews are usually in-depth and generally aim to collect qualitative data – information that describes the situation and impacts on the community using words.
- **Household or individual surveys** are used to collect in-depth information about impacts as experienced by people in the community. Similarly to key informant interviews, these usually aim to collect qualitative data to describe the impact of the project on the community. However, depending on how you structure the question you might also be able to collect quantitative data. For example, if you have open-ended questions, respondents may give more detailed responses. If you have closed-ended questions, respondents will usually give a simple 'yes' or 'no' answer or a number or ranking (e.g. severe, quite severe, positive, very positive). These closed-ended questions can be used to collect quantitative data.

Tip



You should pay special attention to vulnerable and disadvantaged groups within the community, such as disabled persons, elderly persons or minorities that experience discrimination.

Make sure you clearly explain the process you use to select the interviewees in your description of the data collection methodology in your report. The more people you interview from different households, community groups and demographic backgrounds (ages, gender, etc.) the greater the chance that your data will be regarded as credible and an accurate picture of what is happening on the ground. If you are analysing whether human rights or other standards have been violated, it is important to find out about the worst issues and impacts experienced by people within the community. This means that you should intentionally identify and interview people who you are aware have suffered losses or negative impacts that may amount to violations.

- **Focus group discussions** are another way to gather information about impacts on the community and groups within the community. Some impacts are communal in nature and are best described in a group setting using open-ended questions. The questions aim to facilitate discussion among the group about particular issues and impacts. Interesting points can arise in a group discussion that are not always gleaned from individual household interviews.

Tip



Focus group discussions are useful for ensuring that impacts on women and children are recorded. In communities where men tend to dominate, separate women's group discussions are an effective way for ensuring that women's voices are heard. Focus group discussions are also useful for gathering information about distinct impacts of the project on minorities or marginalised groups, or on people with disabilities.

Although you should prepare some questions that get people talking about the right topics, you should also be prepared to ask unplanned follow-up questions to probe into unexpected or interesting issues that arise during the discussion. Do your best to politely encourage quieter participants in the group to share their thoughts. It is best to keep the number of participants to less than 12, so that everyone has an opportunity to express their views and experiences. It is particularly important to designate a separate note-taker in your research team to record what is said during the focus group discussions. This will allow the interviewer to concentrate on facilitating the discussion.

Box 8: Case study

Conducting a human rights impact assessment in Ratanakiri, Cambodia: using participatory mapping

In several of the villages being interviewed, there was more than one large-scale plantation in the vicinity affecting the communities' resources. In such cases, it was difficult to separate impacts suffered due to the company's operations as opposed to other companies' activities.

To deal with this issue, the research team facilitated participatory community mapping before using the other tools. At least five people in the village, who were familiar with local geography and were most knowledgeable about the company's activities, participated in the mapping exercise. They were asked to mark on the map all types of land use patterns (e.g. farmland, forest, streams/rivers, grazing land, burial ground, sacred sites and residential areas) and infrastructure (e.g. wells, school, roads and the community centre) in the village. They were also asked to point out each company-owned plantation and their boundaries.

Besides helping to understand the land use patterns and infrastructure in each village, community mapping provided clarity about the location of the company's plantations compared to the various parts of the village. It also helped participants and interviewers differentiate losses and impacts caused by each plantation. Interviewers used the maps to explain to villagers that they should focus on the Vietnamese company's plantation when answering questions during interviews. Villagers were then able to attribute particular losses to the investment project assessed, as opposed to plantations owned by other companies. However, due to the cumulative nature of the impacts on food, livelihoods and culture from all the large-scale agribusiness activity in the area, it was not always possible for these to be clearly attributed to a single source.

Source: *Human Rights Impact Assessment: Hoang Anh Gia Lai's Economic Land Concessions in Ratanakiri, Cambodia*, Chapter 3: Research Methodology

Designing questionnaires

Your team will need to prepare a list of questions for each data collection tool being applied. Your questions should be designed to collect in-depth information about the main issues and impacts set within your assessment framework. When developing your list of questions, start with each part of your assessment framework and think of the key questions the research team will need to ask in order to find out whether the specific human rights, laws or standards have been breached.

Although the issues that you are investigating will be the same across all data collection tools, the way you ask the questions will be different. For example:

- When interviewing a key informant you might ask, *'Has your community experienced a change in the amount and quality of food that they have access to because of the company's project? If so, how has it changed, and why?'*
- When interviewing individual households, you might ask, *'Before the project began, how many meals did your household normally eat each day?' and 'Now, how many meals does your household normally eat each day. Has the quality of food changed? If so, how?'*
- When conducting a focus group discussion, you might ask more open-ended questions such as, *'Describe any changes that your families and community have experienced in the food you eat since the company arrived.'* As the discussion evolves you can help steer it in a particular interesting direction, while also keeping the discussion to the point.

Tip



Questions should not be leading: you should not assume particular positive or negative impacts, but instead ask neutral questions. For example, start by asking whether and how things have changed, rather than what the negative impacts have been.

Box 9 shows an example of a table used to record answers given to a set of questions asked to explore the human rights impact of a rubber plantation in Cambodia.

Box 9: Sample sections of the recording tool used for the human rights impact assessment in Ratanakiri rubber plantation, Cambodia

DATE:
 VILLAGE:
 INTERVIEWER:
 SURVEY NUMBER:
 IS THIS AN INDIGENOUS HOUSEHOLD? Yes No
 IF YES, WHICH ETHNIC GROUP?

Respondent Information

	Question	Response Category
1.1	Name (s) Gender of respondent	Male Female Both
1.2	How old are you?	Age in years Don't know
1.3	Number in household Age of children <i>(Please give the age range of the kids)</i>	Men Women Children
1.4	Primary job for household (Circle all that apply) If other, describe	Farming Fishing NTFP collection Timber logging Working for the concession Other
1.5	Household income	Estimated value:

Consultation

	Question	Response Category
2.1	Have you heard of the rubber plantation company (NAME OF COMPANY)?	Yes No
2.2	When did you first learn about this company?	Year Don't know
2.3	How did you learn about this company?	Explain:
2.4	Did you have any meeting or consultation with the company about its project?	Yes No Don't know
2.5	If there were meetings or consultations with the community, did you attend?	Yes No
2.6	If so, what were you told about the project and its impacts on your community?	Explain:
2.7	Did you feel you were consulted about the concession?	Yes No Don't know
2.8	Have you received any document about the rubber plantation project?	Yes No
2.9	Did you read the project documents you received?	Yes No
2.10	Did you understand the project documents you received?	Yes No


Loss of land: Type of land and lost area

	Category	Lost area (ha)	When?
Residential area	Yes	Pre-size:	
	No	Post-size: Lost area:	
Rice field	Yes	Pre-size:	
	No	Post-size: Lost area:	
Farming/orchard	Yes	Pre-size:	
	No	Post-size: Lost area:	
Grazing land	Yes	Pre-size:	
	No	Post-size: Lost area:	
Community forest	Yes	Pre-size:	
	No	Post-size: Lost area:	
Spirit forest	Yes	Pre-size:	
	No	Post-size: Lost area:	
Burial ground	Yes	Pre-size:	
	No	Post-size: Lost area:	
Others (Explain)	Yes	Pre-size:	
	No	Post-size: Lost area:	

Recording the interviews and discussions

In addition to taking written notes of respondents' answers, it is important to record all of your interviews and discussions so you can check and clarify information that you have missed in your notes. It is also important to have recordings so that if anyone challenges your data, you have proof of what was said during the interviews. Audio recorders are inexpensive and easy to use and are a worthwhile investment for conducting research. Many smartphones also have a recording function. Recordings will also allow you to find good quotes from interview respondents to use in your report.

Important point



Remember that you may need to omit or change names of individuals or families in order to protect them from possible reprisals, but you should reference the place and date of interview (unless this information could put people at risk). Make sure you obtain the **informed consent** of any individuals who are identified or identifiable in the report.

Make sure you ask the people participating for their consent for recording the conversation. Let them know that although their names will be recorded for your own verification purposes, you will keep their identities confidential in the report and will not make them known to anyone outside of the research team unless they provide their express consent. If someone does not agree to being recorded you must respect their wishes.

During your visits to the community and to the project site, take photos if possible. Visual evidence is very effective at informing the audience and influencing your advocacy targets. If possible, you can also record interviews by video camera and show impacts of the project. Make sure you ask people for their consent for photographing or filming them and explain to them how the photo or film will be used. People may be concerned that if their identities are revealed to governmental officials or the company they will suffer reprisals. Err on the side of caution if this is a concern, and respect the wishes of those who do not want themselves, their family or property to be filmed or photographed.

Step 4: organise and present your data

Once you have completed your data collection, you will need to organise your data. This process will depend on the type and amount of information collected by the team.

If your team includes experienced researchers with access to software, this process could involve entering the data into the program, which can then derive various types of statistics. If you collected only qualitative data from a smaller sample size, this process may simply involve reading through your notes and listening to interviews, marking and separating information about each issue and impact, and then describing or summarising the information under the headings in your assessment framework.

Use your assessment framework to organise your information. This will allow you to easily structure your report in a logical way. Box 10 contains an example of structure used for a human rights impact assessment report.

Inserting direct **quotes from affected people, case studies** that describe an individual or a family's particular experience and **photos** are great ways to make the report more interesting and informative and to ensure that voices from the community are 'heard'.

If you are using statistics, inserting **graphs, charts** and **tables** can make the report more visually interesting and easier to understand. **Maps** of the area and of the village can also be very helpful to the reader.

Box 10: Case study

Human rights impact assessment of rubber plantations in Ratanakiri, Cambodia

Structure of report

There are several different ways you can structure your report. This Human Rights Impact Assessment report was structured as follows:

Chapter 1: Introduction. Describes the context and background including general information about the affected communities and the company and its project as well as the purpose of the impact assessment and the structure of the report.

Chapter 2: The Assessment Framework. Describes why each human right and national law was selected for the framework as well as the nature of the obligations of each responsible actor.

Chapter 3: Research Methodology. Describes the study site and villages interviewed, the data collection methods and challenges faced during the research.

Chapter 4: Impacts on the Right of Self-Determination. Describes findings on free, prior and informed consent and loss of lands and resources, and ends with an analysis of compliance with the right of self-determination and relevant Cambodian laws.

Chapter 5: Impacts on the Right to an Adequate Standard of Living. Describes findings on impacts on food and livelihoods, including jobs on the plantation, and ends with an analysis of compliance with the right to an adequate standard of living.

Chapter 6: Impacts on the Right to Health. Describes findings on physical and mental health, and ends with an analysis of compliance with the right to health.

Chapter 7: Impacts on the Right to Practice Cultural and Spiritual Traditions. Describes findings about destruction of sacred sites, obstruction of traditional livelihood practices, and influence of 'outsiders', and ends with an analysis of compliance with the right to practice cultural and spiritual traditions.

Chapter 8: Access to Remedy. Describes problems with the court system in Cambodia and findings about attempts of communities to complain and seek remedies and the responses they received, including both compensation and threats. The chapter ends with an analysis of compliance with the right to effective remedy.

Chapter 9: Conclusion. Briefly summarises the assessment's overall findings and the broader lessons from these findings.

Recommendations. Contains a general recommendation to all responsible actors to use the impact assessment findings to develop a remediation plan, and then specific recommendations to each responsible actor – the Government of Cambodia, the Government of Vietnam, the company and its investors – corresponding to the nature of their obligations under the assessment framework (international human rights law and national laws).

Source: *A Human Rights Impact Assessment: Hoang Anh Gia Lai's Economic Land Concessions in Ratanakiri, Cambodia*, Chapter 3: Research Methodology

Step 5: analyse compliance

For each section of your report, review your data and analyse whether they show violations of the relevant human rights, laws and standards in your assessment framework.

Rather than just making a finding that the project has not complied with a particular standard, analyse *how* the right, law or standard was violated, pointing to specific aspects or provisions. Try to attribute responsibility to particular actors. For example:

- If you find a violation of a particular human right, the company's action may have directly caused the violation, while a responsible government authority may not have taken measures to prevent the company from taking those actions, failing in its obligation to *protect* against human rights violations by third-parties.
- If you find that a particular section of a national law or regulation was breached, note who had responsibility for complying with that provision.
- If you find that a particular part of an IFC Performance Standard was not met, responsibility can be attributed to both the company for failing to comply and to the IFC for failing to properly supervise its investment.

Remember to also make findings on notable positive impacts or ways in which rights and laws were respected or fulfilled and standards were met. This ensures the report is balanced and not seen as biased.

The conclusions of your analysis will be used in letters, media and complaints. They will serve as the backbone of your evidence-based advocacy campaign.

Step 6: verify your data

This is essential for compiling evidence and for ensuring that the community is engaged and aware of the content of the report.

Verify your data by presenting the information and findings in your draft report to affected people in a form they can easily understand. Check with them that each piece of information is accurate. Following the verification session, make any necessary corrections and clarifications to your draft. You can also use the sessions as an opportunity to collect any missing information or to obtain additional quotes and case studies.

Consider whether or not it is a good idea to send the draft report to the company and/or local and national government authorities at this stage to obtain their feedback. Although this is an important part of verifying information and ensuring your report is unbiased, you may need to weigh this against security concerns and the likelihood that the company and government will contribute constructively to the fact-finding process.

You should consider whether sending the government and company the draft report for feedback at this stage will be beneficial or detrimental to your advocacy efforts. If you send them the draft, their communication staff will have plenty of time to influence media

coverage of the final report, and this could mean that the launch of the report loses some of its impact. However, if you do not send them the draft for feedback and include their response in the report, they may use this against you by trying to discredit the findings as one-sided.

Step 7: formulate recommendations based on your findings

The main purpose of collecting evidence is to support the community in seeking accountability and remedies for harms suffered or anticipated. Setting out clear recommendations to each responsible actor is an important way to make the research useful.

The report should contain recommendations for each advocacy target identified in your investment chain and correspond with their responsibilities under international human rights law, national law and/or standards to which they have committed. If possible, recommendations should also correspond with the degree of responsibility each actor has for the adverse impacts, and the leverage they hold to ensure harms are remedied and the project is redesigned to bring benefits to the community.

Important point

Recommendations should be realistic for the responsible actor to adopt and they should reflect the desired outcomes of the community. Recommendations can be discussed during the validation sessions with the community to ensure that they reflect their aspirations.

4.2. Using your report in advocacy

Once your report is completed, you should have concrete evidence on which to base your advocacy. There are many ways you can use your report to bolster your advocacy. You can organise a press conference with community representatives to launch the report. You can send a copy of the report to all relevant government agencies, the company and other actors along the investment chain. You can use the findings as the basis of a complaint to the courts, where there are violations of national laws, or to other accountability mechanisms, such as the IFC's Compliance Advisory Ombudsman (CAO), the relevant OECD national contact point or the Special Procedures of the United Nations Human Rights Council (Chapter 6 contains an explanation of these and a range of other accountability and grievance mechanisms). You can also use the findings to strengthen your position in negotiations with the company and other responsible actors, and as a basis for formulating remedies.

The next chapters explain advocacy options in detail, including how your report can be used in these strategies.

Box 11: Case study

Human rights impact assessment of rubber plantations in Ratanakiri, Cambodia

Findings, recommendations and use in advocacy

The human rights impact assessment found that there were serious adverse impacts on a range of human rights. It found that the failure to seek the free prior and informed consent of indigenous peoples, and the confiscation of their lands and destruction of forest resources was a violation of their right to self-determination. The report found that this also led to a violation of the right to an adequate standard of living of many affected people and a loss of sovereignty over their food and livelihood systems. The confiscation and destruction of spirit forest and burial grounds violated the right of communities to practice their cultural and spiritual traditions. The destruction of forests and pollution of streams inhibited traditional activities such as resin tapping, hunting and fishing.

