
Lundin Petroleum AB's Experience in East Africa

The Role of the Private Sector in Conflict-Prone Countries

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Abstract

Lundin Petroleum spent over twelve years exploring for oil in Sudan, Ethiopia and in Kenya. During this period it was faced with an armed conflict in Sudan, a risk of rebel activity in Ethiopia and possible tribal clashes in Kenya.

If the company had heretofore considered operations in remote countries mainly from a geological/commercial perspective, when faced with a conflict, it had to take into consideration political issues and develop a mechanism to address these new challenges, to ensure the sustainability of its operations.

It developed a corporate responsibility framework which emphasized stakeholder engagement . During its stakeholder dialogues during which it put forth its view that oil could provide the necessary revenues that could act as a catalyst for peace and development.

I. Introduction

Lundin Petroleum AB¹ acquired rights to explore for oil and gas in South Sudan in 1997, in Ethiopia in 2006 and in Kenya in 2007. In the spring of 2009 the Company relinquished its interest in South Sudan and sold its affiliated companies holding the concessions in Ethiopia and Kenya. It thus put an end to twelve of rewarding yet challenging years of oil exploration in East Africa.

The purpose of this article is to describe Lundin Petroleum's experience there and the way it managed conflict or potential conflict situations. The article also seeks to make a case for responsible action not only by the private sector, but by other societal

¹On the independent Swedish oil and gas exploration and production company Lundin Petroleum AB - also referred to as the company - see URL <<http://www.lundin-petroleum.com/>>. Activities in Sudan were initiated by predecessor companies, IPC and Lundin Oil.

actors, such as governments, academics, media and civil society, all involved, in one way or another with Africa's development process.

The article follows a chronological sequence beginning with an overview of Lundin Petroleum's experience in Sudan² and continuing with an account of its first steps in Ethiopia and Kenya. The article concludes with the lessons learned from its twelve years working in East Africa.

II. Lundin Petroleum in Sudan: 1997-2009

The Context

When Lundin Petroleum acquired its license in Block 5A, Unity State, Sudan in 1997, the area was exempted from the civil war begun in 1956, which pitted the central government (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 financial windfall 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 for Block 5A, company representatives travelled to the concession area and met with leaders of the local community; the reaction of community leaders at the time was overwhelmingly positive, as they saw oil activities as the means to promote long-term economic development in their area.⁵ These representatives committed themselves to providing a secure working environment for the company.

Over time, however, security proved to be elusive. The prevalence of arms, coupled with the division of tribes into various factions, as well as efforts by the SPLA to vie Nuer militias to their side, contributed to rendering the situation volatile. Instances of fighting started to occur. While the company was not directly affected by the 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.

² For a more comprehensive description of Lundin Petroleum's experience in Sudan, see 'Oil and Conflict: Lundin's Experience in Sudan', in *Bailes, A. J. K. and Frommelt, I. (eds), Stockholm International Peace Research Institute (SIPRI), Business and Security: Public-Private Sector Relationships in a New Security Environment (Oxford University Press: Oxford, 2004)*

³ The main tribe in the area is the Nuer tribe, which has 5 sub-groups: the Bul, Lek, Jikany, Jagei and Dok Nuer. In turn, these groups were affiliated with local militia.

⁴ The text of the Khartoum Peace Agreement, signed in Apr. 1997, is available at URL <<http://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).

⁵ 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 Co-ordinating Council (the government representative for the south); with Taban Deng Gai, the Governor of Unity State; and with representatives of the local factions.

The Company's response to the growing insecurity in the area was to reinforce its links to the local community by meeting with its representatives, hiring local staff, improving the infrastructure in the area and by setting up a Community Development and Humanitarian Assistance Program (CDHAP).⁶ It was felt that if local communities became participants in, or beneficiaries of, company activities, it would open lines of communications and reinforce links between the company and the communities.

Through CDHAP, Lundin Petroleum also sought to demonstrate to the local and central 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.

If CDHAP was the company's most visible way of showing its concern for the welfare of the people living in its concession area, it was by no means the only one. In fact, Lundin Petroleum elaborated a strategy to deal with the challenges of working in a conflict prone area.⁷

Corporate Responsibility Approach

Lundin Petroleum's role, as a private sector actor is to find and produce oil and gas - a required energy source for economic development - in an efficient manner. By doing so it contributes to the economic welfare of the host country, insofar as a major portion of the oil belongs to the host state.

