

HUMAN RIGHTS IMPACT ASSESSMENT OF THE PROPOSED TANGGUH LNG PROJECT

**BP RESPONSE
FEBRUARY 2003**

Introduction

The purpose of this document is to respond to the comments and recommendations made to BP in the Human Rights Impact Assessment (HRIA) for the Tangguh Liquefied Natural Gas (LNG) Project, which was commissioned by BP and completed in April 2002. We welcome the HRIA as a rigorous piece of independent research and a valuable contribution to the objective of managing the Tangguh Project in a manner that meets or exceeds international best practice standards for hydrocarbon extraction in politically, socially and environmentally complex settings.

The HRIA was commissioned for the sole purpose of consulting credible third-party international expertise for use in assisting the project and its stakeholders to meet high standards and manage impacts appropriately. BP emphasizes that the views, opinions and conclusions expressed in the HRIA are solely those of the authors, and should not be regarded as those of the Project.

While this Report is called an “impact assessment”, it is not intended to follow international guidelines for other formal impact assessments such as Environment Impact Assessments.

The Tangguh LNG Project is a planned natural gas development project located in the Berau-Bintuni Bay region of Papua Province, Indonesia. The Project intends to produce liquefied natural gas (LNG) for marine export. Construction is due to commence in 2003. Project planning thoroughly integrates social, environmental and economic considerations in order to prevent or mitigate the Project’s negative impacts, while enhancing its benefits.

The HRIA underscores the critical importance of impact management, while challenging assumptions and providing an additional helpful perspective. The HRIA also provides independent assurance and confirmation that in many areas, BP’s socio-economic management plans are indeed appropriate.

This response, which accompanies the public disclosure of the HRIA summary and recommendations and is intended to be read alongside it, describes Tangguh’s planned and existing impact management measures. It also addresses certain HRIA recommendations that we feel cannot or should not be implemented, for example because they are beyond the appropriate scope for a foreign commercial entity operating in a sovereign nation.

Human Rights, BP, and the Tangguh Project

BP supports the belief that human rights are universal, and that the promotion and protection of all human rights is a legitimate concern of business. In addition to supporting the UN Universal Declaration of Human Rights, BP helped pioneer the U.S.-U.K. Voluntary Principles on Security and Human Rights, and has incorporated them in its Code of Conduct for Security Providers in Indonesia.

Since acquiring a significant interest in the Tangguh LNG Project with the purchase of Atlantic Richfield (ARCO) in 2000, BP has actively consulted Project-area communities, Project

stakeholders (including NGOs and members of civil society in Papua), and international experts in order to anticipate, manage and mitigate potential negative socio-economic and environmental impacts of the Project. As testimony to their importance, these impact management efforts rank highly among the key criteria that will be used by BP's senior leadership to approve the project's formal commencement, or 'sanction'.

Many of these programs are contained in the integrated Environmental and Social Impact Assessment (AMDAL) of the Tangguh Project, which is a legally binding document once approved by the Indonesian Government (the State Minister of the Environment formally approved the AMDAL on October 25th 2002). These include a Workforce Management Program (WMP); a Recognition Program for Directly Affected Villages (RPDAV); a Program for Other Stakeholders' Interests (POSI); a Procedure for Conflict Resolution (PCR); an Indigenous People's Development Plan (IPDP); a Land Acquisition and Resettlement Action Plan (LARAP); and a Public Consultation and Disclosure Plan (PCDP). All of these programs are governed by the Tangguh Project's Social Responsibility Policy, which covers a variety of issues relating to the Project's ethical performance. Concerning human rights, the Social Responsibility Policy states:

This project supports the principles enshrined in the UN Universal Declaration of Human Rights, as well as the US State Department's Voluntary Principles on Security and Human Rights. All employees and contractors will be informed about human rights policies, and the importance of treating each other, particularly the local communities, with dignity and respect. The company will take severe disciplinary action against any employee or contractor for any human rights violations, and shall report any violation of human rights to the proper authorities immediately. The project will work actively to promote human rights throughout the operation and support areas and will consult widely with local, national, and international organizations on how this can be most effectively achieved.¹

The Human Rights Impact Assessment

In keeping with its determination to manage the environmental, social and community development aspects of the Tangguh Project to high standards, in early 2001 BP asked two eminent human rights experts to undertake an assessment of human rights conditions in the Tangguh Project area and the potential effects of the Project's presence.

It has become standard practice for BP business units operating in politically and socially challenging areas to include more extensive social aspects into Environmental Impact Assessments, or in some cases, to conduct Social Impact Assessments. However, the Tangguh Project is the first to conduct a study focused solely on human rights.

Gare Smith and Bennett Freeman conducted the HRIA. Both are former Deputy Assistant Secretaries in the U.S. State Department's Bureau of Democracy, Human Rights, and Labor and have extensive additional relevant experience in the private and nonprofit sectors; as such, they are widely recognized for their experience and judgment with regard to human rights issues.² The HRIA itself describes the research methodology and scope of work.³ It should be emphasized that during their visit to Indonesia, BP staff traveled with the authors and helped arrange many of their meetings, but in most interviews were not present, often simply introducing the authors and themselves to interviewees before leaving. This was in order to preserve the integrity and candor of the authors' research and the interview process. We also recognize the possibility that the very

¹ Social Responsibility Policy, Attachment A of the RPDAV.

² Short biographies of each are offered in the Human Rights Assessment.

³ See Introduction to the Human Rights Impact Assessment, pp. i-ii.

association with BP might conceivably have inhibited a full discussion, but our hope and belief is that this was not the case.

BP's Response to the HRIA Recommendations⁴

I. Fundamental Human Rights

A. Indigenous Rights

(1) Consultation and Consent to Development

Transparent, open and continuous interactions with potentially affected peoples.

BP considers transparent, open and continuous interaction and consultation with all stakeholders to be absolutely vital to the Project's success, and is actively encouraging it. Indeed, the Tangguh LNG Project was the first project in Indonesia to follow new, more rigorous regulations on community consultation in its environmental and social impact assessment (AMDAL) process.⁵ An initial series of AMDAL Terms of Reference public consultations were attended in 2000 by over 1600 participants representing 52 villages and towns; further AMDAL consultations have taken place, and ongoing consultations with Project-area communities has been institutionalized through a dedicated Community Affairs Field Team (CAFT).

