

Lundin Petroleum AB's experience in East Africa: the role of the private sector in conflict-prone countries

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Lundin Petroleum AB acquired rights to explore for oil and gas in South Sudan in 1997, in Ethiopia in 2006, and in Kenya in 2007.¹ In the spring of 2009 the company relinquished its interest in South Sudan and sold affiliated companies that held concessions in Ethiopia and Kenya. It thus put an end to twelve years of oil exploration in East Africa.

This article describes Lundin Petroleum's experiences and how it managed conflict or potential conflict situations. It seeks to make a case for responsible action not only by the private sector, but by other actors, such as governments, academics, media, or civil society, all involved in one way or another with Africa's development process. The article provides an overview of the company's experience in Sudan,² followed by an account of its first steps in Ethiopia and Kenya, and concludes with the lessons learned from working in East Africa.

Sudan

When Lundin Petroleum acquired its license in Block 5A, Unity State, Sudan in 1997, the area was unaffected by the civil war that had begun in 1956 and which pitted the Government of Sudan (GoS) against certain forces in the South (represented by the Sudan People's Liberation Movement/Army, SPLM/A). The concession area was ruled by the Nuer tribe³ whose leaders had entered into a peace agreement—the Khartoum Peace Agreement (KPA)⁴—with the GoS. The KPA foresaw the potential positive economic impact of oil exploration activities and contained provisions as to the sharing of power and revenues among the signatories. Upon signing its exploration and production agreement with the GoS, company representatives met with leaders of the local community whose reaction was overwhelmingly positive as they saw oil activities as the means to promote long-term economic development in their area. They committed themselves to providing a secure working environment for the company.⁵ However, security proved to be elusive. The prevalence of arms, coupled with the division of tribes into factions, as well as efforts by the SPLA to vie Nuer militias to their side, contributed to rendering the situation volatile. While the company was not directly affected by fighting, it was nevertheless concerned about the safety of its staff and operations, and by reports of conflict surrounding the activities of a nearby oil consortium.

In response, the company attempted to reinforce its links with the local community

by meeting again with representatives, hiring local staff, improving the infrastructure in the area and setting up a Community Development and Humanitarian Assistance Program (CDHAP).⁶ The company believed that if local communities became participants in, or beneficiaries of its activities, it would open lines of communications and reinforce links between the company and the communities. Through CDHAP, the company also sought to demonstrate to the authorities that the interests and welfare of the population had to be taken into consideration at all times and that the company was prepared to make significant contributions toward this end, despite the fact that it would not obtain any revenues for a number of years, if ever.⁷

Corporate responsibility

The experience in Sudan led Lundin Petroleum to elaborate a strategy to deal with the challenges of working in a conflict prone area to reflect its perceived corporate responsibilities. The company saw itself as a private sector actor whose role is to find and produce oil and gas in an efficient manner and thereby contribute to the economic welfare of the host country.⁸ It also recognized that its role could not always be limited to the economic sphere, at a time when the role of oil in the conflict was being questioned. Senior management reexamined the company's role and elaborated a Code of Conduct which establishes the company's aim as to find oil and gas and to develop "this valuable resource in the best socioeconomic manner possible for the benefit of all our partners, including the host country and local communities." The Code also identifies shareholders, staff, host governments, local communities, and the environment as its main stakeholders.⁹

Consultations with central and local authorities in 1997 had revealed a shared view that oil represented a momentous opportunity for the development of the country and the area, but this consensus began to erode in 2000-2001 as local authorities started to join the SPLA, denouncing what they claimed to be violations of the KPA by the GoS. At this stage, Lundin Petroleum suspended its operations and started an active consultation process with all relevant stakeholders, including central and local government representatives, community representatives, NGOs, and mediators active in the area. The overall objective of the consultations was to convey the fact that sustainable operations required a peaceful environment and the company's view that oil revenues could represent the economic foundation for a peaceful Sudan.

With the Sudanese government and the Government of Unity State, the company expressed its view that the long-term security required for sustainable oil activities could only be achieved with the support of the local community, which could be

This article describes Lundin Petroleum's experiences working in conflict-prone areas in Sudan, Ethiopia, and Kenya.

obtained through an equitable sharing of resources, not military action. In its discussions with representatives of the Nuer opposition, the company conveyed its view that oil presented the best opportunity to achieve sustainable peace and growth in the area and encouraged them to seek a peaceful way to assert their rights to the area. Discussions with special interest NGOs that advocated a full cessation of oil activities were difficult, but development NGOs were much more open to company initiatives and presence, as they saw both short and long term benefits accruing to the population. Think tanks specializing on Sudan were interested in how oil could act as an incentive for peace in Sudan above and beyond the obvious positive benefits of oil for the overall economic performance of the country.¹⁰ The company shared with them information about the terms of oil exploration, production and revenue distribution schemes, and drew their attention to the equitable sharing scheme laid out in the Khartoum Peace Agreement.¹¹

The company also met government representatives of the key nations acting as peace mediators, such as Kenya, Norway, the U.K. and the U.S.¹² The mediators' role was to help the parties achieve a compromise by offering them support in the form of international monitoring and monetary assistance for purposes of reconstruction. The company presented mediators with its view that oil represented an incentive for peace—in so far as oil activities could not be pursued in a war context, as attested by the company's suspension of activities—and provided the material basis for a sustainable peace.