The report also found that affected communities were unable to access effective remedies for these violations. Complaints to local authorities and the company were often ignored or met with threats. In some cases the company provided compensation, but the community thought the amount was inadequate and, in any case, primarily wanted the land returned. Many affected people did not complain due to fear of retribution and a lack of information.

After setting out these findings and conclusions, the report laid out specific recommendations to the Cambodian government, the company and its investors. The recommendations to each actor corresponded to the nature of their obligations and responsibilities under international human rights law and Cambodian law. For example, the report recommended that the Cambodian government take steps to bring the company's land concessions and plantations into conformity with national laws, and to ensure a conducive environment for dialogue between the community and the company. The report recommended that the company immediately stop all harmful activities and engage in good faith dialogue with affected communities in order to agree on and implement a set of remedial measures.

The human rights impact assessment and recommendations were sent to the company and several of its investors. It was used in a complaint to the IFC's accountability mechanism, the CAO, and used to strengthen the community's position in a formal dispute resolution process with the company.

Useful resources:

Getting it Right: Human Rights Impact Assessment Guide by Rights & Democracy
<http://hria.equalit.ie/en/>

Akwé: Kon Guidelines. Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments likely to impact on sacred sites, and on lands and waters traditionally occupied or used by indigenous communities.
www.cbd.int/doc/publications/akwe-brochure-en.pdf

Assessing the Impact of Eviction: Handbook by UN-OHCHR and UN-Habitat
<http://unhabitat.org/books/assessing-the-impact-of-eviction-handbook/>

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Part II

Developing and
executing an
advocacy strategy



5 Getting organised and engaging advocacy targets

This chapter provides ideas for strengthening and maintaining community solidarity and working with the community to develop their advocacy messages and demands. It also provides strategies for engaging the first advocacy target: the business managing the project.

5.1 The importance of community solidarity

Community solidarity is the foundation of any successful advocacy against powerful actors. Collective action is much stronger than individuals acting separately to try to change a situation without a coordinated approach.

Governments and companies know that collective action can threaten their power so they often employ tactics to divide and weaken communities. In land grabbing and forced evictions cases, for example, government officials and company representatives often meet with each family separately to try to convince them to move away or stop their opposition to the project. They may make a 'take-it-or-leave-it' offer of compensation and threaten those who refuse. Many individual families in this situation feel intimidated and reluctantly agree to the company's demands, even if they are not satisfied with the compensation offered.

However, if the affected people get organised and insist on negotiating with one voice, it is much harder for the authorities and the company to ignore their collective demands.



This does not mean that every family in a community has to agree on one single advocacy goal. For example, there may be some families that are happy to accept compensation, as long as it is enough to buy fertile land elsewhere and maintain their livelihoods. Other families may prefer to receive alternative land and housing along with resettlement and livelihood assistance. Others may not want to leave their land under any circumstances.

This does not mean that the community cannot be unified. The community can still work together to develop and implement a unified advocacy message that incorporates the interests of different groups.

Some communities will be highly organised and unified when you start working with them. Many indigenous peoples and other local communities have their own protocols, including customary laws, governance structures and decision-making processes. It is important for outsiders to respect and act according to these protocols. Other communities may be less organised and might have divisions and even conflict. If this is the case, you may need to spend more time working with the community to discuss the issues to improve communication and develop trust and coordination.

Community solidarity can either be strengthened or weakened by the negative impacts of the project. The common problem that people face can unite them, but the stress caused by the impacts on their land and livelihoods and other aspects of their lives can exacerbate intra-community, and even intra-household, tension and conflict. The use of threats or bribes by the company or government can also cause tension and divisions in the community, as some people succumb to the pressure, making others angry that they have weakened the community's position.

While community organising is a long and intensive process, there are a few things you can do in the short term to help strengthen and unite the communities you are working with. First, if they don't already have them, you can suggest that the **community selects representatives** whom they trust and will effectively present their messages. It is generally a good idea for the community to elect a few representatives. This makes it more difficult for one community representative to be pressured by the company or government officials. It is also a good idea to elect a mix of people that represent different segments of the community, such as both women and men and minority groups.

Box 12: The roles and responsibilities of community representatives

The main roles of community representatives are to:

- Organise and facilitate community meetings to discuss the situation and develop the community's message and advocacy strategy.
- Be the main point person for the community, by communicating with others, including your organisation and other supporters of the community, as well as advocacy targets.
- Attend meetings on behalf of the community.
- Inform the community of any new information and developments.
- Communicate with journalists about the community's case.
- Lead and coordinate other forms of advocacy based on the instructions of the community.
- Report back to the community about what actions they have taken and the results of this work.

A good community representative should:

- Be honest, responsible and reliable.
- Be committed to achieving the community's advocacy goals and willing and able to devote time to this work.
- Act in the best interests of the community and defend the community's interests, including different groups within the community.
- Listen to community member's concerns and ideas.
- Be a good communicator.

Another way to improve community solidarity is to **organise regular meetings** with the community to discuss the situation, share information, ensure people understand their advocacy options and give everyone an opportunity to ask questions and express their ideas. At these meetings, the representatives can make sure they understand the various views and interests among the community.

If there are particular households or groups within the community who are less engaged in the process and whose views are not being included, it may be worth visiting them individually to discuss their situation and ensure that they understand their advocacy options. If women are less active in community meetings, try to **arrange a separate women's group discussion**.

Tip



There will inevitably be disagreements among the community during the time you are working with them to pursue justice, which can take several years in difficult cases. Be patient and try to listen and understand the different views. Try to play a role in facilitating communication so that everyone feels that their views and interests are being recognised and incorporated into the community's messages and the advocacy strategy. Regular meetings and community support can help people feel stronger in the face of threats and resist accepting bribes from the company.

Remind the community that they will have a much greater chance of success if they do not fight among themselves and instead work together to fight for their rights. You can even bring inspiring representatives of other communities that have been successful in their advocacy to come and talk to the community about their experience and what it takes to win.

5.2 Developing the community's message and setting demands

It is important to hold meetings with the community to develop the community's message to advocacy targets. If you have already conducted an impact assessment this will be much easier because you will have a good understanding from the research of what the impacts of the project are and what people want to remedy their situation. The recommendations of the impact assessment report should reflect the community's messages.

To develop the advocacy message you will need to discuss the following at community meetings:

- **The latest situation in the community**, including the various impacts of the project.
- **What the community wants** to remedy the problems or to prevent harms. This could also include changing the design of the agricultural project so that the community can receive benefits (see below).
- **The investment chain analysis** and the key pressure points in order to decide which actors you will communicate the message to.

Tip



The community's message and demands should **incorporate all of the different interests within the community**. They should also be **realistic**. There is no point in sending a list of demands that will be impossible to achieve. It is important to manage the expectations of the community by explaining that they should think about what they want and what their rights are, as well as what they think could be a practical outcome.

Box 13: Case study

Liberian community challenges encroachment of land concession through community solidarity and clear demands

In the West African country of Liberia, one group of communities in Grand Bassa county has had success defending their customary land against encroachment by a British palm oil company.

Residents from the Jogbahn clan claim that none of the communities were consulted or gave their free, prior and informed consent for the company's palm oil concession to expand onto their lands.

Despite reported intimidation, threats and violence against members of the clan, the community remained determined, and, together with national and international organisations, secured a meeting with the Liberian President. After the meeting, the President committed to ensuring the right of the community to their territory, specifying that the company could not expand onto the lands of the Joghban clan without their permission.

In an interview with Real World Radio, Silas Siakor, campaigner at the Sustainable Development Institute (SDI-Friends of the Earth Liberia), an organisation that has provided support to these communities, said that one of the key elements in the successful outcome was unity: 'Even though the company made a sustained effort to try to bring in division within the community, they have stood together (...) the community has been extremely united. As a result of that, the resistance has been really difficult to break,' he said.

As a second key element, Silas highlighted the clarity of the community in terms of their demands: they demanded that the company 'stop the land survey in Jogbahn clan; not clear any more of their customary land; and not expand their oil palm plantation any further onto their customary land'.

Friends of the Earth International launched a video about this community available at: <http://vimeo.com/94112823>

Sources: 'Small community in Liberia stands strong against land grabbing,' Radio Mundo Real, 6 May 2014: www.radiomundoreal.fm/7610-small-community-in-liberia-stands?lang=es

'Liberian communities overturn Equatorial Palm Oil land grab,' Friends of the Earth International and Sustainable Development Institute, May 2014: www.justforests.org/custom/public/files/media-briefing-on-equatorial-palm-oil-plc-final-06.05.14.pdf

'UK's Equatorial Palm Oil accused of human rights abuses in Liberia,' Global Witness, 19 December 2013: www.globalwitness.org/archive/EPO/

The community's message and demands may be very specific or more general. For example, the community may state that they want the project to be stopped, or that they want land that was taken from them to be returned. In other situations, the message may be that the company must suspend the project activities and enter into negotiations with the community to reach an agreement to remedy negative impacts and prevent future harms.

The community's message and demands will be used in communications with the company managing the project and other advocacy targets along the investment chain, as well as in the media and other forms of advocacy.

While messages and demands can evolve over time and the community may decide to make compromises on its demands in a negotiation, advocacy is more likely to be successful if the message is **clear and consistent**. It is therefore important to take the time to work with the community to develop clear advocacy goals that everyone agrees

Important point

In addition to demands about remedying or preventing harms, the community may also want to try to influence the way the agriculture project is designed so that they can receive development benefits.

with and a message that reflects these goals. It may take more than one meeting to develop the community's message.

Many agriculture projects that cause land grabbing involve large plantations owned and run by private companies. Sometimes the company hires people from local communities, providing job and training opportunities, but in other cases the company brings in migrant labourers or contractors from other parts of the country or even from another country. The company might also export all of the produce cultivated on the plantation to other countries. In these cases, local communities do not receive any benefits at all from the project and may instead suffer serious harms.

The community may want to try to change this situation so that the impacts of the agriculture project are beneficial and/or to ensure communities don't lose control over their land. This may be a part of the community's advocacy message. Some models that don't involve large plantations are described in the box below. The company will need to be convinced of the benefits of an inclusive business model that shares benefits with local communities, and relevant government agencies, including local officials, will also need to be supportive.

Box 14: Alternative models for agricultural investments

Options and risks

Land-based agricultural investments do not always have negative impacts on local communities – but this all depends on how investments are designed and implemented. Agricultural investment can take many different forms, including forms that involve sourcing from local farmers, rather than taking their land.

These models have the potential to be inclusive and beneficial, however, much depends on the specifics, as collaboration can be exploitative (eg unfair pricing in contract farming leading to high levels of indebtedness). These models need to be designed in consultation with local communities to be successful for both the company and communities. The risks and opportunities for inclusive development offered by these options need to be assessed for each particular circumstance, and the community should first get advice from people with experience in using or researching these types of arrangements.

Two examples of alternative models are:

Contract farming: Under contract farming arrangements, local farmers grow and deliver agricultural produce to the company. Generally, the farmers and the company enter into a contract that specifies the type, quantity and quality of the produce that will be delivered to the company by an agreed date. The company agrees to buy all of the produce, as long as it meets the quality standards, at a specified price. The company typically provides the farmers with upfront inputs, such as seeds, fertilisers, pesticides and technical guidance. The company might also provide local farmers with a financial loan to purchase any other inputs they need. The cost of all of the inputs and the loan that the company gives the farmer is deducted from the final purchase price. In some successful cases, farmers negotiate contracts and deal with the company through a farmers' association or cooperative. In some cases, a company-owned plantation is supplemented by contract farming arrangements on nearby land owned by local communities.

Contract farming can be beneficial if the farmers are able to make a good profit by cultivating and delivering the produce on the agreed terms and selling it for more than the cost of all the inputs. However, there have also been disastrous experiences with contract farming, where farmers received low prices and ended up accumulating considerable debt and eventually losing their land. The more promising experiences involve effective farmer organisations and meaningful consultation and negotiation between company and farmers.

The terms of the contract need to be carefully negotiated and drafted to ensure that the company cannot seize the farmers' lands if they are unable to deliver the agreed produce, for example, due to a poor rainy season or an unexpected pest. Instead, the company and the local farmers should share the risk of a bad crop for reasons that are beyond the control of the farmer. It is generally also a good idea to keep sufficient land for gardens for household consumption and integrate traditional livelihood systems to the extent possible. Communities should seek their own legal advice before entering into any contractual arrangements with companies.

Lease contracts: Where a community owns a large area of land, including under their customary tenure system, it may decide to lease a proportion of it to the company in exchange for ongoing rental payments and/or a profit share from the produce sold. This will usually only be possible where the land rights of the community are recognised under the law, so that the company is assured of the security of the lease.

Arrangements that are based only on a profit-sharing model can be risky for farmers. For example, if the company makes no profit (or conceals the profits) then they get the land for free. In capital-intensive investments, it may take a long time before the project becomes profitable. Some crops take time to mature, for example, rubber trees take at least five years before they are ready to be tapped.

The community should be aware that unless they structure the lease agreement otherwise, this means that they may not be able to access and use the land subject to the lease for a very long time. Communities should also be careful to ensure that under the agreement payments increase over time for long-term lease arrangements. In some cases, the company can provide employment opportunities and other benefits, such as infrastructure development and skills training, to the local community, and it may be possible to include these in the contract.

Whatever the model chosen, it is paramount that local people have a voice from the very beginning, and that they are in a position to make free and informed choices.

Source: Making the most of agricultural investment: A survey of business models that provide opportunities for smallholders, IIED and FAO, 2010, available at: <http://pubs.iied.org/12566IIED.html>

Other resources:

FAO Contract Farming Resource Centre, www.fao.org/ag/ags/contract-farming/index-cf/en/

5.3 Engaging advocacy targets

Once the community's message is ready, it is usually a good idea to first communicate directly with the business managing the project and/or its parent company.

Tip



A good faith attempt to address the grievances directly with the business or other actor along the investment chain is required as a first step before using some grievance and accountability mechanisms (explained further in Chapter 6). It is usually also a good idea to try communicating directly with the business or other actor before using other forms of advocacy (explained in Chapter 7).

5.3.1 Start with a letter or email

Often the best method for initial communications is through a letter or email, so you can clearly set out all the important information to support your argument and demands. The community may ask you to help prepare a letter from the community or to write and send a letter from your organisation on the community's behalf.

The letter should include:

- **Who you are and whom you are representing**, explaining that the community is affected by the business's activities.
- **The main problems faced by the community** as a result of the business's activities. If you have already conducted research on impacts, you can include a summary of the main findings. (You may want to attach the report as an annex and invite the business to comment on it. Alternatively you may decide to wait to present the report at a meeting.)
- **If the business has violated laws, policies or standards** that it has committed to, you can include a summary of this analysis in your letter.
- **The community's message.** You may decide to include the list of community demands, or you may decide that in the circumstances it is more strategic to simply request a meeting in order to discuss the situation and how to resolve the community's grievances.
- **A request for a meeting** with the business and/or parent company
- **A deadline for a response.** Sometimes it can be strategic to mention in the letter what you will do next if you do not receive a satisfactory response from the company by the deadline – which may be to notify investors or buyers on the investment chain, publicise the problems through the media, or submit an official complaint to a grievance mechanism. However, it is also generally a good idea to try to keep things cordial at this stage, so that the business managers are more likely to engage in a constructive dialogue rather than become defensive.

