

LAFARGE HOLCIM IN **AN ELABORATE PLOY** CAMEROON



**AN
ELABORATE
PLOY
LAFARGEHOLCIM
IN CAMEROON**

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IN RECENT YEARS, MAJOR SCANDALS INVOLVING MULTINATIONAL COMPANIES HAVE STOOD OUT AS SIGNIFICANT CHAPTERS IN THE SAGA OF GLOBALISATION: THE DEATH OF 1100 PEOPLE IN THE 2013 COLLAPSE OF THE RANA PLAZA BUILDING IN BANGLADESH, WHERE AUCHAN AND CARREFOUR, AMONGST OTHERS, OPERATED; PROCEEDINGS INITIATED IN 2015 AGAINST THE VINCI GROUP ACCUSED OF “VIOLATING WORKERS’ FUNDAMENTAL RIGHTS” IN QATAR ON CONSTRUCTION SITES EARMARKED FOR THE 2022 WORLD CUP; AND AGAINST LAFARGEHOLCIM, IN 2016, FOR “THE FINANCING OF TERRORIST ENTERPRISE” AND “ENDANGERING LIVES” IN SYRIA, ETC.

At the same time, much progress has been made to better regulate the activities of these transnational corporations: laws and international texts have been adopted to encourage them to adopt responsible behaviour, including the United Nations Guiding Principles for Business and Human Rights and the Organisation for Economic Co-operation and Development (OECD) Guidelines for multinational enterprises.

Private Corporate Social Responsibility (CSR) standards have also been introduced by certain companies, individually or collectively. By doing so, they publicly commit to upholding fundamental rights throughout their entire value chain, and in the companies they control. In general, multinationals are increasingly seeking to project a respectful image: they want

to be considered by the public as ‘responsible corporate citizens’, which respect the environment and the well-being of the population that they stand alongside.

However, every indication shows that this is insufficient and that there are still problems, and significant progress to be made. A recent study¹ has shown that out of 3000 listed companies (from 35 different countries), fewer than 4% of them demonstrated “levels of commitment that tangibly cover the respect for human rights relating directly to their responsibilities”. This research also revealed that freedom of association and the right to collective bargaining are the least discussed elements in corporate reporting, and that companies choose the categories of human rights that they commit to based on the direct legal risk that they incur, but not beyond, regardless of the real risks incurred by their employees or the local populations. More than 20% of the companies evaluated were also “involved in at least one controversy²”, and 43% of them had not reacted to these controversies.

How can we bring about change? The main problem is the overall approach of companies’ responsibility and duties. Currently, the general philosophy is to recognize corporate responsibility for human rights violations or environmental destruction in the course of their activities. However, this responsibility is diluted and loses its legal effectiveness with the internationalisation of their activities and the plethora of subsidiaries and subcontractors that come into play. The “duty” of effectively preventing violations is, moreover, almost non-existent, aside from a few initiatives →

¹ Vigéo Eiris, *analysis on the conduct of companies in respect to fundamental human rights*. 21 February 2017 http://www.vigéo-eiris.com/wp-content/uploads/2017/02/20170221_CP_Etude_DH_VF.pdf

² ‘Criticism, allegation, legal proceeding, conviction, etc.’

→ such as the one taken by France to transpose this obligation into its law governing parent companies' duty of care vis-à-vis their subsidiaries and subcontractors.

A real change in philosophy would require companies to not only react *a posteriori* to human rights environmental violations, but force them to prevent them and to be held legally accountable for any breaches along their value chain and in their subsidiaries.

In order to contribute to advancing this issue, the International Association of Technicians, Experts and Researchers (Aitec) has chosen to examine a specific and concrete case: Cimencam, the subsidiary of French-Swiss cement manufacturer LafargeHolcim established in Cameroon, a country located in Central Africa.

The idea of this study was not to conduct a complete “diagnosis” of the company’s activities, but to identify potential simple problems and to examine how they were, or not, taken into account, on one hand by Cimencam and its parent company, LafargeHolcim, and on the other hand, by the Cameroonian state and the multinational cement company's country of origin. It was also a question of understanding, through this example, how national and international law can complement one another and, through a necessary development of the existing legislative tools, allow for enhanced protection of the populations and the administration of justice. In this framework, Aitec conducted interviews with various actors in Cameroon and visited some of the sites where Cimencam works.

The result of this research illustrates the issues caused by the activities of highly polluting multinationals that consume natural resources and are sources of injustice to the population, especially in countries where the voice of citizens is harder to hear. It allows us to address various lines of thought:

- The issue of compliance with LafargeHolcim's environmental and social obligations, both in terms of its contractual obligations and the United Nations Guidelines
- Cimencam's responsibility and that of the parent company LafargeHolcim for the breaches found
- The Cameroonian government's responsibility for the observed failures, and of France as country of origin of the Lafarge group for decades
- How people and communities who suffer from nuisances caused by Cimencam can protect themselves and seek justice.



ENVIRONMENTAL NUISANCES

A LORRY IN THE DJOUNGO QUARRY

Although Cimencam is committed to protecting the environment and assures that it acts “in favour of the communities”, the populations that live near its activities suffer daily nuisances.

THE ASSURANCES OF CIMENCAM, ‘A COMMITTED PLAYER IN FAVOUR OF SOCIAL WELFARE’

On its website, Cimencam (short for Cimenteries du Cameroun), a Cameroonian subsidiary of the Franco-Swiss group LafargeHolcim and an historic player in the cement sector in Cameroon, claims to be a “corporate citizen” and a “committed actor in favour social welfare”.

It specifically states: “*For many years, Cimencam has demonstrated its voluntary commitment to a sustainable development approach. Its vision is embodied in its core values such as operational*

*excellence, respect for employees, good dialogue with local communities and respect for the environment. Cimencam's objective, as national leader, is to continue to improve its performance and to be an exemplary company in respect to the protection of the environment, respect for local cultures and social responsibility. Today, Cimencam ranks among the multinationals most committed to social and environmental responsibility."*³

It claims to have among its "priorities" the pursuit of its "commitments to communities and the protection of the environment".

In various official documents, Cimencam's parent company, the LafargeHolcim group created in 2015 following the merger of French company Lafarge and Swiss company Holcim, says for its part, to be doing everything to "create a healthy and safe environment for all stakeholders (employees, entrepreneurs, communities and customers) based on a genuine culture of safety". LafargeHolcim says it meets government requirements and environmental laws that set minimum standards, while claiming to follow higher standards: "At LafargeHolcim, we strive to adopt a higher standard of conduct. We regularly monitor performance in these areas and develop action plans to continually improve our performance", explains the group⁴.

In environmental terms, the task of a giant like LafargeHolcim is immense, one of the main characteristics of the cement industry being that it is highly polluting. CO₂ and large quantities of dust are emitted into the atmosphere during the extraction, grinding and transportation of raw materials, during the production of clinker and cement in factories, and during bagging, storage and also distribution.

This dust is composed of different types of particles, including PM₁₀, which has a diameter of less than 10 µm (micrometres) and PM_{2.5}, less than 2.5 µm in diameter. Called "fine particles", they include ultrafine particles less than 0.1 µm in diameter, which can spread over a large area. All of this dust is harmful for the workers of cement plants, the populations living near to quarries and factories, and for the environment in general. The list of health problems they generate in humans is long, with fine particles being the most dangerous since they enter the respiratory system and settle on the lungs. They can cause rhinitis, asthma, chronic bronchitis and can also be responsible for ocular diseases. The silica they contain also increases the risk of tuberculosis, cancer and kidney disease.

"In the short term, fine dust smaller than 1 µ reaches the alveoli and can enter the bloodstream. They can carry other pollutants that are adsorbed (SO₂, heavy metals, hydrocarbons...). They are associated with hospitalisations and deaths due to respiratory and cardiovascular reasons. In the long term, these pollutants can cause respiratory diseases such as: asthma, bronchitis, emphysema (dust, SO₂) lung cancer (particle and NO₂)."
Excerpt from the H & B Consulting impact study conducted for Cimencam, Bonabéri and Djoungo Sites

In order to assess the fulfilment of Cimencam and its parent company's commitments and discourse, Aitec focused on three of its sites, Djoungo, Figuil, and Bonabéri, and looked at how the company was safeguarding riparian populations from the consequences of its activities, and in particular from the pollution it generates.

³ See Cimencam's website: <http://www.cimencam.com/wps/portal/cm/fr/qui-sommes-nous>

⁴ See LafargeHolcim's code of business conduct: http://www.lafargeholcim.com/sites/lafargeholcim.com/files/atoms/files/10302015-group-lafargeholcim_code_business_conduct-en.pdf

A DELUGE OF DUST IN DJOUNGO

Cimencam was created in 1963. It has a grinding plant in the Bonabéri district of Douala, the economic capital, an integrated cement factory in Figuil, in the north, and a concrete plant in Yaoundé, the political capital. The company says it has an annual production capacity of 1.5 million tonnes of cement and plans to reach two million by mid-2018 after the commissioning of a new grinding unit currently of being built in Nomayos, in the suburbs of Yaoundé (See opposite for map of Cimencam factories in Cameroon).

Cimencam, which claims to be “the leader in construction materials in Cameroon”, also operates several quarries, including one containing pozzolan - which is used as a component in the manufacture of cement (see description opposite) - in the municipality of Mombo, located 70 kilometres away from Douala. Cimencam’s operating license in this area covers 200 hectares. The Djoungo open-pit quarry is operated by a subcontractor from Cimencam, United Transport Africa (UTA).

Two villages are located nearby: Djoungo-Rails and Djoungo-Route. These two poor localities each have a few hundred inhabitants.

During its investigation, Aitec found that Djoungo-Rails and Djoungo-Route do not escape the dust resulting from quarry operations, which operate 24 hours a day, seven days a week. This dust is spread mainly by the lorries that transport the extracted pozzolan to the Bonabéri plant in Douala. According to several accounts collected by the Aitec, between fifteen and twenty lorries arrive at the site daily, each one making about

three trips between Douala and the quarry each day. An environmental and social audit, conducted by H & B Consulting for Cimencam in 2015, counted forty 28-tonne lorries leaving the quarry for Bonabéri each day⁵.