In Sudan, oil revenues have clearly acted as a catalyst for economic growth; indeed, since oil production began in 1999, there has been a constant increase in the annual GDP (with the lowest figure standing at 5.1% in 2004 and the highest at 11.8% in 2006) paving the way for other business investments and international loans.⁸

⁶ Community development projects conducted under CDHAP had three avowed objectives: (a) 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; (b) to contribute to the economic and social development of the area; and (c) to reinforce relationships between the local community and the company. Community projects included infrastructure building (roads, bridge, schools and clinics), the provision of medical and veterinarian services, as well as capacity building, i.e. training of para-medics, para-vets, midwives, community officers, etc.

⁷ At the time the area was still governed by the KPA even though sporadic intertribal fighting was taking place.

⁸ 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 URL <<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.

The company's role, however, cannot always be limited to the economic sphere; this is the case when its activities are perceived as not producing the expected positive results or even as having a negative impact on the conflict. This was the case for Lundin Petroleum in Sudan, when it seemed that oil could become an important issue in the conflict. Faced with this risk, senior management re-examined the company's role and set the objective to play a positive role not only directly, in the economic field, but indirectly in the socio-political field as well.

In furtherance of this, the company elaborated a Code of Conduct which establishes the company's aim to find oil and gas and to develop 'this valuable resource in the best socio-economic 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

The company's 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. This consensus began to erode in 2001-2002 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 government representatives at the central and local levels, community representatives, NGOs as well as mediators active in the area. The overall objective of the consultations was to convey the fact that sustainable operations required a peaceful environment and its 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 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 believed that the cessation of oil activities was a precondition for peace were perforce more challenging, as the company firmly believed that oil would provide the material basis for peace. Development NGOs were much more open to company initiatives, 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

⁹ Code of Conduct, 'Message from the Chairman'. The text of the Lundin Code of Conduct and related documents are available at URL <http://www.lundin-petroleum.com/Documents/ot_lupe-code_e.pdf>

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 UK¹² and the USA. 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 which is still in force today. Power and wealth sharing provisions constituted and remain the corner stone of the CPA.

III. Lundin Petroleum in Ethiopia and Kenya: 2006-2009

Ethiopia

The operations in Block 5A, Sudan proved to be successful from an exploration and commercial perspective as Lundin Petroleum made a discovery there. To date, Block 5A continues to produce oil and to generate oil revenues which, according to the terms of the CPA, are distributed among the central, southern and state regions.¹³ This led the company to look at neighboring countries where there was a potential for hydrocarbons; Ethiopia came as a natural candidate in this search process.

The experience undergone in Sudan, however, had highlighted the fact that geological and commercial prospectivity could not be the sole decision-making criteria; in order to ensure smooth operations, the socio-political context had to be taken into consideration, and the potential risks assessed and mitigated.

¹⁰ Two US-based think tanks devoted particular attention to this issue: the Center for Strategic International Studies (CSIS), Washington, DC; 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 50% between the central and southern governments.

¹² These nations were part of the Intergovernmental Authority on Development (IGAD), based in Nairobi, whose mandate was to broker a peace agreement in Sudan. The USA 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 and operated concession in Block 5B, where Lundin Petroleum had a minority interest which it relinquished end April, 2009.

A corporate responsibility analysis was thus conducted prior to entering into an agreement with the Ethiopian government; this study revealed that the country was considered as one of the most progressive and democratic in the region.¹⁴ There were thus no external impediments to initiating activities there. From an internal perspective, while it was established that there were rebel groups active in different parts of the country, these were not indigenous to the concession areas sought by Lundin Petroleum.¹⁵

Thus, Lundin Petroleum proceeded with negotiations in view of obtaining exploration and production rights. 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 a topographical, social, health, safety and environmental (HSE) and security point of view 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 decision makers, 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 socio-economic conditions; lack of infrastructure and supply of fresh water made it difficult for the agro-pastoralist 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.

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 are 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 URL < <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 operations against a seismic camp, some 450 km away from Lundin Petroleum's concession, killing 65 Somalis and 9 Chinese workers, see <URL <http://news.bbc.co.uk/2/hi/africa/6677787.stm>>.

As a follow up to these surveys, and in furtherance of its policy of engagement, Lundin Petroleum organized a Stakeholder Awareness Meeting (SAM). Sixty-five clan leaders from the concession areas, as well as representatives of the Ministry of Mines and Energy were invited to participate in the SAM. The clan leaders were brought together by NGOs from the Somali area, to ensure that all the tribes were adequately represented. The purpose of the SAM was to enable community, government and company representatives to get to know each other, to share plans and expectations and to develop a common view for the future.