If there is no adequate response to your letter by the deadline that you set, the next move could be to send similar letters to relevant government agencies or key actors along the investment chain based on your analyses of pressure points. For example, if you have identified a multilateral development bank, such as the IFC, or a major private investor, which is bound by certain policies or standards and could have considerable influence over

the business managing the project, you may decide to send a letter to them next. Make sure that you clearly set out your understanding of their relationship to the project that is affecting the community. You should also mention the relevant policies or standards that you believe have been violated and summarise the main findings of your impact assessment. Again, attach your research on impacts if possible.

5.3.2 Preparing for a first meeting

If the business managing the project or one of the other actors along the investment chain agrees to a meeting, you will need to work with the community to prepare. First meetings can be intimidating. Often community representatives have never attended a meeting like this before and they may feel sensitive about the power imbalance between themselves and the company or financial institution.

It is important to make sure that community representatives are prepared to explain the community's situation and present their message. If possible, you should also be prepared to give a presentation of your research on the project impacts. You also need to decide with the community whether the representatives should present all of the community's demands in the first meeting or if it would be more strategic to try to get the company to agree to a structured negotiation or mediation process first. This will depend on the circumstances, including the complexity and magnitude of the impacts and the expected responsiveness of the business. If your meeting is with an investor or buyer only, and not the business managing the project, the purpose of the meeting will usually be to convince the investor or buyer to persuade the business to change its behaviour. Your preparation for the meeting should reflect your objectives.

Meetings may take place in the company's (or investor's or buyer's) office. Alternatively, the community may prefer to invite company representatives to their village to hold the meeting. The community may feel more comfortable holding the meeting on their territory. This would allow the company representatives to come and see for themselves the community's circumstances and the impacts they are facing. A third option is a neutral venue, for example an NGO office or a private meeting room in a restaurant.

The community will also need to decide how many community members should join the meeting. They may decide that only the community representatives should go, or that several other people may want to join. A large presence of the community can increase the community's confidence and be effective for a first meeting, even if not everyone has an opportunity to speak. Too many people, however, can make the meeting unmanageable.

Important point



You can also **ask questions** at the meeting in order to obtain more information about the business, its operations and plans, the investors and buyers and the relationships between these actors. The business may or may not be willing to answer your questions, but it can be helpful to prepare a list and try to obtain as much information as possible.

Consider who else you would like to invite to join the meeting to increase the community's confidence and power. For example, there may be other civil society organisations that could provide support to the community.

It may also be a good idea to suggest to the company that you use a neutral facilitator for the meeting. A facilitator can be helpful if you think the company will try to intimidate the community or will not listen to what the community has to say, and will instead dominate the meeting. A neutral facilitator should be someone who both the community and company trust and respect. The facilitator does not make any decisions or give advice to either party. He or she sets the meeting agenda in consultation with both parties, ensures the meeting runs smoothly and that both parties have a fair opportunity to talk. The facilitator should also help the parties agree on next steps at the end of the meeting.

Tip



Before the meeting, you should think about what your next advocacy move will be if the meeting is not successful. If you know what your advocacy options are and have a plan for your next move, you will feel more confident in the meeting. Depending on how the meeting is going, it may also be strategic to let the company (or investor or buyer) know what you will do if they refuse to engage constructively. Warning the company that you intend to go to the media or file an official complaint can be effective but can also make the company more defensive, so you will need to use your instincts.

5.3.3 What now? Next steps in your strategy

If you have a successful meeting, you may end up with an agreement to meet again to discuss details of a resolution, or to visit the community's village together to show the company representatives the impacts. You may agree to embark on a structured negotiation or mediation process. Or even better, the business managing the project may agree to change its behaviour and remedy the harms.

Unfortunately, often it takes more than one letter and meeting to get results. Sometimes the company agrees to a negotiation – sometimes with a genuine intention to do so – but it soon becomes clear that it will not significantly change its behaviour or remedy the harms it has caused. Often company representatives believe that after some time, the community and NGOs supporting them will lose energy and confidence and give up the fight. They may also think that you can't do much harm to them and – after weighing the costs and benefits or doing the right thing – decide that it is better to just ignore you and use their public relations department to deal with any negative publicity about the case until it goes away. This is why you need to be persistent in your advocacy and work with the community to develop a multi-pronged strategy that targets all the strongest pressure points in the investment chain. The next two chapters will discuss how you can do this.

Useful resources:

Community Protocols Toolkit: www.community-protocols.org/toolkit

Namati – Protecting Community Lands Publications: <http://namati.org/protecting-community-lands/community-land-protection-publications>



6 Using formal accountability mechanisms

This chapter explains some of the opportunities and challenges for using courts in home and host countries to hold actors along the investment chain to account and seek remedies. It describes several international and regional human rights bodies that may be used as a part of your advocacy strategy. It then describes how to use several non-judicial grievance mechanisms, including operational-level (company) grievance processes, multi-stakeholder industry initiatives, OECD National Contact Points and the accountability mechanisms of Multinational Development Banks (MDBs). The section also provides information on the effectiveness of each of these mechanisms.

6.1 Domestic courts

Many advocates look to the courts to seek justice for communities whose land and natural resource rights have been violated by companies. Since the role of the courts is to examine and make judgments on whether laws have been breached and to order remedies, it makes sense that we should be able to turn to the courts to hold companies accountable for rights violations and illegal behaviour.

In cases that involve several responsible actors along the investment chain, **litigation** (legal action in courts) may be possible in more than one **jurisdiction**. The jurisdiction of a court is the territory, person or subject matter over which it has the legal authority to make judgments. For example:

- It may be possible to sue the business directly responsible for violations in the country where the agriculture investment project and violation is taking place.
- If the business managing the project or its parent company is foreign, it may be possible to take legal action in the country where the company is registered.
- It may be possible to take legal action against lenders that loan money to the business or parent company in the countries where the lenders are registered.
- It may be possible to take legal action against investors in the business or parent company in the countries where the investors are registered.
- It may also be possible to sue buyers that have purchased the product cultivated on the plantation. It may be possible to bring legal action against a buyer in the country that is importing the product.

If litigation is possible in a jurisdiction with strong rule of law and an independent judiciary, it can be the most effective form of advocacy. If the community wins the case in court and the judgment is enforceable, even if the community is in another country, the company involved will be legally required to comply with the court order. Sometimes, just commencing litigation will place enough pressure on the company to agree to enter into negotiations to try to settle the dispute to avoid a full court hearing and risk losing the case.

The ability to use the courts, however, will differ in each jurisdiction and can often be quite challenging. Some of the obstacles include:

- **Political interference and corruption** in courts in many countries where agricultural investments are violating the rights of local communities;
- **Weaknesses or gaps** in laws and regulations governing the activities that have caused human rights violations;

- **Lack of legal liability** (recognition of responsibility under the law) of lenders, investors and buyers, even though they make the agribusiness projects possible and receive a proportion of the profits;
- **Difficulty of attributing legal responsibility to one member of a corporate group**, such as a parent company, for the activities of another part of the group, such as a subsidiary, when they are registered as separate legal entities (See section 1.1 and Box 1: What is a 'company'.)
- **Jurisdiction challenges** of using the courts of countries where the business or its investors and buyers are registered. Many courts take a restrictive view of the **extraterritorial** (overseas) reach of the countries' laws and the court's jurisdiction and may reject a case because the wrongdoing occurred in another country.
- **Lengthy court processes** that can take many years to reach a judgment, which if favourable to the community might then be appealed by the company.

Another major challenge is the **high cost of using the courts**. Some lawyers are willing to provide legal advice and representation either **pro bono** (for free) or on a '**no-win no-fee**' basis, meaning that the lawyer is only paid if they win in court or reach an out of court settlement. However, even when you are able to find a lawyer willing to represent the community without charging any upfront fees, there are many other costs involved, such as travel, gathering evidence, court fees and hiring expert witnesses. In many courts, if you lose the case the judge may order you to pay the legal fees of the other party, which can be an enormous sum.

If, after conducting your research, you believe that your case is strong and it may be possible to use the courts despite these challenges, there are several organisations that you can contact to get free legal advice. In addition to legal aid organisations in your own country, the following organisations may be able to provide you with legal advice or connect you with lawyers willing to provide pro bono advice:

- TrustLaw www.trust.org/trustlaw/
- International Senior Lawyers Project www.islp.org/
- Leigh Day (UK) www.leighday.co.uk/
- Human Rights Law Centre (Australia) <http://hrlc.org.au>
- EarthRights International (U.S.) www.earthrights.org/
- Environmental Defender Law Center (U.S.) www.edlc.org/

Box 15: Case study

Seeking justice for sugarcane land grabs: transnational legal action in the UK courts

In recent years, the Cambodian government has leased vast tracts of land to private investors for industrial sugarcane plantations. The leased land has overlapped with land used by local small-scale farmers, leading to their forced displacement. Some of the concessions have involved violent forced evictions, with villages burned to the ground by the Cambodian military in collusion with the companies. Villagers who have protested against the land seizures have been thrown in jail.

One of the companies that own a sugarcane plantation in Cambodia is a Thai company. A British company signed a multi-year agreement to buy all the sugar from the Thai company's plantations in Cambodia.

The NGOs supporting the farmers whose land was seized to make way for the sugar plantations helped them to obtain legal advice and representation for legal action in the UK High Court. A British law firm, operating on a pro bono fee basis, filed a lawsuit on behalf of the farmers in the court against the British company for violating the law of conversion. The law firm argued that the company wrongfully profited from goods produced on land that was improperly taken from the farmers. The farmers sought compensation equivalent to the value of the sugar produced on their land.

Even though the land seizures occurred in Cambodia and the main company involved was registered in Thailand, the UK High Court accepted jurisdiction over the case because the sugar was imported into the UK by a British company.

6.2 Human rights mechanisms

If the business activities have violated human rights, you could consider using international, regional and/or national human rights bodies as a part of your advocacy strategy. These bodies generally focus on the human rights obligations of governments, including all government agencies and officials (referred to as 'States' under international law), and may be able to address the failure of relevant governments to protect against human rights violations committed by businesses. Some may also be willing to address the human rights responsibilities of businesses.

UN human rights bodies that you could use for your advocacy include:

- **Special Procedures of the Human Rights Council**, which are independent human rights experts with mandates to report and advise on human rights themes or country-specific issues. These human rights experts can send letters and urgent appeals to governments or other actors, including companies and MDBs, to bring alleged violations to their attention. You can submit a complaint about a human rights violation to the relevant "thematic" expert, for example, on the right to food, adequate housing, or indigenous peoples, explaining all of the important facts and requesting that they send a letter to the business managing the project, and/or one or more of the other key actors along the investment chain.

You can find more information here: www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx.

The list and contact details of all the thematic Special Procedures (human rights experts) can be found here: www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx.

There are also human rights experts on several countries, which can be found here: www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx

- **Human Rights Treaty Bodies**, including the Committee on Economic, Social and Cultural Rights (CESCR) and the Human Rights Committee (HRC), which are made up of experts from around the world. You can use these bodies in two ways:

1. States that have **ratified** or **acceded** (formally agreed) to human rights treaties are required to report on their compliance with the treaty obligations to the corresponding treaty body every few years. For example, States that have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) are required to report to the corresponding Committee (CESCR) on the situation in their country regarding, for example, the rights to an adequate standard of living, education and health. States that have ratified the International Covenant on Civil and Political Rights (ICCPR) are required to report to the HRC regarding rights to, for example, privacy and freedom of expression.

While it is governments that must report to the committees, civil society can also provide information, including by **submitting 'parallel reports'** about the human rights situation or specific cases of human rights abuses. When the country in which the human rights violation is occurring reports to a relevant treaty body, you can consider submitting information about your case. It is also possible to submit information about the case when the home country of a key actor along the investment chain is being reviewed by a relevant treaty body. Make sure to clearly explain the connection between the human rights violation and the failure of the home country government to regulate the overseas activities of the company. The treaty body may then address the issue or case in its review of the country and refer to it in its **'concluding observations'**, which you can then use to bolster your advocacy.

2. If the State has signed up to the 'Optional Protocol' to the ICCPR or ICESCR, you can **submit a complaint, called an 'individual communication'**, to the relevant treaty body about the specific violations by the State of its treaty obligations in your case. If the Committee decides the complaint is admissible, it generally considers the complaint on the basis of written information by the complainants and the government. If the Committee decides that the State is in violation of human rights recognised in the treaty, it asks the government to provide information within a set time period about the steps it has taken to give effect to its findings and recommendations to remedy the violation.

You can find out more information about the HRC here: www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx and about the CESCR here: www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx You can find out if the relevant country is a State party to ICCPR, ICESCR and the Optional Protocols here: <http://indicators.ohchr.org>

- **The Universal Periodic Review**, under which the human rights records of all Member States of the United Nations are reviewed every few years by members of the Human

Rights Council (i.e. other States). NGOs can submit information through a report, which is considered during the review and may influence the **'outcome report'**, including the recommendations. You can find out more here: www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx



Tip

These bodies can make critical findings, comments or recommendations about human rights violations that you could use in your broader advocacy strategy, but **they do not make binding and enforceable decisions**. Consider the likely responsiveness of the government and other actors along the investment chain to a critical finding by a UN human rights body in deciding whether or not it is worth the effort and resources to pursue them as part of your advocacy strategy. Review your pressure point analysis (Chapter 3 and worksheet 3) to help you decide.

In addition to human rights organisations in your own country, the following international organisations and networks may be able to provide advice and assistance in using UN human rights bodies:

- The Global Initiative for Economic, Social and Cultural Rights <http://globalinitiative-escr.org>
- FIAN International www.fian.org
- ESCR-Net www.escr-net.org
- International Justice Resource Center www.ijrcenter.org/
- Natural Justice www.naturaljustice.org/

Box 16: Using National and Regional Human Rights Bodies

Many countries have national human rights institutions (NHRIs), some of which are mandated to investigate individual complaints about human rights violations. In some cases, the NHRI can only investigate complaints against government agencies and officials. In other cases, such as the Thai Human Rights Commission, they have the power to investigate complaints against companies registered in their jurisdiction, including the overseas activities of those companies (See Box 22 in section 7.2). Research the mandates, effectiveness and track records of the NHRIs that may be relevant to your investment chain to decide whether it's worth filing a complaint. You will also need to check if the NHRI has the power to consider violations of the particular human rights that have been breached in your case. Most NHRIs have their own website, which will provide you with information about their mandate.

Africa, the Americas and Europe have regional human rights courts and commissions that may be worth using as a part of your advocacy strategy. Individuals and communities can file complaints to these courts to seek justice and remedies for human rights violations committed by a State. This can include violations that government agencies and officials allowed to occur or failed to prevent. It's generally necessary to first try resolving the grievances at the local or national level, such as in domestic courts. You can find information about regional human rights bodies here: www.ijrcenter.org/regional/

6.3 Non-judicial grievance mechanisms

As explained in the previous section, it can be very difficult for aggrieved communities to seek justice and hold companies accountable through the courts or by using human rights bodies. Moreover, MDBs such as the World Bank Group have legal **immunity** in almost all jurisdictions, meaning that they usually cannot be sued in the courts for wrongdoing that causes harm.

