From an increase in company-community conflicts to an increase in community development requirements in mining laws
Increase in reported company - community conflicts

Number of incidents

Source: ICMM/ SRM 2013
33 countries impacted

Source: www.icmm.com

“World-class mining project with capital expenditure of between US$ 3–5 billion will suffer roughly US$ 20 million per week of delayed production in Net Present Value (NPV) terms” (Davis and Franks, 2011)
Parallel increase in adoption of mandatory requirements for Community Development (CD) in mining laws

CD requirements include requirement to participate in a fund, to provide infrastructure and services, to sign a CDA…or just contribute to the development of the community.

32 countries out of 124 “mining countries” have adopted mandatory CD Requirements since the 80’s (and 9 are pending).

Where there are mandatory requirements in place, those requirements at least set a minimum expectation for engagement with communities, and companies are expected to go beyond the minimum requirements.

A growing trend to impose a “CDA” among countries revising their mining legislation

- Guinea, Mongolia, Nigeria, Sierra Leone, South Africa, South Sudan

- Coming in addition to the countries with older requirements: Australia (in the Australian Native Title Act), Canada, PNG, Yemen

- Gave us the impetus to study the leading practices in agreement-making studying literature and publicly available CDAs
  - Australia, Canada, PNG, Ghana, Laos (22 agreements reviewed)
  - Presence of confidentiality clauses impedes further comparative analysis
  - Provide an understanding of what companies can do beyond the minimum legal requirements to ensure sustainable CDAs.
Making a CDA work for the community: an 8-step process

Pre-negotiation

1. Consult to define the “community” + groups that must be party to the agreement
2. Develop a pre-negotiation agreement
3. Facilitate the creation of a Negotiating Position
4. Provide opportunity for informed participation in the decision-making

Source: Jennifer Loutit, Jacky Mandelbaum, Brief – “Emerging Practice in Community Development Agreements”, CCSI, 2014 Forthcoming
Devise fiscal and non-fiscal benefits sharing

Plan for mine closure and legacy issues

Keep the CDA transparent

Ensure strong, accountable governance arrangements (ensuring protection of HR)

Source: Jennifer Loutit, Jacky Mandelbaum, Brief – “Emerging Practice in Community Development Agreements”, CCSI, 2014 Forthcoming

Based on a review of publicly available CDAs, not many incorporate the leading practices, but our assumption is that they should: Governments could either mandate them, or companies could take it upon themselves to address them.