A detailed policy framework has been developed governing stakeholder consultation and engagement. Firstly, a dedicated Public Consultation and Disclosure Plan (PCDP) forms the overall communications plan for the Project.⁶ The specific paragraph regarding engagement states:

“The Tangguh Project must listen to partners, stakeholders and community members. Specific goals are to support sustained consultation, participation, and empowerment with local communities, especially with regard to the management of expectations and pro-active dispute resolution; elicit stakeholder concerns and use input and criticisms for mutually beneficial resolutions; accommodate (and derive constructive input from) public queries regarding Tangguh's social and environmental impact management.”⁷

Regarding openness, the PCDP states:

“The Tangguh Project will be articulate and forthcoming about its activities. Specific goals are to equip stakeholders with timely, accurate, and easy-to-use information; make Tangguh a well-regarded member of the community, with relations characterized by an equitable balance of knowledge on each side; fulfill or surpass international standards in disclosure and transparency; support democratic processes through ethical, non-partisan relationships.”⁸

In addition to the PCDP, the Tangguh Project's Social Responsibility Policy commits to:

“build[ing] partnerships with our stakeholders, particularly local people, government organizations, informal and traditional leaders, non-governmental organizations (NGOs), community-based organizations, including churches and other religious organizations, other businesses, our employees, contractors and universities. We will strive to build trust and respect and to create alignment, shared goals, and aspirations. We will invest time and

⁴ Summaries of the Recommendations are offered on pages 57-59 of the Human Rights Impact Assessment.

⁵ IPDP, paras. 8.1 and 10.8.

⁶ See RKL Appendix H.

⁷ PCDP, para. 6.0.

⁸ PCDP, para. 6.0.

resources to engage in continuous relationship-building, consultation and communication regarding social issues, and also to agree mechanisms for resolving disputes and misunderstandings.”⁹

It is important to note that whilst it clearly makes good business sense to consult widely and engage in thorough dialogue with Project stakeholders, both the PCDP and Social Responsibility Policy were included in the AMDAL documentation. Now that the AMDAL has been approved, the Project is legally obliged to comply with these statements.

We recognize that the scale and importance of Tangguh to a wide variety of different stakeholders, whose interests and demands occasionally compete, means it is inevitable that misunderstandings and disagreements will arise from time to time throughout Project life. Consultation has therefore taken place since the earliest stages of the Project and has broadened since, to become more comprehensive and to engage a larger number of stakeholders on greater variety of issues of mutual concern and interest. Some consultations have been initiated by stakeholders, others by the Project.

Direct consultation activities will, out of necessity, be concentrated on stakeholders with the most direct link to the Project, such as the communities in Berau-Bintuni Bay and government agencies within Papua. This function is largely performed by the CAFT team, which is well-resourced and professionally trained to conduct two-way information flows with project-area communities. The team consists almost entirely of Papuan personnel, with substantial representation of bay area communities, including directly affected villages.

Consultation and consent have, and continue to be, central features of the resettlement. The consultation process relating to this is described in later sections of this response and is also described in the Tangguh Project’s Land Acquisition and Resettlement Action Plan (LARAP).¹⁰

Consultation is also central to the Tangguh Project’s community development programs. To provide a name for planning techniques, the Project deliberated with Papuan NGO stakeholders and decided upon *Perencanaan Bersama Masyarakat* (PBM, or Participatory Community Planning). As the term suggests, PBM techniques are highly interactive: They enable community members to evaluate their livelihoods, identify and prioritize their development goals, then produce a detailed Community Action Plan (CAP) to attain those goals. The Project contributes third-party expertise and resources. Successful participatory development yields community ownership of programs, a strong sense of empowerment, long-term sustainability and replicability.

As of this writing, one of the Directly Affected Villages (*desa* Taroy) has completed its CAP and begun implementation; the community is working with the Project, NGO representatives and students to refurbish its 200-meter walkway over mudflats. The PBM process is ongoing or imminent in the other villages. Additional detail about participatory planning techniques and CAPs is provided in the RPDV and the IPDP.

We have also taken measures to ensure that information about the Project is shared with national and international audiences, for example through regional workshops on the Project’s Diversified Growth Strategy; BP workshops in New York City and London; interactions with business, academia and the media; and ‘study tours’. These activities and others are detailed in the PCDP.¹¹

⁹This Policy can be read in full in the PCDP, para. 7.1.

¹⁰RKL Appendix G.

¹¹Paras. 8.2 to 9.2, and in Attachments B and C in particular.

Effective documentation and communication of consultations to stakeholders.

The Project's Social Responsibility Policy states that we "will be transparent and provide information on social impacts and performance as we develop our community support efforts."¹² To this end, BP Indonesia has an external affairs team based in Jakarta, with representatives in Papua, that communicate issues to local, regional and national and international stakeholders, and the CAFT team, mentioned above, are active in sharing Project-related information amongst the DAVs.

In addition, the Project has several publications and electronic media outlets available or planned for publicly disclosing information to audiences from the community to international levels. These include the Tangguh Location Report on bp.com¹³; *Tabura*, the Project's official quarterly bilingual newsletter, (two issues of which have been released to date); press releases; and regular appearances by Tangguh staff on Papuan radio talk shows. More information relating to these can be found in the PCDP.¹⁴

Furthermore, regular reporting is part of Indonesia's AMDAL requirements. Reports on social and community development and consultation activities will form a part of this regular reporting program. The Project is required to report to the Government on a biannual basis. In accordance with the AMDAL, eight central and regional Government institutions have been designated to receive these reports.¹⁵

In addition, a Community Consultation Report will be completed each time a major consultation takes place and a biannual Public Consultation and Disclosure Report will be produced.¹⁶

Establishing community ombudsmen, institutionalizing the consultation process and accommodating emergency meetings.

As mentioned above, a professionally trained Community Affairs Field Team will regularly liaise with Project-area communities and support community development. It is expected that this team will visit each DAV at least every two weeks during the Construction Phase of the Project, and at least every month during the Operations Phase.

The Project is also committed to facilitating the establishment of a Forum for development dialogue prior to the construction stage of the Project. Such a Forum would be the primary vehicle for consulting on development issues and conveying Project information in an open and transparent manner. BP will be an active, but not a controlling member. The Forum will formalize some of the discussions with Project stakeholders and facilitate dialogue between stakeholders that have complementary, yet sometimes diverse views on development in the region.