In response to pressure from civil society groups that have highlighted these significant accountability gaps, some companies, industries and MDBs have developed internal grievance and accountability mechanisms. These mechanisms are generally established with the purpose of providing an accessible avenue to resolve grievances for communities who have suffered harms, or anticipate harms, as a result of the activities of the company or investments of the MDB. Although their level of independence varies, as most are established by the company, industry or MDB, respectively, the outcome of using these mechanisms often falls short of a full and effective remedy for the aggrieved community. This section describes several types of non-judicial grievance mechanisms and provides some commentary on their effectiveness.

Important point

This chapter does not cover every type of grievance mechanism. Other mechanisms, such as those established by **export credit agencies** and **bilateral aid agencies**, may be relevant if you have identified these actors along the investment chain.

Tip



If you are representing communities through any of these accountability mechanisms, you should obtain evidence of your authority to represent them and submit this along with the letter of complaint. If the community members submitting the complaint wish to keep their identity confidential from the government and business managing the project because they fear reprisals, make sure you clearly request confidentiality in your complaint.

You should not rely on the information in this chapter alone in deciding whether to submit a complaint to a particular mechanism or in writing your complaint. Always carefully read the information and instructions on the mechanism's official website. Links to the relevant websites are included in the descriptions below.

6.3.1 Company and operational level grievance mechanisms

Since the UN Human Rights Council endorsed the Guiding Principles for Business and Human Rights in 2011, more companies have established their own grievance mechanisms to deal with community complaints about their operations. The UN Guiding Principles set out a framework for governments and businesses with the aim of ensuring that business activities do not violate human rights and that remedies are provided if violations do occur. One of the principles is that 'business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted' by their operations.³⁸ The idea of company grievance mechanisms

³⁸ Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, principle 29, (21 March 2011) A/HRC/17/31.

is to create a direct channel of communication between aggrieved communities and the company, so that the company can learn about community concerns and address them before they escalate into larger conflicts.

It is worth finding out whether the business managing the project or other companies along the investment chain have their own grievance mechanism, and what the process entails. However, many observers have been critical of these mechanisms for not being fair or effective in providing meaningful remedies. This is not surprising, since the grievance mechanism is established by the company itself and is not independent or impartial. It is a good idea to ask other NGOs or communities with experience using the company grievance mechanism if they found the process worthwhile. Take this information into account when advising communities whether or not to use the company grievance mechanism to resolve their problems.

Box 17: IFC requirement for a project grievance mechanism

If your investment chain mapping has uncovered the IFC as an investor, the business managing the project may be required under IFC rules to set up a project-level grievance process. Since 2006, the IFC's Sustainability Framework requires companies that receive project finance to establish a grievance mechanism in consultation with affected communities if risks of adverse impacts are anticipated. The mechanism is supposed to be equipped to deal with issues that arise in relation to community health, safety and security, land acquisition and displacement and adverse impacts on indigenous peoples. Under IFC's policy, the company is required to inform affected communities about the grievance mechanism and how to use it.

If your research shows that the company should have established a grievance mechanism, but the affected community you are supporting has not been told how to submit complaints, this may be a violation of IFC's policies. If this is the case, the community can submit an official complaint to the IFC's Compliance Advisory Ombudsman (CAO) (see below).

The standards of other public and private financial institutions that you have identified along the investment chain may contain similar requirements.

6.3.2 Multi-stakeholder sustainability initiatives and grievance mechanisms

Multi-stakeholder sustainability initiatives are associations that bring together businesses and civil society, with the purpose of making business activities more socially and environmentally sustainable. They often engage businesses that are involved in the same industry or are producers, sellers and buyers of a particular commodity, such as sugar or palm oil. Other multi-stakeholder initiatives engage businesses based on the potential environmental or social impacts of those processes, such as impacts on forests or labour conditions. Businesses typically engage in these initiatives through membership, which usually involves agreeing to follow the initiative's code of conduct, or through a more rigorous system of **certification** that verifies that their business practices meet a particular set of standards, including social and environmental standards.

As consumers become more concerned about social and environmental issues, they want to be sure that the products they buy were made without harming the people and the environment. As a result of this consumer demand, companies are increasingly concerned about labelling their products as certified by multi-stakeholder initiatives, such as those described below.

Some of these initiatives have established processes for receiving complaints and addressing grievances that emerge from the operations of the businesses involved. Complaints need to demonstrate that the business' practices have failed to meet the standards of the multi-stakeholder initiative. In theory, grievances should be resolved through the complaints process, and if the business fails to address them in a manner consistent with the applicable standards, they can be expelled from the multi-stakeholder group and/or lose their certification. This can have a serious effect on the business's reputation and can therefore be a powerful part of your advocacy strategy.

However, by their nature, multi-stakeholder initiatives may be easily influenced by businesses and often fail to function fairly and effectively to address the grievances of affected communities. They are not always willing or able to influence the behaviour of large business members, and instead may shield those businesses from negative publicity.

Tip



Before you decide to file a complaint with a multi-stakeholder initiative, it is worth asking the advice of other organisations that have recently had experience engaging with it to decide whether it is worthwhile and how to make the best use of it.

Several examples of multi-stakeholder initiatives relevant to agribusiness are described below, along with some commentary on their reported effectiveness.

The Forest Stewardship Council (FSC), one of the first multi-stakeholder initiatives, has adopted principles and criteria for sustainable forestry. Businesses that manufacture, process or trade forest products can apply for certification if they meet the principles and criteria. For a consumer product to be labelled with FSC certification, all businesses involved in producing the product and that 'own' the product during a stage in the production process must be certified. In theory, this means that the final consumers of the product will know that it meets FSC's principles and have not had a negative impact on forests.

The FSC principles and criteria are available here:
<https://ic.fsc.org/principles-and-criteria.34.htm>



Tip



You can find out whether the business affecting the community you are supporting or one of its buyers has FSC certification through a database on FSC's website available here: <http://info.fsc.org/certificate.php#result> The company is also likely to advertise that it has FSC certification on its own website, and will often include the FSC logo on the products at the point of sale. If the company does have FSC certification and you believe its operations may have failed to meet FSC principles, you can submit an online complaint, called a **dispute submission form**, available here: <https://ic.fsc.org/submit-a-complaint.170.htm>

Complaints against companies that have FSC certification are sent by the FSC to the relevant **certifying body**, which then investigates the complaint. A certifying body is a private agency approved by the FSC to assess whether a company meets the FSC principles and criteria and carry out annual assessments to make sure that a certified company is continuing to meet the principles. Its role is also to investigate complaints and work to resolve the issues. However, there is an inherent conflict of interest in this process because the certifying body is paid by the company itself. An organisation called FSC-Watch is highly critical of the FSC complaints process for this reason (see: <http://fsc-watch.com/2007/06/02/fscs-complaints-procedures-in-chaos/>).

If the grievances are still not resolved after this process, you can elevate the complaint to the FSC itself, including a complaint against the certifying body if you believe it has not performed its duties according to the standards of the FSC.

The Roundtable on Sustainable Palm Oil (RSPO) has adopted a standard, called the Principles and Criteria for Sustainable Palm Oil Production. These principles must be met for palm oil plantations and processors along the supply chain to receive RSPO certification. These principles include protections for people and communities that have legal, customary and user rights to land that the company is using for its plantation, and require the free, prior and informed consent of such communities for the use of the land. They also include environmental protections. The principles and criteria are available here: www.rsपो.org/file/RSPO%20P&C2013_with%20Major%20Indicators_Endorsed%20by%20BOG_FINAL_A5_v1.pdf.



The RSPO has established a complaints system that accepts complaints about the actions of its business members, including on land rights, environmental and human rights issues.

Tip

If the community you are supporting is affected by a palm oil plantation, you can find out whether the company or a buyer on the investment chain is a member of RSPO by searching its database, available here: www.rspo.org/en/rspo_members

The complaint should explain the company's actions and how they fail to meet the principles and criteria or other applicable standards such as the RSPO Members Code of Conduct. The RSPO website provides a **complaint form**, available here: www.rspo.org/members/complaints, to be filled in and submitted along with supporting evidence, such as your impact assessment. Your complaint should also include information about any previous efforts to resolve the community's grievances.

Several options are available to try to resolve the grievances through the complaints system, including mediation or investigation of compliance and recommendations made by a **Complaints Panel**. In serious cases, the Complaints Panel may recommend to the Executive Board of the RSPO that a company's membership be suspended or cancelled.

Further information about the RSPO complaints system and how to file a complaint can be found here: www.rspo.org/members/complaints

In 2013, a number of NGOs, including Forest Peoples Programme, released a study of several cases that found that the RSPO conflict resolution mechanisms has generally not provided tangible results for local communities (See: www.forestpeoples.org/topics/palm-oil-rspo/news/2013/11/press-release-sustainable-palm-oil-marketing-ploy-or-true-commitme). The RSPO Secretariat is currently implementing the recommendations of the 2014 review it commissioned of its complaints system in response to these and other critiques of its effectiveness. The final report from the review can be found here: www.rspo.org/news-and-events/announcements/a-review-of-complaints-system-of-the-rspo-final-report

Bonsucro is a multi-stakeholder organisation aiming to improve the social, environmental and economic sustainability of sugarcane production. Bonsucro has adopted a Code of Conduct that requires member organisations to implement a set of objectives

and principles, which include obeying the law and respecting human rights and labour standards. Bonsucro has also established detailed criteria that businesses must meet in order for their products to receive Bonsucro certification. The criteria include demonstrating that the company has clear ownership or lease title to the land and water that it uses, and that the resources are not legitimately contested by others. It also includes a requirement for transparent and consultative processes that address impacts of new plantations through environmental and social impact assessments and the establishment of project-level grievance mechanisms. The full set of principles and criteria are available here: http://bonsucro.com/site/wp-content/uploads/2013/03/Bonsucro_Production_Standard_March-2012__c.pdf



Bonsucro has established a **Complaint Resolution Process (CRP)** to handle complaints regarding a Bonsucro member's alleged violation of the Code of Conduct, or complaints against the awarding of certification for not meeting the Production Standard.

Tip



If the community you are supporting is affected by a sugarcane plantation, you can find out whether the company is certified by Bonsucro by searching its database, available here: <http://bonsucro.com/site/certification-process/certified-members/> You can find out if any of the companies that you have identified along the investment chain are members of Bonsucro and thus bound by the Code of Conduct here: <http://bonsucro.com/site/members/list-of-members/>

Complaints can be submitted by email to complaints@bonsucro.com Complaints and all supporting evidence must be in English. The complaint must include, among other information, proof that your organisation is a legal entity (if you are submitting it on behalf of affected people); the name of the company affecting the community; and details about the grievance. The complaint must clearly identify the exact article of the Bonsucro standards that has been breached. Note that the violations must have occurred after the company received certification for the complaint to be eligible. You should also include all supporting evidence to substantiate the complaint, including your impact assessment. CRP requires written evidence that previous steps were taken to seek a resolution directly with the company. Your complaint must also set out 'recommendations on clear, concise and specific actions and activities to correct problems raised in the complaint.'³⁹

Bonsucro will send the details of the complaint to the company and provide it with an opportunity to respond to the allegations. Bonsucro makes recommendations, which are sent to both parties, who each can submit an alternative proposal. If the parties cannot agree on a set of recommendations, Bonsucro will make a final decision and advise the company of the corrective action it must take and which Bonsucro will monitor. Both parties can appeal the decision. Final results are published on the Bonsucro website.

Official information about the Bonsucro Complaint Resolution Process, including what to include in a complaint, can be found here: <http://bonsucro.com/site/wp-content/uploads/2013/03/Complaints-Resolution-Process-As-Revised-on-10-July-2014.pdf>

For an example of how Bonsucro has been used as a part of a broader advocacy strategy to obtain remedies for local farmers displaced by a sugarcane plantation, see section 7.1.2, Box 19: Lobbying the Bonsucro multi-stakeholder initiative.

The **Roundtable on Sustainable Biomaterials (RSB)** brings together farmers, companies, NGOs, experts, governments and inter-governmental agencies concerned with ensuring the sustainability of biomaterials production and processing. Organisations can apply to become a member or to gain certification if they comply with and implement the RSB's environmental, social and economic principles and criteria. Principle 6, for example, requires biofuel operations to ensure the human right to adequate food and improve food security in food insecure regions. Principle 12 requires biofuel operations to respect existing formal and informal land rights and land use rights. Free, prior, and informed consent must form the basis for all negotiated agreements for any compensation and acquisition of rights by land users or owners for biofuels operations.⁴⁰



³⁹ <http://bonsucro.com/site/wp-content/uploads/2013/03/Complaints-Resolution-Process-As-Revised-on-10-July-2014.pdf>

⁴⁰ <http://rsb.org/pdfs/standards/11-03-08%20RSB%20PCs%20Version%202.1.pdf>

The full set of RSB Principles and Criteria are available here: <http://rsb.org/pdfs/standards/11-03-08%20RSB%20PCs%20Version%202.1.pdf>

Tip



Biomaterials include biofuels that can be sourced from products such as **sugarcane, corn** and **soy**. You can find out whether the company or a buyer along the investment chain is a member of RSB here: <http://rsb.org/about/organisation/member-list/>, and is certified by RSB here: <http://rsb.org/certification/participating-operators/>

RSB requires that certified companies, certifiers and accreditation bodies all have their own grievance processes in place. You must first try to resolve the grievance directly with the certified company. If the company processes fail to resolve the grievance, communities can file a formal grievance about a breach of the principles to the certification body or RSB Secretariat – depending on the type of grievance. The complaint should be filed within one year of the event that caused the problem.

Among other information, complaints must include basic information about your organisation; details and evidence of the grievance; expected outcomes; and evidence of the steps already taken to resolve the grievance directly. Complainants can request anonymity.

If the grievance is admissible, the '**Grievance Manager**' conducts an investigation or nominates some else to do so, based on written materials from both parties. The investigator may also want to interview you and community representatives and may also want to conduct a site visit. If the company fails to cooperate, the certifying body or the RSB can suspend certification. The investigator prepares a written report with findings and recommendations within 90 days of receipt of the formal grievance. Either party can appeal the findings within 30 days.

More information on submitting a complaint and the process can be found here: <http://rsb.org/pdfs/standards/Procedures/RSB-PRO-65-001-vers%203.0%20-%20RSB%20Grievance%20Procedure.pdf>

6.3.3 OECD national contact points

Reminder

The Organisation for Economic Co-operation and Development (OECD) has developed Guidelines for Multinational Enterprises, which define standards for socially and environmentally responsible corporate behaviour. The OECD Guidelines are recommendations from governments to multinational companies that are operating in or from their countries. They provide guidance for responsible business conduct in a number of areas.



For cases involving adverse impacts of agriculture projects on communities' land and natural resource rights, several of these guidelines may be relevant, including those on the human rights⁴¹ and the environmental⁴² responsibilities of business. Guidelines on **due**

41 OECD Guidelines on Multinational Enterprises, Chapter IV Human Rights.

42 Ibid, Chapter VI Environment.

diligence⁴³ (the company's assessment of risk and system to address these risks) and information disclosure⁴⁴ may also be relevant to the case. Consumer protection guidelines may also be relevant where, for example, the business or another company along the investment chain advertises itself as respecting human rights and has failed to do so.⁴⁵

While the OECD Guidelines are not legally binding on companies, adhering governments are required to ensure that they are implemented and observed. Among other requirements, governments must establish '**National Contact Points**' (NCPs) to receive and handle complaints known as 'specific instances'.