Eventually, with the active engagement and support of key mediator nations, the two main protagonists in the conflict, the GoS and the SPLM/A (which by then included the Nuer leaders) concluded a Comprehensive Peace Agreement (CPA) in January 2005, an agreement still in force at the time of writing (summer 2009). Power and wealth-sharing provisions, which require revenues generated from oil production to be distributed among the central and southern government, and the producing state, constituted and remain the corner stone of the CPA.

Ethiopia

Operations in Block 5A, Sudan, proved to be successful from an exploration and commercial perspective, as the company made a discovery, which was later brought into production by the company which bought the asset.¹³ This led the company to look at Ethiopia, integrating the lessons learned in Sudan. A corporate responsibility analysis was being conducted prior to entering into an agreement with the Ethiopian government. The study found that at the time the country was one of the most progressive and democratic in the region.¹⁴ There were thus no external impediments to initiating activities there and while there were rebel groups active in different parts of the country, these were not indigenous to the concession areas sought by Lundin Petroleum.¹⁵

During the process of negotiations, special attention was given to security and

community matters and relevant clauses were inserted in the agreement to ensure that Lundin Petroleum's corporate responsibility requirements and international standards were met.¹⁶ The licenses obtained were in the Somali region of Ethiopia.¹⁷ In order to ascertain potential risks which the company and local communities could face as a result of the initiation of oil activities in this region, the company commissioned third party surveys of all its concession areas. The objective of the surveys was to assess the area from topographical, social, health, safety, and environmental (HSE) and security points of views as well as to introduce the company and its intention to the communities living in the concession areas.

One of the important features of these surveys was the description of the political structure in the area and its various levels of decisionmaking and decisionmakers, from the regional government through the zonal and local administrations to the clan leaders at the village level; representatives of all these levels would be consulted at various stages of the operations. The surveys also ascertained that the area was suffering from fairly adverse socioeconomic conditions; lack of infrastructure and inadequate supply of fresh water made it difficult for the agropastoralist tribes of the area to achieve sustenance. As had been the case in Sudan, clan leaders met by the assessment team saw exploration activities as a potential for developing alternative means of livelihood and obtaining economic benefits in the form of jobs and community projects.

As a follow up to these surveys, Lundin Petroleum organized a Stakeholder Awareness Meeting (SAM), inviting sixty-five clan leaders from the concession areas, as well as representatives of the Ministry of Mines and Energy. After introductions, three presentations were made by the company. The first outlined the company's structure, activities, and corporate responsibility policy; the second outlined the process involved in oil exploration and production, from the identification of a prospection area, seismic studies, exploratory drilling, and so on; and the third described the terms of the agreement between the company and the government including geographical scope, work commitments, and time frame. Participants were then encouraged to question the executives, clarify issues, comment on proposed plans, express their concerns regarding the potential impact on the communities and/or the environment, and put forth community expectations in relation to oil operations. The outcome of the SAM was the identification of key areas of concern of the clan leaders (employment, compensation for damage, community projects, and consultations) and the following commitments:

- ▶ To work and support each other in order to create a conducive and safe environment for Lundin Petroleum to conduct its exploration activities safely and smoothly.
- ▶ To respect each other's values, principles, policies, and traditional or customary rules.
- ▶ To encourage and to the extent possible create job opportunities and new markets

for local communities.

- ▶ To work to achieve a win-win situation and, through regular discussions and consultations, to avoid misunderstandings that can cause conflicts.

Another interesting outcome of the SAM was the rapprochement among certain clan leaders themselves due to the time they spent together traveling to attend the meeting. Clan leaders representing tribes which had traditionally been in conflict over water and grazing rights (members of the Oromo and Somali tribes) thus met face to face and initiated a dialogue which they decided to formalize, once back in their constituency, through the creation of a dedicated intertribal peace committee.