The Forum will be open to all legitimate Project stakeholders, and it is envisaged that additional membership will consist of representatives from NGOs (environment, health, community development, cultural and human rights), the Government (administrative areas and province representatives of the relevant national agencies), religious organizations, and the security apparatus. The composition of the Forum will be flexible depending on needs. Democratic

¹² PCDP, section 7.1.

¹³ http://www.bp.com/location_rep/indonesia/index.asp

¹⁴ Para. 10.3

¹⁵ See PCDP, para. 10.4 for more details.

¹⁶ For more information, please consult the PCDP, section 14.2.

decision-making, opportunities for widespread participation and transparency will underpin the workings of the Forum.¹⁷

The project has already accommodated communities' requests for emergency meetings, such as a workshop conducted with the Saengga community at their request in May 2002, in which various issues were clarified and a number of agreements between the community and the project were reached.

(2) Land Rights

Pertamina/BP should pay a 'fair' easement price based upon the value of comparable land owned by subsistence cultures elsewhere in Papua.

Through agreements with local communities and clans in 1999, the Project acquired 3,266 ha of land for the LNG plant and facilities, as well as an additional 200 ha to accommodate the agreed Resettlement Program. After consultation, it was agreed that compensation was to be provided in both cash and non-cash forms. The Project made cash payments to the three clans that relinquished traditional land rights (*hak ulayat adat*): the Simuna, Wayuri, and Soway clans of the Simuri Tribe. This was accompanied by a number of non-cash benefits, including commitments for physical asset replacement and participatory community development to improve incomes and living standards.

In the three years that have passed since the execution of the 1999 agreements, there have been significant developments in the nature of the Project, and in the socio-political environment in Papua. As a responsible partner of the communities in Berau-Bintuni Bay and as an indication of respect for *adat* cultures, the Project decided to set up a long-term trust fund, endowed by the Project for the benefit of the three clans, with the expectation that these clans would share fund benefits with other Simuri clans in a socially responsible way to avoid jealousy and conflict. This was discussed and accepted by the clans. The Project established an Indonesian charitable foundation (*yayasan*) and has committed to a total principal amount of US\$750,000, plus technical support to promote the use of fund benefits towards sustainable community-driven development. A consultation phase is now underway whereby additional details are being negotiated with the beneficiary clans. The fund is an additional gesture of recognition for *adat* heritage and the contributions made toward the Project by the clans.

To promote respect for adat land rights, BP could help local and provincial governments to develop guidelines to demarcate the boundaries of traditional lands, land titling and registration procedures, standards by which to assess the value of real estate, and an enforceable legal system by which to protect private property.

As described above, BP supports a number of initiatives to promote respect for *adat* land rights. We will consider possibilities to help build governmental capacity in the areas mentioned in this recommendation, including support for the mapping of *hak ulayat* boundaries in the Berau-Bintuni Bay area. It should be noted that such a mapping exercise is only likely to gain broad acceptance if it is led by a local organization with legitimate authority. As for "the development...of an enforceable legal system", the Project regards this as a laudable goal of paramount importance, but notes that in practice a foreign business entity would have limited appropriate scope.

(3) Natural Resources

¹⁷ For more information, please consult the IPDP, para. 10.8; POSI, para. 7.0; or the PCDP, para. 10.2.

Encourage the central government to guarantee the revenue benefits outlined for Papua under the Special Autonomy Law.

It is important to note prior to a discussion of the financial benefits of the Tangguh Project that significant revenues from the Project will not flow to the central and provincial government until many years after Project start-up. There are three reasons for this: firstly, the market will not likely immediately require the entire capacity of the two-train LNG plant, and so total LNG sales revenues will be lower for the first few years; secondly, Government shares of production-sharing revenue streams will be reduced during this period from significant cost recovery obligations to the production-sharing contractors; and thirdly, there will be significant debt repayments in the first 10 years associated with the financing of project construction.

Future revenue flow is therefore difficult to predict with certainty, however, according to our interpretation of the Special Autonomy Law, Papua will receive 70% of post-tax total Indonesian Government revenues from the Project. Income to the Province is therefore expected to increase significantly after 2012, potentially reaching around US \$100 million per annum by 2016 (assuming a two-train LNG project), and remaining at that level for many years.¹⁸

Consideration is also being given to the possibility of ‘smoothing’ the revenue stream to minimise the inevitable dislocations of sudden dramatic increases in income. The Project has entered into preliminary discussions with the government of Indonesia, authorities in Papua and donor agencies on the forecast revenue flows from the Tangguh project showing the delay in these flows. We agree that an externally financed line of credit to Papua could bring many benefits. However, this is, of course, a matter between Papua and the Government of Indonesia to resolve.

How these revenues will ultimately be used to benefit the people of Papua is of critical importance for the Province, its communities and wider civil society. We believe that the application of Special Autonomy is the best mechanism of ensuring that financial benefits flow to the communities and will look to support the local government to take full advantage of the development opportunities the revenue will bring and to prevent unwanted negative impacts. For example, part of the Tangguh Project’s Diversified Growth Strategy is an on-going program of technical assistance to support government capacity. This is focused on spatial planning and change management to support the development of existing regional growth centers in and around Berau-Bintuni Bay. This is in recognition of the major changes that the region will face as the Project unfolds over the coming decades.¹⁹

Finally, it is also worth noting the other positive economic impacts that the Tangguh Project will bring to Papua, in addition to revenue flows. For example, it is expected that the Province will benefit significantly from the payment of wages and taxes; through the Project’s employment and training commitments;²⁰ and through its commitments to the sourcing of goods and services from local businesses.²¹

Promote the establishment of mechanisms to ensure transparency with respect to the flow of gas revenues.

¹⁸ These figures need to be verified by the Indonesian Government’s Ministry of Oil and Gas and Ministry of Finance.

¹⁹ Greater detail is provided on this in the POSI, sections 6.0, 6.1 and 6.2.

²⁰ For more information, see the WMP, various sections.

²¹ For more information, see the POSI, Section 8.0.

BP is already engaged in partnerships with bilateral and multilateral donors to promote good governance, for example by supporting workshops and seminars for Papuan government officials. (See later section in this document on “Supporting Papuan Civil Society and Governance.”)

We support maximum transparency in providing details about the levels of production and the flow of revenues from the Project. We shall do our utmost to assist that process within the constraints of Indonesian law, and our obligations as a contractor to BPMIGAS.