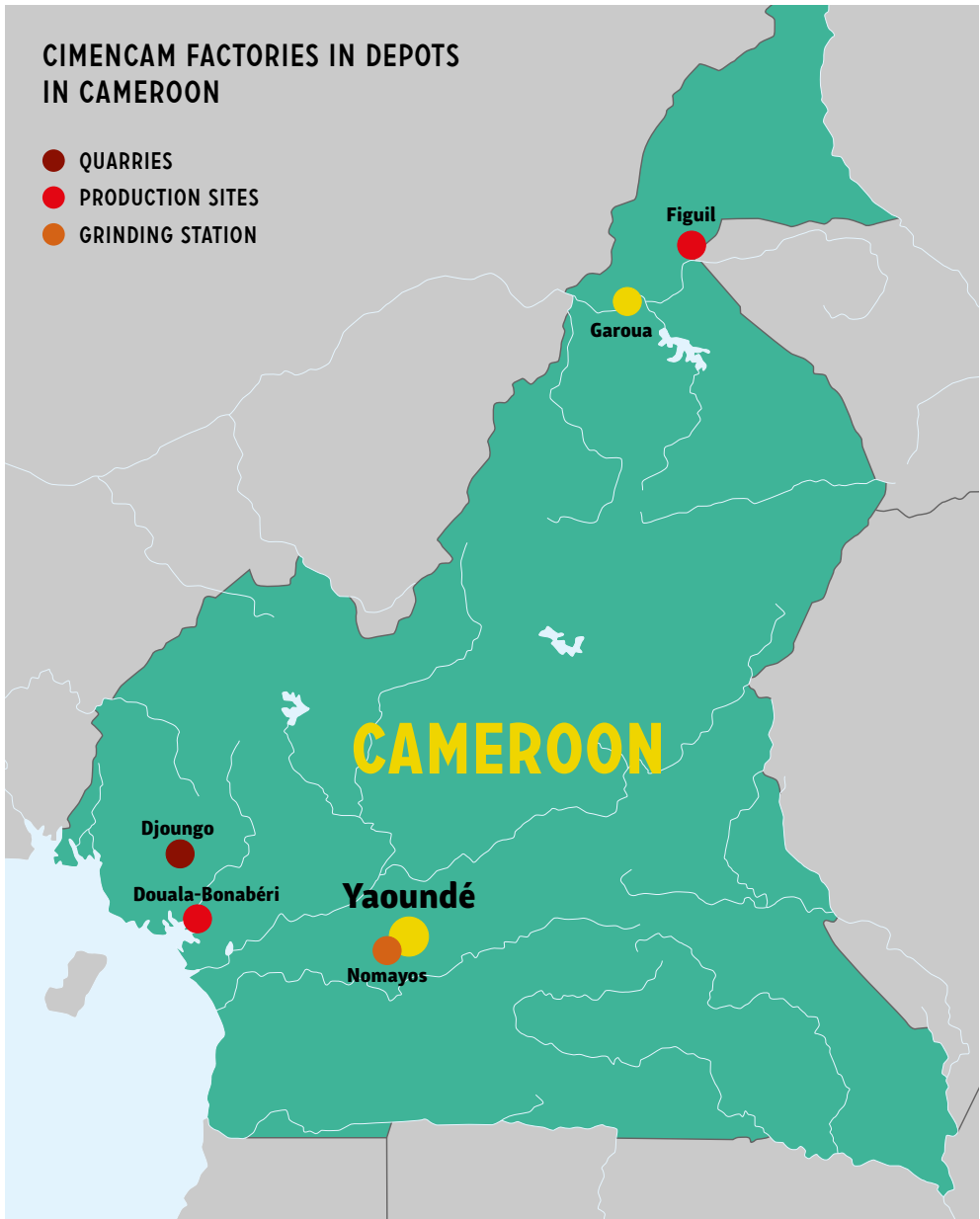
In transit, these vehicles, while being responsible for strong noise pollution, stir up a lot of dust, because the road they take is not paved or, more accurately, is no longer: over the years, Cimencam haulers got the better of the tarmac, according to local residents.

The inhabitants of Djoungo-Rails and Djoungo-Route believe that the dust stirred up by the UTA lorries is causing them “health problems”, and in particular “respiratory diseases”. During a public consultation held in Djoungo-Rails in 2015 as part of the aforementioned environmental and social audit, the village’s traditional chief said that the majority of the population was suffering from “lung diseases”, adding that these were “*partly caused by the dust which is itself maintained by the uninterrupted passage of the lorries carrying pozzolan*”. During the same meeting, the leader of Djoungo-Route also spoke to the Cimencam representatives who were present about the “*respiratory problems of people following the absorption of dust along the route taken by [their] lorries which is also the same route that 95% of the local population uses to go to their fields*.” The mayor of the commune of Mombo also expressed himself to ask “*that Cimencam organise health campaigns in Djoungo-Rails and Djoungo-Route because their activity is the cause of respiratory and visual impairment diseases*”.

In interviews with Aitec⁶, residents of Djoungo-Rails said the dust was unbearable: it “is everywhere”, they said. It lands on their

⁵ ‘Environmental and social audit of the facilities and activities of cement plants in Cameroon, Bonabéri and Djoungo’, H & B Consulting, February 2015. This environmental and social audit was carried out on the basis of law n° 96/12 of 5th August 1996, pertaining to the management of the environment in Cameroon and Decree No. 2013/0172 / PM of 14th February 2013 laying down the procedures for carrying out environmental and social impact studies. A first environmental audit was conducted at the Bonabéri plant and the Djoungo quarry in 2007. Both sites had received a Certificate of Environmental Compliance from the Cameroon Ministry of the Environment, Nature Protection and Sustainable Development.

⁶ Interviews conducted in July 2017.



CEMENT PRODUCTION

Cement is made from a raw material composed mainly of limestone (about 80%) and silica (about 20%). Raw materials such as pozzolan are part of the composition of some cements. These materials are extracted in open quarries before being crushed. They are then grinded in a factory in order to be processed into flour. This flour, which contains calcium carbonate, silica, iron oxide, magnesium and manganese, is cooked at a very high temperature in an oven. The resulting product is called 'clinker'. Other substances are then added to the clinker (epoxy resins, gypsum...). It is this composition that produces cement. In addition to the starting materials, the cement has metallic impurities, such as chromium, nickel and cobalt.

H&B CONSULTING 2015 ENVIRONMENTAL AUDIT

RESULTS FROM DUST ANALYSIS CONDUCTED ON THE DJOUNGO SITE

THE YELLOW BOXES INDICATE WHERE AUTHORISED EMISSION VALUES HAVE BEEN EXCEEDED.

| # | Point d'échantillonnage | | PM ₁₀ | PM _{2.5} | PM ₁ | PM _{10-2.5} | TSP |
|---|---|----|------------------|-------------------|-----------------|----------------------|-------|
| 1 | Bureau Responsable CIMENCAM | mg | 0,009 | 0,063 | 0,255 | 0,438 | 0,514 |
| | | µg | 9 | 63 | 255 | 438 | 514 |
| 2 | Bureau responsable UTA | mg | 0,007 | 0,042 | 0,150 | 0,208 | 0,263 |
| | | µg | 7 | 42 | 150 | 208 | 263 |
| 3 | Conteneur magasin pour mécanique | mg | 0,009 | 0,079 | 0,335 | 0,459 | 0,570 |
| | | µg | 9 | 79 | 335 | 459 | 570 |
| 4 | Bureau pont bascule | mg | 0,010 | 0,065 | 0,470 | 0,576 | 0,644 |
| | | µg | 10 | 65 | 470 | 576 | 644 |
| 5 | Station gasoil | mg | 0,007 | 0,103 | 0,467 | 0,564 | 0,624 |
| | | µg | 7 | 103 | 467 | 564 | 624 |
| 6 | Station de (orble) criblage | mg | 0,016 | 0,135 | 0,604 | 0,802 | 0,948 |
| | | µg | 16 | 135 | 604 | 802 | 948 |
| 7 | Station de criblage Trémies d'alimentation | mg | 0,008 | 0,075 | 0,339 | 0,409 | 0,440 |
| | | µg | 8 | 75 | 339 | 409 | 440 |
| 8 | A côté du Bulldozer | mg | 0,008 | 0,101 | 0,558 | 0,690 | 0,822 |
| | | µg | 8 | 101 | 558 | 690 | 822 |
| 9 | A l'intérieur du Bulldozer lors de la poussée | mg | 0,003 | 0,021 | 1,501 | 1,817 | 2,140 |
| | | µg | 3 | 21 | 501 | 817 | 2,140 |

CULTIVATED FIELDS AROUND THE VILLAGE OF DJOUNGO-RAILS.



crops, and on cassava that dries near homes. The water of the surrounding rivers, that the populations drink, is also dirty, according to the chief of Djoungo-Route.

Interviewed by Aitec, two doctors practicing in the area revealed that they had identified recurring pathologies in patients coming from around the Djoungo quarry: respiratory infections such as bronchopneumonia, bronchitis, and pneumonia, as well as the flu. According to one of the doctors, it is obvious that the pathologies treated are due to the dust emitted by the quarry and the comings and goings of Cimencam lorries carrying pozzolan.

The authors of the environmental and social audit carried out in 2015 measured the amount of dust in the ambient air at the Cimencam production site, and thus found that it exceeded “the emission limit values of the standards set by the World Bank and Cameroon”⁷.

The air quality at the Djoungo site exceeds the emission limit values of the standards set by the World Bank and Cameroon. On average, the dust concentration is seven times higher than the minimum permitted.

Despite these alarming figures, the auditor apparently did not go beyond the site: they did not measure the level of dust present in the neighbouring villages and the commune in general.

It is therefore impossible to know the seriousness of the situation: there is no accessible study on the quantity and nature of the dust emitted, on its repercussions on the health of the local populations or medical statistical studies on the pathologies mentioned above.

As a result, the inhabitants of Djoungo-Route and Djoungo-Rails do not know precisely the risks and impacts of Cimencam’s activities on them.

In addition, no measures to preserve the air quality for neighbouring populations are provided for in the “Environmental and Social Action Plan” resulting from the 2015 environmental and social audit.

RESIDENTS' REQUESTS NOT TAKEN INTO ACCOUNT

In 2015, the inhabitants of the Djoungo area made several suggestions to Cimencam for actions to mitigate its negative impacts on their environment and their health. They suggested that speed bumps be installed on the road to slow down the speed of lorries and thus reduce the amount of dust stirred, as well as the risk of accidents.

The idea of regularly watering the road has also been put forward, as well as the need to re-tarmac the road. The villagers also asked the company to provide them with access to drinking water, since the water in the surrounding rivers is polluted by the dust. For them, the issue of employment is also paramount: no Djoungo resident was recruited to work on the quarry, despite the difficult economic situation and Cimencam’s promises. One of the locals told Aitec: *“They truck their staff in from nearby cities instead of employing people from here.”*

The requests of the inhabitants of Djoungo-Rails, albeit relatively simple, were not followed up. The situation has remained unchanged since then. During the public consultation in 2015, the mayor of the municipality of Mombo had explained: *“The points that have been raised here have already been the subject of several letters although they have received no response from Cimencam. I reassure the cement plants of the population’s support while wishing that the grievances and expectations of the populations evoked in this meeting are taken into account so that we do not have to discuss it further.” →*

⁷ The World Bank allows a concentration limit in TOTAL PM of 50mg/m³ for particulate matter. It allows a concentration limit of PM10 of 80 µg/m³.

→ While the installation of speed bumps or the reduction of the speed of the lorries are mentioned in the recommendations of the environmental audit carried out by H&B Consulting, the level of importance given to them is only “average”, and no person, cost or indicator is linked to it. This means that these measures will probably never be implemented.