Following the SAM, local NGOs which had assisted the company in gathering the clan leaders were requested to carry out further consultations with the communities to identify key areas of needs and submit community development project proposals. When the company initiated its first field activity—the aeromagnetic survey—it hired members of the nearby community to prepare the base camp and provide logistical services. It dug a water well, which it handed to the community at the end of the survey. It also provided medical services and supplies via the medical doctor hired to assist the survey team in the event of an emergency. Following the survey and in anticipation of the next stage, the company hired a Somali community development coordinator, recommended by a person linked to an international organization dealing with humanitarian issues, and set up an office in the capital of the Somali Regional State (SRS). A field community liaison person was also hired to continue the dialogue initiated with clan leaders.

The reaction to company initiatives by government representatives of the Ministry of Mining and Energy changed over time, reflecting the evolution of the political situation in the country as a whole.¹⁸ While they seemed initially supportive of the company's direct engagement with communities, having participated in the SAM and encouraged the company to liaise with representatives of the Somali Regional State (SRS), they became more reticent to encourage direct engagement with the communities.

By the time of the sale of the Ethiopian assets, none of the proposals developed jointly by local NGOs and by the company and supported by the SRS had been validated by the Ministry of Mining and Energy¹⁹ and no other field activity had taken place, save for environmental impact assessments. During the time Lundin Petroleum was in Ethiopia it also maintained active discussions with a number of representatives of foreign governments and NGOs in order to gauge their assessment of the developments taking place in the country.

Kenya

The approach adopted in Ethiopia was essentially replicated a few months later in Kenya. One notable difference was that no major political or security issues were

identified in the region, other than the occasional intertribal conflict. Another significant difference was the type of reaction both by government representatives and by community leaders. Kenyan government officials of the Ministry of Energy were unwavering in their support. This corporate responsibility approach was novel in Kenya; none of the previous operators had such a systematic approach to community engagement²⁰ and thus governmental officials were keen to hear about its rationale and means of implementation. Participating in the SAM, they received regular updates from the company at meetings held with partner companies and were encouraging.

Communities were again concerned about the potential negative impacts of the operations on the environment and about compensation in the event of use or damage to their land or cattle (as in Ethiopia communities were agropastoralists) but mostly were interested in being informed of the activities and being given job opportunities where available. The request to be kept informed was due in part to a prior negative experience with an exploration company²¹ and the desire to start on a new footing.

Lessons learned

Lundin Petroleum faced three types of situations in its East African operations: an armed conflict in Sudan, a conflict prone situation in Ethiopia, and a remote conflict potential in Kenya. In Sudan, the company learned that, despite its inclination to restrict its role to the commercial sphere, it could not ignore the sociopolitical developments in its area of operations or the claims made by some of a possible connection between its activities and the conflict. A reaffirmation of its values in a Code of Conduct, a greater involvement in community life, stakeholder engagement, and the suspension of activities were the tools adopted by the company in response to the challenges it faced. The lessons learned in Sudan and the corporate responsibility framework helped the company anticipate potential problems and better plan its next operations in East Africa. In Ethiopia, the company considered the potential for conflict due to the presence of rebel forces in the Somali region and their expressed opposition to oil exploration activities. It conducted a SAM to ascertain the reaction of the community to its proposed plans and assess whether claims made by rebels were shared by the population in the exploration areas. It initiated dialogue, community projects, and hired a community liaison person to ensure the continuous exchange of information between the communities and the company. In Kenya, the company assessed the risk of intertribal conflict due to its activities as reasonably low so long as consultations and community projects were made on an equitable basis across tribes.

Lundin Petroleum's experience in the three East African countries clearly demonstrates the value of a corporate responsibility policy in providing a mechanism to identify and seek to resolve potential conflict. It places the onus on the companies to consider and mitigate the possible impact of its activities on people and the environment and thereby meet the ever-growing societal expectations of the private

sector. It also demonstrates that peace, or the absence of conflict, cannot be achieved by the sole action of the private sector, but needs other actors whose perception of the role of oil can be as important as the actual role itself.