If ARCO activities precipitated the burning of Otoweri/Weriagar sago trees, BP should pay restitution; if not, BP might consider donating seedlings as a gesture of concern.

The sago forest fires in the Otoweri area occurred during the El Niño-induced drought of 1997, when brush and forest fires were rampant throughout Indonesia, especially Papua. There is little evidence that the Project was responsible for the fires. Nonetheless, as a gesture of concern, the Project did provide extensive food commodity assistance to all Otoweri area residents in 1998, and the fast-growing sago trees have already recovered.

Community Action Plans are in the process of being developed for Weriarag and Otoweri as part of the DAV recognition program. Using the participatory planning techniques described above, the village will develop their own community development package that BP will fund.

Participatory planning activities experienced delays in the communities of Weriarag/Mogotira and Tomu/Ekam, located on the north shore of Berau-Bintuni Bay. Beginning in mid-1999, when a technical study determined that the south shore was the only feasible location for the LNG plant site, some community members expressed dissatisfaction with the Project. North shore communities demanded that the facility be built in their vicinity, in the belief that closer proximity would confer greater benefits. However, the Project has made it clear that such proximity does not affect its commitment to the above-mentioned participatory planning and community development.

Community dissatisfaction has been manifested in claims that a poison gas cloud (allegedly released by Project drilling activity more than two kilometers away) caused an unusual number of children’s deaths in Weriarag in April 1997. This claim first arose more than two years later, soon after the plant location decision. The claim is geologically and physically implausible; moreover, the deaths were diagnosed at the time by four certified medical professionals (two from the Government, and two from the Project) as attributable to measles, to which children were particularly susceptible because of malnourishment.

The Project promptly responded with support for immunizations and nutritional supplements. Immunizations covered all children in Weriarag below the age of five, after which the outbreak stopped. The Weriarag village chief expressed sincere thanks for the Project’s response.

The total number of deaths from measles reported at that time to the Aranday Health Center was nine. The total cited by the village to the Project at the time was 17. Only two years later was the figure 38 introduced, and afterwards the figure of 48 was claimed.

In mid-2001 the Project invited a local third-party NGO to investigate the poison gas cloud claims and serve as a conciliator in the dispute. By March 2002, the NGO had not issued a report, and the provincial government intervened and arranged a resolution of the issue without BP involvement.

Over the last few months, the Project's relationships with the communities of Weriagar/Mogotira and Tomu/Ekam have improved significantly; such that the PBM process in the former has taken place in November 2002, and that for the latter is planned for January 2003.

Pay restitution for any trees felled on the land under easement and for the loss of fishing grounds.

Compensation for trees, plants and sago on the land required for the Project and for the village resettlement was agreed and paid in a series of meetings in May and July 1999 between representatives of Pertamina and ARCO and the local owners of the vegetation. Summaries of the minutes of these meetings are provided in Section 3.8 of the LARAP.

Concerning fishing grounds, the communities of Tanah Merah and Saengga will experience reduced fishing areas following the resettlement and the start of project construction. For the safety of all parties, a Safety Exclusion Zone will surround Project facilities on land and at sea.

The Project will not pay cash compensation for the loss of livelihood and access to traditional rights for the Safety Exclusion Zone and offshore production facilities. The Project believes that a more beneficial and sustainable solution is to address the issue with a comprehensive income continuity and livelihood improvement program, led by full-time professionals. These programs will benefit larger groups with wide focus, including skills training and employment, agricultural support and fisheries support. The fisheries component will address the following areas:

- Providing and developing markets for diverse marine products;
- Improving the knowledge and skills of fishermen;
- Enabling fishermen to access new markets for non-shrimp products;
- Supporting *adat* agreements providing access to surrounding bay areas;
- Providing access to traditional fishing areas;
- Improving appropriate technology to expand the range of community boats so they can travel around the Safety Exclusion Zone.

International best practice requires resettlement projects to at least *restore* incomes, livelihoods and living standards to pre-resettlement levels; the Tangguh Project, however, seeks to go beyond this benchmark. The overriding goal of this resettlement program is to *improve* incomes—including those from fisheries and agriculture—such that resettlement-affected communities are *better off* than before the move. By commencing an integrated, participatory fisheries support program that will bring about sustainable improvements, the Project aims to exceed the HRIA recommendation.

All these programmes will be monitored and reported to the appropriate regulatory authorities.

(4) Cultural Rights

Work closely with local communities to minimize the impact of incoming workers and limit their permanent immigration.

We recognize that the level of interaction and consultation with local communities will need to increase with the arrival of workers of different cultures and nationalities as the construction of the Project begins. It is for this reason that the Project's CAFT teams are already in place to explain Project developments to the local communities and detail any concerns they may have to Tangguh Project managers.

The Project has designed a number of detailed proactive strategies to minimize the impact of incoming workers and limit their permanent immigration, generally described as the Diversified Growth Strategy (DGS).

There are two main elements to the DGS. The first is an ongoing program of technical assistance that has already begun, to support government capacity in regional spatial planning and change management, in conjunction with bilateral or multilateral donors or other stakeholders with expertise in these areas.²²

The second element of the DGS is a series of initiatives to limit in-migration, such as the following:

- In partnership with relevant government agencies, the Tangguh Project will seek to assist and facilitate development in existing regional centers in the broader area away from the project site, such as Fak-Fak and Bintuni, where greater capacity, infrastructure and potential exists to productively absorb expanding populations.
- Project support facilities, such as workforce hiring and payment points, will be located away from the Project site where possible, for example in Sorong, Manokwari, and Fak-Fak.
- Contractors will be explicitly directed not to establish extraneous facilities at the Project site and not to encourage workforce families to accompany them.
- The Project will work closely with local opinion-leaders to promote realistic expectations about the opportunities provided by the Project, such as the fact that there will be limited jobs at the site, but other Project-related jobs in other locations.²³

The provisions of the Universal Declaration of Human Rights concerning freedom of movement must be respected at all times, but in a manner that also upholds the fundamental rights of the existing communities, and enhances their opportunities for improved health, education and employment. We are convinced that ensuring balanced development focused on the Regional Centres will avoid the potentially catastrophic environmental, social, economic and cultural consequences of a mass influx of peoples to an area which cannot support such an eventuality.

Consideration should be given to completing the project with fewer workers.