DUST IS ALSO A PROBLEM IN FIGUIL

In the north of the country, it took several decades before Cimencam took into account the grievances of residents of the district of Figuil, located in the department of Mayo Louti, a hundred kilometres away from the city of Garoua.

The company has been present there since the early 1970s and operates three quarries, from which it extracts clay, sand and limestone. With these products, it manufactures CPJ35 and CPJ40 cement in a factory located in the city of Figuil, which has approximately 70,000 inhabitants. This cement plant produces nearly 160,000 tonnes of grey cement each year.

For many years, local residents have suffered and complained about factory fumes, dust stirred up by lorries and quarries in Cimencam, as well as the quarries of another company, Rocaglia, which extracts marble. In 2009, MPs publicly denounced the pollution caused by Cimencam⁸:

“Once the delegation arrived in the city where Cimencam lays down the law, MPs were greeted by the dust. “But what is it?”, asked an elected representative of the people of Centre. To which another responded: It’s the smoke that pollutes the environment”.

However, Cimencam did not respond right away. Noting that the inhabitants did not benefit from

the revenues generated by extractive companies and seeing their environment deteriorate, citizens in the region eventually founded, in 2010, an organisation to make their voices heard. This monitoring unit (CelPro), which concerns itself with the protection of victims from mining activities in the district of Figuil has since declared that a high rate of inhabitants of the district suffers from respiratory diseases due to dust produced by Cimencam and Rocaglia. In 2012, she had some of them testify in a video⁹.

A German NGO, Misereor, supported it.

Two Cameroonian researchers, Oumarou Toumba and Anselme Wakponou, have also conducted a study on the level of pollution in the region. This work, published in 2014, assessed the consequences of dust emissions on local populations and provided figures¹⁰:

The dust emitted has harmful influences on the human body. (...) Four in ten patients suffer from lung diseases (pneumonia, bronchitis, asthma, tuberculosis and rhino bronchitis). Since 2011, more than 20% of patients have suffered from respiratory problems (...). These infections are due to the absorption of the finest dust particles (<2µm) that penetrate the pulmonary alveoli (...). Note that in the past (1980-90), these diseases appeared mainly in the dry season, while today we note a true endemic, all seasons combined.

(...) The considerable increase in the number of respiratory patients is inextricably linked to mining: a significant and strong correlation (0.89) links the number of patients to the evolution of mining activities (...). The dust emitted by the quarries harms the daily life of the neighbouring populations. Their skin is whitening because of deposits of limestone powder. [They] have trouble napping in the shade under trees and eating community →

⁸ « Des députés somment des entreprises de partir », La Nouvelle Expression, 5th August 2009. <http://www.camerounlink.com/actu/0/47702/0/SessionID=F5GTSLKB5NUXS7JQSVH5YPCOZA2UGS--cl1-0--cl2-0--bnid-2--nid-47702--kat-1--seite-2094>

⁹ <https://www.youtube.com/watch?v=vV0NzEUxDI4>

¹⁰ « Exploitation minière dans l’arrondissement de Figuil (Cameroun) : problèmes de santé publique et effets environnementaux », Oumarou Toumba and Anselme Wakponou, Belgeo, 2014. <http://belgeo.revues.org/14853>



ROAD IN FRONT OF CIMENCAM SERVICING THE BONABÉRI INDUSTRIAL ZONE IN DOUALA.

DUST STIRRED AT THE GRINDING PLANT IN DOUALA / ROAD SERVICING THE INDUSTRIAL ZONE.



| # | Points d'échantillonnage | | PM ₁₀ | PM _{2.5} | PM ₁₀ | PM _{2.5} | TSP | Observations |
|----|--|----|------------------|-------------------|------------------|-------------------|-------|------------------------------|
| 1 | Guérite entrée port Sud | mg | 0,009 | 0,173 | 2,821 | 3,940 | 5,206 | Compresseur mobile en marche |
| | | µg | 9 | 173 | 2 821 | 3 940 | 5 206 | |
| 2 | Port (quai de débarquement) | mg | 0,013 | 0,481 | 1,684 | 3,640 | 6,667 | |
| | | µg | 13 | 481 | 1 684 | 3 640 | 6 667 | |
| 3 | Terminal côté port | mg | 0,069 | 0,205 | 0,908 | 1,785 | 2,531 | Passage camion remorque |
| | | µg | 69 | 205 | 908 | 1 785 | 2 531 | |
| 4 | Atelier biomasse (Terminal) | mg | 0,063 | 0,386 | 3,694 | 4,935 | 6,005 | Séchoir en marche |
| | | µg | 63 | 386 | 3 694 | 4 935 | 6 005 | |
| 5 | Bureau approvisionnement | mg | 0,012 | 0,122 | 0,523 | 0,717 | 0,942 | Conversation en cours |
| | | µg | 12 | 122 | 523 | 717 | 942 | |
| 6 | Magasin hall de maintenance | mg | 0,011 | 0,194 | 1,552 | 2,376 | 3,140 | |
| | | µg | 11 | 194 | 1 552 | 2 376 | 3 140 | |
| 7 | Hall de maintenance | mg | 0,006 | 0,036 | 0,096 | 0,121 | 0,157 | |
| | | µg | 6 | 36 | 96 | 121 | 157 | |
| 8 | Cours entre appro et BK1 | mg | 0,013 | 0,177 | 0,954 | 1,438 | 1,988 | |
| | | µg | 13 | 177 | 954 | 1 438 | 1 988 | |
| 9 | Cours entre stockage Klinker et BK1 | mg | 0,021 | 0,778 | 5,476 | 9,999 | 9,999 | BK1 en marche |
| | | µg | 21 | 778 | 5 476 | 9 999 | 9 999 | |
| 10 | Point de rassemblement stockage Klinker | mg | 0,003 | 0,323 | 1,133 | 1,271 | 1,356 | |
| | | µg | 3 | 323 | 1 133 | 1 271 | 1 356 | |
| 11 | BK1 | mg | 0,012 | 0,637 | 4,327 | 5,178 | 6,229 | |
| | | µg | 12 | 637 | 4 327 | 5 178 | 6 229 | |
| 12 | Entre BK 5 & DUB | mg | 0,013 | 0,164 | 1,569 | 2,035 | 2,287 | |
| | | µg | 13 | 164 | 1 569 | 2 035 | 2 287 | |
| 13 | Stockage Klinker côté séchoir | mg | 0,011 | 0,117 | 0,579 | 0,705 | 0,808 | Séchoir en marche |
| | | µg | 11 | 117 | 579 | 705 | 808 | |
| 14 | Séchoir pouzzolane | mg | 0,012 | 0,215 | 1,147 | 1,936 | 2,756 | |
| | | µg | 12 | 215 | 1 147 | 1 936 | 2 756 | |
| 15 | Cours BK 1 (vers labo) | mg | 0,012 | 0,131 | 0,481 | 0,995 | 1,826 | |
| | | µg | 12 | 131 | 481 | 995 | 1 826 | |
| 16 | Ensachage CIM 3 aux dessus des trémies | mg | 0,015 | 0,275 | 2,595 | 3,441 | 4,338 | |
| | | µg | 15 | 275 | 2 595 | 3 441 | 4 338 | |
| 17 | Ensachage CIM 3 Machine 1 Bureau | mg | 0,013 | 0,072 | 0,189 | 0,276 | 0,400 | |
| | | µg | 13 | 72 | 189 | 276 | 400 | |
| 18 | Bureau (Mr Hamidou) DUB | mg | 0,008 | 0,071 | 0,361 | 0,510 | 0,687 | |
| | | µg | 8 | 71 | 361 | 510 | 687 | |
| 19 | BK 4 (en bas) | mg | 0,012 | 0,146 | 1,284 | 1,801 | 2,443 | |
| | | µg | 12 | 146 | 1 284 | 1 801 | 2 443 | |
| 20 | BK 4 (en haut) | mg | - | - | - | - | - | |
| | | µg | - | - | - | - | - | |
| 21 | Hall matières premières | mg | 0,003 | 0,140 | 0,826 | 1,133 | 1,425 | |
| | | µg | 3 | 140 | 826 | 1 133 | 1 425 | |
| 22 | Extérieur Hall matières premières côté COMETAL | mg | 0,013 | 0,141 | 0,795 | 1,004 | 1,192 | |
| | | µg | 13 | 141 | 795 | 1 004 | 1 192 | |
| 23 | Extérieur côté incinérateur | mg | 0,013 | 0,127 | 0,576 | 0,749 | 0,854 | |
| | | µg | 13 | 127 | 576 | 749 | 854 | |
| 24 | Infirmerie | mg | 0,011 | 0,116 | 0,482 | 0,626 | 0,778 | |
| | | µg | 11 | 116 | 482 | 626 | 778 | |
| 25 | Ensachage CIM 4 machine 6 | mg | 0,014 | 0,208 | 1,820 | 3,259 | 5,021 | En marche |
| | | µg | 14 | 208 | 1 820 | 3 259 | 5 021 | |
| 26 | BK5 (en bas) | mg | 0,006 | 0,322 | 9,990 | 9,999 | 9,999 | En marche |
| | | µg | 6 | 322 | 9 990 | 9 999 | 9 999 | |
| 27 | BK5 (en haut cheminée) | mg | 0,014 | 0,344 | 7,910 | 9,999 | 9,999 | |
| | | µg | 14 | 344 | 7 910 | 9 999 | 9 999 | |
| 28 | Guérite | mg | 0,011 | 0,095 | 0,398 | 0,521 | 0,635 | Benne en circulation |
| | | µg | 11 | 95 | 398 | 521 | 635 | |
| 29 | Zone de blachage | mg | 0,012 | 0,124 | 0,882 | 1,040 | 1,153 | |
| | | µg | 12 | 124 | 882 | 1 040 | 1 153 | |
| 30 | Secrétariat DG | mg | 0,006 | 0,037 | 0,153 | 0,171 | 0,200 | Compresseur mobile en marche |
| | | µg | 6 | 37 | 153 | 171 | 200 | |
| 31 | Bureau Chef comptable | mg | 0,010 | 0,061 | 0,262 | 0,318 | 0,378 | |
| | | µg | 10 | 61 | 262 | 318 | 378 | |

H&B CONSULTING 2015 ENVIRONMENTAL AUDIT
 RESULTS FROM DUST ANALYSIS CONDUCTED ON THE DJOUNGO SITE
 THE YELLOW BOXES INDICATE WHERE AUTHORISED EMISSION VALUES HAVE BEEN EXCEEDED.

→ meals. In fact, the wind deposits the limestone powder on spread mats, food dishes and food reserves (sorghum, peanuts, vegetables, etc.).

Since this study has been conducted and as a result of the pressures of the inhabitants in particular, Cimencam finally installed, at the end of October 2014, a filter on the chimney of its factory to reduce “industrial dust emissions”¹¹.