Tip



If the business managing the project or another company along the investment chain is headquartered in one of the OECD member or adhering countries you can bring a complaint to the NCP in that country.⁴⁶ You can find the contact details for the NCPs in each country here: <http://mneguidelines.oecd.org/ncps/>

Your complaint should explain how the company has failed to meet the standards set by the guidelines and provide evidence to substantiate your claims. You should also explain what outcome the community is seeking and what process you would like the NCP to assist with (e.g. mediation, fact-finding, compliance assessment and recommendations). A format that you can use for writing a complaint to a NCP can be found here: <http://oecdwatch.org/filing-complaints/instructions-and-templates>

Once an NCP receives a complaint it makes an initial assessment about its validity and relevance to the guidelines. The NCP may require further information from you as it makes its assessment. It then seeks to bring the community and the company together for mediation. If mediation fails, the NCP may make an assessment of violations and issue recommendations.

The quality and effectiveness of NCPs in different countries vary widely and also changes over time, depending on the individuals working there. In some successful cases, complaints to a NCP have resulted in mediated agreements between companies and communities, including the payment of compensation. In other cases, the NCP has been very slow or simply ignored complaints altogether, and some have shown bias towards the company.⁴⁷

Important point



It is important to seek the advice of experienced organisations that have submitted complaints to the relevant NCP to make sure it's a worthwhile use of your organisation's resources.

OECDWatch.org, a global CSO network, is an excellent resource for further information and advice on filing a complaint to an NCP. It provides extensive and clear information and an online 'Case Check' service to assist potential complainants in deciding whether to submit a complaint, available here: <http://oecdwatch.org/oecd-watch-case-check>

43 Ibid, Chapter II General Policies, A. 10.

44 Ibid, Chapter III Disclosure.

45 Ibid, Chapter VIII Consumer Interests, 4.

46 The OECD countries are listed in Chapter 4 and can be found here: www.oecd.org/about/membersandpartners/listoecd-member-countries.htm

47 <http://oecdwatch.org/filing-complaints/instructions-and-templates/good-and-bad-ncp-practices>

You can find an example of a complaint to an NCP here: www.facing-finance.org/en/2014/07/press-release-friends-of-the-earth-files-oecd-complaint-against-rabobank-finance-for-illegal-palm-oil/

6.3.4 Multilateral Development Banks accountability mechanisms

If you have identified an MDB along your investment chain, there is a good chance that it has its own accountability mechanism – which can make an MDB a strong pressure points. These accountability mechanisms are typically mandated to address complaints from people who claim to be harmed by projects that are financed by the MDB. In most cases, the accountability mechanisms are theoretically independent from the bank's management, and some report directly to the bank's board of directors.

Most of these accountability mechanisms have two functions, a 'dispute resolution' or 'problem solving' function and a 'compliance' function. The **dispute resolution function** usually aims to mediate or facilitate negotiations between the parties, or to support other voluntary processes to resolve grievances. The **compliance function** typically assesses whether or not the MDB has complied with its own social and environmental safeguard policies and whether failure to comply has caused or contributed to the harms suffered by the complainants. Some accountability mechanisms also make recommendations on how to remedy the harms, but it is always up to the board of directors and/or the management itself to accept and implement those recommendations. In many cases, even where the accountability mechanism makes strong findings of non-compliance and issues a solid set of recommendations that communities agree with, the MDB does not effectively implement these on the ground. Chapter 7 explains the need for strategic lobbying and other forms of advocacy at strategic moments during the accountability process to pressure MDBs and their clients to actually take remedial action.

Two MDB accountability mechanisms are explained in more detail below. Links to information on others can be found at the end of this chapter.

International Finance Corporation: Compliance Advisory Ombudsman (CAO)

The Office of the CAO is the recourse mechanism for people that have been or fear they will be adversely affected by a project supported by the IFC. **If during your investment chain mapping you identified the IFC as one of the financiers** of the project, including through a financial intermediary, you can bring a complaint to the CAO on behalf of the community if they have suffered (or may suffer) adverse social or environmental impacts as a result of that project.

The CAO also accepts complaints from people affected by projects with political risk insurance (e.g. risk of war or expropriation of property) from another arm of the World Bank Group called the **Multilateral Investment Guarantee Agency (MIGA)**. You can search for the project or company name here: www.miga.org/projects/advsearchresults.cfm?srch=s (This section will refer to the IFC since complaints against IFC projects are more common).

The CAO is very accessible compared to other accountability mechanisms. The eligibility requirements are easy to satisfy, and the CAO provides a short simple template for a letter of complaint on its website, available here: www.cao-ombudsman.org/howwework/filecomplaint/documents/Complaintlettertemplate.pdf. The CAO does not require supporting evidence to be submitted along with the complaint.

However, if you submit a clear, detailed and strong complaint with supporting evidence such as findings of an impact assessment, you are more likely to be successful for several reasons: First, you and the community will be more prepared to engage with the process with clear information about the facts and impacts. Second, like all grievance mechanisms, the CAO process is only as good as the people working there and their understanding of the situation. If you give them clear detailed information, they can do a better job of trying to resolve the problems or assess compliance with IFC policies. Third, the IFC often responds to complaints to the CAO with a strong defence of its actions and that of its clients. If you decide to use the compliance function (explained below), the IFC's lawyers will write a response to your complaint. If your complaint is well written and backed by evidence, it will be harder for the IFC to refute or discredit the claims.

Tip



Your complaint should clearly explain the harms suffered or anticipated due to the IFC project and the remedies and other outcomes sought. If the community wants to use the compliance function of the CAO, it is advisable for the complaint to also set out which IFC policies and procedures have been breached. Remember that the CAO will assess compliance by the IFC itself, and not its client, so your complaint should refer to failures of the IFC to fulfil its responsibilities under the policy and guidelines available here:

www.ifc.org/sustainabilityframework. In general, the applicable policies are those that were in force at the time the IFC made its investment.

Complaints to the CAO can be submitted to cao-compliance@ifc.org.

An example of a complaint to the IFC can be found here: www.inclusivedevelopment.net/cambodia-and-laos-hagl-rubber-plantations/

If your complaint meets the eligibility criteria, first the CAO Ombudsman will discuss the complaint with all parties to assess whether they may be able to work together to reach a mutually agreeable solution (e.g. through mediation) using the **Ombudsman** function. If the community or the company does not wish to enter into a mediation or negotiation process, or the negotiation process is ultimately not successful, the complaint will be sent to **Compliance** to assess whether IFC social and environmental policies have been breached by the IFC and whether a full compliance audit is warranted.

See section 6.3.5 for a discussion of the pros and cons of using the dispute resolution process and the compliance function.

Official information on the CAO process can be found here: www.cao-ombudsman.org

Asian Development Bank: Accountability Mechanism (AM)

If during your investment chain mapping you identified the Asian Development Bank (ADB) as one of the financiers of the project, including through a financial intermediary, you may be able to bring a complaint to the Accountability Mechanism (AM). At least two people who are 'directly, materially, and adversely' affected by an ADB-supported project can submit a complaint.

Before submitting a complaint, the community must make good faith efforts to address the grievances with the ADB operations department itself (i.e. the ADB office in your country or the department in charge of the project). These efforts, such as sending letters setting out your concerns and holding meetings with the ADB, should be described in the complaint letter, or the ADB AM will reject your complaint.

Tip



A complaint form and sample letter are available here: www.adb.org/site/accountability-mechanism/complaints-receiving-officer/how-file-complaint. While this form is all that is necessary, as with the CAO process, the more detail you can provide about the harms suffered or anticipated as a result of the ADB project, and the stronger your complaint, the harder it will be for the ADB to refute your claims.

If the community wants to use the compliance function of the AM, it is advisable for the complaint to also set out which sections of the ADB's safeguard policy have been breached by the ADB. The current Safeguards Policy Statement of the ADB, adopted in July 2009, is available here: www.adb.org/site/safeguards/policy-statement (Remember that the applicable policies are those that were in force at the time the ADB approved its grant or loan).

Complaints to the AM can be submitted to amcro@adb.org

An example of a complaint to the ADB AM can be found here: www.inclusivedevelopment.net/wp-content/uploads/2014/08/Samoa-matais-complaint-to-ADB-AM-FINAL.pdf

The Complaints Receiving Officer will ask you whether you choose for the complaint to be dealt with by the **Office of the Special Facilitator (OSPF)**, the AM's 'problem-solving' function (e.g. to facilitate dialogue or mediation), or if it should be immediately sent to the **Compliance Review Panel (CRP)** to assess ADB's policy compliance. Eligibility of your complaint will be assessed by the OSPF or CRP, and they may request further information or a phone meeting in making the assessment.

Official information on the ADB AM process can be found here: www.adb.org/site/accountability-mechanism/main

The other regional development banks also have accountability mechanisms, with similar functions as the IFC's CAO and the ADB's AM. Below is a list of the mechanisms and where you can find information about each.

- The **African Development Bank (AfDB)** accountability mechanism is called the **Independent Review Mechanism (IRM)**. The IRM handles requests (complaints) through two functions: problem-solving (mediation) and compliance review (investigation). Official information can be found here: www.afdb.org/en/about-us/structure/independent-review-mechanism-irm/

Important point

If the community thinks that it may be possible to negotiate with the relevant parties to reach a solution, then it may be worth trying the dispute resolution function first. If the community chooses this option, and hopes to reach an agreement through negotiation to resolve the grievances, it is very important to support the community through this process since there is usually a considerable **power imbalance between the parties**. You may need to train the community in negotiation skills and support them through the various stages and decision-making processes (see link to a negotiation training guide at the end of this chapter).

It may be strategic to use other forms of advocacy during the process if the company is not negotiating fairly. Success will ultimately depend on the willingness of the company and other relevant parties to reach an agreement that the community is satisfied with. This is only likely to happen if the company believes that addressing the problems and settling the 'dispute' is in its own interests. This may mean making it clear to the company that you will engage in other forms of advocacy if they do not negotiate fairly. Various forms of advocacy that you can use are discussed in the next chapter.

- The **Inter-American Development Bank (IDB)** accountability mechanism is called the **Independent Consultation and Investigation Mechanism (ICIM)**. The ICIM has two processes: the consultation phase and the compliance review phase. Official information can be found here: www.iadb.org/en/mici/home,1752.html
- The **European Investment bank (EIB)** accountability mechanism is called the **Complaints Mechanism (CM)**. The CM carries out both compliance reviews and, in appropriate cases mediation and other types of collaborative resolution processes. Official information can be found here: www.eib.org/about/accountability/complaints/index.htm
- The **European Bank for Reconstruction and Development (EBRD)** accountability mechanism is called the **Project Complaint Mechanism (PCM)**. The PCM has a compliance review function and a problem solving initiative. Official information can be found here: www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism.html

6.3.5 Compliance investigation or dispute resolution?

As an advisor to the community, you will need to help them decide whether to try the dispute resolution function (sometimes called 'problem solving') or go straight to the compliance review function. Most MDB accountability mechanisms offer both functions, and while in some cases the dispute resolution function must be tried first, in others, the community will be able to decide which one to begin with.

- The **dispute resolution** function typically facilitates dialogue or mediation between the community and the company and/or the MDB and other relevant parties, such as the government. They can also conduct fact-finding research about the situation. They do not make any judgments about the complaint but instead attempt to facilitate a resolution of the problems by mutual agreement of all parties. The community, company and other relevant parties must all agree to participate in this process for it to work. Any of the parties can disengage from the process at any time, which will bring it to an end.
- The **compliance** function acts more like a court, although their decisions are not binding. They assess whether the MDB has failed to comply with its own policies and whether this has caused the harms suffered by the community. They typically conduct an initial appraisal of the case to decide whether a full assessment is warranted. If they conduct a full compliance assessment, they review all relevant documentation, conduct interviews and usually visit the community and project site. They produce a report with findings on policy compliance. In the case of the ADB's CRP, they

also make recommendations, which both parties have a chance to comment on before a final draft is sent to the board of directors. The board must adopt the recommendations for them to be binding on the ADB. In the case of the CAO's compliance function, the report is sent to the IFC (or MIGA), which prepares a response that should set out an action plan to address findings of non-compliance. In both cases, the compliance functions monitor the situation until the issues are addressed. The entire process will usually take more than one year.

The dispute resolution process is voluntary, so if negotiations fail, or if the community is not satisfied, they can decide to stop the process and request that the complaint be transferred to the compliance function. Your role during a compliance review will be to ensure the community understands the process and to support the community during site visits by the compliance panel. You should also provide the compliance panel with any additional information or evidence that emerges.

Tip



You should **be prepared to lobby the executive directors and/or highest level of management** of the MDB for a good outcome once the compliance function has finalised its report. You can ask NGOs experienced in this type of lobbying to help you through this process (see list below).

It is also highly advisable that you support the community in other forms of advocacy at the same time. Using accountability mechanisms is a slow process and even if you end up with a strong final report, there needs to be pressure on the MDB to actually implement a remedial action plan to resolve the community's grievances. Since this will almost always require the involvement of the MDB's client – the business managing the project, its parent company and/or the government – your advocacy should also aim to get these actors to engage constructively in implementing a remedial action plan. The next chapter explains other forms of advocacy that you can use in your strategy.

In addition to organisations in your own country, the following international organisations may be able to provide advice and assistance in using non-judicial grievance mechanisms:

- Inclusive Development International (IDI) www.inclusivedevelopment.net/
- Accountability Counsel www.accountabilitycounsel.org/
- The Centre for Research on Multinational Corporations (SOMO) <http://somo.nl/>
- The Center for International Environmental Law (CIEL) www.ciel.org/
- Forest Peoples Programme www.forestpeoples.org/
- La Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS) www.fundeps.org
- AIDA www.aida-americas.org

Box 18: Case study

Nicaraguan sugarcane workers pursue remedy through IFC Ombudsman

In 2008, ASOCHIVIDA, an association of former sugarcane workers in Nicaragua, filed a complaint with the CAO. The workers' former employer had received a loan from the IFC two years before in order to extend its sugarcane plantations and build an ethanol plant. The members of ASOCHIVIDA, who at that time numbered 600, were all suffering from an epidemic of chronic kidney disease, which they believed was caused by their working conditions. The Center for International Environmental Law (CIEL) and, subsequently, the Centre for Research on Multinational Corporations (SOMO) have supported ASOCHIVIDA throughout the process.

After receiving a complaint, the CAO can either try to convene a mediation process between the complainants and IFC's client to try and resolve the conflict or undertake an investigation to determine whether the IFC complied with its policies and procedures. In this case, ASOCHIVIDA and the IFC's client agreed to participate in a mediation focusing on two issues: measures to improve the health and social services for those with the disease and their families, and an independent study to determine the cause of the disease.

The mediation began in the 2009. One of the first commitments ASOCHIVIDA secured was a monthly provision of food for two years, which they subsequently succeeded in extending to cover their increasing membership. Those with the disease are unable to continue working, and therefore, have no way of providing for their families. The food distribution allowed them to meet their basic needs. Also, among the initial agreements was the selection of Boston University School of Public Health to undertake a multi-year study to determine the cause of the disease. Over the next several years, as the study was under way, ASOCHIVIDA secured additional benefits for their members, including: a micro-credit facility and capacity building to use it; new homes with adequate hygienic conditions to receive in-home medical treatment; and educational supplies for the children of those with the disease. Most recently, ASOCHIVIDA secured a donation to significantly improve the health facilities available to their members, which now number over 2,300.

As of 2015, the cause or causes of the disease were still not completely understood, but Boston University significantly advanced the scientific understanding of it and continues its research in collaboration with the US Centers for Disease Control and Prevention. The research found evidence that one or more risk factors are occupational, including heat stress and dehydration.