Notes

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1. On Lundin Petroleum AB, see <http://www.lundin-petroleum.com> [accessed 13 June 2010].
2. Activities in Sudan were initiated by predecessor companies, IPC and Lundin Oil.
3. For a more comprehensive description of Lundin Petroleum's experience in Sudan, see Batruch (2004).
4. The main tribe in the area is the Nuer tribe, which has 5 subgroups: the Bul, Lek, Jikany, Jagei, and Dok Nuer. In turn, these groups were affiliated with local militia.
5. The text of the Khartoum Peace Agreement, signed in April 1997, is available at www.sudani.co.za/Documents%20and%20Issues/Khartoum%20Peace%20Agreement.htm. It was signed between the Government of the Sudan, the South Sudan United Democratic Salvation Front (UDSF)—comprising the South Sudan Independence Movement (SSIM) and the Union of Sudan African Parties (USAP)—the SPLM, the Equatoria Defence Force (EDF), and the South Sudan Independents Group (SSIG).
6. The company met with Dr. Riek Machar, who, pursuant to the 1997 Khartoum Peace Agreement, was Vice-President of Sudan and President of the South Sudan Coordinating Council (the government representative for the south); with Taban Deng Gai, the Governor of Unity State; and with representatives of the local tribes.
7. As the company never produced oil, it never generated revenues, other than from the sale of its asset in 2003. Community development projects conducted under CDHAP had three objectives: (1) to promote better health, hygiene, education, and general quality of life for the current and future inhabitants of the concession area of Block 5A, Unity State; (2) to contribute to the economic and social development of the area; and (3) to reinforce relationships between the local community and the company. Community projects included infrastructure building (roads, bridges, schools, and clinics), the provision of medical and veterinarian services, as well as capacity building, e.g., training of paramedics, paravets, midwives, community officers.
8. Code of Conduct, "Message from the Chairman." The text of the Lundin Code of Conduct and related documents are available at http://www.lundin-petroleum.com/Documents/ot_lupe-code_e.pdf.
9. The Company witnessed how, over a period of a few years, Sudan shed its pariah nation status and became an attractive place for the international business community. With the oil revenues, Sudan repaid its IMF loans, which resulted in its reinstatement and its heightened credit worthiness. See <http://www.imf.org> for information regarding Sudan's reinstatement in August 2000 and GDP data. The problem in Sudan at the time was not lack of revenues, but their unequal distribution.
10. Two U.S.-based think tanks devoted particular attention to this issue: the Center for Strategic International Studies (CSIS), Washington, D.C.; and the Carter Center Peace Program, Atlanta, Georgia.
11. The KPA had the following distribution scheme: 40% for the producing state, 35% for neighboring states, and 25% for the central government, a scheme which was much more favorable than the one eventually adopted in the Comprehensive Peace Agreement (CPA) which saw 2% going to the producing state and the remaining share being split equally between the central and southern governments.
12. The first three nations were part of the Intergovernmental Authority on Development (IGAD), based in Nairobi, whose mandate was to broker a peace agreement in Sudan. The U.S. joined as an active peace mediator in June 2001 with the appointment of a Special Representative dedicated to the Sudan peace issue.
13. Petronas Carigali bought Lundin Petroleum's interest in Block 5A in 2003 and operated a concession in Block 5B, where Lundin Petroleum had a minority interest which it relinquished in April 2009.
14. This analysis was conducted prior to the November 2005 elections which resulted in violent protests and repression and caused considerable concern among nations heretofore supportive of the regime.
15. The concession areas Lundin Petroleum eventually obtained were situated in the Somali region of Ethiopia. Within the Somali region, there are a number of tribes among which the Ogadeni, which formed an armed liberation movement in 1984, the Ogaden National Liberation Front (ONLF), aimed at achieving independence of the region. The Oromia tribe also has an armed movement, the Oromia Liberation Front (OLF). Prior to obtaining the concession it was established that the ONLF and OLF were present in areas adjacent to but not in the sought concessions.

16. Reference is made in particular to Lundin Petroleum's Code of Conduct and relevant Policies, as well as the Voluntary Principles on Security and Human Rights, see [/www.voluntaryprinciples.org](http://www.voluntaryprinciples.org).

17. From a geological point of view, the area has been termed the Ogaden Basin. In April 2007, i.e., a few months after the company signed agreements with the Government of Ethiopia granting it exploration and production rights, the ONLF conducted a military operation against a seismic camp, some 450km away from Lundin Petroleum's concession, killing 65 Somalis and 9 Chinese workers. See news.bbc.co.uk/2/hi/africa/6677787.stm.

18. A proposed law (adopted by the Parliament in January 2009 as the Proclamation for the Registration and Regulation of Charities and Societies) imposed restrictions on the ability of local NGOs to receive funds from foreign entities. For a description of the law and its effects on the ability of foreign entities to work with local NGOs, see www.icnl.org/knowledge/globaltrends/globaltrends1-1.htm.

19. The company which bought these assets from Lundin Petroleum plans to continue the work done in this sphere.

20. This was conveyed to Lundin Petroleum's representatives by clan leaders during the SAM as they indicated it was the first time that they were consulted by companies planning operations in their area.

21. When the company conducting exploration activities in this area ceased its operations, it left some harmless waste; however, as there was an outbreak of disease among cattle, the communities suspected the waste as the cause of the disease. Given the presence of Kenyan officials during SAM, this concern was allayed and the results of an environmental study performed by the Ministry of Energy on this same issue communicated to the community.

References

Batruch, C. 2004. "Oil and Conflict: Lundin Petroleum's Experience in Sudan," pp. 148-160 in A.J.K. Bailes and I. Frommelt, eds., *Business and Security: Public-Private Sector Relationships in a New Security Environment*. Oxford: Oxford University Press.