But this filter does not solve all the problems: there are always significant dust discharges along the routes of the lorries which transport the raw materials and the cement, and in the quarries. CelPro made this observation in March 2017:

“CelPro / Figuil was alerted by the people of Guéréme complaining (...) of being invaded by the dust emitted by the CIMENCAM quarry in Bergui, a neighbouring village. (...) On March 23, 2017, during a field visit, the various facts were confirmed. The dust emitted by the quarry of Bergui is the first source of pollution in the locality and its surroundings. It has a negative impact on air quality, plant growth, water quality and food consumed.”¹²

CelPro has also found that Cimencam dumped its waste “in the fields and house lots of local residents near its Bergui quarry”.

DUST EMISSION LEVELS EXCEEDED IN BONABÉRI

The problems observed in Djoungo and Figuil are found in Bonabéri, in the Douala industrial zone, where Cimencam operates a grinding station that uses clinker imported by boat, and pozzolan from Djoungo.

The 2015 environmental and social audit conducted by H & B Consulting found, as with on the Djoungo quarry site, that the dust

concentration on the plant exceeded “the emission limit values of the World Bank and Cameroon standards”.

As in the case of the Djoungo quarry, the H & B Consulting’s auditors’ research did not go beyond the grinding plant: the inhabitants of the zone cannot therefore know the quantity of dust discharged into the atmosphere by the factory and the impact it may have on their health and how to protect themselves.

Aitec, for its part, met some 20 people in the district near the town hall, the road and in front of the industrial zone where Cimencam is located. To the question “What are the impacts of the Cimencam plant on your daily life?” Five people replied that there was no particular problem, to them. Others felt that there were big dust / pollution problems, that people were coughing a lot, that they had health problems because of it. But once again, without an accurate investigation, it is difficult to say that the dust and discomfort come from Cimencam, the area being occupied by industries.

Officials from the town of Douala 4^e (Bonabéri) explained that they did not have the necessary technical knowledge to assess the environmental impact of Cimencam’s activities, but that the pollution in the area was “a real problem” for residents.

The dust issue also arises when the clinker arrives at the port of Douala by boat. During a public consultation held in Bonabéri for the 2015 H & B Consulting environmental and social audit, a representative from the Cameroon Ministry of the Environment observed that during unloading, dust was coming out and clinker was falling into the Wouri river. One resident said that “the clinker that pours into the Wouri has made the fish disappear and the dust prevents the plantain from growing on the banks of the Wouri”.

¹¹ <http://www.cimencam.com/wps/portal/cm/fr/actualites>

¹² <http://www.grevel.fr/index.php/associations/nouvelles-des-assos/celpro-figuil/item/105-bref-apercu-des-activites-menees-par-la-celpro-juillet-2016-mars-2017>

Therefore, whether in Djoungo, Bonabéri or Figuil, despite Cimencam and LafargeHolcim's reassuring discourse, we find ourselves faced with a very classic case of nuisances caused by a multinational, likely having an impact on the health of the inhabitants, without any preventive measures and solutions being provided. However, the problems identified are not difficult to solve or at least mitigate.



THE RIGHTS OF MISTREATED WORKERS

“Every employee has the right to work in safe and healthy working conditions,” says Cimencam. Yet some of the company’s practices violate the rights of its employees and its subcontractors’ employees.

BAGS OF CEMENT THAT HAVE JUST BEEN LOADED ONTO A LORRY.

THE WEAK BARGAINING POWER OF CIMENCAM’S WORKERS

Neighbouring populations are not the only ones affected by Cimencam’s activities. Cimencam’s workers and subcontractors must also be considered, as stated by LafargeHolcim in its *Code of Business Conduct*¹³: “We prohibit the following practices and do not knowingly do business with persons or companies that participate in the following activities: (...) unlawful discrimination in employment and practices; provision of hazardous working conditions; wage payments (or deductions) that illegally leave the worker below the minimum wage.” →

¹³ http://www.lafargeholcim.com/sites/lafargeholcim.com/files/atoms/files/10302015-group-lafargeholcim_code_business_conduct-en.pdf

→ The group also explains: “*LafargeHolcim’s human rights management system is applied to all the companies of the group. This system examines our own behaviour as well as that of the value chain, in particular the behaviour of suppliers, subcontractors and other third-party service providers.*”

According to a LafargeHolcim manager that Aitec met, there is a “freephone number” that employees can call anonymously to submit information and complaints. However, the parent company does not seem to be familiar with the human rights situation, including labour rights, in Cameroon. The group’s Africa director told Aitec that a ‘human rights’ audit would be conducted in Cameroon, for the first time, by the sustainable development department during the second quarter of 2017 without being able to elaborate further, and recognised that no risk prevention procedure currently existed. As for Cimencam, the company says it is committed to “providing a safe and healthy working environment”: *“Every employee has the right to work in healthy and safe working conditions. (...) In terms of health and safety, the only acceptable result is zero: zero accidents, incidents or employees in poor health.”*

During its investigation, however, Aitec found that there were several problems and that LafargeHolcim’s guiding principles were not all adhered to.

The first dysfunction observed pertains to union representation within the company. In Cameroon, freedom of association is often unsteady. The country has indeed ratified the main international texts that guarantee fundamental rights for workers, such as the conventions of the International Labour Organization (ILO). However, these texts are not all applied. Although there are

more than 100 trade unions and 12 trade union confederations, it is not uncommon for business leaders to refuse the existence of trade unions in their establishment. Similarly, several violations of trade union rights that have occurred in companies have been reported internationally in recent years. Sometimes the government and employers interfere in the functioning of workers’ organisations.

There are also shortcomings in the texts: Article 5 of Law No. 53/90 of 19th December 1990 on the freedom of association states that “*political parties and trade unions are governed by particular texts*” but they have never seen the light of day.

The situation at Cimencam is similar to that which prevails at the national level: the unions are not sufficiently recognized as social interlocutors by the company’s management. LafargeHolcim Ciments Afrique was not able to provide Aitec with the number and name of the unions supposedly represented in Cimencam. Cimencam’s management also did not answer questions on this topic. Aitec’s investigation also revealed that the union culture within the company is weak.

This state of affairs is explained by the content of the industry collective agreement that Cimencam follows. Indeed, while this text recognises “*freedom of opinion and the right for all to freely join and belong to an association or a professional group in accordance with the legislation in force*”, it does not provide any internal space for negotiations between the unions and the companies’ management. Management has discussions with employee representatives, as outlined in the same Collective Agreement which states that staff representatives “*are received collectively by the head of the establishment at least once a month*” and “*are also received without delay at their request in exceptional circumstances,*

either collectively or individually (...) depending on the issues to be discussed". However, while employee representatives are elected by the workers and are part of a union their bargaining power in discussions with the company seems to be weak.

Cimencam's management organises times for dialogue between management and employees so that they can share what is not going well. However, these meetings have very little impact. According to a former employee, they do not allow for the real problems to be taken into account. No report of the demands expressed is sent to the participants. This is partly because minutes aren't taken during the discussions, and partly because the exercise remains at the initiative of the company, and therefore it does not truly engage. As a result, employee claims disappear after each meeting.

According to Aitec's interviews with several Cimencam employees, they face numerous difficulties. For example, the employees interviewed mentioned the lack of prospects for career progression, the impression that appointments and promotions within the company were not based on merit and skills, a marked difference in treatment (wages and benefits) of expatriate employees (often French) and Cameroonian employees¹⁴. Some have mentioned cases of "unfair" dismissals: dismissals on grounds that are not in keeping with reality. In addition, Cimencam has a bad habit of making excessive use of fixed-term contracts (CDD): they can succeed one another for four or five years before being converted into an open-ended contract. The employees affected are therefore in a precarious situation and cannot build future plans.

In general, relations between management and employees appear to have soured and are sometimes very tense. In April 2017, employees

held a sit-in in Douala after discovering the existence of a document, drafted by management and supposedly secret, which outlined the redundancy of some employees for the current year without them being aware.

THE PROBLEMATIC USE OF SUBCONTRACTORS

Cimencam works extensively with subcontractors. Some of these companies work permanently for Cimencam, others work on an ad hoc basis. Some are responsible for cleaning the company premises, cleaning up the spaces within the Cimencam compound, others cover lorries loaded with bags of cement with tarpaulins to protect them from the elements, and others transport of pozzolan, fill bags with cement, etc. One of the documents consulted by Aitec gives a list of subcontractors¹⁵:

1. **ACROBAT** Work at heights
2. **DOUAL'AIR** Catering
3. **ECNEP** General services
4. **EES** General services
5. **G4S** Security
6. **API** Service delivery, handling of cement bags
7. **NETTOYAGE PLUS** Cleaning
8. **NIS** Cleaning
9. **OMEGA** Transport
10. **MCI** Mechanical works
11. **UTA** Transportation of raw materials and cement
12. **CAMCI** Cooling and air-conditioning
13. **TTMIC** Service delivery

The use of subcontractors can be significant in terms of the number of employees: at the Djoungo quarry, for example, Cimencam has only one salaried agent. The vast majority of on-site activities (pozzolan production →

¹⁴ According to figures from the Cameroonian authorities, Cimencam employed approximately 400 people in 2015, including 397 Cameroonians which made up 7/8 of the company's total payroll. The 3 expatriates in senior management positions represented 1/8 of the total payroll.

¹⁵ 'Environmental and social audit of the facilities and activities of cement plants in Cameroon, Bonabéri and Djoungo', H & B Consulting, February 2015.





AN EMPLOYEE FROM THE SUBCONTRACTOR UTA.

→ and transportation to Douala) is handled by a subcontractor: the UTA carrier which has approximately 30 people working on site. In 2014, Cimencam had a total of 403 employees¹⁶. Cimencam is not the only company to use subcontractors: many cement companies around the world are working more and more in this way, according to a 2016 survey conducted by Building and Wood Workers' International (BWI) which represents 350 unions in 130 countries. *"This is a systematic and deliberate outsourcing policy that includes basic production activities and includes almost 75% of operations in new cement plants"* explains the BWI¹⁷. Many subsidiaries of multinationals operating in Cameroon in sectors other than cement also use subcontractors.

This phenomenon is explained by a lack of subcontracting regulation: the Cameroonian labour code dedicates only four articles to subcontracting. The first, section 48, stipulates: *"The pieceworker is a subcontractor that contracts the necessary labour, who enters into an agreement with a contractor for the performance of certain work or the supply of certain services at a fixed price"*¹⁸. The other three articles specify the financial obligations of the contractor in the event of the pieceworker's insolvency and explain that the contractor must keep up-to-date and make public the list of the workmen with whom he/she works. The Labour Code sets no limit for contractors who want to use subcontractors, as it pertains to the number or nature of the tasks to be assigned to them, nor their social responsibilities vis-à-vis their "workmen".