The SAM started with participants introducing themselves and the tribes they represented and was followed by three presentations by Lundin Petroleum. The first presentation was about the company, its countries of operations and its corporate responsibility approach. The second presentation was on the oil process, from the identification of a prospection area through aerial surveys, seismic campaign, exploratory drilling, etc. The third presentation described the terms of the agreement between Lundin Petroleum and the Government of Ethiopia, including geographical scope, work commitments and timeframe. The whole session lasted a day.

It was important to communicate this information to community leaders to avoid community misunderstanding or suspicion regarding company plans and activities and initiate a process of open dialogue with them.

Company presentations were followed by questions and comments by the participants who wanted to clarify certain 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:

1. 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.
2. To respect each other's values, principles, policies and traditional or customary rules.
3. To encourage and, as much as possible, create job opportunities and new markets for local communities.
4. To work to achieve a win-win situation and to avoid misunderstandings that can cause conflicts though regular discussions and consultations.

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 inter-tribal peace committee.

Following the SAM, the 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 aero-magnetic survey- it hired members of the nearby community to prepare the base camp and provide logistical services. It also 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 the International Red Cross Committee, 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 If 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. They rejected project proposals developed jointly by local NGOs and by the company and supported by the SRS.

By the time of the sale of the Ethiopian assets, none of those proposals 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. Even though they were supportive of the company's approach and its proposed activities, seeing Ethiopia's need for economic development, they were cautious in their endorsement, as they viewed with concern some of the developments taking place in the political sphere which could potentially impact company plans.

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 effect on the ability of foreign entities to work with local NGOs, see URL < <http://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.

Kenya

The approach adopted in Ethiopia, namely corporate responsibility analysis, field surveys, stakeholder awareness meeting and community projects, was essentially replicated a few months later in Kenya. The notable difference was that no major political or security issues were identified in the region, other than the occasional inter-tribal conflict. The other significant difference was the type of reaction both by government representatives and by community leaders.

The reaction of Kenyan government officials of the Ministry of Energy to Lundin Petroleum's approach was unwaveringly supportive. 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. They participated in the SAM and received regular updates from the company at meetings held with partner companies. During these meetings, in which the steps taken by the company to understand and be responsive to the local communities were related, the officials demonstrated their full endorsement and encouraged other operators to adopt what they have termed 'the Lundin way'.

As far as community response to Lundin Petroleum in Ethiopia and Kenya, there were both similarities and differences. Among the similarities were the concern about potential negative impacts of the operations on the environment and about compensation in the event of use or damage to their land or cattle (in both communities are mainly agro-pastoralists). Both communities also expressed interest in being informed of the activities and given job opportunities where available. The main difference between them was in certain expectations: thus if the Somali people emphasized their dire socio-economic conditions and their expectations that the company would contribute towards the building of infrastructure (roads, water wells, etc.) and the provision of services (in the health and educational spheres), the people in Kenya emphasized the need to be regularly informed.

These differences can perhaps be explained by the fact that the Somali people feel neglected by the central government and naturally seize the opportunity to enhance their socio-economic welfare from those likely to listen, i.e. companies. In Kenya, while the socio-economic conditions are equally challenging, there is no significant political opposition in the area. The request to be kept informed is due to a prior negative experience with an exploration company²¹ and the desire to start on a new footing.

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 diseases. 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.

IV 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, having heretofore focused on geological and commercial considerations, was largely caught by surprise by the spread of the conflict to its concession area, even though it could or perhaps should have been aware of the political risk it faced. The company learned that, despite its inclination to restrict its role to the commercial sphere, it could not ignore either the socio-political developments in its area of operations or the claims - even if unfounded - 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 that emanated as a result thereof 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 thus conducted the SAM in order to ascertain the reaction of the community to its proposed plans and assess whether claims made by rebels in other parts of the Somali area were shared by the population residing in the exploration areas. It initiated a dialogue, some 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 inter-tribal conflict due to its activities as reasonably low insofar as, through its approach, it could ensure that consultations and community projects would be held with all tribes, on an equitable basis.

V Conclusion

Lundin Petroleum's experience in three East African countries has clearly demonstrated the fact that a corporate responsibility approach is a necessary, if not sufficient, condition for a company to obtain a social license to operate. This approach provides a mechanism to identify and seek to resolve potential conflicts.

This experience has also demonstrated that peace, or absence of conflict, cannot be achieved by the sole action of the private sector. It needs to be part of the vision and goal of other societal actors, whether governments, NGOs, academics or the media whose perception of the role of oil can be as important as the actual role itself.

Lastly, the corporate responsibility framework developed for Africa is relevant to other Lundin Petroleum areas of operations, regardless of whether there is a conflict potential, insofar as it places the onus on the company to consider and mitigate the possible impacts of its activities on people and the environment and thereby meet the ever growing societal expectations of the private sector.