BP itself will not be constructing the Project's facilities, but will rely on the expertise of contractors who will decide the size of the workforce required to complete construction of the LNG plant and its associated facilities in the required timeframe. However, as it does with all of its partners and contractors, BP will, through clauses and incentives specifically outlined in its contracts, seek to ensure that its commitments and policies are upheld.

All incoming workers should be educated regarding adat customs and the rights of local peoples.

The Tangguh Project has developed a Workforce Management Program that contains a number of initiatives to improve the cultural awareness of those employed at the Project site. First, the Project aims to maximize employment from the DAVs and indirectly affected villages in the Bay, thus reducing the number of outsiders that might interact with the local population.

²² Further information is provided in the POSI, Sections 6.0 and 6.1.

²³ Further detail on these initiatives and information on others is offered in the POSI, Section 6.2.

During both the Construction and Operations phases of the Project, all visitors to the Project site will receive compulsory basic social-cultural orientation in conjunction with Environmental, Health, Safety and Project orientation briefings. This is an extension of similar cultural orientation training currently underway for all BP employees in Indonesia. The content of this orientation will be determined and agreed on in consultation with local communities, and may even be delivered by a community representative. Details of the possible content of these briefings can be read in the WMP, Section 5.2.1.

In addition, routine workforce ‘toolbox talks’ will include information about cultural events, community development programs and issues of current local interest and importance.

Furthermore, during the Operations phase, a Social Issues Reporting System will be established, similar to that of the Health, Safety and Environment ‘near-miss incident reports’, that will cover any unusual events involving local people, as well as impressions, comments, and concerns that employees may have over incidents that they experienced or witnessed in relation to local community and/or workforce interaction.

BP will also proactively train different sections of the Project workforce in cross-cultural communication skills, training which has already begun in Jakarta. In its broadest sense, this will include different cultural communication styles, approaches to dispute resolution, issues such as confrontation and avoidance, aspects of mentoring and coaching, and language training. Racist behaviour will not be tolerated and will lead to severe disciplinary action.

Finally, the Project will employ a senior Papuan to fill a role as counselor for Papuan employees and to assist or lead workforce conciliation during the Construction and Operations Phases. During the Construction Phase, this counselor will be employed by the contractor.

Inoculate workers against infectious diseases.

Medical examinations will be conducted to determine each potential worker’s health status, in order to ensure that those employed by the Project are fit to perform their tasks and do not pose a health threat to the rest of the workforce or to local communities. This process is already underway. All newly hired security personnel, for example, are required to receive the standard Indonesian required inoculations if they cannot show proof that they have already received them. The Project will also inoculate workers from outside the area prior to their arrival at the Project site as well as those members of the workforce employed from the Directly-Affected Villages. Routine medical checks for the workforce will also take place, and health awareness programs will be implemented at different times throughout Project life.²⁴

The Project is committed to a detailed program of Malaria Control, the details of which can be found in the WMP, Section 8.1.

House workers in a manner that least impacts the environment and local community.

The Tangguh Project workforce will be housed in a “limited access camp”. The aim of this is to prevent any unplanned (and therefore potentially disruptive) interaction between the construction workforce and the Directly-Affected Villages, except for the villagers who are employed as part of the workforce. As well as minimizing the impact of workers on the areas outside the camp and plant area, and to minimize security disturbances or issues arising between the Directly-Affected Villages and the project workforce, this system also recognizes the safety hazards that are present at any large construction site. The Project personnel designated to manage communication and

²⁴ WMP, Section 8.0.

relationships with the Directly-Affected Villages will arrange appropriate opportunities for interaction between the workforce and the villagers as necessary.²⁵

Furthermore, the Project will establish a workforce Code of Conduct, developed in consultation with local communities, that will be explicit about aspects and rules related to interacting with local people. For example, an extract from the draft Code of Conduct, which can be read in full in the WMP,²⁶ highlights establishing relations with local women, using or damaging natural resources used by the local population, hiring local people for personal jobs and tasks, and buying crops, animals, handicrafts, etc. from the local population as particular examples of behavior that will not be tolerated.

Hiring and compensating of workers should follow the Diversified Growth Strategy.

As previously described, workforce hiring and payment points for employees not from the local Project area will be located away from the Project site where possible, for example in Sorong, Manokwari, and Fak-Fak.

Families, drugs, alcohol, firearms, and prostitution should be banned at Base Camp.

BP will employ a zero-tolerance policy towards drugs, alcohol and prostitution at the Project site and any such activities pertaining to this will result in instant dismissal. Random drug and alcohol testing will be conducted on a routine basis.

Contractors will be explicitly directed not to encourage families to accompany the migrant workforce. Any families that do choose to migrate to the Project area will not be permitted to stay at the Project site and will instead be directed to the regional growth points supported by the Project as part of the Diversified Growth Strategy.

To limit immigration, contracts should encourage workers to return home.

We agree completely. Contractors will be obligated to demobilise their employees to the location from where they were hired.

The building of roads should be prohibited.

The Project currently has no plans to build a road network outside of the Project's boundary. Access to the LNG plant and its associated facilities will instead be by air and sea. A few rudimentary dirt roads already exist as a consequence of existing forestry activities.

(5) Religious Rights

An assessment has recently been completed regarding the impact on plant layout and cost if the cemeteries and near-shore sacred rocks are not physically relocated. The cemeteries will not be moved in accordance with the two train Project Design as presented in the Approved AMDAL. The Project will establish an agreement regarding access and visitation to the graveyards. At a minimum, visitors will be required to comply with project safety policies and procedures. This issue may have to be revisited if future Project expansion is required. As for the sacred Soway rocks, the Project decided (as a result of the assessment) to relocate the combo jetty and causeway

²⁵ WMP, section 1.0.

²⁶ WMP, Attachment A.

approximately 150 meters to the east, thereby leaving the rocks physically undisturbed. Visitor access will, however, be restricted by the Project's Safety Exclusion Zone surrounding the jetty.

(6) Relocation

The resettlement has been planned with the objective of exceeding the World Bank's guidelines on Involuntary Resettlement,²⁷ widely seen as the global best-practice standard for projects involving population displacement, and has also convened an expert Resettlement Advisory Panel to provide additional assurance and assistance. Both the World Bank policy and the advice of the expert panel stress the vital importance of thorough consultation with 'project-affected persons'. Consequently, both the community to be resettled, the village of Tanah Merah, and its potential host community, Simuri (Saengga) village, have been consulted at every stage of the resettlement process. For example, Tanah Merah has been consulted over the initial choice of whether or not to relocate; the level of compensation for the loss of land, trees and crops; the choice of relocation site; and the layout of the new village and the design of new houses.