The use of contractors has at least three advantages for companies: it allows them to simplify their accounting, to get rid of part of their responsibilities and to reduce their costs. The US Secretary of State's 2016 report stated the following in regards to Cameroon: *"Employers frequently use hiring practices such as outsourcing to avoid hiring workers with bargaining rights. (...) Outsourcing as a hiring practice involved all categories of staff, from the lowest to the highest level. As a result, workers with equivalent skills and experience did not always receive similar benefits when working for the same company, and disadvantaged people generally lacked a legal basis for submitting complaints."*¹⁹

The workers of these subcontracting companies are generally low-cost and vulnerable employees: their working conditions, salary level, and social protection are worse than those of the employees of the company that outsources. They are similar to the working conditions of the majority of Cameroonian workers who are characterized by weak implementation of collective agreements, salary arrears or pension benefits, illegal termination of contracts, lack of salary increases, failure by the employer to register employees to the National Social Insurance Fund (CNPS, social security) and non-payment of the employer's contribution to this national social insurance fund, little freedom of association. Furthermore, in these companies, wages are particularly low: the minimum wage in Cameroon is only 36,270 CFA francs per month, approximately 55 euros. *"Despite the minimum wage law, employers often negotiate lower wages with workers, partly because of the high unemployment rate in the country. Wages below the minimum wage remain prevalent in the public works sector, where many jobs require unskilled labour"*, outlined the US Secretary of State's 2016 Human Rights Report.

¹⁶ Figures from the Cameroonian Ministry of Finance

¹⁷ Building and Wood Workers' International (BWI), « Les syndicats demandent à l'industrie du ciment d'assainir ses pratiques » http://www.cfdt-construction-bois.fr/images/actus/Clean_Up_Your_Act_French_FINAL_002.pdf

¹⁸ <http://www.droit-afrique.com/upload/doc/cameroun/Cameroun-Code-1992-travail.pdf>

¹⁹ « Cameroon 2016 Human Rights Report ». <https://www.state.gov/documents/organization/265446.pdf>

LACK OF REGISTRATION TO SOCIAL SECURITY

According to Cimencam officials, the employees of their subcontractors are all registered to the National Social Insurance Fund (CNPS). Audits are conducted for permanent subcontractors once a year, according to Cimencam's claims to Aitec. Cimencam recognizes, however, that it is difficult to verify whether the so-called "ad-hoc" subcontractors adhere to legal provisions. According to an executive of LafargeHolcim, *"employees of subcontractors are considered in the same way as employees of Cimencam: any illness of a subcontracting employee is considered as an illness for an employee of the group"*. In an interview with Aitec, however, he admitted that subcontractors sometimes pay their employees late, stressing: *"We sometimes do not know what is going on with the subcontractor"*.

Interviews and investigations conducted by Aitec revealed that many of Cimencam's subcontracting companies did not respect the rights of their employees. Several workers that Aitec met have thus confided that they were not registered to the CNPS. Many of them explained that they had been assigned a CNPS registration number without their employer asking them to fill in a file, as should have been the case, and that sums were withheld from their salary each month as contributions to the CNPS. Their investigations revealed that these deductions were never paid to the CNPS, that they were not registered to the social security organization. The CNPS number assigned to them by their employer was therefore fictitious. An employee interviewed by Aitec was not even aware of the existence and meaning of the acronym CNPS. It therefore appears that at least some of the Cimencam subcontractors' employees do not benefit from social and medical coverage.

Furthermore, subcontracting companies do not provide the necessary equipment to ensure good health protection for their employees. One of them, in contact with Cimencam's cement bags on a daily basis, explained that his company refused to provide masks so that he and his colleagues could protect themselves from the pervasive dust. When he spoke with Aitec, he clearly had dust-filled nostrils. The same officer explained that he had been feeling "heat on the chest" for a few months, but that he continued to work because he had "no choice". The employee of another company gave a similar account. He also said that the initial care of accidents or cases of violent intoxication that occur within his company are covered by Cimencam, but then left up to the casualty or the patient who is never reimbursed any expenses incurred.

As for the salary conditions of people working for Cimencam subcontractors, they appear precarious. In one of the companies concerned, the employee must complete a trial period of 3 months during which he/she receives only half of the monthly salary, and does not receive the agreed salary amount if the test is conclusive until the fourth month of employment. There are other anomalies: whilst wages are paid around the 20th day of the following month, the pay slip that accompanies them is not signed and does not bear the stamp of the company. In addition to this, the date does not necessarily correspond to the payment date. The employees consulted also explained that they were not entitled to any leave. In at least one company, the workday starts at 6 am and ends at 6 pm, Monday to Saturday. Accepted hours of leave are deducted from the salary, regardless of the reason for the absence. In another company, wages are paid late and sometimes there are arrears. An employee of another company explained that the working time was seven hours, Monday to Sunday. According to him, employees do not have any leave, or health security.

While one may imagine that a prosperous multinational company has the means to create optimal working conditions for its employees and ensure that its subcontractors adhere to all the rules, we realise that this is not the case. And yet, the problems identified by Aitec, following its investigation – which, we must bear in mind, is far from being exhaustive – seem not very difficult to solve much like the problems experienced by local populations.

OBSTACLES TO SEEKING JUSTICE

In order to seek justice, residents and workers in Cimencam face a number of obstacles, including the weak rule of law in Cameroon and the particular links between their company, the state and the ruling party.

RULES, WILL AND INSUFFICIENT RESOURCES

In order for residents neighbouring extractive projects to be properly taken into account, the State of Cameroon has put into place rules to regulate the activities of the companies concerned and to limit their negative impacts. In the early 1990s, following the Rio Earth Summit in 1992, the country began by introducing the notion of environmental protection into its Constitution. *“Everyone has the right to a healthy environment. The protection of the environment is a duty for all. The state ensures the defence and promotion of the environment”*, proclaims the preamble of the basic law.

A number of legislative provisions were then put into place, transposing into national law the international commitments made at the Rio Summit. The Framework Law 96/12 of 5th August 1996 on environmental management thus introduces a precautionary principle, according to which *“the lack of certainty, taking into account the current scientific and technical knowledge, must not delay the adoption of effective and proportionate measures that seek to prevent the risk of serious and irreversible damage to the environment at a reasonably acceptable cost.”*

The same law states that *“every citizen must have access to environmental information, including information on hazardous substances and activities”*. It also requires companies that have extractive projects to carry out an “environmental and social impact study”²⁰.

Decree N ° 2013/0171 / PM / 14 of 14th February 2013 then outlined the methods for conducting these studies. It explains that the Environmental Social Impact Assessment (ESIA) is “a systematic →

²⁰ Article 17: «The developer or contracting authority of any development, work, equipment or installation project that risks harm the environment, due to its size, nature or the impact of the activities it carries out, is required to carry out, according to the specifications, an impact study to assess the direct or indirect impact of the project on the ecological balance of the area where it is located or any other region, the setting and the quality of life of the populations, and the impact on the environment in general...»

→ review to determine the potential and adverse effects of a project on the environment” and “makes it possible to mitigate, avoid, eliminate or offset adverse effects on the environment”. The decree also states that “the implementation of a project cannot begin prior to the approval of the environmental and social impact study”. The legislative framework also provides that, once the impact study is complete, the company should establish and implement an “Environmental and Social Management Plan” (ESMP), which is intended to reduce the adverse effects of its activities. The Ministry of the Environment, Nature Conservation and Sustainable Development (Minepded) is responsible for monitoring the implementation of the ESMPs, through several directorates and its regional and departmental delegations.

However, public authorities often do not have the means to monitor ESMPs due to lack of human, financial and material resources. The desire to enforce the laws is also lacking. As a result, there are regular violations of legal provisions. For example, in 2003, the subsidiary of a US mining company, GeoCam, obtained, by presidential decree, a mining operating permit in violation of the convention that it had signed with the State of Cameroon. According to the latter, the company had the obligation to submit a preliminary feasibility study, which it did not do. The study in question was only conducted in 2011.

This phenomenon is found in all areas of Cameroon and can be explained by governance that does not prioritise the enforcement of laws. Governance is based on a neo-patrimonial functioning of the state²¹ which is reflected, inter alia, by a high level of corruption (in 2016, Cameroon was ranked by the NGO Transparency International among the 30 most corrupt countries in the world), opaque management and weak redistribution of national

revenues, the use by officials and politicians of their positions to obtain favours and enrich themselves illegally, to the detriment of the state. Cameroon was thus considered as a “fragile state” in 2015 by the OECD’s Development Assistance Committee (DAC). According to the DAC definition, a state is fragile “when the government and the state authorities do not have the means and/or the political will to ensure the security and protection of citizens, to effectively manage public affairs and to fight against poverty in the population”.

This system of governance means two things. First, it gives companies a lot of leeway to operate as they see fit, if they know how to find the necessary support. Secondly, it prevents the official compensation mechanisms, created for local residents neighbouring mining projects, from functioning.

LACK OF, OR POORLY IMPLEMENTED COMPENSATION MECHANISMS

At the national level, two compensation systems exist, with the aim of alleviating the inconvenience of citizens living near to Cimencam’s activities.

The first was based for a long time on Article 89 of the Cameroon Mining Code, according to which communities neighbouring a mining project were entitled to part of the tax paid by the enterprise to the State: 10 % of this tax is intended for local populations, 15% for the municipality. However, an order issued by the ministers of finance and mines on the payment terms of these taxes has never been signed. The share reserved for municipalities and communities has therefore never been redistributed. Then there are changes: it is now Law N° 2016/17 of 14th December 2016

²¹ «L’État patrimonialisé», *Politique africaine*, n° 39, September 1990, p. 25-36
<http://www.politique-africaine.com/numeros/pdf/039025.pdf>

that governs this first compensation system.

Article 176 states that *“The resulting extraction tax is divided between the State Treasury, the Administration in charge of mines, the Administration in charge of domains, the Tax Administration, the Funds provided for by this Code, the municipalities and the local population, where applicable”*. With the words *“where applicable”*, this compensation system suggests that it is no longer automatic²².

A decree implementing the Mining Code to clarify this issue is still lacking.

The second system of compensation goes via the agreements made by the Cameroonian state and the companies who must include in their contract with the State social obligations towards neighbouring communities. This principle is a colonial legacy: concessionary companies were supposed to develop the infrastructure of the colony in which they were established. In the forestry sector, for example, forestry companies undertake to follow “specifications”, drawn up with the populations affected and with the involvement of local authorities, to equip the community with “social services” (generally schools, infirmaries, roads).

Cimencam’s contractual social obligations are however not public: the operating agreement that the company signed with the State for the Djoungo quarry, for example, remains confidential, like most other international agreements in force in Cameroon, the State having chosen to preserve its bargaining capacity. The information contained in the 2009, 2010 and 2011 EITI²³ (Extractive Industries Transparency Initiative) reports on Cameroon imply “that at the national level, Cimencam social payments are limited” to the municipality of Mombo, who Djoungo-Rails and Djoungo-Route depend on, according to research conducted by the Cameroonian NGO RELUFA²⁴.