According to Kristen Genovese, Senior Researcher at SOMO, it is difficult to characterise the results of the CAO process. 'It has provided the members of ASOCHIVIDA with improved health care and economic assistance. However, the need is much greater,' she said. Genovese also regrets that the process did not succeed in holding the World Bank Group accountable for its role in this situation.

'Throughout the last seven years, IFC has never taken any responsibility for its failures. Worse yet, it misunderstands and mischaracterises Boston University's findings in order to justify financing other sugarcane companies in the region,' she said.

This case demonstrates both the potential of a mediation process to secure tangible remedies for aggrieved communities as well as the limitations.

Source: Derecho, Ambiente y Recursos Naturales (DAR), available at: <http://zerttic.com/boletin/noticia05-en.php>

Useful resources:

Corporate Accountability for Human Rights Abuses: A Guide for Victims and NGOs on Recourse Mechanisms by FIDH: www.fidh.org/International-Federation-for-Human-Rights/globalisation-human-rights/business-and-human-rights/Updated-version-Corporate-8258

Seeking Justice at the International Level: A Short Guide to Regional and International Grievance and Advocacy Mechanisms for Indigenous Peoples and Local Communities by Natural Justice: http://naturaljustice.org/wp-content/uploads/pdf/Seeking_Justice_International_Level.pdf

A Simple Guide to the UN Treaty Bodies by ISHR: www.ishr.ch/sites/default/files/article/files/ISHR%20Simple%20Guide%20to%20the%20UN%20Treaty%20Bodies.pdf

Claiming ESCR at the United Nations: A Manual on Utilizing the Optional Protocol to ICESCR in Strategic Litigation by ESCR-Net: www.escr-net.org/sites/default/files/ESCR-NET-OP-Manual-FINAL.pdf

Dispute or Dialogue? Community perspectives on company-led grievance mechanisms by IIED: <http://pubs.iied.org/pdfs/16529IIED.pdf>

Mapping Grievance Mechanisms in the Business and Human Rights Arena by Harvard Kennedy School: http://shiftproject.org/sites/default/files/Report_28_Mapping.pdf

Accountability Resource Guide by Accountability Counsel: www.accountabilitycounsel.org/wp-content/uploads/2012/04/ARG-7.1.pdf

A range of grievance mechanism brochures by SOMO: <http://grievancemechanisms.org/resources/brochures>

Avoiding Forced Evictions: A Community Guide to Negotiation and Advocacy (with lesson plans you can use to train community leaders and representatives to prepare for negotiations with the company in cases of forced displacement) by Inclusive Development International and Equitable Cambodia: www.inclusivedevelopment.net/resources/tools/



7 Using complementary advocacy strategies

This chapter explores some of the different advocacy strategies that can be used in combination with formal accountability mechanisms to increase your chances of success. These complementary strategies include building alliances, direct lobbying of key individuals and agencies, using the media, and consumer and shareholder advocacy.

7.1 Campaigning


As discussed in the previous chapter, the various judicial and non-judicial accountability mechanisms available for land and natural resource rights violations all have limitations. That's why you shouldn't just rely on one approach. Instead, try to use more than one mechanism if possible, as well as a range of complementary advocacy strategies that target multiple actors along the investment chain that can influence the business managing the project.

Putting sustained pressure on particular targets to achieve a specific objective through a range of advocacy tools and tactics is called **campaigning**. Key campaigning tactics include:

- Alliance building
- Lobbying
- Media advocacy
- Consumer advocacy
- Shareholder advocacy

These campaign tools range from 'soft' to 'hard', and they are not always complementary. Softer tools like lobbying can be useful at key points in a campaign; for example, to help you get past a barrier that is preventing an accountability process from moving forward. Harder tools like media, shareholder and consumer advocacy can be used to impose a reputational and economic cost on companies that are not responsive to softer advocacy approaches and are unwilling to act in good faith to redress harm that they have caused. You need to consider when it is strategic to deploy a certain tool or target a particular actor.

Important point



No organisation can do everything alone, so the more you can work together with other groups or individuals who have particular skills, resources and access to the actors you want to influence, the better the chances are that your campaign will be successful.

7.1.1 Building alliances

For an advocacy campaign to be effective, it is often necessary to work in alliance with other organisations that support your cause locally, nationally and internationally. Building international alliances is particularly important when the investment chain spans multiple countries and continents.

For example, if you want to pursue legal action against a multinational corporation in their home country, you will need to reach out to legal aid organisations in that country and ask for their assistance finding a lawyer that can provide pro bono legal advice and support. If you decide that it's time to launch a consumer campaign in countries or regions where the company's products are consumed, then you will need to build an alliance with campaigning organisations that are active in those countries. Closer to home, there may be

other organisations or social movements that you can work with to develop an effective multifaceted campaign. Some local groups may specialise in legal advocacy, while others are skilled in research or community organising.

Build a coalition with organisations and individuals that share common values and goals and that can each contribute something important to the campaign. And remember, successful corporate accountability campaigns often take several years, so make sure that you and your coalition partners are committed to staying active before taking on a case!

7.1.2 Lobbying during accountability mechanism processes

Experience shows that non-judicial accountability mechanisms are most effective when complainants remain actively engaged in lobbying the institutions and other actors involved before and after filing their complaint. Lobbying can take different forms, including letters or face-to-face meetings and events that engage decision-makers directly.

Tip



It is often most effective if the affected community does the lobbying themselves with support from allied CSOs and NGOs. As an advisor, you can help the community draft their letters, set up meetings and prepare for them, but it is important that the affected people are at the centre of the advocacy. In some situations solidarity actions can be effective, such as a 'sign-on' letter that you can prepare and ask members of your networks to endorse in support of the community's message.

Some accountability mechanisms, such as the Bonsucro and ADB mechanism, require that complainants first try to address their grievances directly with the operational staff of the institution. Before you assist the community to file a complaint to an accountability mechanism, make sure that they **write to the senior management** of the institution outlining their grievances and the actions that they want them to take. Provide a deadline to respond, which will indicate that the community intends to file an official complaint to their accountability mechanism if they don't get a satisfactory and timely response. Sometimes the threat of filing a complaint can be just as effective, or even more so, than the actual filing of the complaint in getting the institution to take the action that you are seeking. If this doesn't work, you will have the paper trail that you need to take the matter to the accountability mechanism.

Once a complaint has been filed and found eligible, the board of directors of the institution will be notified. At this point, it may be a good idea to **write to the board directly** to appeal to them to take certain actions, such as withholding new financing for the project until the investigation is completed or the dispute is resolved. They are unlikely to take any action while an accountability process is under way, but by writing to them and placing demands upon them at this stage, you will raise the profile of the case.

In **dispute resolution processes**, you may find that the company is not negotiating in good faith or is simply unwilling to go far enough in redressing the harm that they have caused. In those situations, it may be necessary to lobby the senior management or boards of the financial institutions, investors or multi-stakeholder initiatives to put pressure on the company to negotiate fairly. It's also possible that the community will be unsatisfied with the way that the accountability mechanism itself is functioning. As discussed in Chapter 6, not all mechanisms function effectively. You may find that their staff is biased or incompetent, or the process is just taking too long. In these situations, you should try to address your concerns first with the chairperson or the most senior officers of the accountability mechanism. If that doesn't work, you should write to the board of directors of the institution outlining your concerns.

Important point

What is your 'key ask'?



The foundation of all lobbying activities is the 'key ask' of the decision-maker you are targeting. This is the concrete action that you want the actor to take and should be formulated to achieve the community's demand. For example, your key ask of the IFC's board of directors may be to ensure the IFC's client (the business managing the project) adheres to the IFC Performance Standards and meaningfully consults the affected community. Be clear about your key ask and make sure it is expressed upfront in any letters that you write and at the beginning and the end of your meetings. Try to get the decision-maker to commit to taking some concrete actions towards your key ask within a specific timeframe. Then follow up regularly with them by email or phone to hold them to their commitment.

In the case of a **compliance investigation**, you should be prepared to lobby the board of directors and/or highest level of management of the institution for a good outcome once the investigation has been completed. It is advisable that you keep the pressure on the institution throughout the investigation, since these processes are slow and even if you end up with a strong investigation report, **there needs to be pressure on the institution to actually implement a remedial action plan** to resolve the community's grievances. If your complaint is against an investor or buyer along the investment chain – and not the business directly responsible for the community's grievances – they will need to pressure the business (ie. their client or business partner) to engage constructively in implementing remedial actions.

The staff and management of MDBs, commercial banks and other actors along the investment chain are often reluctant to apply serious pressure to their business partners, even if they have violated policies. This is why it is important to communicate with the board of directors, because they are ultimately responsible for ensuring accountability of the institution. If the board is not responding to your advocacy, then you will need to lobby their shareholders or members directly.

- In the case of MDBs, this means lobbying the finance ministries of the governments that are shareholders.
- In the case of a multi-stakeholder initiative, you will need to lobby the members of the association.
- If your target is a multinational corporation, you might try lobbying the government or members of parliament of its home country.

It might not be easy for you to reach these advocacy targets alone, but if you build strong international alliances, you can get support from civil society organisations in the countries where action is needed.

Box 19: Case study

Lobbying the Bonsucro multi-stakeholder initiative

In January 2011, a complaint was submitted to the grievance mechanism of Bonsucro against one of its founding members by a Cambodian community that had been forcibly evicted for a sugarcane plantation that supplied the company. The complaint alleged that the company had violated the Bonsucro Code of Conduct by buying sugar that was produced on stolen land and failing to conduct human rights due diligence on its suppliers.

For nearly two years, the Bonsucro grievance process appeared to be stuck. The complainants followed up periodically, but were never given clear information about what was happening with their complaint. They were only told that Bonsucro had been in dialogue with the Member and had requested a time-bound remediation plan from them. Multiple deadlines had reportedly been given to the Member, but they passed without any consequences.

Frustrated by Bonsucro's apparent unwillingness to sanction the Member for its failure to engage in the process, a delegation from the community and their supporting NGOs, Equitable Cambodia and Inclusive Development International, travelled to London to attend the Bonsucro Annual Conference. The Conference is attended mainly by Bonsucro members, which include many of the leading producers, buyers and sellers of sugar, but is open to anyone who pays the registration fee. The NGOs saw this as an opportunity to increase pressure on Bonsucro.

During a plenary Q&A session of the conference, the delegation publicly exposed the Member's violations of the Bonsucro Code of Conduct and the failure of the Bonsucro board of directors to take appropriate action against the Member. The conference organisers cut off their microphone, but the sugar industry representatives in the room had heard their message. At the end of the session, the Chairman of the Bonsucro board invited the delegation from Cambodia to a private meeting to discuss the case and hear directly from the community representative. They were told that the Board would be meeting the following day to make a decision about how to proceed with the case.

Shortly after, the complainants were informed by Bonsucro that the board had agreed to request that the Member carry out an independent assessment of the fairness of compensation payments that had been made to the displaced families. This proposal was unacceptable to the complainants, because no amount of compensation was 'fair' for land that was forcibly taken from the families – the community demand was that the land must be returned. They also demanded to have a say in the selection of any third-party assessors and in the terms of reference of the assessment.

When another two months had passed with no response, the NGOs wrote to the Bonsucro board and all the members that had participated in the 2012 Annual Conference. The letter described the human rights violations and illegal actions carried out by the Member's suppliers, as well as the impacts suffered by the victims. It then called upon all major companies buying sugar from the Member to conduct human rights due diligence audits of their supply chain and to insist that the Member 'take the measures necessary to ensure redress for all affected families whose land, homes and livelihoods have been unjustly and illegally appropriated'.

Shortly after this letter was sent, Bonsucro announced in a press release that its board had suspended the Member from Bonsucro. The suspension means that the company is unable to benefit from membership privileges, including Bonsucro certification, and its reputation is affected. Bonsucro stated that the suspension would remain in place until the company 1) carries out the third-party review of their supplier's compliance with the company's Code of Conduct, or 2) reaches a resolution of the dispute to both parties' satisfaction.

The result was a major victory for the community in their efforts to hold actors along the investment chain accountable. This case study demonstrates the importance of actively lobbying the institution and its members to ensure the grievance process is moving forward, when you see that justice is not being served.

Sources:

Inclusive Development International and Equitable Cambodia, Letter to Bonsucro Board and Members, 9 May 2013.

Bonsucro, Board Decision, 8 July 2013, available at: <http://bonsucro.com/site/about/complaints/>

7.1.3 Media advocacy

Media advocacy can be a powerful tool to influence decision-makers in a corporate accountability campaign. But it is important to be strategic about when and how you conduct media advocacy so that it is beneficial and not detrimental to your campaign.

The first thing to consider is who your target is. **Which actor are you trying to influence by using the media?** It may be the business managing the project, your government or a foreign government, or one of the other actors along the investment chain. Some companies will be more vulnerable than others to media advocacy. If your target is a company with a brand name that deals directly with consumers, it will be the most susceptible to media advocacy. However, if your target is a little-known private equity fund that is less concerned about its public image, then media advocacy may not be as effective.

Choosing your media outlet

Once you have selected a good target for media advocacy, it is important to **use media outlets that matter to the actor you are targeting**. For example, if your target is a buyer with a retail brand in the United States, then the best media to reach out to will be popular newspapers, radio and television in the US. If your target is an MDB or a commercial bank, try to pitch the story to journalists that work for a media outlet that covers financial and business news, such as the *Financial Times*.

Tip



Social media, such as Facebook, Twitter and blogs are becoming increasingly important tools for advocacy. Evaluate whether the actors you are targeting are paying attention to the social media platforms you are considering using. For example, check whether your target has a Facebook or Twitter account, and if so, how many followers they have.

Timing is key

One of the most important factors to consider when doing media advocacy is timing. If you are having a constructive dialogue with a company or engaged in sensitive negotiations, it is probably not the right time to criticise them in the press. That does not mean you should *never* do media advocacy when you are engaged in dialogue with a company. If they aren't doing what you want them to do or are causing unreasonable delays, and you sense that they need to feel more pressure, then media advocacy might be effective at this point.

If you are supporting a community in a formal mediation process, you may be asked to agree to "ground rules" that include refraining from talking to the media throughout the process, so that both parties will feel that they can communicate more freely to try to reach an agreement. If the other party seems to genuinely want to reach an agreement that the community will be satisfied with, it is probably worth agreeing to this condition. Sometimes you can use this as a bargaining chip and say that you will agree to refrain from talking to the media, if the company agrees to take certain actions immediately, such as committing to a moratorium on (suspending or stopping) harmful activities, such as clearing the forest. If you engage in media advocacy during mediation, the danger is that the other party will walk away from the negotiations. Assess this risk carefully and decide whether the other

party needs to feel the pressure of negative publicity in order to stop harmful activities and negotiate fairly.


Getting the media interested

Whenever there is an important development in your case, such as when you file a complaint or when an investigation report is released by an accountability mechanism, it is an opportunity to get the media interested in covering your issue. There are many other moments when you can link the story to an event that is newsworthy. For example, when a bank on the investment chain releases its annual profit figures, you may be able to use this 'news event' to tell the media about your case and how the bank is earning profits by financing land grabs and deforestation that are causing poverty.