In fact, it is worth noting that following BP's takeover of ARCO in 2000, the consultation process relating to the resettlement was strengthened significantly by allowing Tanah Merah a choice of two further alternative resettlement sites. Furthermore, the final decision on the resettlement site has been considerably delayed in order to ensure that the consultation is as thorough and inclusive as possible.

Myriad issues that require discussion, cooperation or negotiation are handled routinely through interaction with the Tanah Merah Resettlement Committee (TMRC), a democratically elected organization consisting of 20 Tanah Merah community members. The TMRC represents Tanah Merah in meetings with the Project at least twice per week. It is a main conduit for active community participation in the resettlement program, having completed work on such matters as the community population census, the site selection process and the new village design. Programs underway include: training and employment; public service improvement; and fisheries and agricultural support. At times, discussions with the TMRC are 'full and frank'—and cultural adaptation has been difficult at times for both sides—but a constructive working relationship has been institutionalized.

The resettlement process is being documented in detail at every stage and daily accounts are written by the resettlement team. Further detail on the consultation process relating to the resettlement is available in the LARAP²⁸.

The LARAP makes commitments such that: the Project will produce monthly, semi-annual, and annual reports; contractors will monitor their employment and training programs and report monthly to the Project; the AMDAL compliance team will document results and report every six months; regular participatory evaluations will be conducted with the resettled community to evaluate the progress of the resettlement from the resettler's point of view; annual evaluations will be conducted by an Independent Review Panel; and regular census surveys will be conducted to measure family incomes and consumption as well as the communities' economic structure.²⁹

The establishment of an Independent Review Panel for its resettlement program will further enhance transparency. This panel will be made up of experts in the social, economic, and marine/agricultural sciences and its purpose will be to provide Project managers with advice and feedback. It will meet a minimum of once a year in order to conduct an annual evaluation of the

²⁷ World Bank Operational Policy on Involuntary Resettlement, OP 4.12, December 2001.

²⁸ RKL Appendix G.

²⁹ LARAP, Section 8.1.

Project and independent reports on the progress of the resettlement program will also be made by the Panel.³⁰

B. Basic Human Rights

(1) Right to Life

Actively promote respect for the rights of stakeholders with security forces.

Our detailed discussion of the Project's interaction with security forces is in a later section of this document. As in all countries, the provision of security is ultimately the exclusive prerogative of the State, and we have to work within that framework. Our hope is that the adoption of a community based regime for Tangguh, in which our stakeholders, particularly those in Bintuni Bay, play an active and integral part of the Project's security, will reduce the risks of human rights incidents from taking place. We are working closely and constructively with our many stakeholders, among which the armed forces and police are clearly extremely important, to achieve such an outcome.

The Weriagar issue was discussed earlier in this document, under "Natural Resources."

(2) Freedoms of Opinion and Expression

The Tangguh Project welcomes the interest and scrutiny of its many stakeholders. We respect those who may oppose part or all of our operations; for our part, we shall strive to allay their fears through our actions, as well as through dialogue and discussion where disagreements or misconceptions arise on either side. We hope that the ability to dissent about the Project, including the right to protest peacefully and lawfully, will be upheld.

The report specifically discusses ELS-HAM, the Papuan human rights NGO. BP has had several meetings and conversations with ELS-HAM; we respect the group as an important internationally recognized organization, and we hope to continue dialogue throughout the life of the Project.

C. Labor Rights

(1) Freedom of Association

Rights should be made clear to all workers and other stakeholders and actively enforced in connection with recruitment, training, promotions, and day-to-day work.

Following Indonesia's ratification of the ILO Freedom of Association Convention in 1998, and the country's passage of its own Labor Union Law in 2000, BP has worked closely with Pertamina (now BPMIGAS) to educate its direct employees and contractors on their rights with regards to trade unions and freedom of association, as part of an Industrial Relations Program that includes written materials and workshops.

The Tangguh Project will fully respect national laws and ILO conventions governing the rights of workers to join (or not join) trade unions or other collective organizations of their choice. All negotiations will be between employee and employer.

³⁰ LARAP, Section 8.1.

“What We Stand For,” BP’s global policy document, states, “We recognize, consistent with local legislation, the right of every employee to form or join trade unions. We will seek to work in good faith with trade unions and other bodies that our employees collectively chose to represent them within the appropriate local legal framework.”

Many of the HRIA’s recommendations with regards to labor laws are consistent with Indonesian Labor Law as well as existing BP Indonesia Human Resources policies, which the Tangguh Project is of course committed to following. For example, BP maintains a Bipartite Communications Forum, as required by ministerial decree, which consists of monthly meetings with management and employee representatives on labor issues.

Indonesian law clearly states that companies are prohibited from interfering in employees’ freedom of association, and that the choice to affiliate with one organization or another is strictly the domain of the employees. The Tangguh Project must be mindful of how it reaches out to particular labor unions or NGOs to educate its workers, lest it be seen as trying to sway employees towards one particular organization, contrary to the spirit of the multi-union system that Indonesia espouses.

BP will continue to ensure that workers are realizing their rights, working within the parameters of both national laws and international conventions.

Pertamina/BP should be willing and prepared to raise with government officials any concerns regarding employee persecution by security forces.

The Tangguh Project sets high standards of behavior for its employees and contractors. The Project will not hesitate to report unlawful activities committed by the Project workforce or others in the Project area whose behavior threatens public order and a peaceful and secure environment in which to operate. Equally, if as a result of freedom of association activities problems arise between security force personnel and employees, Tangguh Management will raise the matter at the highest appropriate levels of central and provincial government.

(2) Discrimination

The AMDAL contains the following clause on employment:

“At a minimum, the project will obey the laws and regulations of Indonesia with respect to employment including fair hiring, safety, and health practices. While we shall not discriminate on the basis of creed, gender, national origin or broad racial affiliation, we do explicitly recognize the special role in the project for the peoples of the villages directly affected by the project, and this will be reflected in our recruitment policies. For these communities, we will set targets and hire increasing numbers into higher management positions where possible, recognizing that LNG operations jobs are limited and require highly skilled professionals. We will do our best to help prepare suitable local community members for project employment opportunities by providing training where appropriate. We will promote employees on their skills, their performance, and their willingness to take on more responsibilities.”