However, in recent years, Djoungo-Rails and Djoungo-Route have only benefited from Cimencam’s support to help them gain access to electricity: the company connected Djoungo-Rails to the generator in the Djoungo quarry in 2005. It also helped fund Djoungo-Route’s connection to the national electricity grid in 2013, to which the mayor of the district of Mombo and its inhabitants also contributed - they had to make a total contribution of 1600 euros.

For the rest, the living conditions of the inhabitants of the two localities remain difficult: drinking water, dispensary, market needs are not being met. In the case of water, for example, the inhabitants of both villages have to travel two kilometres from their homes to obtain any, and the price is exorbitant²⁵. Otherwise, there are many who will get water from a spring where the water is stagnant, nearer to the village. There are obviously significant health risks.

Djoungo-Rails is also composed of houses that are unsanitary or in ruin, built of wood, sheet metal and concrete. There is no indication that the village is next to the subsidiary of a successful multinational. *“How can one explain that the impact in terms of investment in these two villages are not visible when they are the first impacted by Cimencam’s activities?”*, said the traditional chief of Djoungo-Route during a public meeting, organised in 2015 in Djoungo-Rails.

The other remarks made during this same meeting gave an idea of the state of mind of the inhabitants vis-à-vis Cimencam and their expectations. For example, one of the participants said, *“We are tired of the empty promises from Cimencam. Since 1975, they have promised us a cement deposit that never happened. Speeding and poorly driven lorries (...) cause fatal accidents every day. They can’t even offer simple jobs for young people”*. →

²² With Law N° 001 of 16th April 2001 modified et completed by Law N° 2010/011 of 29th July 2010 establishing the mining code.

²³ The EITI is an international standard that ensures transparency and accountability about how a country’s oil, gas and mineral resources are managed. See <https://eiti.org/standard/overview>

²⁴ ITIE et gouvernance minière au Cameroun : entre rhétoriques et réalité, Les paiements et transferts infranationaux à la lumière des exploitations dans la localité de Figuil, October 2014, p.38

²⁵ One of the inhabitants said that in 2016 400 FCFA is required to purchase a 20-litre container of water.





THE VILLAGE OF DJOUNGO-RAILS, DECEMBER 2016.



INHABITANTS OF DJOUNGO RAILS COLLECTING WATER FROM A STAGNANT WATER SOURCE DUE TO A LACK OF RUNNING WATER. NOVEMBER 2016.

→ The young people that Aitec met in the village also displayed a lot of distrust, even hostility towards the company. They believe that they are not considered by Cimencam. Socially, they expect a lot from the company. In 2015, they drew up a list of actions they wanted to see the company implement, including: *“Building a school in Djoungo; Building toilets at school; Assisting social projects; Supporting the Djoungo Route health centre”*.

Thus, in the absence of a fully effective rule of law and clear and accessible means of recourse, local residents are looking to the company in hope of seeing it solve the problems it creates, but also those that fall under the remit of public service, therefore the state. This raises questions not only about advocacy strategies, but also about the Cameroonian state’s interests in Cimencam’s activities.

A MULTINATIONAL LINKED TO THE STATE AND POLITICAL POWER

Neighbouring residents of Cimencam’s activities are confronted, as are the company’s employees, with another reality that prevents them from having their rights respected: the state is both judge and jury since Cimencam is owned by LafargeHolcim, but also by the State of Cameroon. Initially, it was indeed the Cameroonian state that created Cimencam in 1963. The company was then majority owned by a Cameroonian sovereign fund, the National Investment Company (SNI). The Lafarge group managed it without being a shareholder. In the context of the 1960s, this French management was hardly surprising: Cameroon became officially independent on 1st January 1960, but its economy remained tightly

controlled by France, the former colonial power, thanks to a series of secret agreements signed by the French authorities and the then president of Cameroon, Amadou Ahidjo. The creation of Cimencam was to enable Cameroon to produce and market cement on the Cameroon market but also in the Central Africa sub region.

The links between the State of Cameroon and Lafarge became closer in the mid-1980s: the French group bought up to 11%²⁶ of Cimencam's capital. Ten years later, in 1996, it acquired 20% of the Cameroonian government's shares from the SNI. Lafarge then became the majority shareholder of Cimencam, owning 55% of its capital. However, the chairman of the board of directors, remained Cameroonian, appointed by the head of state. In 2016, there was another change: LafargeHolcim Morocco Africa bought LafargeHolcim's shares and now holds 54.74% of Cimencam. LafargeHolcim Maroc Afrique is a joint venture formed by the LafargeHolcim group and the Moroccan National Investment Company (SNI), an investment vehicle owned by the Moroccan royal family. The Cameroonian state, through the SNI, retains 43.8% of the capital, the non-expatriate salaried staff still owns 2%.

The fact that Cimencam is partly owned by the State of Cameroon has allowed it to hold a monopoly over the cement sector, to the detriment of consumers: they have long criticized it for maintaining high prices for its cement. The situation eventually changed in the late 2000s when Cimencam was no longer able to meet domestic demand, preferring to sell its cement for export (to Chad and Equatorial Guinea), at a higher profit. There were then changes in the sector: while it had long been impossible for other companies to start

manufacturing cement, several foreign companies were able to begin building factories. Today, there are four companies competing with Cimencam, including the Nigerian company Dangote.

Cimencam is not only linked to the Cameroonian administration: the company also has links with the political power in place. The current chairman of the board of directors of Cimencam, Pierre Moukoko, is indeed, like his predecessors, a member of the presidential party and has been minister several times. When he was appointed by the head of state to run Cinecam in 2008, he was minister of foreign affairs. This set-up is not insignificant in the general political context. The context is characterized by a strong presidency, the Constitution conferring very important powers to the President of the Republic, by the exceptional longevity of the current president, Paul Biya, 84, who succeeded Amadou Ahidjo in 1982, and by the strong domination of the presidential party, the Democratic Rally of the Cameroon People (CPDM), over the whole of political life and a large part of the economic sphere.

The opposing powers are weak: while civil society has many organizations working to uphold and promote environmental justice, sustainable management of natural resources, and human rights, they are often not influential. The voice of the very divided political opposition is also not very present. To evolve in such a system, a company has every interest in maintaining close ties with the presidential party and / or representatives of the administration to obtain help or favours.

In such a context, it is clear that ordinary citizens are unlikely to be heard by public authorities whose interests are opposed to their own.

²⁶ See http://temis.documentation.developpement-durable.gouv.fr/documents/temis/5153/5153_2.pdf

A LACK OF COMMUNICATION AND INFORMATION

The workers and neighbouring residents of Cimencam have another obstacle in front of them: the company gives them little information. LafargeHolcim however advocates transparency and declares to follow the United Nations guidelines which stipulate in particular:

21. [...] to account for how it responds to negative effects on HR, the company must be prepared to communicate this information externally, particularly when concerns are raised by or on behalf of affected stakeholders.

(a) the form and frequency of the communication must reflect the company's impacts on HR and must be accessible to the intended audience.

(b) provide sufficient information to assess the suitability of a company's response to the specific human rights affected.

However, Cimencam does not follow these guidelines since it does not provide information enabling residents or workers to assess the scope of the risks involved in its activities and any measures taken to resolve them. No stakeholder can therefore have adequate oversight of the risks to prevent and correct them.

The process followed in 2015 for Cimencam's environmental and social audit of "facilities and activities" in Djoungo is a good illustration of Cimencam's practices. For this audit, a week of consultations with the populations was organised at the Djoungo-Rails chiefdom in the presence of the auditors, but also representatives from Cimencam and the ministries involved. All those who wanted to could share their observations and demands. However, the inhabitants of Djoungo-Route, nevertheless equally affected, were not invited. Only the village chief attended this consultation. He also took the floor to thank

"the head of Djoungo-Rails who kindly invited us to these meetings. Without him, we would never have been informed of such an important meeting about the life and survival of our people."

Subsequently, the inhabitants of Djoungo-Rails were unable to access the audit report. The village chief has only received a four-page summary from Cimencam. As for the chief of Djoungo-Route, he has never obtained anything, although Cimencam has promised several times to provide him with the report.

Aitec also had difficulty obtaining this document. LafargeHolcim initially hesitated to share it, explaining that it was "internal to the company". After a few months and several requests, Aitec was finally able to obtain it, but only after having met Cimencam officials in Douala, then the head of LafargeHolcim Maroc Afrique in Casablanca.

This lack, or even this retention, of information has several consequences: citizens are not informed of the risks they run and local authorities do not have the necessary information to request measures to protect their health if necessary. The relationship between the inhabitants and the company is suffering: local authorities, especially the traditional chiefs, that Aitec met deplored Cimencam's "lack of transparency", believing that its leaders "playing on the naivety and ignorance of people, and the country's dysfunctions".

THE CORPORATE CITIZEN PLOY

The local residents are suffering from Cimencam's activities because of a bad or no consideration of their situation by the company and a lack of control by the public authorities. Cimencam's discourse about its status as a "corporate citizen" is not brought to fruition. On the contrary, it has several perverse effects.

For example, Cimencam lets local residents believe that the structural investments needed by their localities must come from them. It is certainly understandable that people in difficult economic and social situations expect a nearby wealthy company to improve their living conditions and participate in local development. The company is perceived as a way to alleviate poverty, and even more so when it claims to participate in the economic and social “development” of communities.

But this is not the role of a private operator and even less its vocation: according to the International Protocol for Economic and Social Rights, which Cameroon ratified in 1983, it is the State that must ensure the rights of its population. Cimencam’s status as a “corporate citizen” is therefore not supported by any legal obligation. It is also interesting to note that officials of a Cameroonian ministry that Aitec met with consider that Cimencam is a “corporate citizen” not because it has development activities, but because it pays its taxes and regularly reports its turnover - which is not always the case for companies operating in the country.

By communicating about its supposed status as “corporate citizen” serving the public interest, Cimencam maintains the illusion that it must provide certain public services. For the company, it is in fact about giving a positive image: its few social actions are based solely on objectives of visibility and acceptability. Similar multinational companies that try to adopt the status of “corporate citizen / responsible” also do so using a

strategy of self-regulation, which tends to impose the idea that if one is ‘responsible’, one does not need to be supervised. The tendency of multinationals to self-regulate and the “soft law” (that is, non-binding regulations) that have emerged from these in recent decades have weakened people’s ability to assert their rights, since legislative provisions are still lacking.

We can see this with Cimencam. By allowing people to think that it plays a social role, it directs towards itself the demands of the citizens who should really be asking the State. The scope of the claims is thus weakened. In Djoungo, the inhabitants are still waiting for running water that Cimencam has promised them. Cimencam’s speech thus also creates frustrations and resentment towards the company.