When you have a story that you think is newsworthy, you can reach out to the media in a number of ways:

- **Contacting journalists** – Email or call individual journalists or the editors of print, radio and television news outlets and ask them to cover your story. If you want the media to cover 'breaking news' (something that journalists may only be interested in covering while it's happening or soon afterwards) then it is best to call reporters before noon in their time zone. If your story is not breaking news, but you want to get the media to do an in-depth piece on your case, you need to pitch the story to them so that they will see why it is media worthy. To do this, it is a good idea to **personalise the case: explain how people's lives are being affected**. You should also **explain the larger context for the case: what are the local, national or international issues at hand** (i.e. land grabbing, corruption, agribusiness investment, trade issues). Finally, you should explain why this is a good time to tell this story. Offer the journalist your assistance with a field visit to meet with the community and see the issues first-hand.
- **Media conference** – If you have something new to announce, such as the launching of a new **campaign**, organise a media conference to turn your announcement into a news event. You could help the community organise a creative event that will grab the public and media's attention. Several days before the event, invite your media contacts by sending out a 'Media Advisory'. This can be a brief and nicely formatted email – usually no more than a half page – which includes the '*who, what, when, where and why*' information about your event. You don't want to include too much information here – just enough to entice journalists to attend.

Important point



There are many ways to get the media interested in your issue. All newspapers, magazines, television and radio stations and web-based news services need new stories. The key is showing the media why your issue is newsworthy and something that their audience should care about.

- **Media release** – You can issue a media release to announce something new or comment on a news development, even if you aren't holding an event.

A good media release should:

- Be no more than two pages.
- Have an attention-grabbing headline.
- Get the main message out in the first few sentences or paragraph.
- Include a combination of facts and figures and good quotes from you or your organisation's spokesperson, relevant partners and community representatives (if they want to be quoted).
- Include your contact information and web-links where people can learn more.

If you are holding a media conference, you should prepare a media release for distribution at the event. You can also send out the media release a day or two beforehand, and write at the top 'EMBARGOED UNTIL' [insert time/date of the event], which will allow journalists to cover your event on the day that it happens. An example of a media release is provided in Box 20 below.

- **Letters to the editor and 'op-eds'** – If your case has been covered in a recent news article, this is a good opportunity to write a letter to the editor, commenting on the article and providing your own personal or professional insights on the issue. An op-ed (opinion-editorial) is an article submitted by newspaper readers, **expressing an opinion** rather than just describing a situation. In an op-ed, you can use your own **personal experience** being involved in the case, such as how you felt listening to a farmer who was displaced or an indigenous elder who watched a sacred forest being destroyed. An op-ed is usually longer than letters to the editor, but no more than about 700 words (each newspaper has its own policy on word-count). A newspaper will be much more likely to publish a letter or op-ed if it refers to a current event or issue.

Popular media outlets receive a lot of media releases, letters to the editor and op-eds each day and have limited space in their publications and time in their broadcasts, so don't be discouraged if your story or op-ed doesn't get picked up. This is especially the case for prominent international media. If an international media outlet whose attention you were trying to get doesn't respond, try a local newspaper or station.



Important point

In any interaction with the media, the most important rule is to **tell the truth**. If you make false or misleading statements, this can undermine your campaign and even get you into trouble with the law. So don't exaggerate, and let the facts and personal stories speak for themselves!

Box 20: Example media release

CAMBODIAN CLEAN SUGAR CAMPAIGN

For Immediate Release

ANZ bankrolls massive land grab in Cambodia

(Phnom Penh, 22 January 2014) – Two confidential social and environmental audits leaked to the Clean Sugar Campaign indicate that ANZ Royal Bank provided significant financing for a sugar plantation and refinery owned by the notorious Cambodian senator and tycoon Ly Yong Phat. ANZ confirmed its financing of the Phnom Penh Sugar Company in a meeting with campaign and community representatives on Sunday.

At the time ANZ gave the green light for the deal, Phnom Penh Sugar Co. Ltd and its sister company Kampong Speu Sugar Co. Ltd. were tied up in a very public conflict with hundreds of families in the Thpong and Oral districts of Kampong Speu province, where their sprawling 23,000 hectare sugar plantation was established by seizing homes, rice fields, orchards, grazing land and community forests relied upon by local farmers in at least 21 villages.

'It is hard to reconcile financing one of Cambodia's most high-profile land grabs with the social and environmental commitments that ANZ made when it signed on to the Equator Principles,' said David Pred, Managing Director of Inclusive Development International.

'Lending money to Ly Yong Phat is hardly befitting of a bank that has been repeatedly ranked as the most sustainable bank globally by the Dow Jones Sustainability Index. This is someone who has been implicated in violent forced evictions and land grabbing in three provinces, illegal logging and deforestation, child labour, and the use of military, police and the courts to intimidate, arrest and imprison villagers who dared to protest,' Pred said.

'This case serious calls into question the credibility of ANZ's due diligence process,' he added.

Eang Vuthy, Executive Director of Equitable Cambodia, said: "The 2010 Environmental and Socio-Economic Assessment that ANZ appears to have relied upon for its due diligence is a whitewash. Its claim that the living conditions of villagers who were resettled to small plots at the bottom of Pis mountain were either improved or remained the same could not be further from the truth – these families have suffered serious food insecurity since losing their land.

'The assessment fails to mention the hundreds of other families whose farmland, forests and grazing land were forcibly taken by Phnom Penh Sugar and whose livelihoods were destroyed as a result. The 2013 audit's finding that there is no child labour on the plantations is plain false,' he added.

Natalie Bugalski, Legal Director of Inclusive Development International, said: 'ANZ must have been aware of the misery its client was inflicting on communities because this case was reported on regularly in the press. Yet, at the same time, ANZ was touting its environmental and social credentials to the public, projecting an angelic image that could have misled socially responsible investors.'

'ANZ's shareholders will be left wondering what other dirty deals this bank has made,' she added.

The November 2010 Environmental and Socio-economic Site Assessment is available at www.boycottbloodsugar.net/wp-content/uploads/2014/01/Phnom-Penh-Sugar-Site-Assessment_FINAL_Nov_23_2010-copy.pdf.

For further background details, please visit: www.inclusivedevelopment.net/what/advocacy/cambodia-anz-backed-sugar-land-grabs/

7.1.4 Consumer advocacy

One of the most effective ways to pressure companies that are not responding to other forms of advocacy is to take your message directly to their consumers and enlist them as allies in the struggle. Consumer advocacy is when individuals or groups of consumers use tactics like publicity, letter-writing campaigns, and boycotts to pressure companies to change their behaviour on particular issues.

Consumers are increasingly becoming concerned about how their products are made, including the conditions of workers and the social and environmental impacts of production. The Fair Trade consumer movement, which advocates for better trading conditions and higher social and environmental standards for producers in poor countries, has grown rapidly in recent years. This organised movement consists of hundreds of consumer, importer and producer organisations, as well as standard-setting and certification organisations, which certify and label products that promote sustainable livelihoods for farmers and workers and protect the environment. The movement is especially popular in the UK, where many consumers prefer to buy products, including coffee, sugar, tea, bananas and chocolate, if they are certified 'Fair Trade'.

This consumers' rising concern about what they buy means that companies that sell products directly to consumers are now much more vulnerable to negative publicity and pressure about their social and environmental practices. Companies are aware that bad publicity about their practices, including in their supply chain relationships, can have a big impact on their sales and profitability.

You may want to consider a consumer advocacy campaign if there is a company along your investment chain that:

- Has the **ability to influence** the business managing the project to make changes on the ground.
- Has a **visible brand** and cares about its public image, such as retail banks that provides personal banking services to customers, food and beverage companies, or supermarket and grocery store chains.
- **Has not responded positively** to direct advocacy.

Consumer advocacy will usually be used when trying to influence a buyer company (downstream), but it could also be used with a bank (upstream) if it has a known brand and retail banking business.

The first step in a consumer advocacy campaign is to raise the awareness of consumers about the issues your campaign seeks to address, such as land grabbing, and inspire them to get involved. This can be a daunting task for a small organisation that isn't based in the countries where the target consumers are, so you should look for allies that have a presence in those countries and which specialise in this type of campaigning.

The following international organisations have run consumer campaigns on land rights issues and may be worth contacting to see if they can help:

- Oxfam International: www.oxfam.org
- ActionAid International: www.actionaid.org
- Friends of the Earth: www.foe.org
- Avaaz: www.avaaz.org

There are steps that you can take to start building the platform for a consumer campaign. If you are effective, then consumer groups will often reach out to you and offer their support.



You can:

- Set up a website, blog and/or Facebook page with information about your campaign, which 'names and shames' the companies involved. Check out the website of the Cotton Campaign for ideas: www.cottoncampaign.org.
- Make a compelling video that exposes the complicity of your advocacy target in causing social and environmental harms and post it to your website and to YouTube. Spread the link through social media. As an example, see this video produced by the Cambodian Clean Sugar Campaign: www.youtube.com/watch?v=4F21ntbE868
- Reach out to the media in the countries where the consumers live and inform them about your campaign, including through a media conference and media release when you launch it.

Make sure that your materials include very **clear and specific campaign goals**. The goals should reflect the community's demands, but might also include the broader more systemic issues at hand, such as ending land grabbing by agro-industry in your country or a particular sector. The Cotton Campaign, for example, aims to end forced labour of children and adults in the Uzbek cotton industry.

Let consumers know precisely what actions they can take. This could be signing a petition, or writing a letter to the CEO or directors of the company, or even staging a protest outside company offices or stores. Be sure that you provide consumers with a clear message to send in their action and tell them exactly to whom they should direct the message. You can use online petition sites Avaaz.org or Change.org to get a petition started and mobilize support.

To boycott or not to boycott?

The oldest consumer advocacy tactic is a boycott. This is a call to stop buying the goods and services sold by the targeted company. Traditional boycotts are aimed at getting a company to lose business, which pressures it to make the change that the campaigners are seeking. There are a lot of different opinions about whether boycotts are effective or not, but most observers agree that to make an impact takes a lot of time, dedication, and a lot of boycotters! There is a risk that a boycott will not attract a lot of consumers and that the company will take this to mean that its consumers don't care about the issue. On the other hand, calling for a boycott can sometimes be an effective way to get the media interested and obtain valuable publicity for your cause.⁴⁸ One study, which examined 221 boycotts between 1990 and 2005, found companies were more likely to give in to a boycott campaign's demand when the issue attracted a great amount of press coverage. The study also found that companies gave in to campaigners' demands when they feared damage to their reputation, rather than because of the threat of lost sales – though the two can be linked.⁴⁹

7.1.5 Shareholder advocacy

If the company you are targeting is a pension fund or publicly listed on a stock exchange, you may also be able to recruit its investors to help you pressure the company through shareholder advocacy.

Reminder

Pension funds collect a pool of money from workers, usually from their salary. The fund invests the pooled money on the workers' behalf. Pension funds must pay out funds to the workers when they retire, so they are generally more heavily regulated by governments than other funds and are likely to make less risky investments.

A **public company** usually has a large number of shareholders, and their shares are bought and sold on one or more **stock exchanges**.

This means anyone, including the general public, can own part of the company.



There is a growing movement of 'ethical investors' and 'activist investors' who are working to influence corporate social, environmental and human rights practices. **Ethical investors** usually only buy shares in companies with good corporate policies and behaviour. **Activist investors** also buy shares in companies with poor social and environmental records in order to use their rights as shareholders to try to make the company behave more responsibly. There are also **ethical 'institutional investors'** which are organisations that pool large sums of money from their members and invest it on their behalf based on social and environmental criteria. Institutional investors can have considerable influence over company behaviour because of their ability to own a large number of shares – the more shares an investor has, the more votes it gets on issues raised at shareholder meetings.

48 Ashlee Kieler, "If a Boycott Works, It's Not Just Because People Stopped Buying Stuff," *Consumerist*, 17 May 2014.

49 Braydon King, Northwestern University (2011), 'The Tactical Disruptiveness of Social Movements: Sources of Market and Mediated Disruption in Corporate Boycotts', *Social Problems*, Vol. 58, Issue 4, pp. 491–517.

There are several different methods that activist investors can use to influence companies.

One of the most powerful tools that activist investors have at their disposal is the introduction of a **shareholder resolution**. This is when shareholders make a formal recommendation to the company and put it to a vote of all shareholders at the **annual general meeting (AGM)**. Rules for shareholder resolutions are different in every country. In the United States, resolutions can only be introduced by shareholders with a meaningful stake in the company (defined as 1 per cent of all outstanding shares or \$2000 worth of shares, held for at least one year prior to the resolution submission deadline). In the United Kingdom, resolutions can be put forward by shareholders with a 5 per cent stake in the company or by a group of at least 100 shareholders that each hold at least £100 worth of shares.

Tip



Introducing shareholder resolutions is a great way to get an issue on the agenda of the company and its investors. It also provides a good opportunity to attract media attention to your issue, particularly if the resolution is introduced by a well-known investor.

The last resort in shareholder advocacy is divestment, which is when a shareholder sells their stake in a company. This should usually only be considered when other methods fail. After all, if your allies sell their shares in the company, then you will lose the opportunity to influence the company from within. If all else fails, and your shareholder allies are unable to persuade the company to change its behaviour or take the actions that you want it to take, then you might consider calling upon them to divest.

Tip



Divestment is unlikely to be an effective strategy if only a few shareholders take part. However, if you are able to get institutional investors or a significant percentage of ordinary shareholders to divest, this can lead to a drop in the company's value, which may put enough pressure on the company to persuade its directors to change course.

Shareholder advocacy holds a lot of potential as a campaign tool if you are able to convince investors in the company to support your cause. Sometimes an **ethical investment fund** based in the relevant country will already hold shares in the company, so it may be worth contacting them to ask if they hold shares and if so, whether they will support your campaign. The fund managers need to uphold the fund's claim and reputation as 'ethical', so if you can show that the company has harmful practices, the fund should pay attention to what you have to say. Another approach is to ask a civil society partner in the country to **buy a few shares**, which will give them voting rights. They can even **delegate those rights to you and community representatives**, which will allow you to attend the company's AGM, pose questions and share information informally with other investors in attendance.

Box 21: Case study

Shareholder Advocacy in the Vedanta Campaign

Niyamgiri mountain in the state of Orissa, India, is the ancestral home of one of the world's most vulnerable tribal peoples, the Kondh. The Kondh rely on the mountain for their food, medicines and culture. It is also the seat of their god, the supreme deity Niyam Raja.

ActionAid supported the Kondh in their battle with UK mining giant Vedanta Resources. The company wanted to build an open-pit bauxite (aluminium) mine at the top of Niyamgiri mountain. This would force the Kondh tribe to move elsewhere and their unique way of life would be lost forever.

The Kondh tribe were determined to protect the mountain. They held several demonstrations against the company. ActionAid India supported the Kondh community by providing legal support for the community's challenges; documenting environmental and human rights violations; creating media attention around the threat; facilitating the community's mobilisation; taking part in behind-the-scenes lobbying; and by maintaining a daily, on the ground relationship with the Kondh people.

However, it soon became clear that to have an impact on the power and might of Vedanta company, it was important to take the Kondh peoples' struggle beyond the community level – and beyond India. With Vedanta listed on the British stock exchange, campaigners at ActionAid UK and ActionAid International highlighted the issue to UK media and investors, using a two-pronged approach that covered the company's legal home-base (the UK) and the site of the alleged human rights violations (India).

Using strategic media stunts, celebrity spokespeople, submissions to the UK government, investor lobbying, and by enabling the Kondh people to travel to Vedanta's Annual General Meetings and voice their plight, ActionAid's work outside India added power to the movement in Orissa. The Joseph Rowntree Trust and the Church of England, two major, high profile investors, pulled out of the company in February 2010. Both cited concerns about the rights of the Kondh tribe. This caused Vedanta's share price to drop and damaged the company's reputation.