We are committed to recruiting Papuans, and particularly from our local communities, into the Project, and taking measures to ensure their success. Among others, Papuan project staff include BP Indonesia’s Vice President for Tangguh’s Integrated Social Strategy, the management of the

Community Affairs Field Team (CAFT), the vast majority of CAFT personnel, and over 30 Papuan Operations Trainees

We recognize that prejudice against Papuans does exist among some non-Papuan Indonesians. This is wholly unacceptable to the Project, and we shall not hesitate to impose the severest penalties on anyone in the Project discovered displaying racist behavior. As already discussed in this document, the Project is implementing a number of cultural awareness programs in the hopes of fostering better communication and cooperation, both internally and externally.

II. Balancing Human Rights and Security

As noted by the Human Rights Impact Assessment, the section on ‘Balancing Human Rights and Security’ addresses “*One of the most difficult challenges for the Tangguh Project...*” BP recognizes these challenges and is committed to meeting them in a responsible manner.

As previously discussed in this document, BP helped pioneer the Voluntary Principles (VPs) on Security and Human Rights, and has incorporated them in its Code of Conduct for Security Providers in Indonesia. Both documents have been embedded in all subsequent contracts, including all construction contracts for the Tangguh Project. The VPs are part of the AMDAL, and have been accepted by Pertamina, as well as the newly formed regulatory body, BPMIGAS.³¹

Community partnership provides the best guarantor of Project security. Our goal is security based on the broadest consent of our many stakeholders, recognizing constitutional obligations with the universal desire among the communities in Bintuni Bay, and Papua as a whole, for respect for human rights and dignity. BP’s aspiration is that the Project’s security contingent will comprise representatives of all local community groups, supported with expert training in the peaceful resolution of disputes through dialogue and conciliation. We refer to this concept as ‘Community-Based Security’. We appreciate the Report’s firm endorsement of this approach as most suited for Tangguh.

Clearly, the Indonesian security forces must be constructively involved—along with Tangguh’s many other stakeholders in Bintuni Bay, Papua Province and Jakarta—in making this approach a long-term and durable reality. As the report correctly notes, BP has an “*absolute need to work effectively with the security forces, both military and police, and to respect the legitimate and lawful roles and responsibilities of those institutions of the Indonesian state.*”

We believe that Community-Based Security (CBS) is aligned and compatible with official Indonesian defense doctrines. To attain official recognition for its application, the Project is consulting with a variety of stakeholders. Approval has been obtained from BPMIGAS, which is now helping to organize a workshop on the concept with the National Resiliency Institute (Lemhannas), an institution which studies defense policies and reports directly to the President of Indonesia. This workshop will provide an opportunity for discussions with high-level representatives of the Government and, importantly, the police and TNI. This working group meeting will be followed up early next year with a consultation seminar with a wide array of project stakeholders, including civil society and community representatives. In addition, Project representatives are continuing the ongoing process of introducing the CBS concept and the Voluntary Principles at all levels of the Indonesian Government and with senior officials in the security authorities.

BP believes that this process offers the best means of supporting the long-term viability of Community-Based Security, and the progress achieved to date has been encouraging.

³¹ Badan Pelaksana Minyak dan Gas (Oil and Gas Implementing Agency)

A. Deployment

Decisions regarding the deployment of the Indonesian Police (POLRI) or the Indonesian National Defense Force (TNI) are entirely within the domain of the Indonesian Government. Both the Police and Army have maintained a presence in the Berau-Bintuni Bay area for decades. The issue of deployment therefore is not the introduction of security elements into the area, but rather the numbers, locations and roles they will perform.

Approximately one dozen commercial enterprises are already established and operating in the area, and rapid change is underway. A degree of in-migration is inevitable, and both national and provincial governments have recognized that additional police, judiciary, and social services will be necessary. The expected imminent creation of a new *Kabupaten* Bintuni (Bintuni Regency) should entail an upgrading of local government services.

World standards for police-to-population ratios indicate that the Project's Construction Phase will require some increased police presence to maintain law and order. This is certainly the case as no private security organization has law enforcement authority in Indonesia, and BP has rightly forsworn arming its own contract guards. An increase in the presence of Police in the Berau-Bintuni Bay area has already been authorized (although not yet carried out). Under the Papua Special Autonomy Law, the police have a much closer relationship with the provincial authorities; it is generally hoped this will improve coordination with local priorities.

The HRIA recommendation that "the police, rather than the TNI, be the front line of project security" is consistent with the appropriate Indonesian Executive Order and is agreed national policy.

BP also recognizes that as a sovereign nation, Indonesia can send its soldiers and police anywhere within the territorial boundaries of the state, including the Tangguh Project. Any attempt to dictate "*principles...to limit military deployments...*" with or without BPMIGAS support would likely be seen as a transgression of that sovereign right, and have historically been rejected outright. However, BP is working with the Indonesian security authorities to determine the appropriate size, capability and location of assets needed to support the Project, and this process of dialogue may give BP some ability to influence such issues as the location, strength, and missions of other Police and military deployments. We certainly take seriously the HRIA's recommendations in this area and will keep them in mind during our continuing discussions with the Indonesian security authorities.

(2) Conduct

BP agrees with the HRIA recommendations to "socialize" the Voluntary Principles and develop supporting policies and procedures. This is already underway. The Voluntary Principles have been translated into Indonesian, shared with various official and private interlocutors, and are included in contracts relating to the Project. BP is also following up on the recommendation to discuss partnerships with a variety of agencies, including the U.S. Department of Justice and International Committee of the Red Cross (ICRC), in support of appropriate, non-lethal training for the security authorities.

(3) Training

The HRIA recommendations on training have already proven to be valuable contributions. BP has commenced a series of training sessions across the entire BP corporate operation in Indonesia

that focus on cultural and ethnic sensitivity. A more focused approach to Papua may be discussed in the Lemhannas Seminar process, now underway.

The report contains a lengthy section on the benefits of partnership with the ICRC and prescriptive recommendations. BP sees significant value in working with any agency that can make a positive contribution to capacity-building and professional improvement of institutions in Papua, and will continue to explore such opportunities. We note that the ICRC is now an official observer at discussions among signatories of the Voluntary Principles.

BP is committed to bring in all stakeholders to the process of security for the Tangguh Project. Discussions with all parties are a featured part of the planned Lemhannas Seminar in early 2003. At present, as the report implies, there is considerable animosity among some of the various stakeholders. Reconciling these sharply diverging opinions about the overall security regime for Tangguh will be neither easy nor straightforward, but we will do what we can to ensure that this critically important dialogue proves productive.