Although Cimencam is not ‘responsible’ for residents’ access to the fundamental rights, it is responsible for respecting these rights²⁷, and therefore not causing a nuisance and threatening the health and safety of residents. Nevertheless, this responsibility, which falls within the framework of the UN Guiding Principles for Business and Human Rights, is not yet accompanied by binding obligations. It is therefore the responsibility of the Cameroonian State to enforce it. Ensuring the implementation of the prevention and remediation actions recommended by Cimencam’s environmental audit in Djoungo would be a first step. However, as we have seen, the general context of the functioning of the state makes it difficult to achieve such a process.

The Cameroonian context and the way in which Cimencam has chosen to be part of it does not allow residents, and direct and indirect employees of Cimencam to have their rights respected. It is therefore essential that other means be made available to allow them to seek justice.

²⁷ UN Guiding Principles for Business and Human Rights.
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_FR.pdf

ANALYSIS AND RECOMMENDATIONS

The case of Cimencam and LafargeHolcim shows the need for a strong international legislative framework to oblige multinationals to respect the rights of their employees and neighbouring residents. If difficulties exist, there are also initiatives underway to improve or support, such as the law on due care adopted by France and a “binding treaty for transnational corporations and other companies in respect to human rights” in development under the auspices of the United Nations.

LACK OF MEANS TO DOCUMENT AND FILE COMPLAINTS

The problems faced by neighbouring residents and Cimencam employees are the result of several factors, as shown by our investigation. Particular practices and failures of LafargeHolcim and its subsidiary Cimencam; dysfunctions of the Cameroonian legislative framework and its application; a dysfunction in the way of thinking and framing the responsibility of the company from the country of origin when it takes the form of a transnational group.

Given this situation, there is obviously the issue of how to enforce and improve the normative and legal frameworks in order to limit and put an end to this type of failure and dysfunction.

The first difficulty to achieving this is that of qualifying the negative impacts of the companies concerned on neighbouring residents and employees. This operation requires organised

and in-depth collection of many elements and therefore significant means, which are seldom within the reach of the people directly affected and associations or non-governmental organizations.

However, the lack of information and evidence, in the legal sense of the word, does not make it possible to say that the company is responsible for large-scale human rights violations. If, in the case of the employees of Cimencam and its subcontractors, it is easy to find violations of the labour law, as defined in the International Labour Organization (ILO) convention, it is more difficult, due to the lack of scientific data, to affirm that there are human rights violations related to the health of residents.

The possibilities of litigation open to neighbouring residents, employees or associations representing the affected populations are therefore limited. Even today, the burden of proof (producing irrefutable evidence) rests with the victims, not the companies.

MULTINATIONALS: GROUPS TO CONTROL

The second difficulty is the continuous transformation of transnational groups, whose structure and management constantly change with mergers and acquisitions. It often prevents the responsibilities being defined, and when they can be established, they are quickly short-lived as organisational changes are so frequent. Cimencam, as we saw above, was a subsidiary of the French multinational Lafarge from 1996 to 2015, before being put into the hands of the new Swiss cement giant LafargeHolcim, then LafargeHolcim Africa Morocco.

In order to understand the structure of capital and management of Cimencam, we must decipher LafargeHolcim Africa Morocco's structure (see p.38).

We can see that the structure of the influence network remains anchored in the former Lafarge network, even though it was bought by Holcim, and that Morocco's SNI increasingly wants to gain control over LafargeHolcim Africa Morocco. Thus, the various buyouts have diluted the responsibility of the French parent company Lafarge, historically responsible for the failures of the subsidiary Cimencam, and thus removed any possibility to take steps in strictly French terms. The time and resources required to document a case and file a complaint is an obstacle for victims, which states must work to resolve. This economic and legal reality requires them to become involved in international cooperation aimed at fighting the impunity of multinationals (information sharing, legal cooperation, etc.).

THE FRENCH LAW ON 'DUTY OF CARE'

In France, a law on the duty of care of parent companies vis-à-vis their subsidiaries and subcontractors was adopted in March 2017. However, it cannot be applied to LafargeHolcim, since the company is now under Swiss law, despite the fact that the failings and negligence of Cimencam go back to a continuous period of more than 10 years, when it was still a subsidiary of a French multinational.

However, this law on the duty of care of parent companies and contracting companies²⁸, marks a new phase in the normative framework governing companies. Indeed, it seeks to prevent serious human rights and environmental violations caused by very large companies through their activities and those of their subsidiaries, subcontractors and suppliers, and it imposes a duty of care on them, their subsidiaries and subcontractors. It requires major groups²⁹ to draft and implement a 'vigilance plan'³⁰ to prevent their operations from violating fundamental rights and harming the environment.

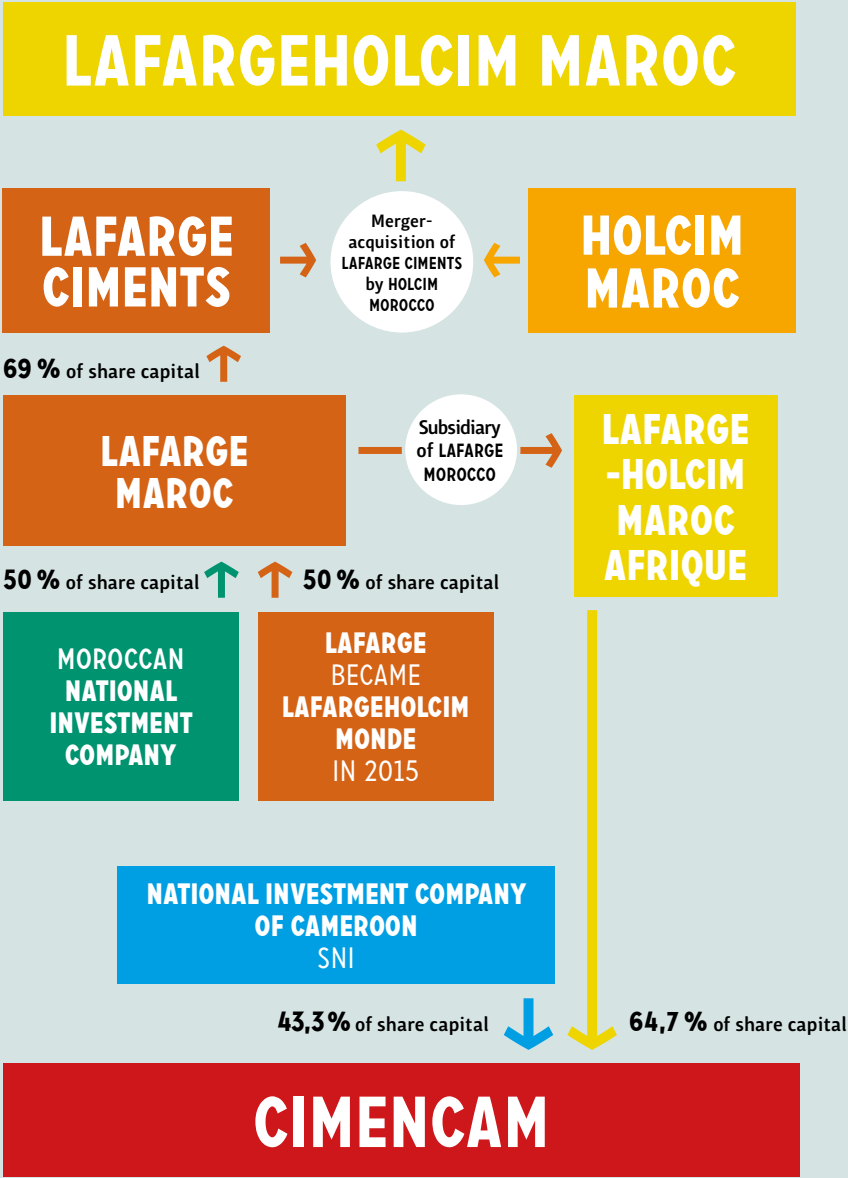
At present, in a context of declining public debate and public policies veering towards nationalism or ultra-liberalism, this law represents both an undeniable step forward and a challenge. It is paramount to use its provisions to really enforce it, to inform the associations of international solidarity, NGOs, unions and other citizen advocacy groups of the possibilities that this law offers in term of access to justice and the respect of human rights, and to apply pressure to the companies concerned so that they really change their practices. →

²⁸ Published in the official journal on 28th March 2017, see <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000034290626&dateTexte=&categorieLien=id>

²⁹ French parent companies and French subsidiaries of foreign groups that employ, at the end of two consecutive financial years, at least 5,000 employees internally and in their French subsidiaries or at least 10,000 employees internally and in French and foreign subsidiaries.

³⁰ This vigilance plan should include various elements: • Risk mapping • Evaluation procedures for subsidiaries, subcontractors and suppliers with whom commercial relationships are maintained • Appropriate actions to mitigate risks or prevent serious harm • An alert and reporting mechanism • A mechanism for monitoring the measures implemented and evaluating their effectiveness.

LINKS BETWEEN LAFARGEHOLCIM IN MOROCCO AND CIMENCAM



→ In the case of LafargeHolcim, this law could have forced the parent company to adopt efficient procedures allowing it to have sufficient knowledge of the risks at play in its Cameroonian subsidiary, and to put in place appropriate actions to mitigate them.

In Switzerland, where the multinational is domiciled, the government is currently working on a proposal for a law, “the initiative for responsible multinationals”³¹, which was devised by a coalition of Swiss civil society organisations. This law aims to force companies to implement duty of care for human rights and the environment. However, the outcome of this process, which is still underway, remains uncertain.

If the French legislative framework evolves, and some countries move in the same direction, it remains focused on the concept of duty of care, without going beyond. From the moment, the company establishes processes of care (defined according to criteria developed by the company itself), it cannot be held responsible for violations of human rights or environmental disasters committed by its subsidiaries or subcontractors.

For example, if the neighbouring residents of a mining or industrial site decide to lodge a complaint after having contracted chronic diseases related to pollution or a major environmental disaster caused by a multinational, the company could not be convicted if it can prove that it had developed an adequate “vigilance plan”. Whilst prevention is fundamental and major developments in the law on duty of care in France is not to be questioned, we must think further about access to justice and reparations for victims.

THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Whether in the case of Cimencam or more broadly, it is necessary to insist on the responsibility of the States themselves in the face of the failings of their economic players abroad. The **International Covenant on Economic, Social and Cultural Rights**³² (ICESCR) places the requirement for respect, protection and promotion of economic, social and cultural rights (ESCR) on states. It outlines that states must take measures to regulate the activity of national economic players abroad. The signatory states (including France) have extraterritorial obligations:

“Each of the States Parties to the present Covenant undertakes to act, both through its own efforts and through international assistance and cooperation, including economic and technical assistance, to the maximum of its available resources with a view to progressively ensuring the full enjoyment of the rights recognized by this covenant by all appropriate means, including, in particular, the adoption of legislative measures.”