In August 2010, after six years of national and international campaigning, disinvestment by key Vedanta shareholders and protracted legal challenges, the community had a major breakthrough. The Indian government refused permission for the mine to go ahead. The Environmental Minister came out strongly against the mine, criticising the company and accusing it of breaking the law.

Source: ActionAid. 'The Vedanta campaign: taking local struggles to global targets', *People's Action in Practice*, pp. 89–90 (adapted from original text).

7.2 Think creatively to find more pressure points

If you are creative, sometimes you can find other actors that are not directly in the investment chain but are still important pressure points. These could be actors that promote investment or trade schemes, or development agencies that are funding projects or policy reforms that impact your case.

For example, let's say you are working on a case concerning a palm oil plantation that has grabbed indigenous community land and forests in your country. You map the investment chain of the plantation company but you can't find any strong pressure points. Next, you should look to see if there are any infrastructure projects, or agricultural, forest or land sector reforms that have helped make the plantation possible. For example, you might find that the plantation relies on a new road or railway line that goes directly to the plantation and was financed by an MDB, such as the World Bank or ADB. Although the MDB is not directly responsible, its resources are benefiting the company and indirectly harming local communities. Or, you may find that a MDB provided financial and technical assistance to the government to reform its laws and policies to make it more attractive for large-scale agricultural investors, instead of policies that support local farmers and protect their land rights. Even though the involvement of the MDB is indirect, this link can be enough to target the MDB in your advocacy and hold it accountable for its contribution to the harms. You can demand that the MDB use its leverage with the government and plantation company to provide redress to the affected communities.

The key is to find new actors that are strong pressure points because:

- They are implicated either directly or indirectly in the harms that you are seeking to address.
- They have an accountability mechanism or is susceptible to other forms of advocacy.
- They have influence over your primary advocacy target (the business managing the project).

The following case study is a good example of how the advocates working with the Cambodian Clean Sugar Campaign effectively used a creative advocacy strategy to gain leverage over the government and companies, which were not responding to other advocacy strategies.

Box 22: Case study

Cambodian Clean Sugar Campaign and the EU 'Everything But Arms' Trade Scheme

In 2006, the Cambodian government began leasing vast amounts of land to private investors to develop industrial sugarcane plantations. The land concessions overlapped with community-managed forests and private landholdings of local small-scale farmers, leading to their displacement. Some of the concessions involved violent forced evictions, with entire villages being burned to the ground by the Cambodian military in collusion with the companies. In some cases, those who protested the land seizures were thrown in jail.

With no justice available through domestic remedies in Cambodia, in 2010 an **alliance of NGOs and affected communities** came together to form the Clean Sugar Campaign, which has pursued **multi-pronged advocacy strategies targeting different actors** along the investment chains of the plantations. The campaign aims to:

- Stop human rights abuses and environmental damage caused by the sugar industry in Cambodia;
- Bring about a just resolution for the individuals and communities who have been harmed by the industry; and
- Ensure that the agricultural development and trade policies benefit smallholder farmers and local communities.

The campaign brought together several displaced communities from across the country, making their advocacy stronger through their **united actions and objectives**.

Campaign members pursued **legal action in the United Kingdom** against a UK company that is importing the sugar (see Box 15 in Chapter 6). They have filed **complaints with the Thai Human Rights Commission** against the Thai sugar producing companies, a complaint with the **OECD National Contact Point in Australia** against an Australian bank that was financing one of the plantations, and **complaints to Bonsucro**, the sugar industry's multi-stakeholder initiative (see case study in Section 7.1.2, Box 19). They have used **media advocacy** and online **campaigns targeting consumers** to pressure the sugar firms' investors and major industrial buyers to use their leverage to get the companies to stop abuses and provide redress to affected communities or terminate their business relationships with them.

These strategies combined put significant pressure on the plantation companies, yet after four years of effort they still hadn't secured redress for the affected communities. In late 2014, however, another **creative strategy** employed by the campaign finally started to bear fruit.

The campaigners realised that the sugarcane producers, which were predominantly Thai, were motivated to invest in plantations in Cambodia because of the **European Union's 'Everything But Arms' (EBA) preferential trade scheme**. EBA provides duty-free access to the European market and a guaranteed minimum price for sugar produced in a least developed country. Since Thailand does not qualify for EBA status, Thai sugar companies have sought to establish operations in neighbouring Cambodia and Laos in order to benefit from the lucrative trade preferences. With research and advocacy, the campaigners showed that the EU policy is part of the problem because it is incentivising companies that grab people's land, destroy forests and violate human rights.

The coalition campaigned for the European Commission to carry out a formal investigation of human rights abuses and withdraw preferential trade arrangements for sugar produced in Cambodia until the companies provide reparations to the affected communities.

In response to **lobbying**, the EU Parliament adopted two resolutions urging the Commission to launch an investigation. In 2014, under intense pressure from the campaign, the European Commission succeeded in convincing the Cambodian Government to commission a third-party audit of the displacement impacts and losses suffered by communities affected by the sugar industry. The audit will assess claims and make recommendations for the redress of affected communities. The Clean Sugar Campaign will **monitor** this process and continue to advocate to ensure that it results in fair and just reparations for all families negatively impacted by the sugar industry.

For more about the Clean Sugar Campaign and to follow its progress, see: www.cleansugarcampaign.org

7.3 Managing risks

Sometimes these risks are unavoidable when you are challenging powerful people, but other times they are the result of not being careful enough and a lack of planning. While there is no way to completely avoid the risks that accompany this work, there are ways you can reduce the risks. The following tips can help make you and your group more secure:

- **Be aware of risks** -- It is important to ensure that you, your team and the community advocates are all aware of the risks of your actions. Before you take any new actions, such as conducting research, including taking photos or filming, in the community or around the plantation, filing a complaint, talking to the media or holding a protest, consider and discuss the range of possible security risks to you, your organisation and the community. Assess what the likelihood is of any possible security problems occurring and take this into account in deciding whether it is worth proceeding with the planned activity. Make a plan for dealing with any security issues that do arise, including agreeing on several contact people (who are aware of your plans in advance) to alert immediately and ensuring everyone has the list of phone numbers and other contact details.
- **Keep confidential information safe** – In some countries, government agencies are able to listen to your phone calls, and read your emails and text messages. If you suspect this might be the case in your country, and you want to discuss sensitive information with partners, including advocacy strategies, you should try to meet them to talk face to face. If that is not possible, verbal conversations on Skype are usually a more secure way to talk, although surveillance technology is constantly evolving and it may not be completely secure. If possible, get a second mobile phone with a different SIM card that is not registered in your name and use that for sensitive conversations. Store sensitive documents in a secure place, such as a filing cabinet with a lock, and keep back-up information, copies of computer files and paper files in a secure place. When talking directly to people about something sensitive, make sure that you know and trust them and be careful that there is nobody nearby who is listening.

Important point

Using the advocacy strategies described in this Guide to defend the rights and interests of affected communities often means challenging the interests of local elites and powerful corporations. As such, these strategies may involve security risks for you, your organisation and the communities that you serve. These can include risks to the privacy of your information, the legal status of your organisation, your own legal security and sometimes even your physical security. The risks of doing corporate accountability work vary widely from country to country, and as human rights advocates you will know best what the risks are in your legal and political environment.



Important point!



No matter what the law is in your country, *you should always speak the truth in public.* If you are not absolutely sure about the facts, or you don't have the evidence to back it up, you should not make an accusation against another person or company in public or to any third party. If the truth is not a defence under the defamation laws in your country, or if there is weak rule of law, you should carefully assess the risks of making any critical statements about powerful people and corporations in public. If you are threatened with legal action, you should immediately consult a trusted lawyer.

- **Know the law and act within it** – It is important to know what the law is in your country and make sure that you respect it, both in your words and actions. Sometimes human rights defenders are falsely charged with criminal offences or served unjustly with civil lawsuits in an effort to keep them silent, but the best way to avoid legal risks and to defend yourself if you are unjustly sued or prosecuted is to follow the law at all times.
- One of the most common legal risks that human rights advocates face is being sued for **defamation**. The laws on defamation are different in every country and you should find out what they are in your country. Typically, defamation laws prohibit people from making false statements about another person in public or to a third party that cause injury or damage to the person's reputation. **Libel** and **slander** are different types of defamation. Slander refers to verbal statements, while libel usually refers to statements made in print (or online). In most countries that have these laws, only statements that claim to be facts – not opinions – can be considered defamatory. In many (but not all) countries, the truth is a defence against defamation, though proving the truth can often be more costly and difficult than often assumed.
- **Respond calmly and proactively to threats** – If you or your organisation identify a serious security threat, it is important to respond calmly but proactively:
 1. Make a detailed record of any threats you experience immediately afterward, so that you have a record if you decide to report the incident to authorities.
 2. Mobilise support from your colleagues, partners and others who support your work, including local and international organisations, as appropriate.
 3. Monitor the situation carefully and seek external monitoring support if necessary.
 4. Maintain security precautions, like changing your routine each day so that it is harder for people to follow you and find you.
 5. If you fear for your safety, you may want to stop your advocacy activities for a while and even consider physically moving to a safe location.
 6. Sometimes, rather than staying quiet, it is better to raise the profile of a threat by telling the media about it, but only do this if you think it will improve your security. Sometimes it can be effective for your NGO or a group of supportive NGOs to issue a collective statement about the threats.

If you, your colleagues or your organisation face serious threats to your security, the following international organisations may be able to provide support:

- Frontline Defenders provides 24-hour support to human rights defenders facing immediate risks. Details about the emergency service and other support, including contact information, can be found at: www.frontlinedefenders.org/emergency
- The Lifeline Embattled CSO Assistance Fund provides emergency financial assistance to civil society organisations (CSOs) under threat or attack and advocacy support responding to broader threats to civil society. Details can be found at: <https://freedomhouse.org/program/lifeline>
- Civil Rights Defenders: www.civilrightsdefenders.org
- Amnesty International: www.amnesty.org

Useful Resources:

Power Prism, A Tool for Advocacy Planning, Execution and Evaluation, M+R: <http://powerprism.org/index.htm>

How to Write an Op-Ed Article, Duke University: http://newsoffice.duke.edu/duke_resources/oped

Tips for Op-Ed Writing and How to Pitch, The Op-Ed project: www.theopedproject.org/

A Guide to Shareholder Resolutions in the UK, FairPensions: www.shareaction.org/sites/default/files/uploaded_files/whatyoucando/ShareholderResolutionGuide.pdf.


A Guide to Personal Security for Human Rights Defenders, Bridges Across Borders Cambodia: www.babcambodia.org/security

An advocate's guide to following the money: a brief recap

- **Make sure the community is in the driver's seat:** Before you begin doing any research or developing a campaign, make sure that the impacted communities are well informed and driving the advocacy strategy. You should always secure the informed consent of communities before taking any actions on their behalf.
- **Map the investment chain:** Begin '**midstream**' with the business managing the project, relevant government agencies, brokers and contractors. Then move '**upstream**' to the parent company (if any), investors and lenders. Finally, move '**downstream**' to buyers of the product. Research each actor and keep a record of key information that might be useful later. Use worksheet 1 and 2 to help.
- **Identify strong pressure points:** Analyse each actor along the investment chain to assess which ones are likely to be responsive to advocacy and have the ability to influence the business managing the project and what's happening on the ground. Look for things like human rights, social and environmental policies, a strong retail brand and a CEO that cares about his or her ethical reputation. For upstream actors, find out how big the loan or investment was or is expected to be. For downstream actors, find out how much of the product they bought or intend to buy. Note down important government agencies and brokers. Use worksheet 3 to help.
- **Document the impacts and violations:** Document the evidence of harms or anticipated harms, as well as any positive impacts, to help the community ensure that their advocacy is based on facts. Start by developing an assessment framework based on the rights, laws, policies and standards that bind key actors along the investment chain. Develop questionnaires based on your assessment framework. Use a range of data collection tools, such as community mapping, key informant interviews, individual surveys and focus group discussions. Write up your report, adding quotes, case studies and photos (always with the consent of people who are identified), and highlight which laws, policies and standards have been violated based on the evidence. Remember, if you don't have the resources to write a full report, you can also document local impacts through short case studies, audio recordings, photos and video.
- **Ensure that the community is organised and has a clear advocacy goal and message:** Work with the community to develop their advocacy goals and their key messages and demands, which may include preventing and remedying harms and changing the agriculture investment model being used by the company. Communities should select representatives that they trust, including women and members of minority groups within the community, to work on the campaign. Organise regular meetings with the community to share and discuss updates and ideas. Pay special attention to

encouraging quieter and marginalised members of the community to get involved, or at least make sure their interests are being represented.

- **Directly engage the business managing the project and other key actors:** In most cases, this is where the community should start their advocacy: through direct communications with the business, or sometimes with other key actors along the investment chain. Write a letter or email setting out the issues and the community's message. Request a meeting, and if you get one, work with the community representatives to prepare what they want to say, who will say it and what questions to ask. Add any new information to your investment chain map and pressure point analysis. After the meeting, assess the outcome. Unless the business or other actor agrees to the community's demands (which is rare), it's time to deploy a community-driven multi-pronged advocacy strategy.
- **Use available accountability mechanisms:** Get in touch with pro bono lawyers to find out whether you can take legal action in the courts against any of the actors along the investment chain. This may include local courts or the courts of countries where investors or buyers are registered. Consider using national, regional or UN human rights bodies, and the likely responsiveness of the government and other actors along the investment chain to critical findings and recommendations from a human rights mechanism. Prepare detailed complaints and send them to the available grievance mechanisms along the investment chain. This could include company level complaints mechanisms, multi-stakeholder sustainability initiatives, OECD national contact points, or MDB accountability mechanisms. Make sure you first find out about the effectiveness of the available mechanism and whether it's worth your time and resources to use it. Help the community decide whether it makes sense to try dispute resolution (eg. mediation) or to ask the grievance mechanism to conduct a policy compliance review.
- **Use complementary advocacy strategies:** Remember that it usually takes multi-pronged sustained advocacy strategies to win. Reach out to like-minded organisations in your country and around the world to build an alliance. Help the community to lobby relevant actors or key decision-makers at strategic times, including key moments during grievance mechanism processes. Use the media prudently – when negative publicity is likely to pressure a company or other actor to change its ways. If there is a popular brand name along the investment chain, consider starting a consumer campaign. If a key actor along the investment chain is a public company, consider shareholder advocacy, by getting an ethical investor to introduce a shareholder resolution, or buying shares in the company yourself. If the company still refuses to change its practices or remedy harms, consider a divestment campaign. Re-evaluate the pressure points from time to time and develop new strategies. Think creatively and stick with the community over the long haul.



Be aware of and manage security risks

Discuss risks with the community and your organisation and develop a plan in case security risks arise. Keep confidential information safe, including names and identities of community advocates that are at risk, and obey the law.



Following the money: an advocate's guide to securing accountability in agricultural investments

This Guide is for advocates working to support communities whose land rights, lives and livelihoods are affected by agricultural investments. It provides guidance on how to *follow the money* to identify and leverage pressure points along agricultural investment chains to defend land and natural resource rights. It explains how to collect evidence and conduct a variety of advocacy strategies to hold responsible actors accountable. It is informed by experiences and lessons learned from activists and practitioners throughout the world. It draws on real life examples of investment projects that have affected local communities and the different strategies used to challenge or change those investments.