(4) Accountability

BP's actions concerning accountability will be handled in a manner consistent with its high standards and its global corporate principles of "What We Stand For". BP has and will continue to make clear that human rights violations erode international investor confidence in Indonesia, and seriously jeopardize the success of the Tangguh Project. Senior BP management has been consistent in condemning human rights abuses wherever they occur, and will continue to do so in public and private.

We accept the provisions in the Voluntary Principles about the need to report credible accusations of human rights violations in our areas of operations, though the prime objective of a community-based security regime is that these outcomes would be prevented in the first place. Equally, we must also recognize the inescapable reality that overly public advocacy on our part is likely to prove ineffective and quite possibly counter-productive, in that any ability to influence policy-making could be lost irretrievably. As the Report itself acknowledges—and as a number of key Papua stakeholders have admonished the company to always remember—BP is not a human rights NGO, and must establish boundaries on what it can and should achieve alone.

The promotion of scrutiny and accountability, including that of our own activities, must be driven by a vibrant and vigorous civil society, buttressed by representative democratic institutions. Through partnerships with all relevant Indonesian government authorities, as well as international specialized donor agencies such as UNDP and USAID, BP hopes to play a supporting role in building civil society in Papua. Naturally, we must proceed with humility and caution, lest we undermine (in perception or reality) the independence and integrity of the very civic and community institutions that need to be strengthened.

(5) Community

As has already been discussed in this document, a professionally trained Community Affairs Field Team is in place to carry out continuous liaison and consultation with project area communities. Regular and reliable communications are essential for all aspects of the Project, including security measures. Workshops have been held and others are scheduled that will specifically address security as the centerpiece agenda. The consultative process as a whole will continue through the life of the project.

A security committee with a "hotline" is an excellent concept. The bay area currently lacks sufficient communications infrastructure for a "hotline" as such, but in the future this is a

worthwhile recommendation. Meanwhile, BP is continually working to strengthen the lines of communication between project management and community leaders.

The basis of Community Based Security is a social contract between the Project and the Community to preserve order and mutual respect, resolving issues through negotiation and discussion rather than confrontation. This places enormous responsibilities on both the Project and the communities to ensure that the inevitable (and natural) periodic disagreements and the right to protest peacefully must be upheld. But intimidation and coercion should play no part in our mutual relationship. We do need to explore effective and culturally sensitive ways of dispute resolution, drawing widely on *adat* tradition, with the active contribution of local NGOs, religious leaders, and a wider local civil society.

We are cautiously encouraged that the Community-Based Security concept is maturing, and at the progress made so far. We are working with the Indonesian Government and security authorities to address their legitimate concerns and responsibilities for the Project.

The Report's recommendation to involve religious leaders of all faiths from the bay in conflict resolution and security is excellent and one that the Project will pursue. The Project met with an array of distinguished Papuan religious leaders in February 2002, and in the near future the Project intends to attend an upcoming Bintuni-area religious conference focusing on social empowerment. Additionally, a noted local religious figure is a manager of our Community Development team.

(6) Implementation of the Voluntary Principles

BP is a signatory to the Voluntary Principles and is working hard to broaden support for them in the Indonesian context, with the Government, security apparatus, and other private companies. Care must be taken to ensure that each step proceeds in a manner most likely to produce success rather than rejection or alienation. The Lemhannas seminar process is a fundamental part of that effort and holds great promise.

III. Supporting Papuan Civil Society and Governance

Building Human Rights Capacity and Papuan Governance

We fully agree with the Report's conclusions that a strengthened civil society in Papua as a whole—and specifically the emergence of robust cross-community institutions in the Bintuni Bay area—will act as major forces for stability and the prevention of conflict. The Report mentions the possibility of a Bintuni-wide *Musyawahar Adat*, of which one component or complement might be a human rights consortium and/or training of human rights advocates. For initiatives such as these to be credible and sustainable, the Project has to play a clearly secondary role to the communities themselves in the establishment of any such institutions. Otherwise, we risk becoming an unacceptable “over-mighty subject”, open to the criticism cited in the Report that BP tries to “talk like a church”.

We believe that the Diversified Growth Strategy, already discussed in this document, is consistent with that philosophy, and addresses the HRIA's recommendation of mobilizing technical assistance for the provincial governor and legislature.

In addition, the Report refers to the possible roles of USAID, DFID and UNDP. In July 2002, BP developed a cooperative agreement with USAID under the Global Development Alliance program. This brings an additional investment of U.S. \$3.5 million from the U.S. Government to

USAID's Papua mission, as well as human resources and valuable experience to complement the Project's investment in enhancing human resources and institutional capacities in Papua.

The programs and activities that comprise the Global Development Alliance will be carried out by a coalition of USAID, the Project, DFID (whose principal areas will be sustainable forestry and rural poverty alleviation), and other private sector resources. Each party's contribution might include direct funding, in-kind donations, or sharing of resources, human and otherwise. The GDA will comprise:

- a) *Building Local Governance Capacity* by building competency in the core processes of planning, financial management, and service delivery management.
- b) *Supporting Civil Society* by strengthening new and existing civil society organizations that will advocate for progressive development, monitor local government operations, work with *adat* communities, partner with local government in providing services, and promote the preservation of the unique biodiversity through the development of improved sustainable environmental practices. Similar activities would also be carried out with local parliaments and political parties.
- c) *Protecting the Environment* by providing support to increase the technical capacity and organizational systems to address environmental issues, particularly illegal logging and the impacts of large-scale resource exploitation activities.
- d) *Support Agricultural Development and Regional Economic Opportunities* by assisting rural communities in the Bird's Head region to improve their livelihoods and incomes in forestry, agro-forestry, agriculture and fishing in manners that protect the environment and watersheds.
- e) *Supporting Action on HIV/AIDS and Health Care Strategies* to deal effectively with a potential AIDS crisis in Papua.

Access to the project site by NGOs and media

BP fully supports access for the media and NGOs to the Project within the reasonable bounds of transportation, accommodation availability and safety constraints. Journalists, researchers, and NGO representatives have already made several such visits and others are scheduled, subject to travel logistics, base camp capacity and official regulations. We accept the need for scrutiny and challenge; there is no doubt that both will improve performance.