States must not only respect, protect and promote ESCR in their territories, but also in the territories of other States in which they are present through private and public actors involved in economic, commercial and financial matters³³. These three levels of extraterritorial obligations (respect, protect and promote) require the states “to check that all actors under their jurisdiction - including companies - respect ESCR when they operate in other countries” (obligation to protect)” (Article 2 of the ICESCR). For example, the protection of the rights contained in the ICESCR is an obligation that requires action from the state. →

³¹ See <http://konzern-initiative.ch/?lang=en>

³² The International Covenant on Economic, Social and Cultural Rights entered into force in 1976. <http://www.ohchr.org/FR/ProfessionalInterest/Pages/CESCR.aspx>

³³ See the contradictory report from French Civil Society https://www.crid.asso.fr/IMG/pdf/rc_-_complet_vf.pdf

→ It must prevent a third party from infringing the rights. If we examine the right to health of the inhabitants of Djoungo, the French State had a responsibility to prevent its companies polluting their environment.

The numerous cases of human and environmental disasters that have marked the past decade illustrate the way in which France has neglected its extraterritorial responsibilities, and Cameroon is one example.

There is an obligation in the ICESCR to “act to the maximum of its resources”. This means that the State must strive to ensure the enjoyment of rights as much as it can, and must transpose the provisions of the covenant into the domestic legal order or participate in international co-operation. While it is very difficult today to prosecute and convict the State involved³⁴ in cases of ESCR violations, it is because the “justiciability³⁵ of ESCR still depends to a large extent on judicial creativity”³⁶. However, to date, legal experts have not yet shown a great desire for progress.

Nevertheless, the ratification by France in 2015 of the Optional Protocol (hereinafter OP-ICESCR) allowing referral to the ESCR Committee could change the case law in favour of ESCR.

The Optional Protocol “establishes international complaints procedures for persons whose economic, social and cultural rights (as defined in the Covenant) have been violated and who have not obtained justice in their own country. [...] The complaint may concern all obligations and rights enshrined in the Covenant. Both the rights directly outlined in the Covenant and those deriving from the committee’s general observations and the national and extra-territorial obligations of States”³⁷.

However, complaints must be lodged by private individuals or groups of private individuals within the jurisdiction of an OP-ESCR State Party, and within a period not exceeding 12 months following the proven damages. These conditions therefore limit the possibilities of appeal and access to justice, not to mention the outcome of the complaint itself.

Therefore, despite the existence of various legal instruments, both national (French due care law) and international (ICESCR), we find that, very often, the affected populations are deprived of effective means to obtain protection, reparation and justice. At issue is not only the strategies of avoidance and dilution of the responsibilities of multinationals, but also the lack of political will of states who do not bring into question this state of affairs, and who often hinder, under the influence of the world of business, any significant change in the law. On the other hand, means and resources are widely deployed when it comes to investing in negotiations for trade and investment treaties that strengthen the rights of investors like CETA, the EU-Canada agreement including when these agreements pose significant risks to economic and social rights, the environment and our democracies³⁸.

This regulatory asymmetry is disproportionate. On the one hand, a non-binding and extremely patchy right for the protection of human rights and on the other, a plethora of trade agreements, and binding and very effective investments for the protection and promotion of trade and investment, including arbitration mechanisms to serve multinationals. This calls for a radical change in the hierarchy of law and public policy priorities in France, and internationally.

³⁴ See the report from Terre des Hommes France on the reasons for the ICESCR not being applied today: <https://terredeshommes.fr/app/uploads/2016/12/ACTES-formation-au-PIDESC-VF.pdf>

³⁵ Justiciability of a right: when a right is recognised and enforced

³⁶ See the Proceedings of the Training on «Implementing the International Covenant on Economic, Social and Cultural Rights» organised on 8th January 2016 by Alliance of Lawyers for Human Rights and Terre des Hommes France <https://terredeshommes.fr/app/uploads/2016/12/ACTES-formation-au-PIDESC-VF.pdf>

³⁷ *id.*

³⁸ <http://aitec.reseau-ipam.org/spip.php?article1631>

National jurisdictions and the implementation of national law are fundamental. This is what emerges from this report, which shows, on the one hand, that Cameroonian laws, through lack of enforcement, do not make it possible to ensure that the rights of workers or the health of local populations are respected, and that up until the present day, the law does not yet ensure that subsidiaries or subcontractors of French multinationals respect these fundamental rights. However, international legal frameworks, if developed and implemented in a relevant and effective manner, are an indispensable tool for engaging states in advancing the law.

A BINDING UN TREATY ON HUMAN RIGHTS FOR MULTINATIONALS

There is the possibility of advancing this issue through the United Nations. In 2014, the UN Human Rights Council adopted a resolution establishing an Intergovernmental Working Group (IGWG), mandated to develop a binding treaty for transnational corporations and other businesses in the area of human rights³⁹.

The treaty would impose international obligations on states and companies to guarantee access to justice for affected communities, groups and individuals whose rights have been violated by multinational corporations. To be effective, this treaty, the form and content of which are still in the process of being developed⁴⁰, will need to build on existing frameworks to strengthen them and provide them with sanctions and enforcement tools. It could also provide new mechanisms or broaden the powers of certain legal bodies that currently do not address

the effects of neoliberal globalisation on human rights and the environment. This treaty would thus reaffirm in international law the primacy of human rights and the environment over the rights of investors.

The French law on the duty of care of parent companies vis-à-vis their subsidiaries and subcontractors sets milestones in the responsibility of transnational corporations vis-à-vis the practices of their subsidiaries or subcontractors. It seems to be inspiring states wishing to make progress on the issue, and has already influenced the discussions on the binding treaty. However, this law fails in many respects, such as the burden of proof that remains with the victims, or the limited action that can be brought, since it is only concerned with prevention measures taken, or not, by the multinational, and not with damages. It is therefore imperative that discussions within the United Nations address these gaps, and seek to develop a more ambitious instrument.

In order for this treaty to truly fulfil its role and ensure the protection of affected communities as well as the reparation of damages, there must be certain elements in it:

→ **The human rights affected by this treaty are in line with those defined by the international conventions on the human rights and the environment:**

Charter of the United Nations, Universal Declaration of the Humans Rights, ICESCR, ICCPR, Convention on the elimination of all forms of racial discrimination etc.;

→ **The scope of the treaty should focus on multinational enterprises**, namely parent companies and contracting companies.

→ **States parties must establish the civil and criminal liability of multinationals and their** →

³⁹ See the Aitec article « Vers un traité contraignant de l'ONU pour les multinationales et les droits humains » 3rd October 2017: <http://aitec.reseau-ipam.org/spip.php?article1637>

⁴⁰ On 29th September L'Équateur released the first negotiating arguments for a legally binding instrument on human rights for transnational corporations and other businesses http://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session3/LegallyBindingInstrumentTNCs_OBEs_FR.pdf



A REPRESENTATIVE OF THE GLOBAL CAMPAIGN TO DISMANTLE CORPORATE POWER AND STOP IMPUNITY
IN FRONT OF THE UNITED NATIONS HEADQUARTERS IN GENEVA.

→ directors, whether the company is directly or indirectly (through its subsidiaries or subcontractors) responsible for human rights violations;

→ **State parties must establish the duty of care for multinational companies** as a precautionary measure, without this concept exhausting the determination of liability, which must be based on the actual impact of the of a multinational's activity on communities and requires the treaty to go further than simply duty of care;

→ **State parties (origin or hosts) must ensure access to justice and effective remedy for victims. This requires ensuring the accessibility of their courts to victims and victims' representatives**, without recourse to '*forum non conveniens*'⁴¹, whether victims or their representatives fall within their jurisdiction or not. States must also strive to implement **ambitious international cooperation**, which would include assistance with investigation and evidence gathering, transfer of proceedings, recognition and enforcement of court rulings, etc. On the other hand, access to company information for victims is fundamental, whether before or after reaching the stage of litigation.

→ **This treaty must ensure the protection of human rights defenders** involved in defending communities that are victim of the activity of multinationals. This requires physical protection, but also a protection against the lawsuits⁴² filed by the multinationals. Today, too many human rights defenders are victims of violence, threats or assassination;

→ **State parties must recognize the primacy of human rights over trade and investment rules.** The effectiveness of the treaty will depend on its status in relation to other rules of international law, in particular the rules

of trade and investment. In order for human rights to be considered as a priority, this treaty will have to explicitly outline all the situations (protection of the environment, public health, public safety, etc.) where the rules of trade and investment must be suspended for the defence of human rights. In particular, states cannot accept the inclusion of arbitration clauses in free trade and investment agreements. It is unthinkable that in 2017, the EU, which claims to want to include human rights and environment protections in its free trade agreements, calls into question the need to clearly and effectively this primacy in an international treaty;

→ **The Treaty must provide for the implementation of effective implementation mechanisms:** a set of sanctions and a dispute settlement system, which favours national courts;

→ **States must ensure that all legislative processes related to this treaty, its implementation and the regulatory policies of companies are free from undue influence from lobbies** acting on behalf of multinationals. This involves the implementation of national legislation preventing undue influence, 'revolving doors', and ensuring transparency. It also means that the industrial and financial lobbies that influence trade negotiations cannot actively participate in the development of the Treaty;

→ **States Parties should adapt their legislation to the provisions of this treaty.**

⁴¹ Doctrine of the law stating that the court must refuse to hear a case if another court would be a more convenient forum for the parties and evidence.

⁴² A technique used by multinationals to censor, intimidate, and silence critics by gagging them due to the cost of legal defence, until they abandon their criticism or opposition.

CONCLUSION

While the control of Cimencam's activities and its environmental and social impacts must first be ensured at the national level in Cameroon, the binding UN Treaty process makes it possible to think more broadly of the responsibilities of major groups. The LafargeHolcim group must be held responsible for the dysfunctions and risks inherent to the activity of its subsidiaries: it must be required to prevent, recognise and repair the nuisances suffered by neighbouring populations. Recognising the responsibility of transnational groups, beyond the specific case of LafargeHolcim, requires host and home states to encourage the development of an ambitious international law.

During the first negotiating session of the working group elaborating this UN Treaty, which took place in Geneva from 23 to 27 October 2017, the debates were marked by attempts to obstruct several countries, particularly by the European Union. Despite this, some chapters of the Treaty were discussed in depth, such as the chapter on measures to prevent human rights violations. The chapter on access to justice has generally been recognized as fundamental by most states, including the European Union. This process, whilst it will take time, is essential to closing the loopholes in national and international law.

France, as a pioneer in this field, has a duty to lead Member States of the European Union towards the path of an ambitious UN Treaty. While the French government showed a little more goodwill than its European partners during the October 2017 session, citizens and civil society expect it to continue to play a leading role.





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Founded by urbanists, economists, corporate executives, jurists..., Aitec is an international solidarity association committed in the fight for economic, social and ecological justice. Through research, advocacy and support provided to the social movements' campaigns and mobilisations Aitec participates in building an expertise that is rooted in resistance and critical action. Aitec strives to propose alternative perspectives and policies.

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